

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for scanning. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of scanning are checked below.

L'Institut a numérisé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de numérisation sont indiqués ci-dessous.

- | | | | |
|-------------------------------------|---|-------------------------------------|---|
| <input type="checkbox"/> | Coloured covers /
Couverture de couleur | <input type="checkbox"/> | Coloured pages / Pages de couleur |
| <input type="checkbox"/> | Covers damaged /
Couverture endommagée | <input type="checkbox"/> | Pages damaged / Pages endommagées |
| <input type="checkbox"/> | Covers restored and/or laminated /
Couverture restaurée et/ou pelliculée | <input type="checkbox"/> | Pages restored and/or laminated /
Pages restaurées et/ou pelliculées |
| <input type="checkbox"/> | Cover title missing /
Le titre de couverture manque | <input checked="" type="checkbox"/> | Pages discoloured, stained or foxed/
Pages décolorées, tachetées ou piquées |
| <input type="checkbox"/> | Coloured maps /
Cartes géographiques en couleur | <input checked="" type="checkbox"/> | Pages detached / Pages détachées |
| <input type="checkbox"/> | Coloured ink (i.e. other than blue or black) /
Encre de couleur (i.e. autre que bleue ou noire) | <input checked="" type="checkbox"/> | Showthrough / Transparence |
| <input type="checkbox"/> | Coloured plates and/or illustrations /
Planches et/ou illustrations en couleur | <input checked="" type="checkbox"/> | Quality of print varies /
Qualité inégale de l'impression |
| <input type="checkbox"/> | Bound with other material /
Relié avec d'autres documents | <input type="checkbox"/> | Includes supplementary materials /
Comprend du matériel supplémentaire |
| <input type="checkbox"/> | Only edition available /
Seule édition disponible | <input type="checkbox"/> | Blank leaves added during restorations may
appear within the text. Whenever possible, these
have been omitted from scanning / Il se peut que
certaines pages blanches ajoutées lors d'une
restauration apparaissent dans le texte, mais,
lorsque cela était possible, ces pages n'ont pas
été numérisées. |
| <input checked="" type="checkbox"/> | Tight binding may cause shadows or distortion
along interior margin / La reliure serrée peut
causer de l'ombre ou de la distorsion le long de la
marge intérieure. | | |

Additional comments /
Commentaires supplémentaires:

Various pagings.

Sessional papers Nos. 28a, 34, 36, 38-42, 44-46, 46a, 47-48, 53-59, 59a-59b, 60-62, 64-68, 70-77 not printed.

In Sessional paper No. 33A page 132 is incorrectly numbered page 332.

In Sessional paper No. 33B, Further return ... page 22 is incorrectly numbered page 2.

SESSIONAL PAPERS

VOLUME 11

THIRD SESSION OF THE SEVENTH PARLIAMENT

OF THE

DOMINION OF CANADA

SESSION 1893



VOLUME XXVI.

891028

81845

See also Numerical List, page 3.

ALPHABETICAL INDEX
TO THE
SESSIONAL PAPERS
OF THE
PARLIAMENT OF CANADA

THIRD SESSION, SEVENTH PARLIAMENT, 1893

NOTE.—In order to find quickly whether a paper has been printed or not, the mark (n.p.) has been inserted when not printed; papers not so marked, it may be understood, are printed. Further information concerning each paper is to be found in the List, commencing on page 3.

A		C	
Adulteration of Food.....	6b	Commander's Certificate, Fishery Protection (n.p.).....	20i
Agriculture, Annual Report	7	Commercial Relations, Canada.....	2e
Archives, Canadian.....	7a	Commissions to Public Officers.....	31
Auditor-General, Annual Report.....	1	Conference at Washington.....	52
B		Conference, Canada and Newfoundland.	20d
Banks, Chartered.....	3	Cosgrove, John J..... (n.p.)	21b
Banks, Unclaimed Balances in.....	3a	Criminal Statistics.....	7c
Baptisms, Marriages and Burials..... (n.p.)	75	Culverts on Railways..... (n.p.)	61
Beet-root Sugar..... (n.p.)	34	Customs Department..... (n.p.)	41
Bonds and Securities..... (n.p.)	36	Custom-house, Montreal..... (n.p.)	77
Bonne Espérance, Fishery Officer for.... (n.p.)	20h	D	
Boundaries of Quebec.....	43	Dividends, Unpaid in Banks.....	3a
Bounties, Fishing .. (n.p.)	20, 20a, 20b, 20c	Dominion Lands.....	29
Bridge Across the Richelieu River..... (n.p.)	44	E	
British Canadian Loan and Investment Co. (n.p.)	55	Ellis, Wm..... (n.p.)	76
British Columbia Fishery Commission.....	10c	English Financial Agents..... (n.p.)	53
British Columbia Quarantine Station.... (n.p.)	68	Esquimalt, Defences of.....	32
C		Estimates.....	2
Canadian Cattle, Scheduling of.....	50	Exchequer Court, Rules.....	25
Canadian Fishermen, Treatment endured by (n.p.).....	20j	Excise, etc.....	6
Canadian Pacific Railway.....	30	Expenses, Unforeseen..... (n.p.)	23
Canadian Pacific Railway, Lands sold by.....	30a	Experimental Farms, Annual Report.....	76
Canal Statistics.....	9a	Experimental Farms, Reports..... (n.p.)	40
Caron, Sir A. P., Charges against.....	27	Exports and Imports..... (n.p.)	64
Census of Canada, 1890-91.....	Vol. A.	F	
Census of Canada, 1890-91..... (n.p.)	46, 46a	Financial Agents of Canada..... (n.p.)	53
Central Ontario Railway Co..... (n.p.)	62	Fisheries Statements and Inspectors' Reports..	10a
Chartered Banks.....	3	Fishery Commission, British Columbia.....	10c
Cheese..... (n.p.)	70	Fishery Officer for Bonne Espérance..... (n.p.)	20h
Cholera, Prevention of..... (n.p.)	65	Fishery Overseers..... (n.p.)	20k
Civil Service Board of Examiners.....	16b	Fishery Protection, Commander's Certificate (n.p.).....	20i
Civil Service Examination..... (n.p.)	39	Fishing Bounties..... (n.p.)	20, 20a, 20b, 20c
Civil Service List.....	16a	Fishing Licenses..... (n.p.)	54
Civil Service, Superannuations.....	28	Food, Adulteration of.....	66
		French Treaty.....	51, 51a, 51b, 51c

G		N	
Geological Survey Report.....	13a	Newfoundland Fishermen.....	(n.p.) 20j
Governor-General.....	49, 69	North-west Mounted Police.....	15
Governor-General's Warrants.....	22	Notre Dame du Rosaire Post Office.....	(n.p.) 59
H		O	
Hackett, Edward.....	(n.p.) 48	Oyster Fisheries of Canada.....	10b
Harkaway, Post Office.....	(n.p.) 59a	P	
Herschmer, Lawrence, Charges against.....	(n.p.) 47	P. E. I. Tunnel.....	(n.p.) 58
Horses, Trade in.....	2d	Pig Iron.....	37, 37a, 37b
I		Postmaster-General, Annual Report.....	12
Imports and Exports.....	(n.p.) 64	Prosser, Wm.....	(n.p.) 20c
Indian Affairs, Annual Report.....	14	Public Accounts, Annual Report.....	2
Inland Revenue, Annual Report.....	6	Public Officers' Commissions.....	31
Insurance, Annual Report.....	4	Public Printing and Stationery.....	16d
Insurance Companies.....	4a, 4b	Public Works, Annual Report.....	8
Intercolonial Railway:		Q	
Time-table of Passenger Trains.....	(n.p.) 26	"Quadra," Steamer.....	(n.p.) 74
Working Expenses.....	26a	Quarantine Station, British Columbia.....	(n.p.) 68
Revenue.....	26b	Quebec, Boundaries of.....	43
Atkinson, C. A.....	(n.p.) 26c	Quebec Oriental Railway.....	(n.p.) 45
Running Privileges.....	(n.p.) 26d	R	
Interior, Annual Report.....	13	Railway Culverts.....	(n.p.) 61
J		Railways and Canals, Annual Report.....	9
Justice, Annual Report.....	18	Railway Statistics.....	9b
K		Receipts and Payments.....	(n.p.) 24, 24a, 24b, 24c, 24d
Kingston Penitentiary.....	(n.p.) 38	Richelieu River, Bridge across the.....	(n.p.) 44
L		Rouleau, F. F.....	(n.p.) 20g
Labrie, Chas. I.....	(n.p.) 60	Royal Commission, Liquor Traffic.....	(n.p.) 67
Lands, Dominion.....	29	Royal Commission, Sir A. P. Caron.....	27
Lesage, Edouard.....	(n.p.) 21a	Rules, Exchequer Court.....	25
Library of Parliament, Annual Report.....	17	S	
Licenses to U. S. Fishing Vessels.....	(n.p.) 54	Scheduling of Canadian Cattle.....	50
Lobster Industry.....	10d	Secretary of State, Annual Report.....	16
Lurcher Shoal.....	(n.p.) 72	Small-pox in British Columbia.....	(n.p.) 56
M		Soulanges Canal.....	(n.p.) 42
Manitoba School Acts.....	33, 33a, 33b, 33c, 33d	Steam-boat Inspection.....	11
Marine and Fisheries, Annual Report.....	10	St. Sébastien Post Office.....	(n.p.) 59b
Militia and Defence, Annual Report.....	19	Superannuations, Civil Service.....	28
Militia, Establishment Lists.....	19a	Supplementary Estimates.....	2
Mines and Minerals.....	63	T	
Miscellaneous Unforeseen Expenses.....	(n.p.) 23	Telegraphic System of the Empire.....	35
Montreal Custom-house.....	(n.p.) 77	Trade and Navigation, Annual Report.....	5
Mounted Police, Annual Report.....	15	Trade and Trade Openings.....	2e
Murphy, O. E.....	(n.p.) 66	Trades Unions.....	(n.p.) 57
Mc		Treaty with France.....	51, 51a, 51b, 51c
McDougall, Lauchlin.....	(n.p.) 73	Trudeau, T.....	(n.p.) 28a
McGreevy, R. H.....	(n.p.) 66	Tunnel between P.E.I. and Mainland.....	(n.p.) 58
McIntyre, Postmaster.....	(n.p.) 21	U	
McNamee & Co.....	(n.p.) 71	Unforeseen Expenses, Miscellaneous.....	(n.p.) 23
N		W	
Newfoundland and Canada, Conference.....	20d	Warrants, Governor-General's.....	22
Newfoundland and Canadian Trade.....	20f	Washington Conference.....	52
Newfoundland Bait Act.....	20e	Weights, Measures and Gas.....	6a
		Welland Canal.....	(n.p.) 76
		Wetmore, Justice, Report of.....	(n.p.) 47

See also Alphabetical Index, page 1.

LIST OF SESSIONAL PAPERS

Arranged in Numerical Order, with their Titles at full length; the Dates when Ordered and when Presented to both Houses of Parliament; the Name of the Member who moved for each Sessional Paper, and whether it is ordered to be Printed or Not Printed.

CONTENTS OF VOLUME A.

Census of Canada, 1890-91. First Volume.....*Printed for both distribution and sessional papers.*

CONTENTS OF VOLUME 1.

1. Report of the Auditor General on Appropriation Accounts for the year ended 30th June, 1892. Presented 27th January, 1893, by Hon. G. E. Foster.
Printed for both distribution and sessional papers.

CONTENTS OF VOLUME 2.

2. Public Accounts of Canada for the fiscal year ended 30th June, 1892. Presented 27th January, 1893, by Hon. G. E. Foster. 2a. Estimates for the year ending 30th June, 1894; presented 30th January, 1893. 2b. Supplementary Estimates for the financial year ending 30th June, 1893; presented 17th February, 1893. 2-1b*. Further Supplementary Estimates for the year ending 30th June, 1893; presented 16th March, 1893. 2c. Supplementary Estimates for the year ending 30th June, 1894; presented 27th March, 1893.....*Printed for both distribution and sessional papers.*
- 2d. Trade with Great Britain—Horses.....*Printed for both distribution and sessional papers.*
- 2e. Commercial Relations, Canada, No. 1. Reports upon Trade and Trade Openings in Great Britain and other countries, to 31st December, 1892.....*Printed for both distribution and sessional papers.*
3. List of Shareholders in the Chartered Banks of Canada, as on the 31st December, 1892. Presented 24th March, 1893, by Hon. G. E. Foster.....*Printed for both distribution and sessional papers.*

CONTENTS OF VOLUME 3.

- 3a. Report of dividends remaining unpaid and amounts, or balances, in respect to which no transactions have taken place, or upon which no interest has been paid for five years or upwards prior to 31st December, 1892, in chartered banks of Canada.....*Printed for both distribution and sessional papers.*
4. Report of the Superintendent of Insurance for the year ending 31st December, 1892.
Printed for both distribution and sessional papers.
- 4a. Preliminary abstract of the business of the Canadian Life Insurance Companies for the year ending 31st December, 1892. Presented 20th February, 1893, by Hon. G. E. Foster.
Printed for both distribution and sessional papers.
- 4b. Abstract of statements of Insurance Companies in Canada for the year ending 31st December, 1892.
Printed for both distribution and sessional papers.

CONTENTS OF VOLUME 4.

- 5.** Tables of the Trade and Navigation of Canada for the fiscal year ended 30th June, 1892. Presented 27th January, 1893, by Mr. Wood (Brockville). *Printed for both distribution and sessional papers.*
- 6.** Inland Revenues of Canada. Part I., Excise, &c., for the fiscal year ended 30th June, 1892. Presented 26th January, 1893, by Mr. Wood, (Brockville). *Printed for both distribution and sessional papers.*
- 6a.** Inland Revenues of Canada. Part II., Inspection of Weights, Measures and Gas, for the fiscal year ended 30th June, 1892. *Printed for both distribution and sessional papers.*
- 6b.** Inland Revenues of Canada. Part III., Adulteration of Food, for the fiscal year ended 30th June, 1892. Presented 27th January, 1893, by Mr. Wood (Brockville).
Printed for both distribution and sessional papers.

CONTENTS OF VOLUME 5.

- 7.** Report of the Minister of Agriculture for Canada, for the calendar year 1892. Presented 23rd February, 1893, by Hon. G. E. Foster. *Printed for both distribution and sessional papers.*
- 7a.** Report on Canadian Archives, 1892. *Printed for both distribution and sessional papers.*
- 7b.** Report of the Director and Officers of the Experimental Farms, for the year 1892. Presented 20th March, 1893, by Hon. G. E. Foster. *Printed for both distribution and sessional papers.*
- 7c.** Criminal Statistics for the year 1892. *Printed for both distribution and sessional papers.*

CONTENTS OF VOLUME 6.

- 8.** Annual Report of the Minister of Public Works, for the fiscal year ended 30th June, 1892. Presented 20th February, 1893, by Hon. J. A. Ouimet. *Printed for both distribution and sessional papers.*
- 9.** Annual Report of the Minister of Railways and Canals, for the past fiscal year, from the 1st July, 1891, to the 30th June, 1892. Presented 10th February, 1893, by Hon. J. G. Haggart.
Printed for both distribution and sessional papers.
- 9a.** Canal Statistics for Season of Navigation, 1892. Presented 10th February, 1893, by Hon. J. G. Haggart.
Printed for both distribution and sessional papers.
- 9b.** Railway Statistics, and Capital, Traffic and Working Expenditure of the Railways of Canada, for 1892. Presented 29th March, 1893, by Hon. J. G. Haggart.
Printed for both distribution and sessional papers.

CONTENTS OF VOLUME 7.

- 10.** Annual Report of the Department of Marine and Fisheries for the fiscal year ended 30th June, 1892. Presented 27th January, 1893, by Hon. J. Costigan.
Printed for both distribution and sessional papers.
- 10a.** Fisheries Statements and Inspectors' Reports for the year 1892.
Printed for both distribution and sessional papers.
- 10b.** Report on the Oyster Fisheries of Canada, 1892. Presented 30th January, 1893, by Hon. J. Costigan.
Printed for both distribution and sessional papers.
- 10c.** Report of British Columbia Fishery Commission, 1892.
Printed for both distribution and sessional papers.
- 10d.** Report on the Lobster Industry of Canada, 1892. *Printed for both distribution and sessional papers.*

CONTENTS OF VOLUME 8.

- 11.** Report of the Chairman of the Board of Steam-boat Inspection, etc., for calendar year ended 31st December, 1892. *Printed for both distribution and sessional papers.*
- 12.** Report of the Postmaster-General of Canada for the fiscal year ended 30th June, 1892. Presented 3rd February, 1893, by Sir A. P. Caron. *Printed for both distribution and sessional papers.*
- 13.** Annual Report of the Department of the Interior, for the year 1892. Presented 22nd March, 1893, by Hon. T. M. Daly. *Printed for both distribution and sessional papers.*
- 13a.** Summary Report of the Geological Survey Department for the year ended 1892.
Printed for both distribution and sessional papers.

 CONTENTS OF VOLUME 9.

- 14.** Annual Report of the Department of Indian Affairs for the year ended 31st December, 1892. Presented 7th March, 1893, by Hon. T. M. Daly. *Printed for both distribution and sessional papers.*
- 15.** Report of the Commissioner of the North-west Mounted Police Force, 1892. Presented 3rd March, 1893, by Hon. W. B. Ives. *Printed for both distribution and sessional papers.*
- 16.** Report of the Secretary of State of Canada for the year ended 31st December, 1892. Presented 6th March, 1893, by Hon. J. Costigan. *Printed for both distribution and sessional papers.*
- 16a.** Civil Service List of Canada, 1892. Presented 9th February, 1893, by Hon. J. Costigan. *Printed for both distribution and sessional papers.*
- 16b.** Report of the Board of Civil Service Examiners, for the year ended 31st December, 1892. Presented 29th March, 1893, by Hon. J. C. Patterson. *Printed for both distribution and sessional papers.*
- 16d.** Annual Report of the Department of Public Printing and Stationery of Canada, for the year ended 30th June, 1892, with a partial report for services during six months ending 31st December, 1892. Presented 28th February, 1893, by Hon. J. Costigan. *Printed for both distribution and sessional papers.*
- 17.** Report of the Joint Librarians of Parliament, on the state of the Library of Parliament. Presented 26th January, 1893, by Hon. Mr. Speaker. *Printed for sessional papers only.*

CONTENTS OF VOLUME 10.

- 18.** Report of the Minister of Justice as to Penitentiaries in Canada, for the year ended 30th June, 1892. Presented 27th January, 1893, by Sir John Thompson. *Printed for both distribution and sessional papers.*
- 19.** Annual Report of the Department of Militia and Defence of Canada, for the half-year ended 30th June, 1892. Presented 31st January, 1893, by Hon. J. C. Patterson. *Printed for both distribution and sessional papers.*
- 19a.** Establishment Lists of the Active Militia for the financial year 1893-94. Presented 25th March, 1893, by Hon. J. C. Patterson. *Printed for both distribution and sessional papers.*
- 20.** Return to an order of the House of Commons, dated 23rd March, 1892, for a return showing the number and names of men and vessel-owners applying for bounties for the years 1889, 1890 and 1891, and not receiving the same, giving the reasons why such applications were not granted; also whether any were refused and afterwards granted, the names, amounts and reasons given why such were afterwards granted; also all papers and correspondence since 1888 in reference to the bounty system and in regard to applications granted and ungranted. Presented 27th January, 1893.—*Mr. Bowers.* *Not printed.*
- 20a.** Return to an order of the House of Commons, dated 27th May, 1891, for a return giving a comparative statement for the years 1882 to 1891, inclusive, (by province) of: (a) Total number of bounty claims received by department. (b) Total number paid. (c) Number of vessels, tonnage, and number of men entitled to bounty in each year. (d) Number of boats among which bounty was distributed, and number of men engaged in boat-fishing receiving bounty. (e) Total number of men receiving bounty. (f) Total annual payments of fishing bounty. Presented 30th January, 1893.—*Mr. Flint.* *Not printed.*
- 20b.** Statement in reference to fishing bounty payments for 1891-92, required by chapter 96 of the Revised Statutes of Canada. Presented 6th February, 1893, by Hon. J. Costigan. *Not printed.*
- 20c.** Return to an order of the House of Commons, dated 30th May, 1892, for a copy of all correspondence, papers and reports relating to the investigation into the conduct of William Prosser, fishery overseer for the district fronting the county of Essex, on lake Erie, and his dismissal from office. Presented 8th February, 1893.—*Mr. Allan.* *Not printed.*
- 20d.** Copy of the proceedings of the conference recently held at Halifax between delegates from the governments of Canada and Newfoundland upon the fishery question and other questions between the two governments. Presented 8th February, 1893, by Sir John Thompson. *Printed for sessional papers only.*

VOLUME 10—Continued.

- 20e.** Further papers respecting the enforcement by the Newfoundland authorities against Canadian vessels of the Newfoundland act respecting the sale of bait to foreign fishing vessels. Presented 9th February, 1893, by Hon. J. Costigan, *Printed for sessional papers only.*
- 20f.** Further papers respecting the several questions at issue between the dominion of Canada and the colony of Newfoundland. Presented 13th March, 1893, by Hon. G. E. Foster. *Printed for sessional papers only.*
- 20g.** Return to an address of the House of Commons to his excellency the Governor-General, dated 27th July, 1891, for copies of all documents, petitions and letters in relation to the fishing rights of F. F. Rouleau, Esq., advocate, of Rimouski, which said rights he and his predecessors have always exercised on his property at Rimouski. Presented 13th March, 1893.—*Mr. Choquette.* *Not printed.*
- 20h.** Return to an order of the House of Commons, dated 1st March, 1893, for copies of all correspondence between the government and the Quebec board of trade, respecting the appointment of a fishery officer in the place of Mr. W. H. Whitely, for the Bonne Espérance division, from Checatica to Blancs Sablons. Presented 29th March, 1893.—*Mr. Joncas.* *Not printed.*
- 20i.** Return to an order of the House of Commons, dated 13th March, 1893, for a return showing a copy of a certificate of qualification held by each of the commanders of the fishery protection service last season, as follows: Commander O. G. V. Spain, "Acadia;" W. H. Kent, "Agnes Macdonald;" E. Dun, "Bayfield;" Geo. M. May, "Constance;" J. H. Pratt, "Dream;" Wm. Wakeham, "La Canadienne;" A. Finlayson, "Stanley;" C. T. Knowlton, "Vigilant." Presented 29th March, 1893.—*Mr. McMullen.* *Not printed.*
- 20j.** Return to an address of the House of Commons to his excellency the Governor-General, dated 20th March, 1893, for copies of all documents, reports and correspondence between the government and the Quebec Board of Trade, or any other person, in relation to the treatment endured by Canadian fishermen from Newfoundland fishermen along the Canadian Labrador coast. Presented 30th March, 1893.—*Mr. Joncas.* *Not printed.*
- 20k.** Return to an order of the House of Commons, dated 20th March, 1893, for: 1. Copies of instructions issued to the fishery overseers of Berthier, Maskinongé, St. Maurice, Champlain, Nicolet, Yamaska and Richelieu, since 1st January, 1892, and of all correspondence on the subject between the Government and the said fishery overseers; or between the government and any other persons from 1st January, 1892, up to this date, in relation to such instructions and the enforcement thereof. 2. A statement of fishing licenses issued in the counties aforesaid during the years 1891 and 1892, separately. 3. A statement of the quantity and value of the various kinds of fish taken in the said counties—separately—during the years 1891 and 1892. Presented 30th March, 1893.—*Mr. Bruneau.* *Not printed.*
- 20l.** Return to an order of the House of Commons, dated 20th February, 1893, for a return of all persons receiving fishery bounties in the counties of Victoria and Guysboro', N.S., for the year 1892, with amount paid each. Presented 30th March, 1893.—*Mr. Fraser.* *Not printed.*
- 21.** Return to an order of the House of Commons, dated 2nd May, 1892, for a return giving all papers, letters, petitions, applications, and every other document relating to the dismissal of the postmaster of McIntyre, and the appointment of his successor. Presented 27th January, 1893.—*Mr. Landerkin.* *Not printed.*
- 21a.** Return to an order of the House of Commons, dated 20th February, 1893, for copies of all letters, correspondence, petitions and other documents received and exchanged by the government, respecting the dismissal of Edouard Lesage, postmaster of St. Léon, in the county of Maskinongé, and to any appointment or appointments made to the position since the discharge of the said official. Presented 16th March, 1893.—*Mr. Legris.* *Not printed.*
- 21b.** Return to an address of the Senate, to his excellency the Governor-General, dated the 7th March, 1893, for copies of the order in council, information, evidence and papers upon which the dismissal of John J. Cosgrove, an officer of the inland revenue department, proceeded and was determined. Presented 23rd March, 1893.—*Hon. Mr. O'Donohue.* *Not printed.*
- 22.** Statement of Governor-General's Warrants issued since last session of parliament, in accordance with the Consolidated Revenue and Audit Act, section 32, subsection b. Presented 30th January, 1893, by Hon. G. E. Foster. *Printed for distribution only.*

VOLUME 10—*Concluded.*

- 23.** Statement of expenditure on account of miscellaneous unforeseen expenses. Presented 30th January, 1893, by Hon. G. E. Foster.....*Not printed.*
- 24.** Ten days' statement of the receipts and payments of Canada, from the 11th to the 20th January, 1892, and from the 11th to the 20th January, 1893. Presented 30th January, 1893, by Hon. G. E. Foster.....*Not printed.*
- 24a.** Statement of the receipts and payments of Canada, 1891-92 and 1892-93, to 31st January. Presented 6th February, 1893, by Hon. G. E. Foster.....*Not printed.*
- 24b.** Statement of the receipts and payments of Canada, 1891-92 and 1892-93, to 10th February. Presented 17th February, 1893, by Hon. G. E. Foster.....*Not printed.*
- 24c.** Statement of the receipts and payments of Canada, 1891-92 and 1892-93, to 10th March. Presented 15th March, 1893, by Hon. G. E. Foster.....*Not printed.*
- 24d.** Statement of the receipts and payments of Canada, 1891-92 and 1892-93, to 20th March. Presented 21st March, 1893, by Hon. G. E. Foster.....*Not printed.*
- 25.** Rules of the Exchequer Court of Canada in respect to any proceeding that may be had or taken in the Exchequer Court of Canada to impeach any patent issued under "The Patent Act." Presented 27th January, 1893, by Hon. J. Costigan.....*Printed for sessional papers only.*
- 26.** Return to an address of the Senate to his excellency the Governor-General, dated 9th July, 1892, for a copy of the latest time-table adopted to govern the running of passenger trains on the Intercolonial Railway. Presented 30th January, 1893.—*Hon. Mr. Power*.....*Not printed.*
- 26a.** Return to an order of the House of Commons, dated 6th February, 1893, for a statement of the working expenses of the Intercolonial Railway for the year 1890-91 and also for the year 1891-92, and from the 1st July, 1892, to the 31st December, inclusive, under the following headings, viz. :—Locomotive power, car expenses, maintenance of way and works, station expenses, general charges, car mileage. Presented 27th February, 1893.—*Sir Hector Langevin.*
Printed for distribution only.
- 26b.** Return to an order of the House of Commons, dated 6th February, 1893, for a statement showing the revenue of the Intercolonial Railway for the years 1890-91 and 1891-92, and from the 1st July, 1892, to the 31st December, inclusive, under the following headings, viz. :—Passengers, freight, mails and sundries; giving also the number of passengers and the number of tons of freight carried in each of the above-named years. Presented 27th February, 1893.—*Sir Hector Langevin.*
Printed for distribution only.
- 26c.** Return to an order of the House of Commons, dated 13th March, 1893, for copies of all correspondence, reports and other documents relative to the reduction in rank of C. A. Atkinson from conductor to brakeman, on or about October, 1887. Presented 30th March, 1893.—*Mr. Wood (Westmoreland)*.....*Not printed.*
- 26d.** Return to an order of the House of Commons, dated 28th March, 1892, for copies of all letters, telegrams and correspondence relating to the use by the Canadian Pacific Railway of running privileges over the Intercolonial Railway between Halifax and St. John; and copies of all agreements between the Canadian Pacific Railway and the Intercolonial Railway, or any department or officer of the government of Canada, relating to the running privileges given to the Canadian Pacific Railway over the Intercolonial Railway and to the payments to be made therefor; and also of all agreements for the payments by the Intercolonial Railway to the Canadian Pacific Railway for the cars and engines of the latter run over the Intercolonial Railway. Presented 1st April, 1893.—*Mr. Davies*.....*Not printed.*
- 27.** Copy of the Report of the Commissioners appointed by Royal Commission to take evidence as to the truth or falsity of certain charges made against Sir Adolphe P. Caron, member of the House of Commons and of the Queen's Privy Council for Canada, with copies of the evidence and exhibits thereto pertaining. Presented 6th February, 1893, by Sir John Thompson.
Printed for both distribution and sessional papers.

 CONTENTS OF VOLUME 11.

- 28.** 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 vacancy has been filled by promotion or new appointment, etc., for year ended 31st December, 1892. Presented 7th February, 1893, by Hon. G. E. Foster.
Printed for sessional papers only.
- 28a.** Return to an address of the House of Commons to his excellency the Governor-General, dated 1st March, 1893, for copies of all correspondence, papers or orders in council relating to the superannuation or retirement of Mr. T. Trudeau, late deputy of the minister of railways and canals. Presented 21st March, 1893.—*Mr. Edgar*..... *Not printed.*
- 29.** Return of orders in council of 1892 relating to the department of the interior, in accordance with clause 91 of the Dominion Lands Act, chapter 54, Revised Statutes of Canada. Presented 9th February, 1893, by Hon. T. M. Daly..... *Printed for sessional papers only.*
- 30.** Return under resolution of the 20th February, 1882, in so far as the same is furnished by the department of the interior, respecting the Canadian Pacific Railway Company. Presented 9th February, 1893, by Hon. T. M. Daly..... *Printed for sessional papers only.*
- 30a.** List of all lands sold by the Canadian Pacific Railway Company from the 1st October, 1891, to the 1st October last. Presented 9th February, 1893, by Hon. T. M. Daly.
Printed for sessional papers only.
- 31.** List of public officers to whom commissions have issued under chapter 19 of the Revised Statutes of Canada, during the past year, 1892. Presented 9th February, 1893, by Hon. J. Costigan.
Printed in No. 16.
- 32.** Return to an address of the House of Commons to his excellency the Governor-General, dated 17th March, 1892, for copy of all correspondence between the imperial government and the Canadian government concerning the defences of Esquimalt. Presented 10th February, 1893.—*Mr. Laurier.*
Printed for sessional papers only.
- 33.** Return to an address of the House of Commons to his excellency the Governor-General, dated 6th February, 1893, for copy of all petitions, memorials, appeals, and of any other documents addressed to his excellency in council, since the 15th March, 1892, relating to the Manitoba School Acts of 1890 and to section 22 of the "Manitoba Act" and section 93 of the "British North America Act." Also copy of all reports to and of all orders in council in reference to the same. Also copies of all correspondence in connection therewith. Presented 10th February, 1893.—*Mr. LaRivière.*
Printed for both distribution and sessional papers.
- 33a.** Return to an address of the House of Commons to his excellency the Governor-General, dated 6th February, 1893, for a copy of the judgment of the judicial committee of her majesty's privy council in the appealed case of *Barrett vs. the City of Winnipeg*, commonly known as the "Manitoba School Case." Also copy of factums, reports and other documents in connection therewith. Presented 14th February, 1893.—*Mr. LaRivière*..... *Printed for both distribution and sessional papers.*
- 33b.** Further return to an address of the House of Commons to his excellency the Governor-General, dated 6th February, 1893, for a copy of the judgment of the judicial committee of her majesty's privy council in the appealed case of *Barrett vs. the City of Winnipeg*, commonly known as the "Manitoba School Case." Also copy of factums, reports and other documents in connection therewith. Presented 20th February, 1893.—*Mr. LaRivière.*
Printed for both distribution and sessional papers.
- 33c.** Supplementary return to an address of the House of Commons to his excellency the Governor-General, dated 6th February, 1893, on the subject of the Manitoba School Acts of 1890, with 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 22nd February, 1893, relative to the settlement of important questions of law concerning certain statutes of the province of Manitoba relating to education. Presented 1st March, 1893.—*Mr. LaRivière*..... *Printed for both distribution and sessional papers.*
- 33d.** Partial return to an address of the Senate to his excellency the Governor-General, dated 3rd February, 1893, for: 1. A copy of the deliberations, resolutions and ordinances of the former council of Assiniboia, relating to educational matters within its jurisdiction as it existed on the banks of

VOLUME 11—*Continued.*

the Red River before the creation of the province of Manitoba. 2. A statement of the amounts paid by the said council of Assiniboia for the maintenance of schools, showing the persons to whom such payments were made, the schools for which such amounts were paid, and the religious denomination to which such schools belonged. 3. A statement of the amounts paid by the Hudson's Bay Company or by its agents, to the schools then existing in the territories forming to-day the province of Manitoba. 4. A copy of all memoranda and instructions serving as basis for the negotiations as a result of which Manitoba became one of the provinces of the confederation; together with a copy of the minutes of the deliberations of the persons charged, on both parts, to settle the conditions of the creation of the province of Manitoba and of its entrance into the confederation; and also a copy of all memoranda, returns and orders in council, establishing such conditions of entrance, or serving as a basis for the preparation of "The Manitoba Act." 5. A copy of the despatches and instructions from the imperial government to the government of Canada on the subject of the entrance of the province of Manitoba into the confederation, comprising therein the recommendations of the imperial government concerning the rights and privileges of the population of the territories, and the guarantees of protection to be accorded to the acquired rights, to the property, to the customs and to the institutions of that population by the government of Canada, in the settlement of the difficulties which marked that period of the history of the Canadian west. 6. A copy of the acts passed by the legislature of Manitoba relating to education in that province, and especially of the first act passed on this subject after the entrance of the said province of Manitoba into the confederation, and of the laws existing upon the same subject in the said province immediately before the passing of the acts of 1890, relating to the public schools and relating to the department of education. 7. A copy of all regulations with respect to schools passed by the government of Manitoba or by the advisory board in virtue of the laws passed in 1890, by the legislature of Manitoba, relating to public schools and the department of education. 8. A copy of all correspondence, petitions, memoranda, resolutions, briefs, factums, judgments (as well of first instance as in all stages of appeal), relating to the school laws of the said province of Manitoba, since the 1st June, 1890, or to the claims of catholics on this subject; and also a copy of all reports to the privy council and of all orders in council relating to the same subject since the same date. Presented 30th March, 1893.—*Hon. Mr. Bernier.*

Printed for both distribution and sessional papers.

- 74.** Return to an order of the House of Commons, dated 13th April, 1892, for copies of the instructions issued to Prof. Saunders when he was directed to inquire into the question of the growing of sugar-beet and the manufacture of beet-root sugar in Canada, or since that date up to the time when his report was laid before this House. Presented 10th February, 1893—*Mr. Beausoleil.*
Not printed.
- 75.** Return to an Address of the House of Commons to his excellency the Governor-General, dated 6th February, 1893, for all correspondence, documents, reports and orders in council about a special commission to inquire into the most feasible means of completing the telegraphic system of the empire. Presented 10th February, 1893—*Sir H. Langevin.*.....*Printed for sessional papers only.*
- 76.** Detailed statement of all bonds and securities registered in the department of the secretary of state of Canada, since last return, 1892, submitted to the parliament of Canada under section 23, chapter 19, of the Revised Statutes of Canada. Presented 13th February, 1893, by Hon. J. Costigan.
Not printed
- 77.** Statement showing quantity and bounty paid on pig iron produced in Canada since date of last return to House of Commons, 16th March, 1892. Presented 16th February, 1893, by Mr. Wallace.
Printed for sessional papers only.
- 77a.** Return to an order of the House of Commons, dated 20th February, 1893, for return showing the quantity of pig iron produced in Canada in the years 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879 and 1880, and bounty paid, if any, during those years; also amount of pig iron imported from Great Britain and the United States respectively, and the total amount imported during those years. Presented 28th February, 1893.—*Mr. Macdonald (Huron).*
Printed for sessional papers only.
- 77b.** Return to an order of the House of Commons, dated 6th February, 1893, for a return showing the quantity of pig iron produced in Canada in the years 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1890, 1891, 1892; and the bounty paid for the production in each of those years. Presented 13th March, 1893.—*Mr. McMullen.*.....*Printed for sessional papers only.*

VOLUME 11—*Continued.*

38. Return to an order of the House of Commons, dated 20th February, 1893, for the evidence taken before Mr. James G. Moylan, inspector of penitentiaries, in connection with the investigation or investigations held by that official at Kingston penitentiary during the past year which resulted in the dismissal or resignation of certain officials of that institution. Presented 22nd February, 1893.—*Mr. Somerville*.....*Not printed.*
39. Return to an order of the House of Commons, dated 20th February, 1893, for a copy of the questions put and the subjects submitted to the parties who presented themselves for preliminary or qualifying examination, or both, at the last examination for the civil service. Presented 23rd February, 1893.—*Sir Hector Langevin*.....*Not printed.*
40. Return to an order of the House of Commons, dated 20th February, 1893, for a return showing the number of *Experimental Farm Reports* published for the year 1891; the number published in English and French respectively; the number allotted to each member of the House of Commons and Senate, and the number still on hand. Presented 24th February, 1893.—*Mr. Grieve*.....*Not printed.*
41. Return to an address of the House of Commons to his excellency the Governor-General, dated 20th February, 1893, for a copy of any report to council made by Hon. J. A. Chapleau when minister of customs, on the reorganization of the customs department or recommending changes regarding that department. Presented 24th February, 1893.—*Mr. Landerkin*.....*Not printed.*
42. Return to an order of the House of Commons, dated 6th February, 1893, for a list of the names of all tenderers for section eight of the Soulanges canal, also of the residence of each such tenderers, and of the amount of each tender. Presented 27th February, 1893.—*Sir Hector Langevin*. *Not printed.*
43. Return to an address of the House of Commons to his excellency the Governor-General, dated 2nd February, 1893, for copies of all correspondence, memorials, departmental orders and orders in council, not already laid before the House, respecting the north-western, northern and eastern boundaries of the province of Quebec, together with all reports of surveys or explorations ordered thereon or in connection therewith, by the government of Canada, since last session of parliament, including the instructions for said surveys or explorations. Presented 27th February, 1893.—*Sir Hector Langevin*.....*Printed for sessional papers only.*
44. Return to an address of the House of Commons to his excellency the Governor General, dated 6th February, 1893, for a copy of any order in council or other document which gave power to the "Stanstead, Shefford and Chambly Railway Co." or their successors "The Vermont Central Railway Company" to build a bridge across the Richelieu river at St. John's, P.Q. Presented 28th February, 1893.—*Mr. Béchard*.....*Not printed.*
45. Return to an address of the House of Commons to his excellency the Governor-General, dated 6th February, 1893, for copies of all petitions, correspondence and documents whatsoever respecting the granting of a subsidy to the Quebec Oriental Railway. Presented 28th February, 1893.—*Mr. Vaillancourt*.....*Not printed.*
46. Return to an order of the House of Commons, dated 1st March, 1893, for copies of instructions to officers employed in the taking of the third census of Canada, 1891, and copies of forms used. Presented 1st March, 1893, by Hon. G. E. Foster.....*Not printed.*
- 46a. Return to an address of the Senate to his excellency the Governor-General, dated 6th February, 1893, for information, accompanied with full explanatory remarks, from the officer in charge of the direction and superintendence of the last Canadian Census of 1891, on the following points: 1. Was the enumeration of the French element of the population, in the taking of the Census of 1891, intended and carried on to convey the same information as was furnished by the previous Census of 1851 and 1861 of the former province of Canada, and the Canadian Census of 1871 and 1881? 2. What was the meaning intended and the interpretation given, in the taking of the Census of 1891, to the words *French-Canadian* and *Canadian-French* as heading of one of the columns of Census Schedule No. 1? 3. What is the precise meaning and what is to be understood by the various words made use of in the Census Bulletin No. 11, signed George Johnson, statistician, namely, the words *Nationalities*, *Nationalités*, French-speaking, English-speaking, *Canadiens-Anglais*, as part of the new nomenclature adopted? 4. Were there people of French nationality, real Frenchmen, excluded from the registration of the French element of the population on account of being born outside of Canada, and were there French people included among the English-

VOLUME 11—*Continued.*

- speaking on account of being able to speak the English language? Is there any connection between such cases and the nomenclature of Bulletin No. 11, and if not, why is it that the simple word French, formerly used as meaning the French element, was abandoned, to be variously replaced by the words French-speaking, French-Canadians, and so forth? 5. What were, in addition to the printed instructions, the practical explanations and directions given to the officers, commissioners and enumerators, as regards the registration of the French element of the population, or persons of French origin or nationality? 6. Was the actual enumeration of the French, in 1891, uniformly carried on throughout, in the various Census districts, subdistricts and divisions? 7. Are there reasons to apprehend, from direct investigation, personal knowledge, or statistical criticism, that the figures given as representing the number of French people, are notably deficient in some or many returns of the enumeration of 1891? 8. Were the returns delivered by the enumerators examined by the commissioners, the officers, and at the central office under the supervision, the responsibility of the superintendent, in view to test their accuracy and to correct apparent errors? 9. Was it noticed by some of the officers or the superintendent, that very serious discrepancies existed in the return of the French between the Census of 1891 and the statistical series of previous censuses, and was thereby trouble taken to investigate the serious question raised by the very striking want of concordance? 10. Is there any rational explanation of the returns of 1891 by which the French appear to have met abnormal losses in their number, especially in Nova Scotia, Ontario and the Territories? 11. Are there local or accidental causes capable of explaining the vast differences in the multiplication of the French which would have taken place, if the figures of the Census of 1891 were correct, between Prince Edward Island, New Brunswick and Nova Scotia, for instance? 12. Was there, at any time, steps taken to ascertain the cause and extent of such extraordinary returns; if not, what was the cause of that omission; if so, what were the proceedings adopted, and what the results? 13. Has the superintendent of the Census of 1891 taken notice of the very determined objection to accept the extraordinary figures of 1891, as representing the actual number of the French in Canada, and has any serious investigation of this important question been undertaken by him; if so, what are the conclusions arrived at, including the statistical criticism involved? 14. And that the said information include all instructions given to the enumerators in the several years, 1881 and 1891, be brought down with the return. Presented 30th March, 1893.—*Hon. Mr. Tassé*. *Not printed.*
47. Return to an address of the House of Commons to his excellency the Governor-General, dated 20th February, 1893, for a copy of the report of the Honourable Mr. Justice Wetmore, appointed by royal commission to inquire into certain charges against Lawrence Herchmer, commissioner of the North-west Mounted Police. Presented 3rd March, 1893.—*Mr. Davin*. *Not printed.*
48. Return to an address of the House of Commons to his excellency the Governor-General, dated 20th February, 1893, for a return of all correspondence, telegrams, reports and other papers relating to the suspension of Mr. Edward Hackett, Inspector of Fisheries, Prince Edward Island, in the year 1892; together with copies of the charges made against Mr. Hackett, the authority given to the commissioner in Prince Edward Island to take evidence on such charges, together with the evidence taken, and the report of the minister of marine thereon, together with any letters, correspondence, orders or reports relating to the reinstatement of Mr. Hackett. Presented 6th March, 1893.—*Mr. Davies*. *Not printed.*
49. Return to an address of the House of Commons to his excellency the Governor-General, dated 6th February, 1893, for a statement showing total amount of money paid by years since confederation on each of the following accounts: (a) Salary of Governor-General. (b) Travelling expenses of Governor-General. (c) Expenditure on Rideau Hall on capital account and maintenance; expenditure on Rideau Hall grounds on capital account and maintenance. (d) Expenditure on furnishings of all kinds for Rideau Hall. (e) Allowance to Governor-General for coal and light. (f) Expenditure on any other account in connection with the office of Governor-General. (g) Expenditure on any other account in connection with Rideau Hall and grounds. (h) Total expenditure of every kind since confederation in connection with the office of Governor-General. (i) Total expenditure of every kind in connection with Rideau Hall and grounds. Presented 6th March, 1893.—*Mr. Mulock*. *Printed for sessional papers only.*
50. Return to an address of the House of Commons to his excellency the Governor-General, dated 6th February, 1893, for a return of all letters, correspondence, reports and all other matter on record, passed between the department of agriculture and the high commissioner of Canada in London,

VOLUME 11—*Continued.*

the imperial board of trade or any other officials of an authoritative body in reference to the scheduling of Canadian cattle in the ports of Great Britain and Ireland, on and after 20th October, last. Presented 6th March, 1893.—*Mr. Sproule*.....*Printed for sessional papers only.*

- 51.** Agreement entered into between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the French Republic, regulating the commercial relations between Canada and France in respect of customs tariffs. Presented 6th March, 1893, by Hon. G. E. Foster. *Printed for both distribution and sessional papers.*
- 51a.** Return to an address of the House of Commons to his excellency the Governor-General, for copies of correspondence and other papers in relation to an agreement entered into between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the French Republic, regulating the commercial relations between Canada and France in respect of customs tariffs. Presented 15th March, 1893, by Hon. G. E. Foster. *Printed for both distribution and sessional papers.*
- 51b.** Supplementary return to an address of the House of Commons to his excellency the Governor-General, dated 15th March, 1893, for copies of correspondence and other papers in relation to an agreement entered into between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the French Republic, regulating the commercial relations between Canada and France in respect of customs tariffs. Presented 20th March, 1893, by Hon. G. E. Foster..... *Printed for both distribution and sessional papers.*
- 51c.** Further supplementary return to an address of the House of Commons to his excellency the Governor-General, dated 15th March, 1893, for copies of correspondence and other papers in relation to an agreement entered into between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the French Republic, regulating the commercial relations between Canada and France in respect of customs tariffs. Presented 25th March, 1893, by Hon. G. E. Foster..... *Printed for both distribution and sessional papers.*
- 52.** Papers relating to the conference held at Washington in February, 1892, between the delegates of the Canadian government and the secretary of state of the United States upon the several subjects therein mentioned. Presented 7th March, 1893, by Hon. G. E. Foster. *Printed for sessional papers only.*
- 53.** Return to an address of the House of Commons to his excellency the Governor-General, dated 1st March, 1893, for copies of all letters, telegrams and correspondence between the government or any member thereof, and the late English financial agents of Canada in London and the Bank of Montreal in reference to the recent change of agency at London. Presented 7th March, 1893.—*Sir Richard Cartwright*..... *Not printed.*
- 54.** Copy of an order in council of the 17th January, 1893, authorizing the issue of licenses to United States fishing vessels during the year 1893, for the purchase of bait, ice, lines and all other supplies, the transshipment of catch and shipping of crews. Presented 7th March, 1893, by Hon. J. Costigan..... *Not printed.*
- 55.** Statement of the affairs of the British Canadian Loan and Investment Company, on 31st December, 1892. Also a list of shareholders on the 31st December, 1892. Presented 30th March, 1893, by Hon. Mr. Speaker *Not printed.*
- 56.** Return to an address of the Senate to his excellency the Governor-General, dated 21st February, 1893, for copies of all letters, communications and telegrams between the minister of agriculture or any official under him, or any other minister or official of the Dominion government and the Canadian Pacific Railway Company, the British Columbia government, the mayors of the cities of Victoria and Vancouver, the Dominion health officers of the ports of Victoria and Vancouver, relating to the introduction of small-pox into Victoria and Vancouver, in May and June, 1892, by the mail steamers from Japan and China. Presented 9th March, 1893.—*Hon. Mr. McInnes (Victoria)*. *Not printed.*
- 57.** Return of applications for registration under the provisions of chapter 131, Revised Statutes of Canada, "An Act respecting Trades Unions." Presented 15th March, 1893, by Hon. J. Costigan..... *Not printed.*

VOLUME 11—Continued.

58. Return to an order of the House of Commons, dated 15th March, 1893, for a statement showing in detail the expenditure incurred since last session of parliament, in carrying on the borings in the Straits of Northumberland to obtain data as to the probable cost of a tunnel, also for all contracts, correspondence, telegrams or papers in anywise relating to such borings or such expenditure. Presented 15th March, 1893.—*Mr. Perry*.....*Not printed.*
59. Return to an order of the House of Commons, dated 20th February, 1893, for copies of all petitions, letters and documents whatsoever, in relation to the change in the location of the post office of Notre Dame du Rossaire. Presented 20th March, 1893.—*Mr. Choquette*.....*Not printed.*
- 59a. Return to an order of the House of Commons, dated 6th February, 1893, for a return of all petitions, documents and letters in relation to a request made for increased mail service at the Harkaway post office, during the past six years. Presented 29th March, 1893.—*Mr. Landerkin*.....*Not printed.*
- 59b. Return to an order of the House of Commons, dated 1st March, 1893, for copies of all correspondence and petitions asking for a change in the post office of St. Sébastien, in the county of Beauce; and of the report of the post office inspector in relation thereto. Presented 29th March, 1893.—*Mr. Godbout*.....*Not printed.*
60. Return to an order of the House of Commons, dated 1st March, 1893, for copies of all accounts, letters, receipts and other documents in relation to the claim of Charles I. Labrie, of Lévis, for professional service in connection with expropriation, during the construction of the St. Charles Branch. Presented 20th March, 1893.—*Mr. Frémont*.....*Not printed.*
61. Return to an order of the House of Commons, dated 1st March, 1893, for copies of petitions from county councils and other municipal corporations asking that railways under Dominion control be compelled to build culverts on natural watercourses crossing their lines, and correspondence relating thereto. Presented 21st March, 1893.—*Mr. Casey*.....*Not printed.*
62. Return to an address of the House of Commons to his excellency the Governor-General, dated 1st March, 1893, for copies of all communications, memorials, etc., addressed to his excellency in council, to the Dominion government or any member thereof, since 1888, urging the granting of a federal subsidy to the Central Ontario Railway Company, to enable that company to extend its line from Coehill northward. Presented 21st March, 1893.—*Mr. Corby*.....*Not printed.*
63. Return to an address of the House of Commons to his excellency the Governor-General, dated 1st March, 1893, for all correspondence, petitions and papers that are in the possession of the government relating to the disallowance of chapter 1 of the Acts of Nova Scotia, dated 1892: "An act to amend and consolidate the Acts relating to Mines and Minerals," including any petition of David McKeen, Esq., M.P.; and others, in respect of the said act. Presented 21st March, 1893.—*Mr. Weldqn*.....*Printed for sessional papers only.*
64. Return to an order of the House of Commons, dated 6th February, 1893, for a return, in the form used in the statements usually published in the *Gazette*, of the exports and imports from the first day of July, 1892, to the first day of January, 1893, distinguishing the products of Canada and those of other countries; and comparative statements from the first day of July, 1891, to the first day of January, 1892. Presented 21st March, 1893.—*Sir R. Cartwright*.....*Not printed.*
65. Return to an order of the House of Commons, dated 20th February, 1893, for all papers, documents, correspondence, etc., addressed to the government in relation to the best means to be adopted to prevent the spreading of cholera. Presented 23rd March, 1893.—*Mr. Landerkin*.....*Not printed.*
66. Return to an order of the House of Commons, dated 15th March, 1893, for copies of all correspondence between the minister of justice and the Hon. J. G. Bossé, judge of the court of Queen's Bench, in relation to the trial and condemnation of R. H. McGreevy and O. E. Murphy, charged with a conspiracy to defraud; of all recommendations and of all reports made by the said Hon. J. G. Bossé in relation to the conviction of the said Murphy and McGreevy and to a commutation of the sentence of R. H. McGreevy; of the order for the commutation of the sentence of R. H. McGreevy, and of any petitions, letters, etc., in relation thereto. Presented 24th March, 1893.—*Mr. Tarte*.....*Not printed.*

VOLUME 11—*Continued.*

67. Return to an address of the Senate to his excellency the Governor-General, dated 23rd February, 1893, for: 1. A copy of the commission issued appointing and constituting certain persons a royal commission to obtain reliable data respecting the operation and effects of legislative prohibition of the traffic in intoxicating liquors. 2. Also a copy of any and all instructions given for the guidance of the said royal commission by or under the authority of the government. 3. Also copies of any and all documents and statistics furnished to the said royal commission, by any of the departments of the civil service, or any officer of the government, embodying information or suggestions in relation to the subjects which the said royal commission was appointed to examine and report upon. Presented 15th March, 1893.—*Hon. Mr. Vidal*. *Not printed.*
68. Return to an address of the Senate to his excellency the Governor-General, dated 7th February, 1893, for copies of all letters, communications and telegrams between the minister of agriculture, or any official under him, or any other minister or official of the Dominion government, and the government of British Columbia or any official thereof, the British Columbia board of trade, and the local Dominion engineer, relating to the erection of a proper quarantine station at Albert Head or William Head, British Columbia. Presented 15th March, 1893.—*Hon. Mr. McInnes (Victoria)*.
Not printed.
69. Return to an address of the Senate to his excellency the Governor-General, dated 7th March, 1893, for a copy of the royal instructions from her most gracious majesty the Queen to his excellency, on his appointment to his present office. Presented 20th March, 1893.—*Hon. Mr. Wark*.
Printed for sessional papers only.
70. Return to an order of the House of Commons, dated 6th February, 1893, for copies of all correspondence between Mr. Robertson, dairy commissioner for Canada, and the department of agriculture, in relation to a certain resolution adopted by a committee of the board of trade of Bristol, England, against accepting as Canadian cheese, cheese designated by the said committee under the name of "French Cheese" and manufactured in the province of Quebec. Copies of all speeches, letters and reports made by the said dairy commissioner, Mr. Robertson, on the value of cheese manufactured in the provinces of Quebec and Ontario. Presented 25th March, 1893.—*Mr. Rinfret*.
Not printed.
71. Return to an address of the House of Commons to his excellency the Governor-General, dated 20th February, 1893, for copy of the claims made by Messrs. F. B. McNamee & Co., contractors, in connection with the recommendations made by a select committee of the House of Commons, June, 1887, with all reports, orders in council and other papers relating thereto. Presented 28th March, 1893.—*Sir Hector Langevin*. *Not printed.*
72. Return to an order of the House of Commons, dated 20th February, 1893, for copies of all correspondence and reports accumulated between the years 1876 and 1893 in the hands of the government relating to the Lurcher Shoal, near the entrance to the Bay of Fundy, and proposed means for the protection of navigation in that vicinity. Presented 29th March, 1893.—*Mr. Bowers*.
Not printed.
73. Return to an order of the House of Commons, dated 13th March, 1893, for copies of all correspondence relating to the claim of Mr. Lauchlin McDougall, of Victoria County, Nova Scotia, for superannuation allowance, together with the amounts paid him as lighthouse-keeper in St. Paul's and Ingonish, giving the separate amounts for each year. Presented 29th March, 1893.—*Mr. Fraser*. *Not printed.*
74. Return to an address of the House of Commons to his excellency the Governor-General, dated 13th March, 1893, for copies of all tenders, letters, telegrams and correspondence between the government and their agents and any other persons, in regard to the contract let for the repairing of the Dominion steamer "Quadra." Presented 30th March, 1893.—*Mr. Prior*. *Not printed.*
75. General statements and returns of baptisms, marriages and burials in the districts of Chicoutimi, Gaspé, Joliette, Iberville, Montmagny, Ottawa and Saguenay, for the year 1892. Presented 30th March, 1893, by Hon. Mr. Speaker. *Not printed.*
76. Return to an address of the Senate to his excellency the Governor-General, dated 14th March, 1893, for a statement and account showing the amount said to have been improperly retained by William Ellis, superintendent of the Welland canal, and subsequently refunded by him, and not included in a return laid before the Senate, in answer to an address of the Senate of the 18th June, 1891. Presented 28th March, 1893.—*Hon. Mr. McCallum*. *Not printed.*

VOLUME 11—*Concluded.*

- 77.** Return to an address of the Senate to his excellency the Governor-General, dated 28th February, 1893, for a list giving the names of all persons employed permanently or temporarily at the custom-house at Montreal, on the first day of January, 1868; also a similar list of those so employed on the first of January, ultimo, with, in both cases, their ages, nationality, religion, salary, occupation and date of appointment. Presented 30th March, 1893.—*Hon. Mr. Bellerose*..... *Not printed.*

SUPERANNUATION STATEMENT.

(28)

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 vacancy has been filled by promotion or new appointment, &c., for year ended 31st December, 1892.

Name.	Rank.	Salary.		Age.	Service.		Added service.	Superannuation allowance.		Gratuity.	Cause.	Vacancy filled by	Salary of new appointee.
		\$	cts.		Yrs	Yrs		\$	cts.					$	cts.
Post Office.													
Dunn, Thos.	Railway mail clerk	800	00	48	16			242	48		Ill-health	New appointment	480
Crozier, L. C.	do	800	00	51	14			224	00		Failing eyesight	Promotion	400
McIntyre, A.	3rd class clerk	800	00	41	16			255	28		Ill-health	New appointment	360
Bell, Geo.	Office-keeper, St. John, N.B.	600	00	79	20			247	33		Age and failing health	Not yet filled	360
McLaughlin, R.	Letter-carrier	600	00	70	17			204	00		Age and ill-health	New appointment	360
Flooks, W. G.	do	600	00	60	17			204	00		Ill-health	do	400
Loftus, A.	2nd class clerk	1,200	00	47	25			600	00		do	do	400
McCarthy, A.	Railway mail clerk	1,500	00	66	40			1,050	00		Age	Promotion	400
Hanford, Wm.	2nd class clerk	1,200	00	62	26			624	00		do	New appointment	480
Lapointe, G.	Railway mail clerk	960	00	60	25			480	00		Age and infirmity	do	360
Pepin, Jos.	Letter-carrier	600	00	33	8					400	Ill-health	do	360
Andrews, W. D.	do	620	00	38	4					140	Loss of eyesight	do	360
		10,080	00					4,121	09	540			3,600
Customs.													
Barrett, T. B.	Collector	875	00	74	39			612	50		Age	New appointment	750
White, Stephen	Tide-waiter	600	00	70	26			312	00		do	do	500
Black, J. H.	Sub-collector	450	00	65	19			408	00		do	do	400
Carmen, H.	Collector	850	00	63	24			204	00		do	do	1,000
Murphy, T.	Sampler	600	00	62	17						Ill-health and inability	Not filled	
Johnson, Jas.	Commissioner of Customs	4,000	00	76	35			2,800	00		Age	Promotion	1,200
Pennefather, J. G.	Collector	1,200	00	67	41			840	00		do	New appointment	600
Conrad, N.	Chief weigher	700	00	58	19			296	00		Ill-health	do	
Pidgeon, Geo. H.	Messenger	500	00	71	18			185	00		Age	Not filled	250
Stuart, Jas. V.	Sub-collector	250	00	86	27			135	00		do	New appointment	700
Pile, T. G.	Collector	600	00	78	16			192	00		do	do	
Bourneuf, A.	Sub-collector	300	00	70	40			210	00		do	Not filled	
Collier, H. H.	Collector	1,200	00	74	15			360	00		do	New appointment	1,000

Superannuations.

STATEMENT of all Superannuations and Retiring Allowances in the Civil Service, &c.—Continued.

Name.	Rank.	Salary.		Age.	Service.		Added service.	Superannuation allowance.		Gratu-ity.	Cause.	Vacancy filled by	Salary of new appointee.
		\$	cts.		Yrs	Yrs		\$	cts.				
<i>Customs—Con.</i>													
Watts, Samuel	Collector	1,000 00		66	25			493 05				New appointment.	800
Fraser, Chas	do	700 00		67	36			490 00				do	700
		13,825 00						7,673 55					7,900
<i>Railways and Canals.</i>													
Davies, B.	Paymaster P. E. I. Ry.	1,200 00		78	18			414 72			Advanced age and ill-health	Not filled.	
Cass, Edward	Lock-master	506 25		71	43			354 37			Age	do	
Powrie, John	Lock-tender	380 00		56	25			190 00			Injuries received on duty	do	
Keys, James	Lock-labourer	288 00		47	29			167 04			do	do	
Thrush, Charles	Caretaker Dunnville Dam	516 00		77	42			361 20			Age and failing eyesight.	do	
Busby, A. S.	Genl. Pass. Agt. I. C. Ry.	2,400 00		54	11	10		1,008 00			Ill-health and to pro. eff. and econ.	Promotion.	
Taylor, Geo.	Genl. Frt. Agt. do	2,400 00		60	15	10		1,300 00			do	do	
McAuley, Jas.	Lock-tender	360 00		53	35			252 00			Ill-health	Not filled.	
Whitney, H. A.	Mechl. Supt. I. C. Ry.	3,200 00		58	20			1,280 00			To promote efficiency and economy	Promotion.	
O'Keefe, O.	Lock-tender	3,677 88		67	38			249 96			Age and failing health.	Not filled.	
Trudeau, T.	Dy. Min. of Rys. & Canals	6,000 00		66	33	2		3,756 66			Age	Promotion	
		17,608 13						9,233 95					
<i>Marine and Fisheries.</i>													
Mitchell, Jas.	Inspector of Lights	1,200 00		66	20			480 00			Age and abolition of office	Not filled.	300
McDougall, L.	Light-keeper	420 00		67	17			142 80			Age and physical debility	New appointment.	1,000
Burgess, John	Steamboat Inspector	1,200 00		67	19			456 00			Age and ill-health.	do	800
Brown, Jas. W. 4	Light-keeper	800 00		58	17			170 00			do	do	800
Stymest, Jas	do	200 00		74	11			44 00			Age	do	200
Johnston, Geo. H.	do	250 00		60	33			165 00			Age and infirmity	do	250
Valois, Felix	do	200 00		77	17			68 00			Age	do	150
Lewis, H. G.	Agent at Victoria, B.C.	1,900 00		62	7			933 34			do	do	1,400
McDonald, Alex.	Light-keeper	500 00		56	20			200 00			Ill-health	Filled temp. by pro. of asst.	
		6,370 00						1,725 80		933 34			4,100
<i>Inland Revenue.</i>													
Camyre, J. M.	Excise officer	850 00		52	19			323 00			Ill-health and to pro. eff. and econ.	Transfer	500
Masson, Jas.	do	750 00		75	18			270 00			Age	New appointment.	

Penoyer, H. J.	do	850 00	57	17	289 00	661 45	Ill-health	Not filled	1,000
Lefebvre, F. X.	Assistant analyst	1,250 00	33	67			do and bad eyes	New appointment	
<i>Interior.</i>									
Wills, W. J.	Immigration agent	1,300 00	74	31	806 00		Abolition of office		
Donaldson, J. A.	do	1,650 00	76	28	924 00		do		
Smyth, A. G.	do	1,000 00	68	26	520 00		do		
Macpherson, R.	do	1,300 00	61	22	572 00		do		
Smith, John	do	1,250 00	64	18	450 00		do		
Bennett, Thos.	do	1,400 00	62	10	280 00		do		
Baker, A. J.	do	1,400 00	71	9 ³ / ₄		1,075 90	do		
<i>Indian Affairs.</i>									
Slocombe, Jas.	Messenger	500 00	69	8 ³ / ₄		3,552 00	Ill-health	New appointment	300
McTiernan, P.	Indian agent	1,200 00	62	11 ¹ / ₂	264 00		Age and failing health	do	1,000
<i>Public Works.</i>									
Lajoie, C.	Supt. St. Maurice River Wks.	1,700 00	68	14	264 00	364 58			1,300
Lacroix, F.	Assistant boom-keeper	1,200 00	58	26	336 00		Age	Not filled	
<i>Finance Department.</i>									
Tins, T. D.	Financial Inspector	2,600 00	66	33	244 14		To promote economy	do	
Robinson, Jas.	Clerk A. R. G.'s office, St. John	1,100 00	62	19	580 14		Age and abolition of office	Not filled	
<i>Privy Council.</i>									
Moll, O. L. E.	Clerk	3,700 00	42	12	1,820 00		Age and ill-health		
<i>Justice.</i>									
Ternent, Wm.	Clerk, Supreme Court	600 00	65	10	418 00		Mental infirmity	Filled by transfer	
<i>Militia and Defence.</i>									
James, H.	Architect	700 00	54	8 ³ / ₄	2,238 00		Age	Not filled	
<i>House of Commons.</i>									
Macdonell, D. W.	Serjeant-at-Arms	1,800 00	67	37 ¹ / ₄	144 00	1,250 00	Scrivener's palsy	Not filled	
		3,050 00			2,135 00		Ill-health	Promotion	

Superannuations.

STATEMENT of all Superannuations and Retiring Allowances in the Civil Service, &c.—*Concluded.*

RECAPITULATION.

Department.	Superannuation Allowances.	Gratuities.	Total.
	\$ cts.	\$ cts.	\$ cts.
Post Office.....	4,121 09	540 00	4,661 09
Customs.....	7,673 55		7,673 55
Railways and Canals.....	9,233 95		9,233 95
Marine and Fisheries.....	1,725 80	933 34	2,659 14
Inland Revenue.....	882 00	661 45	1,543 45
Interior.....	3,552 00	1,075 90	4,627 90
Indian Affairs.....	264 00	364 58	628 58
Public Works.....	580 14		580 14
Finance.....	2,238 00		2,238 00
Privy Council.....	144 00		144 00
Justice.....	140 00		140 00
Militia and Defence.....		1,250 00	1,250 00
House of Commons.....	2,135 00		2,135 00
	32,689 53	4,825 27	37,514 80

J. M. COURTNEY,
Deputy Minister of Finance.

FINANCE DEPARTMENT,
OTTAWA, 7th February, 1893.

RETURN

[29]

Of Orders in Council relating to the Department of the Interior, in accordance with clause 91 of the Dominion Lands Act, chapter 54, Revised Statutes of Canada.

By order.

JOHN COSTIGAN,
Secretary of State.

AT THE GOVERNMENT HOUSE AT OTTAWA,

FRIDAY, 8th day of January, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas by the order in council of the 13th April, 1888, the north half and the south-east quarter of section 36, township 18, range 3, west of the 1st meridian, were transferred to the government of the province of Manitoba as swamp lands, under the provisions of chapter 47 of the Revised Statutes :

And whereas these lands were inadvertently settled upon by certain Icelandic settlers under the impression that they belonged to the Dominion government :

And whereas on the 17th of November, 1891, an order of his honour the lieutenant-governor of Manitoba in council was passed, vesting in the Dominion government the above mentioned lands for the purpose of enabling them to be granted as homesteads to the aforesaid settlers, on condition that a grant be made to the provincial government, in lieu thereof, of the east half of section 16 and the north-west quarter of section 18, township 18, range 3, west of the 1st meridian :

Therefore his excellency, by and with the advice of the queen's privy council for Canada, is pleased to order that the said east half of section 16 and the north-west quarter of section 18, township 18, range 3, west of the 1st meridian, shall be, and the same are hereby vested in her majesty for the purposes of the province of Manitoba.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

FRIDAY, 8th day of January, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas in the order in council of the 10th February, 1888, respecting the main highway across a quarter of section 24, township 48, range 26 west of the 2nd initial meridian, such quarter-section is erroneously described as the south-west quarter instead of the south-east quarter of the said section 24 :

His excellency, by and with the advice of the queen's privy council for Canada, is pleased to order that the said order in council of the 10th February, 1888, be rescinded, and that the following order be substituted in lieu thereof:—

Dominion Lands.

Whereas the lieutenant-governor of the North-west Territories having requested that the location of the main highway across the south-east quarter of section 24, township 48, range 26, west of the second initial meridian, might be changed, this road was surveyed by Milner Hart, D.L.S., in the year 1885 and transferred to the lieutenant-governor in council as directed by the North-west Territories Act, but a subsequent survey by Colonel A. Sproat, D.L.S., showed that the location of the travelled road is slightly different from the line previously located:

Therefore his excellency is pleased, under the provisions of the 108th section of chapter 50 of the Revised Statutes, intituled "An Act respecting the North-west Territories," and by and with the advice of the queen's privy council for Canada, to order that Milner Hart's survey of the said portion of the road shall be, and the same is hereby cancelled, that Colonel Sproat's survey be confirmed, and that the road be transferred to the lieutenant-governor in council for the public uses of the Territories.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

WEDNESDAY, the 20th day of January, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas the regulations governing the granting of yearly licenses to cut timber on Dominion lands established by the order in council of the 11th November, 1881, as well as by the order in council of the 17th day of September, 1889, chapter 98 of the Consolidated Orders in Council of Canada, provide that the licensee shall have in operation within one year from a date to be fixed in the license, and keep in operation for at least six months of each year of his holding, a saw-mill in connection with his berth capable of cutting daily at least one thousand feet board measure of lumber, for every two and a half square miles of the area licensed:

And whereas this provision was enacted in order to encourage by every means the establishment of mills for the convenience of settlers who were removed from railways and other means of supplying themselves with lumber and at a time when timber berths were granted without competition, and the result has been the establishment of a very considerable number of mills, and every facility is now afforded for the purpose of manufactured lumber in almost every settlement in Manitoba, the North-west Territories, and within the railway belt in British Columbia:

Therefore his excellency, being of the opinion that the time has now arrived when a licensee should not be called upon to construct a mill unless the establishment thereof would supply a local need, is pleased to order, under the provisions of chapters 54 and 56 of the Revised Statutes, intituled respectively "The Dominion Lands Act," and "An Act respecting certain public lands in British Columbia," and by and with the advice of the queen's privy council for Canada, that the regulation which requires a licensee to have a saw-mill in operation upon his berth within a certain time, being subsection (d) of section 2 of the regulations approved by the order in council of the 11th November, 1881, as well as sub-section (f) of section 2 of the order in council of the 17th September, 1889, chapter 98 of the Consolidated Orders in Council of Canada, shall be and the same is hereby amended so that in respect of all licenses hereafter granted, the licensee shall be required to construct a mill and commence the manufacture of lumber from the timber on the tract covered by his license, within one year from the date when he is notified by the proper officer of the department of the interior that the minister of the interior regards such a step necessary or expedient in the public interest.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

WEDNESDAY, the 20th day of January, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas by section 33 of the regulations for the survey, administration, disposal and management of Dominion lands within the forty-mile railway belt in the province of British Columbia established by the order in council of the 17th day of September, 1889, chapter 100 of the Consolidated Orders in Council of Canada, it is provided that the provisions of the "Dominion Mining Regulations" having reference to the diversion and use of the water from any stream or lake, and the rights of way necessary for the construction of flumes and ditches to convey such water, shall apply to the diversion and use of the water from any stream or lake, and the rights of way necessary to the conveyance thereof in respect of the irrigation of agricultural lands :

And whereas the mining regulations referred to provide that a notice of application shall be given to the agent of Dominion lands within whose district the water privilege applied for is situated, and that every application for a grant of water exceeding 200 inches shall be accompanied by a deposit of \$25.00 :

And whereas the Indian reserve commissioners have set apart a number of water privileges for irrigation purposes in connection with the Indian reserves in the railway belt in the province of British Columbia, a description of which and of the quantity of water required for each reserve has been furnished to the department of the interior by the department of Indian affairs; and it is found that these proposed privileges are not in accordance with the regulations :

Therefore his excellency, being of the opinion that the above mentioned regulations should not govern with respect to the water privileges required in connection with Indian reserves, is pleased, by and with the advice of the queen's privy council for Canada, to order that it shall be within the power of the minister of the interior to prescribe what privileges he deems it necessary in the public interest to accord for the proper irrigation of Indian lands, upon applications and recommendations made from time to time by the Indian reserve commissioners.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

MONDAY, the 8th day of February, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas by an order in council dated the 7th of June, 1888, section 20, township 6, range, 11 west of the 1st meridian, was transferred to the province of Manitoba, being a portion of the lands selected by the swamp lands commissioners during the season of 1887, under the provisions of section 4 of chapter 47 of the Revised Statutes :

And whereas, subsequent to the date of this order and the passing of the lands to the province of Manitoba, four Belgian settlers, in error, went into residence and made improvements upon this section, and, in order not to disturb these settlers, the government of Manitoba, by an order in council dated 28th December, 1889, transferred the said section 20 back to the Dominion government, agreeing to accept other lands of equal value in exchange, and the provincial authorities have notified the department of the interior that they have selected section 24, in township 6, range 11, west of the 1st meridian; which land is available for the purpose :

Therefore his excellency, under the provisions of section 4 of chapter 47 of the Revised Statutes, and by and with the advice of the queen's privy council for Canada, is pleased to order that the said section 24, township 6, range 11, west of the 1st

Dominion Lands.

meridian, containing an area of 640 acres, more or less, shall be, and the same is hereby vested in her majesty for the purposes of the province of Manitoba, in exchange for section 20, in the same township and range.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

FRIDAY, the 18th day of March, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas by the order in council of the 3rd January, 1887, authority was granted for the variation where necessary of the main highway through the municipality of Westbourne, in the province of Manitoba, so that it might run along-side of the line of the Manitoba and North-western Railway, in accordance with the request of the government of that province, for the reduction of the width of the said main highway where it lies alongside of the line of the said Manitoba and North-western Railway to 66 feet, and for the survey of the said main highway as thus varied in direction and reduced in width with a view to the transfer of the same thereafter to the province, according to the plan and description thereof :

And whereas the survey so authorized has been made by Mr. C. P. Brown, Dominion land surveyor, and a plan of the same is on record in the department of the interior :

His excellency in virtue of the provisions of section 3 of chapter 49 of the Revised Statutes, intituled : " An Act respecting Roads and Road Allowances in the province of Manitoba," and by and with the advice of the queen's privy council for Canada, is pleased to order that the main highway through the municipality of Westbourne, in the province of Manitoba, including the portion of the said highway 66 feet wide upon which the Manitoba and North-western Railway is now located and constructed, according to the plan of survey by C. P. Brown, Dominion land surveyor, approved and confirmed by the surveyor general on the 10th of March, 1892, of record in the department of the interior, shall be and the same is hereby transferred to the province of Manitoba.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

MONDAY, the 21st day of March, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas in accordance with the provisions of section 12 of the regulations now in force for the disposal and management of Dominion lands within the railway belt in the province of British Columbia, the agricultural lands in the belt were withdrawn from homestead entry from the first day of January, 1891 :

His excellency, in virtue of the powers vested in him by chapter 56 of the Revised Statutes intituled : " An Act respecting certain Public Lands in British Columbia," and by and with the advice of the queen's privy council for Canada, is pleased to order that the agricultural lands in the Kamloops land agency, being the lands in the railway belt in British Columbia, situated north of the line between townships 15 and 16 and east of the 7th meridian of the Dominion lands system of survey, shall be and the same are hereby once more thrown open for homesteading by actual settlers, on the conditions and at the price prescribed by the regulations of the 17th September, 1889.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

THURSDAY, the 21st day of April, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas in August, 1886, a resurvey of township 23, range 8, west of the 2nd meridian, was made by G. B. Abrey, D.L.S., the original survey, made by C. E. Lemoine, D.L.S., having proved defective :

And whereas since this resurvey was made all the odd-numbered sections have been set apart for the Great North-west Central Railway by the order in council of the 16th July, 1889; the north half of section 36 has been entered as a homestead and pre-emption, but no patent had issued on the 30th January, 1892; the sections allotted to the Hudson's Bay Company have been vested in the company by notification under subclause 7 of clause 22 of the Dominion Lands Act, and the road allowances have also become subject to the direction, management and control of the lieutenant-governor in council under section 107 of the North-west Territories Act:

His excellency, under the provisions of subclause 2 of clause 129 of the Dominion Lands Act, as amended by clause 7 of the act 52 Victoria, chapter 27, and by and with the advice of the queen's privy council for Canada, is pleased to order and direct that the survey of township 23, range 8, west of the second meridian, by C. E. Lemoine, D.L.S., (said survey being shown on a plan of the said township signed by C. E. Lemoine in August, 1882, and of record in the department of the interior,) shall be, and the same is hereby cancelled.

JOHN J. MCGEE, *Clerk of the Privy Council.*

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 18th May, 1892.

On a report dated 11th May, 1892, from the minister of the interior, stating that an order in council dated 19th October, 1882, authorized the minister of the interior, when finally granting homestead entry, in cases where, through delays attendant on investigation of claims preferred to such entry, the applicants, though decision may be ultimately in their favour, are placed at a disadvantage in that their occupation and cultivation of the land during the interval between the claim for entry and the decision does not count to them as any part of the term of residence required by law to ante-date the entry in such manner as to cover the time after application and before the giving of entry during which the applicant may have been a *bonâ fide* settler on the land.

The minister observes that under provision of the above mentioned order in council the power to ante-date the entry must be exercised at the time when homestead entry is finally allowed; but he is of opinion that it would be advisable to enlarge the scope of the order in council of the 19th October, 1882, referred to, by authorizing the minister of the interior in the class of cases described in the said order in council to permit the entry to be ante-dated at any time prior to the issue of the patent in such manner as to cover the above described period of residence whenever he (the minister) may be of opinion that it is right to do so, and he recommends the same accordingly.

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

JOHN J. MCGEE, *Clerk of the Privy Council.*

Dominion Lands.

AT THE GOVERNMENT HOUSE AT OTTAWA,

SATURDAY, 28th day of May, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

His excellency, in virtue of the provisions of the Dominion Lands Act, chapter 54 of the Revised Statutes, and by and with the advice of the queen's privy council for Canada, is pleased to order that in addition to the lands already reserved in the North-west Territories as watering places for stock and as approaches to the water, the following lands be reserved for the same purpose, and the same are hereby reserved accordingly, namely:—

The west half of section 2, township 17, range 2, west of the 5th meridian; section 10, township 17, range 1, west of the 5th meridian; and section 23, township 16, range 30, west of the 4th meridian.

JOHN J. MCGEE, *Clerk of the Privy Council.*

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 20th June, 1892.

On a report dated 9th June, 1892 from the minister of the interior, stating that the municipality of Whitehead, in the county of Brandon, province of Manitoba, have made application under the provisions of clause 6, cap. 49 of the Revised Statutes of Canada, to be permitted to close up and dispose of certain road allowances lying within township 10, in ranges 20 and 21, west of the 1st meridian.

The minister submits two by-laws, hereto attached, passed by the municipality, describing the roads which they desire to have closed, and in view of the fact that by reason of the physical features of the country these road allowances can never be of any value or service to the general public, he, the minister, recommends that the assent of the governor general in council be given to the closing of the road allowances as described in the said by-laws nos. 141 and 142.

The committee, on the same recommendation advise that the secretary of state be authorized to forward a copy of this minute to the lieutenant-governor of the province of Manitoba for the information of his government, that the governor-general in council has given assent to the closing of the said road allowances, under the powers conferred by clause 6 of chapter 49 of the Revised Statutes of Canada.

JOHN J. MCGEE, *Clerk of the Privy Council.*

BY-LAW No. 141.

Whereas it is expedient to pass a by-law of the municipality of Whitehead for the purpose of stopping up the original government road allowance between sections 7 and 18, in township 10, range 21, and conveying the said road allowance to G. M. Yeomans: Therefore the council of the rural municipality of Whitehead in council assembled enacts as follows:—

That the original government road allowance being that next adjoining G. M. Yeomans, the owner of that portion of the south half of section 18, township 10, range 21, lying south of the Canadian Pacific Railway, shall be and it is hereby sold, granted, bargained and assigned to the said G. M. Yeomans, his heirs and assigns forever at and for the price or sum of one dollar, and such road allowance may be particularly known and described as follows:—

That portion of the government road allowance lying between sections 7 and 18, in township 10, range 21 west of the principal meridian.

That the reeve and secretary-treasurer be and they are hereby authorized to execute all conveyances necessary in regard to the aforesaid road. Done and passed in council this 20th day of February, A.D. 1892.

C. E. HALL, *Reeve.*

GEO. ARMSTRONG, *Sec.-Treas.*

I certify that the annexed by-law is a duplicate original of by-law no. 141 passed by the council of the rural municipality of Whitehead in council assembled the 20th day of February, A.D. 1892.

GEO. ARMSTRONG, *Sec.-Treas.*

BY-LAW No. 142.

Whereas it is expedient to pass a by-law of the municipality of Whitehead for the purpose of stopping up part of the original government road allowance between sections 28 and 29, in township 10, range 20 and conveying the said road allowance to Charles Kelly, and for the purpose of stopping up part of the original road allowance between the s.e. quarter of section 32 and the s.w. quarter of section 33, in township 10, range 20 and conveying the said road to Norman McMillan: Therefore the council of the rural municipality of Whitehead in council assembled enacts as follows:—

1. That portion of the original government road allowance being that next adjoining Charles Kelly the owner of the west half of section 28, in township 10, range 20, shall be and it is hereby sold, granted, bargained and assigned to the said Charles Kelly, his heirs and assigns for ever, at and for the price or sum of one dollar, and such road allowance may be particularly known and described as follows, that is to say:—That part of the government road allowance between sections 28 and 29, in township 10, range 20, west of the first principal meridian, in the province of Manitoba, being the east $49\frac{1}{2}$ feet of same adjoining to and extending the entire length of the west boundary of said section 28, containing by admeasurement 6 acres, be the same more or less.

2. That portion of the original government road allowance being that next adjoining Norman McMillan the owner of the west 80 acres of the s.w. quarter of section 33, in township 10, range 20, shall be and it is hereby sold, granted, bargained, and assigned to the said Norman McMillan, his heirs and assigns for ever, at and for the price or sum of one dollar, and said road allowance may be particularly known and described as follows, that is to say:—That certain part of the government road allowance between sections 32 and 33, in township 10, range 20, west of the first principal meridian, in the province of Manitoba, which may be more particularly known and described as follows, that is to say:—

Beginning at the south-west corner of said section 33; thence westerly and on the course of the south boundary produced $49\frac{1}{2}$ feet; thence northerly and parallel with the west boundary of the section 40 chains, more or less, to a point on the east boundary of section 32; thence due east to intersect the west boundary of said section 33; thence southerly and along said west boundary to the place of beginning, containing by admeasurement 3 acres, be the same more or less. That the reeve and secretary-treasurer be and they are hereby authorized to execute all conveyances necessary in regard to the aforesaid roads.

Done and passed in council this 20th day of February, A.D. 1892.

C. E. HALL, *Reeve.*

GEO. ARMSTRONG, *Sec.-Treas.*

I certify that the annexed by-law is a duplicate original of by-law no. 142 passed by the council of the rural municipality of Whitehead in council assembled the 20th day of February, A.D. 1892.

GEO. ARMSTRONG, *Sec.-Treas.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

SATURDAY, the 9th day of July, 1892.

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

His excellency, under the provisions of The Dominion Lands Act, and by and with the advice of the queen's privy council for Canada has been pleased to

Dominion Lands.

order that subsection (a) of section 51 of the regulations for the disposal of coal lands established by the order in council of the 17th September, 1889, shall be and the same is hereby cancelled, and the following substituted in lieu thereof, namely:—

“Sec. 51 (a). All the arbitrators appointed under the authority of these regulations shall be sworn before a justice of the peace to the impartial discharge of the duties assigned to them, and they shall forthwith proceed to estimate the reasonable damages which the owners or occupants of such lands, according to their several interests therein, shall sustain by reason of such prospecting and mining operations.”

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

FRIDAY, the 15th day of July, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

His excellency, under the provisions of the Dominion Lands Act, chapter 54 of the Revised Statutes, and by and with the advice of the queen's privy council for Canada, is pleased to order that the north half of the north-east quarter of section 2, in township 7, range 25 west of the 4th meridian, which by order in council of the 12th October, 1889, was reserved as a watering place for stock, and as an approach to water, shall be and the same is hereby withdrawn from such reserve.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

SATURDAY, the 23rd day of July, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

His excellency, under the provisions of clause 78 of the Dominion Lands Act, chapter 54 of the Revised Statutes, and by and with the advice of the queen's privy council for Canada, is pleased to order that the lands surrounding Lake Louise in the district of Alberta, shall be and the same are hereby reserved for a forest park, viz. :—

Commencing at the intersection of the south bank of the Bow river with the east boundary of township 28, range 16, west of the fifth meridian; thence southerly along the east boundary of townships 28 and 27, range 16, west of the fifth meridian, to the south-east corner of section 25 in said township 27; thence westerly along the south boundary of sections 25, 26, 27, 28, 29 and 30, in said township 27, and sections 25 and 26, in township 27, range 17, west of the fifth meridian, to the intersection of the said south boundary of the last-mentioned section 26 with the line of continental watershed of the Rocky Mountains dividing the waters flowing into the Pacific ocean from those flowing to Hudson's bay; thence northerly along the said line of watershed to its intersection with the south limit of the right of way of the Canadian Pacific Railway; thence easterly along the said south limit of right of way to its intersection with the south bank of Bath creek; thence in a south-easterly direction along said south bank of Bath creek to its junction with the Bow river; thence in a south-easterly direction along the south bank of Bow river to the point of commencement, containing an area of fifty-one square miles, be the same more or less.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

TUESDAY, the 26th July, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas application has been received from the government of British Columbia for a grant of certain lots situated in the town of Golden, Kootenay district, for the purpose of erecting a court-house and offices thereon :

His excellency, by and with the advice of the queen's privy council for Canada, is pleased to order that lots nos. 17, 18, 19 and 20 in block 7, town of Golden, British Columbia, shall be, and the same are hereby set apart for the use of the province of British Columbia for the purposes mentioned in the aforesaid application.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

TUESDAY, the 26th day of July, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

His excellency, under the provisions of section 8 of the Dominion Lands Act, chapter 54 of the Revised Statutes, and by and with the advice of the queen's privy council for Canada, is pleased to order that the road allowance on Goose island, in Lake Winnipeg, which lies in township 25, ranges 5 and 6, shall be, and the same is hereby cancelled, and its area thrown into section 30, township 25, range 6, east of the principal meridian.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

TUESDAY, 16th August, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

His excellency, by and with the advice of the queen's privy council for Canada, and in virtue of the powers conferred on him by section 108 of chapter 50 of the Revised Statutes of Canada, intituled an "Act respecting the North-west Territories," is pleased to order, and it is hereby ordered that that portion of the public travelled road or trail from Morley to Banff, which has been surveyed from Canmore to the boundary of the Rocky Mountains park, be transferred to the lieutenant-governor of the North-west Territories, for the public uses of the Territories, subject to any rights acquired under patents for lands crossed thereby.

JOHN J. MCGEE, *Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA,

SATURDAY, the 17th day of September, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

His excellency, by and with the advice of the queen's privy council for Canada, is pleased to order that the reserve of two townships in width along the boundary line between Canada and the United States, from the western boundary of Manitoba to the Rocky Mountains, for the purpose of serving as a quarantine ground along which animals in quarantine will be allowed to graze, shall be, and the same is

Dominion Lands.

hereby abolished, and that the reservations hereinafter described shall be and the same are hereby declared to be permanent reservations for quarantine purposes in lieu thereof, namely:—

1st. Township 1, ranges 19, 20, 21, 22 and 23 in part, being that section of the country lying between the north and south branches of the Milk river in township 1.

2nd. Township 1, ranges 12, 13, 14 and 15 in part. Township 2, ranges 12, 13, 14, and 15 in part, being that section of country lying between the Milk river on the north and the international boundary on the south, with Writing Stone coulée on the east, and the right of way of the Alberta Railway and Coal Company's line on the west.

3rd. Township 1, ranges 4, 5 and 6 in part. Township 2, ranges 4, 5 and 6 in part, being that section of country between the Milk river on the west and south, and the Many-Berries creek on the east, all within townships 1 and 2; all the range numbers given being those officially known as being west of the fourth meridian.

JOSEPH POPE, *Assistant Clerk of the Privy Council.*

AT THE GOVERNMENT HOUSE AT OTTAWA.

WEDNESDAY, the 12th day of October, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas section 5 of the act 55-56 Victoria, chapter 15, amending the Dominion Lands Act, provides that lands containing coal or other minerals, including lands in the Rocky Mountains park, shall not be subject to the provisions of this act respecting sale or homestead entry, but the governor-general in council may, from time to time, make regulations for the working and development of mines on such lands, and for the sale, leasing, licensing or other disposal thereof: provided however, that no disposition of mines or mining interests in the said park shall be for a longer period than twenty years, renewable, in the discretion of the governor in council, from time to time, for further periods of twenty years each, and not exceeding in all sixty years:

His excellency, in virtue of the provisions of the above cited act, and by and with the advice of the queen's privy council for Canada, is pleased to make the following regulations to govern the issue of licenses of occupation for the working of mines and minerals within the Rocky Mountains park of Canada:—

1. Licenses to mine coal from lands within the park shall be disposed of by public competition only, and the minister of the interior shall from time to time, as he may find expedient in the public interest, survey, lay out, and offer for disposal by auction or by tender, locations for the mining of coal under such licenses.

2. The duration of such licenses shall be twenty years, unless sooner terminated by consent of the crown and the licensee, or cancelled for non-fulfilment of conditions, and such licenses shall be renewable in the discretion of the governor in council for further periods of twenty years each, and not exceeding in all sixty years, on such terms and conditions as may at the time of renewal be agreed upon by the government and licensee.

3. The ground rent shall be \$1.20 per acre per annum, payable half-yearly in advance.

4. A royalty of ten cents per ton shall be paid by the licensee on all coal taken out of the mine. Returns under oath shall be furnished quarterly to the minister of the interior by the licensee, showing the quantity of coal taken out, and the royalty shall be paid at the time of making such returns. If the royalty which is due for one half-year equals the rental paid for that half-year, then the amount paid for rent shall be credited to such royalty.

5. The area to be licensed to one person shall not exceed three hundred and twenty acres, and the licensee shall not make any transfer or assignment of his license without the consent in writing of the minister of the interior.

6. The boundaries beneath the surface of a location shall be the vertical planes or lines in which their surface boundaries lie.

7. The license shall be subject to the general regulations for the control and management of the Rocky Mountains park of Canada, dated the 30th June, 1890, and to such further and other regulations as may be made from time to time in that behalf by the governor in council.

JOHN J. McGEE, *Clerk of the Privy Council.*

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 19th October, 1892.

On a report dated 4th October, 1892, from the minister of the interior, submitting that under a by-law dated the 20th August, 1888, and numbered 63, hereto attached, the municipality of Deloraine, in the province of Manitoba, closed up and sold to the Manitoba South-western Colonization Railway Company the portions of a certain road allowance therein described, that the said by-law was approved by the lieutenant-governor in council upon the railway company undertaking to register a plan similar to the one hereto attached, and from which it will be observed that the streets laid out on such plan more than compensate for the portions of the road allowance closed, as shown in blue on the said plan.

The minister therefore recommends that the consent of your excellency be given to the closing of the road allowances as described in the said by-law no. 63, and that the secretary of state be requested to inform the lieutenant-governor of the province of Manitoba that such consent has been given, under the powers conferred by clause 6 of chapter 49 of the Revised Statutes of Canada.

The committee advise that the secretary of state be authorized to transmit a copy of this minute to the lieutenant-governor of Manitoba, and submit the same for your excellency's approval.

JOHN J. McGEE, *Clerk of the Privy Council.*

BY-LAW No. 63.

By-law to stop up certain portions of certain road allowances in the municipality of Deloraine, and to sell and convey the same to the Manitoba South-western Colonization Railway Company.

Whereas the Manitoba South-western Colonization Railway Company intended to register a plan of Whitewater, on parts of the north-east quarter of section 7 and the north-west quarter of section 8, the south-west quarter of section 17 and the south-east quarter of section 18, in township 3, and range 21, west of the first principal meridian: And whereas the road allowance, immediately north of said sections 7 and 8 is not parallel with the road allowance immediately west of said sections 8 and 17 is not at right angles to the track of the Manitoba South-western Colonization Railway Company. And whereas it is desirable that the blocks and streets in the said townsite of "Whitewater" to be established, should be either parallel with or at right angles to the said railway track. And whereas the streets to be opened up by the registration of the said plan, will fully compensate for those portions of the said road allowances intended to be stopped up and conveyed to the said railway company, by the provisions of this by-law: And whereas written notices of the intention of this council to consider this by-law, have been posted up for one month, previous to the passing thereof, in six of the most public places in the immediate neighbourhood of the said portions of the road allowances intended to be stopped up, and no one has petitioned to be heard against said by-law:

Be it therefore enacted by the municipal council of the municipality of Deloraine, and it is hereby enacted by authority of the same:—

Dominion Lands.

1. That the following portions of original road allowances shall be and are hereby stopped up, and closed for all public purposes as roads and shall from and after the passing of this by-law cease to be common highways:—

a. That portion of the road allowance between sections 8 and 17, in township 3 and range 21, west of the first principal meridian, ninety-nine feet in width, extending eastward from the north-east angle of 7 in said township and range 1,360 feet, containing by admeasurement three acres and nine one-hundredths of an acre.

b. And also that portion of the road allowance between sections 17 and 18, in said township and range, ninety-nine feet in width, extending northward from the south-east angle of said section 18, 480 feet, containing by admeasurement one acre and nine one-hundredths of an acre.

c. And also that portion of the road allowance between sections 7 and 18, in said township and range, ninety-nine feet in width extending westward from the north-east angle of said section 7, 624 feet, containing by admeasurement one acre and forty-one one-hundredths of an acre.

d. And also that portion of the road allowance between sections 7 and 8, in said township and range, ninety-nine feet in width, extending southward from the north-east angle of said section 7, 920 feet, containing by admeasurement two acres and nine one-hundredths of an acre.

2. That said parcels or tracts of land hereinbefore described in clause 1 of this by-law shall be sold to the Manitoba South-western Colonization Railway Company for the sum of one dollar and shall be conveyed to the said railway company by deed of conveyance to be duly executed on behalf of this municipality.

3. That the reeve and clerk of this municipality be and they are hereby authorized and instructed for and on behalf of this municipality to execute and attach the seal of this corporation to a deed of conveyance of the above described parcels or tracts of land in favour of the said railway company and their successors or assigns, for and in consideration of the sum of one dollar of lawful money of Canada.

JOHN RENTON, *Reeve.*
JAMES RAE, *Clerk.*

I, James Rae, of the town of Boissevain, in the county of Turtle Mountain, farmer, do hereby certify the above to be a duplicate original of a by law passed by the municipal council of the municipality of Deloraine, on the 20th day of August, A.D. 1888, as by-law no. 63.

JAMES RAE,
Clerk of the Council of the Municipality of Deloraine.
JOHN RENTON, *Reeve.*

I hereby certify that by-law no. 63 passed by the municipal council of the municipality of Deloraine on the twentieth day of August, A. D. 1888, was approved of by his honour the lieutenant-governor in council on the thirtieth day of October, A.D. 1888. Dated at Winnipeg, this fifteenth day of April, A.D. 1889.

C. A. SADLER,
Clerk of the Executive Council of Manitoba.

AT THE GOVERNMENT HOUSE AT OTTAWA,

THURSDAY, the 20th day of October, 1892.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas under the provisions of the act of the parliament of Canada, 47 Victoria, chapter 6, intituled: "An Act respecting the Vancouver Island Railway, the Esquimalt Graving Dock, and certain railway lands of the province of British Columbia, granted to the Dominion," and the act of the legislature of the province

of British Columbia, number eleven of 1880, intituled: "An Act to authorize the grant of certain public lands on the mainland of British Columbia to the Government of the Dominion of Canada, for Canadian Pacific Railway purposes," as amended by the act of the said legislature number fourteen, passed in the session held in the years 1883 and 1884, intituled: "An Act relating to the Island Railway, the Graving Dock and railway lands of the province," all the lands within twenty miles of the line of the Canadian Pacific Railway from the summit of the Rocky Mountains to the statutory terminus at Port Moody are granted to her majesty as represented by the government of Canada, and therefore any laws of the province of British Columbia in regard to lands and the boundaries of lands cannot have any bearing or effect upon lands which are within this railway belt, and such lands are within the control of the government and parliament of Canada:

His excellency, by and with the advice of the queen's privy council for Canada, is pleased to declare and does hereby declare, that all sales of land which may have been made or which may hereafter be made without the authority of the government of Canada or without title from the government of Canada within twenty miles of either side of the line of the Canadian Pacific Railway are illegal and void.

Whereof all persons whom it may concern are to take notice and govern themselves accordingly.

JOHN J. MCGEE, *Clerk of the Privy Council.*

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 26th October, 1892.

On a report dated 19th of October, 1892, from the minister of the interior, stating with reference to the order in council of the 16th of April, 1892, providing for a grant to the government of Manitoba of the land required for right of way and station ground purposes of the Red River Valley Railway in the lots at the disposal of the Dominion government, between West Lynne and Winnipeg, upon the Manitoba government filing in the department of the interior plans and descriptions showing the exact position of the property occupied or to be occupied by the railway in the said lots, and upon condition that the area specified in each case as required for the purposes of the railway be approved by the minister of railways, that the plans and descriptions before referred to have since been filed in the department of the interior by the Manitoba government and submitted to the department of railways and canals, and that a letter dated the 17th of August, 1892, has been received stating, in effect, that the minister of railways sees no objection to the areas asked for by the Manitoba government for railway purposes in the lots in question being granted.

The minister, therefore, recommends that the lands at the disposal of the government of Canada in the parish lots between West Lynne and Winnipeg required for right of way and station ground purposes of the Red River Valley Railway, according to the plans and descriptions hereto annexed, be vested in her majesty for the uses and purposes of the province of Manitoba, the lots from which the grant is to be made for the purpose mentioned being as follows:—

Lots 160, 163, 445, 449, 453, 457, 461, 473 (northerly 3 chains), 479, 503, 511, 513 and 525, in the parish of Ste. Agathe, and lots 3, 5 and 10, in the parish of St. Norbert.

The committee advise that the secretary of state be authorized to forward a copy of this minute, if approved, to the lieutenant-governor of the province of Manitoba.

JOSEPH POPE, *Asst. Clerk of the Privy Council.*

DEPARTMENT OF RAILWAY COMMISSIONER, MANITOBA.

I hereby certify that the following is a correct description of the land required for the right of way for the Red River Valley Railway on and over lot no. 160 of the Dominion government survey of the parish of Ste. Agathe: All that portion of said lot being one acre and fifty-two hundredths of an acre, more or less, which lies

Dominion Lands.

between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 363, of which plan (so far as the right of way on and over said lot is concerned) a correct tracing is hereto attached.

And I further certify that the following is a correct description of the land required for right of way for the Red River Valley Railway on and over lot 163 of the Dominion government survey of the parish of Ste. Agathe: All that portion of said lot being one acre and fifty-three hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 363, of which plan (so far as the right of way on and over the said lot is concerned) a correct tracing is hereto attached.

Dated at the city of Winnipeg, in the province of Manitoba, this sixteenth day of May, A. D. 1892.

J. F. HENDRY, *Draughtsman, Winnipeg Land Titles Office.*

I hereby certify that I have checked over and compared the above descriptions and tracing, and find the same to be correct and in accordance with the plan of right of way of said railway filed in the Winnipeg land titles office.

J. OBED SMITH, *Right of Way Solicitor.*

DEPARTMENT OF RAILWAY COMMISSIONER, MANITOBA.

I hereby certify that the following are correct descriptions of the land required for right of way and station grounds for the Red River Valley Railway on and over river lots numbers 445, 449, 453, 457, 461, 479, and the northerly three chains in width of river lot no. 473, according to the Dominion government survey of the parish of Ste. Agathe:

All that portion of said lot 445 being one acre and twenty-three hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land title office as no. 362.

All that portion of said lot 449 being seven acres and eighty-hundredths of an acre, more or less, which lies between two lines parallel with and each said line being two hundred and sixteen feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 362.

All that portion of said lot 453 being eight acres and one-hundredth of an acre, more or less, which lies between two lines parallel with and each said line being two hundred and sixteen feet perpendicularly distant on opposite sides from the centre line of land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 362.

All that portion of said lot 457 being one acre and eighty-four hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 362.

All that portion of said lot 461 being one acre and eighty-four hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley

Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 362.

All that portion of said lot 479 being one acre and eighty-four hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 362.

And all that portion of the northerly three chains in width of said lot 473 being fifty-five hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of the said right of way filed in the Winnipeg land titles office as no. 362.

Of the said plan 362 (so far as the right of way over above lots is concerned) a correct tracing is hereto attached.

Dated at the city of Winnipeg, in the province of Manitoba, this sixteenth day of May, A.D. 1892.

J. F. HENDRY, *Draughtsman, Winnipeg Land Titles Office.*

I hereby certify that I have checked over and compared the above descriptions and tracing, and find the same to be correct and in accordance with the plan of right of way of said railway filed in the Winnipeg land titles office.

J. OBED SMITH, *Right of Way Solicitor.*

DEPARTMENT OF RAILWAY COMMISSIONER, MANITOBA.

I hereby certify that the following are correct descriptions of the land required for right of way for the Red River Valley Railway on and over river lots numbers 503, 511, 513 and 525, according to the Dominion government survey of the parish of Ste. Agathe:

All that portion of said lot 503 being one acre and sixty-eight hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of the said right of way filed in the Winnipeg land titles office as no. 362.

All that portion of said lot 511 being one acre and sixty-three hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 362.

All that portion of said lot 513 being one acre and sixty-eight hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 362.

All that portion of said lot 525 being one acre and sixty-eight hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 362.

Of the said plan 362 (so far as the right of way over above lots is concerned) a correct tracing is hereunto attached.

Dated at the city of Winnipeg, in the province of Manitoba, this sixteenth day of May, A.D. 1892.

J. F. HENDRY, *Draughtsman, Winnipeg Land Titles Office.*

Dominion Lands.

I hereby certify that I have checked over and compared the above descriptions and tracing, and find the same to be correct and in accordance with the plan of right of way of said railway filed in the Winnipeg land titles office.

J. OBED SMITH, *Right of Way Solicitor.*

DEPARTMENT OF RAILWAY COMMISSIONER, MANITOBA.

I hereby certify that the following are correct descriptions of the land required for right of way for the Red River Valley Railway on and over river lots numbers 3 and 5, according to the Dominion government survey of the parish of St. Norbert:

All that portion of said lot 3 being one acre and seventy six hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 360.

All that portion of said lot 5 being one acre and seventy-six hundredths of an acre, more or less, which lies between two lines parallel with and each said line being forty-nine and one-half feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Red River Valley Railway, as the same is shown on a plan of said right of way filed in the Winnipeg land titles office as no. 360.

And of the said plan 360 (as far as the right of way over above mentioned lots is concerned) a correct tracing is hereto attached.

Dated at the city of Winnipeg, in the province of Manitoba, this 16th day of May, A.D. 1892.

J. F. HENDRY, *Draughtsman, Winnipeg Land Titles Office.*

I hereby certify that I have checked over and compared the above descriptions and tracing, and find the same to be correct and in accordance with the plan of right of way of said railway filed in the Winnipeg land titles office.

J. OBED SMITH, *Right of Way Solicitor.*

DEPARTMENT OF RAILWAY COMMISSIONER, MANITOBA,

WINNIPEG, 12th October, 1892.

We hereby certify that the following is a true and correct description of the land taken for right of way of the Red River Valley Railway over river lot number 10, according to the Dominion government survey of the parish of St. Norbert, in the province of Manitoba:—All that certain portion of said lot which lies between two lines parallel with and $49\frac{1}{2}$ feet perpendicularly distant on opposite sides from the centre line of the Red River Valley Railway, as shown on a plan of right of way of said railway filed in the Winnipeg land titles office as number 360, containing by admeasurement one acre and fifty-nine one-hundredths of an acre, be the same more or less.

And the tracing hereto attached is a correct tracing from the said plan 360 so filed as aforesaid.

J. F. HENDRY, *Draughtsman, Winnipeg Land Titles Office.*

J. OBED SMITH, *Right of Way Solicitor.*

RETURN

[30]

Under Resolution of the 20th February, 1882, in so far as the same is furnished by the Department of the Interior respecting the Canadian Pacific Railway.

By order.

JOHN COSTIGAN,

Secretary of State.

OTTAWA, 9th February, 1893.

DEPARTMENT OF THE INTERIOR, OTTAWA, 7th February, 1893.

The Honourable the Minister of the Interior.

SIR,—I have the honour to submit, herewith, copies of all orders in council, correspondence, papers and plans comprising the return for this year which, in so far as this department is concerned, is required by a resolution, passed on the 20th February, 1882, to be presented annually to the House of Commons within fifteen days from the commencement of the session.

The practice which has been followed in the past of dividing the return into parts, each part relating to a special subject, has been adhered to, and it will be found that the accompanying return consists of six parts.

NUMBER ONE relates to matters respecting certain lands required by the company for right of way purposes.

NUMBER TWO relates to the right of the company to land required for right of way purposes through "School" lands.

NUMBER THREE relates to the payment by the company of certain survey fees.

NUMBER FOUR relates to the cutting of timber by the company on Dominion lands in British Columbia.

NUMBER FIVE relates to the company's branch lines or extensions thereof, and has been divided into four parts, as follows:—(a) the Deloraine extension of the Souris branch of the Canadian Pacific railway; (b) the Pipestone extension of the Souris branch; (c) the Glenboro' extension of the same branch; (d) the Battleford branch of the railway.

NUMBER SIX relates to grants made to the company for station grounds at (a) Whitemouth; (b) Moberly; (c) Banff; (d) Tappen Siding and (e) Glenogle. The latter sub-part also includes copies of correspondence relating to the company's ballast pits at Stephen and Hector.

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

A. M. BURGESS, *Deputy Minister of the Interior.*

Canadian Pacific Railway.

PART ONE.

Respecting certain lands required by the Canadian Pacific Railway for right of way purposes.

LAND TITLES OFFICE, WINNIPEG, 3rd March, 1892.

E. DEVILLE, Esq., Surveyor-General, Department of Interior, Ottawa.

SIR,—I have to acknowledge receipt of your letter of 25th February, reference 208,649, and in reply to state that the plan you refer to is on file in the county of Lisgar registry office, which office has not yet been brought into any land titles district, although a portion of the lands in that county have already been brought under the Real Property Act by special application. That plan, where it runs through the outer two miles of the parishes of St. Andrews and St. Clements shows not only right of way 99 feet, but also 33 feet on either side of the right of way for roadway. A number of patents issued by the crown reserve from the patent whatever may be required for right of way, station grounds, or other purposes of the Canadian Pacific Railway, and I have been holding that this reservation would only cover what is necessary for the purposes of the railway, and my present opinion is that the roadway on either side is not necessary and, therefore, might not come within the exception. It is, no doubt, a great convenience to the Canadian Pacific Railway to have this roadway reserved, but it is only a matter for their own convenience and to obviate the necessity of putting a crossing for each lot. It might, therefore, be well if you are issuing patents to the Canadian Pacific Railway for the right of way through these parishes, to consider the question above referred to, so that if the patent issues for the roadway as well as the right of way it might be advisable, before doing so, to consider whether such a patent would not clash with the patent already issued with the reservation I have spoken of. The following is the form of description for right of way which is always used in this office and which has been agreed upon between the Canadian Pacific Railway solicitors and myself:—

“All that portion thereof which lies between two lines parallel with and each said line being feet perpendicularly distant on opposite sides from the centre line of the land taken for the right of way of the Railway as shown on a plan of said right of way, filed in the Winnipeg land titles office as no. containing acres, more or less, said centre line being the centre line of said railway as constructed across said land and lands as adjoining the same.”

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

W. E. MACARA, *District Registrar.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 21st March, 1892.

C. DRINKWATER, Esq., Secretary, C.P.R. Co., Montreal.

SIR,—In reply to a communication concerning the description of your right of way through the outer two miles of St. Andrews and St. Clements, Mr. Macara, the district registrar of Winnipeg, states that the plan of the right of way made by Mr. William Pearce, dominion land surveyor, and on record in the county of Lisgar registry office, shows not only a right of way 99 feet wide, but also 33 feet on each side for roadway, and he observes that the reservation in the patents issued for the lands crossed by the railway, being only for right of way, would not cover the roadway in question.

In addition to the difficulty mentioned by the registrar, I can find no authority for a reservation of a roadway in such cases.

I have communicated about the matter with the department of railways and canals. It might be well that you should submit it to Judge Clarke and obtain his opinion about it.

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

A. M. BURGESS, *Deputy Minister of the Interior.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 20th April, 1892.

C. DRINKWATER, Esq., Secretary, C.P.R. Co., Montreal.

SIR,—On the 21st ultimo I wrote you asking that you should submit to your solicitor the question of the reservation of land for a roadway along your line in the parishes of St. Andrews and St. Clements. I would be glad to be favoured with an early answer to my letter so as to be able to issue the patents for your right of way in these parishes.

I have the honour to be, sir, your obedient servant,
A. M. BURGESS, *Acting Deputy Minister of the Interior.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 17th May, 1892.

W. E. MACARA, Esq., District Registrar, Land Titles Office, Winnipeg, Man.

SIR,—Referring further to your letter of the 3rd March last, regarding the road laid out along the right of way of the Canadian Pacific Railway through the parishes of St. Andrews and St. Clements, I beg to say that since the roadway would appear to have been laid out, and since the land on the other hand is clearly all private property, I would ask you to communicate with the local government and see whether they do not think that the road may be legalized by local legislation.

I have the authority of the minister of the interior for saying that if it should affect any public land the property of Canada, any consent on his part which may be necessary will be readily granted.

I have the honour to be, sir, your obedient servant,
A. M. BURGESS.

C.P.R. Co., OFFICE OF THE SECRETARY, MONTREAL, 31st May, 1892.

JOHN R. HALL, Esq., Secretary, Dept. of the Interior, Ottawa.

SIR,—I have the honour to request that the under mentioned government lands may be granted in exchange for railway lands surrendered to the government:—

Legal subdivision no. 6 of section 22, township 2, range 8, west of the 2nd meridian, in lieu of legal subdivision 4, section 5, township 19a, range 2, west 2nd meridian, granted by the government to the Swedish Lutheran congregation.

The south half and n. e. quarter of section 28, township 2, range 8, west 2nd and the n. w. quarter of section 22, township 2, range 8, west 2nd, in lieu of all section 19, township 17, range 6, west 2nd, released to the government for Chief O'Soup's reserve.

The patent in both cases to issue in the name of the Canadian Pacific Railway Company.

I have also the honour to apply for a patent for the south-east quarter of section 22, township 2, range 8, west 2nd, in lieu of the s. w. quarter of section 15, township 1, range 8, west 2nd, released to the government for a mounted police reserve. Patent to issue in the name of the Manitoba South-western Colonization Railway Company.

I am, sir, your obedient servant,
C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 2nd June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I am directed to acknowledge your letter of the 31st ultimo, asking that certain lands therein mentioned may be granted to the Canadian Pacific Railway Company and the Manitoba South-western Railway Company, respectively, in exchange for lands given up by these companies.

In reply, I am to say that the local agent of Dominion lands was instructed by telegram on the 1st instant to reserve the lands in question for the purpose specified and the issue of the patents will be proceeded with at once.

I have the honour to be, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

Canadian Pacific Railway.

DEPARTMENT OF THE INTERIOR, OTTAWA, 2nd June, 1892.

The Agent of Dominion Lands, Cannington Manor, Assa.

SIR,—I am directed to confirm by mail Mr. Burgess's telegram of the 1st instant, as follows:—

“Reserve for Canadian Pacific legal subdivision six of section 22, south half and north-east quarter 28 and north-west quarter 22, all in 2, 8, west 2nd, also south-east quarter 22 same township for Manitoba South-western. Wire if not available.”

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., SOLICITOR'S OFFICE, WINNIPEG, MAN., 6th June, 1892.

Re Public Highways through St. Clements and St. Andrews.

J. A. M. AIKINS, Esq., Q.C., Winnipeg.

DEAR SIR,—The roads referred to in the correspondence from the department of the interior are those on the main line east of the Red river and are only 33 feet each in width; they are, as will be seen by the plan, placed on each side of the right of way, and, as I am informed by one of our engineers, were laid out to enable the residents of the parish lots (which are very narrow) to pass along to the nearest road crossing without going through his neighbour's property, said road crossings being, say, half a mile apart.

It will be well to examine the plan of the line from St. Boniface to Emerson also, in which it will be found that a similar plan of road allowance has been adopted through the parishes of St. Norbert and Ste. Agathe.

The government, in laying out these roads, deemed it prudent to lay out a road allowance of a uniform width of sixty-six feet along the blind line of the sections adjoining the railway in lieu of the road allowance occupied by the railway, which road allowance was 99 feet wide in the original land surveys.

These road allowances will be found between Defrost station and the parish of St. Norbert. The government also laid out a road allowance of 33 feet around each station ground.

The above statement as to stations and river lots will also apply to the Stone-wall branch

Yours truly,

THOMAS NIXON.

C. P. R. Co., SOLICITOR'S OFFICE, WINNIPEG, MAN., 7th June, 1892.

Re Public Highways through St. Clements and St. Andrews.

WM. WHYTE, Esq., Genl. Supt., C.P.R., Winnipeg, Man.

DEAR SIR,—In reply to your letter of the 1st ult., I return the file of correspondence attached thereto. It appears that the line of railway is the main line between St. Boniface and Selkirk, the right of way of which the government has been procuring for the company. Our company has had nothing to do with the right of way or road allowances on that side of the river. In many cases the government, for the purpose of procuring a proper road allowance, have expropriated lands adjoining the railway. In this particular case I think the letter from Mr. Nixon will explain the matter of road allowances in connection with river lots.

Yours truly,

J. A. M. AIKINS.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 14th June, 1892.

A. M. BURGESS, Esq., Acting Deputy Minister of the Interior, Ottawa.

DEAR MR. BURGESS,—The inclosed correspondence respecting public highways through St. Clements and St. Andrews will probably give the information asked for in your letter of 20th April last.

Yours truly,

C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 23rd June, 1892.

C. DRINKWATER, Esq., Secretary M. S. W. Col. Ry. Co., Montreal, P.Q.

SIR,—I have to inform you that title to the south-east $\frac{1}{4}$ of section 22, township 2, range 8, west of the 2nd meridian, was passed to the Manitoba South-western Colonization Company, on the 23rd instant, by notification to the registrar at Regina, in accordance with the provisions of subsection 5 of section 9 of the act 51 Victoria, chapter 20, and to state that the notification was mailed to the registrar to-day. The number of this grant is 109, and the area of the land is 160 acres.

I am, sir, your obedient servant,

JOHN R. HALL, *Secretary*.

DEPARTMENT OF THE INTERIOR, OTTAWA, 23rd June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I have to inform you that title to the north-west $\frac{1}{4}$ of section 22, township 2, range 8, west of the 2nd meridian, was passed to the Canadian Pacific Railway Company, on the 22nd instant, by notification to the registrar at Regina, in accordance with the provisions of subsection 5 of section 9 of the act 51 Victoria, chapter 20, and to state that the notification was mailed to the registrar to-day. The number of this grant is 2049, and the area of the land is 160 acres.

I am, sir, your obedient servant,

JOHN R. HALL, *Secretary*.

DEPARTMENT OF THE INTERIOR, OTTAWA, 23rd June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I have to inform you that title to the south $\frac{1}{2}$ and the north-east $\frac{1}{4}$ of section 28, township 2, range 8, west of the 2nd meridian, was passed to the Canadian Pacific Railway Company, on the 22nd instant, by notification to the registrar at Regina, in accordance with the provisions of subsection 5 of section 9 of the act 51 Victoria, chapter 20, and to state that the notification was mailed to the registrar to-day. The number of this grant is 2048, and the area of the land is 480 acres.

I am, sir, your obedient servant,

JOHN R. HALL, *Secretary*.

DEPARTMENT OF THE INTERIOR, OTTAWA, 23rd June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I have to inform you that title to legal sub. 6 of section 22, township 2, range 8, west of the 2nd meridian, was passed to the Canadian Pacific Railway Company, on the 22nd instant, by notification to the registrar at Regina, in accordance with the provisions of subsection 5 of section 9 of the act 51 Victoria, chapter 20, and to state that the notification was mailed to the registrar to-day. The number of this grant is 2047, and the area of the land is 40 acres.

I am, sir, your obedient servant,

JOHN R. HALL, *Secretary*.

DEPARTMENT OF THE INTERIOR, OTTAWA, 25th June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal.

SIR,—I am in receipt of your letter of the 14th instant, inclosing correspondence respecting the road allowances laid out along the line of the Canadian Pacific Railway through the parishes of St. Clements and St. Andrews.

It appears that these road allowances were laid out under instructions from Mr. Fleming, then chief engineer of the Canadian Pacific Railway, but instead of placing a copy of the plan on record in the department of the interior so that proper reservations might be made in issuing patents for the adjoining lands, he simply filed it in the registry office for the county of Lisgar. The land required for these roads

Canadian Pacific Railway.

can now be obtained only through expropriation by the provincial or municipal authorities, and the only thing that the Dominion government can do is to issue a patent to your company for your right of way and station grounds. If this is satisfactory, a patent to your company will issue on receipt of a copy of Mr. Pearce's plan on record in the Lisgar registry office.

The correspondence inclosed in your letter is returned herewith.

I am, sir, your obedient servant,

A. M. BURGESS, *Acting Deputy Minister of the Interior.*

LAND TITLES OFFICE, WINNIPEG, 22nd June, 1892.

A. M. BURGESS, Esq., Department of Interior, Ottawa, Ont.

SIR,—Referring to your letter of the 17th May last, reference number 208649, regarding the road laid out along the right of way of the Canadian Pacific Railway through the parishes of St. Andrews and St. Clements, in which letter you refer me to my letter to you of the 3rd March last, I beg to say that I cannot find any such letter written to you as the one you refer to, and, in fact, cannot find any letter written to your department at all in regard to this road. I have a recollection of some correspondence with the department, I think, of railways and canals, in regard to this to which possibly you may intend to refer.

Will you kindly give me further reference to the former correspondence so that I may be able to find it, when I will be glad to assist you in any way I can in having this matter settled.

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

W. E. MACARA, *District Registrar.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 28th June, 1892.

A. M. BURGESS, Esq., Acting Deputy Minister of the Interior, Ottawa.

SIR,—I beg to acknowledge the receipt of your letter of the 25th instant, respecting road allowances and right of way through the parishes of St. Clements and St. Andrews. As this right of way, &c., must be procured for the company by the government, I have referred the correspondence to the department of railways.

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

C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 5th July, 1892.

W. E. MACARA, Esq., District Registrar, Winnipeg, Man.

SIR,—I am directed to acknowledge the receipt of your letter of the 22nd ultimo, and to say that possibly you were misled by the fact that your letter of the 3rd March last was addressed to the surveyor-general, who is an officer of this department. To prevent mistakes I inclose a copy of your letter of the 3rd March.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., SOLICITOR'S OFFICE, WINNIPEG, MAN., 24th August, 1892.

Re description of Right of Way in Patents.

A. M. BURGESS, Esq., Deputy Minister of the Interior, Ottawa, Ont.

DEAR SIR,—I have seen Mr. Macara the district registrar in reference to descriptions for the province of Manitoba, and he approves of the description in the patent which I now inclose. In order that it may be evident from the patent that it refers to the same plan as the plan filed in the department of the interior, I have asked the district registrar to call in the plans in the different district offices that they may be compared with the plans which were or are to be deposited in the department of the interior. Would you kindly inform me what plans of the completed railway have been deposited in your department, so that I may be able to supply any from here that may be wanting, and also if description meets your views.

Yours truly,

J. A. M. AIKINS.

All that portion of the _____ of section _____ township _____ range _____ of the principal meridian which lies between two lines parallel with and each said line being _____ feet perpendicularly distant on opposite sides from the centre line of the _____ of the Canadian Pacific Railway as the same is now constructed across said land and lands adjoining the same and as shown on a plan of said railway signed by _____ and dated _____ on file in the department of the interior, a duplicate whereof is on file in the land titles office for _____ as number _____ containing _____ acres more or less.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 30th August, 1892.

A. M. BURGESS, Esq., Deputy Minister of the Interior.

DEAR MR. BURGESS,—Mr. Aikins wrote you on the 24th, inclosing a proposed description of the right of way which has been approved by the district registrar. It will be necessary, however, to see that the plans of the completed line filed in the registry offices are the same as those on file in your office. I think the quickest way would be to box all the plans you have of the main line and branches, and send them to Mr. Aikins so that they can be carefully compared, corrected where necessary and returned to you in complete shape. Unless we do this, I am afraid that we shall only have endless correspondence and delay in getting our right of way into shape. If you agree with me in this, kindly forward the box to Mr. Aikins by Dominion express, advising me.

Yours very truly,

C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 21st September, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal.

SIR,—I have the honour to acknowledge the receipt of your letter of the 30th ult., suggesting that all the plans of the right of way of the Canadian Pacific Railway and branches on record in this department be forward to Mr. Aikins for comparison with the plans of the completed line filed in the registry offices.

In accordance with your request, the plans, a list of which is inclosed, have been forwarded to Mr. Aikins by the Dominion Express Company.

I may mention that most of these plans do not contain the information agreed upon between the officers of your company and this department.

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

A. M. BURGESS, *Deputy Minister of the Interior.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 21st September, 1892.

J. A. M. AIKINS, Esq., Solicitor's Office, C.P.R. Co., Winnipeg, Man.

SIR,—I have the honour to acknowledge the receipt of your letter of the 24th instant, in reference to the description of right of way in patents, and in reply to inform you that the description inclosed in your letter is satisfactory, provided the plan referred to therein contains the information agreed upon between the officers of the Canadian Pacific Railway Company and this department.

At the request of Mr. Drinkwater, I have forwarded to your address by Dominion Express Company the plans of the right of way of the Canadian Pacific Railway Company's main line and branches on record in this department, so that they may be compared with those filed in the registry offices. I may mention that the information on most of these plans is not sufficient for our purposes.

A list of the plans forwarded is inclosed.

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

A. M. BURGESS, *Deputy Minister of the Interior.*

Canadian Pacific Railway.

LIST of C.P.R. Right of Way plans of the Province of Manitoba forwarded to J. A. M. Aikins, Esq.,
Winnipeg.

Record Number.	Description.
5059	Manitoba South-western Colonization Railway, from Elm Creek westward 40 miles.
6697	Canadian Pacific Railway, South-western and Pembina Mountain Branch, from Rosenfeld to range 3.
6696	Canadian Pacific Railway, South-western and Pembina Mountain Branch, from range 3 to Manitou.
6699	Canadian Pacific Railway, Manitoba South-western Colonization Railway, from Elm Creek to Carman.
6698	Canadian Pacific Railway, South-western and Pembina Mountain Branch, from Winnipeg to Gretna.
5058	Manitoba South-western Colonization Railway, from Manitou 80 miles west.
4569	Manitoba South-western Colonization Railway, from Elm Creek westward 40 miles.
5206	Manitoba South-western Colonization Railway, from Holland westward 20 miles.
6057	Canadian Pacific Railway, Flat Creek to Moose Jaw.
4570	Manitoba South-western Colonization Railway, from Manitou westward 80 miles.
6765	Canadian Pacific Railway, north-west extension of Souris Branch, from Estevan to main line.
6422	Canadian Pacific Railway, Souris Branch, Deloraine extension, from Deloraine to Melita.
5202	Manitoba South-western Colonization Railway, from Holland westward 20 miles.
6251	Canadian Pacific Railway, Glenboro' extension, Souris Branch.
6369	Canadian Pacific Railway, Glenboro' extension, Glenboro' to Souris.
6040	Canadian Pacific Railway, Souris Branch, Kemnay to Melita.
5205	Manitoba South-western Colonization Railway, from Manitou westward 80 miles.
5261	Canadian Pacific Railway, from north limit of Dawson road survey to English River.
5262	Canadian Pacific Railway, from west end of contract 25 to Eagle River.
5062	Manitoba South-western Colonization Railway, from Manitou westward 80 miles.
6760	Canadian Pacific Railway, Souris Branch, Pipestone extension, from junction of Souris Branch for 30 miles.
4790	Canadian Pacific Railway, Winnipeg Branch Railway, from station 76 x 88 feet, to main line.
5240	Canadian Pacific Railway, Red River to Cross Lake.
5239	Canadian Pacific Railway, Rat Portage to Cross Lake.
4568	Manitoba South-western Colonization Railway (scale, 400 feet to 1 inch).
5968	Canadian Pacific Railway, Winnipeg to Brandon.
5203	Manitoba South-western Colonization Railway, from Elm Creek westward 40 miles.
6761	Souris Branch, Deloraine to Napinka.
6055	Canadian Pacific Railway, Winnipeg to Flat Creek.
4789	Canadian Pacific Railway, Pembina Branch Railway, from Roman catholic church property, St. Boniface, to international boundary line.
5260	Canadian Pacific Railway, through townships of Neebing, Paijooonge and Oliver, &c.
6374	Canadian Pacific Railway, Selkirk to Whitemouth.
6569	Souris Branch, Melita to crossing of Moose Mountain Creek.
5204	Manitoba South-western Colonization Railway, from Boissevain westward 20 miles.
6568	Canadian Pacific Railway, Souris Branch, from Kemnay to Melita.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 20th October, 1892.

A. M. BURGESS, Esq., Acting Deputy Minister of the Interior, Ottawa.

DEAR MR. BURGESS,—Parties who have acquired sites for elevators within our station grounds at Indian Head are complaining because we do not register their leases. The reason why we cannot do so is that the patent has not issued for the right of way and station grounds. As it is desirable that these leases should be registered without further delay, I shall be obliged if you will cause the patent to be issued at once. You will remember that special plans and descriptions were prepared by Mr. Hamilton, where the line crossed even sections, and deposited in the department some two or three years ago, and I hope you will find that they are sufficient.

Yours truly,
C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 28th October, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I am directed to acknowledge the receipt of your letter of the 20th instant, asking that a patent issue to your company for its right of way and station grounds at Indian Head, which station is upon the south half of section 24, township 18, range 13, west of the 2nd meridian, and to inform you that this land has been patented to the Qu'Appelle Valley Farming Company, but is subject to the reservation of any lands required for right of way and station grounds by your railway

company. All the plans of record here in connection with the line of this railway and the branches thereof have been forwarded to the registrars in Manitoba and the North-west Territories in order that they may be compared with those registered and certified to by the registrar. When these plans are returned here steps will be taken to carry out your request.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co.'s Telegraph, Nov. 25th, 1892.

(From Winnipeg, Man., to John R. Hall, Secretary, Dept. of Interior, Ottawa.)

In looking over right of way plans sent to me cannot find plan Winnipeg to Elm creek deposited 11th April and Manitou to Deloraine deposited 10th February last both these plans Manitoba South-western Colonization Railway, also plan West Selkirk Branch. Kindly send them to me for examination.

W. WHYTE.

DEPARTMENT OF THE INTERIOR, OTTAWA, 30th November, 1892.

J. A. M. AIKINS, Esq., Solicitor, C.P.R. Co., Winnipeg, Man.

SIR,—Referring to my letter of the 21st of September, forwarding you right of way plans of the Canadian Pacific Railway through the province of Manitoba, I send you by this day's mail the plan showing the right of way from Winnipeg to Elm creek on the Manitoba and South-western Colonization Railway which by oversight was omitted when the other plans were sent.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 30th December, 1892.

WM. WHYTE, Esq., Gen. Supt. (Western Div.), C. P. R. Co., Winnipeg, Man.

SIR,—In reply to your telegram of the 25th ultimo, I am directed to say that by an oversight the right of way plan of the Manitoba South-western Colonization Railway, from Winnipeg to Elm creek, was not sent to Mr. Aikins in September last. It is sent to him by mail to day. The section from Manitou to Deloraine, however, was sent to him, and the record number on the corner of the plan is 5058. This department has never been furnished with any tracing of the right of way of the West Selkirk Branch of the Canadian Pacific Railway.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE GENERAL SUPERINTENDENT,
WINNIPEG, MAN., 9th December, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa, Ont.

DEAR SIR,—Referring again to the matter of right of way plans which are being compared with those on file in the land titles office here, will you kindly send me plan of the right of way of our main line from Winnipeg to the western boundary of Manitoba, which was sent to your department in August last, and oblige?

Yours truly,
W. WHYTE, *General Superintendent.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 15th December, 1892.

WM. WHYTE, Esq., Gen. Supt. (Western Div.), C. P. R. Co., Winnipeg, Man.

SIR,—I am directed to acknowledge the receipt of your letter of the 9th instant, relative to the right of way plans of the main line of the Canadian Pacific Railway from Winnipeg to the west boundary of the province of Manitoba. The plans in question are known as the sections from "Winnipeg to Flat creek" and from "Flat creek to Moose Jaw." The record numbers on the corners of these plans are 6055 and 6057 respectively, and both plans were sent to Mr. Aikins in Winnipeg on the 21st September last.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

Canadian Pacific Railway.

PART TWO.

Respecting the right of the Canadian Pacific Railway Company to land required for right of way purposes through "School" lands.

C.P.R.Co., WESTERN DIVISION, SOLICITOR'S OFFICE, WINNIPEG, 15th March, 1892.

L. A. HAMILTON, Esq., Land Commissioner.

DEAR SIR,—Inclosed please find the following lists of school lands which you will please forward to Mr. Drinkwater with any additional remarks that you think proper.

1. School lands in the province of Manitoba for which the government has promised a free grant, as per schedule "A."

2. School lands in the province for which the company will require to procure the right of way, &c., by purchase, as per schedule "B."

3. School lands crossed by the Manitoba South-western Colonization Railway, the Glenboro' extension of the Souris branch, the Souris branch and the main line. In this list I have placed Bergen station, for which we do not appear to have as yet received any patent.

4. School lands east of Red river and on the Stonewall branch. These lands are to be granted free to the company, being on those portions of the company's railway which was built by the Dominion government.

I have not placed in the lists any of the school sections in the North-west Territories as the plans are not such as will be acceptable to the department of the interior as they do not give such information as is required by the deputy minister.

The lists now sent have all been signed by Dominion land surveyor Geo. A. Bayne.

Yours truly,
THOMAS NIXON.

List of school lands in the province of Manitoba for which the Dominion government has promised to give a free grant of their right of way and station grounds, as per Schedule "A."

Section.	Township.	Range West of 1st Meridian.	Right of Way.	Station Grounds.	Total.	Remarks.
N. E. ¼ 11.....	10	21	6·08	.....	6·08	Main line.
N. W. ¼ 11.....	10	21	6·08	.....	6·08	do
N. E. ¼ 11.....	10	22	4·28	.....	4·28	do
S. E. ¼ 11.....	10	22	2·72	.....	2·72	do
S. W. ¼ 11.....	10	22	6·76	.....	6·76	do
N. W. ¼ 29.....	9	22	5·78	.....	5·78	do
N. W. ¼ 11	11	27	5·60	2·80	8·40	Hargrave station.
N. E. ¼ 11.....	11	27	13·75	.....	13·75	Main line.

GEO. A. BAYNE, *Dominion Land Surveyor.*

WINNIPEG, 15th March, 1892.

A list showing accurate areas west of this will be sent in as soon as plans have been corrected. See Mr. Nixon's letter on this point.

WINNIPEG, 15th March, 1892.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 1st April, 1892.

Right of Way through School Lands.

A. M. BURGESS, Esq., Department of the Interior, Ottawa.

SIR,—I instructed the land commissioner to go fully into this matter with our right of way agent at Winnipeg, and in order that you may see exactly how it stands, I inclose copy of letters from Mr. Hamilton and the right of way agent on the subject. I also inclose the corrected lists referred to in Mr. Nixon's letter.

On reference to schedule B, you will see that the corrected areas show that we have overpaid you for 33·12 acres.

As to the list of lands crossed by the Manitoba South-western Railway, Souris branch, &c., as these were not, I understand, included in the valuation made by Mr. Hamilton and Mr. Pearce, another valuation will be necessary, and I would suggest that the same course be followed. The principle adopted in arriving at this valuation was the value of lands at the time of the construction of the railway, this being the principle which governs in cases of expropriation. If you concur in this I will instruct Mr. Hamilton, on hearing from you. I attach to the inclosed, the original lists referred to in Mr. Nixon's letter.

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

C. DRINKWATER.

C. P. R. Co., LAND DEPARTMENT, WINNIPEG, 26th March, 1892.

School Lands.

C. DRINKWATER, Esq., Secretary, Montreal.

DEAR SIR,—I have gone into the question of right of way through school lands thoroughly with Mr. Nixon and have had him prepare lists of lands required on main line and branches in the province of Manitoba. Since the lists were filed on which the government based the order in council giving us the right to purchase certain lands and free grants of others, the lines through the province of Manitoba have been re-surveyed. It was necessary to do this so as to give the information required by registrars here and to satisfy the department in Ottawa who required additional information to that shown on the old plans before accepting right of way descriptions for patent. This survey, as you can readily understand, having been made seven or eight years after the first survey, has made some alterations in the right of way areas. I would suggest, therefore, that the government pass a new order in council annulling the previous one and adopting these new lists in place of those that formerly passed in the first order in council. Mr. Nixon's letter accompanying the lists explains fully their nature. I inclose herewith all correspondence in connection with the matter.

Yours truly,

L. A. HAMILTON, *Land Commissioner.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 25th June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—Referring to your letter of the 1st of April last, inclosing corrected lists of areas required in school sections for the right of way of the Canadian Pacific Railway, I am directed to say that the answer to this letter has been delayed pending the receipt of the additional lists referred to by Mr. Bayne in his note to list No. 1, but as these lists have not yet been furnished, it has been thought advisable to deal with those in the meantime which we now have in hand.

Canadian Pacific Railway.

With respect to the right of way already purchased by the company, under the terms of the order in council of the 7th of February, 1891, I inclose a list showing the quarter-sections in which the areas in the new list differ from those in the schedule which accompanied the order in council mentioned, and also from those given on the right of way plans of record in the department.

Assuming the new list to be correct, there is a difference in the total area purchased by the company of $\frac{92}{1000}$ of an acre, and not 33.12 acres as stated in your letter. That is to say, the total area according to this would be 181.62 instead of 182.54 acres.

According to Mr. Bayne, the area purchased is 159.40 acres, but in this he has included 12.68 acres for a substitutional highway, which must be deducted, as it does not come under the provisions of the order in council of the 7th of February, 1891, and this would leave 146.74 acres, or with the 2.02 acres for station grounds, 148.76 acres.

You will observe, however, that in the 182.54 acres purchased by the company, the following lands were included, which are not in Mr. Bayne's list, viz. :—

	Acres.
S.E. $\frac{1}{4}$ 29-14-32 W. 1.....	7.70
S.W. $\frac{1}{4}$ 29-14-32 W. 1.....	12.56
S.E. $\frac{1}{4}$ 11-15-33 W. 1.....	0.30
S.W. $\frac{1}{4}$ 11-15-33 W. 1.....	12.30
	32.86

Assuming that there will be no change in these areas, and adding them to the 148.76 acres of Mr. Bayne's list, we have a total of 181.62 acres, the area before mentioned.

Of the areas not yet purchased by the company, required for right of way by the Manitoba and South-western Railway, and the Glenboro' extension and other branches, there are one or two instances in which the areas given in the new list differ from those shown on the right of way plans, viz. :—In the north-west $\frac{1}{4}$ 11-7-13 west 1, the list gives 5.55 acres, and plan 5.53 acres. In the s.e. $\frac{1}{4}$ 29-11-2 e. the list shows 7.25 acres, and plan 8.84 acres, and in the s.w. $\frac{1}{4}$ of the same section, the list gives 12.81 acres and the plan 20.30 acres.

With respect to the Emerson and Stonewall branches, and the portion of the main line of the Canadian Pacific Railway east of the Red River, the differences of area between the new lists and the right of way plans are as follows :—

In the s.w. $\frac{1}{4}$ 29-1-3 e., the list gives 0.13 acres, and the plan 4.64 acres.

The list gives 6.34 acres in n.e. $\frac{1}{4}$ 29-1-3 e., while the plan does not show the railway in this quarter-section at all but gives 6.25 acres in the n.w. $\frac{1}{4}$.

The plan also shows 6.34 acres in n.e. $\frac{1}{4}$ 29-2-3 e., and 6.00 acres in the s.e. $\frac{1}{4}$ and 0.13 acres in the s.w. $\frac{1}{4}$ of the same section, while the list omits these altogether.

I am to say, however, that as the department is bound by the right of way plans of record here, the new areas cannot be accepted until properly certified plans are filed showing the changes in all cases. As soon as these are filed, valuations will be placed on the area still to be purchased, and any difference that there may be on the first purchase will be adjusted at the same time.

I am also to call your attention to the fact that the company have not yet furnished the descriptions of their right of way which were asked for some time ago, and without which the patents cannot issue.

I am, sir, your obedient servant,
LYNDEWODE PEREIRA, *Assistant Secretary.*

LIST of school sections in which area of right of way as given in list which accompanied Mr. Drinkwater's letter of 1st April, 1892, differs from area given in schedule attached to order in council of 7th February, 1891, and also from right of way plans.

Section.	Township.	Range.	Right of Way.	Remarks.
			Acres.	Acres.
S.E. $\frac{1}{4}$ 29.....	10	14 W. 1st Meridian	5.43	Right of way plan, 5.82.
N.E. $\frac{1}{4}$ 29.....	10	14 do ..	0.69	do 0.36.
S.W. $\frac{1}{4}$ 29.....	10	14 do ..	0.01	do 0.13.
S.E. $\frac{1}{4}$ 29.....	10	18 do ..	2.76	do 3.31.
S.W. $\frac{1}{4}$ 29.....	9	24 do ..	2.76	do 3.02.
N.E. $\frac{1}{4}$ 29.....	10	26 do ..	4.14	do 4.08.
N.W. $\frac{1}{4}$ 29.....	2	1 do ..	0.42	do 0.25.
N.E. $\frac{1}{4}$ 29.....	2	1 do ..	5.64	do 6.06.
N.E. $\frac{1}{4}$ 11.....	3	6 do ..	2.07	do 1.83.
S.W. $\frac{1}{4}$ 29.....	3	8 do ..	0.25	do 0.23.
Total			24.17	25.09
				24.17
Difference of area.....				.92

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 14th September, 1892.

JOHN R. HALL, Esq., Department of the Interior, Ottawa.

SIR,—With reference to the right of way through schools lands referred to in the assistant secretary's letter of 25th June last (ref. no. 210023), I have received a report from our right of way agent from which extracts are embodied in this letter, within quotation marks:—

"The 32.86 acres mentioned on page 2 were not included in Mr. Bayne's list as they are outside of the province and no re-survey has yet been made of that portion of the line."

It is suggested that these lands be included in the settlement, as I am advised that no change will be made in the acreage when the re-survey takes place.

"The n. w. $\frac{1}{4}$ 11-7-13 (page 2 of departmental letter) shows 5.55 acres on all our plans, and the acreage of 5.53 must be an error in copying."

The s.e. and s.w. $\frac{1}{4}$ of 29-11-2 east is Bergen station. The quantity of land first asked for station ground was reduced from 4.40 acres to 2.81 in the s.e. $\frac{1}{4}$, and from 13.76 to 6.27 in the s.w. $\frac{1}{4}$. Arrangements were made by the late Mr. McTavish with the late commissioner Walsh, of the Dominion government lands department, but the correspondence was destroyed in the fire at the general office in Winnipeg. There does not appear to have been any final settlement of the right of way and station grounds on this half section."

Our land commissioner states as to this that the department will have on record the position in which we stand in regard to these station grounds. His recollection is that the land was sold by auction and the right of way and station ground reserved on the understanding that it would be sold to the company at the price realized for the remainder of the section.

"The errors mentioned on page 3 are fully gone into in the explanation made by Mr. Bayne, which shows that section 29-1-3 east, which is now part of Ste. Agathe river lots, was left off by him as the said land, though formerly a school section, was given to the settlers on the river by instructions from the government right of way agent.

"The s.e., s.w. and n.e. $\frac{1}{4}$ of section 29-1-3 east, given in the list, should have been 29-2-3 east on the Emerson branch."

Canadian Pacific Railway.

Mr. Bayne's explanation of this is as follows:—

“There is an error in the township as above noted—it should have been township 2 instead of 1.

“Section 29-1-3 east was left off as it was supposed to be on the river lots of Ste. Agathe, as shown on our plans. After the survey of the right of way was made by Pierce & Crawford, the department of the interior included the w. $\frac{1}{2}$ of section 29-1-3 e. in the river lots of Ste. Agathe. A survey of the right of way through that portion showing the production of the river lots through the west portion of section 29 was made by me under instructions from Wm. Skead, and a plan of same was furnished him for the department, which plan shows a road allowance adjoining the right of way on both sides similar to that allowed on the river lots in that part of the parish of Ste. Agathe through which the road runs; therefore, the right of way and road allowance of what was formerly the w. $\frac{1}{2}$ section 29-1-3 east will require to be conveyed to the company as passing through the prolongation of river lots nos. 66, 68, 70, 72, 74, 76, 78 and 80 in the parish of Ste. Agathe. The total acreage in the said prolongation is, for right of way, 10.89 acres and for road allowance, 7.26 acres.” It appears that the difference of 0.92 acres between the list furnished the department and attached to the order in council, and the new list arises from corrections made by Mr. Bayne when he re-surveyed the several lines.

We find the statement of acreage given by you correct as shown on the original plans, and at the prices named in the order in council would give the following result:—

8.98 acres at	\$2.50 per acre				\$22 45
32.86	do	3.00	do	.....	98 58
39.01	do	4.00	do	.....	156 04
36.74	do	5.00	do	.....	183 70
20.46	do	6.00	do	.....	122 76
40.23	do	7.00	do	.....	281 61
4.26	do	20.00	do	.....	85 20
					\$950 34

The amount paid the government was \$949.21, but adopting the corrections shown on Mr. Bayne's list and adding the 32.86 in the North-west Territories not included in his list, the position will be as follows:—

8.72 acres at	\$2.50 per acre				\$21 80
32.86	do	3.00	do	.....	98 58
39.07	do	4.00	do	.....	156 28
36.56	do	5.00	do	.....	182 80
20.70	do	6.00	do	.....	124 20
39.45	do	7.00	do	.....	275 75
4.26	do	20.00	do	.....	85 20
					\$944 61

It would appear, therefore, that the company has overpaid the government to the extent of \$4.60.

Perhaps you may consider it advisable to have a new order in council passed adopting the amended acreages.

With regard to deviations of highway, it is presumed that the government will sell to us these deviations from time to time as the remainder of the sections are sold by auction and at the price realized at such sales; and if any of the sections in which these road deviations occur were disposed of at the last sale of school lands, it is respectfully suggested that such deviations be included in any new order in council which may be passed in relation to the lands referred to in this communication.

As regards to the right of way through section 11-6-1 east, the following remarks of the right of way agent are commended to you:—

“Permit me to say that in any case the 12·68 acres required for a substitutional highway, viz., in the n. w. $\frac{1}{4}$ of section 11 6-1 east 6·10 acres, and in the s. w. $\frac{1}{4}$ of same section 6·58 acres, should be disposed of to the company at \$5 per acre, the rate fixed by Mr. Pearce for the school lands in township 7, range 1 east. This land may be regarded as actual right of way as the railway runs along the highway through one-half of the sections on its route in townships 5 and 6, range 1 east, and we have purchased from the other owners the land required for the highway. The municipality of Morris are pressing to have the lands in lieu of the highway conveyed to them, but we are waiting for a patent of the portion above alluded to so as to grant the whole in one conveyance to them.”

I trust these explanations will be satisfactory, and that you will be enabled to obtain authority for the issue of patents in accordance therewith.

I have the honour to be, sir, your obedient servant,
C. DRINKWATER, *Secretary.*

PART THREE.

Respecting the payment by the Canadian Pacific Railway Company of certain survey fees.
(Telegram.)

DEPARTMENT OF THE INTERIOR, OTTAWA, 18th September, 1891.

C. DRINKWATER, Secretary, C. P. R. Co.

Please telegraph immediately whether lease of your company of Manitoba South-western lines includes portion between Carman and Glenboro', and also portion between Manitou and Deloraine.

JOHN R. HALL.

C. P. R. Co.'s TELEGRAPH, MONTREAL, 18th Sept., 1891.

JOHN R. HALL, Department of Interior, Ottawa.

Lease covers both sections mentioned in your message.

C. DRINKWATER.

DEPARTMENT OF THE INTERIOR, OTTAWA, 27th July, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal.

SIR,—I am directed to call your attention to my letter to you of the 9th February, 1891, asking for payment of the amount due by the Manitoba South-western Colonization Railway Company for survey fees on the portion of the land grant patented to them.

The company have so far only paid \$422.07 on this account, leaving a balance due on the area actually patented of \$2,471.57.

I may say that while under the law as it stands the company are only required to pay these fees on the area actually patented, neither the minister nor the government nor parliament contemplated that the companies would construe this as meaning that they should be at liberty to deal with all the land included in the grant as soon as it was earned by construction, and yet not be called upon to pay the survey fees until they should choose to apply for patent.

It is, moreover, beyond doubt that the minister could issue patents for the lands when they are earned without waiting for the application of the company, and it appears equally clear that the company have no right to deal with or dispose of any

Canadian Pacific Railway.

portion of their land grant until they are entitled to patent therefor by, among other things, paying the survey fees.

Heretofore the minister, with a view to suiting the convenience of the company, has consented to issue the patents for the lands earned as applied for from time to time, but I am to say that this arrangement can only be continued if the survey fees on the area already earned by the company and allotted to them by order of his excellency the governor-general in council are paid within 30 days of this date. The total area earned by construction, and authorized by his excellency to be patented to the company is 1,396,800 acres, upon which at 10 cents per acre there is due the sum of \$139,680, less the amount of \$422.07 already paid and duly credited as hereinbefore mentioned.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., WESTERN DIVISION, LOCAL TREASURER'S OFFICE,
WINNIPEG, 25th July, 1892.

To the Secretary, Department of the Interior, Ottawa.

DEAR SIR,—Herewith I inclose you the company's cheque No. 9290, for \$2,469.49, for survey fees, as per account attached; will you kindly sign both the original, and duplicate receipt form, and return to me at your earliest convenience.

On the 24th ult., I sent you a cheque for \$164.19; so far, I have not received any receipt. Kindly oblige.

Yours truly,
JAMES STUART, *Local Treasurer.*

JAMES STUART, Esq., Local Treasurer, C. P. R. Co., Winnipeg, Man.

DEPARTMENT OF THE INTERIOR, OTTAWA, 4th August, 1892.

SIR,—I am directed to acknowledge the receipt of your letter of the 25th ultimo, inclosing a cheque for \$2,469.49, which you state is in payment of the cost of survey for the lands in the land grant to the Manitoba South-western Colonization Railway Company, that have actually been patented to the company, and to inform you that by letter of the 27th ultimo, Mr. Drinkwater, the secretary of the company, was advised that the full amount due for survey fees on the area actually patented out of the grant in question is \$2,471.57. Please be good enough to forward the difference between the amount received from you and the amount which was due.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., LAND DEPARTMENT, WINNIPEG, MAN., 9th August, 1892.

The Secretary, Department of the Interior, Ottawa.

DEAR SIR,—Mr. Stuart, our local treasurer, has referred to me your letter of the 4th instant, reference 21797, with regard to survey fees upon lands in the Manitoba South-western Colonization Railway Company land grant.

I inclose herewith for your information a statement showing how the amount is arrived at. Might I trouble you to have this checked with your books and advise me in what way the discrepancy to which you refer arises? On hearing from you, I will at once have any error adjusted.

Yours truly,
L. A. HAMILTON, *Land Commissioner.*

Range.	Township.	Meridian.	Section.	ACREAGE.				Tctal.	Remarks.
				N. W.	N. E.	S. W.	S. E.		
14	1	1	3	160				160	
			21	160		160		320	
			31		174.97		160	334.97	
			33			160	160	320	
15	1	1	13	160	160			320	
15	3	1	17			160		160	
			27	160				160	
15	4	1	1	160	160			320	
			9				160	160	
16	2	1	17			160	160	320	
			19				160	160	
			31	180.90	184.80			365.70	
16	4	1	1	160	160	160	160	640	
			3		160		160	320	
			9			160		160	
			15		144.81			144.81	
17	2	1	35	186.95	186.83			373.78	
17	3	1	1				172.37	172.37	Right of way, 4.49 acres reserved.
			5		160			160	
			9			115.50		115.50	
			7				153.98	153.98	
			15		160		160	320	
			23				160	160	
18	1	1	1		160			160	
18	2	1	9		160	160	160	480	
			23	160	160		160	480	
			31			150.24	160	310.24	
			33	189.28	189.04	160	160	698.32	
18	3	1	19			163.88	160	323.88	
19	1	1	35	160				160	
19	2	1	5	160		160		320	
			7				160	160	
			19	153.19	160			213.19	
			31	181.76		152	160	493.76	
19	3	1	3		160		174.04	334.04	
19	3	1	7	165.20	160	165.44	160	650.64	
			9		160		160	320	
20	2	1	15	160		160		320	
			17	160	160			320	
			19	153.04		153.44		306.48	
			21				160	160	
			23			160	160	320	
			25				160	160	
			31		192.44			192.44	
			33	192.24				192.24	
20	3	1	1	160	160			320	
			5	160	160	173.12	174.24	667.36	
			9		160			160	
			23		160		160	320	
			27	160		160		320	
			27			160		160	
21	2	1	7		160		179.40	339.40	
21	3	1	1		160			160	
			7			160	160	320	
			17			160	160	320	
			13				160	160	
22	2	1	7			160	160	320	
			15	160		160		320	
			21		160		160	320	
			23	160		160		320	
			27	160		160		320	
			33	186.80		160		346.80	
			35			160	160	320	
22	3	1	1		160	176.50	176.50	513	
			3	160				160	
23	2	1	35		187.40			187.40	
23	3	1	3		160			160	
24	2	1	23	160		160		320	
			25				160	160	
			15			160		160	

Canadian Pacific Railway.

Range.	Township.	Meridian.	Section.	ACREAGE.				Total.	Remarks.
				N.W.	N.E.	S.W.	S.E.		
26	4	1	3			160	160	320	
27	2	1	15	160	160	160	160	640	
			17	160	160	160	160	640	
			19	144.49	160	145.24	160	609.73	
			21	160	160	160	160	640	
			23	157	160	156.25	160	633.25	
			33	173.64	168	160	160	661.64	
27	4	1	1	160	160	160	160	640	
29	1	1	1			160		160	
			5		160			160	
Total acreage.....								24,694.92	

DEPARTMENT OF THE INTERIOR, OTTAWA, 17th August, 1892.

L. A. HAMILTON, Esq., Land Commissioner, C. P. R. Co., Winnipeg, Man.

SIR,—I am directed to acknowledge the receipt of your letter of the 9th instant, inclosing a statement showing how the amount due as cost of survey for the land grant to the Manitoba South-western Colonization Railway Company is calculated, and asking that it be checked with the books of this department.

On the first sheet of this statement the areas of the north-west quarter and the north-east quarter of section 19, township 2, range 19 west of the 1st meridian, although correctly given in their individual columns, are given in the column of totals as 213.19 instead of 313.19 acres, and there is therefore an additional 100 acres to be added to the gross total of your statement, making it 24,794.92 acres instead of 24,694.92 acres.

To be added to this area of 24,794.92 acres are the following lands which have been patented as part of the company's land grant but are not included in your statement in question:—

W. $\frac{1}{2}$ of s. w. $\frac{1}{4}$ 30-3-9, w. 1st m.....	81.82 acres.
S. e. $\frac{1}{4}$ of 22-2-8, w. 2nd m.....	160.00 "
W. $\frac{1}{2}$ of 33-3-26, w. 1st m.....	320.00 "
S. e. $\frac{1}{4}$ of 5-4-26, w. 1st m., less—6.82 acres for right of way of Souris branch of Canadian Pacific Railway.....	153.18 "

This gives a total of 715 acres to be added, which makes up the full area to the present time to 25,509.92 acres. The last two pieces of land mentioned are those patented to John Dobbyn, the purchase money for which was transmitted to your company through this department.

The total amount due at ten cents per acre is, therefore, \$2,550.99, less the amount paid, \$2,469.49, leaving a balance now due of \$81.50. I trust that this explanation is satisfactory and that you will have forwarded to this department with as little delay as possible the amount now due.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 9th September, 1892.

JAMES STUART, Esq., Local Treasurer, C. P. R. Co., Winnipeg, Man.

SIR,—I am directed to inclose herewith your voucher in duplicate, duly signed, for the sum of \$2,469.49 which was inclosed with your letter of the 25th July last on account of survey fees. The list which accompanied such vouchers is also returned herewith.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 9th September, 1892.

JAMES STUART, Esq., Local Treasurer, C.P.R. Co., Winnipeg, Man.

SIR,—I am directed to acknowledge the receipt of your letter of the 24th ultimo, inclosing a cheque for \$81.50, being the balance of the amount of survey fees, and to return the voucher for this amount signed in duplicate.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

No. 1680.

ORIGINAL, FOR THE DEPOSITOR.

BANK OF MONTREAL, OTTAWA, 8th September, 1892.

\$2,469.49.

Received from Canadian Pacific Railway Company, on account of Dominion lands survey fees, the sum of twenty-four hundred and sixty-nine $\frac{49}{100}$ dollars, which amount will appear at the receiver-general's credit with this bank.

(Signed in triplicate.)

A. MONTIZAMBERT,

Entered.....W.

pro Manager.

No. 1679.

ORIGINAL, FOR THE DEPOSITOR.

BANK OF MONTREAL, OTTAWA, 8th September, 1892.

\$81.50.

Received from Manitoba South-western Railway Company, on account of Dominion lands, for survey fees, the sum of eighty-one $\frac{50}{100}$ dollars, which amount will appear at the receiver-general's credit with this bank.

(Signed in triplicate.)

A. MONTIZAMBERT,

Entered.....W.

pro Manager.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 15th September, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—With reference to the assistant secretary's letter of 27th July last, asking for payment of the amount due by the Manitoba South-western Colonization Railway Company for survey fees on the portion of the land grant for which patents have been granted, I beg to say that the amount then in arrears has since been paid.

As stated in your letter, the acts making the several land grants to that company provide for the payment of the survey fees in cash on the issue of the patent, and the company has always assumed that the intention of this provision was that the patents would not issue until the lands were sold and the purchasers were entitled to patents. As, however, it appears from your letter that such is not the interpretation put upon the acts by the minister of the interior, I am instructed to ask that some measure of relief be afforded the company, and that the payment at once of the full amount of the survey fees on the whole of the land grant, as called for by the assistant secretary's letter, be not insisted upon.

In support of this application, I beg to submit the following observations for the minister's consideration:—

You will remember that some time ago this company made application to be relieved altogether from the payment of these fees, in view of the enormous expenditure they had incurred in the examination and classification of its lands for the information of intending settlers; information which, being at all times open to the government officials in their land offices at Winnipeg and elsewhere, was freely used for the purpose of inducing the settlement of government lands; so that the expenditure to which I allude has been a great advantage to the government as well as to the company. I think I am safe in saying that in this we stand in an

Canadian Pacific Railway.

exceptional position; because I believe that no other land grant company has examined and classified its lands to anything like the extent we have done, or incurred anything like the expense; in fact, as far as I can learn, most of them have done nothing in that direction.

The company has also, as you are no doubt aware, expended large sums of money in promoting emigration to Manitoba and the North-west, and in doing so has always kept prominently before the public in all of its publications the advantages offered by the government in free homesteads and in pre-emptions. In fact this expenditure has been so great that it has absorbed a very considerable portion of the proceeds of our land sales.

I would remind you also that, for the purpose mainly of inducing rapid settlement, the company has recently reduced the price of its lands twenty-five to thirty-three per cent.

The company does not desire the immediate issue of the patents for the whole of the land grant, and in asking a reconsideration of the decision intimated by the assistant secretary's letter, I am directed to ask that as regards sales already made the present practice of paying the fees when the patents issue be continued, but as regards future sales I am directed to say that the company would be willing to pay the survey fees forthwith as sales or agreements for sale are made, or, for greater convenience, monthly or quarterly as the department may elect.

The company, some time ago, gave notice that in future purchasers would be required to pay these fees, but on the advice of our land commissioner they will not be collected until the last instalment is paid—purchasers being inclined to object to their payment at all. As our terms give them ten years in which to pay for their lands, we will not be reimbursed in respect of the amount paid out by the company, under the proposition above submitted, until ten years after its payment to the government.

Trusting that this application will receive the favourable consideration of the minister,

I remain, sir, your obedient servant,
C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 4th October, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal.

SIR,—With reference to your letter of the 15th ultimo, in regard to the payment of the amount due by the Manitoba South-western Colonization Railway Company for survey fees, I beg to say that on further consideration of the matter, the minister has decided to accept the proposition made in your letter on behalf of the company, that is to say, that as regards sales already made, the present practice of paying the fees when the patents issue be continued, but as regards future sales the company pay the survey fees forthwith as sales or agreements are made.

I may add, that for convenience it would be better that the payments on this account be made by the company monthly, accompanied by a statement of the sales on which the fees are paid.

I am to add that, while consenting to this proposition for the present, the minister does so merely as a tentative measure, which is subject to amendment and revision if his excellency the governor-general in council should at any time see fit.

I am, sir, your obedient servant,
JOHN R. HALL, *Secretary.*

PART FOUR.

Respecting the cutting of timber by the Canadian Pacific Railway Company on Dominion lands in British Columbia.

DEPARTMENT OF THE INTERIOR, OTTAWA, 22nd March, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—In reply to your letter of the 18th December last, asking that in view of the circumstances therein related, your company be permitted to cut ties without

being called upon to acquire limits by public competition, I am directed to say that the minister submitted to his colleagues the whole question as to whether or not this privilege should be given to railway companies, pointing out to them the inconvenience of having to acquire limits in this way, but after due consideration, they decided that the provisions of the timber regulations approved by his excellency the governor in council could not be departed from.

It will, therefore, be necessary for your company to furnish this department with descriptions of the various tracts upon which they desire to cut timber, and upon this being done, competition will be invited, and if your company offers the highest bonus, a permit will be issued in their favour for one year, and will thereafter be renewed from year to year, to cut timber on the said tracts without competition.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

CROWN TIMBER OFFICE, NEW WESTMINSTER, 20th May, 1892.

The Secretary, Department of the Interior, Ottawa.

SIR,—I have the honour to inclose application from the Canadian Pacific Railway Company for permit to cut ties and cordwood between Revelstoke and Illecillewaet. I see no reason why it should not be put up to public competition.

You will observe that I had the honour of inclosing to you on the 17th instant application from one Blayney, of Anthracite, Alberta, for permission to cut hemlock bark in the same territory. Should the Canadian Pacific Railway Company be the successful tenderer, which I have no doubt they will be, as they will be prepared to give a larger bonus than others, they will, I have no doubt, be prepared to arrange with Mr. Blayney to take what bark he requires, provided he cuts the timber into cordwood for their use. I may say that within the last few days I have seen Mr. Abbott, the general superintendent, Vancouver, and he will be prepared to do this. By that means there will be no loss of timber and less danger from fire than if the timber is merely felled, the bark taken off and the trees left lying in the woods. However, this is a matter which it is unnecessary to broach to Mr. Blayney until we see the result of tenders.

I am, sir, your obedient servant,
T. S. HIGGINSON, *Crown Timber Agent.*

C. P. R. Co. (PACIFIC DIVISION), OFFICE OF THE GENERAL SUPERINTENDENT,
VANCOUVER, B.C., 2nd May, 1892.

T. S. HIGGINSON, Esq., Crown Timber Agent, New Westminster, B.C.

SIR,—On behalf of the Canadian Pacific Railway Company, I beg to apply for the privilege of cutting ties and cordwood on the crown lands lying alongside of the railway for half a mile on each side of the railway between Illecillewaet and Revelstoke.

I have the honour to be, sir, your obedient servant,
H. ABBOTT, *General Superintendent.*

DEPARTMENT OF THE INTERIOR, SECRETARY'S BRANCH, OTTAWA, 3rd June, 1892.

The Queen's Printer, Ottawa.

SIR,—I am directed to request that you will cause the annexed advertisement inviting competition for permits to cut timber on certain berths situated between Illecillewaet and Revelstoke, on the line of the Canadian Pacific Railway, in the province of British Columbia, to be inserted once in each of the following newspapers:—

The *Kootenay Star*, Revelstoke.

The *Inland Sentinel*, Kamloops.

Please send me 20 copies of this advertisement.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

Canadian Pacific Railway.

Tenders for permits to cut on Dominion lands in the province of British Columbia.

Sealed tenders addressed to the undersigned and marked on the envelope "Tender for a permit to cut timber, to be opened on the 11th of July, 1892," will be received at this department until noon on Monday, the 11th day of July next, for permits to cut timber on six berths situated between Illecillewaet and Revelstoke, on the line of the Canadian Pacific Railway, in the province of British Columbia.

The regulations under which permits will be issued, together with a sketch showing approximately the position of the berths in question, may be obtained at this department or at the office of the crown timber agent at New Westminster.

Each tender must be accompanied by an accepted cheque on a chartered bank in favour of the deputy of the minister of the interior, for the amount of the bonus, which the applicant is prepared to pay for the permit. A separate tender must be made for each berth.

It will be necessary for each person whose tender is accepted to obtain a permit within sixty days from the date upon which his tender is accepted, and to pay twenty per cent of the dues on the timber to be cut under such permit, otherwise the berth will be cancelled.

No tender by telegraph will be entertained.

JOHN R. HALL, *Secretary.*

DEPARTMENT OF THE INTERIOR, SECRETARY'S BRANCH, OTTAWA, 3rd June, 1892.

DEPARTMENT OF THE INTERIOR, SECRETARY'S BRANCH, OTTAWA, 3rd June, 1892.

The Crown Timber Agent, New Westminster, B.C.

SIR,—I am directed to acknowledge the receipt of your letter of the 20th ultimo, no. 6353, inclosing an application from Mr. H. Abbott, general superintendent of the Pacific division of the Canadian Pacific Railway, for the privilege of cutting ties and cordwood on Dominion lands lying along the railway, for half a mile on each side thereof between Illecillewaet and Revelstoke. In reply, I am to say that the length of the berth described by Mr. Abbott is fifteen miles, by one mile wide, and that the regulations provide that the length of a berth must not exceed three times its width.

In addition to Mr. Abbott's application, other applications have been filed here for permission to cut timber on the tract in question, and it has therefore been decided to divide this tract into six berths, the positions of which are shown on the annexed plan coloured in yellow, and lettered A, B, C, D, E and F.

A copy of the advertisement which will shortly appear in the newspapers inviting competition for permits to cut timber on the berths in question is inclosed herewith.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

(Telegram.)

MONTREAL, 6th July, 1892.

To Mr. R. HALL, Department Interior, Ottawa.

Please send me particulars of the six timber berths between Illecillewaet and Revelstoke advertised for sale. Wish to put in tender.

C. DRINKWATER.

DEPARTMENT OF THE INTERIOR, OTTAWA, 6th July, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co. Montreal, P.Q.

SIR,—In reply to your telegram of the 6th instant, I am directed to inclose herewith a copy of an advertisement inviting tenders for six timber berths between Illecillewaet and Revelstoke, also a plan showing the positions of the berths in question, and a copy of the permit regulations.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

(Telegram.)

MONTREAL, 7th July, 1892.

To Mr. R. HALL, Ottawa.

Advertisement *re* tenders for timber berths not inclosed in Pereira's letter of yesterday. Please send.

C. DRINKWATER.

\$30.00

C. P. R. Co., voucher No. 3076.

Received of the Canadian Pacific Railway Company, the sum of thirty dollars for amount of bonus offered for licenses to cut timber on six timber berths situated between Illecillewaet and Revelstoke.

(Telegram.)

MONTREAL, 8th July, 1892.

Mr. R. HALL, Department of the Interior, Ottawa.

Error in official cheque sent you yesterday. Please return it.

C. DRINKWATER.

(Telegram.)

MONTREAL, 8th July, 1892.

A. M. BURGESS, Ottawa.

Please see my telegram of yesterday to Hall. I have now received copy of advertisement referred to in Pereira's letter, but not the regulations. The map shows six berths lettered A to F, coloured yellow, and apparently six coloured red, but there is nothing to indicate which are offered. I suppose the yellow are those for which tenders invited. Please let me know as I wish to put in tender to-day.

C. DRINKWATER.

(Telegram.)

DEPARTMENT OF THE INTERIOR, OTTAWA, 8th July, 1892.

C. DRINKWATER, Secretary, C. P. R. Co., Montreal.

Berths shaded yellow are those for which tenders are invited.

A. M. BURGESS.

DEPARTMENT OF THE INTERIOR, OTTAWA, 8th July, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—In compliance with the request contained in your telegram of to-day's date, I am directed to return herewith the cheque for thirty dollars therein referred to.

A copy of the timber regulations has been sent to you under a separate cover.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 9th July, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—With reference to the tenders for timber berths put in by me on behalf of this company, dated yesterday, I beg to say that the offer of five dollars bonus is intended as an offer of that amount for each berth, and not of so much per square mile. As these tenders do not exactly conform to the regulations, I think it well to advise you of the fact.

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

C. DRINKWATER, *Secretary.*

Canadian Pacific Railway.

C. P. R. Co., MONTREAL, 8th July, 1892.

The Secretary, Department of the Interior, Ottawa.

SIR,—I hereby offer a bonus of five dollars for a timber berth of square miles situated between Revelstoke and Illecillewaet, and lettered A on the map, for which berth public competition is being invited, and I inclose an accepted cheque on the Bank of Montreal for five dollars being the amount of said bonus.

I undertake to comply with all the conditions of the timber regulations.

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

C. DRINKWATER, *Secretary.*

C. P. R. Co., MONTREAL, 8th July, 1892.

The Secretary, Department of the Interior, Ottawa.

SIR,—I hereby offer a bonus of five dollars for a timber berth of square miles situated between Revelstoke and Illecillewaet, and lettered B on the map, for which berth public competition is being invited, and I inclose an accepted cheque on the Bank of Montreal for five dollars, being the amount of said bonus.

I undertake to comply with all the conditions of the timber regulations.

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

C. DRINKWATER, *Secretary.*

C. P. R. Co., MONTREAL, 8th July, 1892.

The Secretary, Department of the Interior, Ottawa.

SIR,—I hereby offer a bonus of five dollars for a timber berth of square miles situated between Revelstoke and Illecillewaet, and lettered C on the map, for which berth public competition is being invited, and I inclose an accepted cheque on the Bank of Montreal for five dollars, being the amount of said bonus.

I undertake to comply with all the conditions of the timber regulations.

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

C. DRINKWATER, *Secretary.*

C. P. R. Co., MONTREAL, 8th July, 1892.

The Secretary, Department of the Interior, Ottawa.

SIR,—I hereby offer a bonus of five dollars for a timber berth of square miles situated between Revelstoke and Illecillewaet, and lettered D on the map, for which berth public competition is being invited, and I inclose an accepted cheque on the Bank of Montreal for five dollars, being the amount of said bonus.

I undertake to comply with all the conditions of the timber regulations.

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

C. DRINKWATER, *Secretary.*

C. P. R. Co., MONTREAL, 8th July 1892.

The Secretary, Department of the Interior, Ottawa.

SIR,—I hereby offer a bonus of five dollars for a timber berth of square miles situated between Illecillewaet and Revelstoke, and lettered E on the map, for which berth public competition is being invited, and I inclose an accepted cheque on the Bank of Montreal for five dollars, being the amount of said bonus.

I undertake to comply with all the conditions of the timber regulations.

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

C. DRINKWATER, *Secretary.*

C. P. R. Co., MONTREAL, 8th July, 1892.

The Secretary, Department of the Interior, Ottawa.

SIR,—I hereby offer a bonus of five dollars for a timber berth of square miles situated near Revelstoke, and lettered F on the map, for which berth public competition is being invited, and I inclose an accepted cheque on the Bank of Montreal for five dollars being the amount of said bonus.

I undertake to comply with all the conditions of the timber regulations.

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

C. DRINKWATER, *Secretary.*

DEPT. OF THE INTERIOR, SECRETARY'S BRANCH, OTTAWA, 16th July, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I am directed to inform you that the tenders made by you on behalf of your company for permission to cut timber on six berths situated between Revelstoke and Illecillewaet have been accepted, and that the crown timber agent at New Westminster has this day been instructed to issue the necessary permits to your company.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

CROWN TIMBER OFFICE, NEW WESTMINSTER, B.C., 29th September, 1892.

The Secretary, Interior Department, Ottawa.

SIR,—I have the honour to inclose statement of cordwood cut by the Pacific division of the Canadian Pacific Railway Company under permit number F 19, up to the 1st May last, amounting in all to \$5,022.23, for which a voucher is now being put through their finance department, and will be paid in the course of a month or so. The cancelled permit will follow in a few days.

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

T. S. HIGGINSON, *Crown Timber Agent.*

C. P. R. Co. to T. S. Higginson, Dr., residing at New Westminster, B.C.

1892.	—	Amount.	Total.
Aug. 31..	For Crown dues on wood furnished by Lee Deen, see voucher 159 92, 15,103 cords wood at 25c	8 cts. 37 75	\$ cts. 542 71
	Crown dues on wood furnished by Kwong On Wo. & Co.— See voucher 156 ⁷ / ₂ , 248 43 cords at 25c..... do 161 ⁷ / ₂ , 1,771 39 cords at 25c.....	62 11 442 85	
	LESS—Wood cut on patented lands, 1,120 cords at 25c.. Crown dues, on account overpaid on voucher 37 ¹ / ₂	280 00 39 50	319 50
			223 21

Correct.

T. S. HIGGINSON, *Crown Timber Agent.*

Canadian Pacific Railway.

CROWN DUES payable to T. S. Higginson, on contracts on which the C. P. R. pay dues, to 30th August, 1892.

Contract.	—	Cords.	\$ cts.
437	John Lyons, North Bend—Voucher 154, July, 1891	138 cords	138 34 50
438	Kwong On Wo & Co., North Bend to Lytton—		
	Voucher 162, August, 1891	256 do	
	do 161, September, 1891	203 do	
	do 127, October, 1891	205 do	
	do 169, November, 1891	170 do	
	do December, 1891	171 do	
	do 141, January, 1892	72 do	
	do 135, February, 1892	11 do	
	do 117, March, 1892	106 do	
	do 138, April, 1892	430 do	
	do 176, May, 1892	422 do	
	do 194, June, 1892	317 do	
		2,363	590 75
439	Kwong On Wo & Co., Tappen Siding to Shuswap—		
	Voucher 161, August, 1891	1,069 cords	
	do 163, September, 1891	1,200 do	
	do 128, October, 1891	792 do	
	do 170, November, 1891	829 do	
	do 143, December, 1891	975 do	
	do 142, January, 1892	781 do	
	do 136, February, 1892	889 do	
	do 116, March, 1892	1,397 do	
	do 149, April, 1892	1,289 do	
		9,221	2,305 25
440	Kwong On Wo & Co., Albert Canyon to Shaswap—		
	Voucher 163, August, 1891	204 cords	
	do 125, October, 1891	123 do	
	do December, 1891	79 do	
	do 178, January, 1892	2,337 do	
		2,743	685 75
455	John Lyons, North Bend—		
	Voucher 158, September, 1891	41 cords	
	do 129, October, 1891	84 do	
	do 172, November, 1891	120 do	
		245	61 25
456	William Oregon, North Bend—Voucher 13, September, 1891 ..	59 cords	59 14 75
464	C. A. McGuire, Sicamous to Salmon Arm—		
	Voucher 157, September, 1891	23 do	23 5 75
469	L. Howson, Spuzzum—		
	Voucher 173, September, 1891	394 do	
	do 137, January, 1892	77 do	
	do 141, February, 1892	258 do	
		729	182 25
478	John Lyons, Spuzzum—		
	Voucher 139, December, 1891	104 cords	
	do 135, January, 1892	109 do	
	do 138, February, 1892	751 do	
		364	91 00
479	Charlie Chapman, Spuzzum—Voucher 259, June, 1892	55 cords	55 13 75
481	C. A. McGuire, Salmon Arm—		
	Voucher 138, December, 1891	45 do	
	do 146, January, 1892	114 do	
	do 150, February, 1892	65 do	
		224	56 00
486	Wm. Oregon, North Bend—Voucher 140, January, 1892	70 cords	70 17 50
487	Thomas Shaw, Salmon Arm—Voucher 139, January, 1892	45 do	45 11 25
488	Wm. Moffett, Agassiz—		
	Voucher 138, January, 1892	99 do	
	do 140, February, 1892	68 do	
	do 141, April, 1892	117 do	
	do 264, June, 1892	37 do	
		321	80 25

CROWN DUES payable to T. S. Higginson on contracts on which the Canadian Pacific Railway pay dues to 30th August, 1892—*Concluded.*

Contract.			Cords.	\$ cts.
493	C. Hanson, Notch Hill—Voucher 153, February, 1892.....	51 cords	51	12 75
494	Thos. Shaw, Salmon Arm do 154 do 1892.....	368 do	368	92 00
495	F. McCullough, Notch Hill do 155 do 1892.....	4 do	4	1 00
496	John Roe, Salmon Arm do 152 do 1892.....	20 do	20	5 00
499	Wm. Oregon, North Bend do 168 do 1892.....	161 do	161	40 25
500	John Lyons, North Bend— Voucher 133, April, 1892.....	230 cords		
	do 21, May, 1892.....	284 do	514	128 50
504	P. McBryan, Shuswap—Voucher 122, March, 1892.....	50 cords	50	12 50
505	Geo. Aylett, Salmon do 124 do 1892.....	52 do	52	13 00
506	Jas. Pearson, Lytton do 125 do 1892.....	466 do	466	116 50
507	Wm. Oregon, Kafers do 126 do 1892.....	444 do	444	111 00
508	A. B. Bine, Lytton do 127 do 1892.....	21 do	21	5 25
510	Thos. Shaw, Salmon Arm do 123 do 1892.....	277 do	277	69 25
513	Deen Lee, Agassiz— Voucher 164, May, 1892.....	99 do		
	do 185, June, 1892.....	204 do		
	do 195, Aug., 1892.....	202 do	505	126 25
515	G. Birbe, N.P., Agassiz—Voucher 143, April, 1892.....	33 cords	33	8 25
518	Jas. Pearson, Keefer do 142 do 1892.....	38 do	38	9 50
519	L. Howson, Spuzzum— Voucher 150, April, 1892.....	102 do		
	do 174, May, 1892.....	73 do		
	do 266, June, 1892.....	156 do	331	82 75
521	Wm. Oregon, Kafers—Voucher 1, June, 1892.....	54 cords	54	13 50
525	John Lyons, North Bend—Voucher 177, May, 1892.....	340 do	340	85 00
528	Kwong On Wo & Co., Kamloops—Voucher 199, Aug., 1892...	1,159 do	1,159	289 75
530	do North Bend do 264 do 1892...	297 do	297	74 25
540	Wm. Moffett, Agassiz—Voucher 183, August, 1892.....	72 do	72	18 00
	LESS—Wood taken off Genelle Bros. timber limits by Kwong On Wo & Co., from 1st January to 30th June, 1892.....	2,589 do		
	And from 30th June, 1891, to 31st Dec., 1891....	3,498 do		
			21,857	5,464 25
			6,087 at 25c. }	1,521 75
				3,942 50

Cut on berths 71 to 78.

Correct.

T. S. HIGGINSON, *Crown Timber Agent.*

Canadian Pacific Railway.

CROWN DUES payable to T. S. Higginson on contracts on which contractors pay dues, to 31st August, 1892.

Contract.	—	Cords.	\$ cts.
441	Kwong On Wo Co., Agassiz— Voucher 141, July, 1891..... do 164, August, 1891..... do 160, September, 1891..... do 140, December, 1891.....	131 cords 548 do 270 do 303 do	1,252 313 00
463	Jack Chinaman, Abbotsford— Voucher 171, November, 1891..... do 152, December, 1891.....	280 cords 131 do	411 102 75
483	Yeomans, S. J. and G., Incousen— Voucher 143, February, 1892..... do 134, February, 1892.....	42 cords 28 do	70 17 50
484	Thompson, T. J., Abbotsford— Voucher 29, April, 1892..... do 174, May, 1892..... do 262, June, 1892.....	44 cords 40 do 22 do	106 26 50
514	Kwong Chung Lung & Co., Abbotsford— Voucher 263, June, 1892..... do 162, July, 1892..... do 197, August, 1892.....	200 cords 402 do 306 do	908 227 00
459	Campbell, D. K., Abbotsford— Voucher 114, November, 1891..... do 114, December, 1891..... do 18, April, 1892..... do 33, February, 1892.....	1,207 ties. 2,432 do 368 do 1,335 do	5,342 160 26 317 9 51
489	Laneville, D., Hatzic—Voucher 22, April, 1892.....	317 ties.	856 52

Correct.

T. S. HIGGINSON, *Crown Timber Agent.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 24th October, 1892.

The Crown Timber Agent, New Westminster, B.C.

SIR,—In the statement which accompanied your letter of the 29th ultimo, no. 6686, from the Canadian Pacific Railway Company, a deduction of \$1,521.75 is made on 6,087 cords of wood cut on Messrs. Genelle Brothers' limits, nos. 71 and 78. Upon referring to Messrs. Genelle Brothers' mill return for the period which ended on the 30th June, 1892, it is found that only \$684.79 was paid by them for the wood in question. The company should be called upon to pay the difference, which is \$836.96.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

CROWN TIMBER OFFICE, NEW WESTMINSTER, B.C., 22nd October, 1892.

The Secretary, Interior Department, Ottawa.

SIR,—I have the honour to state that on the 19th instant I received from the Pacific division of the Canadian Pacific Railway Company the sum of \$223.21 on account of royalty on cordwood and ties cut under permit no. 9, counterfoil no. 1409, representing this amount, I now beg to inclose.

I have the honour to be, sir, your obedient servant,
T. S. HIGGINSON, *Crown Timber Agent.*

CROWN TIMBER OFFICE, NEW WESTMINSTER, 24th October, 1892.

The Secretary, Interior Department, Ottawa.

SIR,—I have the honour to refer to my letter of the 29th ultimo, no. 6686, in which I inclosed statement of the timber cut by the Canadian Pacific Railway Company on vacant government lands between Port Moody and Donald, amounting to \$5,022.23, cut under permit no. F 19 up the 1st May last. I now beg to inclose additional statement amounting to \$792.51, making in all the sum of \$6,814.74, as having been cut under that permit for the year which expired on 1st of May last. Vouchers for this amount are now being put through the company's books, and will be paid shortly. The cancelled permit I also beg to inclose, which please attach to the statements.

I have the honour to be, sir, your obedient servant,
T. S. HIGGINSON, *Crown Timber Agent.*

C. P. R. Co. to T. S. Higginson, Timber Agent, Dr., residing at New Westminster.

Year.	Amount.	Total.
1892.	8 cts.	8 cts.
For amount of crown dues retained from the Hudson Bay Company for wood and ties cut on government lands on contracts nos. 421 and 422, between Yale and Agassiz, from September, 1891, to August, 1892, as follows :—		
14,942 ties, at 3c.	448 26	
1,377 cords wood, at 25c.	344 25	
		792 51

Correct.

T. S. HIGGINSON, *Crown Timber Agent.*

CROWN TIMBER OFFICE, NEW WESTMINSTER, B.C., 31st October, 1892.

The Secretary, Interior Department, Ottawa.

SIR,—I have the honour to acknowledge your letter of the 24th instant, ref. 142313 T and M, in reference to the matter of cordwood cut on limit no. 78, held by Genelle Brothers, at Notch Hill, on the line of the Canadian Pacific Railway, between Sicamous and Kamloops. The 6,087 cords of wood were cut after the limit in question had been acquired by these gentlemen, they were therefore, I thought, entitled to come under the 5 per cent arrangement, same as other product cut from these limits. You will see in the same return of Genelle's, *i.e.*, ending 30th June last, 22,185 ties on which they paid the 5 per cent, being equal to $1\frac{5}{10}$ per tie instead of 3 cents or permit dues, the same with the wood they paid $11\frac{1}{2}$ cents instead of 25 cents, being permit dues.

I am, sir, your obedient servant,
T. S. HIGGINSON, *Crown Timber Agent.*

CROWN TIMBER OFFICE, NEW WESTMINSTER, B.C., 6th November, 1892.

The Secretary, Interior Department, Ottawa.

SIR,—I have the honour to state that I have this day received from the Canadian Pacific Railway, Pacific division, the sum of four thousand seven hundred and ninety-nine $\frac{2}{100}$ dollars, being balance of royalty on wood as per statement from me, letter 6686, 29th September last.

Letter which accompanied this amount and counterfoil I now beg to inclose.

I have the honour to remain, your obedient servant,
T. S. HIGGINSON, *Crown Timber Agent.*

Canadian Pacific Railway.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 28th November, 1892.

Timber berths between summit of Rockies and Donald.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

DEAR HALL,—I have been endeavouring to ascertain what timber berths are available for license between the above points, but without success. Could you, without much trouble send me a map showing what berths have been taken up, and if any of them are liable to cancellation owing to non-payment of dues. I would also like to have particulars.

We wish to secure some berths for this section of our line in the same way as we have done west of Donald.

Yours very truly,

C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 5th December, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I am directed to acknowledge the receipt of your letter of the 28th ultimo, and in reply to inclose herewith a plan showing the timber berths between Donald and the summit of the Rocky Mountains, disposed of by this department, and to say that none of these berths are at present liable to cancellation for the non-payment of rent dues.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

PART FIVE.

Respecting the Canadian Pacific Railway Company's branch lines or extensions thereof. This part is divided into the following sub-parts:—(a) concerning the Deloraine extension of the Souris branch; (b) the Pipestone extension of the same branch; (c) the Glenboro' extension of the same branch; and (d) the Battleford branch.

PART FIVE—SUB-PART (a.)

Deloraine extension of the Souris branch, Canadian Pacific Railway.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 5th April, 1892.

The Hon. EDGAR DEWDNEY, Minister of the Interior, Ottawa.

SIR,—By order in council dated 7th February, 1891, subsequently confirmed by parliament, a grant of land—6,400 acres per mile—was made for an extension of this company's Souris branch to the coal fields near La Roche Percée, an estimated distance of 60 miles, the same being in addition to the grant previously made for 100 miles of the said branch extending from Kemnay south and west 100 miles.

This extension has been completed to Oxbow, a distance of 114.4 miles from Kemnay, and the work on the remaining distance to the coal fields, 40 miles, is well advanced and will be completed early in the coming season.

It is the intention of this company to make a further extension of this line from the coal fields west and north-west to a junction with the main line at or near Regina or Moose Jaw, and surveys are now in progress. This proposed extension will develop and open up for settlement a district containing some of the best agricultural lands in southern Assiniboia.

It is also proposed to construct during the present year another extension of the Souris branch from a point near Souris westward to the Pipestone valley, a distance of about 30 miles, which will also afford much needed railway accommodation to an important section of the country.

The general benefits secured to settlers in southern Manitoba and eastern Assiniboia by the construction of this Souris branch system, and especially in the opening

up of the coal fields, assuring to those districts an unlimited supply of cheap fuel, are well known to the government, and the directors feel that they are justified in asking for a similar grant of land in aid of the further extensions above named.

I therefore beg to ask that the usual grant of 6,400 acres per mile be made for the extension from the coal fields west and north-west to a junction with the main line, an estimated distance of 150 miles, and for the proposed line from near Souris to the Pipestone valley, about 30 miles, in all 180 miles.

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

C. DRINKWATER, *Secretary*.

C. P. R. Co., WESTERN DIVISION, SOLICITOR'S OFFICE,
WINNIPEG, MAN., 16th May, 1892.

Re description of land for patent of right of way of the C. P. R.

A. M. BURGESS, Esq., Deputy Minister of the Interior, Ottawa.

DEAR SIR,—I understand that the plan of the Souris branch from Kemnay to Melita, and from Melita to Moose Mountain creek, has been filed with your department. Will you kindly have this plan examined, and let me know if it contains all the particulars that your department will require. A duplicate of the first part of this plan has been filed in the registry office. If the plan you have is satisfactory, I can have the description prepared as arranged.

Yours truly,

J. A. M. AIKINS.

C. P. R. Co., WESTERN DIVISION, SOLICITOR'S OFFICE,
WINNIPEG, MAN., 20th May, 1892.

A. M. BURGESS, Esq., Deputy Minister of the Interior, Ottawa.

DEAR MR. BURGESS,—On the 16th instant, I wrote you concerning plans which have been filed in the registry office, and are used by the registrars for the purpose of conveyances. In receiving conveyances from persons who own the land along the right of way, the description given is similar to that which I suggested to you, fixing the description by the railway as constructed and also by the plan. My desire is to have the description in the patents from the crown correspond with the descriptions already decided on by our registrars, in the province of Manitoba at all events, and if you consider the plan which I have mentioned in the previous letter sufficient, it seems to me that that description would also be sufficient for the North-west Territories. It is probable that I may see you before very long concerning this matter again, if correspondence in reference to it is not satisfactory.

Yours truly,

J. A. M. AIKINS.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 3rd June, 1892.

A. M. BURGESS, Esq., acting Deputy Minister of the Interior, Ottawa.

DEAR MR. BURGESS,—I have sent to the railway department plan of the final location of that portion of the Souris branch extending from Deloraine to Napinka. Perhaps you will ask them for a copy.

Yours truly,

C. DRINKWATER, *Secretary*.

DEPARTMENT OF THE INTERIOR, OTTAWA, 6th June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I am directed to acknowledge the receipt of your letter of the 3rd instant, addressed to Mr. Burgess, and to say that the department of railways has been asked for a copy of the plan filed in that department showing the final location of that portion of the Souris branch extending from Deloraine to Napinka.

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

LYNDWODE PEREIRA, *Assistant Secretary*.

Canadian Pacific Railway.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 7th June, 1892.

JOHN R. HALL, Secretary, Department of the Interior, Ottawa.

SIR,—I have to-day sent to the department of railways a plan of that portion of the coal fields extension of the Souris branch from range 2, west 2nd, (Moose Mountain creek) to section 2, township 3, range 6, west 2nd.

I have the honour to be, sir, your obedient servant,
C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 17th June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I am directed to inform you that the surveyor-general makes the following remarks upon the plans of the right of way of the Canadian Pacific Railway Souris branch made by Messrs. George A. Bayne and J. L. Doupe:—

“ 1. The points between which measurements are given are not clearly shown. This can easily be remedied by the surveyors.

“ 2. In some cases, when the line passes close to the centre of the section, there is a doubt as to the quarter-section crossed by the railway.

“ This very point was discussed between Mr. Stewart and myself and it was understood that in cases of doubt the company would have the quarter-section lines surveyed in order to remove any uncertainty that might exist on the exact location of the line.

“ It may be observed that the plans show land taken up for road deviations: this has formed the subject of correspondence between the Winnipeg registrar, the department of railways and canals and the Canadian Pacific Railway, and it is doubtful whether land can be conveyed to the company for that purpose.

“ The surveyors, Messrs. Bayne and Doupe, have adopted a new style of affidavit to their plans, in which they state that they were present and did personally superintend the surveys. Unless they are prepared to make the affidavit required by law, the plans cannot be accepted.”

I return you the plans, herewith.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 27th June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—Referring to your letter of the 3rd instant, and to my reply thereto of the 6th instant, respecting the plan of the final location of that part of the Souris branch extending from Deloraine to Napinka, I have the honour, by direction, to say that in reply to the request made as suggested by you to the department of railways and canals for a copy of this plan, we are advised that that department has asked you to furnish the copy in question.

I have the honour to be, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 5th July, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

DEAR MR. DRINKWATER,—I have forgotten what it was you asked me to do in relation of the plan of the location of that part of the Souris branch from Deloraine to Napinka. I would be glad if you would send me a reminder, when I would have the matter attended to at once.

Yours truly,
A. M. BURGESS.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 4th July, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—With reference to the assistant secretary's letter of the 17th ultimo, I return the plans of the completed railway from Kemnay to Melita, and Melita to the crossing of Moose Mountain creek, which have been corrected as desired.

I have the honour to be, sir, your obedient servant,
C. DRINKWATER, *Secretary*.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 7th July, 1892.

A. M. BURGESS, Esq., acting Deputy Minister of the Interior, Ottawa.

DEAR MR. BURGESS,—I have yours of the 5th. The inclosed copy of a letter to the department of railways will explain what I referred to the other day when speaking of the plan of the line from Deloraine to Napinka. The department has heretofore furnished you with copies of plans of location, and I want them to continue doing so. They should also furnish you with copies of plans of completed lines as they are deposited.

Yours very truly,
C. DRINKWATER, *Secretary*.

C. P. R. Co., SECRETARY'S OFFICE, MONTREAL, 27th June, 1892.

T. TRUDEAU, Esq., acting Secretary, Department of Railways, Ottawa.

SIR,—With reference to your letter of the 18th inst., I beg to say that the plan of the portion of the Souris branch railway between Deloraine and Napinka, sent you on the 23rd May last, is not the plan of the completed line. The line is now under construction and a plan of it as completed will be sent in as required by the railway act.

I may say in connection with this matter, that I believe it has been the practice to furnish the department of the interior with a copy of the location plans as first filed, and it is desirable that this should be done in order that right of way may be secured. Plans of the line as completed can be furnished subsequently.

I have the honour to be, sir, your obedient servant,
C. DRINKWATER, *Secretary*.

DEPARTMENT OF THE INTERIOR, OTTAWA, 19th July, 1892.

J. A. M. AIKINS, Esq., Solicitor's Office, C. P. R. Co., Winnipeg, Man.

SIR,—Referring to your letters of the 16th and 20th May last, respecting right of way plans for the Souris branch of the Canadian Pacific Railway from Kemnay to Melita and from Melita to the crossing of the Moose Mountain creek, I am directed to ask you to forward the descriptions therein referred to, the plans in question having been examined in the department and found satisfactory, except in regard to a couple of points in the former plan respecting which some further information is being asked for.

I am, sir, your obedient servant,
LYNDWODE PÉREIRA, *Assistant Secretary*.

DEPARTMENT OF THE INTERIOR, OTTAWA, 19th July, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—Referring to your letter of the 4th instant, returning the corrected plans of the Souris branch from Kemnay to Melita and from Melita to the crossing of Moose Mountain creek, I have the honour, by direction, to inform you that the surveyor-general reports that the latter plan prepared by Mr. Doupe is satisfactory; but that in Mr. Bayne's plan there are two points on which, as will be seen from the copy of Mr. King's report, inclosed herewith, further information is required. Mr. Bayne's plan is therefore returned by this mail by separate inclosure.

I have the honour to be, sir, your obedient servant,
LYNDWODE PÉREIRA, *Assistant Secretary*.

Canadian Pacific Railway.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 2nd August, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—Referring to your letter of the 19th ultimo, respecting the plan of the completed railway from Kemnay to Melita; the additional information required has been put on the plan, and it is returned herewith.

I have the honour to be, sir, your obedient servant,
C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 13th August, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—Referring to your letter of the 2nd instant, returning plan of the completed railway from Kemnay to Melita, with additional information on it, I am directed to return you the plan again together with a memorandum from the surveyor-general's office, relating to some discrepancies discovered in the said additional information and which require explanation from Mr. Bayne.

I have the honour to be, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 17th August, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—I have the honour to send you by express to-day one copy of each of the plans as deposited with the department of railways, of the Pipestone extension and of the Deloraine extension, from Deloraine to Napinka, of the Souris branch, which are required by the department for right of way purposes.

Will you kindly acknowledge receipt?

I have the honour to be, sir, your obedient servant,
C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 12th September, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—With reference to your letter of the 17th ultimo, advising the department of your having forwarded by express a copy of the plan of the Pipestone extension and one of the Deloraine extension, from Deloraine to Napinka, of the Souris branch of your railway for right of way purposes, I am directed to return these plans in order that they may be signed by a duly qualified Dominion land surveyor and that he may affix his affirmation that the surveys have been correctly executed by him. When this is done please send them back so that they may be registered in the department.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 17th September, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—Referring to your letter of the 15th instant, I now beg to return the plan of that portion of the Souris branch extending from Kemnay to Melita, the discrepancies referred to in the memo. of the surveyor-general, which accompanied your letter, having been corrected.

I have the honour to be, sir, your obedient servant,
C. DRINKWATER, *Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 31st October, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—I have the honour to inform you that the Souris branch and its extensions, as described below, have been completed, namely:—

Kemnay to Estevan.

Deloraine extension—Deloraine to Napinka.

Glenboro' extension—Glenboro' to Souris.

These lines have all been inspected by the government engineer, with the exception of a portion of the Glenboro' extension—Nesbitt to Souris—and the department of railways has been notified that this latter portion is ready for inspection.

I beg, therefore, to request that the necessary order in council conveying to this company the land grants appertaining to these lines be passed.

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

C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 9th November, 1892.

CHAS. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I am directed to acknowledge the receipt of your letter of the 31st ultimo, with reference to the Souris branch of the Canadian Pacific Railway and its extensions. In reply, I have to say that as soon as the report of the chief engineer of government railways, together with his certificate in regard to these lines, has been received, the necessary steps will be taken in regard to the land grant pertaining to the roads.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 7th October, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—I inclose herewith a plan of the southern extension of the Souris branch of this company's railway extending from Estevan to the international boundary.

This is a preliminary plan only, a plan of the completed line will be sent to you in due course.

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

C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 14th November, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—With reference to your letter of the 7th ultimo, inclosing a plan of the southern extension of the Souris branch of your company's railway, extending from Estevan to the international boundary, which you say is only a preliminary plan, and stating that the plan of the completed line will be sent here in due course, I am directed to inform you that, though up to the present time the latter plan has not been received, in the meantime a memorandum has been made on the township plans of the department of the preliminary line mentioned.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 26th November, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—I have the honour to forward herewith plans of the completed line of the Souris branch, as under:—

Deloraine extension—Deloraine to Napinka;

Pipstone extension;

Souris branch from rge. 2, w. 2, to Estevan.

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

C. DRINKWATER, *Secretary.*

Canadian Pacific Railway.

DEPARTMENT OF THE INTERIOR, OTTAWA, 12th December, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I am directed to acknowledge your letter of the 26th ultimo, inclosing plans of the completed line of the Souris branch, as follows:—

Deloraine extension—Deloraine to Napinka;

Pipestone extension;

Souris branch, from range 2, west of the 2nd meridian, to Estevan; and to say that these plans have been recorded in the department.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 15th December, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

DEAR MR. DRINKWATER,—I find that we have not yet had any reply from the railways department regarding the Souris branch extension.

Yours very truly,

A. M. BURGESS.

DEPARTMENT OF THE INTERIOR, OTTAWA, 19th December, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal.

DEAR MR. DRINKWATER,—Since my letter to you of the 15th instant, we have received from the department of railways copies of reports by the chief engineer on the extension of the Souris branch of the Canadian Pacific Railway; but I find that they are not sufficient to enable the minister to ask for an order in council authorizing the conveyance of the land subsidy to the company, as they do not show that the portions of the railway reported on have been completed and adequately equipped, and that they are running to the satisfaction of the government, as required by the orders in council authorizing the subsidies.

I have called the attention of the department of railways to the matter.

Yours sincerely,

A. M. BURGESS.

PART FIVE—SUB-PART (b.)

Pipestone extension of the Souris branch, Canadian Pacific Railway.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 5th July, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—I have to-day forwarded to the department of railways the location plan of the Pipestone extension of the Souris branch. Will you please ask them to furnish you with a copy for right of way purposes.

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

C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 14th July, 1892.

C. DRINKWATER Esq., Secretary, C. P. R. Co., Montreal, P.Q.

DEAR MR. DRINKWATER,—I am in receipt of your letter of the 5th instant stating that you have forwarded to the department of railways and canals the plan of the Pipestone extension of the Souris branch, and asking me to apply to that department for a copy of this plan for right of way purposes.

The last time that, acting on a similar suggestion from you, I asked the railways department for a copy of a plan filed by you, that department replied that they had asked your company to furnish it. So long as this department is furnished

with a proper copy of such right of way plans, it is immaterial to us whether the copy is supplied by the railways department or by your company, but it does seem necessary that an understanding should be reached at an early date as to the source from which we may expect to get these plans, and the settlement of this question would appear to be a matter for arrangement between your company and the railways department.

Yours very truly,
JOHN R. HALL, *Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 15th July, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

DEAR MR. HALL,—I have yours of the 13th. I have been in communication with the department of railways and think you will now find them ready, on application, to furnish you with copies of plans filed by the company.

Yours very truly,
C. DRINKWATER, *Secretary.*

(*Telegram.*)

DEPARTMENT OF THE INTERIOR, OTTAWA, 2nd December, 1892.

C. DRINKWATER, Secretary, C. P. R. Co., Montreal.

Please send me a copy of your letter applying for land grant for Pipestone branch.

JOHN R. HALL,
G. P.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 3rd December 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

MY DEAR HALL,—I received your telegram to-day asking for a copy of my letter applying for a land grant for the Pipestone branch. I inclose a copy of that letter dated 5th April, 1892, also a copy of a further letter dated 14th July last on the same subject.

Yours truly,
C. DRINKWATER, *Secretary.*

(*Enclosure.*)

MONTREAL, 14th July, 1892.

The Hon. EDGAR DEWDNEY, Minister of the Interior, Ottawa.

DEAR MR. DEWDNEY,—With reference to our conversation yesterday respecting our application for a land subsidy for the Pipestone line and for the extension of the Souris branch from the coal fields junction to the main line, and your explanations of the reasons for not bringing them before the House, I beg to repeat my verbal request, that, as in the past, an order in council be passed granting the subsidies, subject to the approval of parliament. The Pipestone extension, and in all probability the other, will be completed before the next session of parliament, and in view of the objection which has been taken against the granting of subsidies to constructed lines, the government may not feel itself in a position to comply with the request for a subsidy in these cases next session. As to the line proposed to be constructed from the coal fields to the main line and to the international boundary, your remark to me that it had been suggested that such a line would have the effect of diverting traffic from the main line and the provinces, instead of promoting trade with the country, was no doubt the result of a misapprehension of the objects in view in constructing the line. The line from the coal fields north-westerly to the main line of the Canadian Pacific part of the system, decided upon by the company in 1884, was approximately shown on the map accompanying the annual report of the company for that year, which was published in June, 1885. Among the objects in view at that time were the development of the country between the main line of the railway and the international boundary and the ready distribution of coal from the Souris

Canadian Pacific Railway.

fields both east and west. The company also had in view the construction of two parallel east and west lines between its main line and the southern line as shown on this map, to be arranged in such way as to divide the country into equal belts of about twenty-four miles in width, so that nobody need be more than twelve miles from a railway. The two lines east of longitude 101 would necessarily have heavy grades, and, therefore, the line from Brandon south-west was decided upon, so that the traffic to and from points west of this meridian might be turned into the main line at Brandon avoiding these grades, and also to facilitate the distribution of coal and of rolling stock on the intermediate line; and the line from the coal fields north-westerly to some point in the vicinity of Regina was intended to tie all three of the east and west lines together, and connect them with the main line and to facilitate the distribution of coal and rolling stock as in the case of the Brandon line. On the map referred to I have indicated in blue the intermediate lines decided upon since 1884, and a glance at these will make the company's objects clear. I also inclose a map published in 1886 on which I have indicated in blue the extent to which this system has been carried out or will have been carried out before the end of the present season, and I have indicated in red approximately what remains to be carried out. It will be observed that the line north-westerly from the coal fields is now carried further west than was originally intended; the chief reason for this being the absence of water supply for locomotives on the line as laid down on the map.

The Great Northern Railway Company, upon whose line the Canadian Pacific Railway Company has hitherto depended for an outlet for its Pacific coast and trans-Pacific business to and from St. Paul, Minneapolis and other Mississippi valley points, a business of a great deal of importance, will by the end of the present year have its own line completed through to the Pacific coast, and the Canadian Pacific will no longer have the co-operation of the Great Northern in handling the traffic referred to. For this reason an extension of the "Soo Line," in which the Canadian Pacific Railway Company is largely interested, is being pushed north-westerly from St. Paul and Minneapolis towards the international boundary at a point just south of the Souris coal fields, with a view of making a connection at the boundary with this company's line running north-westerly, and establishing a through short line between the Mississippi valley and the Pacific coast in competition with the Great Northern. When the line from the coal fields north-westerly was projected the Soo railway was not in existence or thought of and it was only a fortunate chance that these two lines fit in so well.

The through line formed, as I have described, will take no traffic whatever away from the Dominion. It will, on the contrary, enable us to hold a large and increasing traffic which will be lost to us if the connection is not made and which has an important bearing on the success of our Pacific steam-ships. The passenger business alone carried between Mississippi points and the Pacific coast by the Great Northern amounted to a quarter of a million dollars last year. The line in question promises to be of at least as great importance to the interests of the Dominion as any railway that has been constructed since the Canadian Pacific came into existence. It will, moreover, open up a large and attractive territory for settlement, and therefore we feel that this line should be at least as well treated in the matter of governmental aid as the other lines that have been made in the North-west. We do not ask any assistance for the line from the coal fields south-easterly to the point of connection with the "Soo Line" at the international boundary, although we feel that this also could be consistently given.

Yours truly,
C. DRINKWATER, *Secretary.*

C. P. R. Co., MONTREAL, 5th April, 1892.

The Hon. EDGAR DEWDNEY, Minister of the Interior, Ottawa.

SIR,—By order in council dated 7th February, 1891, subsequently confirmed by parliament, a grant of land—6,400 acres per mile—was made for an extension of this company's Souris branch to the coal fields near La Roche Percée, an estimated

distance of 60 miles, the same being in addition to the grant previously made for 100 miles of the said branch extending from Kemnay south and west 100 miles.

This extension has been completed to Oxbow, a distance of 114.4 miles from Kemnay, and the work on the remaining distance to the coal fields, 40 miles, is well advanced and will be completed early in the coming season.

It is the intention of this company to make a further extension of this line from the coal fields west and north-west to a junction with the main line at or near Regina or Moose Jaw, and surveys are now in progress. This proposed extension will develop and open up for settlement a district containing some of the best agricultural lands in southern Assiniboia.

It is also proposed to construct during the present year another extension of the Souris branch from a point near Souris westward to the Pipestone valley, a distance of about 30 miles, which will also afford much needed railway accommodation to an important section of the country.

The general benefits secured to settlers in southern Manitoba and eastern Assiniboia by the construction of this Souris branch system, and especially in the opening up of the coal fields, assuring to those districts an unlimited supply of cheap fuel, are well known to the government, and the directors feel that they are justified in asking for a similar grant of land in aid of the further extensions above named.

I therefore beg to ask that the usual grant of 6,400 acres per mile be made for the extension from the coal fields west and north-west to a junction with the main line, an estimated distance of 150 miles, and for the proposed line near Souris to the Pipestone valley, about 30 miles—in all 180 miles.

I have the honour to be, sir, your obedient servant,
C. DRINKWATER, *Secretary*.

PART FIVE—SUB-PART (c.)

Glenboro' extension of the Souris branch, Canadian Pacific Railway.

OFFICE OF THE COMMISSIONER OF DOMINION LANDS,
WINNIPEG, MAN., 9th April, 1892.

The Secretary, Department of the Interior, Ottawa.

SIR,—Referring to your telegram to the commissioner dated the 18th ultimo, suggesting that the Canadian Pacific Railway Company should get a surrender from Sherman Henderson to the crown of the right of way required by the company across the north-west $\frac{1}{4}$ of section 28-7-18 west principal meridian.

I inclose herewith copy of a letter from the land commissioner of the company, of the 1st instant, and the original conveyance therein referred to from Henderson to the crown covering the land in question.

Will you please advise Mr. Hamilton if any further action on his part is necessary.

I have the honour to be, sir, your obedient servant,
T. R. BURPE, *Secretary*.

C. P. R. Co., LAND DEPARTMENT, WINNIPEG, MAN., 1st April, 1892.

Re Nesbitt townsite north-west $\frac{1}{4}$ 28-7-18, west 1.

T. R. BURPE, Esq., Secretary, Dominion Lands Office, Winnipeg.

DEAR SIR,—Referring to your letter of the 19th January last (reference no. 107461) and the telegram which you have recently received from the department at Ottawa, I inclose herewith surrender of the required road across south-west $\frac{1}{4}$ 28-7-18, west 1, from Sherman Henderson to the crown. Will you please have this sent on to Ottawa at once, and I would be much obliged if you would request the department to send me, as soon as possible, an acknowledgment of the surrender

Canadian Pacific Railway.

and a statement that the patent will be issued to the company in due course. This would enable us to register the plan at once.

Yours truly,

L. A. HAMILTON, *Land Commissioner.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 17th May, 1892.

J. A. M. AIKINS, Esq., Solicitor, C. P. R. Co., Winnipeg, Man.

DEAR MR. AIKINS,—I am sorry that you went away without giving me an opportunity of discussing with you the question of the right of way of the Canadian Pacific Railway. I suppose that even in case it were agreed that a right of way plan filed with the registrar should be sufficient, the Canadian Pacific Railway Company would have to show that they have a title to the land represented upon the plan either directly from the crown, or from the private owner, as the case may be.

Yours very truly,

A. M. BURGESS.

DEPARTMENT OF THE INTERIOR, OTTAWA, 25th June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—With further reference to your letter of the 23rd March, 1891, inclosing certain assignments of the right of way of the Canadian Pacific Railway, I am directed to refer you to the departmental letter of the 13th August of that year, in which you were informed that the assignment from Joseph Beal, of the right of way through the south-west quarter of section 18, township 7, range 14, west of the 1st meridian, which is in favour of the Manitoba South-western Colonization Railway Company, is to be replaced by one in favour of the Canadian Pacific Railway Company as the right of way in this instance is required for the Glenboro' extension of the Souris branch of the Canadian Pacific Railway. As up to the present time you have not complied with this request and as Mr. Beal has applied for his patent, and its issue has been recommended, please have the necessary deed forwarded at once so that there may be no unnecessary delay in the issue of the patent.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 9th July, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—With reference to the assistant secretary's letter of the 25th ultimo respecting an assignment by Joseph Beal, of the right of way through the south-west quarter of section 18, township 7, range 14 west of 1st, to the Manitoba South-western Railway Company. It appears that a mistake was made in making this assignment to the Manitoba South-western Company instead of to the Canadian Pacific. As Mr. Beal refuses to execute another conveyance to this company, I would respectfully suggest that the patent be issued reserving thereout the right of way to the Manitoba South-western, in accordance with the assignment, leaving this company to arrange with Mr. Beal, the responsibility of doing which, we will undertake.

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

C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 27th July, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I am directed to acknowledge the receipt of your letter of the 9th instant, suggesting that a patent issue to Mr. Joseph Beal for his homestead, the south-west quarter of section 18, township 7, range 14, west of the 1st meridian, reserving the right of way of the Manitoba South-western Colonization Railway in accordance with the assignment from him which you filed of record here, though it was evidently

by a clerical error that the name of the railway mentioned was given in the assignment instead of the Glenboro extension of the Souris branch of your railway, and to inform you that it is thought better that the patent would issue with the reservation of the right of way for the last-mentioned railway, and the patent is being proceeded with accordingly.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

PART FIVE—SUB-PART (d.)

Battleford Branch of the Canadian Pacific Railway.

DEPARTMENT OF THE INTERIOR, OTTAWA, 12th March, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal.

SIR,—Referring to your letter of the 14th January, inclosing duplicate maps showing the outlines by sections of the proposed limits of the 24 and 48-mile belts of the Battleford branch of the Canadian Pacific Railway, I have to inform you that the same has been approved of by the minister of the interior and confirmed by council. A copy of the order in council and a copy of the map accompanying the same is inclosed herewith.

I am, sir, your obedient servant,
JOHN R. HALL, *Secretary.*

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 19th February, 1892.

On a report dated 11th of February, 1892, from the minister of the interior, stating that on the 7th February, 1891, an order in council was passed setting apart the odd-numbered sections at the disposal of the government within two belts each twelve miles wide on either side of a line drawn north-westerly from a point near Saskatoon through Battleford to the 4th meridian as part of the land grant to the Glenboro' and Souris branches of the Canadian Pacific Railway.

The minister further states that for the purpose of conveniently defining the boundaries of these belts, and following the principle adopted by the order in council of the 8th February, 1889, finally establishing by sections the limits of the 48-mile belt of the main line of the Canadian Pacific Railway, the company have submitted a map for approval on which has been defined by sections the proposed boundaries of these belts.

The minister submits that these boundaries would appear to be fair and reasonable, and being once definitely established, will prove a source of convenience to both the government and the company, and he therefore recommends that the boundaries as laid down in pink on the accompanying map, which are the boundaries suggested by the company and shown upon the map submitted by them, be accepted and established as the *limits of the belts on the Battleford branch of the Canadian Pacific Railway*, said belts being provided for by order in council of 7th February, 1891.

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

JOHN J. McGEHE, *Clerk, Privy Council.*

Canadian Pacific Railway.

PART SIX.

Respecting grants made to the Canadian Pacific Railway Company for station grounds at (a) Whitemouth; (b) Moberly; (c) Banff; (d) Tappen Siding and (e) Glenogle. The latter sub-part also concerns the company's ballast pits at Stephen and Hector.

PART SIX—SUB-PART (a.)

Whitemouth Station Grounds—Canadian Pacific Railway.

DEPARTMENT OF THE INTERIOR, OTTAWA, 24th March, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—With further reference to your application for certain lands for station grounds and right of way purposes at Whitemouth station in Manitoba, I am directed to inform you that the report of the chief engineer of government railways on your application has been received here, and it favours your company's claim to the land applied for, but, as you were informed on the 8th ultimo, that portion of the land you require at the extreme eastern end lying north of the right of way and in the bend of the river, has been patented, and therefore the company will have to be satisfied with that portion for station grounds as shown upon a tracing marked "B" herewith inclosed, which shows the station grounds to be upon the west half of section 36, together with the "Y" and a fractional portion of it on the east half of this section which is shown on this plan coloured pink. If you will procure a plan and description by a Dominion lands surveyor of the piece of land in question a patent can issue to your company for it.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 16th May, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—With reference to the assistant secretary's letter of the 24th March, reference no. 271696, I now beg to inclose a plan and description of the right of way and station grounds at Whitemouth station, prepared by a Dominion land surveyor. I shall be glad to receive the patent at your early convenience.

I have the honour to be, sir, your obedient servant,
C. DRINKWATER, *Secretary.*

C. P. R. Co.'s TELEGRAPH, MONTREAL, 31st May, 1892.

To A. M. BURGESS, Ottawa.

Please wire me whether patent for Whitemouth station grounds has been issued. Squatter has commenced to build on our right of way, and immediate action is necessary.

C. DRINKWATER.

DEPARTMENT OF THE INTERIOR, OTTAWA, 1st June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal.

DEAR MR. DRINKWATER,—In response to your telegram of yesterday's date, I beg to say that the plan and description of the right of way and station grounds at Whitemouth, transmitted with your letter of the 16th ultimo, are being examined in the office of the surveyor-general with a view to the immediate issue of the patent.

Yours very truly,
A. M. BURGESS.

DEPARTMENT OF THE INTERIOR, OTTAWA, 7th June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—In further reference to your letter of the 16th ultimo, respecting the plan and description of the right of way and station grounds at Whitemouth station, I am directed to state that the said plan and description have been examined and are found to include a piece of land already patented.

A description of the remainder may, if desired, be prepared, but Mr. Bayne's survey cannot be accepted unless he supplies some courses and distances which are missing on the plan, and makes affidavit in the usual manner. The plan and description are returned to you herewith.

With respect to your telegram of the 31st ultimo, I am to say that as it had already been explained to you that a portion of the land had been patented, it is not understood why that portion is included in the surveyor's description, and that any delay which may have been caused thereby, the department is of course not accountable for.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 9th June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—According to the promise made to you yesterday by Mr. Burgess, I beg to inclose herewith a map of Whitemouth showing the portions of the land applied for by your company in connection with the spur track at that point which have been already patented, together with the names of the patentees.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 4th July, 1892.

Whitemouth Station Grounds.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—Referring to the assistant secretary's letter of the 7th ultimo, I now beg to inclose an amended plan and description of the station grounds, etc., at Whitemouth. I shall be obliged if you will cause the patent to issue with as little delay as possible as we desire to take proceedings against a squatter who has taken possession of a portion of the property.

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

C. DRINKWATER, *Secretary.*

(Telegram.)

DEPARTMENT OF THE INTERIOR, OTTAWA, 21st July, 1892.

C. DRINKWATER, Secretary, C. P. R. Co., Montreal, P.Q.

Whitemouth patent is being issued now.

A. M. BURGESS.

(Telegram.)

DEPARTMENT OF THE INTERIOR, OTTAWA, 22nd July, 1892.

C. DRINKWATER, Secretary, C. P. R., Montreal, P.Q.

Patent Whitemouth station grounds goes to-day.

A. M. BURGESS.

DEPARTMENT OF THE INTERIOR, OTTAWA, 27th July, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—With reference to your letter of the 4th instant inclosing an amended plan and description of the Canadian Pacific Railway Company's station grounds at Whitemouth, I am directed to inform you that the surveyor-general has approved

Canadian Pacific Railway.

of this plan, and the patent, which covers portions of the west half and the south-east quarter of section 36, township 11, range 11, east of the 1st meridian, is inclosed herewith. Please return the accompanying form of receipt to this department after it has been dated and signed.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 27th July, 1892.

The Agent of Dominion Lands, Winnipeg, Man.

SIR,—I am directed to inclose herewith a description of the land occupied by the Canadian Pacific Railway as station grounds at Whitemouth, being portions of the west half and the south-east quarter of section 36, township 11, range 11, east of the 1st meridian, and to instruct you to make the necessary entries in the books of your office. If you should require a copy of the plan of these station grounds it can be furnished you.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co.'s Telegraph, MONTREAL, 28th July, 1892.

To A. M. BURGESS, Ottawa.

Whitemouth patent not received.

C. DRINKWATER.

(*Telegram.*)

DEPARTMENT OF THE INTERIOR, OTTAWA, 29th July, 1892.

C. DRINKWATER, C. P. R. Co., Montreal.

Patent Whitemouth will go by this afternoon's mail.

A. M. BURGESS.

DOMINION LANDS OFFICE, WINNIPEG, 5th August, 1892.

The Secretary, Department of the Interior, Ottawa.

SIR,—I beg to acknowledge the receipt of your letter of the 27th ultimo, ref. 271696, inclosing a description of the land occupied by the Canadian Pacific Railway as station grounds at Whitemouth.

As you were good enough to mention that a plan of these station grounds could be furnished me if required, I would respectfully ask that a copy of such plan be forwarded for use in this office.

I have the honour to be, sir, your obedient servant,
E. F. STEPHENSON, *Agent of Dom. Lands.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 17th August, 1892.

The Agent of Dominion Lands, Winnipeg, Man.

SIR,—I am directed to acknowledge the receipt of your letter of the 5th instant, ref. 39497, and to inclose herewith as requested a copy of the plan of Whitemouth showing within a pink border the station grounds of the Canadian Pacific Railway.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

PART SIX—SUB-PART (b.)

Moberly Station Grounds—Canadian Pacific Railway.

DEPARTMENT OF THE INTERIOR, OTTAWA, 14th March, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P. Q.

SIR,—With reference to your letter of the 5th ultimo, inclosing the sum of \$40.00 in payment for the extra land awarded to your company as a sale in connection with the station grounds at Moberly, British Columbia, I am directed to inform you that the patent for the area comprised within the station grounds of the company allowed by the railway department, together with the portion now purchased, is in course of preparation.

I am also to return herewith the voucher for the amount forwarded by you, duly signed.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 14th March, 1892.

The Agent of Dominion Lands, Kamloops, B.C.

SIR,—I am directed to inclose herewith copies of two descriptions by George A. Bayne, D.L.S., of portions of the south-east $\frac{1}{4}$ of section 16, and the north-east $\frac{1}{4}$ of section 9, township 28, range 22 west of the 5th meridian, embracing the land allowed to the Canadian Pacific Railway Company for station grounds and right of way at Moberly, British Columbia. Eight acres of the 26 included in the grounds in question have been paid for in cash, at the rate of \$5 per acre, by the company, making a total of \$40.00, which amount please report in your next return to this department.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 21st April, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P. Q.

SIR,—I inclose herewith letters patent for pt. north-east $\frac{1}{4}$ of 9 and pt. south-east $\frac{1}{4}$ of section 16, township 28, range 22, west of the 5th meridian, in the province of British Columbia.

Please sign and return to this department the accompanying form of receipt.

I am, sir, your obedient servant,
JOHN R. HALL, *Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 10th June, 1892.

Registration of patents in British Columbia.

A. M. BURGESS, Esq., acting Deputy Minister of the Interior, Ottawa.

MY DEAR SIR,—Can you tell me how this matter which is referred to in the inclosed correspondence stands?

Kindly return the papers.

Yours truly,
C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 18th June, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P. Q.

DEAR MR. DRINKWATER,—I duly received your note of the 10th instant, with the papers regarding the registration of the patent issued to your company for the Moberly station grounds. I return these papers herewith. I am to-day informed by Mr. Hogg, of the firm of O'Connor & Hogg, the agents of the department of justice, at Ottawa, that they are in receipt of a letter from Messrs. Drake, Jackson

Canadian Pacific Railway.

& Helmcken, the agents of the department of justice at Victoria, under which they say that the question of the registration of the title of the lands at Revelstoke—which is a sort of test case in this relation—will come up before the registrar-general on the 24th instant; that they anticipate that the registrar-general will ignore the claim of the Dominion government, but that they will take the proper steps to protect the interests of the Dominion. Mr. Hogg says that he does not know exactly what steps they allude to.

Messrs. O'Connor & Hogg have just received a telegram from Messrs. Drake, Jackson & Helmcken, saying that the registrar-general has given them formal notice that he intends on the 24th instant to issue the certificate of indefeasible title to Farwell, notwithstanding the objection taken by the crown.

I will keep you fully advised of the progress of events in this connection.

Yours very truly,

A. M. BURGESS.

PART SIX—SUB-PART (c.)

Banff Station Grounds—Canadian Pacific Railway.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 8th July, 1892.

A. M. BURGESS, Esq., acting Deputy Minister of the Interior, Ottawa.

DEAR MR. BURGESS,—I would much like to get our Banff leases closed, and now that the session is practically over, perhaps you will be able to give them your attention. I have written you a separate letter in regard to the hotel site and adjoining lands, and I now inclose a draft lease prepared by Judge Clark of the 160 acres adjoining the station grounds and right of way. If this meets with your approval, I shall be glad if you will have the document prepared.

Yours truly,

C. DRINKWATER, *Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 4th August, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—I beg to return herewith the draft lease which you forwarded to the department under cover of your letter of the 8th ultimo, and which was prepared by the company's solicitor as the form to be used in leasing the 160 acres adjoining the company's right of way and station grounds at Banff station.

It has been decided to accept this draft if, after the word "company" in the first line in the second condition or covenant the words "its successors or assigns" are inserted. The reason for this alteration is obvious. No doubt the words were left out through oversight when the draft was being prepared.

The papers here have been carefully examined, but a satisfactory description of the land in question for insertion in the lease has not been found. One letter from the superintendent of the park contains the following description, which is the one set forth in the letter to you of the 29th April, 1891:—"Along Wolf street, from Bow river to Lynx street, along Lynx street to Squirrel street, and along Squirrel street in a straight line to the right of way of the railway, thence eastward along the railway."

As the description would be more reliable if it were by metes and bounds, Mr. Superintendent Stewart will be instructed to prepare one, but before mailing him the necessary letter it may facilitate final action if you will first advise the department more particularly than has been done as to the boundaries of the 160 acres in question.

It would be well to forward at the same time the usual description of the land required by the company for station grounds and right of way at the same point.

An effort is being made to close up all unsettled departmental matters which in any way concern the Rocky Mountains park.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 19th August, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal.

SIR,—I have to inform you that since you saw the secretary, a few days ago, with regard to the preparation of a lease in favour of the Canadian Pacific Railway Company for the 160 acres of land which they require at Banff station in addition to the lands occupied at that point for station grounds and for right of way purposes, descriptions which were prepared by Mr. Superintendent Stewart some years ago, have been found here attached to another file than the one which properly relates to the subject in question, and which was examined when you were here. The lease for the 160 acres referred to will therefore be prepared so soon as the draft which was sent to you under cover of my letter of the 4th instant has been received back here. The alteration mentioned in the second paragraph of that communication will of course be made in the draft, and the lease will be an exact copy of the draft as thus amended.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 23rd August, 1892.

JOHN R. HALL, Esq., Secretary, Department of the Interior, Ottawa.

SIR,—I received the assistant secretary's letter of the 19th instant (ref. no. 4970) respecting the lease for 160 acres of land at Banff, and I now beg to return the draft. The alteration in the second paragraph referred to in Mr. Pereira's letter is approved. I shall be glad to have the lease executed at your convenience.

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

C. DRINKWATER, *Secretary.*

THIS INDENTURE made in duplicate the _____ day of _____, in the year of our Lord one thousand eight hundred and ninety-two, between her majesty Queen Victoria, herein represented by the honourable the minister of the interior of Canada, and hereinafter called "the government," of the first part, and the Canadian Pacific Railway Company, hereinafter called "the company," of the second part:

Whereas by an agreement under seal dated the third day of March, one thousand eight hundred and eighty-six, the government and the company, amongst other things, agreed in effect that as a means of partially supplying the deficiency which then existed in the land grant by way of subsidy to which the company was then entitled by virtue of the contract confirmed by the act of parliament, 44 Victoria, chapter 1, the company might select from any vacant Dominion lands at the disposal of the government, a tract of land adjoining each of its stations along the line of its railway, extending from the point fixed in the said agreement as the termination of the railway belt to the boundary line between the North-west Territories and the province of British Columbia, to an extent in each case not exceeding one hundred and sixty acres of land, such tracts so selected to be accepted by the company on account of the land grant allotted to them by the said contract, so confirmed by the said act of parliament as aforesaid;

And whereas the company did within the meaning of the said agreement select the land hereinafter described adjoining its station at Banff on its said line of railway, and did thereby become entitled to a grant of the same on account of the said land subsidy;

And whereas by an act of the parliament of Canada, assented to on the twenty-third day of June, A.D. 1887, and intitled: "An Act respecting the Rocky Mountains Park of Canada," a large tract of land (therein described), so far as the title

Canadian Pacific Railway.

to the same in whole or in part was then vested in the crown was for the purposes therein mentioned reserved and set apart as a public park and pleasure ground to be known as "The Rocky Mountains Park of Canada," which tract includes the land hereinafter described, to a grant of which the company became entitled as aforesaid;

And whereas the government, deeming it to be in the public interest that the company should do so, has proposed that in lieu of a grant of the said land hereinafter described, the company takes a lease thereof on the terms and conditions hereinafter specified, which the company has consented to do;

Now this indenture witnesseth:

That the government, for and in consideration of the rent, stipulations, terms and conditions hereinafter expressed and contained, on the part of the company to be respectively paid, observed, performed, fulfilled and abided by, hath demised and leased, and by these presents doth demise and lease unto the company, its successors and assigns all and singular those certain parcels or tracts of lands, lying and being (here describe the tract outside of right of way, as finally agreed on).

To have and to hold unto the company, its successors and assigns for and during and unto the full end and term of nine hundred and ninety-nine years to be computed from the day of the date hereof and thenceforth next ensuing and fully to be complete and ended, yielding and paying therefor yearly and every year during the said term unto her majesty, her successors and assigns the rent or sum of one dollar of lawful money of Canada, free and clear of and from any deduction, defalcation or abatement for or in respect of any taxes, rates, levies or assessments, municipal, parliamentary or otherwise, and of and from all impositions of every nature and kind whatsoever, such yearly rent to be paid to the said the honourable the minister of the interior of Canada at his department in the city of Ottawa, in the province of Ontario, or to such person and at such place as the said minister or his deputy may authorize in writing to receive the same, on the anniversary of the date of these presents in each year of the said term, the first of such payments to be made on the date of the execution of these presents.

Provided always, and it is hereby understood and agreed by and between the said parties hereto, and it is the true intent and meaning of these presents, that the said demise or lease of the said lands hereby made for the said term is subject to the several stipulations, terms and conditions hereinafter expressed and contained, that is to say:—

First. That the company, its successors or assigns, shall and will well and truly pay or cause to be paid the said yearly rent in the manner and on the day and time hereinbefore appointed for the payment thereof.

Second. That the company, its successors or assigns will not exercise or carry on the business of selling spirituous liquor or noxious or offensive entertainment, trade or manufacture upon the said lands or any part thereof, or in any of the buildings which may be erected thereon, except with the permission of the minister of the interior or his deputy first given in writing.

Third. That upon the breach of any of the stipulations, terms or conditions hereinbefore mentioned, and on the part of the company, its successors or assigns, to be observed, performed, fulfilled or abided by, the term hereby granted or the unexpired period thereof at the time of such breach, shall, at the option of her majesty, her successors or assigns immediately cease and determine, and her majesty, her successors or assigns may thereupon, without any proceedings at law or in equity, re-enter in and upon the said demised premises and resume and again hold, possess and enjoy the same as if these presents had never been executed, in which case the company, its successors or assigns shall not be entitled on account thereof to ask, demand or receive any compensation or damages in the premises whatsoever, from her majesty, her successors or assigns, or from the government of Canada or from any department, minister, officer, agent or servant thereof. Provided that no default in payment of rent as aforesaid shall operate as a forfeiture of the term hereby created, unless and until the company shall fail to pay the same for a period of three months after a written demand therefor has been made on the company by some official of the government duly authorized to make such demand.

Fourth. That no waiver on behalf of her majesty, her successors or assigns of any such breach shall take place or be binding unless the same be expressed in writing over the signature of the said the honourable the minister of the interior of Canada or the signature of his deputy, and any waiver so expressed shall extend only to the particular breach to which such waiver shall specially relate, and shall not be deemed to be a general waiver, or to limit or affect the rights of her majesty, her successors or assigns, with respect to any other or future breach.

Fifth. That no implied covenant or liability of any kind on the part of the government is created by the use of the words "demise and lease" herein, or by the use of any other word or words herein.

Provided always, and it is hereby mutually agreed between the parties hereto that if it be at any time decided by any competent tribunal that this demise and the terms and conditions herein contained are void or invalid in whole or in part, or if at any time the government grant any part of the tract of land described by boundaries in the first clause of "An Act respecting the Rocky Mountains Park of Canada," chapter 32 of the act passed in the session of parliament held in the fiftieth and fifty-first years of the reign of her majesty Queen Victoria to any party or parties whomsoever in fee simple or on any tenure other than as a tenant or tenants to the government, then in any or either of such cases the company shall be restored to its right to receive the grant aforesaid.

And the government covenants with the company that it will indemnify and hold harmless the company from and against taxes of all kinds to the extent to which and for the period during which the company would be entitled to exemption therefrom in case a grant of the said lands had been made to the company on the date of this indenture under the agreement of March, 1886, hereinbefore referred to.

In witness whereof the said honourable the minister of the interior of Canada by his acting deputy, Alexander Mackinnon Burgess, of the said city of Ottawa, Esquire, has executed these presents, and the said lessee has caused to be set hereto its corporate seal and the signatures of its president and secretary.

Signed, sealed and delivered by the said the honourable the minister of the interior of Canada by his acting deputy, Alexander Mackinnon Burgess.

In presence of And by the said Canadian Pacific Railway Company
by its president and secretary.

In presence of

DEPARTMENT OF THE INTERIOR, OTTAWA, 7th September, 1892.

CHARLES DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P. Q.

SIR,—I beg to transmit herewith, for execution by the company's president and yourself, as secretary, under the company's corporate seal, a lease in duplicate of plots A, B and C, containing a total area of 160 acres, as shown on the plan of the town site of Banff.

I have to ask you to bear in mind that owing to provisions in that behalf contained in the "Territories Real Property Act," the execution of an instrument by a corporate body requires to be proved by the affidavit of a subscribing witness, notwithstanding that such execution is by a corporate body under its official seal.

It will therefore be necessary to have the witness to the execution by the company of the inclosed lease sworn to the affidavit in the form endorsed thereon after the same has been filled up, in accordance with the provisions of section 102 of the act mentioned.

When that action has been completed both copies of the lease are to be returned to this department.

One original will then be forwarded to the registrar at Calgary for registration in his office and the other will be forwarded to the superintendent of the park to be retained for reference purposes, in his office at Banff.

If, upon receipt by the registrar of the lease, he finds that no other instruments are of record in his office affecting the demised lands, or any of them, he will furnish the company with a certificate of title, free of charge, in accordance with the provisions of the said act.

Canadian Pacific Railway.

A certified copy of the lease will be prepared, free of charge, for the company's use, upon receipt of a letter applying for it; and other copies, if required, will be furnished upon payment of the usual fees.

A lithographed copy of the plan of Banff is also transmitted herewith, for the company's use.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SOLICITOR, MONTREAL, 19th Sept., 1892.

LYNDWODE PEREIRA, Esq., Assistant Secy., Department of the Interior, Ottawa.

DEAR SIR,—In looking over the engrossment of the lease to the company of 160 acres at Banff station in the Rocky Mountains park, I find on the 5th page, in the third line from the bottom, the word "terms" instead of "term." I have struck out the letter "s," and call your attention to it so that it may be corrected in your copies.

I have not gone into the descriptions of the lands because I understand they will be made correct.

Yours very truly,
GEO. M. CLARK, *per W. V.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 30th September, 1892.

CHARLES DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—Referring to the interview which took place between Judge Clark, yourself and Mr. Burgess when you returned one of the two copies of the proposed lease which was transmitted to you for execution, under cover of the departmental letter of the 7th instant, I have now to forward herewith a memorandum in which are set forth new descriptions of the lands in question.

Upon perusal of the memorandum and upon referring to the lithographed copy, which was also mailed to you on the 7th instant, of the plan of Banff townsite, you will find that these descriptions are in accordance with the request of Judge Clark. If they are satisfactory, and you will advise the secretary to that effect and return the other copy of the proposed lease, the descriptions in the latter will be made right, and both copies will be again mailed to you for execution.

If the new descriptions are not satisfactory please note any alterations which may be deemed necessary and return the memorandum, so that the alterations may be noted upon a copy of it which has been kept here for reference. It will be returned to you with the forms of lease.

I am, sir, your obedient servant,
H. KINLOCH, *for the Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 5th October, 1892.

GEORGE M. CLARK, Esq., Solicitor, C. P. R. Co., Montreal, P.Q.

SIR,—I have to express thanks for your letter of the 19th ultimo, calling attention to the erroneous use of the word "terms" for "term" when the two copies of the proposed lease to the Canadian Pacific Railway Company for the 160 acres at Banff station were being engrossed. The error has been corrected in the copy here, and also in the draft, which was prepared in your office, of the lease in question.

The descriptions referred to in your letter were forwarded to Mr. Drinkwater on the 30th ultimo.

I have the honour to be, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SOLICITOR, MONTREAL, 3rd October, 1892.

A. M. BURGESS, Esq., Department of the Interior, Ottawa.

DEAR SIR,—A letter from Mr. Kinloch, acting for the assistant secretary of your department, dated 30th ultimo and addressed to the secretary of this company,

has been referred to me. It is accompanied by an amended description of the three parcels of land adjoining Banff station which are intended to be leased to this company, and I have been asked to say whether the description is satisfactory.

You will notice that parcel C is described by boundaries commencing at the east end of this parcel at a point on the north boundary of the land occupied as the Canadian Pacific right of way, and that the description professes to describe boundaries proceeding westerly from this point.

For the purpose of deciding whether the new description is correct I am referred to the lithographed map dated 9th July, 1888, approved and confirmed by Mr. E. Deville, surveyor-general, and I have endeavoured to compare the courses given in the new description with those laid down on that map, but it appears to me that the courses laid down on the map are impossible and inconsistent, probably by some error in printing: for instance, if the first course is almost due west, as it states (n. 89° 51' 5" w.), the next one must be almost due north as the angle is nearly a right angle, but that second course is described as going south 0° 1' 5" west.

May I ask you to get some surveyor in your department to look over the courses as they are laid down on the lithographed map and make them correct as to the four right lines which are intended to be part of the boundaries of parcel C, and then, if you will forward the map to me, I shall be able almost immediately to return you the description.

Yours very truly,
GEO. M. CLARK.

DEPARTMENT OF THE INTERIOR, OTTAWA, 6th October, 1892.

GEORGE M. CLARK, Esq., Solicitor, C. P. R. Co., Montreal, P.Q.

SIR,—I beg to inform you, in reply to your letter of the 3rd instant, that it and the description referred to therein have been submitted to the surveyor-general this day for examination and report.

The apparently inconsistent courses, as laid down upon the plan showing the lands in question, were noted when the description was being prepared, but the courses in the description do not appear to be inconsistent and are considered correct.

The report will be transmitted to you at the earliest possible moment, but the only map which can be sent to you, showing the lands in question, is a lithographed copy similar to the copy that was forwarded to Mr. Drinkwater on the 7th ultimo, which you have. If you require a second copy one will be forwarded.

I have also to ask you to send back the copy of the description now in your hands.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

C. P. R. Co., OFFICE OF THE SOLICITOR, MONTREAL, 11th October, 1892.

LYNDWODE PEREIRA, Esq., Assistant Secretary, Department of the Interior, Ottawa.

SIR,—I have to acknowledge the receipt of your letter of 6th instant, and am sorry to have to trouble you to comply, if possible, with my request contained in my letter to Mr. Burgess of the 3rd instant, namely, to send me another copy of the lithographed plan with the courses corrected which you describe as "apparently inconsistent;" but if you are not able to send me another copy I can return the one now in my possession in order to have it corrected.

You will notice that in Mr. Kinloch's letter to Mr. Drinkwater of 30th ultimo forwarding the new description he says that "upon perusal of the memorandum and upon referring to the lithographed copy—you will find that these descriptions are in accordance with the request of Judge Clark." Your letter states that the courses in the description "are considered correct."

It would be easy for me to adopt your conclusion, but as the matter is referred to me for verifying the correctness of the description I am not able to take it for

Canadian Pacific Railway.

granted, and therefore require the lithographed map to be correct before I can make use of it for comparison or verification.

I think it is manifest that the second course of parcel C is northerly instead of southerly, but it is not manifest whether it should be n. $0^{\circ} 1' 5''$ w. or n. $0^{\circ} 1' 5''$ e.—it might be either and be correct, and the same remark applies to the fourth course, *mutatis mutandis*, for while that course is manifestly southerly instead of northerly, I am not able to say whether it was originally intended to be s. $0^{\circ} 1' 5''$ e. or s. $0^{\circ} 1' 5''$ w.

If you prefer not to send me a corrected map showing the courses as they were originally intended, please state in writing how these second and fourth courses were intended to be, so that I may myself mark them on the copy which I have, and proceed with my verification of the description which you have sent.

The description I will return with some suggestions as to a few light alterations, as soon as possible after receiving your answer.

Yours very truly,
GEO. M. CLARK,
per W. E.

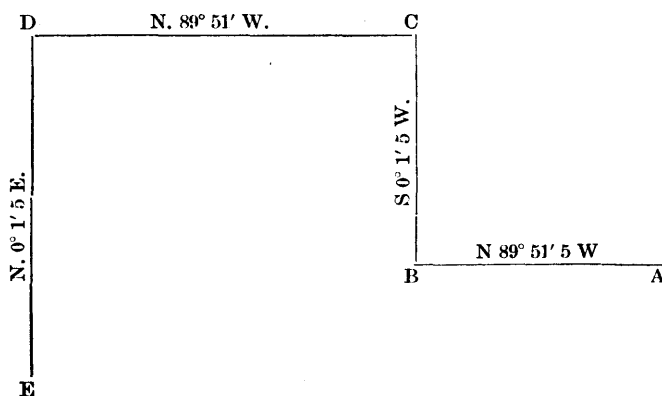
DEPARTMENT OF THE INTERIOR, OTTAWA, 4th November, 1892.

GEORGE M. CLARK, Esq., Solicitor, C. P. R. Co., Montreal, P.Q.

SIR,—In compliance with the request first made in your letter of the 3rd ultimo, and then repeated in your letter of the 11th ultimo, I have to forward herewith a second lithographed copy of the plan of Banff townsite, which is of course precisely the same as the one which you now have and which was mailed to Mr. Drinkwater upon the 7th September last,

After the receipt here of your letter of the 3rd ultimo, the description and the file covering your letter and all other correspondence concerning the lands in question were referred to the surveyor-general for examination and report, and the latter is as follows:—

“The courses referred to are as follows:—



“The meaning of these courses is that the surveyor first ran the lines from A to B, and from C to D, then came back to C and ran south to B, then went to E and ran north to D.

“In the description, the two lines last mentioned C B and E D, are followed in the opposite direction, so that the courses instead of being south $0^{\circ} 1' 5$ west and north $0^{\circ} 1' 5$ east, are n. $0^{\circ} 1' 5$ e. and south $0^{\circ} 1' 5$ west.

“There is no impossibility or inconsistency either in the plan or in the description.”

It was discovered however, that certain of the bearings upon the plan which are marked in minutes and seconds, should have been marked in minutes and decimals of minutes, and that the description contained several errors of the same kind.

The errors in the lithographed copies of the plan of course call for the correction of all the copies.

When this action has been taken you will be furnished with one of such corrected copies, and also with the description as finally altered by the surveyor-general.

Meanwhile no further action can of course be taken towards the preparation of the lease for the lands to which this communication relates.

I have the honour to be, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary*.

DEPARTMENT OF THE INTERIOR, OTTAWA, 14th November, 1892.

GEORGE M. CLARK, Esq., Solicitor, C. P. R. Co., Montreal, P.Q.

SIR,—In accordance with the promise made in my letter to you of the 4th instant, I have now to transmit, herewith, a corrected lithographed copy of the plan of the townsite of Banff. I have also to transmit, herewith, a copy of the description prepared by the surveyor-general of the parcels "A," "B" and "C," shown upon such plan, containing in all 160 acres, more or less, which are to be leased to the Canadian Pacific Railway Company.

Such lease will be completed upon receipt here of a letter from you or Mr. Drinkwater stating that the inclosed description is satisfactory, and returning the copy yet in your hands of the form of lease, in duplicate, which was forwarded to Mr. Drinkwater on the 7th September last, and of which you subsequently returned one copy here.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary*.

C. P. R. Co., OFFICE OF THE SOLICITOR, MONTREAL, 16th December, 1892.

A. M. BURGESS, Esq., Deputy Minister of the Interior, Ottawa.

SIR,—Mr. Pereira, the assistant secretary of your department, wrote me on the 4th and 14th ultimo, concerning the description of the parcel of 160 acres at Banff which is to be leased to our company in the form already settled between us.

The particulars of this description have been lately discussed between Mr. Deville, the surveyor-general, and myself, and have been settled between us according to the draft sent by Mr. Pereira with some slight verbal changes, which do not affect in any way the substance; which draft I return herewith, altered as agreed, in order that the lease may be completed as early as possible.

I send also the second copy of the lease originally prepared; the other copy I left with you some time ago.

When you send the lease as finally completed, will you kindly forward the draft description now inclosed as I have no copy of it and shall require it in order to verify that in the new document.

I have the honour to be, sir, your obedient servant,
GEO. M. CLARK.

All and singular those certain parcels or tracts of lands, lying and being in the Rocky Mountains park of Canada, in the provisional district of Alberta and dominion of Canada, and being composed of the three parcels of land marked respectively "A," "B" and "C" as shown and laid down on a plan of survey of the townsite of Banff, dated the second day of July, A.D. 1888, signed by George A. Stewart, Esquire, Dominion lands surveyor, and filed in the land titles office at Calgary, in the said provisional district of Alberta, on the twenty-third day of July, A. D. 1888, in which office the said plan is also known as "plan A, Rocky Mountains park of Canada," which said parcels may be better known and described as follows, that is to say:—

First. The said parcel "A" containing by admeasurement thirty-nine acres and seventy-two one-hundredths of an acre more or less, and being described as follows, that is to say:—Commencing at the intersection of the northerly

Canadian Pacific Railway.

limit of Squirrel street, with the southerly limit of the strip of land two hundred and one feet and nine-tenths of a foot wide shown on the said plan as that on which the Canadian Pacific Railway Company has its right of way, which strip of land is hereinafter referred to as "the said right of way"; thence south-westerly along the said northerly limit of Squirrel street, two thousand two hundred and ninety-eight feet and six-tenths of a foot, more or less, to the westerly limit of Lynx street; thence south-easterly along the said westerly limit of Lynx street eighteen feet, more or less, to the northern limit of lot no. one in block lettered C; thence south-westerly along the northern limit of said lot no. one in block lettered C two hundred feet, more or less, to the western limit of said lot; thence south-easterly along the western limit of said lot one hundred feet, more or less, to the northerly limit of Wolf street; thence south-westerly along said northerly limit of Wolf street three hundred and seventy-three feet, more or less, to the east bank of Bow river; thence north-westerly against the waters of the said river and the waters of Forty-mile creek, and along and following the windings of the said east bank of the said river and the east bank of the said creek one thousand and ninety-five feet and three-tenths of a foot, more or less, to the said southerly limit of the said right of way; thence north-easterly along the said southerly limit of the said right of way two thousand seven hundred and thirty-six feet, more or less, to the place of beginning.

Second. The said parcel "B" containing by admeasurement seven acres and seventy-one one-hundredths of an acre more or less, and being described as follows, that is to say:—Commencing at the intersection of the southerly limit of the said right of way and the west bank of the said Forty-mile creek at a point distant two thousand nine hundred and twenty-six feet, more or less, from the said intersection of the said northerly limit of Squirrel street with the said southerly limit of the said right of way; thence down stream along and following the windings of the west bank of the said Forty-mile creek one thousand two hundred and twenty-two feet, more or less, to the junction of the said creek with the Bow river; thence up stream along and following the windings of the north bank of the said river one thousand three hundred and eighty feet, more or less, to the said southerly limit of the said right of way; thence north-easterly along the said southerly limit of the said right of way nine hundred and twenty-two feet, more or less, to the place of beginning.

Third. The said parcel "C" containing by admeasurement one hundred and twelve acres and fifty-seven one-hundredths of an acre, more or less, and being described as follows, that is to say:—Commencing at the northerly limit of the said right of way at a point north 26-8-5 west and distant two hundred and one feet and nine-tenths of a foot from the said intersection of the said northerly limit of Squirrel street with the said southerly limit of the said right of way; thence north 89-51-5 west six hundred and thirty-four feet, more or less, to the left bank of the said Forty-mile creek; thence north 0-1-5 east two hundred and eighty-three feet and five-tenths of a foot; thence north 89-51-5 west two thousand six hundred and eighty-nine feet; thence south 0-1-5 west five hundred and ten feet, more or less, across the said creek to its southerly bank thence; down stream along and following the windings of the left bank of the said creek four thousand eight hundred and sixteen feet, more or less, to the said northerly limit of the said right of way; thence north-easterly along the said northerly limit of the said right of way two thousand eight hundred and eighty feet, more or less, to the place of beginning; the said three parcels of land containing together a total area of one hundred and sixty acres, be the same more or less.

OTTAWA, 28th December, 1892.

GEO. M. CLARK, Esq., Q.C., Solicitor, C. P. R. Co., Montreal, P.Q.

SIR,—I have the honour, by direction, to acknowledge the receipt of your letter, dated the 16th instant, returning, altered, as agreed between yourself and the surveyor-general, the draft description of the parcel of 160 acres at Banff, a lease of which is to be issued to your company.

In reply, I am directed to state that the surveyor-general has examined the description and found it correct, and that the preparation of the lease will be proceeded with immediately.

I have the honour to be, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 21st January, 1893.

GEO. M. CLARK, Esq., Q.C., Solicitor, C. P. R. Co., Montreal, P.Q.

SIR,—I have to forward, herewith, for execution by the president and secretary of the Canadian Pacific Railway Company, under its official seal, the lease, in duplicate, of 160 acres in the Bauff townsite.

When such action has been taken, please return both copies of the lease to the department, so that one of them may be transmitted to the registrar at Calgary to be recorded in his office, and that the other—the foolscap copy—may be sent to the superintendent of the Rocky Mountains park to be retained in his office for reference purposes, in accordance with the practice which has been adopted as regards lands in the park.

A copy on foolscap, duly certified, will be prepared for the company's use so soon as both originals have been received back here, and the registrar will forward to the company, in due course, a certificate of title of the lands in question.

In accordance with the request made by you in your letter of the 16th ultimo, the draft description therein mentioned is returned herewith so that you may be able to verify the description in the lease with it, but I have to ask that when this has been done such draft be returned here to be kept on file with the other papers respecting this case.

I am, sir, your obedient servant,
LYNDWODE PEREIRA, *Assistant Secretary.*

PART SIX—SUB PART (d.)

Tappen Siding Station Grounds—Canadian Pacific Railway.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 21st September, 1892.

Tappen Siding.

A. M. BURGESS, Esq., acting Deputy Minister of the Interior, Ottawa,

SIR,—I wrote to you on the 24th February last inclosing copy of a letter from the department of Indian affairs, in relation to the lands required for station grounds and right of way at Tappen siding. I have a further letter from that department requesting to be furnished with the information asked for in their former letter. Will you kindly let me know what is being done in the matter.

I have the honour to be, sir, your obedient,
C. DRINKWATER, *Secretary.*

PART SIX—SUB-PART (e.)

Glenogle Station Grounds, and Ballast Pits at Stephen and Hector.

C. P. R. Co., OFFICE OF THE SECRETARY, MONTREAL, 17th September, 1892.

A. M. BURGESS, Esq., acting Deputy Minister of the Interior, Ottawa.

DEAR MR. BURGESS,—Referring to your letters of 12th and 16th February, respecting lands for station purposes at Glenogle and ballast pits at Stephen and Hector, I think you will now find, on application to the department of railways, that they are ready to report. Perhaps you will kindly send a reminder to Mr. Trudeau.

Yours truly,
C. DRINKWATER, *Secretary.*

Canadian Pacific Railway.

DEPARTMENT OF THE INTERIOR, OTTAWA, 8th November, 1892.

CHARLES DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal.

DEAR MR. DRINKWATER,—Referring to the application of the Canadian Pacific Railway Company for the lands required for station grounds at Glenogle, I may say that a letter was written on the 31st ultimo, to the department of railways, asking that a report be obtained as soon as possible from the chief engineer of railways on this point, it being desirable that the matter be settled at once.

The plans and descriptions of the lands in question were referred to the department of railways on the 5th of November, 1891, and it appears were on the 11th of the same month referred by that department to the department of justice.

The attention of the department of railways has several times been called to this matter, but so far no report has been received.

I tell you the facts in order that you may, if you think fit, follow the matter up in the two departments concerned.

Yours very truly,
A. M. BURGESS.

DEPARTMENT OF THE INTERIOR, OTTAWA, 9th December, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—With further reference to your letter of the 17th September last, in the matter of the lands required by the Canadian Pacific Railway Company for station grounds at Glenogle, I am directed to inform you that the plan in question was referred to the surveyor-general, who reports that it is not a plan of survey, there being nothing in it that can be examined, and therefore, in order that a patent for the land applied for by the company may issue, it will be necessary to have a proper survey made.

I am to add that the chief engineer of government railways considers the area $10\frac{1}{2}$ acres no more than is reasonable for the purposes of your railway at this point.

I am, sir, your obedient servant,

LYNDWODE PEREIRA, *Assistant Secretary.*

DEPARTMENT OF THE INTERIOR, OTTAWA, 9th November, 1892.

CHARLES DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

DEAR MR. DRINKWATER,—Referring to the application by the Canadian Pacific Railway Company for the lands required for ballast pits at Stephen and Hector, I may say that a letter was written on the 2nd instant to the department of railways, asking that a report upon this point be obtained as soon as possible from the chief engineer of railways in order that the matter might be settled without further delay.

The plans and descriptions of the lands in question were referred to the department of railways on the 5th November, 1891, and were on the 11th of the same month submitted by that department to the department of justice.

The attention of the department of railways was called to the matter on the 4th of February, 1892, and again on the 22nd of the same month, but no report has been received.

I set out the facts that you may, if you see fit, follow up the matter in the two departments concerned.

Yours truly,
A. M. BURGESS.

DEPARTMENT OF THE INTERIOR, OTTAWA, 19th December, 1892.

C. DRINKWATER, Esq., Secretary, C. P. R. Co., Montreal, P.Q.

SIR,—Referring to the application of your company for patent for certain ballast pits at Stephen and Hector, I am directed to inform you that Mr. Schreiber, the deputy minister of railways and canals, has placed a certificate upon the plans which

accompanied your letter of the 23rd October, 1891, that the area applied for in each case is reasonable; but the surveyor-general, to whom these plans (which are inclosed herewith) were referred for the preparation of a proper description of the land to be patented, reports that they do not contain sufficient information for that purpose.

You will observe these plans do not appear to have been made by a Dominion lands surveyor, nor are they tied on to any known point in the Dominion lands system of survey.

It would be well that whatever additional information is required should, if possible, be put upon the inclosed plans, but in any event I must request you to see that they are returned here as they contain Mr. Schreiber's certificate above mentioned.

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

H. KINLOCH, *for the Assistant Secretary.*

Canadian Pacific Railway.

LIST OF LANDS

[30A]

SOLD by the Canadian Pacific Railway Company from the 1st October, 1891, to 1st October, 1892, to be laid before the House of Commons, in accordance with the provisions of section 8 of the Act 49 Victoria, chapter 9.

LANDS sold by the Canadian Pacific Railway Company from 1st October, 1891, to 1st October, 1892.

Name of Purchaser.	Address.	Section, Township, Range and Meridian.
Geo. N. G. Holliday	Winnipeg, Man.	N.W. $\frac{1}{4}$ 7, 9, 18, 1.
Anderson McCabe	Fairview, Man.	N. E. $\frac{1}{4}$ 7, 9, 18, 1.
W. J. Hewitt	Portage la Prairie.	All 19, 5, 23, 1.
A. H. Pettit	Grimsby, Ont.	All 17, 6, 22, 1.
W. B. Muir	Hartney, Man.	All 5, 6, 22, 1.
W. M. Moore	London, Ont.	E. $\frac{1}{4}$ 33, 6, 22, 1.
Ennis Pope	Municipality of Daly, Man.	W. $\frac{1}{4}$ 15, 11, 21, 1.
Stewart Lamont	Welland, Ont.	All 7, 12, 18, 1.
W. W. McLellan	Halifax, N.S.	All 33, 8, 20, 1.
R. F. Dodd	St. Francois Xavier, Man.	S.E. $\frac{1}{4}$ 19, 9, 19, 1.
C. A. Post	Rapid City, Man.	N.E. $\frac{1}{4}$ 7, 13, 20, 1.
C. A. Post	do	S.W. $\frac{1}{4}$ 17, 13, 20, 1.
The Rathbun Company		W. $\frac{1}{4}$ 5, 13, 25, 1.
J. C. Burt	Listowel, Ont.	E. $\frac{1}{4}$ 5, 13, 25, 1.
F. A. H. Fysh	London, Ont.	N. $\frac{1}{4}$ 35, 10, 26, 1.
J. H. Hughes and Thos. Patrick	Winnipeg, Man.	N.E. $\frac{1}{4}$ 33, 7, 22, 1.
A. Thomson	Virden, Man.	S.W. $\frac{1}{4}$ 19, 10, 26, 1.
Alex. Walker	Winnipeg, Man.	N.W. $\frac{1}{4}$ 19, 10, 26, 1.
R. B. Urnston	Douglas, Man.	S.W. $\frac{1}{4}$ 27, 11, 17, 1.
F. Bullivant	St. Catharines, Ont.	W. $\frac{1}{4}$ 9, 16, 31, 1.
F. Bullivant	do	E. $\frac{1}{4}$ 9, 16, 31, 1.
R. Marion	Oak Lake, Man.	N.W. $\frac{1}{4}$ 31, 8, 24, 1.
Thos. Douglas, jun.	Penrith, Man.	S.E. $\frac{1}{4}$ 35, 12, 24, 1.
Geo. Fawns	Austin, Man.	W. $\frac{1}{4}$ 9, 11, 11, 1.
Maggie M. Caulfield	Virden, Man.	S.W. $\frac{1}{4}$ 3, 10, 26, 1.
D. Mowat	Cypress River, Man.	N.E. $\frac{1}{4}$ 35, 6, 13, 1.
H. G. Alton	Portage la Prairie.	S.E. $\frac{1}{4}$ 19, 11, 11, 1.
J. A. Thomson	Souris, Man.	N.W. $\frac{1}{4}$ 31, 6, 22, 1.
A. R. Graham	Neepawa, Man.	N.E. $\frac{1}{4}$ 35, 13, 16, 1.
Jno. Bolton	Stratherne, Man.	S.W. $\frac{1}{4}$ 21, 8, 17, 1.
Peter Sutherland	Oak Lake, Man.	N.W. $\frac{1}{4}$ 7, 9, 22, 1.
Rev. E. Hensley	Parkham Rectory, Devon, Eng.	All 33, 10, 22, 1.
Jacob Dawe	Griswold, Man.	S.E. $\frac{1}{4}$ 17, 9, 22, 1.
R. A. Keys	do	S.E. $\frac{1}{4}$ 21, 9, 22, 1.
Samuel Watson	Tp. 11, range 16, 1 M.	N.E. $\frac{1}{4}$ 33, 11, 16, 1.
D. W. Prouse	St. John, Nfd.	S.E. $\frac{1}{4}$ 7, 9, 18, 1.
Fred. J. Bridges	Souris, Man.	S.E. $\frac{1}{4}$ 33, 8, 22, 1.
W. J. Miles	Chater, Man.	N.E. $\frac{1}{4}$ 5, 11, 18, 1.
Hy. Harrison	Lucas, Man.	N.W. $\frac{1}{4}$ 23, 14, 25, 1.
Jno. Orr	Souris, Man.	E. $\frac{1}{4}$ of N.W. $\frac{1}{4}$ 5, 13, 10, 1.
W. Stark	Griswold, Man.	N.W. $\frac{1}{4}$ 15, 9, 22, 1.
W. G. Hetherington	Souris, Man.	N.E. $\frac{1}{4}$ 3, 8, 22, 1.
Wm. Brigham	Londesboro, Ont.	N.E. $\frac{1}{4}$ 27, 9, 18, 1.
Jas. Carson	High Bluff, Man.	S.E. $\frac{1}{4}$ 1, 12, 5, 1.
Elizabeth McIntosh	Souris, Man.	S.E. $\frac{1}{4}$ 35, 8, 22, 1.
Geo. A. Lipssett	Sittakaw, Man.	N.E. $\frac{1}{4}$ 7, 7, 13, 1.
Geo. Craig	Winnipeg, Man.	S.E. $\frac{1}{4}$ 31, 11, 17, 1.
Wm. Bar	Island Lake, Dakota.	N.W. $\frac{1}{4}$ 13, 12, 22, 1.
James T. Parkes	Green Bay, Wis.	All 1, 11, 22, 1.
H. Donelly	Municipality of Winchester.	S.W. $\frac{1}{4}$ 1, 6, 23, 1.
John Martin	Stratherne, Man.	N.E. $\frac{1}{4}$ 27, 8, 17, 1.
Frances McDermott	Holland, Man.	N.E. $\frac{1}{4}$ 33, 7, 11, 1.
Hy. Jones	Hartney, Man.	S.W. $\frac{1}{4}$ 3, 6, 23, 1.
Murdock McKenzie	Neepawa, Man.	S.W. $\frac{1}{4}$ 9, 14, 14, 1.
Estate of J. S. Hunter	Brandon, Man.	N.E. $\frac{1}{4}$ 7, 11, 20, 1.
Geo. Roddick	Brandon Hills, Man.	N.W. $\frac{1}{4}$ 3, 9, 18, 1.
W. H. Ford	Brandon, Man.	N. $\frac{1}{4}$ 27, 11, 19, 1.
John Stott	do	S.E. $\frac{1}{4}$ 7, 11, 20, 1.

LANDS sold by the Canadian Pacific Railway Company from 1st October, 1891, to 1st October, 1892—*Continued.*

Name of Purchaser.	Address.	Section, Township, Range and Meridian.
John Thos. Waite	Hillview, Man	N.E. 1 19, 10, 23, 1.
Robert Waite	do	S.E. 1 19, 10, 23, 1.
Thomas Smyth	do	S.E. 1 31, 10, 23, 1.
Samuel James	Neepawa, Man.	N.E. 1 15, 14, 14, 1.
Saraphon Martel	Oak Lake, Man.	N.W. 1 19, 8, 23, 1.
Donald McCaskill	Gladstone, Man.	N.E. 1 23, 14, 11, 1.
Richard Davies	Morden, Man.	N.W. 1 7, 11, 12, 1.
Walter Hayward	Treherne, Man.	N.E. 1 9, 9, 9, 1.
Parrish & Lindsay	Brandon, Man.	N.W. 1 19, 10, 17, 1.
E. H. Morison	Stratherne, Man.	S.W. 1 27, 8, 17, 1.
Thomas Gowan	Tp. 12, range 16, 1 M.	S.W. 1 27, 12, 16, 1.
James Dempsey	Griswold, Man.	S. 1 31, 7, 22, 1.
R. R. Danard	Carberry, Man.	S.E. 1 3, 11, 14, 1.
J. B. Martell	Oak Lake, Man.	N.E. 1 19, 8, 23, 1.
Geo. B. Kelly	Rapid City, Man.	S.W. 1 23, 13, 21; 1.
J. Coulter	Walkerton, Ont.	N. 1 33, 11, 23, 1.
R. Compton	Hayfield, Man.	N.W. 1 23, 8, 19, 1.
A. Carhile	Souris, Man.	N.W. 1 1, 9, 22, 1.
E. L. O'Neil	Alexander, Man.	W. 1 27, 9, 21, 1.
D. N. Sutherland	Griswold, Man.	N.E. 1 31, 8, 22, 1.
M. Côté	Oak Lake, Man.	N.E. 1 23, 7, 24, 1.
E. H. Morison	Brandon, Man.	S.E. 1 27, 8, 17, 1.
W. T. Kerr	Carberry, Man.	S.W. 1 23, 10, 14, 1.
John Mattice	do	S.W. 1 1, 10, 14, 1.
R. R. Danard	do	S.E. 1 3, 11, 14, 1.
F. Rosberry	Sydney, Man.	S.E. 1 15, 10, 12, 1.
Walter Gray	Carberry, Man.	N.E. 1 3, 10, 14, 1.
Jas. Carroll Treherne	Treherne, Man.	S.W. 1 3, 9, 9, 1.
Frank Anderson	Austin, Man.	S.E. 1 5, 12, 11, 1.
R. F. Sanderson	do	S.W. 1 7, 12, 11, 1.
E. Ducharme	Oak Lake, Man.	S.W. 1 7, 8, 23, 1.
John McTurk	Elkhorn, Man.	E. 1 27, 12, 28, 1.
R. H. Martin	Brandon Hills, Man.	S.E. 1 13, 7, 19, 1.
Amie Caille	Oak Lake, Man.	N.W. 1 19, 7, 24, 1.
Jos. Lapierre	Oak Lake, Man.	N.E. 1 23, 7, 25, 1.
John Ramsay	Melgund, Man.	S.E. 1 35, 5, 25, 1.
J. A. Calverley	Tp. 8, Range 16, 1 M.	N.E. 1 21, 8, 16, 1.
A. F. and E. J. Denteith	Mun. of Odanah, Man.	S.W. 1 19, 14, 17, 1.
Wm. Ellerington	Carberry, Man.	S.W. 1 3, 10, 14, 1.
Thomas A. Dean	McGregor, Man.	S.E. 1 3, 12, 10, 1.
W. J. Tupper	Winnipeg, Man.	N.E. 1 15, 5, 15, 1.
John Parkinson	Hartney, Man.	N. 1 23, 6, 23, 1.
Richard Skuce	Minnewawa, Man.	N.W. 1 13, 7, 19, 1.
Christina Fraser	Viriden, Man.	N.E. 1 9, 11, 25, 1.
R. J. Brandon	Creeford, Man.	N.E. 1 13, 12, 17, 1.
R. J. Stewart	Griswold, Man.	S.E. 1 3, 9, 23, 1.
E. S. Menzies	Rapid City.	S.W. 1 21, 12, 21, 1.
S. Johnston	Boissevain, Man.	N.W. 1 7, 5, 20, 1.
Wm. Lodge	Mekiwin, Man.	W. 1 23, 14, 13, 1.
James Cochrane	Souris, Man.	N.W. 1 31, 7, 22, 1.
M. Harper	Kildonan, Man.	S.W. 1 35, 16, 2, 1.
James Gillespie	Oak Lake, Man.	N.E. 1 35, 8, 24, 1.
C. L. Gurney	Beulah, Man.	N.W. 1 27, 14, 27, 1.
George A. Machan	Burnside, Man.	N.W. 1 31, 11, 8, 1.
Jules Allard	Oak Lake, Man.	N.E. 1 1, 7, 25, 1.
Margaret Chisholm	Lothair, Man.	S.W. 1 21, 12, 22, 1.
Alex. Booth	Austin, Man.	S.E. 1 31, 10, 11, 1.
R. H. Stirling	McGregor, Man.	S.E. 1 9, 11, 10, 1.
John Slimmon	Carberry, Man.	S.W. 1 15, 10, 14, 1.
J. B. Hardiz	Grande Clairière, Man.	S.W. 1 23, 6, 25, 1.
John Jas. Goggins	Carberry, Man.	N.W. 1 27, 9, 13, 1.
Samuel Good	Penrith, Man.	N.W. 1 15, 12, 25, 1.
Samuel Good	do	S.E. 1 15, 12, 25, 1.
Wm. Love	Souris, Man.	S.W. 1 27, 6, 22, 1.
C. F. Gurney	Beulah, Man.	N.E. 1 17, 14, 26, 1.
Wilfred LaRose	Verchères, Que.	S.E. 1 31, 7, 23, 1.
Townsite Trustees		All 21, 10, 20, 1.
W. L. Harrison	Winnipeg, Man.	All 3, 16, 18, 2.
Emily F. Conmee	Port Arthur, Ont.	All 15, 18, 9, 2.
H. Ryan	Toronto, Ont.	All 3, 18, 9, 2.

Canadian Pacific Railway.

LANDS sold by the Canadian Pacific Railway Company from 1st October, 1891, to 1st October, 1892—*Concluded.*

Name of Purchaser.	Address.	Section, Township, Range and Meridian.
H. Ryan	Toronto	W. $\frac{1}{2}$ 23, 17, 9, 2.
H. Ryan	do	E. $\frac{1}{2}$ 23, 17, 9, 2.
A. G. Hart	Whitewood, Assa	N.W. $\frac{1}{4}$ 13, 14, 3, 2.
Henry Dodd	Broadview, Man.	E. $\frac{1}{2}$ 19, 16, 6, 2.
Maria Latham	Moose Jaw, N.W.T.	N. $\frac{1}{2}$ 19, 17, 27, 2.
Horace Thorne	Toronto, Ont.	E. $\frac{1}{2}$ 23, 18, 10, 2.
Horace Thorne	do	W. $\frac{1}{2}$ 23, 18, 10, 2.
J. H. Sanders	London, Ont.	All 33, 16, 8, 2.
T. Blackwood	Sunnymeade, Assa	N.E. $\frac{1}{2}$ 17, 14, 3, 2.
John McKelvie	Brandon, Man.	S. $\frac{1}{2}$ 23, 13, 1, 2.
T. L. Neish, jun	Cannington Manor, Assa	S.W. $\frac{1}{4}$ 3, 9, 2, 2.
The Qu'Appelle, Long Lake and Saskatchewan Ry. and SS. Co. ....	.....	Right of way through pt. W. $\frac{1}{2}$ 23, 19, 21, 2.
The Qu'Appelle, Long Lake and Saskatchewan Ry. and SS. Co. ....	.....	Right of way through 3, 20, 21, 2.
R. B. Angus <i>et al.</i> , townsite trustees .....	.....	All 25, 15, 14, 3.
H. R. J. Williams	Swansea Valley, Wales	S. $\frac{1}{2}$ 15, 22, 29, 4.
A. M. Nanton and J. H. D. Munson	Winnipeg, Man.	N.W. $\frac{1}{4}$ 21, 35, 28, 4.
Hon. Theodore Robitaille	New Carlisle, Que.	Pt. S. $\frac{1}{2}$ 31, 22, 29, 4; N. $\frac{1}{2}$ 31, 22, 29, 4; pt. S.E. $\frac{1}{4}$ 25, 22, 1, 5; pt. N.E. $\frac{1}{4}$ 25, 22, 1, 5, all within Fish Creek Indian Farm.
Hon. Theodore Robitaille	do	Pt. S.W. $\frac{1}{4}$ 25, 22, 1, 5; N.W. $\frac{1}{4}$ 25, 22, 1, 5; pt. S.E. $\frac{1}{4}$ 27, 22, 1, 5; N. $\frac{1}{2}$ 27, 22, 1, 5, all 35, 22, 1, 5; S.E. $\frac{1}{4}$ 1, 23, 1, 5; pt. N.E. $\frac{1}{4}$ 1, 23, 1, 5; S.W. $\frac{1}{4}$ 1, 23, 1, 5; N.W. $\frac{1}{4}$ 1, 23, 1, 5; pt. S.E. $\frac{1}{4}$ 3, 23, 1, 5; pt. N.E. $\frac{1}{4}$ 3, 23, 1, 5, all within Fish Creek Indian Farm.
R. R. Bennett	Pine Creek, N.W.T.	N.W. $\frac{1}{4}$ 1, 22, 2, 5.
Wm. Standish	Calgary, N.W.T.	S.E. $\frac{1}{4}$ 27, 23, 1, 5.
C. M. Rawlinson	do	S.W. $\frac{1}{4}$ 19, 25, 2, 5.
John Duncan	Innisfail, N.W.T.	S.W. $\frac{1}{4}$ 21, 35, 1, 5.
Canada North-west Land Company (Limited) .....	.....	All 9, 10, 21, 1; N.W. $\frac{1}{4}$ 7, 12, 21, 1; S.E. $\frac{1}{4}$ 13, 12, 18, 1; N.E. $\frac{1}{4}$ 31, 13, 33, 1; S.W. $\frac{1}{4}$ 3, 6, 16, 1; S. $\frac{1}{2}$ 27, 8, 21, 1; pt. E. $\frac{1}{2}$ 15, 19, 21, 2, being 9.72 acres right of way, Q.L.L. and S.R. and S. Co. Pt. N.E. $\frac{1}{4}$ 27, 19, 21, 2, being .61 acres right of way, Q.L.L. and S.R. and S. Co. N. $\frac{1}{2}$ 13, 8, 22, 1; N.E. $\frac{1}{4}$ 21, 11, 11, 1; N.E. $\frac{1}{4}$ 25, 9, 24, 1; S.W. $\frac{1}{4}$ 15, 7, 11, 1; S.E. $\frac{1}{4}$ 9, 10, 24, 1; S.E. $\frac{1}{4}$ 33, 11, 11, 1; N.E. $\frac{1}{4}$ 33, 8, 9, 1; N.E. $\frac{1}{4}$ 1, 19, 18, 2; S.E. $\frac{1}{4}$ 21, 10, 29, 1; S.E. $\frac{1}{4}$ 25, 11, 11, 1; N.E. $\frac{1}{4}$ 23, 10, 12, 1; N. $\frac{1}{2}$ 13, 10, 20, 1; N.E. $\frac{1}{4}$ 25, 11, 25, 1; S.W. $\frac{1}{4}$ 9, 10, 25, 1; S.W. $\frac{1}{4}$ 15, 6, 15, 1; S.W. $\frac{1}{4}$ 31, 13, 30, 1; S.W. $\frac{1}{4}$ 25, 5, 18, 1; S.E. $\frac{1}{4}$ 3, 9, 22, 1; N.E. $\frac{1}{4}$ 9, 6, 15, 1; N.W. $\frac{1}{4}$ 33, 6, 19, 1; S.W. $\frac{1}{4}$ 7, 5, 16, 1; N.E. $\frac{1}{4}$ 25, 11, 11, 1; N.E. $\frac{1}{4}$ 19, 7, 18, 1; S. $\frac{1}{2}$ 25, 17, 22, 2; S.E. $\frac{1}{4}$ 15, 7, 14, 1; N.E. $\frac{1}{4}$ 23, 12, 32, 1; E. $\frac{1}{2}$ 31, 5, 16, 1; N. $\frac{1}{2}$ W. $\frac{1}{4}$ 7, 7, 11, 1; S.W. $\frac{1}{4}$ 35, 11, 11, 1; S.E. $\frac{1}{4}$ 19, 5, 15, 1; E. $\frac{1}{2}$ 1, 6, 16, 1; N.E. $\frac{1}{4}$ 15, 9, 17, 1; S.W. $\frac{1}{4}$ 19, 14, 16, 1; S.W. $\frac{1}{4}$ 33, 6, 19, 1; E. $\frac{1}{2}$ 21, 14, 16, 1; S.E. $\frac{1}{4}$ 17, 14, 17, 1; W. $\frac{1}{2}$ 21, 16, 7, 2; N.W. $\frac{1}{4}$ 23, 11, 11, 1; S.E. $\frac{1}{4}$ 23, 11, 10, 1; N.W. $\frac{1}{4}$ 9, 5, 22, 1; N.E. $\frac{1}{4}$ 15, 6, 14, 1; N. $\frac{1}{2}$ 13, 7, 14, 1; N.W. $\frac{1}{4}$ 15, 10, 24, 1; Leg. Sub. 8 of 19, 6, 11, 1; S.W. $\frac{1}{4}$ 1, 5, 15, 1; W. $\frac{1}{2}$ 25, 4, 23, 1; W. $\frac{1}{2}$ 35, 14, 31, 1.

RETURN

[32]

To an ADDRESS of the HOUSE OF COMMONS dated the 17th March, 1892, for a copy of all correspondence between the Imperial Government and the Canadian Government concerning the defences of Esquimalt.

By order.

JOHN COSTIGAN,

Secretary of State.

DEPARTMENT OF MILITIA AND DEFENCE,
OTTAWA, 12th October, 1892.

The Under Secretary of State, Ottawa.

SIR,—I am directed by the honourable the minister of militia and defence to return to you, herewith, the order of the house of commons of the 17th March last, for a copy of all correspondence between the imperial government and the Canadian government concerning the defences of Esquimalt; and I am to state that there are no papers which are not of a confidential character, on this subject.

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

C. EUG. PANET, Colonel,
Deputy Minister of Militia and Defence.

PARTIAL RETURN

(33)

To an ADDRESS of the HOUSE OF COMMONS, dated the 6th February, 1893;—For a copy of all petitions, memorials, appeals, and any other documents addressed to His Excellency in Council, since the 15th March, 1892, relating to the Manitoba School Acts of 1890, and to Section 22 of the “Manitoba Act” and Section 93 of the “British North America Act;” also copy of all reports to and of all Orders in Council in reference to the same; also copies of all correspondence in connection therewith.

By order.

JOHN COSTIGAN,
Secretary of State.

REPORT OF A Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 29th of December, 1892.

The Committee of the Privy Council have had under consideration a report, hereto annexed, from a Sub-Committee of Council, to whom were referred certain memorials to Your Excellency, complaining of two statutes of the Legislature of Manitoba, relating to education, passed in the session of 1890.

The Committee, concurring in the report of the Sub-Committee, submit the same for Your Excellency's approval, and recommend that Saturday, the 21st day of January, 1893, at the Chamber of the Privy Council, at Ottawa, be fixed as the day on which the parties concerned shall be heard with regard to the appeal in the matter of the said statutes.

The Committee further advise that a copy of this minute, if approved, together with a copy of the report of the Sub-Committee of Council, be transmitted to the Lieutenant Governor of Manitoba.

JOHN J. MCGEE, *Clerk of the Privy Council.*

To His Excellency the Governor-General in Council :

The Sub-Committee to whom were referred certain memorials, addressed to Your Excellency in Council, complaining of two Statutes of the Legislature of Manitoba, relating to education, passed in the session of 1890, have the honour to make the following report:—

The first of these memorials is from the officers and Executive Committee of the “National Congress,” an organisation which seems to have been established in June, 1890, in Manitoba.

This Memorial sets forth that two acts of the Legislature of Manitoba, passed in 1890, intituled respectively, “An Act respecting the Department of Education” and “An Act respecting Public Schools,” deprive the Roman Catholic minority in Manitoba of rights and privileges which they enjoyed with regard to education previous to the establishment of the province, and since that time, down to the passing of the Acts aforesaid, of 1890.

The memorial calls attention to the fact that soon after the passage of those Acts, (and in the year 1891) a petition was presented to Your Excellency, signed by a large number of the Roman Catholic inhabitants of Manitoba, praying that Your Excellency might entertain an appeal on behalf of the Roman Catholic minority against the said acts, and that it might be declared "that such acts had a prejudicial effect on the rights and privileges, with regard to denominational schools, which the Roman Catholics had, by law or practice, in the province, at the union;" also that directions might be given and provision made in the premises for the relief of the Roman Catholics of the province of Manitoba.

The memorial of the "National Congress" recites, at length, the allegations of the petition last hereinbefore referred to, as having been laid before Your Excellency in 1891. The substance of those allegations seems to be the following: That, before the passage of the act constituting the province of Manitoba, known as the "Manitoba Act," there existed, in the territory now constituting the Province, a number of effective schools for children, which schools were denominational, some of them being erected and controlled by the authorities of the Roman Catholic Church, and others by the authorities of various Protestant denominations; that those schools were supported, to some extent by fees, and also by assistance from the funds contributed by the members of the church or denomination under whose care the school was established; that at that period the Roman Catholics had no interest in or control over the schools of Protestant denominations, nor had Protestants any interest in or control over the schools of Roman Catholics; that there were no public schools in the Province, in the sense of State schools; that members of the Roman Catholic Church supported schools for their own children and for the benefit of Roman Catholic children, and were not under obligations to contribute to the support of any other schools.

The petition then asserted that, in consequence of this state of affairs, the Roman Catholics were separate from the rest of the community, in the matter of education, at the time of the passage of the Manitoba Act.

Reference is then made to the provisions of the Manitoba Act by which the Legislature was restricted from making any law on the subject of education which should have a prejudicial effect on the rights and privileges, with respect to denominational schools, "which any class of persons had, by law or practice, in the province at the 'union.'"

The petition then set forth that, 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 the separate condition, with reference to education, which they had enjoyed previous to the Union; and that ever since that time, until the session of 1890, no attempt was made to encroach upon the rights of the Roman Catholics in that regard; but that the two Statutes referred to, passed in the session of 1890, had the effect of depriving the Roman Catholics altogether of their separate condition with regard to education, and merged their schools with those of the Protestant denominations, as they required all members of the community, whether Roman Catholic or Protestant, to contribute to the support of what were therein called "Public Schools," but what would be, the Petitioners alleged, in reality a continuation of the Protestant schools.

After setting forth the objections which Roman Catholics entertain to such a system of education as was established by the Acts of 1890, the Petitioners declared that they appealed from the Acts complained of and they presented the prayer for redress which is hereinbefore recited.

The petition of the "Congress" then sets forth the minute of Council, approved by Your Excellency on the 4th April, 1891, adopting a Report of the Minister of Justice, which set out the scope and effect of the legislation complained of, and also the provisions of the Manitoba Act with reference to education. That Report stated that a question had arisen as to the validity and effect of the two statutes of 1890, referred to as the subject of the appeal, and intimated that those statutes would probably be held to be *ultra vires* of the Legislature of Manitoba if they were found to have prejudicially affected "any right or privilege with respect to denominational

Manitoba School Acts.

schools which any class of persons had, by law or practice, in the province, at the Union." The report suggested that questions of fact seemed to be raised by the petitions, which were then under consideration, as to the practice in Manitoba with regard to schools, at the time of the union, and also questions of law as to whether the state of facts then existing constituted a "right or privilege" of the Roman Catholics, within the meaning of the saving clauses in the Manitoba Act, and as to whether the acts complained of (of 1890) had "prejudicially affected" such "right or privilege." The Report set forth that these were obviously questions to be decided by a legal tribunal, before the appeal asserted by the petitioners could be taken up and dealt with, and that if the allegations of the petitioners and their contentions as to the law, were well founded, there would be no occasion for Your Excellency to entertain or to act upon the appeal, as the Courts would decide the Act to be *ultra vires*. The report and the minute adopting it, were clearly based on the view that consideration of the complaints and appeal of the Roman Catholic minority, as set forth in the petitions, should be deferred until the legal controversy should be determined, as it would then be ascertained whether the appellants should find it necessary to press for consideration of their application for redress under the saving clauses of the British North America Act and the Manitoba Act, which seemed by their view of the law, to provide for protection of the rights of a minority against legislation (within the competence of the legislature), which might interfere with rights which had been conferred on the minority, *after the Union*.

The memorial of the "Congress" goes on to state that the Judicial Committee of the Privy Council, in England, has upheld the validity of the Acts complained of and the "memorial" asserts that the time has now 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-sections 2 and 3 of section 22 of the Manitoba Act.

There was also referred to the sub-committee a Memorial from the Archbishop of Saint Boniface, complaining of the two Acts of 1890, before mentioned, and calling attention to former petitions on the same subject, from members of the Roman Catholic minority in the Province. His Grace made reference, in this Memorial, to assurances which were given by one of Your Excellency's predecessors before the passage of the Manitoba Act, to redress all well founded grievances and to respect the civil and religious rights and privileges of the people of the Red River Territory. His Grace then prayed that Your Excellency should entertain the appeal of the Roman Catholics of Manitoba and might consider the same, and might make such directions for the hearing and consideration of the appeal as might be thought proper and also give directions for the relief of the Roman Catholics of Manitoba.

The sub-committee also had before them a memorandum made by the "Conservative League" of Montreal remonstrating against the (alleged) unfairness of the Acts of 1890, before referred to.

Soon after the reference was made to the sub-committee of the Memorial of the "National Congress" and of the other Memorials just referred to, intimation was conveyed to the sub-committee, by Mr. John S. Ewart, counsel for the Roman Catholic minority in Manitoba, that, in his opinion, it was desirable that a further Memorial, on behalf of that minority, should be presented, before the pending application should be dealt with, and action on the part of the sub-committee was therefore delayed until the further petition should come in.

Late in November this supplementary Memorial was received and referred to the sub-committee. It is signed by the Archbishop of Saint Boniface, and by the President of the "National Congress," the Mayor of St. Boniface, and about 137 others, and is presented in the name of the "Members of the Roman Catholic church resident in the Province of Manitoba."

Its allegations are very similar to those hereinbefore recited, as being contained in the Memorial of the Congress, but there is a further contention that the two Acts of the Legislative Assembly of Manitoba, passed in 1890, on the subject of Education, were "Subversive of the rights and privileges of the Roman Catholic minority

provided for by the Statutes of Manitoba, prior to the passing of the said Acts of 1890, thereby violating both the British North America Act and the Manitoba Act."

This last mentioned Memorial urged :—

(1.) That Your Excellency might entertain the appeal and give directions for its proper consideration.

(2.) That Your Excellency should declare that the two Acts of 1890 (chapters 37 and 38), do prejudicially affect the rights and privileges of the minority, with regard to denominational schools, which they had by law or practice, in the Province at the Union.

(3.) That it may be declared that the said Acts affect the rights and privileges of Roman Catholics in relation to education.

(4.) That a re-enactment may be ordered by Your Excellency, of the Statutes in force in Manitoba, prior to these Acts of 1890, in so far, at least, as may be necessary to secure for Roman Catholics in the province the right to build, maintain, &c., their schools, in the manner provided by such Statutes, and to secure to them their proportionate share of any grant made out of public funds of the Province for education, or to relieve such members of the Roman Catholic church as contribute to such Roman Catholic schools from payment or contribution to the support of any other schools; or that these Acts of 1890 should be so amended as to effect that purpose.

Then follows a general prayer for relief.

In making their report the sub-committee will comment only upon the last Memorial presented, as it seems to contain, in effect, all the allegations embraced in the former petitions which call for their consideration and is more specific as to the relief which is sought.

As to the request which the Petitioners make in the second paragraph of their prayer, viz.: "That it may be declared that the said Acts (53 Vic., 37 and 38) do prejudicially affect the rights and privileges with regard to denominational schools which the Roman Catholics had by law or practice in the Province of Manitoba at the time of the Union," the sub-committee are of opinion that the judgment of the Judicial Committee of the Privy Council is conclusive as to the rights with regard to denominational schools which the Roman Catholics had at the time of the Union, and as to the bearing thereon of the Statutes complained of, and Your Excellency is not, therefore, in the opinion of the sub-committee, properly called upon to hear an appeal based on those grounds. That judgment is as binding on Your Excellency as it is on any of the parties to the litigation, and, therefore, if redress is sought on account of the state of affairs existing in the Province at the time of the Union, it must be sought elsewhere and by other means than by way of appeal under the sections of the British North America Act and of the Manitoba Act, which are relied on by the petitioners as sustaining this appeal.

The two Acts of 1890, which are complained of, must, according to the opinion of the sub-committee, be regarded as within the powers of the Legislature of Manitoba, but it remains to be considered whether the appeal should be entertained and heard as an appeal against Statutes which are alleged to have encroached on rights or privileges with regard to denominational schools which were acquired by any class of persons in Manitoba, not *at the time of the Union* but *after the Union*.

The sub-committee were addressed by counsel for the Petitioners as to the right to have the appeal heard, and from his argument, as well as from the documents, it would seem that the following are the grounds of the appeal:—

A complete system of separate and denominational schools, *i.e.*, a system providing for Public Schools and for Separate Catholic Schools, was, it is alleged, established by Statute of Manitoba in 1871 and by a series of subsequent Acts. That system was in operation until the two Acts of 1890 (chapters 37 and 38) were passed.

The 93rd section of the British North America Act, in conferring power on the Provincial Legislatures, exclusively, to make laws in relation to education, imposed on that power certain restrictions, one of which was (sub-section 1) to

Manitoba School Acts.

preserve the right with respect to denominational schools which any class of persons had by law in the Province at the Union. As to this restriction it seems to impose a condition on the validity of any Act relating to education, and the sub-committee have already observed that no question, it seems to them, can arise, since the decision of the Judicial Committee of the Privy Council.

The third sub-section, however, is as follows:—

“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.”

The Manitoba Act, passed in 1870, by which the Province of Manitoba was constituted, contains the following provisions, as regards that Province:—

By section 22, the power is conferred on the Legislature, exclusively, to make laws in relation to education, but subject to the following restrictions:

(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 restriction, the sub-committee again observe, has been dealt with by the judgment of the Judicial Committee of the Privy Council.

Then follows:

(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.”

It will be observed that the restriction contained in sub-section 2 is not identical with the restriction of sub-section 3 of the 93rd section of the British North America Act, and questions are suggested, in view of this difference, as to whether sub-section 3 of section 93 of the British North America Act applies to Manitoba, and if not, whether sub-section 2 of section 22 of the Manitoba Act is sufficient to sustain the case of the appellants; or, in other words, whether, in regard to Manitoba, the minority has the same protection against laws which the Legislature of the province has power to pass, as the minorities in other provinces have, under the sub-section before quoted from the British North America Act, as to separate or denominational schools established after the Union.

The argument presented by counsel on behalf of the Petitioners was, that the present appeal comes before Your Excellency in Council, not as a request to review the decision of the Judicial Committee of the Privy Council, but as a logical consequence and result of that decision, inasmuch as the remedy now sought is provided by the British North America Act, and the Manitoba Act, not as a remedy to the minority against Statutes which interfere with the rights which the minority had at the time of the Union, but as a remedy against Statutes which interfere with rights acquired by the minority after the Union. The remedy, therefore, which is sought, is against Acts which are *intra vires* of the Provincial Legislature. His argument is also that the appeal does not ask Your Excellency to interfere with any rights or powers of the Legislature of Manitoba, inasmuch as the power to legislate on the subject of Education has only been conferred on that Legislature with the distinct reservation that Your Excellency in Council shall have power to make remedial orders against any such legislation which infringes on rights acquired after the Union by any Protestant or Roman Catholic minority in relation to separate or dissentient schools.

Upon the various questions which arise on these petitions the sub-committee do not feel called upon to express an opinion, and so far as they are aware, no opinion has been expressed on any previous occasion in this case or any other of a like kind, by Your Excellency’s Government or any other Government of Canada. Indeed, no application of a parallel character has been made since the establishment of the Dominion.

The application comes before Your Excellency in a manner differing from applications which are ordinarily made, under the constitution, to Your Excellency in Council. In the opinion of the sub-committee, the application is not to be dealt with at present as a matter of a political character or involving political action on the part of Your Excellency's Advisers. It is to be dealt with by Your Excellency in Council, regardless of the personal views which Your Excellency's Advisers may hold with regard to denominational schools and without the political action of any of the members of Your Excellency's Council being considered as pledged by the fact of the appeal being entertained and heard. If the contention of the Petitioners be correct, that such an appeal can be sustained the inquiry will be rather of a judicial than of a political character. The sub-committee have so treated it in hearing counsel, and in permitting their only meeting to be open to the public. It is apparent that several other questions will arise, in addition to those which were discussed by counsel at that meeting, and the sub-committee advises that a date be fixed, at which the Petitioners, or their counsel, may be heard with regard to the appeal, according to their first request.

The sub-committee think it proper that the Government of Manitoba should have an opportunity to be represented at the hearing, and they further recommend, with that view, that if this report should be approved, a copy of any Minute approving it, and of any Minute fixing the date of the hearing with regard to the appeal, be forwarded, together with copies of all the petitions referred to, to His Honour the Lieutenant Governor of Manitoba, for the information of his Honour's Advisers.

In the opinion of the sub-committee, the attention of any person who may attend on behalf of the Petitioners, or on behalf of the Provincial Government, should be called to certain preliminary questions which seem to arise with regard to the appeal.

Among the questions which the sub-committee regard as preliminary are the following:—

(1.) Whether this appeal is such an appeal as is contemplated by sub-section 3 of section 93 of the British North America Act or by sub-section 2 of section 22 of the Manitoba Act.

(2.) Whether the grounds set forth in the petitions are such as may be the subject of appeal under either of the sub-sections above referred to.

(3.) Whether the decision of the Judicial Committee of the Privy Council in any way bears on the application for redress based on the contention that the rights of the Roman Catholic minority which accrued to them after the Union have been interfered with by the two Statutes of 1890 before referred to.

(4.) Whether sub-section 3 of section 93 of the British North America Act applies to Manitoba.

(5.) Whether Your Excellency in Council has power to grant such orders as are asked for by the Petitioner, assuming the material facts to be as stated in the Petition.

(6.) Whether the Acts of Manitoba passed before the Session of 1890, conferred on the minority a "right or privilege with respect to Education," within the meaning of sub-section 2 of section 22 of the Manitoba Act, or established "a system of separate or dissentient schools," within the meaning of sub-section 3 of section 93 of the British North America Act, and if so, whether the two Acts of 1890, complained of, affect "the right or privilege" of the minority in such a manner as to warrant the present appeal.

Other questions of a like character may be suggested at the hearing and it may be desirable that arguments should be heard upon such preliminary points before any hearing shall take place on the merits of the appeal.

Respectfully submitted,

JNO. S. D. THOMPSON,
M. BOWELL,
J. A. CHAPLEAU,
T. MAYNE DALY.

Manitoba School Acts.

ST. BONIFACE, 22nd September, 1892.

SIR,

I have the honour to transmit to you herewith enclosed a petition for the consideration of His Excellency the Governor General in Council concerning the appeal of the Roman Catholics of the Province of Manitoba with regard to education.

I have, etc.,

† ALEX. TACHÉ,
Arch. of St. Boniface, O.M.I.

To the Honourable
The Secretary of State for Canada,
Ottawa, Ont.

To His Excellency the Governor General in Council :

The humble petition of the undersigned, Archbishop of the Roman Catholic Church in the Province of Manitoba, respectfully sheweth :—

10. That two Statutes, 53 Vic., chap. 37 and 38, were passed in the Legislative Assembly of Manitoba to merge the Roman Catholic 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.

20. That on the 4th of April, 1890, James E. P. Prendergast, M.P.P. for Woodlands, transmitted to the Honourable the Secretary of State for Canada a petition, signed by eight members of the Legislative Assembly of Manitoba, to make known to His Excellency the Governor General the grievances under which Her Majesty's Roman Catholic subjects of the Province of Manitoba were suffering by the passage of the two said Acts, respectively intituled: "An Act respecting the Department of Education" and "An Act respecting Public Schools," (53 Vic., cap. 37 and 38). The said petition ended by the following words:—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."

30. That on the 7th of April, the same year, 1890, the Catholic section of the Board of Education, in a petition signed by its President, the Archbishop of St. Boniface, and its Secretary, T. A. Bernier, "most respectfully and earnestly prayed His Excellency the Governor General in Council that said last-mentioned Acts (53 Vic., cap. 37 and 38) be disallowed to all intents and purposes."

40. That on the 12th of April, 1890, the undersigned brought before His Excellency some of the facts concerning the outbreak which occurred at Red River during the winter of 1869-70; the part that the undersigned was invited, by Imperial and Federal authorities, to take in the pacification of the country; the promise intrusted to the undersigned in an autograph letter from the then Governor General that the people of Red River "may rely that respect and attention will be extended to the different religious persuasions;" the furnishing the undersigned with a proclamation to be made known to the dissatisfied population, in which proclamation the then Governor General declared:—"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." 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." In the strength of such assurance, the people of Red River consented to their union with Canada and the Act of Manitoba was passed, giving guarantees to the minority that their rights and privileges, acquired by law or practice, with regard to education, would be protected. The cited Acts, 53 Vic., cap. 37 and 38, being a violation of the assurances given to the Red River popula-

tion, through the Manitoba Act, the undersigned ended his petition of the 12th April, 1890, by the following words:—

"I therefore most respectfully and most earnestly pray that Your Excellency, as the representative of your 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."

50. That later on, working under the above mentioned disadvantage and wishing for a remedy against laws which affected their rights and privileges, in the matter of education, 4,267 members of the Roman Catholic Church, in the Province of Manitoba, on behalf of themselves and their co-religionists, appealed to the Governor General in Council from the said Acts of the Legislature of the Province of Manitoba, the prayer of their petition being as follows:—

(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."

6. That in the month of March, 1891, the Cardinal Archbishop of Quebec and the Archbishops and Bishops of the Roman Catholic Church in Canada, in a petition to His Excellency the Governor General in Council, sheweth that the 7th Legislature of the Province of Manitoba, in its 3rd Session, assembled, had passed an Act intituled:—"An Act respecting the Department of 'Education,' and another Act to be cited:—"The Public School Act," which deprive the Catholic minority of the Province of the rights and privileges they enjoyed with regard to Education, and the venerable prelates added:—"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."

7. That on the 21st March, 1891, the Honourable the Minister of Justice reported on the two Acts alluded above, cap. 37, "An Act respecting the Department of Education," and cap. 38, "An Act respecting Public Schools," and here are the conclusions of his report:—"If the legal controversy should result in the decision of the Court of Queen's Bench (adverse to Catholic views) 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-sections 2 and 3 of section 22 of the 'Manitoba Act,' quoted in the early part of this report, and which are analagous 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.'" A committee of the Honourable the Privy Council having had under consideration the above report, submitted the same for approval, and it was approved by His Excellency the Governor General in Council on the 4th of April, 1891.

8. That the Judicial Committee of Her Majesty's Privy Council has sustained the decision of the Court of Queen's Bench.

9. That your petitioner believes that the time has now "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-sections 2 and 3 of section

Manitoba School Acts.

22 of the 'Manitoba Act' " as it has " become necessary that the Federal power should be resorted to for the protection of the Roman Catholic minority."

Your petitioner therefore prays—

1. That Your Excellency the Governor General in Council may entertain the appeal of the Roman Catholics of Manitoba, 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 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 petitioner will ever pray.

† ALEX. TACHÉ, *Arch. of St. Boniface.*

ST. BONIFACE, 22nd September, 1892.

(*Translation.*)

ST. BONIFACE, MANITOBA, 30th Sept., 1892.

To the Hon. J. C. PATTERSON,
Secretary of State, &c.

SIR,—I have the honour to transmit herewith, for submission to His Excellency the Governor General in Council, a petition signed by the Executive of the National Congress, organized on the 24th June, 1890, asking the Dominion Government to consider the petitions already presented by the Catholics of this Province with a view to obtain redress of grievances inflicted upon them in relation to education by the action of the Provincial Legislature of Manitoba, in 1890, and to request that you will submit the said petition to His Excellency in Council with as little delay as possible.

I have, &c.,

A. A. C. LARIVIÈRE,
Member for the E. Dist. of Provencher.

(*Translation.*)

OFFICE OF THE NATIONAL CONGRESS, ST. BONIFACE, 20th Sept., 1892.

To the Hon. Mr. LARIVIÈRE, M.P., St. Boniface.

SIR,—In behalf of the National Congress, organized 24th June, 1890, I beg to request that you will transmit to His Excellency the Governor General in Council the enclosed petition asking the Dominion Government to consider the petitions already presented by the Catholics of this Province, with a view to obtaining redress of the grievances inflicted upon them in the matter of education, by the Provincial legislation of Manitoba, in 1890.

I have the honour, &c.,

T. A. BERNIER,
Pres. pro tem.

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 and dutiful subjects of Her Most Gracious Majesty, doth hereby respectfully represent that :—

The seventh legislature of the Province of Manitoba in its Third Session assembled, did pass in the year eighteen hundred and ninety an Act intituled " An Act respecting the Department of Education," and also an Act respecting public schools, which deprive the Roman Catholic minority in the said Province of Manitoba of the rights and privileges they enjoyed with regard to education previous to

and at the time of the Union, and since that time up to the passing of the Acts aforesaid. That subsequent to the passing of said Acts, and on behalf of the members of said Roman Catholic Church, the following Petition has been laid before Your Excellency in Council:—

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 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.

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 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 the 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

Manitoba School Acts.

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., chaps. 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 minority in said Province.

14. The Roman Catholics of the Province of Manitoba therefore appeal from the said Act of the Legislative Assembly 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'Anemour.

JOSEPH MESSIER, P. P. of St. Boniface.

T. A. BERNIER.

J. DUBUC.

L. A. PRUD'HOMME.

M. A. GIRARD.

A. A. LARIVIÈRE, M. P.

JAMES E. PRENDERGAST, M. P. P.

ROGER MARION, M. P. P., and 4257 more names.

That on the consideration of the Privy Council of Canada of the two Acts aforesaid, the following Report of the Honourable the Minister of Justice, dated 21st March, 1891, was approved by His Excellency the Governor General in Council on the 4th of April, 1891, viz. :—

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 27, "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. chap. 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 the 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 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 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

Manitoba School Acts.

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 the 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) school,” 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 other, 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 been easily 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 of 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-sections 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,

JOHN S. D. THOMPSON, *Minister of Justice.*

That a recent decision of the Judicial Committee of the Privy Council in England having sustained the judgment of the Court of Queen's Bench of Manitoba, upholding the validity of the Acts aforesaid, your Petitioners most respectfully represent that as intimated in said Report of the Honourable the Minister of Justice *the time has now 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-sections 2 and 3 of section 22 of the "Manitoba Act."*

That your petitioners, notwithstanding such decision of the Judicial Committee of the Privy Council in England, still believe that their rights and privileges in relation to Education have been prejudicially affected by said Acts of the Provincial Legislature.

Therefore, your petitioners most respectfully and most earnestly pray that it may please Your Excellency in Council to take into consideration the petitions above referred to, and to grant the conclusions of said petitions and the relief and protection sought for by the same.

And Your Petitioners will ever pray.

SAINT BONIFACE, 20th September, 1892.

Members of the Executive Committee of the National Congress.

T. A. BERNIER,
Acting President
A. A. C. LARIVIÈRE.
JOSEPH LECOMTE.
JAMES S. P. PRENDERGAST.
J. ERNEST CYR.
THEO. BERTRAND.
H. F. DESPARS.
M. A. KERVALK.
TELESPHORE PELLETIER,
DR. J. H. OCT. LAMBERT.
JOSEPH Z. C. AUGER.
A. F. MARTIN.

Secretaries. { A. E. VERSAILLES.
R. GOULET, JR.

Manitoba School Acts.

WINNIPEG, MAN., 31st October, 1892.

The Honourable the Secretary of State,
Ottawa, Ont.

SIR,—I have the honour to enclose you another petition on behalf of the Catholic Minority of Manitoba with reference to the position in which they find themselves in reference to education in this Province. I do not desire that this petition should be substituted for the others already presented, but that it should rather be taken as supplementary to those others. May I ask that the matter may be brought before His Excellency the Governor General in Council at the earliest possible date?

I have, etc.,

JOHN E. EWART.

TO HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

The humble petition of the members of the Roman Catholic Church residing in the Province of Manitoba sheweth as follows:—

1. 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, chap. 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.

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 this 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. Between the time of the passage of the said Act and prior to the Statute next hereinafter referred to, various Acts were passed amending and consolidating the said Act, but in and by all such later Acts the rights and privileges of the Roman Catholics were acknowledged and conserved and their separate condition in respect to education continued.

9. Until the session of the Legislative Assembly held in the year 1890, no attempt was made to encroach upon the rights of the Roman Catholics so confirmed to them as above mentioned, but during said sessions Statutes were passed (53 Vic., caps. 37 and 38) the effect of which was to repeal all the previous Acts; 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 District 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 the 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 contribute to the expense of the so-called Public Schools.

12. Your Petitioners submit that the said Acts of the Legislative Assembly of Manitoba are subversive of the rights of Roman Catholics guaranteed and confirmed to them by the Statute erecting the Province of Manitoba, and prejudicially affect 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. Your petitioners further submit that the said Acts of the Legislative Assembly of Manitoba are subversive of the rights and privileges of Roman Catholics provided for by the various Statutes of the said Legislative Assembly prior to the passing of the said Acts and affect the rights and privileges of the Roman Catholic minority of the Queen's subjects in the said province in relation to education so provided for as aforesaid, thereby offending both against The British North America Act and The Manitoba Act.

14. Roman Catholics are in a minority in the said Province, and have been so for the last fifteen years.

15. The Roman Catholics of the Province of Manitoba, therefore, appeal from the said Acts 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

Manitoba School Acts.

such directions for the hearing and consideration of the said appeal as may be thought proper.

2. That it may be declared that the said Acts (53 Vic., chaps. 37 and 38) do 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 it may be declared that the said last mentioned Acts do affect the rights and privileges of the Roman Catholic minority of the Queen's subjects in relation to education.

4. That it may be declared that to Your Excellency the Governor General in Council, it seems requisite that the provisions of the Statutes in force in the Province of Manitoba prior to the passage of the said Acts, should be re-enacted in so far at least as may be necessary to secure to the Roman Catholics in the said Province the right to build, maintain, equip, manage, conduct and support these schools in the manner provided for by the said Statutes, to secure to them their proportionate share of any grant made out of the public funds for the purposes of education, and to relieve such members of the Roman Catholic Church as contribute to such Roman Catholic schools from all payment or contribution to the support of any other schools; or that the said Acts of 1890 should be so modified or amended as to effect such purposes.

5. And that such further or other declaration or order may be made as to Your Excellency the Governor General in Council shall, under the circumstances, seem proper, and that such directions may be given, provisions made and all things done in the premises for the purpose of affording relief to the said Roman Catholic minority in the said Province as to Your Excellency in Council may seem meet.

And your petitioners will ever pray.

† ALEX., Arch. of St. Boniface, O.M.I.
T. A. BERNIER, President of the National
Congress.

JAMES E. P. PRENDERGAST, Maire de la Ville
de St. Bonifacé.

J. ALLARD, O.M.I., V.G., and about 137 others.

JOHN S. EWART,
Counsel for the Roman Catholic Minority in
the Province of Manitoba.

THE MANITOBA SCHOOL LAW.

THE CONSERVATIVE LEAGUE, faithful to the enduring traditions of the Conservative Party, wishes to record its regret that good feeling and a spirit of conciliation, so essential to the well-being of our public affairs, do not actuate the Government and the majority of the people of Manitoba; it regrets that, in the name of "Equal Rights," liberty of conscience, justice and equality of rights have been denied by the school law of 1890 to a very large portion of the inhabitants of that Province.

In common with every citizen of the Province of Quebec, this League has the right to make itself heard on this question, because the Province of Quebec accepted confederation only on the express condition that the rights of minorities would be respected and kept safe. Therefore it is that the League asserts itself to vindicate its principles and to defend the privileges and immunities of the minority in Manitoba.

The education of children is the exclusive province of the father of the family, and their education devolves on him as a matter of strict duty. It follows as a necessary consequence from this principle that the father of a family has the undeniable right to fulfil this duty according to the dictates of his conscience, that in the exercise of this duty and of this right, the State has no lawful power to interfere with or restrict his freedom of action, and that any law which tends to trammel such free action is offensive to good conscience.

The Manitoba School Law of 1890 is a usurpation by the State of the rights of the *pater familias*. It is an Act subversive of his rights,—it is an abuse of power inspired by intolerance and fanaticism and is of a nature to inspire fear for the very existence of confederation, if a remedy be not applied in good time.

No one can honestly deny the treaty of 1870, between the Government of Canada and the people of Manitoba, by which it was formally covenanted and agreed that their separate schools should be preserved to them. Nor can any one with honesty deny that the Manitoba School Law of 1871, made and adopted by the very men who had themselves been parties to the treaty of the year before, maintained these separate schools for Catholics and Protestants.

And yet, the highest tribunal in England took into account neither the solemn treaty of 1870, nor the unequivocal interpretation of that treaty contained in the law of 1871.

For a moment only let the opposite state of things be supposed; let us suppose that a French Canadian Catholic majority in Manitoba refused separate schools to a Protestant minority. Who will believe that in such a state of things the Privy Council would have interpreted the Manitoba Treaty in the same sense? Their Lordships would have shewn that our Catholic good faith, that our national honour were solemnly bound. They would have been eloquent in defence of the liberty of the citizen and learned as to the rights belonging to a father of a family; and they would have been right. But the supposition is altogether unfounded, for French Canadians have ever given constant proof, not in mere words but by deed and practice, of the truest liberality towards the Protestant Minority of the Province of Quebec. Fair-play deserves fair-play in return.

But there is more than this to be said. The Treaty of Paris (1763) fixed the conditions of the Cession of Canada to England, and by this Treaty England promised that the people of this country should remain free in the exercise of the Catholic Religion. But, since it is obligatory for the Catholic to give his children a religious education, it follows that to banish religious instruction from the primary school is to deny him the right to obey the precepts of his religion, and this can only be done in violation of the exacted promise on the faith of which Canada became a British Colony.

For these reasons the Conservative League protests against the School Law, in force in Manitoba, and expresses the hope that our statesmen and public men will labour manfully and uncompromisingly until these laws shall have been remedied.

Another question arises out of this subject, and claims our earnest attention. The present crisis would have been avoided if the Privy Council in England had rendered a decision according to equity, and based on the true state of the case. Unfortunately in the present instance, as in every other where the interests of the Catholics of this country and of the French Canadians have been involved, that high tribunal has rendered an arbitrary judgment. Since unhappily this appears to be true, it is most opportune to consider whether indeed the Privy Council has jurisdiction in such matters and to have it taken away if it exists; for the time has gone by and is past when a country or a people can be made to suffer injustice indefinitely.

MONTREAL, 3rd November, 1892.

THE CONSERVATIVE LEAGUE.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA,

OTTAWA, 26th September, 1892.

MY LORD ARCHBISHOP,—I have the honour to acknowledge the receipt of your letter of the 22nd instant, transmitting for the consideration of His Excellency the Governor General a petition concerning the appeal of the Roman Catholics of the Province of Manitoba with regard to education, and to state that the matter will receive consideration.

I have, etc.,

L. A. CATELLIER, *Under Secretary of State.*

His Grace the Lord Archbishop of St. Boniface, St. Boniface, Man.

Manitoba School Acts.

DEPARTMENT OF THE SECRETARY OF STATE,
OTTAWA, 5th October, 1892.

SIR,—I have the honour to acknowledge receipt of your letter of the 30th of last month, enclosing for submission to His Excellency the Governor General in Council a petition signed by the members of the Executive of the National Congress, asking the Dominion Government to consider the petitions presented by the Catholics of the Province of Manitoba, on the question of the schools of that Province, and to inform you that the said petition will receive attention.

I have, etc.,

L. A. CATELLIER, *Under Secretary of State.*

A. A. C. LABIVÈRE, Esq., M.P., St. Boniface, Man.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA,
OTTAWA, 5th November, 1892.

JOHN S. EWART, Esq., Q.C., of Messrs. Ewart, Fisher and Wilson,
Barristers, Winnipeg, Man.

SIR,—I have the honour to acknowledge the receipt of your letter of the 31st ult., transmitting for submission to His Excellency the Governor General in Council another petition on behalf of the Catholic minority in Manitoba with reference to the position in which they find themselves consequent on the passing of certain Provincial Statutes, dealing with education in Manitoba, as therein set forth, and to state that the said Petition will receive attention.

I have, etc.,

L. A. CATELLIER, *Under Secretary of State.*

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 4th January, 1893.

To His Honour the Lieutenant Governor of Manitoba, Winnipeg, Man.

SIR,—I have to inform you that His Excellency the Governor General, having had under his consideration in Council a Report from a Sub-Committee of the Honourable the Privy Council, to whom had been referred certain memorials to His Excellency, complaining of two Statutes of Manitoba, relating to education, passed in the session of 1890, has been pleased to make an Order in the premises, a copy of which, together with a copy of the Report above mentioned, I have the honour to transmit herewith, for the information of Your Honour's Government.

I have, etc.,

L. A. CATELLIER, *Under Secretary of State.*

GOVERNMENT HOUSE, WINNIPEG, 7th January, 1893.

The Under Secretary of State, Ottawa.

SIR,—I have the honour to acknowledge the receipt of your despatch No.13, file No. 4988, dated 4th instant, informing me that His Excellency the Governor General, having had under his consideration in Council a report from a sub-committee of the Honourable the Privy Council, (to whom had been referred certain memorials to His Excellency, complaining of two Statutes of Manitoba, relating to education, passed in the session of 1890,) has been pleased to make an Order in the premises, and transmitting, for the information of my Government, a copy of the order referred to, together with a copy of the report above mentioned, and to inform you that I have this day transmitted the enclosures mentioned to my Government.

I have, etc.,

JOHN SCHULTZ, *Lieutenant Governor.*

GOVERNMENT HOUSE, WINNIPEG, 18th January, 1893.

The Under Secretary of State, Ottawa.

SIR,—Referring to your letter No. 13, file No. 4988, dated the 4th instant, covering the certified copy of a report of a committee of the Honourable the Privy Council, (to whom had been referred certain memorials to His Excellency the Governor General, complaining of two Statutes of Manitoba, relating to education, passed in the session 1890) approved by His Excellency the Governor General in Council on the 29th December, 1892, a copy of which was transmitted to my Government on the 7th instant, I have now the honour to inform you that my Government have this day advised me as follows :—

“ DEPARTMENT OF THE PROVINCIAL SECRETARY, WINNIPEG, 18th January, 1893.

“ The Honourable JOHN C. SCHULTZ, Lieutenant Governor,

“ Province of Manitoba, Winnipeg.

“ SIR,—With reference to Your Honour's letter of the 7th instant, regarding two petitions presented to His Excellency the Governor General in Council, complaining of two (2) Statutes of Manitoba, relating to education, passed in the session of 1890, and the documents transmitted therewith, I am instructed to say that Your Honour's Government has decided that it is not necessary that it should be represented on the hearing of the appeal, to take place on the 21st instant before the Privy Council. I have, etc., J. D. CAMERON, *Provincial Secretary.*”

I have the honour to be, sir,

Your obedient servant,

JOHN SCHULTZ, *Lieutenant Governor.*

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 21st January, 1893.

To His Honour the Lieutenant-Governor of Manitoba, Winnipeg, Manitoba.

SIR,—In continuation of prior correspondence on the subject of an Order of His Excellency the Governor General in Council, dated 29th December last, in the matter of certain memorials complaining of two Statutes of Manitoba, relating to education, passed in the session of 1890, I have now to acknowledge receipt of your despatch No. 55 C., dated the 18th instant, in which is given the text of a letter from Your Honour's Provincial Secretary dated concurrently, setting forth that your advisers had decided that it is not necessary for your Government to be represented on the hearing of the appeal, to take place this day, the 21st instant, before the Honourable the Privy Council.

I have, etc.,

L. A. CATELLIER, *Under Secretary of State.*

FURTHER PARTIAL RETURN

[33a]

To an ADDRESS of the HOUSE OF COMMONS dated the 6th February, 1893, for a copy of the judgment of the Judicial Committee of Her Majesty's Privy Council in the appealed case of *Barrett vs. the City of Winnipeg*, commonly known as the "Manitoba School Case"; also copy of factums, reports and other documents in connection therewith.

By order.

JOHN COSTIGAN,
Secretary of State.

OTTAWA, 14th February, 1893.

PRIVY COUNCIL.

Present :

The Right Hon. Lord Watson,	The Right Hon. Lord Hannen,
The Right Hon. Lord Macnaghten,	The Right Hon. Sir Richard Couch,
The Right Hon. Lord Morris,	The Right Hon. Lord Shand.

CITY OF WINNIPEG,

and

BARRETT,

Appellant,

Respondent,

ON APPEAL FROM THE SUPREME COURT OF CANADA.

CITY OF WINNIPEG,

and

LOGAN,

Appellant,

Respondent,

ON APPEAL FROM THE COURT OF QUEEN'S BENCH FOR MANITOBA.

Law of Canada, Province of Manitoba.

Dominion Statute, 33 Vict., c. 3.

Manitoba Public Schools Act, 1890—Denominational Schools—Powers of Provincial legislature.

According to the construction of the Constitutional Act of Manitoba, 1870, 33 Vict., c. 3 (Dominion Statute), having regard to the state of things which existed in Manitoba at the date thereof, the legislature of that province did not exceed its powers in passing the Public Schools Act, 1890.

Section 22 of the act of 1870 authorizes the provincial legislature exclusively to make laws in relation to education, so as not to "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."

Held, that the act of 1890, which abolished the denominational system of public education established by law since the union, but which did not compel the atten-

Manitoba School Acts.

dance of any child at a public school, or confer any advantage in respect of attendance other than that of free education, and at the same time left each denomination free to establish, maintain and conduct its own schools, did not contravene the above proviso; and that accordingly certain by-laws of a municipal corporation, which authorized assessments under the act, were valid.

Appeal in the first case from a judgment of the supreme court (Oct. 28, 1891), reversing one of the court of queen's bench for Manitoba (Feb. 2, 1891); in the second case from a judgment of the court of queen's bench (Dec. 19, 1891), which followed that of the supreme court.

The province of Manitoba joined the union in 1870, upon the terms of the Constitutional Act of Manitoba, 1870, 33 Vict., c. 3 (Dominion Statute.)

Section 22 is the material section, and is set out in their lordships' judgment. In 1890 the provincial legislature passed two statutes relating to education—chaps. 37 and 38—the latter of which is intitled "The Public Schools Act, 1890." Its validity was the subject of this appeal.

The facts are stated in the judgment of their lordships.

In the first case the application was for a summons to show cause why the by-laws in question, which were passed under the act for levying a rate for school and municipal purposes in the city of Winnipeg, should not be quashed for illegality on the ground that the amounts levied for protestant and Roman catholic schools were therein united, and that one rate was levied upon protestants and catholics alike for the whole sum, in a manner which but for the act of 1890 would have been invalid according to the education acts thereby repealed.

Killam, J., dismissed the summons, holding that the rights and privileges referred to in the Dominion statute were those of maintaining denominational schools, of having children educated in them, and of having inculcated in them the peculiar doctrine of the respective denominations.

He regarded the prejudice effected by the imposition of a tax upon catholics for schools to which they were conscientiously opposed as something so indirect and remote that it was not within the act.

The court of queen's bench affirmed this order.

Taylor, C. J., and Bain, J., held that "rights and privileges" included moral rights, and that whatever any class of persons was in the habit of doing in reference to denominational schools, should continue, and not be prejudicially affected by provincial legislation, but that none of those rights and privileges had been in any way affected by the act of 1890.

Dubree, J., dissented, holding that the right or privilege existing at the union was the right of each denomination to have its denominational schools, with such teaching as it might think fit, and the privilege of not being compelled to contribute to other schools of which members of such denomination could not in conscience avail themselves; and that the act of 1891 invaded such privilege, and was consequently *ultra vires*.

The supreme court reversed the order.

Ritchie, C. J., held that as catholics could not conscientiously continue to avail themselves of the public schools as carried on under the system established by the Public Schools Act, 1890, the effect of that act was to deprive them of any further beneficial use of the system of voluntary catholic schools which had been established before the union, and had thereafter been carried on under the state system introduced in 1871.

Patterson, J., pointed out that the words "injuriously affect" in section 22, sub-section 1, of the Manitoba Constitutional Act, would include any degree of interference with the rights or privileges in question, although falling short of the extinction of such rights or privileges. He held that the impediment cast in the way of obtaining contributions to voluntary catholic denominational schools by reason of the fact that all catholics would, under the act, be compulsorily assessed to another system of education amounted to an injurious affecting of their rights and privileges within the meaning of the sub-section.

Fournier, J., pointed out that the mere right of maintaining voluntary schools, if they chose to pay for them, and of causing their children to attend such schools,

could not have been the right which it was intended to reserve to catholics or other classes of persons by the use of the word "practice," since such right was undoubtedly one enjoyed by every person or class of persons by law, and took a similar view to that taken by Patterson, J.

Taschereau, J., gave judgment in the same sense, holding that the contention of the appellants gave no effect to the word "practice" inserted in the section.

In the second case a similar application was made by the respondent Logan, and allowed in consequence of the supreme court's decision in Barrett's case.

Sir H. Davey, Q.C., McCarthy, Q.C., and Campbell, Q.C. (both of the Canadian bar), for the appellant, contended that the view taken by Killam, J., Taylor, C.J., and Bain, J., was correct.

The act of 1890 did not affect any right or privilege with respect to denominational schools which the respondent or any class of persons had by law or practice in the province prior to the union.

It established one system of public schools throughout the province, and abolished all the laws regarding public schools which had theretofore been passed and were then existing.

Sections 21 and 22, sub-sections 1, 2 and 3, of the Manitoba Act, 1870, were referred to, and the various affidavits which had been made in the case, and it was contended that the act of 1890 was not *ultra vires*. It enacted that all public schools in the province are to be free schools (section 5); that all religious exercises therein shall be conducted according to the regulation of the advisory board which is provided by section 6; but in case the guardian or parent of any pupil notifies the teacher that he does not wish such pupil to attend such religious exercises, then the pupil need not attend. All public schools are non-sectarian, and no religious exercises are allowed, except as provided by the act, which, moreover, is not compulsory.

With regard to the state of things, "law or practice" in Manitoba prior to the union, the law then in force was the law of England, as it existed at the date of the Hudson's Bay Company's charter, viz., the 2nd of May, 1670, in so far as applicable. Accordingly, the respondent had not, nor had the Roman catholics of the province, any right or privilege by law in relation to the Roman catholic denominational schools.

The only right and privilege on this subject which they possessed was, as shown by the affidavits, the privilege to establish and maintain private schools which were supported by fees paid by the parents or guardians of the children who attended them, supplemented, it may be, by those who belonged to the Roman catholic church.

The act of 1890 does not interfere with or prejudicially affect this right, for the respondent and Roman catholics are still entitled to establish and maintain denominational schools as before the union. Consequently it has not been shown that the act interferes with any rights and privileges which were locally enjoyed within the city.

Reference was made to *ex parte* Renaud (1); *Fearon vs. Mitchell* (1). In the other appeal, the respondent Logan represented members of the church of England, whose rights and privileges were similar to those of Barrett and his co-religionists.

Sir Richard Webster, A.G., Blake, Q.C., and Ewart, Q.C. (both of the Canadian bar), and Gore, for the respondent Barrett:—

The act of 1890 prejudicially affects the rights and privileges of Roman catholics in the province, as they existed by law or practice at the date of the union, with respect to denominational schools.

By its operation they are deprived of the system of Roman catholic denominational schools as they existed before the union.

The public schools constituted by the act are, or may be, protestant denominational schools, and catholic ratepayers are compelled to contribute thereto.

They cannot conscientiously permit their children to attend the schools established by the act, and, having regard to the compulsory rate levied upon them in support thereof, material impediments are cast in the way both of subscribing and of obtain-

Manitoba School Acts.

ing subscriptions in support of catholic denominational schools, and of setting up and maintaining the same. The rights and privileges of catholics are, accordingly, prejudicially affected.

At the date of the union there was not, and there never had been, any state system of education in Manitoba, nor was there any compulsory rate or state grant for purposes of education.

There was, however, an established and recognized system of voluntary denominational education, including Roman catholic schools supported in part by voluntary contributions from catholics and contributed by the Roman church.

In a similar way, the church of England and various protestant sects supported their own schools.

The provincial legislature established by the Dominion Statute of 1870, passed 34 Vict., c. 12, establishing a state system of education in the province. Subsequent acts were passed, and the whole were codified by 44 Vict., c. 4; and modification was made therein by 45 Vict., cc. 8 and 11; 46 & 47 Vict., c. 46; 47 Vict., cc. 37 and 54; 48 Vict., c. 27; 50 Vict., cc. 18 and 19; 51 Vict., c. 31; 52 Vict., cc. 5 and 21; all which acts show that useful education can be provided without disturbing rights and privileges as they existed in 1870. Then came the act complained of.

Besides the establishment of public schools, controlled as to religious teaching by an advisory board, section 179 abolished pre-existing catholic school districts, and provided that all the assets of such catholic schools should belong to, and all the liabilities thereof should be paid by, the public school districts established by the new act.

The right and privilege which had been prejudicially affected was the right to have a religious education conducted under the supervision of their church, administered in the schools which they were compelled to support; to have the immunity existing in 1870, from being compelled to support schools to which they objected.

Their interests were prejudiced in being compelled by the act to support one set of schools while, as a matter of religion and conscience, they would, at the same time, have to establish another set of schools to which alone they could send their children.

The new public schools, controlled ultimately by a majority of ratepayers, would be conducted for the benefit of protestant and presbyterian denominations, and catholics would thereby be prejudiced and injured.

It was contended that *Fearon vs. Mitchell* (1) had no bearing on the case.

See *Musgrave vs. Inclosure Commissioners* (2), and *Barlow vs. Ross* (3), where the *existence* of rights and privileges is discussed.

In *ex parte Renaud* (4), the head note is wrong.

It was not decided that no legal privilege existed in that case, but merely that it had not been infringed.

A. J. Ram, for the respondent, Logan. McCarthy, Q.C., replied.

The judgment of their lordships was delivered by Lord Macnaghten:—

These two appeals were heard together. In the one case the city of Winnipeg appeals from a judgment of the supreme court of Canada reversing a judgment of the court of queen's bench for Manitoba; in the other from a subsequent judgment of the court of queen's bench for Manitoba following the judgment of the supreme court.

The judgments under appeal quashed certain by-laws of the city of Winnipeg which authorized assessments for school purposes in pursuance of the Public Schools Act, 1890, a statute of Manitoba to which Roman catholics and members of the church of England alike take exception.

The views of the Roman catholic church were maintained by Mr. Barrett; the case of the church of England was put forward by Mr. Logan. Mr. Logan was content to rely on the arguments advanced on behalf of Mr. Barrett; while Mr. Barrett's advisers were not prepared to make common cause with Mr. Logan, and naturally would have been better pleased to stand alone.

The controversy which has given rise to the present litigation is, no doubt, beset with difficulties.

The result of the controversy is of serious moment to the province of Manitoba, and a matter apparently of deep interest throughout the Dominion.

But in its legal aspect the question lies in a very narrow compass.

The duty of this board is simply to determine as a matter of law whether, according to the true construction of the Manitoba Act, 1870, having regard to the state of things which existed in Manitoba at the time of the union, the provincial legislature has or has not exceeded its powers in passing the Public Schools Act, 1890.

Manitoba became one of the provinces of the dominion of Canada under the Manitoba Act, 1870, which was afterwards confirmed by an imperial statute known as the British North America Act, 1871.

Before the union it was not an independent province, with a constitution and a legislature of its own.

It formed part of the vast territories which belonged to the Hudson's Bay Company, and were administered by their officers or agents.

The Manitoba Act, 1870, declared that the provisions of the British North America Act, 1867, with certain exceptions not material to the present question, should be applicable to the province of Manitoba, as if Manitoba had been one of the provinces originally united by the act.

It established a legislature for Manitoba, consisting of a legislative council and a legislative assembly, and proceeded, in section 22, to re-enact, with some modifications, the provisions with regard to education which are to be found in section 93 of the British North America Act, 1867. Section 22 of the Manitoba Act, so far as it is material, is in the following terms:—

“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.”

Then follow two other sub-sections. Sub-section 2 gives an “appeal,” as it is termed in the act, “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.”

Sub-section 3 reserves certain limited powers to the Dominion parliament, in the event of the provincial legislature failing to comply with the requirements of the section, or the decision of the governor-general in council.

At the commencement of argument a doubt was suggested as to the competency of the present appeal, in consequence of the so-called appeal to the governor-general in council, provided by the act. But their lordships are satisfied that the provisions of sub-sections 2 and 3 do not operate to withdraw such a question as that involved in the present case from the jurisdiction of the ordinary tribunals of the country.

Sub-sections 1, 2 and 3 of section 22 of the Manitoba Act, 1870, differ but slightly from the corresponding sub-sections of section 93 of the British North America Act, 1867.

The only important difference is that, in the Manitoba Act, in sub-section 1, the words “by law” are followed by the words “or practice,” which do not occur in the corresponding passage in the British North America Act, 1867.

These words were no doubt introduced to meet the special case of a country which had not as yet enjoyed the security of laws properly so called.

It is not perhaps very easy to define precisely the meaning of such an expression as “having a right or privilege by practice.” But the object of the enactment is tolerably clear.

Evidently the word “practice” is not to be construed as equivalent to “custom having the force of law.”

Their lordships are convinced that it must have been the intention of the legislature to preserve every legal right or privilege, and every benefit or advantage in the nature of a right or privilege, with respect to denominational schools, which any class of persons practically enjoyed at the time of the union.

Manitoba School Acts.

What then was the state of things when Manitoba was admitted to the union? On this point there is no dispute.

It is agreed that there was no law or regulation or ordinance with respect to education in force at the time.

There were, therefore, no rights or privileges with respect to denominational schools existing by law.

The practice which prevailed in Manitoba before the union is also a matter on which all parties are agreed.

The statement on the subject by Archbishop Taché, the Roman catholic archbishop of St. Boniface, who has given evidence in Barrett's case, has been accepted as accurate and complete.

"There existed," he says, "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 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.

"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."

Now, if the state of things which the archbishop describes as existing before the union had been a system established by law, what would have been the rights and privileges of the Roman catholics with respect to denominational schools?

They would have had by law the right to establish schools at their own expense, to maintain their schools by school fees or voluntary contributions, and to conduct them in accordance with their own religious tenets.

Every other religious body, which was engaged in a similar work at the time of the union, would have had precisely the same right with respect to their denominational schools.

Possibly this right, if it had been defined or recognized by positive enactment, might have had attached to it, as a necessary or appropriate incident, the right of exemption from any contributions under any circumstances to schools of a different denomination.

But, in their lordships' opinion, it would be going much too far to hold that the establishment of a national system of education upon an unsectarian basis is so inconsistent with the right to set up and maintain denominational schools that the two things cannot exist together, or that the existence of the one necessarily implies or involves immunity from taxation for the purpose of the other.

It has been objected that if the rights of Roman catholics and of other religious bodies in respect of their denominational schools are to be so strictly measured and limited by the practice which actually prevailed at the time of the union, they will be reduced to the condition of a "natural right" which "does not want any legislation to protect it."

Such a right, it was said, cannot be called a privilege in any proper sense of the word. If that be so, the only result is that the protection which the act purports to extend to rights and privileges existing "by practice" has no more operation than the protection which it purports to afford to rights and privileges existing "by law."

It can hardly be contended that, in order to give a substantial operation and effect to a saving clause expressed in general terms, it is incumbent upon the court to discover privileges which are not apparent of themselves, or to ascribe distinctive and peculiar features to rights which seem to be of such a common type as not to deserve special notice or require special protection.

Manitoba having been constituted a province of the Dominion in 1870, the provincial legislature lost no time in dealing with the question of education.

In 1871 a law was passed which established a system of denominational education in the common schools, as they were then called.

A board of education was formed, which was to be divided into two sections, protestant and Roman catholic.

Each section was to have under its control and management the discipline of the schools of the section.

Under the Manitoba Act, the province had been divided into twenty-four electoral divisions, for the purpose of electing members to serve in the legislative assembly.

By the act of 1871 each electoral division was constituted a school district in the first instance. Twelve electoral divisions, "comprising mainly a protestant population," were to be considered protestant school districts, twelve, "comprising mainly a Roman catholic population," were to be considered Roman catholic school districts.

Without the special sanction of the section there was not to be more than one school in any school district.

The male inhabitants of each school district, assembled at an annual meeting, were to decide in what manner they should raise their contributions towards the support of the school in addition to what was derived from public funds.

It is perhaps not out of place to observe that one of the modes prescribed was "assessment on the property of the school district" which must have involved, in some cases at any rate, an assessment on Roman catholics for the support of a protestant school, and an assessment on protestants for the support of a Roman catholic school.

In the event of an assessment, there was no provision for exemption, except in the case of the father or guardian of a school child—a protestant in a Roman catholic school district, or a Roman catholic in a protestant school district, who might escape by sending the child to the school of the nearest district of the other section, and contributing to it an amount equal to what he would have paid if he had belonged to that district.

The laws relating to education were modified from time to time. But the system of denominational education was maintained in full vigour until 1890.

An act passed in 1881, following an act of 1875, provided, among other things, that the establishment of a school district of one denomination should not prevent the establishment of a school district of the other denomination in the same place, and that a protestant and a Roman catholic district might include the same territory in whole or in part.

From the year 1876 until 1890, enactments were in force declaring that in no case should a protestant ratepayer be obliged to pay for a Roman catholic school, or a Roman catholic ratepayer for a protestant school.

In 1890 the policy of the past nineteen years was reversed, the denominational system of public education was entirely swept away.

Two acts in relation to education were passed.

The first (53 Vict., c. 37) established a department of education, and a board consisting of seven members, known as the "Advisory Board." Four members of the board were to be appointed by the department of education, two were to be elected by the public and high school teachers, and the seventh member was to be appointed by the university council.

One of the powers of the advisory board was to prescribe the forms of religious exercises to be used in the schools.

The Public Schools Act, 1890 (53 Vict., c. 38), enacted that all protestant and Roman catholic school districts should be subject to the provisions of the act, and that all public schools should be free schools.

The provisions of the act with regard to religious exercises are as follows:—

"6. Religious exercises in the public schools shall be conducted according to the regulations of the advisory board.

Manitoba School Acts.

"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.

"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 teachers to hold such religious exercises.

"8. The public schools shall be entirely non-sectarian, and no religious exercises shall be allowed therein except as above provided."

The act then provides for the formation, alteration, and union of school districts, for the election of school trustees, and for levying a rate on the taxable property in each school district for school purposes. In cities the municipal council is required to levy and collect upon taxable property within the municipality such sums as the school trustees may require for school purposes.

A portion of the legislative grant for educational purposes is allotted to public schools; but it is provided that any school not conducted according to all the provisions of the act, 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.

Section 141 provides that no teacher shall use or permit to be used as text books any books except such as are authorized by the advisory board, and that no portion of the legislative grant shall be paid to any school in which unauthorized books are used.

Then there are two sections (178 and 179) which call for a passing notice, because, owing apparently to some misapprehension, they are spoken of in one of the judgments under appeal as if their effect was to confiscate Roman catholic property.

They apply to cases where the same territory was covered by a protestant school district and by a Roman catholic district. In such a case Roman catholics were really placed in a better position than protestants.

Certain exemptions were to be made in their favour if the assets of their district exceeded its liabilities, or if the liabilities of the protestant school district exceeded its assets. But no corresponding exemptions were to be made in the case of protestants.

Such being the main provisions of the Public Schools Act, 1890, their lordships have to determine whether that act prejudicially affects 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.

Notwithstanding the Public Schools Act, 1890, Roman catholics and members of every other religious body in Manitoba are free to establish schools throughout the province; they are free to maintain their schools by school fees or voluntary subscriptions; they are free to conduct their schools according to their own religious tenets without molestation or interference.

No child is compelled to attend a public school. No special advantage other than the advantage of a free education in schools conducted under public management is held out to those who do attend.

But then it is said that it is impossible for Roman catholics, or for members of the church of England (if their views are correctly represented by the bishop of Rupert's Land, who has given evidence in Logan's case), to send their children to public schools where the education is not superintended and directed by the authorities of their church. Roman catholics or members of the church of England who are taxed for public schools, and at the same time feel themselves compelled to support their own schools, are in a less favourable position than those who can take advantage of the free education provided by the act of 1890.

That may be so. But what right or privilege is violated or prejudicially affected by the law?

It is not the law that is in fault. It is owing to religious convictions which everybody must respect, and to the teaching of their church, that Roman catholics

and members of the church of England find themselves unable to partake of advantages which the law offers to all alike.

Their lordships are sensible of the weight which must attach to the unanimous decision of the supreme court.

They have anxiously considered the able and elaborate judgments by which that decision has been supported.

But they are unable to agree with the opinion which the learned judges of the supreme court have expressed as to the rights and privileges of Roman catholics in Manitoba at the time of the union.

They doubt whether it is permissible to refer to the course of legislation between 1871 and 1890, as a means of throwing light on the previous practice, or on the construction of the saving clause in the Manitoba Act. They cannot assent to the view which seems to be indicated by one of the members of the supreme court, that public schools under the act of 1890 are in reality protestant schools.

The legislature has declared in so many words that "the public schools shall be entirely unsectarian," and that principle is carried out throughout the act.

With the policy of the act of 1890 their lordships are not concerned. But they cannot help observing that, if the views of the respondents were to prevail, it would be extremely difficult for the provincial legislature, which has been entrusted with the exclusive power of making laws relating to education to provide for the educational wants of the more sparsely inhabited districts of a country almost as large as Great Britain, and that the powers of the legislature, which on the face of the act appear so large, would be limited to the useful but somewhat humble office of making regulations for the sanitary conditions of school houses, imposing rates for the support of denominational schools, enforcing the compulsory attendance of scholars, and matters of that sort.

In the result their lordships will humbly advise her majesty that these appeals ought to be allowed with costs.

In the City of Winnipeg *v.* Barrett it will be proper to reverse the order of the supreme court with costs, and to restore the judgment of the court of queen's bench for Manitoba.

In the City of Winnipeg *v.* Logan the order will be to reverse the judgment of the court of queen's bench and to dismiss Mr. Logan's application, and discharge the *rule nisi* and the *rule absolute* with costs.

Solicitors for Barrett,
BOMPAS, BISCHOFF & Co.

Solicitors for the City of Winnipeg,
FRESHFIELDS & WILLIAMS.

Solicitors for Logan,
HARRISON & POWELL.

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

COUNCIL CHAMBERS, WHITEHALL, Tuesday, 12th July, 1892.

Present :

The Rt. Hon. Lord Watson,
The Rt. Hon. Lord Macnaghten,
The Rt. Hon. Lord Morris,

The Rt. Hon. Lord Hannen,
The Rt. Hon. Lord Shand,
The Rt. Hon. Sir Richard Couch.

THE CITY OF WINNIPEG

vs.

BARRETT,

and

THE CITY OF WINNIPEG

vs.

LOGAN.

[Transcript of the shorthand notes of Messrs. Marten & Meredith, 13 New Inn, Strand, W.C.]

Counsel for the appellants:—Sir Horace Davey, Q.C., Mr. McCarthy, Q.C., and the Hon. Mr. Martin.

Manitoba School Acts.

Counsel for the respondent Barrett:—The Attorney-General (Sir Richard Webster, Q.C., M.P.), Mr. Blake, Q.C., Mr. J. S. Ewart, Q.C., and Mr. Gore.

Counsel for the respondent Logan :—Mr. A. J. Ram.

Lord WATSON :—I presume the parties have arranged as to the two cases.

Sir HORACE DAVEY :—I shall only address your lordships once.

Lord WATSON :—There is only one point.

The ATTORNEY GENERAL :—I am not instructed in Logan's case, but speaking for myself in the case of the City of Winnipeg vs. Barrett, which is the first, I would certainly ask your lordships in any event to hear my learned friend Mr. Blake, the second counsel in the case, because it is a matter of extreme importance (I am speaking of Barrett's case in which he and I are instructed) and I should have asked your lordships under any circumstances that Mr. Blake should be heard for the respondents in the event of counsel being heard. I only mention that because some question may arise as to there being two cases, and only one counsel being heard in each, but I regard it as of extreme importance that Mr. Blake should be heard, and as we are here in this case, and I am not instructed in the Logan case, I should ask that that course should be pursued.

Mr. RAM :—I assent to that. I am for Logan, and I assent to that.

Sir HORACE DAVEY :—I do not think your lordships will find there is any substantial distinction between the two cases.

The ATTORNEY GENERAL :—That of course will get over any difficulty.

Sir HORACE DAVEY :—Because the Logan case was decided on the Barrett case, and if the Barrett case is right I think I should find it difficult to support the appeal in the Logan case. The only difference is that in the Barrett case the objector is a member of the Roman catholic church. In the Logan case he is a member of the episcopal church.

Mr. RAM :—Perhaps I may state that I am instructed on behalf of Mr. Logan, and on his part I assent to the suggestion made that the two cases should be taken together, and that counsel should be heard only in the case of Barrett.

Sir HORACE DAVEY :—I shall only use the Logan case for the purpose of illustrating the arguments. It is not a very powerful argument, I admit, of *reductio ad absurdum*. If the church of England is entitled to object, then the other communities are, and you are reduced to this, that there is a school for every two or three persons who call themselves a different denomination.

Your lordships will understand that in the observations I make I address myself to this book in the Barrett case and before I sit down I will just mention the Logan case. For the present I think it will be better to confine myself to the Barrett case, which is the first appeal on the list. It is an appeal from the judgment of the supreme court of Canada of the 28th October, 1891, in which the learned judges unanimously differed from a previous judgment of the court of queen's bench for the province of Manitoba, which itself confirmed a previous decision of a single judge, Mr. Justice Killam. My learned friend the attorney-general was quite warranted in saying that it is a matter of extreme importance to the colony of Manitoba because according to the view which I am instructed to present to your lordships if the judgment of the supreme court of Canada is upheld it practically paralyzes and renders nugatory their power of legislating with regard to any public system of education. The formal question is this: Mr. Barrett took out a summons under procedure which is provided by the Manitoba code, which I need not trouble your lordships about, for the purpose of quashing two by-laws, which had been made by the city of Winnipeg, for illegality. The illegality alleged was that by the city by-laws the amounts to be levied for school purposes for the protestant and Roman catholic schools are united and the rate levied upon protestants and Roman catholics alike for the whole sum. The question of substance is this: It is not disputed that the by-law was correct and that the rate was properly made under the Public Schools Act of 1890, but it is alleged that the Public Schools Act of 1890 of the province of Manitoba was *ultra vires* and inoperative. The ground upon which that is alleged is this: because by the act of parliament confirmed by the imperial act which incorporated the province of Manitoba in the dominion of Canada there was a proviso that no law with regard to education should prejudicially affect the rights

and privileges of any class of persons which they had either by law or practice before incorporation. Now, my lords, your lordships will at once see the importance of that. Let us now see what the province of Manitoba has done. I think your lordships have this book of the statutes. The Public Schools Act of 1890 is the last statute in that book at page 110. It repealed the previous Public Schools Act and it enacted on page 112, 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.” Your lordships will observe that there is nothing in that which makes it compulsory upon any child to attend, or upon the parent or guardian to send him to the public schools. “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. Religious exercises shall be held in a public school entirely at the option of the school trustee for the district, and upon receiving written authority from the trustees it shall be the duty of the teachers to hold such religious exercises.”

Lord MACNAGHTEN:—It says “Trustee.” Who is that?

Sir HORACE DAVEY:—There is no trustee previously mentioned. I think it must be “Trustees.” I have a queen’s printer’s copy here. There it is “Trustees” in the queen’s printer’s copy. “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 teachers to hold such religious exercises.” Then, “The public schools shall be entirely non-sectarian, and no religious exercises shall be allowed therein except as above provided.” Well then, section 9 provides for new school districts being formed; I do not know that I need trouble your lordships about that. Then section 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. The trustees elected at a first school meeting in a rural school district shall respectively continue in office as follows”—and then it provides for that. Then section 12 is as to the qualifications of school trustees. Section 13, “Electors for rural school districts.” Then follows a lot of detail as to the meetings and so forth, of the trustees.

Now, for the present, that is all that I desire to call attention to.

Lord SHAND:—Which is the clause which regulates the advisory board, as it is called?

Sir HORACE DAVEY:—That, I am told, is in a separate act, called “The Department of Education Act,” which is at page 107. I ought to have drawn your lordships’ attention to this first: “There shall be a department of education, which shall consist of the executive council,” &c., (reading to the words, page 108, line 9:) “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 the said board.” “13. The seventh member of the said board shall be appointed by the university council,” &c. (Reading to the words, bottom of page 108:) “To make regulations for the classification, organization, discipline and government of normal, model, high and public schools”; and then the rest is formal. So that your lordships see the aim of these two acts taken together was this: to establish a public system of non-sectarian schools throughout the province, and not to exclude religious exercises from the province, but to place the form of the religious exercises, and the mode in which they shall be conducted, under the regulation of the advisory board, subject to what is known as a conscience clause.

Lord SHAND:—May I ask whether in practice there have been religious exercises as a rule prescribed in those schools?

Sir HORACE DAVEY:—I was going to tell your lordships the system before this time, but I thought it convenient to mention the act first. I will draw your lordships’ attention to that afterwards. Under section 108, sub-section 1, of this act of 1890, a legislative grant is provided. It provides that:—“The sum of seventy-

Manitoba School Acts.

five dollars shall be paid semi-annually for each teacher employed in each school district;" and then 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 such school shall not participate in the legislative grant." Then, in addition to the legislative grant, there is this power in section 89, page 129: "For the purpose of supplementing the legislative grant," &c., reading down to the words, sub-section 2: "Of the proportion thereof allotted to such district," and so forth. So that your lordships see that the system of public education was to be maintained. There were to be free schools, and they were to be maintained partly by a legislative grant from the legislature of the province and partly by an assessment or rate levied upon every taxable person within the rural municipality, without regard to the particular church, sect or denomination to which such person belonged.

Now, my lords, it is alleged that this is invalid and it is alleged that it infringes the terms upon which Manitoba was admitted into the Dominion. In the first place I ought to call your lordships' attention to the 92nd, 93rd and one other section of "The British North America Act" that is on page 14. The sections are very familiar to your lordships.

The second matter in section 92 is "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." It is not suggested that this does not come within those words—It is direct taxation within the province for the purpose of raising a revenue for provincial purposes. Then section 93 deals with the question of education with which we are more immediately concerned. Your lordships understand—forgive me if I mention things which are commonplace, but you will bear in mind that Manitoba was not included in the original Dominion. It only included the two Canadas which were Ontario and Quebec, and New Brunswick and Nova Scotia. "In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions"—That is, of course, a provincial legislature. "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." That was adopted with a variation, to which attention will be called when Manitoba was admitted within 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." Your lordships see that that sub-section relates exclusively to the two Canadas, Ontario and Quebec, but it is used very much in the course of the arguments which are contained in the numerous judgments of the learned judges for the purpose, on the one hand, of showing that there was express provision of this character with regard to the denominational schools for Ontario and Quebec and contrasting that with the absence of any such express provision with regard to Manitoba. It is also used on the other side for the purpose of showing the policy, as it is called, of the law of this act. I ought to say that the system which prevailed in Upper Canada and Ontario at the date of the union was this. There were public schools for the community at large, but any Roman catholics certainly, and I do not know whether any other particular sect, might establish denominational schools of their own and if they did so they were exempt from payment of the school rate for the maintenance of the general public schools. They had a right to claim exemption from payment of school rate by saying that they were maintaining efficient denominational schools of their own. The effect of this sub-section 2 is to make that system, if I may call it so, applicable to the minority, who would be the protestants in Quebec, to give the protestant minority in Quebec the same privileges in maintaining denominational schools, thereby obtaining exemption from the general school rate which a Roman catholic minority had in Ontario.

Lord SHAND:—Was that an exemption by statute?

SIR HORACE DAVEY:—I think it was by statute in Upper and Lower Canada—in Upper Canada certainly and this extended it to Lower Canada:—"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." That is where there exists by law a right to separate or dissentient schools, and any act or decision of any provincial authority affects such right or privilege, then there is an appeal to the governor-general in council. "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," that is to say, if the provincial legislature does not make the proper laws for the purpose of carrying into effect any decision of the governor-general in council or passes any act infringing this act for the protection of the minority, in each case, whether catholic or protestant, then it gives a special power of legislation to the Dominion parliament to supplement the legislation which the province ought but refuses to effect for that purpose. Then your lordships know that the power to admit other colonies is in section 146 of this act, page 22:—"It shall be lawful for the queen by and with the advice of her majesty's most honourable privy council on addresses from the houses of parliament of Canada and from the houses of the respective legislatures of the colonies or provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those colonies or provinces or any of them into the union, and on address from the houses of the parliament of Canada to admit Rupert's Land and the North-Western Territory or either of them into the union"—Rupert's Land is what is now known as Manitoba. I do not think Manitoba comprises the whole of Rupert's Land, but Manitoba is comprised within Rupert's Land—"on such terms and conditions in each case as are in the addresses expressed and as the queen thinks fit to approve, subject to the provisions of this act, and the provisions of any order in council in that behalf shall have effect as if they had been enacted by the parliament of the united kingdom of Great Britain and Ireland." Then Manitoba was admitted in the year 1870. That was by an act of the Dominion, which is at page 33. There was a subsequent act of the imperial legislature confirming this. It provides for the admission of Manitoba by name and boundaries, and provides in section 2. [Reads section 2.] Then there are details about the representation in the house of commons and the legislative council and so forth, and I pass on to section 22, page 36. "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." Your lordships will see that that textually repeats sub-section 1 of section 93 of the British North America Act with the addition of the words "or practice" after the word "law." "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." That is not exactly the same as the provision in section 93. It resolves a doubt in the first place whether an act or decision of any provincial authority included an act of the legislature of the province by expressly putting in the words "legislature of the province," and secondly it is more general than the analogous provision in section 93.

LORD WATSON:—It is a little wider.

SIR HORACE DAVEY:—Yes, it resolves a doubt whether in section 93 of the British North America Act, any act or decision of the provincial authority includes the provincial legislature.

Manitoba School Acts.

Lord WATSON:—What is the exact meaning of the phrase “dissentient schools?”

Sir HORACE DAVEY:—I understand it to mean this—denominational schools, which were established by any denomination; as a matter of fact, I believe in Ontario by Roman catholics, which, by law, so long as they provided efficient schools, exempted those who founded them from the payment of school rates. Then sub-section 3 is this. [Reads sub-section 3.] If your lordships would care to compare the different provisions, you will find at page 4 of the record in Barrett's appeal the sections set out side by side, on the one hand the British North America Act, and on the other hand the provisions of the Manitoba Act. Then section 25 provides. [Reads section 25.] I ought to mention this as to the customs duty. Section 27 provides. [Reads section 27.] Your lordships will remember that under the British North America Act there was no power for the provinces to levy indirect taxation, but all the customs and excise (I must not say stamps, because that raises a thorny question,) go to the consolidated revenue of Canada, and the treasury of Canada makes a grant to the different provinces, and that is the scheme which is continued by this Manitoba Act.

Now, my lords, it may be interesting and worth while to pause here for a moment to ask what was the previous condition of what is now the province of Manitoba before its incorporation in the Dominion? Manitoba formed part, at any rate, and perhaps a greater part, of what was known as Rupert's Land, and Rupert's Land was the territory granted in the reign of Charles II to the Hudson's Bay Company, in which Prince Rupert was one of the principal grantees. That territory of Rupert's Land was, of course, part of the territory of the crown; it formed part of the British empire, but it was governed, and laws were made for it, exclusively, by the Hudson's Bay Company. The Hudson's Bay Company appointed the governor. It had no elected representative legislature. The Hudson's Bay Company appointed certain gentlemen of position and others, in the territory of Rupert's Land, to form a legislative council, and that legislative council made ordinances. Of course it was all subject to the legislation of the imperial parliament, but the only provincial legislative authority was the legislative council who were the nominees of the Hudson's Bay Company, who were, I must not say the sovereign, because that would not be constitutionally accurate, but were the ruling authority, subject to the British crown, in Rupert's Land. There was a portion of Rupert's Land which had been purchased by Lord Selkirk, I believe, in the early part of the present century, which had been settled by him, and which was repurchased by the Hudson's Bay Company and formed the district of Assiniboia, a district on the Red river. That was the more settled part of the territory known as Rupert's Land.

At that time there was no legislation of any sort or kind with regard to education. There were Roman catholics in the province, and there were protestants of various denominations, chiefly belonging to the episcopal church in connection with the church of England, and with the presbyterian church of Scotland. There was no legislation of any sort or kind providing for a public or any other system of education throughout Rupert's Land. The different churches and denominations, the Roman catholic church and the episcopal church of England, and the presbyterian church, maintained their own schools where they had sufficient congregations for the purpose. The population was sparse, and the prevailing form of religion was one of those I have mentioned. No doubt many children of other forms of religion attended those schools, but they were purely voluntary schools, they were private schools which were maintained by the people themselves, partly by school fees paid by the scholars, and partly by the subscriptions of various persons belonging to the different churches and denominations.

Lord WATSON—The clause in the first sub-section, that nothing should prejudicially affect seems to be general, and apply to persons of any denomination.

Sir HORACE DAVEY—Yes, it does.

Lord WATSON—But when you come to the appeal given to the governor-general it is only catholics and protestants.

Sir HORACE DAVEY—Yes.

Lord SHAND—That embraced all denominational schools, I suppose.

Sir HORACE DAVEY—Yes; but they only regarded two denominations, one catholic and one protestant; whereas now we have a gentleman of the church of England, in Logan's appeal, appearing before your lordships, and saying:—"Non-sense about protestants: I am a member of the church of England, and I claim not to be taxed for any other denomination, including other protestant denominations."

That was the state of things, your lordships observe, that there was no law on the subject, nor by practice was there any right or privilege enjoyed by any denomination other than the right or privilege of maintaining their own private voluntary schools, and providing for them out of their own moneys, and admitting, of course, such persons as they thought fit to the benefits of those schools on making the prescribed or stipulated payment. That was the condition of things at the time when Manitoba was incorporated with the union.

Now, my lords, it is important that your lordships should be put into possession of the legislation with regard to schools prior to the Public Schools Act, 1890, because a great deal is said about it in the judgment, though I am unable myself to see, except by way of illustration, how what was done after incorporation can in any way affect the construction of a clause in an act of parliament by which Manitoba was admitted to the Dominion. Your lordships cannot follow the judgments unless you are put into possession of the scheme which was established first by an act of 1871, which was afterwards repealed, and together with certain amending acts incorporated in an act of 1881. The act of 1871 is printed at page 39 of this book. I can pass it over very lightly because it was very much enlarged, and to a certain extent modified, by the act of 1881. By section 1, page 39, it provided for a board of not less than ten or more than fourteen persons, to be a board of education for the province of Manitoba, of whom one-half should be protestants and the other half catholics. It says:—"The lieutenant governor may appoint one of the protestant members of the board to be superintendent of protestant schools, and one of the catholic members to be superintendent of the catholic schools, and the two superintendents shall be joint secretaries of the board." Then the rest is detail until we come to section 8, "each section of the board"—now, my lords, prior to this time, I do not think anything is said about sections and boards, but it obviously means either the protestant section or the catholic section.

The ATTORNEY GENERAL:—Read the 7th section.

Sir HORACE DAVEY:—My learned friend refers to the 7th section. "It shall be the duty of the board:—First—To make from time to time such regulations as they may think fit for the general organization of the common schools."

Lord WATSON:—I understand these were denominational schools?

Sir HORACE DAVEY:—Yes; the scheme was to establish denominational schools only. Your lordships observe that when I say denominational schools they contemplated the protestants as together constituting one denomination, so to speak, or one class, as distinguished from Roman catholics. Section 7, "To make from time to time," &c. (Reading to the end of section 8.) That appears to contemplate a protestant section and a Roman catholic section. Then section 9 "at the first meeting of each section," &c. (Reading to end of section 13.) Then it provides for the districts. "The following districts, comprising mainly a protestant population shall be considered protestant school districts: nos. 2, 3, 4, 8, 10, 18, 19, 20, 21, 22, 23, 24. The following districts, comprising mainly a catholic population, shall be considered catholic school districts: nos. 1, 5, 6, 7, 9, 11, 12, 13, 14, 15, 16 and 17. There shall not, without the special sanction of the section, be more than one school in any school district, and no school shall derive from the public funds a sum more than three times what is contributed by the people of the district."

Lord WATSON:—They appear to contemplate by this act what are commonly called state aided schools, subject to certain conditions. I see the word "licensed" is used. "No school that is not licensed by the board of education shall participate in the government grant."

Sir HORACE DAVEY:—Yes, they were to be of two classes, protestant schools and catholic schools.

Lord SHAND:—Would this practically have embraced all the schools in the province?

Manitoba School Acts.

Sir HORACE DAVEY:—Yes.

Lord SHAND—Were there none that did not fall under the one class or the other?

Sir HORACE DAVEY:—Yes. “The moneys at the disposal of the section shall be appropriated among the schools of the section as the members of the section shall deem best for the promotion of education, having reference to the efficiency of the schools, the number of scholars in attendance, and the capacity and services of the teachers.” Section 19, “In an exceptional case, where the people of a school district shall, in the judgment of the members of the section, be unable to contribute towards the support of the school, the section may declare the district a poor-school district, and give such aid as the circumstances may seem to justify.” Your lordships see that the scheme under this act was to divide the province into districts, to provide that in each district there should be a school either managed by the catholic section or by the protestant section, according as the Roman catholics or the protestants were in the majority in that particular district, and what is of importance is that there could be no other school within that district under section 17 without the special sanction of the section, so that if there were a catholic school district there could be no protestant school within that district without the special sanction of the catholic section.

Lord WATSON:—Does it mean that there could be no state aided schools?

Sir HORACE DAVEY.—So I understand it. There may be a voluntary school, but it would not get state aid.

Lord SHAND:—There seems an equal division—twelve of each.

Sir HORACE DAVEY:—Yes. “They shall also decide in what manner they shall raise their contributions towards the support of the school, which may be either by subscription, by the collection of a rate per scholar, or by assessment on the property of the school district, as the meeting may determine.” That is a meeting of the male inhabitants of each school district of the age of twenty-one years and upwards. So that your lordships see that under this scheme, as to which no complaint was made, a district in which the majority of the inhabitants were Roman catholic would be a catholic school district. There could be no protestant school within that district without the consent of the catholic section. But the inhabitants of the district might impose taxes on themselves for the maintenance of the catholic schools if it were a protestant district, or *vice versa*. The majority of the protestant inhabitants could exclude, or rather the protestant section could exclude any catholic schools, and might impose taxation upon the catholics for the purpose of maintaining the protestant schools. Of course, my lords, that may have been equally *ultra vires* with the act of 1890, and I do not pretend that it is a very strong argument upon the construction of the act of 1870, which after all is what we have to construe. But it is not without its importance, when one reads the eloquent denunciations of the infamy of taxing Roman catholics for the support of protestant schools that we meet with in the judgments in this case.

The ATTORNEY GENERAL:—I beg your pardon for interrupting you. Will you read section 27—the exemption from payment.

Sir HORACE DAVEY:—I ought to have read section 27. (Reads it.) If he has no children, and is a protestant, he is still bound to maintain the catholic schools or *vice versa*.

Now, my lords, the act of 1881, which was the ruling act, subject to immaterial amendments, which I will not trouble you with, at the time when the system of 1890 was established, your lordships will find at page 42. You will forgive me for reading it, perhaps repeating some of the provisions which were in the earlier act. (Reads section 1.) It is open, of course, to conjecture that the relative strength of the catholics and protestants had at this time, in the course of ten years, altered from what it was in the year 1871. “Four of the protestant members and three of the Roman catholic members shall retire and cease to hold office at the end of each year,” &c. “3. It shall be the duty of the board (a) to make from time to time such regulations,” &c. (Reading to the words, end of section 5.) “To appoint inspectors, who shall hold office during the pleasure of the section appointing them.” Then there are provisions for the appointment of superintendents, and then

taking section 12 at page 44, it provides for the establishment and readjustment of school districts in a rather remarkable and minute manner. The scheme is that the districts shall be territorial, but at the same time the same area may form part of, or may constitute two districts, a catholic district and a protestant district, or in other words, there may be a catholic district and a protestant district in the same area. "It shall be the duty of the council of the municipalities to establish," &c. (Reading to the words, end of section 12) "shall have the same power with regard to catholics." Then section 13, sub-section *a*. (Reads same.) Then school assessment, section 25, page 47. "For the purpose of supplementing the legislative grant, it shall be the duty of the boards of trustees," &c. (Reads section 25.)

Then section 26 provides for the case where more municipalities are embraced than one in a school district and limits the school assessment to one cent in the dollar. Then section 27 provides this:—"The school assessment shall be laid equally according to valuation upon rateable real and personal property in the school district and shall be payable by and recoverable from the owner, occupier or possessor of the property liable to be rated, and shall, if not paid, be a special mortgage, and not requiring registration to preserve it on all real estate."

Now, my lords, section 28 is a remarkable section. The corporations are treated as having no religion:—"The corporations situated in a locality where different school districts are established and persons who are neither protestants nor catholics shall be assessed only for the school district of the majority; yet out of such assessment they shall give to the school district of the minority a part of such assessment in proportion to the number of children of school age, and the majority shall be determined by the number of protestant or catholic children of school age, as the case may be according to the census." Then there is an exception of certain real estate, and then section 30:—"The ratepayers of a school district, including religious, benevolent, or educational corporations shall pay their respective assessments to the schools of their respective denominations; and in no case shall a protestant ratepayer be obliged to pay for a catholic school, or a catholic ratepayer for a protestant school."

Then section 31 provides for the case of the owner being of one religion and the occupier of another. "When property owned by a protestant is occupied by a Roman catholic and *vice versa*, the tenant in such cases shall only be assessed for the amount of property he owns, whether real or personal, but the school taxes on said rented or leased property shall in all cases and whether or not the same has been or is stipulated in any deed, contract or lease whatever, be paid to the trustees of the section to which belongs the owner of the property so leased or rented, and to no other, subject to the exemptions aforesaid."

Then section 32:—"Whenever property is held jointly as tenants or as tenants in common, by two or more persons, the holders of such property being protestants and Roman catholics, they shall be assessed and held accountable to the two boards of school trustees for the amount of taxes, in proportion to their interest in the business, tenancy, or partnership respectively, and such taxes shall be paid to the school of the denomination to which they respectively belong."

Then there were to be school trustees, but I do not think anything turns on that. Then, I think, I may pass on to page 57, section 84, which provides for the apportionment of what we should call the school grant, that is the legislative grant. "The sum appropriated by the legislature for common school purposes shall be divided between the protestant and Roman catholic section of the board of education, in the manner hereinafter provided, in proportion to the number of children between the ages of five and fifteen inclusive, residing in the various protestant and Roman catholic school districts in the province where schools are in operation, as shown in the census returns."

LORD WATSON:—The scheme that runs through these acts of 1871—if you will allow me to make the observation now—and 1881, appears to be this, that no ratepayer shall be taxed for contribution towards any school except one of his own denomination.

SIR HORACE DAVEY:—Well, my lord, this scheme continued in operation until the new scheme which is now attacked and impeached as *ultra vires* was brought

Manitoba School Acts.

into operation by the act of 1890, subject to amendments which I do not think altered the substance of it as it existed. I will not trouble your lordships by referring to the amendment act, because my view is that the amendment act has nothing to do with it.

The ATTORNEY GENERAL :—Quite so.

Lord MORRIS :—The upshot of the whole legislation up to 1890 is that the produce of the rate or assessment was to be distributed on a denominational system, and, as I understand it, that of 1890 distributes it on a secular system.

Sir HORACE DAVEY :—That is to say, the public schools alone receive, and the public schools are non-sectarian.

Lord MORRIS :—Therefore the produce of the rate up to 1890 was applied on a denominational system. Now it is to be applied on a secular system.

Sir HORACE DAVEY.—Subject to this, that it made no distinction between different protestant denominations, and I do not know what Mr. Logan will say to that.

Lord MORRIS :—It was clearly under a denominational system as regards catholics and protestants, and the governing body was so divided.

Sir HORACE DAVEY :—Your lordship is quite right, if I may respectfully say so, but I wish to guard myself, because Mr. Logan introduces denominations within the protestant body.

Lord WATSON :—Section 30 of the act of 1881 is very explicit on that point—“ and in no case shall a protestant ratepayer be obliged to pay for a catholic school, or a catholic ratepayer for a protestant school.”

Sir HORACE DAVEY :—Still that would leave a member of the church of England open to pay rates for the support of a presbyterian school, and a presbyterian open to pay rates for the support of a church of England school.

Lord MORRIS :—Practically speaking the distinction was not so marked.

Sir HORACE DAVEY :—Yes, I quite follow; but I did not wish to pass by that. I did not dissent from what your lordship said, but I supplemented it.

Lord WATSON :—As far as the constitution of the governing body is concerned under the act of 1881, I see nothing to prevent the whole twelve protestant members being either episcopalians or presbyterians.

Sir HORACE DAVEY :—Nothing whatever.

Now, my lords, one is not surprised that the people of this province found this system to be cumbrous, inconvenient and unsuitable, and accordingly, in the exercise of the powers which they believe were imposed by law, in the legislature of the province of Manitoba, they repealed the act of 1881 and the amendment act, and provided an entirely new system. Now, my lords, what is the new system? It is contained in the act of 1890, and the general features of it I have pointed out to your lordships. It provides, so far as the rating is concerned, in section 89, on page 129: “ 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.” Then sub-section 2: “ From the moneys so levied and collected, the council shall, upon the 1st 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,” &c. Then there are details about the mode of taxing, and then the legislative grant is provided for in section 108. It provides for the payment of seventy-five dollars to each teacher semi-annually out of the legislative grant, and it provides in sub-section 3 that :—“ 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."

Lord WATSON:—I presume there can be no complaint as to the terms on which the grant is distributed.

Sir HORACE DAVEY:—No.

Lord SHAND:—May I ask what is the bearing broadly of those intervening acts of 1871 and 1881 in construing the act of 1870?

Sir HORACE DAVEY:—I think they only alter it in detail. I do not think they alter the wide features of it.

Lord SHAND:—What I mean is, to return to page 36: you get the Manitoba Act of 1870.

Sir HORACE DAVEY:—I beg your lordship's pardon. I do not agree they have anything to do with it.

Lord SHAND:—What is the bearing of those intermediate acts?

Sir HORACE DAVEY:—It did not occur to me that for the purpose of construing the act of 1870 it was either useful or permissible to refer to what had been done under the intermediate legislation of 1871 and 1881. I do not admit that it is.

Lord WATSON:—One thing suggests itself. Possibly it may be said that the course of legislation indicated what had been the practice at the date of the union.

Lord SHAND:—The practice, I should think, must be ascertained as a matter of fact in the construction of the statute.

Sir HORACE DAVEY:—Yes.

Lord SHAND:—It may aid you in getting at the fact; but the question is, what was the law and practice when that statute passed, as a matter of fact?

Sir HORACE DAVEY:—Certainly. Now, my lords, each side appeals to the intermediate legislation of 1871 and 1881 and the amending acts as an *argumentum ad hominum*, but I will not trouble your lordships with much argument of that kind. I do not want to give up any point which is made in my favour in the judgments which it will be my duty to read to your lordships, but I desire to put it on the broad ground, and I will state at once, if your lordships will permit me, the broad ground on which I put it. I say that neither by law nor practice was there anything which existed before the incorporation of Manitoba with the Dominion which in any way restricted what would otherwise be the undoubted power of the Manitoba legislature to establish a system of common schools for the purpose of abolishing ignorance and improving the good government of Manitoba.

Lord WATSON:—The interpolation of the word "practice" in the act of 1870 rather suggests that practice was a matter regulating the case of Manitoba as was meant to regulate in the case of the provinces united by the act of 1867.

Sir HORACE DAVEY:—It is very well put in one of the judgments in words which, without reading the judgment, at the present moment I will adopt.

Lord WATSON—According to your statement of the existing law, before that date there was no law that that act applies to, nor any privilege.

Sir HORACE DAVEY—Then I answer what was the practice? On page 92, line 35, there is this passage:—"I take the meaning of the clause to be that rights and privileges in respect of denominational schools existing by statute, if any such there had been, and rights actually exercised in practice at the time of the union, were not to be prejudicially affected by provincial legislation." That is in one of the judgments against me, but I adopt that, and I think it is a very fair statement of the result. It is put as strongly as it possibly can be put against me. Now, my lords, I ask what was the practice? Why there was no school rate at all. Such a thing was unknown. There were no taxes or rates for the support of any schools at all. There were merely voluntary private schools which any person might, if he thought fit, maintain, and which persons of the Roman catholic faith, or of the episcopal or presbyterian faith did maintain partly by the fees paid by scholars, partly by contributions or subscriptions by charitable persons, probably, and mostly of their own accord, but not necessarily so—voluntary contributions made by charitable persons who desired to maintain a denominational form of education. That was the practice. If so, is there anything whatever in this legislation which in the least degree interferes with the practice? No. If the Manitoba legislature

Manitoba School Acts.

had enacted that every child should attend the public schools, I quite conceive that might have been said, because that would practically have taken away all the scholars from the voluntary schools; but there is nothing whatever in the legislation of 1890 which in the least degree interferes with the right and privilege which all persons and all classes of persons enjoyed at the date of incorporation, of having their own private voluntary schools maintained partly by the fees of the scholars, and partly from subscriptions from such persons as were willing to make voluntary contributions.

Lord SHAND—How do you show that the only right or privilege in practice which existed in Manitoba when the annexation act was passed was that of maintaining their own private voluntary schools?

Sir HORACE DAVEY—From the archbishop's affidavit?

Lord SHAND—That comes as a matter of evidence?

Sir HORACE DAVEY—Yes.

Lord SHAND—You say there was no other privilege in practice.

Sir HORACE DAVEY—None whatever. It is admitted there was no law and it is stated in the archbishop's affidavit, on which great reliance is placed, but which seems to me, with great respect to that very distinguished person, to give himself away, so to say.

Now, I would ask your lordships' particular attention to the particular words in this act of 1870: "Nothing in any such law"—that is, in any law relating to education; so we must read in that—"relating to education shall prejudicially affect any right or privilege with respect to denominational schools"—it is only a right or privilege with respect to denominational schools—"which any class of persons have"—it must be a right or privilege enjoyed by any class of persons; that is to say, enjoyed adversely to or exclusively by, or at any rate by that class of persons, and not by the community generally—"by law or practice in the province at the union." I am reading this from page 4, which is a convenient place to read it from, but it is at page 36 of the acts. Now, what is a right or a privilege? To say you have a right or privilege by practice is, of course, if you use the words "right or privilege" a contradiction in terms, because a right or privilege means something which you can enforce and which is protected by some law. Therefore, if it does not exist by law, it is not strictly a right or privilege. But I conceive that the words "right or privilege" must be construed in a larger sense and include that privilege which, although not secured to any class of persons by positive law, was yet acquired in and allowed to subsist.

Lord WATSON:—If there had been a law to the effect that no person who assisted in maintaining out of his own pocket the denominational schools should be liable to pay to the support of any other schools that would have been a privilege secured by law. Now when you come to the word "practice" what is the meaning of practice? At that time there was no law which would have enabled any person to take that money from him.

Sir HORACE DAVEY:—No, my lord.

Lord WATSON:—Is that practice, or is it not? It must mean some legal prescription by which you acquire immunity.

Sir HORACE DAVEY:—It is said that this prejudicially affects a right or privilege enjoyed by practice in two ways. In the first place it is said, and this is most strongly put forward, that at that time they enjoyed the right or privilege of not contributing towards the support of a denominational school.

Lord WATSON:—It may be a good deal of the population did not contribute at all.

Sir HORACE DAVEY:—That seems to me to carry them too far. There were no school rates then. There were no school rates at all, and you might equally say that a person who had no children, and therefore did not choose to contribute towards the school of his own church, enjoyed the right or privilege of not contributing to education at all unless he thought fit. Then if you tax a childless person for the education of other persons' children you are infringing a right or privilege which he enjoys with reference to denominational schools. You are calling on him to pay what otherwise he would not be liable to pay.

Lord MORRIS:—The childless men could hardly be considered a class of persons.

Sir HORACE DAVEY:—I do not know whether childless persons are not a very good class of persons.

Lord MORRIS:—I think not in the context.

Lord SHAND:—Having a right or privilege with respect to denominational schools.

Lord MORRIS:—“Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools”—they are talking there about religious schools—“which any class of persons”—it must be any class of persons with relation to denominational schools and not any class of baldheaded people or childless people or otherwise.

Lord SHAND:—What right or privilege do you say was preserved by this which the common law would not have given?

Sir HORACE DAVEY:—The right or privilege which might very easily have been taken away, of maintaining private voluntary denominational schools. Supposing for instance the Public Schools Act had enacted that every child throughout the province should be bound to attend a public school. I think that would have been interfering with the right or privilege of having your children educated by a denominational school if you thought fit. Supposing the Public Schools Act had enacted that no person should be qualified to be a school teacher except he passed certain examinations, or to put an extreme case, that no person other than a member of one of the protestant religious communities should be qualified to be a school teacher. I am not putting an extreme case because your lordships know that up to within a very recent period in this country no unitarian could be a school teacher by law, so that I am not putting at all an extreme case. However, I will confine myself to saying if they had imposed a qualification of passing certain government examinations and obtaining a certificate before any person could act as a school teacher, I think that would have interfered with the right or privilege of a denomination to maintain their own schools with their own money, and through their own school masters and school teachers; but I am unable to see how there was any right or privilege enjoyed by the Roman catholics so far as contributing or not contributing to common schools which was not in the first place at least equally enjoyed by every other member of the community. It was not enjoyed by them as a class. It was not a *privilegium* of the Roman catholics not to contribute to public schools; in the first place because there were no public schools, and in the second place because it was equally a right of every other member of the community. It is not something which they enjoyed *qua* Roman catholics, but *qua* inhabitants of Rupert's Land, because there was no law which compelled them to; but they enjoyed nothing *qua* Roman catholics, except the right which also was common to the rest of her majesty's subjects in Rupert's Land of maintaining private voluntary schools if they thought fit to do so and out of such moneys as they could collect by contributions from their co-religionists.

Lord WATSON:—I suppose the ground of the judgment against you is simply this: That that matter is reserved to the legislature of the colony.

Sir HORACE DAVEY:—No, they do not say that. They give the go-by to that section altogether. There may be a point upon that, whether the proper course is not to appeal to the Canadian government.

Lord WATSON:—That would be relegating to the Dominion a particular subject of legislation under the act of 1867, section 91, page 14: “Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces.”

Sir RICHARD COUCH:—Education is assigned.

Sir HORACE DAVEY:—Education is assigned expressly to the provinces, subject to this, that if the provinces pass acts, or at any rate the province of Manitoba passes an act, which infringes the conditions, then there is an appeal to the governor-general, and the Dominion legislature may override the provincial act.

Lord WATSON:—I rather think that whatever is shut out from provincial legislation goes to the Dominion.

Sir HORACE DAVEY:—The presumption is in favour of the Dominion parliament.

Manitoba School Acts.

Lord WATSON:—It is quite different in that respect to the constitution of the states.

Lord SHAND:—If this decision stands, is there a power to introduce what may be called a system of secular education anywhere?

Sir HORACE DAVEY:—My lord, I object to the expression “secular”—non-sectarian.

Lord SHAND:—Well, non-sectarian. I was putting it for shortness, but call it non-sectarian.

Sir HORACE DAVEY:—It is giving a dog a bad name. I call it non-sectarian.

Lord SHAND:—Is there a power that could introduce such a scheme as you have mentioned.

Sir HORACE DAVEY:—I do not think so.

Lord SHAND:—I fancy not, from a perusal of the papers. If lost it excludes anything of the kind for all time.

Sir HORACE DAVEY:—Yes. All that the Dominion legislature could do is to introduce legislation after there has been an appeal to the Dominion government, that is the governor-general in council; and the governor-general in council has given his decision that an act does infringe the provision of the corresponding section of the Manitoba Act. Then the Dominion legislature may introduce and pass an act for the purpose of doing that which the governor-general awards ought to have been done by the provincial legislature. That is, I consider, the limit within which they can legislate.

Lord SHAND:—So that in that case the country must for all time remain under such a provision as you have under the act of 1881, with all these details. That seems to have been accepted by both catholics and protestants as satisfactory. It operated for a number of years.

Sir HORACE DAVEY:—For twenty years, but it was hopelessly bad, according to Mr. Logan's contention and according to the archbishop, and acquiescence cannot make it *intra vires* if it was originally *ultra vires*.

Lord MORRIS:—This Manitoba Act is an act of the provincial legislature, and nothing can be intended except what is given to it. But why does it follow that the Dominion parliament would not have the power of passing any act they liked if they assented?

Sir HORACE DAVEY:—Because education is one of the subjects.

Lord MORRIS:—That is begging the question.

Sir HORACE DAVEY:—If your lordship will forgive me for looking at the words themselves:—“In and for the province the said legislature may exclusively make laws in relation to education subject and according to the following provisions” and then there are the provisions. It is not necessary for me to express any opinion, but I should be very loath, if I were asked to do so, to advise the Dominion government that they had the power to pass legislation on education at all for the province except in accordance with those conditions. However it is not necessary for me to express an opinion upon that.

Now, my lords, the other thing that is said is that if persons are compelled to pay school rates it diminishes their ability to be generous and to subscribe largely to the support of denominational schools. That may be true or it may not be, but certainly that is rather an indirect mode by which the right and privileges of persons are indirectly affected. The same may of course be said of any other tax which may be imposed. The more taxes a person has to pay the less his ability to be generous, and I do not think your lordships would entertain that consideration as coming within the words, prejudicially affect the rights and privileges of persons. Their right and privilege to subscribe to voluntary schools remains exactly where it was, although it may be that, owing to the larger municipal taxation they have to pay, their means of subscribing towards the denominational schools may be crippled.

Then, my lords, it is said that the public schools are in competition with the denominational schools. Of course they are and intended to be, but I am not aware of anything either in law or practice which prevented any person in the world in Rupert's Land, before it became the province of Manitoba, from setting up such

schools as he thought fit either in competition with any existing schools or otherwise. So that there is really nothing in that. Your lordships will understand that I can give full force and effect to this section with which we are dealing—the words “have by law or practice.” My lords, in the first place in the very undefined state in which law stood in Rupert’s Land, which was governed by a private trading company subject of course to the crown—it was not a crown colony and had no legislative assembly or anything of that kind—it may well have been conceived that law, strictly speaking, and entitled to be called law on the strict construction that might be applied, did not exist, and therefore they used the words “or practice” to cover any rights or privileges which had grown up in the course of the government of the Hudson’s Bay Company, though they were not strictly speaking law. But, my lords, I can go further, and I can suggest many cases which would satisfy those words “right or privilege by practice.” My lords, it would prevent the legislature from extinguishing the voluntary schools by taking all the scholars away. Your lordships remember that you are now dealing with legislation in a very sparsely inhabited country, and if the legislature had said we will oblige every child to attend a public school; we will not allow it to go to work until it has had a certificate of competency from a public school, that would then have practically closed the denominational schools, because it would have made it necessary for every child and for every parent or guardian of a child to send the child to one of the public state schools. Or if it had imposed, as I said before, a particular qualification, religious or otherwise, on the teachers in any school it would have interfered; or if it had put children who had attended voluntary schools under any disqualification as regards public employment or otherwise afterwards. There are numerous cases in which those words “right or privilege existing by law or practice” might be satisfied. But, my lords, I confess I go further and say there was no right or privilege of exemption from public taxation for school purposes because there was no public taxation for school purposes. Such a thing was unknown and did not exist. There was no exemption known to the law. There can be no exemption from a thing which does not exist and if there was no public tax imposed on the ratepayers and taxpayers of the province of Rupert’s Land for the purpose of education there could be no exemption.

Lord WATSON:—I think the case can be put a little higher than that against you. I think it would be more correct to state that there is no law or statute under which they could have been called upon to make such a payment.

Sir HORACE DAVEY:—That is quite true, and therefore there could have been no exemption. There was no law or statute by which they could have been called on to make a payment towards this denominational education. It is equally *ultra vires* to tax Roman catholics for Roman catholic schools.

Lord WATSON:—That being the state of the law, do you say when the law is altered it is not altered to their prejudice?

Sir HORACE DAVEY:—Of course, whenever a new tax is imposed it is to the prejudice of the taxpayer who has to pay it.

Lord WATSON:—I am not prepared to say, where there is no law before, a new statute may not alter the law to the prejudice of some people.

Lord HANNEN:—That would exempt them from taxation forever.

Lord SHAND:—The words of the clause are that nothing shall prejudicially affect a right or privilege with respect to denominational schools.

Sir HORACE DAVEY:—What was the right or privilege of Roman catholics with respect to the denominational schools?

Lord SHAND:—It must be the right or privilege that attaches to a denominational school. That is the thing that is saved.

Sir HORACE DAVEY:—But which right or privilege of Roman catholics with respect to those denominational schools? I will put it as I think fairly, and the highest that can be put against myself. They had a right to maintain exclusively Roman catholic schools, that is to say schools the teachers of which were appointed by the authorities of the church, and in which the Roman catholic tenets, doctrines and worship were rigidly enforced on the scholars.

Lord MORRIS:—How was that a right?

Manitoba School Acts.

Sir HORACE DAVEY:—By practice.

Lord MORRIS:—What does sub-section 1 refer to at all? What do you say sub-section 1 was meant to preserve?

Sir HORACE DAVEY:—It was meant to preserve rights—rights they are not strictly—but such rights, using that word in a large sense, as they enjoyed by practice.

Lord MORRIS:—They had no rights, as I understand your argument, except the rights of true-born subjects of the queen.

Sir HORACE DAVEY:—Which may be seriously interfered with by legislation. I do not know that it is an abstract right of people to hold a school. Certainly, in no period of our history till quite modern times—if it is so now—has there been any such right throughout the British dominions. No unitarian could maintain a school in England until a very recent period, and I am speaking subject to correction, but I believe it is only within a recent period that a Roman catholic could teach in schools in Ireland.

Lord MORRIS:—That has not been so for the last hundred years.

Sir HORACE DAVEY:—Be it so. A great deal has happened since those days, but it is within historical times that that has been so. It is not by any means an abstract right, and it is quite conceivable and something more than conceivable.

Lord SHAND:—Supposing the legislature had gone the length of saying that every child was to attend the government schools.

Sir HORACE DAVEY:—Yes?

Lord SHAND:—Then that would have been clearly infringing the privilege which existed before.

Sir HORACE DAVEY:—That I agree—which existed by practice.

Lord SHAND:—That is the primary illustration you give?

Sir HORACE DAVEY:—Yes.

Lord SHAND:—That would meet what Lord Morris has put.

Sir HORACE DAVEY:—Saying that they must, or imposing a disqualification or disability on them.

Lord SHAND:—That would be the same thing.

Sir HORACE DAVEY:—As regards obtaining public appointments. For example, supposing they said no person shall be employed as a clerk in public offices unless he produces a certificate of competency from a public school.

Lord WATSON:—I should have thought that in the earlier history of England, before the reformation, the Roman catholics and Roman catholic clergy and benevolent persons had an absolute right to establish as many denominational schools as they chose. There was a period when they were proscribed, but that time has long since passed.

Sir HORACE DAVEY:—Yes, but I think it would be difficult to say that it is an absolute right of every British subject to maintain a private school without any restriction at all. I think that would be going a great deal too far.

Lord WATSON:—Does not that exist?

Lord MORRIS:—What is there to the contrary of that? Why should not anybody, if there is no statute to prevent it, open a school?

Sir HORACE DAVEY:—Certainly, but I say that it prevents the province of Manitoba from passing statutes. The province of Manitoba might pass a statute which would interfere with that right and it prevents their doing it.

Lord MORRIS:—That seems very peculiar that in the year of grace 1870 they contemplated doing it.

Sir HORACE DAVEY:—Pardon me, I do not think that it is so at all. It is to me quite conceivable.

Lord SHAND:—I understand that Sir Horace puts this case that supposing this legislature had passed a statute declaring that no subject in that district would be able to obtain an appointment under the government if he attended one of these denominational schools that would be struck out.

Sir HORACE DAVEY:—Or even if they said no child shall go to work till he obtains a certificate from a public school that he has passed a certain standard.

Lord MORRIS:—This is a privilege with respect to denominational schools or practice which they had at the time. What privilege had any class of persons in Manitoba with respect to denominational schools by practice in the year 1870?

Sir HORACE DAVEY:—If you look at what the practice was all you can say is that they maintained schools at their own expense, which they supported or not as they thought fit—the support of which was thoroughly voluntary, and it was within their competency either to subscribe to, or to drop, or to maintain or not as they thought fit.

Lord MORRIS:—And that is preserved.

Sir HORACE DAVEY:—Yes, that is preserved.

Lord MORRIS:—Then the question is, does taxing them to pay for another school injuriously affect that practice?

Sir HORACE DAVEY:—I ask how? and I am trying to analyse that. That is exactly what I am directing my mind to, and that is the point to which, if I may say so, I respectfully say your lordships will have to direct your minds. There are very powerful arguments in the judgments, and perhaps it would be as well if I were to take an early opportunity of reading the judgments, because the whole of the arguments are in them. I think there are eight judgments in which the arguments are thrashed out.

Lord SHAND:—Was the judgment of the last court unanimous against you?

Sir HORACE DAVEY:—Yes.

Lord SHAND:—And what in the courts below?

Sir HORACE DAVEY:—Both in my favour. There was one, Mr. Justice Dubuc, who was against me. What I was proceeding to point out was this. If you say that it was a right and privilege not to be taxed for the support of other schools, it was equally a right and privilege not to be taxed for the support of their own schools, and the right and privilege is of exactly the same quality and exactly the same stamp. Their right and privilege with regard to denominational schools was to support them or not as they thought fit; to contribute such sums as they thought fit; to pay such fees as the school charged for any children they sent there; but it was a right and privilege of the Roman catholics to say we will not support this particular Roman catholic school at all unless we think fit. It was a right and privilege of the protestants to say we will not contribute one single dollar or one single cent towards the support of this school. So that any taxation for the support of any denominational school clearly prejudicially affects the right and privilege of not being compelled to pay towards its support. What I mean is that the obligation to support schools of another denomination was of exactly the same quality, depending on exactly the same choice and voluntary character as the obligation to support their own schools. There was no obligation on a Roman catholic or on a presbyterian or a member of the church of England to support any denominational school unless he thought fit to do so. That is his right and privilege. His right and privilege is to pay such sums as he thinks fit to such school as he thinks fit and no other.

Lord MORRIS:—It is not his right and privilege but the privilege and right of a class.

Sir HORACE DAVEY:—Well, a class of persons. Take the presbyterians as a class, or take any other. I will take Roman catholics if your lordships desire. The right and privilege of the Roman catholics as a class was to contribute such sums as the individual members of that class thought fit to the support of such schools as they thought fit, and anything which puts a compulsion on them to contribute a certain sum whether they like it or not either to a school of their own denomination or to any other school—

Lord SHAND:—Do you mean by that he had a right or privilege of refraining from contributing to one school or another—to any school?

Sir HORACE DAVEY:—Yes.

Lord SHAND:—And that the right or privilege is as broad in one case as the other.

Sir HORACE DAVEY:—Quite so, and exactly the same quality. Of course I am aware that there are charitable persons of every denomination and public minded

Manitoba School Acts.

persons of every denomination who would think it right to contribute according to their means and would probably prefer contributing towards the schools of their own church. Indeed some public minded persons, if the Roman catholic school was efficient and the only school within a sparsely inhabited district, would think it right, though not Roman catholics, to contribute according to their means to that school. Is that a right and privilege that is preserved?

LORD MORRIS:—You say the right and privilege of a class. There may be idiosyncracies of individuals in a class but surely what the statute is aiming at is the class that supported each of these denominational schools.

Sir HORACE DAVEY:—I say so.

LORD MORRIS:—And the class would be subscribers.

Sir HORACE DAVEY:—I want to know what is the right and privilege of the class? The right and privilege of the class—they use that word over and over again—is not to contribute a single dollar or cent unless they think fit towards any school or any particular school.

LORD MORRIS:—That could not have been the practice.

Sir HORACE DAVEY:—But it was the practice. The archbishop tells us so.

LORD MORRIS:—Not to subscribe to their own schools?

Sir HORACE DAVEY:—No.

LORD MORRIS:—For the moment you were putting to us the case that it was just as strong in the case of the class of Roman catholics or presbyterians, that they would be affected as much if they were called on to subscribe to their own denominational schools. That is how I understood you. But then it says "practice," and surely the practice of Roman catholics at the time and presbyterians and everybody—of the class—was to subscribe to their own schools.

Sir HORACE DAVEY:—Not at all. Where there were general schools, for instance, in a sparsely inhabited district, you could not maintain three schools. There would be only one. It would be the school of the majority. At any rate the right and privilege is merely to do as they thought fit—of the class of persons to do as they thought fit. That was their right and privilege. I can find no right and privilege, either by law or practice, which would compel them. It is the archbishop's affidavit on which reliance is placed, and I will refer your lordship's at once to that on page 13 of the record. He says: "I have been a resident continuously of this country since 1845, as a priest in the Roman catholic church, and as bishop thereof since the year 1850, and now am the archbishop and metropolitan of the said church"—that is the Roman catholic church—"and I am personally aware of the truth of the matters herein alleged. 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, chap. 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. 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 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. 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. 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. 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 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 their 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 schools with regard to certain subjects, as shall combine religious instruction with those subjects, and this applies peculiarly to all history and philosophy. The church regards the schools, provided for by the Public Schools Act and being cap. 38 of the statutes passed in the reign of her majesty Queen Victoria in the 33rd 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." Now there is this sentence: "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 as aforementioned." Now, my lords, that is exactly what I say they are at liberty to do—exactly. It appears to me the archbishop expresses it and says: if you maintain this Public Schools Act, I will do—what? I will resume the exercise of those rights and privileges with regard to denominational education which I enjoyed by practice before the Manitoba Act. "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"—except, I understand Mr. Logan—"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 passing of the said act," &c. [Reads the remainder of archbishop Tache's affidavit.] Now, my lords, with the greatest respect to this very eminent person, I venture to point out that the archbishop (to use a vernacular expression) gives himself away. What does he threaten, himself? He threatens us with reverting to the position in which he stood before the Manitoba Act came into force, and what he seems to dread is the competition of a free school. Supposing he is right—supposing it is a school supported only by the rates of presbyterians—leave out the Roman catholics—leave them free exactly as they were; relieve them from taxation for the presbyterians, and let it be a denominational system of education. They will still have to compete with the free presbyterian or church of England or protestant schools. The real truth is that the competition does not enter into the right or privilege at all, because if it were a right or privilege at all of the Roman catholics as a body, it was equally a right or privilege of every other religious body or denomination throughout.

Lord SHAND:—The statute of 1830 says something about religious instruction being given in accordance with some consultory board.

Sir HORACE DAVEY:—That was in 1871.

Lord SHAND:—What was dealt with in 1890?

Sir HORACE DAVEY:—In accordance not with the advisory board, but the board of education.

Lord SHAND:—I think it is the advisory board.

Sir HORACE DAVEY:—I beg pardon, my lord, it is in this act.

Lord SHAND:—I was going to ask with regard to that, if you could tell us what has been the practice under that, or do you happen to know whether in point of fact there is religious instruction given in the public schools?

Sir HORACE DAVEY:—Yes.

Lord SHAND:—If so, what is its character?

Sir HORACE DAVEY:—Portions of scripture are read.

Lord SHAND:—I see there is the privilege of withdrawing the child. I wanted to know in point of fact what is done?

Manitoba School Acts.

Sir HORACE DAVEY:—In point of fact portions of scripture are read either from the English version or from the Douay version.

Mr. MCCARTHY:—That was in New Brunswick.

Sir HORACE DAVEY:—Portions of scripture are read without note or comment and some simple prayer such as the Lord's prayer is said on opening the school in the morning. Your lordships will see on page 13 of the record in Logan's case at the beginning there is the advisory board which I had forgotten.

Lord SHAND:—I see, "Regulations."

Sir HORACE DAVEY:—"The reading, without note or comment, of the following selections from the authorized version of the Bible or the Douay version of the Bible. The use of the following forms of prayer," and then some readings, historical parts and from the Gospel, and then there is a form of prayer on page 17 which your lordships will read. My lords, it may be useful to read the affidavit of Professor Bryce, of course, more or less argumentative, on page 20, in reply to the archbishop's affidavit. Professor Bryce, who is a professor in Manitoba college says on page 18:—"That I have been a resident in the province of Manitoba since the year 1871." [Reading down to the words on page 19 line 6.] "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."

Lord WATSON:—There appears to have been a good deal more about the evidence taken on the Manitoba commission.

Sir HORACE DAVEY:—I prefaced it by saying it was more or less argumentative.

Lord SHAND:—I think the same remark may be made to some extent to this one, but the previous one does go to this—as to the state of matters existing in fact in 1870. This gentleman does not really touch that.

Lord MORRIS:—He has put it as his individual opinion that the belief of the Roman catholics ought to be different from what it is.

Sir HORACE DAVEY:—I do not think he says that.

Lord MORRIS:—"I cannot see that there should be any conscientious objection on the part of the Roman catholics."

Sir HORACE DAVEY:—Then I won't say it was not. I said it was rather argumentative. I desire to argue this question as a perfectly impartial person and having no proclivities, and argue it simply upon what I have seen. It must be argued upon the construction of the acts. Your lordships will forgive this gentleman who no doubt thinks it is a matter of importance to himself in expressing his views in the form of an affidavit.

Lord SHAND:—Was there any affidavit put in by you in reference to the state of matters in 1870 as to the facts?

Sir HORACE DAVEY:—There is an affidavit of Sutherland, my lord. There is Polson's affidavit on page 17: "For a period of fifty years I have been a resident in the province of Manitoba. That schools which existed prior to the province of Manitoba entering confederation were, so far as the people were concerned, purely private schools, and were not in any way subject to public control, nor did they in any way receive public support." He is the health inspector for the city of Winnipeg. "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 of 4 per cent." Then John Sutherland says: "For the period of fifty-three years I have been a resident in the province of Manitoba."

Lord SHAND:—It is *verbatim*—the same.

Sir HORACE DAVEY:—Now, my lords, with regard to that customs duty, your lordships see they surrender them to the Dominion government, and the Dominion government regrant a certain portion out of the consolidated fund of Canada to this province, but a portion of the provincial revenue is applied—the legislative grant. Whatever considerations applied they would say no public moneys ought to be applied to the maintenance of non-sectarian schools. I cannot see any difference between the legislative grant out of the public money which is raised by customs duty upon the people and the school rate. In each case public money is being

applied towards the support of a denominational school. If the Roman catholics have their way, the protestants may say: you shall not apply any part of the public moneys towards the maintenance of denominational schools. There was no such application before incorporation, and each religious body had a right to object to any portion of the taxes which were paid going to the support of any denominational school. It seems to me that argument is equally sound, and if that prevails, then it comes to this that there can be no state-aided schools at all, because each denomination will object to any legislative grant being made out of public moneys to any school which is a denominational school of some other denomination. The Roman catholics will object to any public moneys being applied for the maintenance of any protestant school, and the church of England will object to any public moneys being applied to the maintenance of Roman catholic or presbyterian schools.

Lord SHAND:—I suppose the objection would apply to an industrial school which is established for the purpose of teaching some industry?

Sir HORACE DAVEY:—Yes, if it is not non-sectarian.

Lord SHAND:—Apart from religion altogether?

Lord WATSON:—Was not there the application of public money under the act of 1881?

Sir HORACE DAVEY:—Yes, my lord, it is quite true, there was no objection made, but it is quite open to the same objection.

Lord SHAND:—It was a compromise, I suppose, the act of 1881? The parties chose to accept it, because each party got something?

Sir HORACE DAVEY:—As a matter of strict argument, it is just as much open to the objection, because if the objection is sound, it goes to the application of any single dollar or cent of public money to the maintenance of any schools for either non-sectarian teaching or denominational, because they say we were not liable to contribute towards the non-sectarian school, because each religious body might say we were not liable before the act to contribute to the maintenance of the schools of another denomination. So it comes to this that no single dollar of public money can be applied towards the maintenance of either denominational or non-sectarian schools.

Lord MORRIS:—How would the right of the non-sectarian class be reserved by sub-section 1 of the act—the non-sectarian class of persons?

Sir HORACE DAVEY:—I do not say they would.

Lord MORRIS:—But then, sub-section 1 wants to reserve the rights of denominational schools—of a denominational class.

Sir HORACE DAVEY:—You do not quite follow me. I say, if you apply public money to the support of non-sectarian schools, then the Roman catholics and the members of the church of England rise in arms and say you are applying moneys which are partly contributed by us towards the support of schools other than those of our own denominations.

Lord MORRIS:—The contention is that they are not to pay for anything but their own schools.

Sir HORACE DAVEY:—Quite so. I say, public moneys which are raised by customs duties on the provinces generally and public money belonging to the province are applied in support of the non-sectarian schools, then so far forth as those Roman catholics are taxed for the purpose of raising these moneys or from being taxed for the support of schools not of their own denomination. and, on the other hand, if you apply public moneys to the support of schools which are raised by the general taxation of the country—to the support of denominational schools, then the church of England will say: "No; you must not apply those moneys which we contribute, and which are raised partly by taxing us, to support presbyterian schools or to the support of Roman catholic schools," and the Roman catholics will say "you must not apply moneys which are raised partly by taxing us towards the support of church of England schools or presbyterian schools, or any other sect or denomination."

Lord MORRIS:—How would that prejudicially affect if both got a share of it?

Sir HORACE DAVEY:—I quite agree.

Manitoba School Acts.

Lord MORRIS:—As I understand it, Logan's case and Barrett's case is, they would not get any share of the public money under this act of 1890 unless they put their schools on a system which they do not think they can put them on.

Sir HORACE DAVEY:—No, unless they send their children to the public schools.

Lord MORRIS:—To the schools they can send them to. That is unjustly and prejudicially affecting them, surely.

Sir HORACE DAVEY:—No; why? It does not affect the person, but it would affect a privilege which they had in respect of denominational schools. It does not prejudicially affect the persons, and you will see so throughout the judgments.

Lord MORRIS:—I have not read the judgments.

Sir HORACE DAVEY:—You will see the fallacy running throughout. It is treated as prejudicially affecting the person, but it is only affecting some right or privilege which they had. I think the argument is so fully contained in the judgment that I had better at once go to the judgment.

Lord SHAND:—I see there was a power of appeal in this matter to the governor in council.

Sir HORACE DAVEY:—No, it is the other side would do that; and that may be a point I desire to have your lordships' opinion upon.

The ATTORNEY GENERAL:—Steps were taken.

Lord SHAND:—As I understand they hold that this act is bad. Then they get their remedy in that way. They do not require to go to the governor in council upon any appeal.

The ATTORNEY GENERAL:—Yes; the governor refused to interfere.

Lord MORRIS:—Is there any contention that the proper course would have been to have gone to the governor general.

Sir HORACE DAVEY:—I think there would be a great deal in that contention but my instructions are, as your lordships might expect, to lay the case on its merits before this court, and to invite your lordships' decision unfettered by any technicality.

Lord MORRIS:—Do you call that a technicality if the act of parliament avoids a mode of plea—is that a technicality?

Sir HORACE DAVEY:—If your lordships say it is not a technicality I withdraw the word. My desire and my friend's desire I think is to have the opinion of this court upon the constitutional aspect.

Lord MORRIS:—That would be so if this board assisted as an academical reviewer, but I should have thought that *primâ facie* if an act of parliament creates a liability of a rate it must give the mode for levying that rate.

Sir HORACE DAVEY:—If your lordship presses me to express an opinion I think that is a very strong argument, but your lordship's experience, although it is very remote at the bar, reminds one that one is not desired to press arguments which one may desire

Lord WATSON:—There is at least some possibility of this that in the first instance it lies on the governor general to say how far the act does harm.

Sir HORACE DAVEY:—Then if the act does and the provincial legislature decline to alter their legislation, then the intermediate legislature may intervene.

Lord SHAND:—They may have something to say for this that the courts of law are the first persons of authority to interpret an act on appeal from any decision or act affecting a right or privilege, but if the court declare there was no such right or privilege then the governor general would not be let in, whereas if the decision were referred you would have a right.

Lord WATSON:—Supposing they had referred the matter to go to the governor general and he had decided the right was infringed, what could a court of law have done?

Sir HORACE DAVEY:—Nothing.

Lord SHAND:—Do I understand, Mr. Attorney, the governor general refused to interfere, or did he think it did not affect any right.

Mr. RAM:—The appeal was to the governor to veto the act. There was no appeal as against the validity of the act.

Lord SHAND:—Under another clause

Mr. McCARTHY:—Both appeals were put in.

Sir HORACE DAVEY:—As your lordships have invited me to do so, I feel my hands are free. I should like to place the point before your lordships, your lordships understanding that my clients do not shrink from asking your lordships' opinion on the merits. There are counsel at your lordships' bar, and I have no right to ask your lordships to express an opinion which may afterwards be overruled by the governor-general, without placing the whole facts before your lordships.

Lord WATSON:—As to the act of 1867, as to the veto by the governor-general in the case of provincial legislation.

Sir HORACE DAVEY:—If your lordship will look at page 4, in our record, you will see the two sets of clauses printed side by side. I think you will be of opinion that the Manitoba clauses have replaced the clauses in the British North America Act.

Lord WATSON:—Yes, but I was speaking of the other. I was dealing with reference to the appeal to the governor-general. I think there are provisions for the governor-general interposing his veto.

Sir HORACE DAVEY:—Yes.

Lord WATSON:—Under the act of 1867 you must attempt to explain what is meant by the veto.

Sir HORACE DAVEY:—The veto is quite a different thing, my lord.

The ATTORNEY GENERAL:—Your lordships will find it in sections 55 and 56, page 8.

Sir HORACE DAVEY:—What is called the veto is quite a different thing. There is no such thing as a veto except it is a royal assent.

Lord WATSON:—The queen's assent is given in the Dominion parliament by the governor-general, in the provincial parliament by the lieutenant-governor.

Sir HORACE DAVEY:—Unless he can reserve it.

Lord WATSON:—That would not affect the right of appeal.

Lord MACNAGHTEN:—Is there any other section in the act dealing with that?

Sir HORACE DAVEY:—I believe that is the only section in which an appeal is given from a subordinate legislature—your lordship knows—I must not say your lordship knows, because I believe it is *sub judice* at the present moment before your lordship; but the general opinion is that the provincial legislatures are not subordinate to the Dominion—that each is a *quasi-sovereign* within its own sphere. This is the only instance, I believe, in the scheme of the British North America Act where the Dominion parliament is expressly given power to over-ride the legislation.

Lord MACNAGHTEN:—Not the Dominion parliament.

Sir HORACE DAVEY:—Yes, because they intervene supposing the provincial parliament does not comply with the governor-general.

Lord WATSON:—There is a remedial power given in the other. It seems to be part of the duty of the governor-general to see that the provincial legislature carries out the provisions.

Sir HORACE DAVEY:—If it does not, then the intermediate tribunal can intervene.

Lord WATSON:—They do not oppose what he considers to be a proper measure, and there seems to be power to declare that they have passed improper measures.

Sir HORACE DAVEY:—The Dominion parliament carries into effect the award of the governor-general. The section which regulates a royal assent to bills in the provincial legislature, in section 90, "The following provisions of this act respecting the parliament of Canada, namely," &c., &c. (Reads down to the words), "And of the province for Canada." So that you must read sections 55 and 56 with this substitution, "Where a bill passed by the provincial house is presented to the lieutenant-governor for the queen's assent he shall declare according to his discretion, and subject to the provisions of this act and to the governor-general's instructions, either that he assents thereunder in the queen's name, or that he withholds the queen's assent, or that he reserves the bill for the signification of," I suppose "the governor-general," then "where the lieutenant-governor assents to a bill

Manitoba School Acts.

in the governor-general's name, he shall by the first convenient opportunity send an authentic copy of the Act to" I suppose "the governor-general, and "if the governor-general within two years after receipt thereof thinks fit to disallow the act."

Lord MORRIS:—Is not this the way the case came on? There is some power by a municipal act of having by-laws made by the municipality to carry out this school act of the legislature.

Sir HORACE DAVEY:—Yes.

Lord MORRIS:—And by-laws for a rate, properly speaking anybody dissatisfied could apply to the court of queen's bench, I presume in that country as they would here.

Sir HORACE DAVEY:—There is express statutory power.

Lord MORRIS:—That is to set aside those by-laws; but, as I understand it, then the by-laws are all right on the assumption that the school is all right, but the court goes behind the by-laws which are right and says that there was no power of the legislature to pass that act of parliament. Now what gave authority to that court to enter into that question.

Sir HORACE DAVEY:—Well, that is a very old question, my lord. It was at first agitated very soon after the British North America Act was passed, and it has been decided in numerous cases, many of which have come up before your lordships court, that where a question arises *inter partes* which involves substantially the question whether the Dominion legislature has exceeded its powers, the court must necessarily construe that act and the constitution act, and if it finds that the act in question is not within the purview of the constitution act, if necessary,—

Lord SHAND:—The language of section 22 makes that pretty clear because it is "In and for the province," and one of the limits is this, "Nothing in any such law shall prejudicially affect any right" &c. (Reading the section.) Then the statute goes on to name to whom you are to appeal, if an appeal lie to the governor-general, from any act of the legislature.

Lord WATSON:—We should feel a good deal more satisfied if you could assure us we have cleared everything, for this reason, supposing the governor-general be dissatisfied with the terms of the act of 1871 and had got the Dominion parliament to pass a statute in the terms of the act of 1890 on what ground could that have been assailed?

Sir HORACE DAVEY:—My hands are perfectly free. I think there are very grave doubts whether your lordships have any jurisdiction at all, because, if you look at the section of the Manitoba act, and I think I am bound to say so, if you look at the section of the Manitoba act, I presume that the statutory "authority," if I may use that expression, created for the purpose of saying whether or no an education act is confined to education and exceeds the power of the provincial legislature, is the governor-general.

Lord WATSON:—Suppose there had been an appeal in this case to the governor-general in council and the governor-general in council had held that their legislative powers had been rightly exercised in the terms of the Act of 1870, what interference could we have?

Sir HORACE DAVEY:—Your lordships have only the jurisdiction of a single judge of the queen's bench in this matter, you are only saying what a judge of the queen's bench ought to have done.

Lord WATSON:—We cannot entertain anything here that was not properly brought before the other court.

Sir HORACE DAVEY:—Not a single judge of the queen's bench in the province of Canada has over-ruled the statutory decision given in pursuance of the statutory power of the governor-general, who is the person to whom the appeal lies.

Lord SHAND:—But this board could not have entertained anything that was not brought before that court at all.

Sir HORACE DAVEY:—Yes, in this particular case, because observe what the act says after the first section, that "nothing in any such law shall prejudicially affect."

The ATTORNEY-GENERAL:—No point has ever been raised either in the courts below or by my friend.

Lord SHAND:—You may take it it is raised by the court.

Sir HORACE DAVEY:—I stated to your lordships my client would desire to have your lordships' opinion on the merits, but I am bound, in answer to your lordship, to say that it is a point which has occurred outside this court.

Lord MACNAGHTEN:—To take a different view from the governor-general in Canada.

Sir HORACE DAVEY:—After saying "that nothing shall prejudicially affect," etc., it goes on to say "an appeal shall lie to the governor-general in council from any act 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."

Lord WATSON:—I understood you stated that the act of 1870 was confirmed by a subsequent act.

Sir HORACE DAVEY:—Yes, there was an order in council and then there was an act removing doubts. Your lordships will see it on page 31.

Lord WATSON:—Except so far as reserved by the act of 1870, the Dominion legislature's powers seem to be ousted. It is a very peculiarly worded clause. It tends to show, except in so far as the governor-general has a right to interfere, there is no power of legislating in educational matters reserved to the Dominion parliament.

Sir HORACE DAVEY:—That is so. It is familiar law to all of us, which does not require supporting by authority, that where a new right is created by statute, and by the same statute, or by another statute *in pari materia*, a particular means of interfering with the right is given, then the mode of enforcement is confined to the particular means which are given by the statute which creates the right. Now here the exclusive right to make laws in relation to education is vested in the provincial legislature, but there are certain restrictions imposed on the provincial legislature. Then an appeal is given to the governor-general in council to say where or how far any act of the provincial legislature, which is expressly mentioned in the Manitoba Act, getting rid of the ambiguity in the general act—the former act—how far any act in the provincial legislature of Manitoba does or does not infringe the rights reserved and the privileges of the Roman catholic or protestant minority as the case may be. Well, if that is so, it is obvious that this being a right or privilege which is reserved by the act itself, to the Roman catholic minority, and in case it is infringed an appeal being given—the act has provided within its own four corners a remedy for an infringement of the right or privilege which it has created by the act itself, and therefore, it would seem that this act of parliament, being an act relating to education—exclusively relating to education—is an act which *prima facie* falls within the jurisdiction of the Manitoba legislature, but then the question whether it has complied with those provisos and restrictions which are imposed upon the right to legislate arises, and that is the question as to which the statute which imposed those provisos and restrictions has given an appeal to the governor-general.

Lord SHAND:—Are there any authorities upon cases such as this, of an appeal to the governor-general, before this board that you remember?

Sir HORACE DAVEY:—I do not think this has ever come before it.

Lord SHAND:—Anything of this kind?

Sir HORACE DAVEY:—I think I may undertake to say it has not. I think I have probably argued the majority of them, and I think I am acquainted with nearly all the cases.

Lord WATSON:—Do you think any question has arisen on the act of 1867?

Sir HORACE DAVEY:—No, that is what I mean. It could not on the Manitoba Act.

The ATTORNEY-GENERAL:—I do not think there is any case in which this education section has been considered, or the corresponding section, 93.

Sir HORACE DAVEY:—There is one case, Renaud's case, but that is not reported.

Lord WATSON:—Renaud's case was from New Brunswick. The following note of the privy council is taken from the *Times* of 18th July, 1874: "Judgment is not given in the regular reports. Lord Justice James, after conferring with the other members of the committee, gave judgment without calling on the respondents.

Manitoba School Acts.

Their lordships concurred in the opinion of the court below, and would advise her majesty the appeal be dismissed with costs."

Sir HORACE DAVEY:—Was a judgment given?

The ATTORNEY-GENERAL:—There was no judgment reported.

Lord SHAND:—Was there in that case a power of appealing?

Sir HORACE DAVEY:—It was under this section, under the section of the British North America Act.

Lord SHAND:—Yes, the corresponding one to this.

Sir HORACE DAVEY:—The question was whether the rights and privileges of certain Roman catholics had been infringed, because the practice was before incorporation to read from the Douay version of the Bible, and they held that that was only practice and not the privilege secured by law, which were the words within the British North America Act.

Lord MACNAGHTEN:—What is the date of that?

Sir HORACE DAVEY:—1874. That is the only appeal which has come before your lordships' board on the corresponding section 93, the education section. Frequently your lordships have had to consider in later cases—Hodge vs. Russell, and another case which refers to Lord Lansdowne—the constitutionality of the liquor legislation of the province of Ontario, and then your lordships in Dobie? had to consider there the constitutionality of an act for amalgamating presbyterian endowments to the province of Ontario. There are numerous cases in which you have had to express an opinion, and you have had similar questions come from Australia, I suppose.

Lord SHAND:—The appeal lies to the governor-general.

The ATTORNEY-GENERAL:—Except in Renaud's case.

Lord SHAND:—Of course there must be an appeal to a court of appeal, if there was no such clause as this.

Sir HORACE DAVEY:—It follows from the very conception of a subordinate legislature—it must necessarily follow, because an act of parliament is put forward by way of defence. But you say: "Is there such an act of parliament? Let us look at the authority under which it was passed."

Lord MORRIS:—Then there was a *certorari* so that the court of queen's bench should have a right to intervene, although there was an appeal given.

Sir HORACE DAVEY:—No, there was not to be a *certorari*, my lord. I do not want to get into other subjects, but necessarily if a legislature is in the same position as a county council, if it passes an act, and if it derives its authority to make acts from an act of the imperial legislature, and it purports to pass an act which is in excess of the authority conferred upon it—

Lord MORRIS:—The courts of queen's bench still hold that although the statute expressly takes away—

Sir HORACE DAVEY:—Then on the other hand, my lord, it is this: this act is *prima facie* within the exclusive jurisdiction of the Manitoba legislature, because it relates to legislation, and the only question is whether it has complied with the provisos and restrictions. If you look at the third sub-section that sets out the appeal: "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 may 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." That gives jurisdiction to the parliament of Canada, based upon the decision of the governor-general in council.

Lord SHAND:—Supposing the governor-general were to decide on appeal that this was a competent act of parliament, I do not think section 3 could have any application.

Sir HORACE DAVEY:—No, my lord; then it would not be done.

Lord SHAND:—Equally, if he held it was incompetent. I do not think there was an appeal under that section.

Sir HORACE DAVEY:—Yes.

Lord SHAND:—Which clause.

Sir HORACE DAVEY:—“Then and in every such case.”

Lord SHAND:—I do not think you get that case.

Sir HORACE DAVEY:—“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.”

Lord SHAND:—It would not be that case.

Sir HORACE DAVEY:—“Or in case any decision of the governor-general.”

Lord SHAND:—“Is not duly executed.”

Sir HORACE DAVEY:—That is to say, if the provincial legislature is to have an opportunity of amending its legislation and bringing it within the section.

Lord SHAND:—I think if the governor-general on appeal confirms something, but it has not been properly carried out; then there will be an appeal, but I do not think there will be any appeal.

Sir HORACE DAVEY:—Surely, my lord, the appeal is to lie to the governor-general from any act of the provincial legislature affecting any right or privilege.

Lord SHAND:—Then two cases are provided for in the next.

Sir HORACE DAVEY:—Then the governor-general gives his decision; then the provincial legislature, if they think fit, amend their act.

Lord SHAND:—There is no such suggestion as amending.

Lord WATSON:—The first part of the sub-section seems to imply the function of the governor-general is to watch the progress of legislation on educational subjects.

Sir HORACE DAVEY:—Yes, that is so.

Lord WATSON:—It may be to suggest to them that they shall amend their law if he thinks that law does not comply with the general feeling.

Sir HORACE DAVEY:—The legislature might comply with the requisition, decision or award of the governor-general, but if they do not, then I submit—

Lord SHAND:—There would be no mandamus if the governor-general were to hold that this is an act which does affect the Roman catholic minority.

Sir HORACE DAVEY:—Then they appeal on it.

Lord SHAND:—I do not see there is any appeal, it would be final on this matter.

Sir HORACE DAVEY:—The provincial legislature would then have to repeal the act.

Lord SHAND:—Would not deliverance of judgment by the governor-general be a repeal of the act.

Sir HORACE DAVEY:—I do not suppose your lordships' decision would repeal the act, it remains in the statute book.

Lord SHAND:—Yes, it would be a bad act.

Lord MACNAGHTEN:—Does the Dominion parliament have to comply? Supposing the governor-general directed remedial legislation, are the Dominion legislators bound to comply with it?

Sir HORACE DAVEY:—I do not know my lord.

Lord WATSON:—The governor-general has power to set in motion. There is an end of it.

Lord MORRIS:—Are they bound to do it?

Sir HORACE DAVEY:—We are getting within the apices of constitutional law. I do not see any obligation, of course there is no obligation on a legislature to pass a particular act or not.

Lord MORRIS:—They would not if the opinion of the majority was different from the decision that the governor-general came to, of course they would not pass an act. What would happen then?

Sir HORACE DAVEY:—It is easy of course to put an illustration, but supposing your lordships came to the conclusion either that this legislation was beyond the powers of the Manitoba legislature and wanted amending to bring it within its power, and the governor-general came to the conclusion in council, that it was within their powers then it is easy to suggest the difficulty in which people would be placed. Of course your lordships' decision is only a decision in the particular circumstances that that particular by-law is bad. That is all your lordships

Manitoba School Acts.

decision will be, and then an expression of opinion from your lordships is usually considered as sufficient, but it would remain that your lordships had declared the by-law bad because the Public Schools Act exceeded the jurisdiction of parliament and the governor-general may have determined that the by-law is good, because in his opinion it does not exceed the powers. It appears to me that there are good grounds, or at any rate very serious grounds to be considered for saying that under this particular section the intention was to invest in the governor-general and the Dominion parliament the protection of the rights of the minority, which were intended to be given by means of the section, and that the act in question, being within the general description of acts which are exclusively within the jurisdiction of the provincial legislature, has provided the means in this particular case for confining the act to an educational act and making it subject to the restrictions and provisions in question and that therefore on general principles there is no appeal. There can be no appeal and the act must be considered a good act until the particular tribunal provided by the act, namely, the governor-general, has pronounced upon its unconstitutionality. I have stated the point to your lordships, and I confess, if I am at liberty to express my own opinion, that it seems a point deserving of grave consideration. But I have also said to your lordships that this question being a question which greatly agitates the province—in fact the educational system of the province is paralyzed during this discussion—it being a matter of great public importance my clients do not shrink from submitting the case to your lordships on the merits, but at the same time, as the point has been raised and suggested by the court itself, I am bound to say what I have pointed out.

Now, having said that, I will now ask your lordships to let me read the judgments in the case, and I think, when I have read the judgments in the case, your lordships will be in possession of every thing that is to be said, either on one side or on the other.

Lord WATSON:—[Addressing the attorney-general] Their lordships desire to know whether you will consider this point of jurisdiction or whether you are prepared to argue it out now.

The ATTORNEY-GENERAL:—As it has been mentioned by Sir Horace Davey I am quite prepared to say a word or two upon it. I do not say I am bound to deal with the point, but I am quite prepared to do so, if your lordships will indicate that I should further argue the point. If your lordships were going to stop the case I would argue the point.

Lord WATSON:—We will hear you after lunch.

[Adjourned for a short time.]

The ATTORNEY-GENERAL:—Your lordships were good enough to indicate that you would wish to know whether I had any observations to make upon the question which was raised by your lordships as to the competence of this appeal, having regard to the provisions of section 22 of the Manitoba Act of 1870. Of course, I do not understand your lordships to be expressing any opinion at all upon the general merits of the appeal, because it is most important that it should be understood that we are dealing with this only as a preliminary question.

Lord MACNAGHTEN:—Will you tell us what has been done in the matter?

The ATTORNEY-GENERAL:—I was about to tell your lordships that, in the first place, the statute having been passed, by-laws were made, and it was attempted to charge the respondent, Barrett, with a rate made under those by-laws, whereupon he applied to the queen's bench division for an order to quash the application made to him for rates, on the ground that the by-laws were not binding upon him, because the statute under which they were made was, in his contention, *ultra vires*. I humbly submit that, apart from any provision of the 22nd section, that would clearly have been a perfectly legitimate and proper proceeding. In fact I do not think my learned friend, Sir Horace Davey, or those with him, would contend to the contrary. Mr. Justice Killam decided that the by-laws were good—the majority of the court on appeal, this point not having been taken in any of the courts—the majority of the

court on appeal decided that the by-laws were good. The supreme court by an unanimous judgment decided that the by-laws were bad, on the ground that the statute was *ultra vires*. At no stage of these proceedings, as I am informed, was any objection taken to the action by application to the court of queen's bench to quash the by-laws as being bad, and I will submit presently that the outside that could be suggested would be that there would be two remedies and not one only. I am going to take a point different from that when I come to the merits. At some time a petition was presented, as I am informed, by Mr. Ewart to the governor-general under sub-section 2, and he simply postponed acting upon that petition until the final decision had been given by the court of law, as to whether the statute or the Manitoba Act of 1890 was, or was not, *ultra vires*. Those are my instructions, but with regard to those proceedings your lordships must kindly not take it from me, but be good enough to take it from one of my learned friends from Canada, who have instructed me as to what happened in regard to this matter.

Lord SHAND:—Do I understand there is no written deliverance, or anything that can be produced to show how the governor-general acted?

Mr. McCARTHY:—Oh, yes, it is here.

The ATTORNEY-GENERAL:—The point that is taken is not that the appeal does not lie to your lordships from the supreme court, but that the proceedings are ill-founded from the commencement. As your lordship pointed out you can only make the order which the judge of first instance could have made, and, therefore, the objection must be that they were not properly constituted proceedings; that the application to the court of queen's bench was ill founded.

Lord SHAND:—I suppose an application could have been made to the queen's bench in this way: Suppose there had been an appeal to the governor, and the person who appealed put in an application to stop the proceedings, in which the governor gave his deliverance, that would be a good proceeding.

The ATTORNEY-GENERAL:—It is a little difficult to answer that question until I have considered what the real language of the section is. Of course there are many cases in which the court has discretion to stop proceedings until a decision has been given. We know the application on the ground of what is called *lis alibi pendens*, or any other proceeding of the same kind in which the question is being raised. I am submitting that the proceedings were perfectly right. Assume the first sub-section stood alone. I humbly submit no question could be raised. "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." If the law did purport to affect prejudicially the right of any class an order made under it would be bad and could be quashed, and your lordships have decided more than once that the courts of Canada and other colonial courts have the right and must examine to see whether the parliament with a limited mandate has, or has not, exceed its mandate. And that proposition my learned friends do not dispute. Then it is said that the second sub-section renders application to the queen's bench under the first sub-section bad, because there is another remedy. In the first place I do not admit that the existence of the other remedy would have rendered the application bad, the *certiorari* or those proceedings in no way being taken away; but I am about to point out that the second sub-section does not cover the whole ground. I understand and submit that the second sub-section is to give the governor a discretion in dealing with a case that may be *intra vires*, and does not of necessity attach until there is a question of an *ultra vires* proceeding by the provincial legislature. "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." It is wider in many ways, and narrower in other ways. In the first place it is with relation to education; it is not with respect to denominational schools. In that respect it is far wider. I am referring to page 4 of the record. It is printed in parallel columns. Further than that it is only in the case of the right or privilege of the protestant or Roman catholic minority being affected. The earlier sub-section, as we shall contend when we deal with the merits, deals with the question of the right or privilege

Manitoba School Acts.

of any class of persons, whether they be minority, majority or equality; and our respectful contention will be that under sub-section 1 there is a prohibition upon the legislature of the province interfering, as they have interfered, having regard to their limited powers given them by section 22.

Lord WATSON:—The framers of the act assumed that the majority are those whose representatives passed the act.

The ATTORNEY-GENERAL:—It is quite possible, but I am respectfully pointing out that the governor-general under sub-section 2, as we submit, has to do with more than the question of prejudicial affection. It is not prejudicially affected. It need not prejudicially affect.

Lord MACNAGHTEN:—It is very much wider. Do you say it does not include no. 1?

The ATTORNEY-GENERAL:—I say it does not in the sense of saying that the *ultra vires* question must go to the governor-general. My point with regard to sub-section 2 is, it was intended that there should be an appeal in all education matters at the instance of the protestant or Roman catholic minority to the governor general in council; that on that appeal he could give a decision which would vary, or might indicate that he thought that the act of the legislature of the province ought to be varied, even though there was no prejudicial affection.

Lord SHAND:—Do those words, “affecting any right or privilege” not mean “affecting prejudicially any right or privilege?”

The ATTORNEY-GENERAL:—I say not of necessity. For instance I can imagine there being a suggestion made that the benefit given was not sufficient. Take the case that the act of the provincial legislature had given an equal amount of grant, or had imposed an equal amount of rating upon inhabitants, and then it had been said that is unfair to the minority, because the minority ought to have a larger share. I can imagine a benefit given to the minority, so that their rights and interests were not prejudicially affected within the meaning of sub-section 1, still affording ground for an application by way of appeal to the governor-general in council. Then if your lordships will kindly refer to sub-section 3, I submit that that view is further carried out by the provisions made. “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.” If the question had been put to me that was put by Lord Macnaghten to Sir Horace Davey, I should have said that it was not compulsory, that the parliament of Canada were not bound to pass the law, or to implement or give effect to the view of the governor-general, that it was intended that they should have a legislative discretion as to what acts they would pass, having regard to the view expressed by the governor-general on the appeal. Therefore, I humbly submit that the whole framework of sub-sections 2 and 3 of this section 22 contemplates what I may call parallel legislative powers given to the governor-general and the Dominion legislature in the event of the judgment of the governor-general being in fact under sub-section 2.

Lord SHAND:—How could it be parallel? Suppose that the court were to hold that the legislature had gone too far.

The ATTORNEY-GENERAL:—Which court?

Lord SHAND:—This court or the court in Canada.

The ATTORNEY-GENERAL:—Then the law is bad without the necessity of going to the governor general. I am afraid I have not made my meaning clear.

Lord SHAND:—You would hold the governor-general bound by that decision then—because he may take a different view.

The ATTORNEY-GENERAL:—I say it would not go to the governor-general at all.

Lord SHAND:—Do you mean that it is an alternative appeal.

The ATTORNEY-GENERAL:—I do not say that it is an alternative appeal at all. I am not saying that things will not overlap at times. I say it is an alternative

procedure, but your lordships must not impute to me by the word "alternative" that it simply covers exactly the same ground. What I suggest to your lordships is this: that the question of *ultra vires*, having regard to sub-section 1 of section 22, having regard, in fact, to the powers given to the legislature, must be decided by the court of queen's bench, and by your lordships' board, in exactly the same way as though sub-sections 2 and 3 had not been there. Sub-section 2 and sub-section 3, though they are clear, are not intended to take the place of the power of the court to consider whether or not the legislation is or is not *intra vires*, or in other words it is not a condition precedent to the action of the court that there should have been any appeal to the governor-general, who is to decide the view. It is obvious that the governor-general's decision is not in the position of that of the court, because the governor-general's decision is in itself inoperative. I think Sir Horace Davey, if I may say so, put it perfectly correctly when he said the statute will not be removed; it will remain an act of the provincial legislature; the only effect of it will be to found the right of action by the legislature of the Dominion to implement or fulfil the direction that is given by the governor-general having regard to his decision. I would point out with great respect that the same kind of question might have arisen under the British North America Act, which is in the left-hand column. Supposing that a law had been made prejudicially affecting any right or privilege which any class of persons have by law in the province. Take Ontario and Quebec, which are typical cases. In Ontario and Quebec, Upper and Lower Canada, by statutes of the two provinces, Roman catholics could not be called upon to contribute to protestant schools, and protestants could not be called upon to contribute to Roman catholics. Now, supposing a law had been made by the provincial legislature, prejudicially affecting those *quasi* statutory—I use the word "statutory" as referring to the provincial legislature of course—the *quasi* statutory rights by law of the classes of persons therein referred to, namely, Roman catholics on the one side and protestants on the other. Could it be contended that the queen's bench in Canada must give effect to those laws—that they must allow an action to be maintained upon that statute, because there is sub-section 3 in that section: "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 an 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?" There again, I submit a far larger jurisdiction is given to the governor-general under sub-section 3 than under sub-section 1. I do not wonder that this point has not been raised in any of the courts below, because it seems to me that it could not be seriously contended that the court of queen's bench must give effect to a statute, admittedly *ultra vires* on the ground that an appeal with reference to an analogous matter, not an alternative appeal (if your lordships permit me to draw the distinction) had been provided by sub-section 3 and sub-section 4, exactly the same machinery being provided in sub-section 4 for allowing the parliament of Canada to make remedial laws to give effect to the decision of the governor-general. It is scarcely possible that if this point had been what I may call a substantial point, it would not have been referred to in any of these proceedings. Of course, it was an answer to the whole application. It was never taken in the court below. It was not put on the ground there that they wished for your lordships' opinion. There they were resisting it on the merits, but they did not take that point before Mr. Justice Killam, nor before the supreme court, nor do they take it in their case before your lordships. On this point the decision of your lordships' board in *ex parte* Renaud is distinctly analogous. In *ex parte* Renaud proceedings had been taken, I think, by *certiorari*.

Lord SHAND:—I understand that in that case there was no other appeal.

The ATTORNEY-GENERAL:—Oh, yes, exactly the same appeal. It was under sub-section 1 of the British North America Act, section 93. The only distinction is that the words "or practice" occur in our section: "law" occurs in that section. The decision upon the merits was that there was no law entitling the then appellant, Renaud, to the protection which he desired in the matter of the Douay Bible.

Manitoba School Acts.

Upon the merits the decision was against Mr. Renaud. But with regard to this point of practice it is a distinct authority in my favour. There was a *certiorari* to quash an assessment for school purposes in the county of Kent, in the parish of Richibucto, on the ground that the Common School Act, 1871, was beyond the powers of the local legislature, and consequently void, and of no effect, a rule *nisi* having been obtained in Michaelmas term, 1870. That was an assessment for school purposes, the province having established by the legislature certain schools under the British North America Act. That went to the court of queen's bench. The judgment of the court of queen's bench was there the judgment of some of the judges who have given judgment in this case. There they decided upon the merits against the *certiorari*, and that came to your lordships' board, and judgment was given by the then members of the privy council affirming the decision. It is unfortunate that in those days Mr. Reeve did not always have copies given of the judgments.

Lord MORRIS:—They did not preserve copies then.

The ATTORNEY-GENERAL:—Quite so. The practice arose some years afterwards; but in 1874 they were not in the habit of doing what your lordships do now, of printing the judgment which was kept on record.

Sir RICHARD COUCH:—In all the Indian cases they did it long before.

The ATTORNEY-GENERAL:—I am speaking of the other appeals. I am not speaking without information on the point. It was not till a year or two afterwards. It does not follow, because there is no written record that no oral judgment was delivered. Unfortunately there is no record either in the *Times* or in any contemporaneous reports of what judgment was delivered. Something more was said than appears in the official record. My point is that that was a case in which the privy council entertained upon the merits a case of exactly the same character as that which is now before your lordships. I should humbly submit to your lordships it would require express language to oust the jurisdiction of the court. I only apply the principle of *Scott vs. Avory*, and those cases. The court of queen's bench has ample and full jurisdiction. Unless it is said that no action shall be brought or no proceeding taken—I think Lord Watson in earlier days would have called it to reduce—that no action of the kind shall be brought unless there has been a preliminary enquiry before the governor-general or before some other tribunal, I should humbly submit that the superior court of the particular part of the Dominion or of the empire would be all-powerful to deal with the case. Of course, there are many cases where it has been decided that no action shall be brought having regard to contracts until an arbitrator has awarded certain amounts. There are numbers of cases in which either by statute or agreement, conditions precedent have to be fulfilled before actions can be entertained or applications made. For this purpose I am entitled to assume that this is an *ultra vires* law, and assuming that, I humbly submit that it is not only the right of the court of queen's bench, but the duty of the court of queen's bench upon the application to quash the by-laws and application for rates made upon Mr. Barrett; it was their duty to entertain that proceeding, and that assuming it to be alternative in the strictest sense of the term, the jurisdiction of the queen's bench would not be ousted. But I humbly submit it is not alternative. I submit it is wider in one respect and narrower in another. It is an appeal to Caesar, so to speak, in the person of the governor-general, asking for different legislation, and his decision when given, if in favour of the appellants, is to be carried into effect by subsequent legislation. I therefore submit to your lordships it has no bearing upon the question of whether or not the court of queen's bench is entitled to consider upon the merits this application to quash.

Lord SHAND:—Perhaps you can give us the deliverance of the governor-general if it is in print. He may say expressly he desires to have the assistance of the court.

The ATTORNEY-GENERAL:—I was instructed to say that the governor-general had suspended dealing with the matter until the final opinion of the privy council had been given. This is what is given to me, and it is signed by the minister of justice. "The appeal has been presented, 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 maintained, 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 sub-section 3 of section 22 of the Manitoba act." That is at page 5. That is exactly the information which is given to me. The governor-general has taken the view of subsections 2 and 3 which I submit to your lordships is the right view, namely, that he has the right of entertaining the appeal and considering the application upon the merits, and that when the application has been considered by him upon the merits, it will be for the Dominion parliament to decide whether they will give effect to any alteration.

Lord MORRIS:—That is that, although the action of the provincial legislature might be legal, still it might be so oppressive that the governor would redress it.

The ATTORNEY-GENERAL:—Yes. I contend that sub-sections 2 and 3 do not depend on *ultra vires* at all. Sub-sections 2 and 3 depend upon the protestant or catholic minority being able to make a case before the governor-general on petition that other legislation is required.

Lord WATSON:—Observations rather suggest themselves to my mind in this matter in your favour, and they are these:—Section 22 of the Manitoba Act of 1870 does not merely stand upon a Dominion act, but it stands upon an imperial statute.

The ATTORNEY-GENERAL:—It was a Dominion act assented to.

Lord WATSON:—It has the same effect as an act of the British legislature. Then when you come to subsection 3 the governor-general has made a determination, and suppose he induces the parliament of Canada to make a remedial law in that direction, that remedial law is to be for the due execution of the provisions of this action. The Dominion parliament can only come in to make remedial laws for the due execution of this very section. Would it not be open to challenge?

The ATTORNEY-GENERAL:—Quite possibly open to challenge; but my point is that if I can show it is *ultra vires* for this purpose I am entitled to assume that there is nothing to make valid an *ultra vires* provincial act of parliament.

Lord WATSON:—The right to determine whether the province has exceeded its powers or not is one thing; but undoubtedly what is contemplated here is not cases of excess of power by the provincial legislature; but cases where acting within their power they have not done what the minority thought justice.

The ATTORNEY-GENERAL:—That was why I thought unintentionally my learned friend had overlooked the distinction between the language of sub-section 1 and sub-section 2. The word "Appeal" is misleading; it is an appeal in the nature of asking for other legislation; for asking for Dominion legislation; for asking the Dominion parliament on the direction of the governor-general to do something which the legislature of the province have not done. But, my lords, there is nothing to say that that is either to take away the constitutional right of the courts to declare that an act of parliament passed by a legislature with limited powers is *ultra vires*, and that that legislature has exceeded its rights. Unless my learned friend can show that the two things were alternative, in the sense in which Lord Shand, I think, used the word a little time ago, the argument does not press me at all. I humbly submit that under sub-section 1, under the powers given to the legislature of Manitoba we have to consider whether what they have done is *intra vires* or *ultra vires*. And I must humbly further submit to your lordships that identically the same question would arise on the British North America Act. My learned friend, Sir Horace Davey, is infinitely more experienced than I. He says that except Renaud's case he does not think section 93 of the British North America Act has come before your lordships' board.

Lord SHAND:—It seems to be perfectly clear that the minister of justice in Canada has advised the governor-general that he ought to wait to see the result, because in his report to the governor he puts the alternative, if the case is decided

Manitoba School Acts.

one way you will do so and so, and then he says, "If the legal controversy should result in the decision of the queen's bench being sustained the time will come to consider the petitions which have been presented under these sections, which are analogous to the provisions of the British North America Act."

The ATTORNEY-GENERAL :—"If it should at any time become necessary that the federal power should be resorted to for the protection of protestant and Roman catholic minorities against any act or decision of the legislature of the province, or of any provincial authority affecting any right or privilege" that might be *intra vires*. It does not suggest that the act which the governor is going to consider is an *ultra vires* act. It may be perfectly legitimate and lawful, passed by the provincial legislature within its narrowest powers. If there is a case to be made on the representation of the Roman catholic or protestant minority, then, as the governor points out, they have got the power to intervene and to pass other legislation. I submit to your lordships that upon the point which your lordships suggested, of course not having this matter fully present to your minds, there is no preliminary objection to these proceedings, and that this point will not prevent the case being gone into on the merits. Of course I do not address your lordships any further on any other point which has been urged by my learned friend.

Sir HORACE DAVEY :—My lords, the difference between my learned friend's, the attorney-general's view, and the view which I presented to your lordships, appears to me to turn upon the construction and effect which he puts upon sub-sections 2 and 3. Now there at once I must take issue with him. I do not agree that sub-section 2 does relate to anything but what is *ultra vires*.

The ATTORNEY-GENERAL :—May I point this out. I had missed the words "any provincial authority" in sub-section 2, which clearly would allow application to be made to the governor in a matter which was not by the legislation of the provincial legislature.

Sir HORACE DAVEY :—It is quite true that the words are different, but they are in substance the same. If anything, I should be disposed to say that the rights reserved by the 1st sub-section are larger than the rights purporting to be dealt with by sub-section 2, because the rights reserved by the 1st sub-section are "any right or privilege with respect to denominational schools," which not only any minority of protestants or a Roman catholic minority had, but "which any class of persons have by law or practice in the province at the union;" and then sub-section 2, following upon it, provides for an appeal for the protection of any right or privilege of the protestant or Roman catholic minority who are at least included in any class of persons in relation to education. It is quite true that the word "denominational"—"with respect to denominational schools," is not there repeated, probably because it was considered that the only question which could arise with regard to education would be one with respect to denominational schools; but I am at a loss to conceive how there could be any difference between rights and privileges with respect to denominational schools, and rights and privileges in relation to education, having regard to the nature of the subject matter; and therefore, my lords, I venture to submit that sub-section 2 does cover and include all cases which may arise under sub-section 1, and indeed from one point of view the rights referred to in sub-section 1 are larger because they are the rights of any class of persons, and not exclusively of a protestant or Roman catholic minority of the queen's subjects. That being so, and finding those sections follow one upon another, the inference is irresistible that it is intended that an appeal should be given for the protection of—

Lord WATSON :—My suggestion was sub-section 1 deals with that which prejudicially affects, and that the other leaves out the words, "prejudicially affecting."

Sir HORACE DAVEY :—Well, if it is not prejudicially affected there could not be an appeal. There cannot be an appeal unless you are hurt. It is usually so considered. If it affects them not prejudicially but beneficially, it is hardly to be contended that an appeal was intended to be given.

Lord SHAND :—There is another view which I think might reconcile everything, and that is to treat the court of law as the proper court to settle whether there has or has not been an interference with the right, and then, that being done, this appeal

is for administrative purposes, not an appeal for a judgment, but an appeal in order that he may set in motion all that follows in the subsequent clauses.

Sir HORACE DAVEY :—Suppose there is no appeal to the court of law, can it be pretended that the appellants could not go direct to the governor-general, if they thought fit, and say, “Here is an act which affects us, and we want you to hear our appeal”?

Lord SHAND :—Then I think the governor-general might say: “*Prima facie* the act is passed, get a court of justice to hold that it is destitute of right, and then I will interfere.”

Sir HORACE DAVEY :—There is nothing in the act which says so.

Lord SHAND :—It all depends upon whether that word “appeal” means more than an appeal for administrative aid.

Sir HORACE DAVEY :—It is the appeal shall lie, not only from any act of the legislature, but as the learned attorney-general has pointed out, from any decision, for instance, of the advisory board which affects, which must mean prejudicially affects, any right or privilege which I read to be a right or privilege which is intended to be preserved in favour of the catholic or protestant.

Lord WATSON :—Sub-section 2 would suggest this: that the Dominion legislature were under the impression that there might be provisions within the power of the provincial legislature which would affect the rights of these persons without affecting them prejudicially in the sense of sub-section 1, so as to make them *ultra vires*.

Sir HORACE DAVEY :—With the greatest respect to everything which your lordship says, I can hardly follow that. My mind cannot follow it. If it does not affect them prejudicially it cannot reasonably be suggested, as it was intended to be, the subject of an appeal. Either it affects them, or it does not. And if it affects them it is either beneficially or prejudicially. If it affects them beneficially it cannot be intended to have been the subject of an appeal. It must be something, therefore, which affects them prejudicially. If it affects them prejudicially it does affect them prejudicially, and then it comes within sub-section 1. If it comes within sub-section 1 it will be *ultra vires*. I cannot for myself frame the proposition which would lead to the inference that sub-section 2 was intended to deal with cases which were *intra vires*, and I beg leave to observe that it would be contrary to the whole scope and spirit of this legislation to provide for parliament intervening, not where the provincial parliament has acted beyond its powers—that I could conceive—that I could follow—there would be nothing inconsistent with the general course of legislation in that—but to allow the Dominion parliament to intervene, not to correct mistakes where the provincial legislature had gone wrong, and exceeded their powers—

Lord WATSON :—The difficulty arises from this: According to a very well-known canon of construction I feel constrained to hold that the legislature intentionally omitted the word “prejudicially” before “affected” in sub-section 2. What it meant by it is a different question.

Lord MACNAGHTEN :—It is enough to say that they conceived themselves prejudicially affected.

Lord WATSON :—It might be enough to say that another way of doing it would be more for their interests, without saying that the other was prejudicial.

Lord MACNAGHTEN :—Supposing some rights were created after the union, and then legislation had taken those rights away.

Sir HORACE DAVEY :—I can conceive this, that power should be given to the advisory board, as there was in the act of 1881, to compel the attendance of children at the board school. There was that in the act of 1881, and it continued simply as a power. You would say: Well that is not necessarily *ultra vires*, because you cannot say, whether they may exercise it or not, the exercise of it may be *ultra vires*, though the power itself might not. Then the advisory board passed a resolution compelling the attendance of every child at the board schools—the non-sectarian schools. But then the governor-general might say that exercise of the power is *ultra vires*. It may be it is a discretionary power which may be exercised in such a way as to be unlawful, but which would not be held to be unlawful, although the

Manitoba School Acts.

particular exercise of it might. Still it all comes back to the same point, that the protestant and catholic minority have a right to come with a grievance to the governor-general. What is that grievance? Why, that they are deprived of some right or privilege which they ought to have, and are entitled to enjoy. If they are not entitled by law to enjoy it they are not deprived of anything, and it would be an extraordinary system of legislation, having regard to the nature of this act, to say that the Dominion parliament has in certain cases to sit by way of a court of appeal from the provincial parliament, not to correct mistakes where the provincial parliament has erroneously legislated on matters not within its jurisdiction, but on matters of policy, to say it is quite true that the provincial legislature has legislated within its powers, it is quite true that there is nothing in the act which we can impugn as exceeding the power which the imperial parliament has conferred upon it; but we take a different point, we think it is inexpedient; we think that it is harsh; I will not say unjust, because nothing is unjust that the law allows—but that it is harsh; it is oppressive towards the Roman catholic minority to tax them for board schools. Therefore we, differing from the policy of that act, and differing from the views of those who are the majority who passed the act, say we will alter and repeal that legislation. If that be the effect to be given to these sub-sections, I venture to submit to your lordships that it will have rather startling consequences, and it will for the first time make the legislature of the Dominion parliament a court of appeal, or give them an appeal from the exercise of the discretion of the provincial parliament, or, in other words, it will place the provincial parliament in the position that it will be liable to have its decisions over-ruled by the Dominion parliament, and therefore in a position of inferiority.

Lord MACNAGHTEN:—At the instance of the governor-general.

Sir HORACE DAVEY:—Yes.

Lord WATSON:—What do you say to that view? I doubt whether the Dominion parliament has any more legislative power as against section 1 than the provincial legislature itself.

Sir HORACE DAVEY:—I doubt it also. What they are to do is to make remedial laws for the due execution of the provisions of this section.

Lord WATSON:—This is a higher authority than the governor-general who makes the recommendation, and it is a statutory provision. It makes its law in accordance with these provisions. If not it is *ultra vires*.

Lord MACNAGHTEN:—Then you come to the words, “and of any decision of the governor-general in council under this section.”

Sir HORACE DAVEY:—These latter words seem to corroborate the view which I put forward, namely: that sub-sections 2 and 3 are correlative to sub-section 1, and intended to carry out the means of giving effect to sub-section 1. “Parliament may make remedial laws for the due execution of the provisions of this section.” That is sub-section 1.

Lord MACNAGHTEN:—It goes on.

Sir HORACE DAVEY:—“And of any decision of the governor-general in council under this section.”

Lord WATSON:—A remedial measure is to enable that decision to be put in force.

Lord SHAND:—It was that clause that induced me to say it appeared to me if you did not succeed in this appeal, then it necessarily followed that there could be no system of non-sectarian education introduced by the legislature in Canada, I rather think that must be so.

Sir HORACE DAVEY.—If we fail in this appeal, I agree that that is so. On the other hand, supposing that I succeed in this appeal—I am entitled to put the hypothesis of course—and induce your lordships to take the same view as was taken in the queen's bench, then, I am not prepared to admit—and at the proper time—at least I cannot undertake to say what may be done by the advisers of the Manitoba government in the colony—but so far as I am concerned, I should be prepared—well, I had better not express any opinion, perhaps.

Lord MACNAGHTEN:—The governor-general will have no power?

Sir HORACE DAVEY:—No. I must not be understood for a moment to admit that the governor-general would have the slightest jurisdiction to entertain the appeal of the archbishop which is in Lord Shand's hands.

Lord SHAND:—That shows that the one appeal excludes the other.

Sir HORACE DAVEY:—Yes.

Lord MACNAGHTEN:—Supposing he did, you could not stop him in any way, or if they pass a law on his recommendation, would you say that it was *ultra vires*? Supposing this board decided that this law of 1890 was *intra vires*—

Sir HORACE DAVEY:—I am thinking in what form of procedure it could be done. No doubt some form of procedure could be devised. You could patch up some sort of action to try it in, but if you could try it I should say, undoubtedly,—

Lord MACNAGHTEN:—How could you prevent the governor-general making a recommendation to parliament?

Sir HORACE DAVEY:—And the Dominion parliament from passing an act? Supposing the Dominion parliament passes an act, then I should say that act of the Dominion parliament is *ultra vires*.

Sir RICHARD COUCH:—Unless it is authorized by this provision it would be *ultra vires*.

Sir HORACE DAVEY:—The other view which may be maintained against me would be this—and I do not know that I should disagree in that—saying that all the decisions of the queen's bench and of the supreme court and, I must add, of your lordships were all *ultra vires* and went for nothing, because the only tribunal that had any jurisdiction in the matter was the governor general.

Lord SHAND:—What do you say to the fact that the governor general through the minister of justice has said this:—"It became apparent at the outset that these questions required a decision of the judicial tribunals more especially as an investigation of facts was necessary for their determination?" Therefore his view is that before he can do anything, or be called upon to look at anything, this investigation must take place and he must have a decision of a judicial tribunal.

Sir HORACE DAVEY:—I have great respect for the opinion of the minister of justice, but I am not bound—

Lord SHAND:—Followed by the acting of the governor-general. He says:—"I am going to wait until I see the decisions of the courts."

Sir HORACE DAVEY:—It has been my duty to say before now that decisions of ministers of justice and other ministers are not always in accordance with purest wisdom.

Lord SHAND:—It looks very much as if he means to abide by what this court decides.

Sir HORACE DAVEY:—I should be more influenced by that if it were not a fact, as appears upon these papers, that the Dominion parliament are my opponents on the present occasion.

Lord WATSON:—I am afraid an opinion of theirs cannot be taken.

Sir HORACE DAVEY:—Really and truly, I have been led into arguing a point which, although it presented itself to my mind, was not a point I was instructed to argue. At the same time, I think your lordships probably would not entertain the appeal or rather you would not if you saw that it would bring you into conflict—

Lord MORRIS:—The matter appears to have been raised in Renaud's case. Did not the same point arise in Renaud's case?

Sir HORACE DAVEY:—I think it was.

Lord WATSON:—Renaud's case came from New Brunswick, I think.

Lord MACNAGHTEN:—The language is very much the same.

Sir HORACE DAVEY:—I am not sure it could arise. It would not arise under sub-section 2, nor would it arise under sub-section 3, because there was no system of separate or dissentient schools existing by law at the union in New Brunswick.

The ATTORNEY GENERAL:—It did not arise under sub-section 2.

Sir HORACE DAVEY:—Sub-section 2 only applied to Ontario and Quebec, and it did not arise under sub-section 3, because there was no system of separate or dissentient schools existing by law.

Manitoba School Acts.

The ATTORNEY GENERAL :—But there was if you look at Renaud.

Sir HORACE DAVEY :—No, they were public schools or common schools. This is what the chief justice says :—“ Assuming then that it is not only the right but the bounden duty of this court to deal with questions of this nature, when legitimately presented for its consideration, we must endeavour to ascertain whether there is such a repugnancy in this case as will constrain us to declare the Common Schools Act of 1871 void in part or in whole. It is contended that the rights and privileges of the Roman catholic inhabitants of this province, as a class of persons, have been prejudicially affected by the Common Schools Act of 1871 contrary to the provisions of sub-section 1 of section 93 of the British North America Act. 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 of 1871.”

Lord MORRIS :—If you were right in your contention would not the answer in that case have been given to the governor-general.

Sir HORACE DAVEY :—No, because it would only be under sub-section 3. What Renaud contended was that inasmuch as there was an option to read either the Douay version or the English version in school, abolishing the option to read the Douay version was an interference with the privileges.

Lord WATSON :—If you find it convenient, if you have any more to say on this point we will hear you. If not, we invite you to renew the discussion of the merits of the appeal.

Sir HORACE DAVEY :—Then the mode in which I was going to renew it was by reading the judgments, which will take some considerable time, and I may ask your lordships' indulgence to allow my learned friend to assist me. My lords, the first judgment is the judgment of Mr. Justice Killam, before whom the application to quash came. It contains a long statement of the facts and, unless my learned friends or any of your lordships desire me to do so, I do not think it necessary to read that. I will begin on page 26 at the 37th line :—“ 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, &c.” [Reads to the words page 27, line 34.] “ 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.” Then his lordship reads certain sections of the British North America Act and the important section 22 of the Manitoba Act and continues at page 28, line 35 :—“ 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, &c. [Reads a further passage to the words page 30, line 33.] “ 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.” Then the learned judge reads the affidavit of the archbishop, which I need not trouble your lordships with again, and the two other affidavits which were filed—Polson's and Sutherland's. “ While then these supplement to some extent the affidavit of his grace they are in no way inconsistent with it, &c.” [Reads a further passage to the words] “ 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.” I have not troubled your lordships with that argument. I think it is quite clear, saying so only as counsel of course, or that it is reasonably clear that the provisions of the 22nd section do override and prevent the application of the provisions of the 93rd section of the British North America Act. I should think that is reasonably clear. It does not matter very much. “ 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."

My lords, I must here observe that in some of the judgments against me there appears to be some confusion when they speak of schools to which catholics cannot send their children. Of course catholics are the best judges for themselves whether they will or will not send their children to a particular school. Of course they are entitled to their own opinions upon that, but when they say they cannot, there is a fallacy in that. The legislature has provided a school to which every citizen may send his child, if he thinks fit to do so. Then the learned judge refers further to the archbishop's affidavit, and to the affidavit of the Rev. Dr. Bryce. I do not think I need trouble your lordships with that again. Then he proceeds, at line 38:—"Here, however, I cannot conceive myself to be bound by, or confined to affidavit evidence. I am interpreting statutes, and in doing so 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," and so forth. I do not think I need read this part to your lordships but I will go on at line 21.

Lord SHAND:—That rather relates to the policy also.

The ATTORNEY-GENERAL:—I should think you might go to the bottom of the page.

Sir HORACE DAVEY:—Yes I think so. The judgments are very long anyhow and I do not want to trouble your lordships with too much. At the bottom of page 23 the judgment continues:—"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," etc. [Reading down to the words at line 43.] "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 grant of provincial funds or direct taxation or by both methods." That is to say the learned judge, I suppose, means that the possibility of their doing so must have been in contemplation, because that was the usual method of providing schools on that continent. Then:—"Under the powers given, it would be open to the legislature to make laws to encourage or restrict education," etc. [Reading to the words at page 35, line 30.] "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."

Lord SHAND:—The learned judge does not seem to exhaust the considerations presented by the other side when he says that the two things that are objected to are the competition and the taking away of funds. I understand one of the leading arguments is that they are now compelled to contribute to denominational schools.

Manitoba School Acts.

Sir HORACE DAVEY:—I think he intended to deal with that in the earlier part of the judgment, in asking whether they had any right or privilege or whether there was any right or privilege, and then he argues at great length, as your lordships remember, that the argument really comes to this,—I agree it wants a little development—that they have a right of immunity or of exemption from taxation for this particular purpose.

Lord WATSON:—The main feature of it was that they were keeping up their schools.

Sir HORACE DAVEY:—That is to say, they claim immunity or exemption from taxation for the purpose of maintaining common schools. That is what they claim.

Lord SHAND:—Might I point out here that on page 34 he seems to limit the two points on which he says there is an invasion of rights or privileges by these passages from line 25 to line 30, but perhaps you are right in saying he had anticipated it.

Sir HORACE DAVEY:—I think he had intended to deal with it under the heading of whether they had any right or privilege which entitled them to immunity from taxation for the common schools. Then he discusses the position of the two Canadas, and shows they had such a privilege by law, because any person who maintained a denominational school with efficiency had a right to immunity from taxation for common schools, and then he shows there could not be such an exemption or immunity because there was in fact no taxation for common schools and no system of common schools in Manitoba. Perhaps it would have been well if the learned judge had gone a little further. "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," &c. (Reads the remainder of Mr. Justice Killam's judgment.) Then he quotes some very sensible general observations of the chief justice of New Brunswick. I take it that comes to this: That it is within the provincial authority to legislate for education, and by means of direct taxation to provide the means of carrying its legislation into effect; those who claim an immunity from taxation must show their title to it; before the union there could be no such immunity because there was no such taxation; and what is intended to be preserved is *cum privilegium*, that is something to which some class of persons is entitled either adversely to or differing from the rest of her majesty's subjects. If it is only something which they enjoyed with the rest of her majesty's subjects, then it is not a right or privilege enjoyed by a class of persons. Every person in Manitoba before the union had an immunity from paying taxes for the support of public education. There were no school rates or school taxes at all. Therefore, every one of her majesty's subjects within that province enjoyed that immunity. It was not, therefore, a privilege enjoyed by a class of persons, because it was a right which they enjoyed.

Lord MORRIS:—They had it in point of law. They had not an immunity in point of practice.

Sir HORACE DAVEY:—Yes, from being taxed.

Lord MORRIS:—No, because, as I understand, there is no affidavit to say that these schools were not supported.

Sir HORACE DAVEY:—Nobody was bound to pay; it was voluntary.

Lord MORRIS:—That is the very reason: because it was only the practice.

Sir HORACE DAVEY:—Let us look what the practice is. The practice is to pay as much as you think fit.

Lord MORRIS:—That was not the practice.

Sir HORACE DAVEY:—Yes, surely.

Lord SHAND:—In 1870 the only schools, I understand, were voluntary schools; nobody need contribute unless he liked.

Sir HORACE DAVEY:—No, and they were supported by means of the fees charged to scholars or to the parents of the scholars, and by such voluntary contributions as charitable-minded persons were disposed to make.

Lord WATSON:—It is not disputed that in point of fact any persons who chose to set up a school to teach their own children according to their own denominational view could do so without being called on to contribute to any other. The issue comes to be, what is the meaning of "practice?"

Sir HORACE DAVEY:—There is another question, what is the meaning of right or privilege? That was not a privilege enjoyed by any class of persons.

Lord WATSON:—Is it simply the extent of the right enjoyed, or is it enjoying a right in such a way that they could not be deprived of it?

Sir HORACE DAVEY:—It was not a *privilegium* or right enjoyed by any class of persons, but it was something which the whole of her majesty's subjects enjoyed. Will your lordships allow me to read you some words of Lord Chief Justice Cockburn in that case of *Fearon vs. Mitchell*, which is reported in the law reports 7th, queen's bench, page 690? There the question was this: In a market act there was a proviso that "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." There was a gentleman who had an auctioneer's shop or butcher's shop, and was carrying it on before the market was established, and he maintained that he had a right still to continue to do so, and he said he was within the saving because he had a right, power or privilege enjoyed within the district by him. The chief justice says:—"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 '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. 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."

Lord SHAND:—There the learned judge is dealing with the privilege of an individual. Of course this must be something similar, if this is a privilege of a class—that the class must represent the individual. For example, if Roman catholics or protestants as a class could say that we had a certain privilege that no one else had that might be kept.

Sir HORACE DAVEY:—To illustrate what I mean: In the state of Upper Canada, as described to us in this learned judge's judgment, there was a distinct privilege attaching to the protestant minority.

Lord WATSON:—Immunity from contributing to any other school was a privilege in this sense, that it could not be taken from them except by an enactment equivalent to legislation—the act of the governor.

Sir HORACE DAVEY:—It was not an immunity.

Lord SHAND:—That would apply to every tax and for every purpose. The thing did not exist.

Sir HORACE DAVEY:—The tax did not exist.

Lord SHAND:—Immunity implies a right to be clear of it.

Sir HORACE DAVEY:—I will give an illustration of what I mean, which appears to me to be a very apt one. Look at the state of things described to us in this learned judge's judgment as existing in Upper Canada.

Lord WATSON:—A privilege, created by statute, is open to the very same observation. It may be taken away by statute.

Sir HORACE DAVEY:—But it is something peculiar to that class.

Lord SHAND:—It is guarded, and it is said you shall not take it away.

Sir HORACE DAVEY:—The protestant minority had the right, by establishing denominational schools of their own, to gain exemption from taxation for the common schools. That was a privilege or right attaching to the class of persons, be-

Manitoba School Acts.

cause it was something which they either had, or had a means of acquiring adversely, to the rest of their fellow citizens.

Lord WATSON:—There are so many different kinds of privileges. A great many kinds of privileges are taken away by statute, which may be said to be privileges in the ordinary sense of the word.

Sir HORACE DAVEY:—All I can say is, if they intended to say that for all time in Manitoba the provincial legislature shall never raise by taxation, nor apply any part of the public funds under its control for the support of a non-sectarian school, they have gone the oddest way about, to say so, that anybody ever saw.

Lord WATSON:—In this country one is apt to use the word “privilege” as meaning the possession of something beyond the rest of the citizens. In fact it becomes a right of property—a right which the legislature seldom takes away without compensation.

Sir HORACE DAVEY:—There is no doubt that in the proper sense privileges are something you enjoy.

Lord HANNEN:—It is not necessary to say to the detriment of others, but something which the others do not enjoy.

Lord MACNAGHTEN:—Which you enjoy exclusively.

Sir HORACE DAVEY:—I do not think it is necessary to say to the detriment.

Lord SHAND:—“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.” Is that some right, acquired by law or practice, different to what other people have?

Sir HORACE DAVEY:—It would look so.

Lord SHAND:—That is the question. You say it is not a right that all the community had, and all the community were exactly on the same footing about this matter.

Lord WATSON:—You could not get the act unless you embraced the whole population.

Lord MORRIS:—Instead of saying “by law or practice,” if it had said “which they now enjoy,” how would that be?

Lord SHAND:—That would be exactly the same.

Lord WATSON:—They deal with the population, in that act, as consisting of denominationalists, and all the privileges of all these denominationalists, which practically included the whole population, were to be preserved. The denominationalists were divisible, but they all held the same.

Sir HORACE DAVEY:—According to the contention of my learned friends on the other side, it is that not a single cent can be raised for the purpose of education by general taxation.

Lord MORRIS:—It would be necessary to go further and say that every cent raised by taxation should be redivided out.

Sir HORACE DAVEY:—No, to each denomination—every denomination according to them.

The ATTORNEY-GENERAL:—Nothing of the kind; you cannot say so.

Sir HORACE DAVEY:—But I do say so, because they are a different class of persons.

Lord MORRIS:—They do not speak of denominations, and perhaps it was a case of *de minimis non curat lex*.

Sir HORACE DAVEY:—That is Logan's case.

The ATTORNEY-GENERAL:—I have nothing to do with Logan's case.

Sir HORACE DAVEY:—It is all very well for my friends to say they have nothing to do with Logan. Your lordships have something to do with Logan, and you cannot decide Barrett's appeal without deciding Logan's.

Lord SHAND:—Lord Morris is suggesting the ground on which Logan may be disposed of.

Lord MORRIS:—There might have been a Jews' school there for what I know, but there does not appear to have been. That is the fact.

Sir HORACE DAVEY:—It may have been said there was only one Jew in Scotland and he did not get a living.

Lord MORRIS:—He lost it.

Sir HORACE DAVEY:—I do not know whether there are any Jews in Canada. There may be for all I know. They certainly would be a class of persons. Then I go to the judgment of Chief Justice Taylor, and he says that it raises an important question. Then he states the grounds.

Lord SHAND:—Is he of the same way of thinking?

Sir HORACE DAVEY:—Yes. Then he says that the statute may be moulded, and deals with how the view of the legislature may be ascertained, and he refers to Lord Wensleydale's golden rule.

Lord SHAND:—I think the top of page 46 is where he first deals with the question.

Sir HORACE DAVEY:—On page 44, he says this:—"The argument was pressed that, by section 22 of the Manitoba Act, parliament, in view of the controversy," etc. [Reading to the words at line 22.] "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."

Lord SHAND:—He means by that the same right of having separate schools without a public rate in support of it.

Sir HORACE DAVEY:—Yes. Then he says:—"Parliament had before it the express provisions of the British North America Act on this subject," etc. [Reading to the words at line 35.] "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?" Then after noticing section 22 he says:—"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 protestants 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 1 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." That is the construction, I may add, which has been adopted in Logan's case. Then:—"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." Then his lordship reads the archbishop's affidavit and continues at the top of page 46:—"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." Then he refers to the definition of a "right" in the Imperial Dictionary, and to Bouvier's Law Dictionary, Brown's Law Dictionary and Wharton. Then he refers to the definition of privilege 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

Manitoba School Acts.

an exemption from some evil or burden; a private or personal favour enjoyed; a peculiar advantage." Then he refers to the definition by Webster "a right or immunity not enjoyed by others or by all." Then, in Bacon's Abridgment, 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." Then he quotes from Comyns' Digest:—"Privilegium est jus singulare, seu lex privata, quæ uni homini vel loco conceditur." Then he refers to Mackeldy's Roman Law and also to the case of Campbell vs. Spottiswoode and at page 47, line 5, he says:—"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, etc." [Reading to the words at page 48, line 20.] "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."

[Adjourned to to-morrow at half-past ten.]

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

COUNCIL CHAMBER, WHITEHALL, Wednesday, 13th July, 1892.

Present :

The Rt. Hon. Lord Watson,
The Rt. Hon. Lord Macnaghten,
The Rt. Hon. Lord Morris,

The Rt. Hon. Lord Hannen
The Rt. Hon. Lord Shand,
The Rt. Hon. Sir Richard Couch.

THE CITY OF WINNIPEG

vs

BARRETT,

and

THE CITY OF WINNIPEG.

vs.

LOGAN.

[Transcript of the shorthand notes of Messrs. Marten & Meredith, 13 New Inn, Strand, W. C.]

Counsel for the appellants:—Sir Horace Davey, Q.C., Mr. McCarthy, Q.C., and the Hon. Mr. Martin.

Counsel for the respondent Barrett:—The Attorney-General (Sir Richard Webster, Q.C., M.P.), Mr. Blake, Q.C., Mr. J. S. Ewart, Q.C., and Mr. Gore.

Counsel for the respondent Logan:—Mr. A. J. Ram.

Second Day.

SIR HORACE DAVEY:—My lords, I was reading yesterday afternoon, when your lordships rose, the judgment of the chief justice in the queen's bench on page 48 at line 28. "Now any right the Roman catholics had, at the time of the union," etc. [Reading to the words page 49, line 10.] "How can it be said that in this respect they are prejudicially affected?" That is, prejudicially affected as a class of persons? "It is however argued that by the Public Schools Act a system of free schools," etc. [Reading to the page 52, line 5.] "The Public Schools Act, the validity of which is impeached, is an act dealing with the general educational system of this province." My lords, I am informed that "separate or dissentient schools" has acquired almost a technical meaning in Canada and in that clause in the British North America Act which was referred to, it refers to what many of these learned judges state

from their knowledge to have been the practice in Canada, that, there being a general system of education, any denomination which set up separate or dissentient schools could exempt itself from the general taxation for the purpose. "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."

My lords, may I sum up in one sentence what I think is the answer given by the learned chief justice to the argument about contributing to the schools? Really and truly, if it was a right or privilege it was a right or privilege not to be taxed, to be compelled to contribute to schools at all.

Lord WATSON:—My present impression is, looking to the statements of the judges and the condition of education in the different provinces, that the intention of the clause inserted in the act of 1867 was to enable dissentient and denominational parents to set up their own schools without paying the general rate. One object was to enable dissentient schools to exempt themselves from religious education.

Sir HORACE DAVEY:—In Upper and Lower Canada, yes, that is so.

Lord WATSON:—What do you conceive was the object of the other act?

Sir HORACE DAVEY:—Of the Manitoba Act? To put it shortly, it was to secure absolute religious equality.

Lord WATSON:—Was it to place the schools in the same position in Manitoba that they occupied elsewhere.

Sir HORACE DAVEY:—No, if that had been the intention they would have said so. My view is that it was to secure absolute religious equality between all the different religious denominations, Christian and otherwise which existed in the province.

Lord WATSON:—It is curious language if that is what is meant.

Sir HORACE DAVEY:—But leaving the province to make such laws regarding education and to impose such taxation for the maintenance of schools as it thought fit, provided it does not infringe in any way the absolute religious equality which then existed.

Lord MORRIS:—What privilege was it that existed which was certainly intended to be reserved.

Sir HORACE DAVEY:—I am afraid I shall repeat myself if I answer that again, but I will with pleasure: the privilege of each denomination of maintaining its own schools for its own scholars and teaching its own particular tenets unfettered by legislation.

Lord WATSON:—I do not think it goes that length—I do not think that is the point. The question is prejudice. On the face of that act of Manitoba taking it with the other I should say there was power in the state to prescribe a system, power to demand that children shall be educated, power to prescribe the education which it must pass as a citizen. They might impose disabilities on the child if it did not attain a proper standard. I think they had great power of modifying the general system. With the remark of the learned chief justice I agree. I do not think that is in any sense prejudicial. I think the legislature must have thought it was the interest of the parents to have their children well taught. If enactments were introduced for that purpose only, I should say they would prevent the child getting the effect of education.

Lord SHAND:—As it strikes my mind now, the act of 1867 and the act of 1870 may operate with totally different results because each of those acts severally refers to the privileges existing in the particular territory with which they deal at the date when the act was passed. If accordingly in the territory of British North America, dealt with in the act of 1867, there were certain privileges clearly established by law—they were by statute—then I think those are preserved, even though they

Manitoba School Acts.

are wider than Manitoba, but if there were no such privileges in Manitoba when the Manitoba Act passed I do not see how you can by the language of the Manitoba Act reserve the same privileges as in British North America. Then I should like to add this. I think the learned chief justice has developed an argument which strikes me as having very great force in this case, which Mr. Justice Killam has not done, and I am not sure, if I may venture to say so, that you have pressed it in the same way as the rest of the case, and that is that he denies and disputes that this is an act of parliament—I mean the schools act—which affects any right or privilege of denominational schools and he does so on this which appears to me to be a very formidable ground. He says this is not an act which touches religion at all or religious education. It will not do for one or two sects either protestant or catholic to come and say this is an act which affects denominational schools if in substance it does not. If it professes to be a non-sectarian act and if the court looking at it sees plainly that it is a non-sectarian act, then it does not affect the privilege; and it strikes me that that is a very forcible part of the opinion you have just read and requires very great consideration. I should like to put the illustration I did yesterday. Suppose the government were saying:—“We are of opinion that industrial schools for teaching them the elements of trades are necessary, or we think schools for writing and arithmetic and mathematics are of the utmost consequence, and one party comes forward and says: oh, we must have an appeal to religious considerations in every branch of education, could that be listened to as being a denominational act? I should say not; and I think one of the first things that this board will have to do is to say whether they can affirm, even because this is called an act which affects the denominational schools, that in any reasonable sense it does.

Lord WATSON:—The important words we have to consider are “or practice” in the Act of Manitoba. I think it comes to a very narrow point. I think they bear that the intention of that was to adopt the clause of the act of 1867, which as it stood was inapplicable to Manitoba, to the necessities and requirements of Manitoba, to give them the benefit of the same legislation. I am clearly of opinion that the Act of 1867 was as far as possible intended, as regards all civil rights, including educational matters, to place all the provinces of the Dominion as nearly as possible on the same footing as circumstances permitted. As I said before, I am not indicating an opinion. The language may tie you down, but I think it was intended to establish that uniformity, and I think it will be necessary to consider the suggestion whether it was the intention of the legislature with regard to denominational schools in Manitoba to handicap them in a way that they are not handicapped elsewhere.

Sir HORACE DAVEY:—I do not think it can be said that there is anything in the British North America Act which indicates the intention to establish the same educational system in all the provinces of the Dominion. Sub-section 1 of section 93 preserves any right or privilege which any class of persons had in any particular province. The provinces might, and did in fact, differ in their educational arrangements.

Lord WATSON:—They may make different rights.

Sir HORACE DAVEY:—Sub-section 2 applies only to Upper and Lower Canada—to Ontario and Quebec. Sub-section 3 gives the appeal which I have mentioned. I do not think it can be said that there is anything in the British North America Act which indicates an intention to introduce a uniform system of educational arrangements throughout the Dominion.

Lord WATSON:—Educational arrangements—no, that is a different matter.

Sir HORACE DAVEY:—I mean educational rights.

Lord WATSON:—Civil rights with relation to education is the matter we are dealing with.

Sir HORACE DAVEY:—I think your lordship understood me, though I did not select the best word.

Lord WATSON:—They appear to me to be totally different things. I think in the one uniformity was contemplated, in the other not. Because there is a provision in the act of 1867 that provides for interference, if they choose.

Sir HORACE DAVEY :—The only uniformity contemplated was to preserve existing rights and privileges.

Lord SHAND :—It is not put "which any class of persons have by law or practice in this or any of the other provinces." The right is measured out by that first subsection, apparently to preserve the right according to law and practice in that province. Of course the word "practice" will undoubtedly cover whatever was going on, and being done.

Sir HORACE DAVEY :—Very likely I did not select the best words for expressing my meaning, but what I mean is that what was intended was to preserve whatever were existing rights and privileges with respect to the denominational schools in any province, not to create the same civil rights or privileges in each province over the whole Dominion. That is what we rather intended, and I think it is reasonably clear.

Sir RICHARD COUCH :—The British North America Act did not affect the system of education in New Brunswick at all?

Sir HORACE DAVEY :—No, it left it as it was, provided that the existing rights and privileges were preserved which they had by law; and in the same way it seems to have been contemplated in Manitoba by the introduction of the words "by law or practice." The words "or practice" may have been introduced because there was no positive law, because the law was of an uncertain hazy kind in Manitoba consisting merely of ordinances of the Hudson's Bay Company, and at any rate it makes it necessary for the court still to enquire what were the rights and privileges which they had by practice, and it seems to me impossible to say that it was a right or privilege which gave them immunity from taxation which did not exist.

Lord MORRIS :—This act contemplates that some right or privilege did exist in the year of grace 1870, in the province of Manitoba, to some class of persons in regard to denominational schools. I have in vain endeavoured to find what you say is that privilege. As I understand, you only say that there was no privilege, that it was a common law right of a true born Briton.

Sir HORACE DAVEY :—I do not think it was strictly privilege because it belonged to every class of persons. According to my view it belonged to every class of persons.

Lord MORRIS :—What in the year 1870 do you say as a matter of fact existed.

Sir HORACE DAVEY :—I take it the right of maintaining denominational schools under their own management for the education of such children whose parents chose to send them there.

Lord HANNEN :—And you may add and not to pay to other denominational schools.

Sir HORACE DAVEY :—Yes, and if you please, not to be taxed at all for other denominational schools.

Lord HANNEN :—The question is whether they have been taxed for other denominational schools.

Sir HORACE DAVEY :—I say if immunity from taxation is the right or privilege—I have said it more than once and I am afraid I have occupied a deal of your lordships' time—if immunity from taxation is the right or privilege it was immunity from being compelled to pay for any education at all, certainly for any denominational education.

Lord SHAND :—Will you allow me to interrupt you once more? I should like to say, with reference to what Lord Watson said, that I feel with him that it is a very important consideration that it may make a difference between the two provinces, and I go further and I would say this, that if the language at all clearly showed that the legislature did make it the same in the provinces I should expect it would be so: but then I have a difficulty in thinking that the language has done that. I quite feel what Lord Watson says very strongly that one would naturally expect everything to be put on the same footing, but because one expects that I think we must not come to that conclusion, unless the language does it, and I do not think we find that language.

Sir HORACE DAVEY :—Now I am going to read the judgment which is against me and, with the greatest respect to the judges in the court of appeal, which is the

Manitoba School Acts.

most powerful judgment against me—that of Mr. Justice Dubuc. It begins by a statement of the facts and some elementary propositions with regard to the mode of construing statutes, which probably your lordships will excuse me from reading. I will begin at page 57, line 26. “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 be no use for prosecuting the inquiry 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 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.” I am not at all disposed to dissent from that. I think they were given a legal status and could not be interfered with. My point is that they have not been interfered with. “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.” Then he refers to Lord Coke and what Lord Blackburn said in the River Wear Commissioners *vs.* Adamson, and what was said in Graham *vs.* The Bishop of Exeter, and other cases. I do not think it is necessary to read that. Going on to page 59, he says “In the light of those authorities it become necessary in trying to determine the true meaning of the words, &c.” [Reading to the words, line 41] “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.” That is to say, I presume, that where the community was in the bulk catholic the public schools were tacitly allowed to be conducted by catholics as catholic schools. “In framing the British North America Act, the fathers of confederation,” &c. [Reading from line 44, page 59, down to the words, line 40 page 60, of the record.] “The judgment of the court might have been different.” It may be so. But observe that in New Brunswick there were public schools.

Lord SHAND:—Did I understand also that in New Brunswick by practice they were exempt from paying except for their own schools?

Sir HORACE DAVEY:—No, that was only in the two Canadas. In New Brunswick, as has been stated in more than one of these judgments, the system was a system of public schools, and in those public schools the religious exercises were determined apparently by the wishes of the trustees of the particular school. But that was not a privilege which was secured by law. As a matter of fact, some of the schools were catholic and some were protestant, according to the religious belief.

Lord WATSON:—They had a Parish Schools Act in New Brunswick.

Sir HORACE DAVEY:—Yes, and they were rated for a public schools act, and then the New Brunswickers when the new act came in making all schools non-sectarian said:—“This is an infringement of our right and privilege secured to us by law at the time of the union.” They said no, it was not secured to you by law. As a matter of fact some of the schools were catholic, and some protestant, but that was not anything provided by law, but had grown up by usage. In the same way if there had been a public schools act in Manitoba, and some of the schools supported by public rating and public taxation had been catholic and some had been protestant it is possible that those words “or by practice” might have preserved to the catholics the right, although it was not contained in the legislation, of continuing that system, having some public schools protestant and some catholic. But nothing of the kind existed in Manitoba. “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"—in other words the Manitoba Act was before the decision in *ex parte* Renaud, which is said to have given rise to it—"this at least may be said: It appears from the journals," &c. [Reading to the words, line 10, page 61.] "That bill provided that it was not to come into operation for one year after the passage thereof." But still the point was a perfectly good one. These words "or practice" cannot have been introduced in consequence of the decision in *ex parte* Renaud, because the decision in *ex parte* Renaud was a year later. "The Manitoba Act passed by the Dominion parliament," etc. [Reading to the words, line 24.] "Presumptions are constantly used in determining the real intent and meaning of statutes." My lords, I venture, with great deference to the learned judge, to express a feeling that your lordships will not be very much guided by those considerations in construing the section. "We have the fact that when the Manitoba Act was passed there were denominational schools," &c. [Reading down to the words, line 24, page 62.] "That accounts for the insertion of the two words 'or practice' in the Manitoba Act."

Lord SHAND:—Can you tell me what was the effect then of Columbia and Prince Edward Island coming in? They joined the confederation under the Act of 1871.

Sir HORACE DAVEY:—Yes. Whatever educational rights or privileges were secured to any denomination by the existing law in Prince Edward Island and British Columbia, were retained, but what those rights and privileges were I am not in a position to say. Perhaps one of my learned friends from across the Atlantic will be able to answer your lordship's question.

Mr. McCARTHY:—Yes, I shall be able to answer that.

Lord SHAND:—Their privileges might be so clear and distinct that those words are quite sufficient for the purpose.

Sir HORACE DAVEY:—Yes. "Before examining more fully what is the true and real purport of the words 'or practice,' &c. [Reading down to line 45.] "The object in view." I observe you can only get the object in view from the words themselves. "In *Jessem vs. Wright*," &c. [Reading down to line 42, page 63.] "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." I do not dissent from that. "The adverse contention is," &c. [Reading down to line 15, page 64.] "The right of any persons or class of persons to have and support private schools is a primordial right, as the right to breathe air or eat bread." I am not quite sure that that is not too strongly stated. "Supposing the legislature of a province," &c. [Reading down to line 21.] "So to have and conduct a private school in his own premises." Surely that is a rather strained argument. It would prevent persons holding schools to which parents were expected to send their children. "Nothing even would prevent him from having his neighbour's children attending such teaching," &c. [Reading down to line 35.] "That surely could not have been anticipated, and the enactment could not have been intended to prevent such imaginary mischief." I confess it does not appear to me, knowing something about educational legislation both in this country and in other countries, that it is by any means an imaginary mischief that you should make a compulsory clause compelling all children to attend the public schools, and thereby, of course, kill the private schools. "In *R. vs. Skeen*," &c. [Reading down to line 7, page 65.] "Why was there no provision made to protect them against such contingencies?" I am not aware that a provincial legislature can establish a state church. It is not within the object of section 92. "The reason is obvious," &c. [Reading down to line 12.] "The broad and equitable principles prevailing in modern British and other civilized constitutional institutions." I observe in passing that the learned judge considers the establishment of a church to be a departure from the broad equitable principles prevailing in modern British and other civilized institutions. "A constitution assumes a certain number of general principles," &c. [Reading down to line 34.] "Clearly intended to give legal sanction to the privilege enjoyed by practice." That puts in very clear language what is my contention. "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"—

Manitoba School Acts.

Lord SHAND:—The learned judge all through uses such language—“the right or privilege to have them maintained.” He means to say to have them maintained, coupled with an exemption. He does not always use the words but it is rather obvious he brings it up to this, that it is equivalent to a privilege of exemption. The question is whether it comes to that. I mean exemption from taxation.

Sir HORACE DAVEY:—“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.” I do not follow that. “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 never being compelled to support other schools.” Their right, as I have repeated more than once, was the 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.” That argument seems to me to be a great deal too far and altogether to paralyze the power to raise any rate for school purposes. “Besides considering the historical facts and circumstances,” &c. [Reading down to line 27, page 67.] “That is one aspect of the question.” I agree entirely. “The other aspect appears when we look at the other sub-sections,” &c. [Reading down to line 40.] “Who might happen to be in the minority.” My lords, that is not the construction which has been put upon this section in Mr. Logan’s case, where it has been said that you cannot limit the words “any class of persons” in the 1st sub-section by reference to the mention of the catholic or protestant minority in the 2nd sub-section.

Lord MORRIS:—They might have decided differently in Logan’s case.

Sir HORACE DAVEY:—Of course they might. “It is also said that the only privilege,” &c. [Reading down to line 6, page 68.] “That was to be apprehended, because it was not in issue.”

No doubt that may be so, but that is only given as an illustration of a way in which the rights or privileges, according to our construction, may be prejudicially affected. “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,” &c. [Reading to the words on page 68, line 39.] “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 reasonable will be adopted.” Then he refers to a case in the queen’s bench and to some words used by Lord Blackburn in the house of lords in *Rothes vs. Kircaldy Waterworks Commissioners*, and to Baron Parke, and a case in the house of lords. “In this case, however, we have not to resort to any such modification of the language of the enactment, nor to any addition thereto,” &c. [Reading to the words on page 69, line 35.] “If the narrower construction of the provision in question is adopted, they will have to tax themselves to support their own schools,” the learned judge uses “tax” in an inaccurate sense: of course they may have to ask for voluntary contributions—“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 other schools, schools from which the non-catholics will derive all benefit, and the catholics themselves no benefit whatever.” My lords, that sentence contains two fallacies. In the first place it uses “tax” in different senses in the two limbs of it, and secondly, when they say that the catholics can derive no benefit whatever—that is their own choice. The schools are open to them if they choose to come. “Moreover the legislative grant, which is the people’s money contributed by catholics 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." I may remark that the catholics had no such right before the union, to have their schools maintained out of public moneys. "Protestants and catholics have different views and different principles as to the education which children should receive in elementary schools." I do not think I need read the next two sentences. It is controversial matter.

Lord MORRIS:—I do not think it is controversial matter.

Sir HORACE DAVEY:—I will read it with pleasure.

Lord MORRIS:—No, I do not want you to read it, but it is not controversial matter that they have different views. That is not controversial matter.

Sir HORACE DAVEY:—I think many protestants would say that they hold the same quite fairly, but I will read it with pleasure.

Lord MORRIS:—No, but I do not admit it is controversial.

Sir HORACE DAVEY:—Very well, my lord. It comes to this, that catholics have conscientious objections to sending their children to non-sectarian schools, which, of course, may be admitted. "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," &c. [Reading to the words] "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." My lords, I venture to think we have nothing to do with these considerations, which are considerations for a different body, but I might add that it is rather odd to speak of the right of having your denominational schools maintained out of public money as flowing from the fundamental principle of liberty of conscience.

Lord MORRIS:—I think it only means this, that as Roman catholics they can obtain no benefits, as a matter of fact, from these non-sectarian schools.

Lord SHAND: That is their opinion, but, of course, they get the benefit of the general community being educated, in secular matters, in all ordinary branches—they get the benefit of intelligence being cultivated and general education spread.

Lord MORRIS:—That may be a very useful disquisition of Sir Horace Davy's, but as a matter of fact, it is sworn that the catholics in this district of Manitoba cannot, unless they change their religion, derive any benefit from schools that will be protestant schools.

Sir HORACE DAVEY:—They may not if they have a conscientious objection to do so. I do not propose to read these extracts from the report of the commission on education—I will with pleasure, if desired, but the learned judge finishes his judgment at line 30 page 72. That is on the respective value of religious and secular education. "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 ensuring, 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"—I am not sure that I understand what is meant by a "legal status" there—"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"—Here you see a different word introduced—"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.

Manitoba School Acts.

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"—Now I cannot understand that—"are legislated out of legal existence" I cannot understand how their legal existence is altered one single jot—"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 Schools 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."

Your lordships will no doubt have observed in the course of my reading this judgment, which is a very able document, that the learned judge does not condescend to particulars as to what is the right or privilege which he supposes is prejudicially affected. He plays between the schools having a legal status, and their being maintained by the state, and he appears to think that the effect of the act was to give them what he pleases to call a legal status—that is, a right to maintenance out of the fund provided by law by the act; but of course the preservation of existing rights could not confer any new rights such as that which the learned judge contemplates; and I entirely demur to his conclusion that the effect of the Public Schools Act is in any way to legislate them out of legal existence, or in any way to affect, in the slightest degree or particular, whatever legal existence they had before the union and still have. No doubt it alters their status under the legislation of 1871. That is undoubted, but that is not what is preserved. What is preserved is the *status quo* before the union.

Lord MORRIS:—What the judge I think was alluding to was, that they are legislated out of the legal existence that they had acquired under the act of 1871 and the subsequent acts.

Lord SHAND:—I do not think he refers to the subsequent acts at all. From beginning to end of his opinion he never refers to the subsequent acts.

Lord MORRIS:—I am not speaking of from the beginning to the end of the opinion, but of the particular passage on page 73 of three lines long.

Sir HORACE DAVEY:—I think he cannot refer to that.

Lord MORRIS:—I suggest that he referred to that, but I may be wrong. He says "I am therefore led to the conclusion that the Public Schools Act of last session"—that is the one we are dealing with—"by which the denominational schools heretofore existing, were legislated out of legal existence." Were not they in legal existence under the act of 1871 and the subsequent acts?

Sir HORACE DAVEY:—And they are still in existence.

Lord MORRIS:—Were they in legal existence as regards receiving any assistance? The Public Schools Act did not repeal the act of 1871.

Lord SHAND:—I think he is referring to the same thing on the previous page 72, line 33—"To any class of persons who might desire it, the maintenance"—that is the keeping up—"of the denominational schools existing at the time of the union." So he goes back to the union, but I am bound to say, I think, Sir Horace Davey, that the real point of this opinion from beginning to end is this: While he talks of it as maintenance, he thinks you strike a blow at maintenance if you take away what he assumes existed—it is a question whether it did exist, namely, what he calls a privilege of a negative character—the privilege of not being bound to contribute to the expense of the other schools; because he says so at the bottom of page 72—"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." That is what he brings it round to. I think his opinion is that in effect these words "or practice" imply that there was a privilege of a negative character, namely that they should not be bound to contribute to state schools, and no doubt he always uses that word maintenance.

Sir HORACE DAVEY:—If that is so, it reduces the power of legislating as regards education to almost a nonentity because there could be no schools supported then out of public moneys. You cannot support, as I said yesterday, the denominational schools, because the right or privilege, if any, is of not being taxed at all for the support of schools: you cannot support non-sectarian schools because it is said that

the Roman catholics object to it, and therefore it not only cripples but paralyses the power of the provincial legislature to make any arrangement for public schools in the province, either sectarian or non-sectarian, out of public moneys at all. That is the effect of it.

Well my lord, Mr. Justice Bain's judgment is a very powerful judgment in my favour; but if your lordships will excuse me, as you have heard so much of me, I will leave my friend Mr. McCarthy to deal with that judgment, which is a very powerful judgment in our favour.

Lord WATSON:—Unless there is something new in the judgments, it is not usual and I think it is not necessary to read them all.

Sir HORACE DAVEY:—That is what occurred to me, but no doubt your lordships would like to hear my friend Mr. McCarthy, and I do not wish, by passing it over, to prevent his referring to any portion of it he may desire.

Lord WATSON:—The more powerful it is, the less it requires repetition.

Sir HORACE DAVEY:—I propose to read two judgments of the supreme court, and I have selected those which appear to me—I may be wrong and of course that will not prevent my friend from referring to any other passages in his favour—the most powerful judgments; and those are the judgments of Mr. Justice Patterson and Mr. Justice Taschereau. The supreme court were unanimously against us.

Lord WATSON:—How many were there?

Sir HORACE DAVEY:—Five; the Chief Justice, Mr. Justice Strong, Mr. Justice Patterson, Mr. Justice Fournier, and Mr. Justice Taschereau. Mr. Justice Strong did not deliver a separate judgment. I will read Mr. Justice Patterson's, which I think my friends will agree is the most powerful judgment.

My lords, after referring to general subjects, on page 92, between lines 10 and 20, he says "What is meant by 'having by practice?' To have by law here means to have under some statutory provision, the preposition 'by' pointing to the law or statute as the means or instrument by which the right or privilege was acquired. Are we obliged to understand the term 'by practice' as intended to signify acquired by practice or user, involving some idea of prescription? It is arguable, and has in effect been argued, that that is the proper understanding of the term, that the word 'by' must have the same force when understood in the one place as when expressed in the other, leading to the conclusion that, inasmuch as no rights or privileges in respect of denominational schools had been acquired in the territory in that manner, the clause in question is wholly inoperative." Of course I do not know the argument addressed to the court, but I should not myself put the argument in that way. "The construction thus contended for may be capable of being supported by strict reasoning from rules of grammar or rhetoric, but it is not, in my judgment, appropriate to this clause," &c., &c. (Reading to the words at line 43, page 92.) "The right to establish and maintain such schools was not derived from statutory law. It was incident to the freedom of British subjects and was independent of and anterior to legislation." But I may remark, it might be modified and altered by legislation. "The Manitoba Act did not assume to preserve that right merely as an abstract and theoretical right, but it did so in favour of such classes of persons as at the union were practically exercising it. If this construction seems to do any violence to the language of the clause, it is only by treating the word 'by' where it is understood before the word practice, as not having precisely the same force as when expressed before the word 'law.' But, as once remarked by one of the most eminent of English judges, Lord Stowell, when Sir W. Scott: 'Courts are not bound to a strictness at once harsh and pedantic in the application of statutes.'" Then the learned judge refers to a case before this board of *Salmon vs. Duncombe* where a construction was put on an ordinance.

Lord WATSON:—Did not the board blame the draftsman in that case?

Sir HORACE DAVEY:—I think the board did, but it was an ordinance evidently drawn by a layman who did not know what the law was.

Lord WATSON:—I think the board found out that it was the draftsman in that case who was to blame.

Sir HORACE DAVEY:—They had to find out what the meaning of the words was. And the learned judge refers to what Lord Selbourne says in the well known case of the *Caledonian Railway Co. vs. The North British Ry.*

Manitoba School Acts.

Lord WATSON:—It is generally not the draftsman who is to blame in these cases.

Sir HORACE DAVEY:—In *Salmon vs. Duncombe* it was undoubtedly the draftsman. It was a governor's ordinance in Natal, and it had been drawn in happy ignorance of what the existing state of the law was and it was very difficult to construe it. However your lordships construed it. "In my opinion the Roman catholics are a class of persons who had, within the meaning of the statute, rights and privileges with respect to denominational schools" &c, &c. (Reading to the words) "And the schools of the protestants were maintained by protestants, neither body contributing or being liable to contribute to maintain the schools of the other"—or their own schools in fact. "The fact is not without importance from a point of view which I shall presently notice, but I am not prepared to hold that the immunity enjoyed from liability to support schools of another denomination, at a time when taxation for school purposes was unknown in the territory, was a privilege in respect of denominational schools." My lords, I call your attention to this, because this learned judge who is delivering a judgment against me is in my favour to this extent, that he is not prepared to hold that the immunity enjoyed from liability to support schools of another denomination at a time when taxation for school purposes was unknown to the territory was a privilege in respect of denominational schools. "The provincial statute of 1890, which is attacked as *ultra vires*, renders every taxpayer liable to assessment for the support of the public schools," &c., &c. (Reading to the words on page 94 line 5.) "Which, as I construe section 22, they had as a class at the union." So that, so far, this learned judge takes the same construction as I do. "It is thus in effect asserted on the part of the appellant that the right or privilege has not been destroyed by the Public Schools Act of 1890," &c., &c. (Reading to the words at line 45.) "The contest is over the right or privilege, not of the individual but of the class of persons."

Lord SHAND:—This is not put on the conscientious objection. It is put on affecting the pocket.

Sir HORACE DAVEY:—Yes, my lord. "We are familiar with the expression 'injuriously affected' as used in the compensation clauses of the railway acts, and in the English Lands Clauses Act." Observe, my lords, that the argument comes to, any school rate for any purposes whatever. "It would be labour lost to cite cases turning upon the application of the provisions for compensating persons whose lands are injuriously affected by works done under sanction of law. They are very numerous, and the English cases will be found in *Cripps on Compensation*, cap. 9, and several other treatises. The claim to compensation failed in many of the cases in which lands were injuriously affected for reasons arising on the statutes under which the claim was made, as, *e.g.*, because the injury was caused by an act that would not have given a right of action at common law, or because it was caused by the operation only and not by the construction of the work; but all the cases agree in recognizing as something that injuriously affects a man's property whatever interferes with his convenience in the enjoyment of it, or of any right in respect of it, or prevents him from enjoying it to the best advantage, and whether the injury happens to be permanent or only temporary." My lords, I think that that is not a very happy illustration, because under the Lands Clauses Act nothing is injuriously affecting land within the meaning of the act, unless, apart from the act, it would give a right of action. "The same principle makes it imperative to hold that the right of a class of persons with respect to denominational schools is injuriously affected if the effect of a law passed on the subject of education is to render it more difficult or less convenient to exercise the right to the best advantage," etc., etc. (Reading to the words, page 95, line 40.) "There is therefore room for legislative regulation on many subjects, as for example, compulsory attendance of scholars, the sanitary condition of school houses, the imposition and collection of rates for the support of denominational schools." With great respect, the collection of rates for the support of denominational schools, would be equally an infringement of a right existing before the union.

Lord SHAND:—How do you understand these words, "compulsory attendance of scholars?"

Sir HORACE DAVEY:—I suppose the learned judge would mean that they must attend some school or other.

Lord MORRIS:—That is the law in England at present, he means.

Sir HORACE DAVEY:—Yes.

Lord MORRIS:—That is all he means.

Sir HORACE DAVEY:—That they must attend some school recognized by the elementary education department.

Lord MORRIS:—Yes.

Sir HORACE DAVEY:—“And sundry other matters which may be dealt with without interfering with the denominational characteristics of the school.” To be quite accurate, I think that is not a general law, but it depends on the school board. I think so. I am not quite sure, but it does not matter—“And which, I suppose, were dealt with in the statutes of the province that were repealed in 1890, to make way for the system now complained of. I am of opinion that the appeal should be allowed and the by-laws of the city of Winnipeg, nos. 480 and 483, quashed, the appellant having his costs of the appeal and also of all proceedings in the courts below.”

Now, my lords, this judgment is to a certain extent in my favour, because it recognizes that the only right or privilege was the right and privilege to maintain by voluntary contribution denominational schools for members of their own denominations. The learned judge agrees that that right is not taken away, but he says it is injuriously affected; and injuriously affected, how? Because (it seems to me very refined reasoning) the means of the taxpayers to contribute towards their voluntary schools will be diminished by having to pay the school rate; but they would be also equally diminished by any school rate at all; so that the argument, if it is worth anything, goes to the imposition of any taxation for the purposes of education at all.

Lord SHAND:—I suspect this learned judge stands alone in that passage on page 93, where he says: “I am not prepared to hold that the immunity enjoyed from liability to support schools of another denomination, at a time when taxation for school purposes was unknown in the territory, was a privilege.” I suspect that most of the other judges make that really the ground of their opinions.

Sir HORACE DAVEY:—They do, my lord. That is one reason why I selected Mr. Justice Patterson, to show the difference.

Now, my lords, I propose to read from Mr. Justice Taschereau's judgment on page 108, and if your lordships will allow me I will read it in English instead of French, translating it as I go on. “The appellant in the present case attacks the constitutionality of the school act passed by the legislature of the province of Manitoba in 1890,” &c., &c. [Reading to the words on page 108, line 43.] “Section 22 of the organic act of Manitoba of 1870 is in the French version, which it must not be forgotten is law as well as the English version.” Then he reads it in French. The words in French are “ou par la coutume.” It is textually section 93 of the British North America Act, with the simple addition of the words ‘or by practice,’ &c., &c. [Reading to the words.] “His grace the archbishop of St. Boniface, in an affidavit which was produced, described it in the following words.” I do not think we need read the archbishop's affidavit. I will go on at page 111, line 20, after the statement of the affidavit which I will not read again. He says: “The clear result of this affidavit, which constitutes the only evidence in the proceedings is” &c., &c. [Reading to the words at line 30.] “Catholic minority of the province.” So that this learned judge goes on the negative privilege of not contributing to other schools than their own—of not being obliged to contribute. I have already commented on that—that that goes much further. The privilege, if it was a privilege, was of not contributing to the maintenance of schools at all. “The law of 1890, says the respondent, obliges, it is true, catholics to contribute to the free schools,” &c., &c. [Reading to the words at line 40.] “What then does it all come to? To make it said by the non-catholic majority to the catholic minority: You have the privilege of having your schools; we leave you that, provided that you aid us to maintain ours.” I beg his lordship's pardon. That is not the schools of the majority. That is just the fallacy. It is not the schools of the majority but the

Manitoba School Acts.

schools of the country. He puts it into the mouth of the non-catholic majority to say to the catholic minority: You have the privilege of having your schools; we leave you that, provided you aid to maintain ours. Of course that is not so. The schools are not the schools of the majority, but they are the schools of the country, to which every child in the country has a right of access.

Lord WATSON:—It is not quite as applicable to the period before the union. It is not quite easy to understand all these expressions, that is to say, the use of the word "privilege" as a privilege of the few over the many. It is nothing of that sort. They say it was the privilege of A over B, but it was a right existing in every man in the district to send his children to school.

Sir HORACE DAVEY:—Yes.

Lord WATSON:—The word "privilege" cannot be read as meaning what the few possess against the many. The question still remains as before. What is a privilege?"

Lord SHAND:—On the other hand, it may be further suggested that it was intended to save anything that could be called a privilege. It may be that there is nothing exactly to fit that word.

Lord WATSON:—There is no question between majority and minority or anything of that kind.

Sir HORACE DAVEY:—It was the right of every body of religionists to maintain schools at their own cost.

Lord WATSON:—The natural meaning of the word "privilege" means some exceptional favour shown to an individual or a class—an exceptional right belonging to an individual or a class, but there is no privilege of that kind in educational matters so far as regards the denominational schools existing at and before the union.

Sir HORACE DAVEY:—Privilege, strictly speaking, it was not, but it was in this sense, that it was the right of every body of religionists to maintain a school of their own denomination for the education of their own scholars.

Lord WATSON:—It was an equal right and equal privilege of every person.

Sir HORACE DAVEY:—Observe how this learned judge goes on in this imaginary conversation between the non-catholic majority and the catholic minority. I will read it again "You have the privilege of having your schools, we leave you that provided you aid us to maintain ours." Well I have commented on that. "You cannot send your children to our schools, but we do not oblige you to do so: all that we ask is that you pay for instructing ours." Well really, if it were not used by the learned judge, I should say that is a parody of the argument. No such argument was addressed to this board and the majority do not say anything of the kind. We say: We provide schools for the whole body which you can send your children to if you think fit to do so; if you have conscientious scruples about it we cannot help it, but we must legislate for the greatest happiness of the greatest number, and we provide public schools to which all have access; if any have conscientious scruples about using them we cannot help it.

Lord MORRIS:—What objection do you take to that statement of the learned judge?

Sir HORACE DAVEY:—He says "Vous ne pouvez envoyer vos enfants à nos écoles."—"You cannot send your children to our schools." I say you can send them to our schools if you like; they are open to all.

Lord MORRIS:—He does not mean that physically you cannot.

Sir HORACE DAVEY:—If he does not mean that, then the argument loses its force.

Lord MORRIS:—I do not think so.

Sir HORACE DAVEY:—The argument loses all its force if you do not mean that.

Lord MORRIS:—Nobody suggests that they could not be physically sent there.

Sir HORACE DAVEY:—Then it is a parody of the argument to say: "You cannot send your children to our schools, but we do not compel you to do that, all that we ask is that you pay to instruct our children." We do not ask you to instruct our children but we ask you to pay to instruct the whole of the children of the province.

Lord MORRIS :—So far from being a parody it strikes me as being literally the truth.

Sir HORACE DAVEY :—I am afraid I cannot repeat what I have said.

Lord MORRIS :—I did not like to allow it to pass by without saying that.

Sir HORACE DAVEY :—It is using language in two senses. If it was used in the sense in which it may be said to be true, then it is irrelevant, and it is only relevant if used in the sense in which it is not true. "I seek in vain in the proceedings the evidence that that was the custom before the union, &c., &c. (Reading to the words on page , line 32.) "And that the whole was then regulated by practice and by practice alone."

Lord WATSON :—You are not maintaining that by "practice" there is meant practice constituting law?

Sir HORACE DAVEY :—No.

Lord WATSON :—Because I think there is a good deal of light thrown on the meaning of the word "practice" by its being used in distinct contradistinction to law.

Sir HORACE DAVEY :—I submit, as one of the learned judges says, it is rights and privileges secured by positive law; that is to say, by some ordinance or statute, or, although not secured by law, yet *de facto* existing at the time.

Lord WATSON :—When a man has a right or privilege by law, you generally find that he can defend that right or privilege; but whether he can when he has a right or privilege which has not the force of law, I think is more than doubtful.

Lord SHAND :—I do not think any judge of the whole of the judges who have dealt with the case, puts it any higher than you said, that it means the state of things existing at the time as a matter of fact.

Sir HORACE DAVEY :—The *status quo*.

Lord WATSON :—A right or privilege derived from a custom or practice that has the force of law is as capable of being defended, if it is invaded, as a right entirely arising from law itself; but when it depends on practice not having the force of law, I think it follows that it is not necessarily a practice which is capable of being defended.

Sir HORACE DAVEY :—I have conceded that the case goes beyond anything like prescription, and that it includes the *status quo*; and the whole of my argument is addressed to what was the *status quo*.

Lord WATSON :—It may be that the practice did not exist, although it is defensible if invaded.

Sir HORACE DAVEY :—It was the preservation of the *status quo*, or rather, I ought to put it in the other way. What was conferred upon the province, according to my argument, was the right to establish a system of public education in the public schools in the province, and to tax the inhabitants of the province for the maintenance of such schools consistently with preserving the *status quo* of the denominational schools. "The defendant corporation and the attorney-general while they recognize in the minority, the abstract right to have these schools would prejudice the free exercise of it," &c. [Reading to the words] "And moreover, not only the private property of each catholic taxpayer, but each school house, even of catholic schools, and all property dedicated to the ends of the education of their children by catholics are taxable for the maintenance of free schools." Now he goes as far as confiscation. "The statute by section 179 goes as far as confiscating for the profit of the free schools in certain cases, the scholastic property of the Roman catholic minority." This is the most extraordinary argument ever used in a court of justice. Remember that by the legislation of 1871, all schools were public schools, some catholic and some protestant, but they were all public schools. In sections 178 and 179 of the Schools Act of 1890, it provides that the public property should remain the public property of the new school board, and it says this: "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

Manitoba School Acts.

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." That is to say, that if in a protestant school district there is a debt beyond the amount of the assets of the school district, the catholics are exempted from any taxes for payment of that indebtedness. That is for the benefit of the catholics. Then section 179 provides:—"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 district 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." That is to say, when the act comes into force the public property, which up to that time has been appropriated to a catholic district, shall cease to be so appropriated. That is, of course, the scheme of the act, and that is what this learned judge calls the confiscation of the school property of the catholic minority. It never belonged to the catholic minority.

Lord WATSON:—They seem to have been the public schools of that denominational system.

Sir HORACE DAVEY:—Certainly, but the property is public property.

Lord SHAND:—Apparently the protestant schools were treated exactly on the same principle.

Sir HORACE DAVEY:—Exactly. "I am of opinion that this legislation is prejudicial to the rights and privileges which this minority enjoyed before the union, and consequently is *ultra vires*. It is possible, says the respondent, that this legislation may prejudicially affect the rights of the minority," &c., &c. (Reading to the words at the end of the judgment), "I am of opinion that the appeal should be allowed."

Now, my lords, in the course of the argument I think I have said what I have to say in answer to this learned judge and it would be inexcusable to trouble you at greater length. My submission may be summed up in one word, that the scheme of the act is to give the legislature of Manitoba full power to make such provisions as it thinks fit for public education throughout the province, whether sectarian or non-sectarian, supported by public money, and to make taxes for that purpose, provided that it leaves untouched the right of each community to support its own schools and to maintain its own schools for the education of its own scholars; and if I repeated myself for another hour I could not carry my argument further than that proposition.

Now, my lords, a few words as to the other appeal which is also before your lordships. My lords, I have told you that this appeal arises out of a proceeding by a gentleman named Logan, and Mr. Logan supported his appeal by an affidavit of the bishop of Rupert's Land, and his own affidavit; and I will ask your lordships' attention to the affidavit of the bishop of Rupert's Land, on page 4 of the record in this appeal. This most reverend person says that in 1865 he was appointed by the crown bishop of Rupert's Land. "The diocese of Rupert's Land in 1865 covered the whole of the North-west Territories of Canada, the district of Keewatin, the present province of Manitoba and that portion of the westerly part of the province of Ontario lying westerly of the height of land and running between Rat Portage and Port Arthur. Subsequently the diocese was sub-divided into eight bishoprics, one of which, still known as Rupert's Land, consists of the province of Manitoba and that portion of the province of Ontario referred to above;" and he says he is the

bishop of that smaller diocese and metropolitan of the whole province. "Upon my arrival in the diocese in 1865, I found there existed a great want of schools for the education of the youth" &c., &c. (Reading to the words at page 6 line 40.) "Of these over 6,000 were Roman catholic, and nearly 5,000 were members of the church of England; the rest were chiefly presbyterians with a few of other denominations." I believe that those numbers are not acquiesced in. "The Christians residing in this province, as above set forth, resided in what was known as the Red River Settlement, and would practically be included in an area not exceeding 60 miles from the city of Winnipeg. In the year 1871, when the first Public Schools Act of Manitoba was passed, I joined heartily with the provincial executive in endeavouring to carry into effect the school law then enacted, believing that under that act public schools could be carried on giving such religious instruction as would be satisfactory to the members of the church of England and to myself."

Lord SHAND:—The act there referred to would be clearly for denominational schools. "I joined heartily with the provincial executive in endeavouring to carry into effect the school law then enacted, believing that under that act"——

Sir HORACE DAVEY:—Yes, but only as between protestants and catholics, only two classes of schools.

Lord SHAND:—I know that.

Sir HORACE DAVEY:—But it imposed taxation on presbyterians for the support of church of England schools, presbyterian or Jewish schools.

Lord HANNEN:—Was there any provision for Jewish schools?

Sir HORACE DAVEY:—I do not know that there was any in fact.

Lord HANNEN:—They do not seem to regard that, "But many of the members of the protestant section of the board of education did not hold the same views as myself," &c., &c. [Reading down to.....] "Then I claim that the church of England is peculiarly entitled to such separate schools."

Lord SHAND:—What does that act mean; does that mean that there is to be an endowment?

Sir HORACE DAVEY:—No, it means separate schools, that is to say, Roman catholic or church of England schools are each entitled to exemption from the support of the public schools. Of course, if the Roman catholics and the church of England and the presbyterians, and if there be any other set of protestant Christians in Manitoba—all claim exemption, what becomes of the public school system? "As far as I have had any influence, I have always endeavoured to influence public opinion and the legislature," &c. [Reads down to.....] "The children of parents of the church of England have been prejudicially affected." What presses one is that if this gentleman is right and the Roman catholic archbishop is right, between them they have such an enormous majority in Manitoba.

Lord SHAND:—As to that paragraph you have just read, it rather confirms what I have read.

Lord MORRIS:—That was in 1870. I should have thought the majority has shifted.

Sir HORACE DAVEY:—Between them the members of the church of England and the Roman catholics have a majority, one would think.

Lord SHAND:—What I was observing in this paragraph is, it is not a claim for exemption from the general taxation, but for a claim that he shall have re-establishment of denominational influence.

Sir HORACE DAVEY:—As I said in the other case, the privilege, if any, would be immunity from the taxation for the support of public schools. "Before the act of 1890 was passed I expressed my views on the schools question." I do not know that I need read this: "One of the schools conducted by the church of England as hereinbefore mentioned was situate in the parish of St. John's," &c. [Reads down to.....] "In no way supported or aided by funds raised by general rates or taxation." Then Mr. Logan says in paragraph 13 of his affidavit, that he has three children of school age, and that he claims the right to have "My children taught religious exercises in school according to the tenets of the church of England, and I claim that such right was secured to me and other members of the church of England at the time of the said union by the provisions of the Manitoba Act"—undoubtedly, at his own

Manitoba School Acts.

expense—"I do not approve of the manner in which religious exercises are taught in schools where they are so taught under the provisions of the Public Schools Act, and I claim that the tax for the support of schools, imposed upon me by said by-law and pursuant to said Public Schools Act, or by any other act of the legislature, by which I am compelled to contribute for the support of schools not under the control of the church of England, prejudicially affects my rights as a member of the church of England, and if compelled to pay such tax I and other members of the church of England are less able to support schools in which religious exercises and teachings in accordance with our form of worship could be conducted." Then, a gentleman of the name of Hayward makes an affidavit to the same effect, and there are on page 13 regulations of the advisory board regarding religious exercises in public schools. I think I drew your lordships' attention to that in the course of the argument.

Lord SHAND:—It says there: "The following selections from the authorized English version of the Bible or the Douay version of the Bible." That is for the direction of the teacher. I suppose.

Sir HORACE DAVEY:—Yes. Then Professor Bryce makes an affidavit.

Lord WATSON:—It is all about what has happened since 1870.

Sir HORACE DAVEY:—Yes. I do not propose to read it. This case came before the chief justice, and it was decided before the chief justice, Mr. Justice Dubuc, and Mr. Justice Bain, and it was decided upon the authority of the previous case. The only point, which apparently was argued, was whether the members of the church of England were the class of persons within sub-section 1 of section 22, that is to say, whether you interpret the class of persons by reference to sub-section 2 and was the only class contemplated—catholics on the one side and protestants on the other; in other words, making only two categories or classes of persons. What they held there was this: The argument on page 23 is, that the Roman catholics had, at the time of the union, denominational schools in this province. That is in Barrett's case.

Lord WATSON:—They decided in that case, the cases were on the same question, and one was *res judicata* in the other.

Sir HORACE DAVEY:—The words are "any class of persons," and if Roman catholics are a class of persons I cannot see any valid argument that I could address to your lordships for the purpose of showing that the members of the church of England are not.

Lord SHAND:—I see Chief Justice Dubuc concurred in this case.

Sir HORACE DAVEY:—Because the decision was the way he would have liked to decide the others.

Lord SHAND:—I see it is the supreme court who decided.

Sir HORACE DAVEY:—That is why.

Lord MORRIS:—They were obliged to follow the decision of the superior court.

Sir HORACE DAVEY:—It was according to his own view. The chief justice and Mr. Justice Bain were constrained by the authorities of the superior court to decide contrary to their own opinion.

Lord SHAND:—Does that come from the queen's bench?

Sir HORACE DAVEY:—Yes, your lordship knows we require special leave to appeal from the supreme court in Canada, and it was a case in which leave was properly granted. But in truth we could have appealed Logan's case alone, and then impliedly appealed Barrett's case, but it was thought better that Barrett's case should come before your lordships. Now, my lords, just conceive; I cannot, I confess, draw any valid distinction between Logan's case and Barrett's case, because I think it is inadmissible to say that because sub-section 2 speaks of only two categories, therefore you must interpret the words "any class of persons" in sub-section 1, and confine that to the same category. It does not appear to me that that is reasonable from the language of the section, and I for one should not be prepared to support that at your lordships' bar.

Lord MORRIS:—What was the practice at the passing of that act in 1870?

Sir HORACE DAVEY:—The bishop of Rupert's Land says that the practice was that there were denominational church of England schools. That is what he says, and that seems to have been accepted.

Lord SHAND :—That is expressly sworn to, that they were all English church schools, and that they were so conducted.

Sir HORACE DAVEY :—So I understood the bishop's affidavit.

Lord SHAND :—It is very distinct in that affidavit.

Sir HORACE DAVEY :—I understand the bishop's affidavit to be to the effect that there were denominational church of England schools maintained by members of the church of England, and under the general supervision of the clergy and himself as bishop, and in which children were taught the English church catechism, and brought up according to the tenets of the church of England. If that is so, my lords, I am unable to see why the members of the church of England are not a class of persons whose rights and privileges, as they existed by practice at the time of the union were preserved just as much as the Roman catholics; and it seems to me inadmissible to say that there are only two categories in sub-section 1, because sub-section 2, which my learned friend contends has a larger sweep, refers only to two categories. Well, if that be so, just consider where the legislature of Manitoba, if those judgments are correct, is landed. They may not raise any general school rate for the maintenance of schools to which all have by law the right of going, because it is said that is contrary to the rights of the denomination. It is taxing members of the church of England for the maintenance of schools which are not denominational schools of the church of England, and it is taxing Roman catholics for the maintenance of schools to which they object to send their children, although they have by law the right to send them there. And it appears it is equally objectionable to tax the members of the protestant community, as was done under the act of 1871, for the maintenance of protestant schools, because the bishop has the right to say, as he does in his affidavit, that although he hopes for a better time, he is disappointed; and the members of the church of England have a right to say "We have a right to have schools under the control of the church of England, and therefore we object to pay taxes for the maintenance of schools under the control of presbyterian, or for teaching presbyterian tenets, and not the tenets of the church of England." And I do not see, as I have already said, how, if you carry the rights and privileges existing before the union to that extent, you can tax, that is, compel any class of persons to pay for education at all, because their right and privilege was to maintain their own schools with their own funds, and there was no power of imposing a compulsory tax, or constraining the members of any religious body—I use it in its proper sense—constraining them to contribute ratably towards the maintenance of their own schools, any more than there was to other schools. The right and privilege, if it did exist at all, was a right and privilege to be exempt from all taxation for school purposes. Now you have only before you members of the church of England and members of the Roman catholic church.

Lord MORRIS :—Is not there this difference between them: Does not the archbishop in the case of the Roman catholic church swear that by reason of the tenets of the church of England they cannot go to these schools?

Sir HORACE DAVEY :—Yes.

Lord MORRIS :—Very well, and the church of England does the same sort of thing.

Sir HORACE DAVEY :—What difference can that make?

Lord MORRIS :—I should think a good deal, because one is a matter of individual opinion.

Sir HORACE DAVEY :—So is the other. If they are members of the Roman catholic church they must agree with the tenets of the church of Rome. The archbishop of the church of England does not say it is a tenet of the church of England that a member of the church of England should not attend a Roman catholic church. It only means that is an opinion entertained by the Roman catholic church.

Lord MORRIS :—I beg your pardon. I do not find it.

Sir HORACE DAVEY :—When you say it is a tenet of the Roman catholic church, all you mean is that that is the opinion entertained, and conscientiously entertained, and the conviction entertained by members of that church. That is what you mean. It is only matter of opinion.

Manitoba School Acts.

Lord MORRIS:—All the members of the church of England entertain the same opinion as the archbishop does.

Sir HORACE DAVEY:—I do not think he says so. I venture humbly to remark that it does not seem to me to make any difference.

Lord WATSON:—It has been in my mind to ask you for some time whether in any view the case is not narrowed a little by another element being introduced. I am merely assuming so. In the case of Logan, he says that at the time of the union there were denominational schools. He does not say he has any child attending school now.

Sir HORACE DAVEY:—Yes, in paragraph 13.

Lord WATSON:—Oh, he does?

Sir HORACE DAVEY:—“I have at the present time three children of school age, namely: one of the age of 14 years, one of the age of 11 years, and one of the age of 5 years.”

Lord WATSON:—That is what I meant. What does it state in the other case? I do not think Mr. Barrett says anything about it?

Sir HORACE DAVEY:—No, he objects to being taxed. He says it is his right not to be taxed.

Lord WATSON:—What is the meaning of the “class of persons?” What is the meaning of the statute?

Sir HORACE DAVEY:—The class of persons is a body of individuals having one and the same characteristic.

Lord WATSON:—A person who is maintaining children of a denominational school desires to send his children to an independent school, his own denomination. He does not get any support for it, and, therefore, he has got to pay double. But is the member of a denominational sect, who neither sends his child to school, and who has no children in the denominational school, to support them?

Mr. McCARTHY:—He has children.

Sir HORACE DAVEY:—Mr. Barrett, as a matter of fact, has children at the school.

Lord MORRIS:—You may be sure they took good pains to select a person who had.

Sir HORACE DAVEY:—No doubt the Dominion took care to select a good plaintiff. I suppose my learned friend says that the class are the Roman catholics, members of the church of England, members of the presbyterian church, and any other church, if there are any other bodies.

Lord WATSON:—Take a colony of single people—bachelors. What is their position?

Sir HORACE DAVEY:—That is what I venture to put before your lordships—that when you look at it, and analyse it, and see what the right and privilege, if any by law and practice really was, it was the privilege of immunity from any taxation at all for school purposes—that is their being compelled to pay anything for school purposes.

Lord MORRIS:—The act is not of general application. It only applies to that time.

Sir HORACE DAVEY:—The class of persons is any aggregation of individuals. The rights of the class are only the rights of individuals who compose the class. It is not a corporation. The class is only an aggregation of individuals, and you must look at the rights of the individuals in order to ascertain the rights of the class, and the rights, if any, of immunity from taxation for school purposes. I venture to think that Logan's appeal is unanswerable on the principle of Barrett's case. Your lordships may have before you a presbyterian who objects—who has a conscientious objection to support church of England schools which are tainted with the sin of prelacy; and you may have before you a wesleyan—I do not think there are any, but there may be. It may be shocking to a presbyterian to maintain schools in which children are taught the pernicious doctrine connected with prelacy and pro-atarial doctrines, and I see no end to it. If so, what becomes of the power which undoubtedly exists in the legislature of taxing for school purposes?

Lord MORRIS:—I suppose if the majority had been the other way, and if the schools had all been turned into Roman catholic schools, I suppose the presbyterian element would have had the same cause of complaint. I should say so, certainly. The presbyterians are then in the minority:

Sir HORACE DAVEY:—And therefore the state wisely—I will not say in my opinion, but in my submission—wisely holds an even hand, and says: “We will maintain schools; we will outroot the curse of ignorance; we will do our duty as a government by maintaining schools without fear, favour or affection to any individual sect and to aid all your children if you like. But if you do not choose to come, then we will leave you as free as you were before the union, to provide your own education in your own way.”

That is the theory which I submit is the effect of these acts, and is one which I venture to say will do justice between all parties.

Mr. McCARTHY:—If I venture to add anything to my learned leader's very full argument on this question, it is on account of its great importance to the province that in point of fact I represent with Sir Horace Davey in this case, for it is a contest between the province on the one part and, as Sir Horace Davey states, also between the Dominion authorities (although they do not appear of course on the record) on the other part; and a contest in which it is not too much to say that the peace and welfare and good government of the province is very largely concerned.

Lord WATSON:—I was following the question I put to Sir Horace Davey. The Manitoba Act appears to confine the right or privilege which is pleaded here to the class of persons who are claiming that right or privilege “with respect to denominational schools.” Now, do you conceive it must have been very much accepted as a matter of course in the opinions of some of the judges in the court below that the schools with which they are connected are really denominational schools within the sense of that clause?

Mr. McCARTHY:—Your lordship means the earlier schools—the schools before 1871?

Lord WATSON:—No, I mean the two schools with which Mr. Barrett and Mr. Logan are respectively connected.

Mr. McCARTHY:—We entirely repudiate that the schools established by the act of 1890 are denominational schools.

Lord WATSON:—I do not know that that will be disputed, that the right or privilege must be a right or privilege with respect to a denominational school within the meaning of section 22 of the act. What they have to show is that they have a privilege with respect to denominational schools which is affected.

Lord SHAND:—Prior to 1870.

Lord WATSON:—That is a denominational school within the meaning of this act. Do you think the schools with which they are connected are schools denominational in this sense only, that whilst they are established, partly supported by the state and partly by the province, and partly supported by the grant from the government, they are in a certain sense denominational as regards the Dominion? If they are not as regards religious denomination, then they are not denominational.

Mr. McCARTHY:—All we can say to that is that certainly if the advisory board have attempted to introduce any denominational teaching, it is in direct violation of the object of the statute.

Lord SHAND:—I should expect that the act of 1890 does not introduce anything denominational.

Mr. McCARTHY:—Non-denominational and non-sectarian.

Lord SHAND:—And several judges have said that these schools are not denominational.

Mr. McCARTHY:—I do not think any judge holds that these schools are denominational.

Lord WATSON:—The schools of 1871 were in a different position. They were superseded. Then I do not find a word here that any person has set up a denominational school and is complaining of injury to that school.

Mr. McCARTHY:—No, my lord, there is nothing of the kind, and that is just what I point out.

Manitoha School Acts.

Lord WATSON:—That to my mind is rather a serious question in this case, and one of the questions we must consider, but of course they may say that that is a present system which prevents their setting up denominational schools.

Mr. McCARTHY:—That appears to me to be perhaps one error, if I may venture to say so, that runs through the judgments—a common error that we are opposing here.

Lord WATSON:—According to my view, the case would be rested very plainly upon the act, if a small community set up a school of their own and paid for it—the only denominational school, such as might have existed before 1870, and then if they could show that this act in any way interfered with that—if they said “Our interest in that school has been injuriously affected.”

Lord SHAND:—I think it practically comes to this, that the intermediate legislature has nothing to do with this question.

Mr. McCARTHY:—Except as illustrating different views.

Lord SHAND:—That is an illustration. It really comes to this: Suppose there had been no denominational school between 1870 and now, people might still come forward and say we now insist on our privilege because we had schools before 1870, and we desire to re-establish them, and your legislation enforces that.

Mr. McCARTHY:—I do not think that would interfere with that—150,000 would be tied down by what the people in the first instance said, when there were only 15,000 to 20,000 as the bishop states.

Lord MORRIS:—They are bound by the same fetters by which the 100,000 people got the advantage of becoming a part of the general community. Therefore there is no question of 150,000 or 15,000.

Mr. McCARTHY:—All I meant was that they would not be tied down by what happened in the meantime.

Lord MORRIS:—It would show the action that was taken. I think it most material.

Mr. McCARTHY:—I was just going to mention the difference which your lordships will find in the British North America Act itself, which it is very important, as it seems to me, to get clearly before the board in the discussion. There was in the province of Upper Canada and that part of Canada which is Upper Canada, a system of schools known as separate schools,—a system which had been established after a very long and bitter contest between the Roman catholic section of the population, and a portion, not all, of the protestants, because others belong to the church of England as the bishop's affidavit shows. Their view always was, as in the other provinces of Canada, just as he holds still, that the church of England ought to have separate schools in which its own denominational doctrines would be taught. Then in the province of Quebec, where the Roman catholics were in a large majority, there were what were known as dissentient schools. The difference between the two was this, Ontario, as it is now, after 1863, any number of catholics living in a particular district, in a particular school section, the whole country being divided into school sections, that is, the townships being subdivided into school sections,—any particular number of Roman catholics, I think the minimum was 5, could make application for the establishment of a separate school which would be a Roman catholic school and from the establishment of that separate school all those who annually chose to serve a notice on the official officer, the municipal officer, became exempt from the support of public schools and became liable to the support of the separate school. Therefore there were two school corporations existing wherever those who were entitled to establish separate schools asserted that right. In Lower Canada, on the other hand, the great majority of the schools were Roman catholic and the protestant minority might object.

Lord WATSON:—Were they divided into school districts?

Mr. McCARTHY:—Yes, divided into school districts in the same way.

Lord WATSON:—In fact the whole province was divided.

Mr. McCARTHY:—Yes, but the school law was different. The school law which applied to Upper Canada, did not apply to Lower Canada except in this, that those who dissented, as Mr. Justice Killam shows, claimed the right to withdraw the contribution to the school which was, in point of fact, a denominational school, a school

which was a Roman catholic school, whereas in Upper Canada the schools were schools in which nothing more was taught than in the Public Schools Act which is now in force in the province of Manitoba.

Lord SHAND :—Am I right in considering Justice Killam as giving a full account of what you are saying ?

Mr. McCARTHY :—Yes, an accurate account. The right of legislating in respect of schools which was contemplated in the scheme of the British North America Act was conferred on the provinces, but we do not find it in section 91 because owing to this contest about the right of separate schools it had to be limited and was limited by the language which your lordships will find in section 93 of the British North America Act. Now the first section to that preserves the right to denominational schools. I want to draw the distinction between denominational schools and the separate schools. It preserved the right to the denominational school. The second section adopts the law of Upper Canada as to separate schools and applies it to the province of Quebec which was then formed to form a province of Lower Canada. That is, the right of the Roman catholic minority in the province of Upper Canada being greater and more formally established than the right of the protestant minority in Quebec.

Lord WATSON :—Does that give the protestants in Canada the right when their number was a certain amount to demand a separate school which they supported ?

Mr. McCARTHY :—Yes, putting the two provinces of Lower and Upper Canada upon the same basis. Section 2 deals with Upper and Lower Canada, Quebec and Ontario. Section 1, however, dealt with the whole four provinces: New Brunswick, Nova Scotia, as well as Canada, and if rights were in existence in the province of New Brunswick and Nova Scotia, they were preserved by sub-section 1. Then sub-section 3 clearly points out the distinction between the system of separate and dissentient schools and the right or privilege of having denominational schools. "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 appeal shall lie," and so on, so that here at the time of confederation we find the four provinces dealt with upon that basis. Upper and Lower Canada were specially provided for. The other provinces had the general enactment of sub-section 1 and sub-section 3 followed by sub-section 4. As a fact, however, neither in Nova Scotia nor in New Brunswick had they any denominational schools; and therefore, so far as these provinces were concerned the limitation upon power as to education did not apply.

Lord SHAND :—Do you mean that those words "any right or privilege with respect to denominational schools" did not cover any right or privilege in New Brunswick or Nova Scotia ?

Mr. McCARTHY :—Because they did not exist.

Lord SHAND :—So that these words "affecting any right or privilege" had no meaning with respect to the two provinces although used with regard to them in the statute ?

Lord HANNEN :—And that before Manitoba was introduced under the act ?

Mr. McCARTHY :—By this section, 146, the Dominion was to take in the province of Newfoundland, Prince Edward Island and British Columbia, and also it was assumed Rupert's Land, and the North-west Territories would be acquired and would be ultimately divided into provinces, just as the north-western states have been divided into states. And provision was made for taking in these various provinces, and accordingly they were taken, British Columbia first, if my memory serves me right, in 1871, and Prince Edward Island. There the general words applied no limitation at all. This clause 92 or 93 was made applicable to British Columbia, and in 1873 Prince Edward Island was taken in. This clause was also made applicable to British Columbia or Prince Edward Island but in neither of these provinces were there any denominational rights, nor has it been so pretended in respect of schools to be protected or reserved, but the scheme was to apply to the provinces, as they came in, the general terms of the British North America Act, where there were not special circumstances which rendered some other language or some other legislation necessary. Now applying that to the province of Manitoba your lordships have observed that there is the difference by the words "by practice" upon which all

Manitoba School Acts.

this controversy turns. There is another thing to be noted in it, and that is that parliament, it is quite clear, did not propose or intend to say that the province of Manitoba should have separate schools. If they had proposed that, nothing was easier than to say it. It was perfectly well known. The controversy was only 7 years old—the settlement of it rather—it was in 1863. Then in 1871 this act was passed. They have the British North America Act before them. They copy the words from the British North America Act into this particular section—almost the very words of it, but they carefully omit the imposition which we find provided for by sub-section 2 in the constitution which is conferred upon the province of Manitoba. I will point out by and bye that unless, as it seems to me with deference, this board came to the conclusion that separate schools have been established which is, in point of fact, the view taken by two at least of the judges of the supreme court—unless a system of separate schools has been established, that this appeal should succeed. Then another thing is to be noted showing that at this time when the controversy—when the embers of it still existed, at all events—they did not give the province of Manitoba or to the possible minority of that province, whatever it might be, the right which is conferred by sub-section 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.” Clearly, in Nova Scotia, New Brunswick and these other provinces, if at any time the legislature established a system of separate schools it thereby becomes a vested right which cannot be taken away, but, for some reason or another, the parliament of Canada did not confer that right upon the possible minority whatever the minority was ultimately to be.

Lord WATSON:—I think there is some considerable question. I do not think that is a clear point at all, that section 3 does not apply.

Mr. McCARTHY:—I was treating it for the moment as clear, because all the judges below have taken that view. The assumption, of course, in support of it not applying is that the rest of 92 has been applied in its own language, not of course, my lords, in express terms.

Lord SHAND:—It is very difficult to run the two sections into each other in regard to Manitoba.

Lord WATSON:—If they were to do what they have not done, there might be a question for establishing separate schools.

Mr. McCARTHY:—With great deference, it has always been thought that section 2 was to be in substitution for sub-section 3; and it is contended on the other side that the appeal is more on section 2 than it is on section 3.

Lord SHAND:—I understand in the case where separate schools were introduced the person subscribing to those schools got rid of the Public School Act.

Mr. McCARTHY:—Just so, and then became liable to a separate school rate. He could not, however, free himself from contribution to the educational fund, but he subscribed to one fund instead of another.

Lord WATSON:—Section 3 is really included in section 3 of the Manitoba Act.

Mr. McCARTHY:—Sections 3 and 4 are the identical sections. Your lordships will find that on page 4 of the Record in parallel columns.

Lord WATSON:—Assuming that they had done what they had power to do—the constitution of Manitoba I mean—if they were establishing separate and dissentient schools—a system of separate or dissentient schools, then their acts with regard to these schools might come under section 3.

Mr. McCARTHY:—That is what I was venturing to contend could not be done, because your lordships will see section 3 of the first act, the British North America Act, is re-enacted, or is partially re-enacted in section 2. So I think it is strong evidence that parliament intended to substitute so much of section 2, or to put section 2, which applied differently, in place of section 3.

Lord SHAND:—Am I right in thinking that what you are saying now is directed for the purpose of showing that Manitoba was treated in a separate way on its own basis?

Mr. McCARTHY:—My contention is that you have got to look at the whole scheme of legislation in connection with the constitutional system. You will look to see what was the intention with regard to education of the first four provinces.

We find that carried out with regard to the other two provinces. We find it carried out with variations, which must have full effect given to them in the province of Manitoba. We find that these words have no application. That will be my first argument. That it is not necessary to show there was any privilege. There was not any.

Lord SHAND:—You read the clause in this way: “Nothing in any such law shall prejudicially affect,” and so on, but “if in any such case,” and I see a number of the judges so put it.

[Adjourned for a short time.]

Mr. McCARTHY:—If I might be permitted perhaps to use the early legislation of Manitoba as illustrating the difference between the separate schools and the denominational schools properly so called, I think the first act of Manitoba, that of 1871, at page 39, might fairly enough be said to be a statute constituting denominational schools, but not separate schools. There the school board is divided into two sections, protestant and catholic. Each section has control over the books, and so on, to be used except in connection with religion and morals, but as to religion and morals they are left to the clergymen of the different denominations.

Lord WATSON:—They seem rather to be state schools, but each school to be a denominational school, leaving that to the determination of the local authorities.

Mr. McCARTHY:—No, pardon me, the act specially defines the sections which are to be catholic and protestant. Then there is not to be a separate school without the consent of the section. It is a denominational school under the act. It says it may “select books, maps and globes to be used in the common schools, due regard being had in such selections to the choice of English books.”

Lord WATSON:—It is a state school in this sense, that the legislature provides that it shall be erected and means provided for it.

Sir RICHARD COUCH:—The schools are to be supported by an assessment on the property?

Mr. McCARTHY:—That is only if they pleased. That was not compulsory in the original act of 1871.

Sir RICHARD COUCH:—They may decide whether they shall do it by assessment or not.

Mr. McCARTHY:—Yes.

Lord WATSON:—It receives state aid?

Mr. McCARTHY:—Yes, and that was the main support. Whether they should have any additional support or not depended on the trustees of the different sections.

Lord WATSON:—It was really a denominational state school?

Mr. McCARTHY:—Yes, “But the authority hereby given is not to extend to the selection of books having reference to religion or morals, the selection of such books being regulated by a subsequent clause of this act.” The subsequent clause of the act which regulates that says this—section 12:—“It shall not prescribe such of the books to be used in the schools of the section as have reference to religion or morals”—it is evidently a misprint of “shall.” Then we come to the act of 1884. There we get for the first time Manitoba separate schools. It is at page 72. There there is provision made for separate schools. There was the earlier system of 1881, which is state denominational. Then there is the act of 1884 which for the first time introduces the principle of a system of separate schools, and then we have the act of 1890 and 1891 which is now in question.

Lord WATSON:—By a system of separate schools you mean permitting persons of a particular religious denomination within a school district to set up a school?

Mr. McCARTHY:—Yes.

Lord WATSON:—Does it go as far as the other? Were they relieved of any expense of the burden of supporting?

Mr. McCARTHY:—Yes, adopting the Ontario system.

Lord SHAND:—I do not think Sir Horace referred to the act of 1884.

Lord MORRIS:—What do you say the act of 1884 did? Did it advance on the act of 1881?

Lord WATSON:—It introduced into Manitoba the separate schools of a parish.

Manitoba School Acts.

Mr. McCARTHY:—Perhaps I should say the act of 1881, not of 1884. It is the act of 1881, page 42. The act of 1884 is an amendment of the act of 1881.

Lord MORRIS:—That provides for a board of two sections, protestant and Roman catholic.

Mr. McCARTHY:—That was so from the first. The difference made by the act of 1881 was that it permitted separate schools in the district.

Lord SHAND:—Which is the clause which you say introduced what you call separate schools?

Mr. McCARTHY:—Your lordships will see the different clauses on that point are 12, at page 44.

Lord MORRIS:—What do you deduce from this? In none of these acts, up to the act of 1890, do they interfere in any way with the denominational system.

Mr. McCARTHY:—That, of course, depends on the construction put upon those words. According to our view, all these acts are *ultra vires*.

Lord MORRIS:—Did any of them conflict injuriously with what is called the denominational system as contrasted with the non-sectarian system?

Mr. McCARTHY:—If Sir Horace Davey's argument is right that the exemption was against all taxation, then of course they did.

Lord MORRIS:—As contrasting denominational schools with non-sectarian schools, did they in any way cut in upon the denominational schools to their disadvantage?

Mr. McCARTHY:—No, I think not. I was only pointing out the difference. It was merely to show the distinction between the denominational schools and the separate schools.

Lord MORRIS:—The denominational schools could not complain that they were in any way injuriously affected.

Lord SHAND:—It seems to me that these acts were really compromises. Parties on both sides arranged them, both protestants and catholics. They look as if it were so. It may not be so. The effect is compromise.

The ATTORNEY-GENERAL:—It must not be taken that we assent to that.

Lord MORRIS:—As I understand, the denominational system existed *de facto* in the year 1870, it is not cut in upon or interfered with until the year 1890. Nothing follows from that except the fact.

Mr. McCARTHY:—The first point I desire to make, as I have already stated, is this: Bearing in mind the distinction between denominational schools, a system of separate schools, and the omission in the Manitoba Act to provide for a system of separate schools, I think the conclusion can fairly be drawn that the parliament of Canada did not intend to impose separate schools upon the new province, but left it for the new province to determine for itself as to its system of schools, preserving whatever vested rights there may have been at the time of the union, just as vested rights were preserved in all the other provinces, if any existed.

Lord MORRIS:—What were the vested rights in practice that were reserved?

Mr. McCARTHY:—I am coming to that as my next statement of fact. Now, it is a very reasonable question to ask, as the judges below did ask, what was intended by the word "practice." Why was the change made with regard to the province of Manitoba by the introduction of the word "practice"? We answer in the first place, whatever was intended by the introduction of these words, it was not intended to impose separate schools. We answer, in the second place, that it is not necessary to find any existing condition of affairs to which the words apply. All that was intended, as we submit, was that if there were any existing privileges in this new territory which is to be taken in and constitutes the province of Manitoba, either by law or practice, they should be preserved. Now, the condition of things in the province of Manitoba was this: Part of what was constituted the new province had been formed into a district called the district of Assiniboia, after the re-purchase by the Hudson's Bay Company from Lord Selkirk's heir of the property which had been sold to Lord Selkirk in the early part of the century. In that particular district, I believe, forming 50 miles round the confluence of the rivers—the Red river and the Assiniboia—round what is now the city of Winnipeg, a radius of 50 miles around it—there was a council established,

which council from 1834 onwards was in the habit of passing what might be called by-laws—I think they generally term them ordinances—meeting in council, generally annually, I think, once a year for that purpose, and as Sir Horace Davey mentioned, this council was not an elective body, but a body constituted by the Hudson's Bay Company, and had absolute powers of governing the territory conferred on them by the charter. Now it must be remembered that when the imperial act was passed handing over Rupert's Land to Canada, it was specially enacted that all the laws in force should continue to be in force recognizing to some extent those by-laws or ordinances which had been passed. Another portion of what is now the province of Manitoba was beyond the limits of this district of Assiniboia. It had a settlement in it. It is not a very large settlement, but a settlement just beyond the limits of Assiniboia and governed by the general laws which the Hudson's Bay Company enacted from time to time for the regulation of the affairs of Rupert's Land. Now there were laws recognized to some extent by the imperial statute, recognized by the Dominion statutes and recognized afterwards by the Manitoba statute—these laws of the district of Assiniboia. It is quite true there were no laws with regard to schools, but there were laws. Applying therefore this new constitution to the province of Manitoba, as Mr. Justice Bain says—and I adopt his reasoning upon that point—what could be more natural or proper than, in order that Manitoba should stand exactly in the same position as the other provinces with respect to any vested rights there might be as to education, that the word “practice” should be introduced? So that whatever rights or privileges in the other provinces they had by law, being organized provinces where they had for years and years exercised and had a system of laws, should not Manitoba, part of it, having had in some respects an organization also, some of it not being organized except on the Hudson's Bay—what could be more natural or reasonable I say—

Lord WATSON:—The words “or practice” were not introduced with special reference to education, but with reference to the fact that they had a very meagre system.

Mr. McCARTHY:—They might have had laws with regard to education. They might have had practices in Assiniboia or practices beyond Assiniboia with regard to their system of education which it would be very unfair to deprive them of, more especially as the people there were half-breeds.

Lord MORRIS:—As I understand your opponents, not alone that they might have had, but that they had.

Mr. McCARTHY:—I utterly deny that they had what you may call a system, while I do not dispute the fact that they had private schools here and there, some of which were in connection with the established church, some church of England, and some of the presbyterian church. There was nothing that can be called a system or in the nature of separate or dissentient schools.

Lord SHAND:—Have you a note of the passage of Mr. Justice Bain?

Mr. McCARTHY:—Page 75, “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.

Lord SHAND:—Does he go on to explain what he thinks was thereby introduced?

Mr. McCARTHY:—Yes, I will refer to Mr. Justice Bain's judgment afterwards. I want in the first place to make the point about the distinction between the denominational and separate schools clear. There were schools and colleges. There was a college in connection with the Roman catholic church at St. Boniface. There was also St. John's college, as we know now from the bishop's affidavit in the parish of St. John's, and there were, I think, four Roman catholic schools altogether at different places. Those were not separate schools but isolated schools, so to speak, the only

Manitoba School Acts.

schools in the particular places, the Roman catholic settlement being in one place and the protestant settlement being in another place, each having Roman catholic schools in connection with the Roman catholic religious faith. So that not to repeat what has been so often said, and so much better said than I can hope to say it, by Sir Horace Davey, there was not a system of schools preserved. There was no system of schools to preserve. The right whatever that right was in connection with these denominational schools was preserved and it may be a right of some value and some use may be made of it, but that is far different from saying, as the judges in the court below and particularly in the supreme court say, that a system of separate schools existed which system of separate schools has been interfered with, as it undoubtedly has been interfered with if it did exist, by the passage of the act of 1890.

Now, perhaps it might be convenient as reference has been made to Mr. Justice Bain's judgment, if I read it, though it does not differ very materially from the judgments which your lordships have already heard. The earlier part of the judgment merely gives the history of the legislation, which I need not take up your lordships' time by reading, and I commence at page 75, line 22 :—"The contention of the applicant is," etc. [Reading to the words at page 77 line 10.] "The advisory board is given power to prescribe forms of religious exercises to be used in the schools." I do not think I need trouble you with that. I do not think it will be contended here that these are denominational schools.

The ATTORNEY-GENERAL :—You must not assume that.

Lord SHAND :—I think it is at the basis of the argument of the other side.

Mr. McCARTHY :—Then I will read it. "The advisory board is given power to prescribe," &c. [Reading down to page 77 line 45.] "Controlled by the Roman catholic church and others by various protestant denominations." Then he quotes from a text writer on jurisprudence as to the meaning of the legal right, and he quotes the case which Sir Horace Davey referred to of *Fearon vs. Mitchell* as to the definition given of the right by the chief justice in that case and at line 29 [page 78] he continues :—"Had the words 'right or privilege' stood alone," &c. [Reading to the words at page 80, line 37.] "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." Perhaps I may just state here with regard to *exparte Renaud* that the facts in relation to it were these: There was a system of public schools called parish schools. They were intended to be and were in fact non-sectarian so far as the law went. But in settlements or districts where the Roman catholic population was in the majority they had been permitted to treat them as denominational schools, not by virtue of any law, but apparently in contravention of the existing law but acquiesced in by the minority in those several districts. The question there was whether the rights which they in that sense exercised were preserved to them not as separate schools, because I think the attorney-general is wrong when he insists that *exparte Renaud* raised the question of separate schools—the question was whether the right was preserved to them as denominational schools under the 1st sub-section of the British North America Act.

The ATTORNEY-GENERAL :—No; I said it might have been argued in that case.

Mr. McCARTHY :—"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," &c. (Reading to the words at page 82, line 10.) "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." I may just state here that I think that view is strengthened by this consideration, that with regard to the North-west Territories, that is the remaining portion of the Dominion not incorporated into the province, parliament has expressly given to them separate schools—in express terms.

Lord SHAND :—Do you mean by another act?

Mr. McCARTHY :—Another act that has not been referred to, the North-west Act.

Lord SHAND :—Is that since 1871?

Mr. McCARTHY :—Yes, since the Manitoba Act. I forget at the moment the date, but it has given it in express terms.

The ATTORNEY-GENERAL :—It is in 1875.

Mr. McCARTHY :—“It was well known what agitation and bitter ill-feeling the question had caused in Upper Canada,” &c. (Reading from page 82, line 10, down to end of Mr. Justice Bain’s judgment.)

Lord WATSON :—In reading over Mr. Barrett’s statement, the statement comes to this, and nothing else: There were schools established under the act of 1871. There was a school board; there was a body of trustees under that act—statutory trustees—one of whom was catholic, the other protestant. That continued. I sent my children to a school where they were taught practical denominational matters, and he says since the act of 1890 came into operation I still send my children to that state school as before. I make no complaint of the teaching, but then he says: “Inasmuch as I am called upon to pay the same rate with all, and that rate is indiscriminately applied to the maintenance within the district in which I live of schools in which denominational teaching to some extent is allowed, I am not getting fair-play, because if you were to take the sum from the catholics within the area of which I am one, you would find it is more than sufficient to pay for all the catholic scholars, and, therefore, part of the sum raised from the catholics goes to subsidize protestant children.” I can very well see this. The privilege must be a privilege according to the first sub-section in respect of a denominational school. It is a curious circumstance that under the act of 1890, the very school which he is using, and in respect of which he pleads a privilege as a denominational school, is not a denominational school. It is declared by this act to be a secular school, and he is availing himself of it. I can understand he would be in a different position altogether if he said: “I have an adventure school of my own—a denominational school such as existed before the act, not a state school, not a state regulated school.”

Mr. McCARTHY :—In fairness I think I ought to say what I think Mr. Barrett means, is this: My children were attending the separate school, the Roman catholic school, under the act of 1881. The act of 1890 has been passed, but we take no notice of it. The school goes on just as it did before.

The ATTORNEY-GENERAL :—And the same religious instruction? It is so stated in the affidavit.

Mr. McCARTHY :—He is going to the old school which existed under the act of 1881.

Lord WATSON :—The old denominational school; and we had a privilege there, and you simply take away that privilege.

Lord SHAND :—It all comes back to this: I have to pay a share of the general rate. He has got his school, and his child is there just as before, but he says: It is infringing a privilege of mine.

Mr. McCARTHY :—The difference is this, that prior to this act a portion of the public grant went to the support of that school.

Lord WATSON :—Was the school of 1881 in any sense a denominational school also?

Mr. McCARTHY :—It was a separate school—not only denominational but separate.

Lord MORRIS :—That is *a fortiori*.

Mr. McCARTHY :—Yes, I say so.

Lord MORRIS :—It was controlled by a Roman catholic body, and the atmosphere and surroundings of the education were Roman catholic.

Mr. McCARTHY :—Yes, it was a Roman catholic separate school.

Lord MORRIS :—You could not make it stronger than that.

Mr. McCARTHY :—No, I have looked with some curiosity to see on what ground and in what way the appellants or the respondent here supports his contention. The respondent’s own contention will be found at page 6 of his case, and he gives the reasons why this appeal should not succeed:—“Because the provisions of the Public School Act, 1890, prejudicially affect the rights and privileges of catholics in the province as they existed by law or practice at the date of the union.” That does not advance the argument very much. “Because catholics cannot conscientiously permit their children to attend the public schools as constituted and carried on under the said act.” Nor, do I venture to say, does that:—“Because by reason of

Manitoba School Acts.

the compulsory rate levied upon catholic ratepayers in support of the public schools, material impediments are cast in the way both of subscribing and of obtaining subscriptions in support of catholic denominational schools, and of setting up and maintaining the same, and the rights and privileges of catholics in reference thereto are thereby prejudicially affected. Because by the operation of the said act catholics are deprived of the system of catholic denominational schools as they existed at the date of the union, or are prejudicially affected in reference to such system. Because the public schools, as constituted by the said act, are or may be protestant denominational schools, and catholic ratepayers are by the said act compelled to contribute thereto." I pass over the fifth ground until I hear what the learned attorney-general has to say in support of it. So far none of the judges who considered the matter below take that view. The only ground here that is put forward as an argument is the third ground:—"Because by reason of the compulsory rate levied upon catholic ratepayers in support of public schools, material impediments are cast in the way both of subscribing and of obtaining subscriptions in support of catholic denominational schools."

Lord WATSON:—All of these propositions obviously imply that at the date of the union all catholics and other denominations who taught their own children efficiently in a school provided by themselves were exempted from liability to contribute to the education of any other children.

Mr. McCARTHY:—Undoubtedly that is what it comes to.

Lord SHAND:—That is the root of the whole thing.

Mr. McCARTHY:—When you come to analyse the reasoning the way they put it is this: Because we are compelled to contribute towards the support of other schools, therefore we are put in a worse position in supporting our own schools.

Lord WATSON:—That proposition is not expressed in terms, but it makes the foundation of all the reasons.

Lord MORRIS:—If a man had to pay for his dinner whether he ate it or not you would think he was injuriously affected with regard to what he had to pay for his dinner.

Lord HANNEN:—Or if he were called upon to pay for his bed—something totally different.

Lord MORRIS:—That is just as like as possible.

Mr. McCARTHY:—At page 8 of the Record your lordships will see the appellants put it in another way. At line 12 they say:—"At the union Roman catholics had by practice the right to support their own denominational schools," &c. (Reading down to the words) "Used by, and satisfactory to the various denominations of protestants." There is the same argument with regard to the payment of this money put in a different way, and if there was no privilege to be exempt, why it is hard to see how that privilege has been interfered with.

Then Mr. Justice Killam gives the reasoning, as he understands it, at page 34; and he understood the argument presented before him in this way; that the prejudice was 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." The chief justice of Manitoba states the reasoning as he understood it at page 44: "The argument was pressed that, by section 23 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." Mr. Justice Bain puts it at page 75, which I read to your lordships a moment ago. He puts the three grounds: "First, the right to separate from the rest of the community; secondly, the right to compete on equal terms with other schools; and, thirdly, immunity from contributing to the support of any other schools than their own." Mr. Justice Dubuc, at page 57, gives the grounds as he understands it. Now, that learned judge's reasoning is this: "If

the words 'or practice,' inserted in the Manitoba act were as clear and unambiguous as to admit of but one construction"—and your lordships will find in a moment that the chief justice of the supreme court thinks they are clear and unambiguous and admit of only 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 exempt from compulsory attendance at 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."

Lord WATSON:—It would be very rash to assert in the face of the divided opinions of the judges of this court that the words were not capable of two constructions. You hardly would venture on that proposition now? There are six judges and five disagreed and there were four other judges on the other side.

The ATTORNEY-GENERAL:—Three.

Lord WATSON:—And the question is still quite open which of those ought to be preferred.

Mr. McCARTHY:—Although this judge seems to think they are open to two constructions, the chief justice think they are perfectly plain and admit of but one construction.

Lord WATSON:—It is always a hazardous thing to say that a clause is incapable of two constructions when a number of learned judges are of opinion that it is not only capable of two but capable of receiving a different construction from the first.

Mr. McCARTHY:—Then at page 65, this same learned judge, whose judgment is a very long one, puts it in this way: "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." The learned judge there appears to be speaking on behalf of the minority. At page 69, the same learned judge speaks of the grant: "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 catholics 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 so on. Then we have Mr. Justice Patterson's view that the right has been prejudicially affected by the compulsion upon all of contributing to the support of the public schools; and we have Mr. Justice Taschereau and Mr. Justice Fournier for the first time, and I think, logically, holding that there were separate schools before the union, and that this system interferes with the separate schools. None of the judges in the province took that view; nor does the chief justice, but Mr. Justice Taschereau and Mr. Justice Fournier distinctly say that as a fact there were separate schools before, and the separate schools have been interfered with by the passage of this act which is now in question.

Lord MORRIS:—Do they say "separate" or "denominational" schools?

Mr. McCARTHY:—Separate schools.

Lord MORRIS:—Does anything turn on the use of the word "separate" as distinguished from "denominational"?

Mr. McCARTHY:—I think, my lord, a very great deal turns on it. I think the greatest distinction is to be drawn with regard to separate and denominational schools.

Lord SHAND:—The separate schools are explained in a sentence, and I understand that is a school that a body was entitled to open as a separate school and then relieve themselves of rates by so doing.

Manitoba School Acts.

Mr. McCARTHY:—Yes. It implies that there was another school from which it was separated; that there was some system from which the minority became separated.

Lord SHAND:—With the attendant privilege that they got rid of the rates.

Mr. McCARTHY:—With the attendant privilege that they got rid of the rates.

Lord MORRIS:—If there was a country, province, or place where all the schools were denominational, which was the primary thing from which the other was separated? Which was separated from the other?

Mr. McCARTHY:—They were all denominational. There was none separated at all. They were all private schools—there was a school in each locality just as here.

Lord MORRIS:—They were separate schools in one sense—in the sense that they were separated into different sects.

Lord WATSON:—I cannot help thinking that supposing the state or country establishes schools after the act of 1870, and says this: So far as practicable we will divide these into schools of different denominations so as to suit the different denominations, so that each parent shall, so far as is reasonably practicable, have his child taught at a school in the religion which he professes; and the legislature at the same time levy an equal tax, or what is generally considered an equal tax, namely, a tax according to means, on all persons in the state, some of them bachelors, and some of them otherwise—some married and some unmarried and some married and childless; and then these funds are distributed equally by giving a capitation grant to each scholar to help the schools, and the schools are maintained—it would be very difficult to say in that case that the government pecuniarily were dealing unequally with any persons because there they are getting the advantage. There may be a great many persons who are not bound to provide schools; who do not want schools, such as wealthy bachelors, and who, but for the interference of the state, might never contribute to schools, and would not be compelled to do so; and if each denomination had to find its own school, how follows it that it would be better? They are getting, through the intervention of the state, a great deal of money from persons who have no children to teach, and it is an uncommonly difficult thing to say who may be prejudiced. It would be very difficult to say in point of fact whose the pecuniary privilege was. It would come to be very much more strong if it were said: "I cannot stand the schools established, but I will build a school, and, having built the school and taught my own children in it, I am not to be called upon to pay for other schools." I do not see the inequality of the system. I am not at all clear it is made out that there is any inequality. Where you have this system, you have no separate schools of that kind—no independent schools, I mean to say—but simply an attempt—an honest attempt, made by the legislature to give effect as near as possible to the ratio which fluctuates every day.

Mr. McCARTHY:—I do not know that I quite follow your lordship's argument.

Lord WATSON:—You might have a district in which the catholics were poor and where the protestants were wealthy.

Mr. McCARTHY:—That frequently happens.

Lord WATSON:—And just the other way you might have a district where the protestants are poor and the catholics wealthy, but all this system assumes that everywhere you require to have a careful calculation, which would fluctuate from year to year, of the number of catholic children taught within the school district and the comparative wealth and assessable means of the protestants on the one hand and the catholics on the other, and to take the ratios existing.

Mr. McCARTHY:—In order to carry out the system of denominational schools.

Lord WATSON:—Yes.

Lord SHAND:—And the argument of the other side is practically that you must do that.

Lord WATSON:—It would become practically, to my mind, almost impossible to tell to what extent it ought to be carried.

Mr. McCARTHY:—It would be impracticable in the sense that in a new country like Manitoba it would virtually destroy the school system. As an historical fact which I am at liberty to mention, I think, even in the province of Ontario many catholics allow their children to go to public schools in towns, and in country districts they do not.

Lord WATSON:—I do not say that it is the right view, but it is quite possible the court may take the view that in providing a system of that sort the government were providing a system which really did not work perfect justice.

Mr. McCARTHY:—Then to push the argument to its legitimate conclusion, as I think I have a right to do—in point of fact they did do it—normal schools, that is, schools for the education of teachers were established.

Lord MORRIS:—Where?

Mr. McCARTHY:—In Manitoba, and they were also made denominational at first. There are schools now for the deaf and dumb; the same claim would be made that they must be denominational.

Lord MORRIS:—Certainly. I do not think anything follows from that. Of course that would follow.

Mr. McCARTHY:—It reduces it to an absurdity.

Lord MORRIS:—No, because that is “by practice.”

Lord SHAND:—What about the schools for reading, writing and arithmetic; must they be taught by catholics?

Mr. McCARTHY:—Yes.

Lord SHAND:—It is the same principle?

Mr. McCARTHY:—It is the same principle.

Lord HANNEN:—Or medical schools, or schools of art.

Mr. McCARTHY:—Yes, or industrial schools.

Lord SHAND:—Take the three R's.

The ATTORNEY-GENERAL:—We say four R's: reading, writing, arithmetic and religion.

Lord SHAND:—Yes, you want a fourth R in addition to reading, writing and arithmetic.

Lord MORRIS:—It may be a very foolish thing for particular religionists to believe in these things, but we must accept them as we find them because a good many observations lead to the inference that it is a very foolish thing but, however, people do believe in foolish things; for instance I think it very foolish of those people of India who will not eat with anybody else, but still you must accept it as a fact generally and not look at what a particular individual may regard it to be.

Mr. McCARTHY:—There is no doubt very great difference of opinion on that subject, and in no place more than in the country from which I come.

Lord MORRIS:—The fact that certain persons in Ontario take exception to it cannot affect the question.

Mr. McCARTHY:—No, I was only saying that of course we have to find out the meaning of the words, and where there was this difference of public opinion—a very strong body of public opinion on the one side opposed to separate schools—denominational schools—and a strong body of public opinion on the other side in favour of them.—

Lord MORRIS:—I am not intolerant: I may not agree with these extreme opinions but still there they are and you must deal with them.

Mr. McCARTHY:—There is one thing which has not been mentioned, and perhaps it is not entitled to very much weight. I mention it with some diffidence and some reluctance.

Lord WATSON:—I cannot make out altogether what Mr. Logan wants.

Mr. McCARTHY:—He wants church of England schools.

Lord WATSON:—He says this: “I have at the present time” (he does not say where they are instructed) “three children of school age, namely, one of the age of 14 years, one of the age of 11 years, and one of the age of 5 years and I claim the right to have my children taught religious exercises in school.” Has that been refused? It rather suggests that the children are apparently at one of the schools under the act of 1890. “I claim the right to have my children taught religious exercises in school according to the tenets of the church of England, and I claim that such right was secured to me.” Now was it secured to him in that school?

Mr. McCARTHY:—Not in that school, of course.

The ATTORNEY-GENERAL:—I think my friend has stated Mr. Logan's position.

Mr. McCARTHY:—I am just endeavouring to do so in answer to a question.

Manitoba School Acts.

Lord WATSON:—"I do not approve of the manner in which religious exercises are taught in schools where they are so taught under the provisions of the Public Schools Act, and I claim that the tax for the support of schools, imposed on me by said by-law"—I can find nothing in the act of 1870 to prevent the state establishing such schools in which religion would not be taught.

Mr. McCARTHY:—That is what is contended.

Lord HANNEN:—You repudiate his assistance?

The ATTORNEY-GENERAL:—Yes.

Lord SHAND:—He is sent to give point to your argument as it were.

The ATTORNEY-GENERAL:—Yes.

Mr. McCARTHY:—I do not know why my friend should say so. Here is the bishop's affidavit.

Lord SHAND:—The bishop seems very sincere and determined about it.

Lord WATSON:—He says, "I have a right to keep my children at the school and I have a right for them to be taught in the religious fashion which I approve of." That seems his first complaint. That seems to me to be a very strong thing.

Mr. McCARTHY:—Of course the point he desires to make here is that he has got the same right that Mr. Barrett claims—to have a separate school, and if Mr. Barrett has got a right to his denominational school because it was existing in practice at the time of the union, then why has not Mr. Logan got his right because the church of England schools not only existed, but they were much more numerous at the time of the union, and if so, why have not the presbyterians got it, and why have not the wesleyans got it? In *ex parte* Renaud your lordships remember that that point came up, and this board approved. I do not know whether of all, but they approved of the judgment in Renaud's case, in which it was established that this first sub-section was to protect the right of all denominations. I was going to mention this fact. Your lordships will remember that the Hudson's Bay Territory was governed by the laws of England at the time that the charter was granted in 1670. The charter was conferred upon the Hudson's Bay Company in these words—I am reading from a copy of the charter here,—“And the said governor and company shall have full liberty, power and authority to appoint and establish governors and all other officers to govern, &c., &c. [Reading the charter to the words] “According to the laws of this kingdom and to execute justice accordingly.” And the laws that prevailed in the Hudson's Bay Territory up to the time of the handing over to Canada were held to be the laws of England at the year 1670. That was distinctly held in the Manitoba courts. Now amongst those laws some of the laws that were in force—I mean technically speaking in force, though perhaps not effectively in force—were the penal laws against catholics, and it may well have been that the legislature desired to protect the people who had been enjoying religious liberty notwithstanding those laws, and to prevent any question being raised in the new province of Manitoba, that they were deprived of their rights by virtue of the statutes against catholics. Some of those statutes did extend to all the Dominion.

Lord MORRIS:—But this section only applies to schools.

Lord SHAND:—To education only.

Lord MORRIS:—To education. All the penal laws were in existence.

Mr. McCARTHY:—Well some of the penal laws were certainly very strong even so far as education went. One prevented children being sent out of this kingdom for the purpose of being educated at Roman catholic convents or schools.

Lord MORRIS:—That is sending them abroad.

Mr. McCARTHY:—Yes.

Lord MORRIS:—But what was there penal about Roman catholic education?

Mr. McCARTHY:—Well I think there were laws that might be said if they had not fallen into disuse—

Lord MORRIS:—I am not saying there were not, but I do not remember them. There were in Ireland.

Lord WATSON:—I think it is quite obvious from the statements of the judges on either side, who took different views of the case, that there was no privilege or right acquired prior to 1870 into or concerning any state system of teaching—nothing whatever. There was a privilege of setting up a school and teaching your own child;

and really the only question seems to me to be this, whether in respect that there was not levied at that time, and no power under which there could be levied, a public rate for public schools or a compulsory rate for private schools—the real question is whether the mere absence of that power, and the mere non-existence of any legal warrant for raising such a tax, constituted an exemption of the privilege which those persons got under the act of 1870. That they got the privilege of educating their own children is not disputed by any one.

Mr. McCARTHY:—Of course not.

Lord WATSON:—The question is whether that right or privilege carried with it the right or privilege of being exempt from taxation for educational purposes when they had fulfilled their duty in that way. But really and truly there is no question of any right to be taught in any one way or other in a government school. If government accompanied that with such restrictions that they could not lawfully set up a school of their own and teach their own children that would be a different matter.

Mr. McCARTHY:—Or if they attached any disadvantage to the fact that they were not taught in the public schools.

Lord SHAND:—Or any disability such as Sir Horace Davey put: "You shall not enter a government office unless you have attended some state school."

Mr. McCARTHY:—In the state of Massachusetts you have this law, that no child can work in a factory that cannot bring a certificate that he has attended a public school. That is an adjoining state. So that you can give full effect to the words of this statute if it is necessary to do so, which I do not at all concede or admit, by saying that the law would not permit of Roman catholics or any other denomination to contribute and support its own school or set it up and maintain it—you can give full effect to it by holding that the Roman catholics, or any of the children of the different denominations could not be compelled to attend the public school, and, in the way which Lord Shand has just mentioned, that no disability should attach to their non-attendance. Now, that is what we admit. That is what we say gives full effect to the language of the statute.

Now, what is the contention of the other side? What must it go to? They must contend that any school law that interferes with the schools of Roman catholics, episcopalians, presbyterians or methodists, all of them having schools at the time, would be beyond the power of the legislature, and that any attempt to expend the public money—

Lord WATSON:—In clause 22 the exemption there is: "Nothing in such clause shall prejudicially affect any right or privilege"—not with respect to denominational education, but "with respect to denominational schools which any class of persons have by law or practice" and so on. Now, what within the meaning of that exception is a "denominational school?"

Mr. McCARTHY:—That is a view which I must confess had not occurred to me. We have been treating it all along as if it was "denominational education" and not "denominational schools." It is "denominational schools."

Lord WATSON:—In other words, can a school which is by law declared to be a secular school and the assessment for which is made on the footing that it is a secular school, but in which also denominational teaching is allowed after hours, be a denominational school? Can they come into that school, share its advantages, and say it is a denominational school within the meaning of section 22?

Lord SHAND:—Upon that section allow me to say that in the claim here made—in the application for this remedy the claimant says: "By the law impeached the Roman catholics are compelled to bear a ratable share of the charge for the schools thereunder established, schools which are not denominational." Therefore he himself says in his complaint that the schools of 1890 are not denominational. He has expressly so said in article 11.

Lord WATSON:—Mr. Barrett does not say that he has built or intends to set up a denominational school in his own right, but he says they are not entitled to charge me for the teaching which my children get there. Then he requires to split it up.

Lord SHAND:—It is at page 8 of the Record.

The ATTORNEY-GENERAL:—I am obliged to your lordship. It is the factum on appeal.

Manitoba School Acts.

Sir RICHARD COUCH :—That is the factum on appeal ; it is not the application for the remedy.

Lord SHAND :—I thought it was the application.

The ATTORNEY-GENERAL :—It is put forward on his behalf.

Lord WATSON :—What it rather points to, to my mind, is this, that when you are taking that view of the act it really comes to this, as long as you choose to come in and educate your children at these state schools you must pay as the state provides, but you may go outside the state schools and set up any school you like and, if it turns out in doing so you are availing yourself of a privilege given, that privilege is still open to you, and nobody disputes it. You must then try whether part of your privilege consists in ceasing to be liable to payment when you have set up your own schools. You are coming into the state schools upon those terms.

Mr. McCARTHY :—I do not think I can usefully occupy any more of your lordships' time. I think our case has been fully presented. My learned friend who is with me suggests I should say a word on the question which was discussed very fully yesterday, and that is as to the right of appeal to a court of law.

Lord WATSON :—We do not require to hear you on that point. We are quite satisfied.

The ATTORNEY-GENERAL :—Mr. McCarthy contends there is no liability.

Lord WATSON :—You are going to contend that there is none?

Mr. McCARTHY :—Yes, my lord.

Lord SHAND :—After the intimation you have heard it will not be a very hopeful argument, to say the least of it.

Lord WATSON :—You cannot be denied if you come before us in that way.

Mr. McCARTHY :—I would only say this on the point. Your lordship will see the power to legislate with respect to education is exclusively given to the province subject and according to the following provisions. That is, the exclusive right of dealing with education is subject only to these provisions; the first provision is the limitation that we have been dealing with in the first clause; and the second provision is an appeal to the governor; and the third provision is as to the manner of working out that appeal. Now the ordinary rule is that when a special matter of this kind—a particular remedy is pointed out in the statute which confers the right, of course that special remedy must be followed. Now when you look at the curious words of the statute, that the exclusive right to legislate as to education is given to the province, with the right in the only case that I know of, to the parliament of Canada to interfere with the provincial power—this is the only case in the British North America Act—

Lord WATSON :—Then, on the other hand, we have this very plausible suggestion—it made a very great impression on my mind at the time—that that means an appeal in ordinary course. It does not contemplate an excess of jurisdiction either in the appeal court or in the other court.

Mr. McCARTHY :—I will not waste your lordships' time by repeating what Sir Horace Davey said on the subject.

Lord WATSON :—That is an appeal on the merits.

Lord SHAND :—Besides Sir Horace Davey said you were most anxious to get a decision of this board.

Mr. McCARTHY :—Yes we are anxious to get a decision on the merits.

The ATTORNEY-GENERAL :—My lords, the discussion that this case has undergone in the most fair arguments of my friends Sir Horace Davey and Mr. McCarthy will shorten my labours in the matter. I have also, as I indicated to your lordships yesterday, the great advantage of the assistance of my learned friend Mr. Blake, and therefore, I shall to a certain extent, ask him to inform your lordships more fully, if it be necessary, upon any matters which touch upon the historical aspect of the case, or any question involving local knowledge with respect to facts in Canada. But, my lords, I should like to state at once, in the shape of perhaps a somewhat formal proposition, that for which we contend. In the first place, my lords, a distinction has been attempted to be drawn by my friend Mr. McCarthy between separate schools and denominational schools. We shall humbly submit to your lordships that there is no such distinction to be drawn, that a Roman catholic school

was a separate school and that a protestant school was a separate school; and that when you come to look at what was the existing practice; when you come to consider the facts in the light of the knowledge of the learned judges, they have recognized that speaking of the year 1870 there was one dividing line and that was between the Roman catholics of the province and the protestants of the province. Whether there were, as it is quite probable there were, some minor denominations which would enter into one or the other division, and which might be more correctly enumerated by some separate distinguishing name, for the purposes of this legislation, that was the distinction which was intended to be drawn. Then, my lords, we shall submit to you that the right and privilege which at that time existed, was the right and privilege of each section to maintain by its own contributions its own schools and not to be taxed directly—I will deal with the question of the indirect grant later on—to contribute to schools which it was not to their interest to support, to which they could not conscientiously send their children, and which were from their constitution opposed to everything which to Roman catholics, on the one side, was regarded as most sacred, and had the question been raised as to contribution by protestants to Roman catholic schools in those times, there would have been an equally strong feeling on the part of the protestants that they ought not to be called upon to contribute to Roman catholic schools. Further, my lords, we shall humbly submit that, speaking simply as a proposition of law, the intermediate statutes between 1870 and 1890, as far as the question of construction is concerned, may be disregarded. I should not argue before your lordships that, assuming that you were satisfied that the act of 1890 is *intra vires*, I could possibly contend that a different construction was to be put upon the language of the act of 1870, because there had been intermediate legislation with respect to separate or denominational schools; but, my lords, we shall venture to submit that the importance of what has occurred during the twenty years is this, that it enables your lordships to see that the allegations of fact as to what was the existing state of things at the time of the passing of the Manitoba Union Act are true and are not exaggerated. We shall submit that the legislation from 1871 down to 1890 carried into effect, what were the existing rights and privileges at that time, namely, putting it broadly, that the protestants maintained protestant schools, that the Roman catholics contributed to and maintained the Roman catholic schools. The system of contribution was different I admit, it was by rating or assessment or it was by some other kind of contribution recognized by the statute,—that was merely a question of machinery—but under all circumstances during that time the right of the Roman catholics to contribute to Roman catholic schools and the rights of the protestants to contribute to protestant schools—the obligation of the Roman catholics to contribute only to Roman catholic schools, and the obligation of the protestants to contribute only to protestant schools was recognized and maintained.

Lord WATSON:—I think that you may assume, as I think all the judges below have assumed, that prior to 1870 it was the inseparable and universal practice in the district which is now called Manitoba, that each denomination provided and supported its own schools without any obligation to contribute anything towards the support of any other denominational schools.

Lord SHAND:—And not only is that so in the judges' opinions but I think it is universally accepted. Both parties are now agreed about it, as I understand. I do not think there is any difference about it.

The ATTORNEY-GENERAL:—I should not question, if I could quote it from recollection accurately, the brief summary of the rights and privileges made by one of your lordships, Lord Hannen, this morning as to what he, for the moment, indicated may be the rights and privileges which the several parties had, but following out what I have said with regard to these 19 or 20 years, I will ask your lordships kindly to remember this, that I say during all that time, notwithstanding it may be that the population had increased as my friend Mr. McCarthy said, who I am sure will assist me on all questions of fact—he always does most loyally and fairly—notwithstanding that the population has increased from 15,000 to 150,000, and notwithstanding that denominations may have been growing and swelling in importance within the protestant section, and for aught I know within the Roman catholic sec

Manitoba School Acts.

tion, yet, during the whole of that time, the line of cleavage or division has been the same. It has been Roman catholic on one side, and protestant on the other.

Now, the next point that I shall humbly submit to your lordships, when I come to examine the act of 1890 is that in effect the act of 1890 does establish separate schools to which the Roman catholics are compelled to contribute, and in which schools there is either religious teaching or the absence of religious teaching—I care not which you call it, either religious teaching or the absence of religious teaching—which was wholly inconsistent with the schools which were being supported by the Roman catholics prior to the year 1890.

Lord HANNEN:—Where no religion is taught, to what denomination is it attached?

The ATTORNEY-GENERAL:—I knew what was in your lordship's mind. If your lordship will forgive me, I can promise you not to overlook that matter; because, my lord, I humbly submit that too much has been made of what I may call the technical meaning of the word "denominational," and that it has been forgotten to look at the history of these schools in the year 1870. I shall humbly submit to your lordships that most unquestionably for this purpose "denomination" does mean Roman catholic on the one side and protestant on the other, and I shall contend before your lordships that the distinction attempted to be drawn by my friend Mr. McCarthy between denominational and separate is ill founded, and that it is essential to the success of the argument of the appellant.

Lord WATSON:—Does "denomination" refer at all to a race or rank or nationality? I thought it referred to the common religion.

The ATTORNEY-GENERAL:—I should like to answer Lord Hannen, as he would know, perfectly fully. I would suggest, my lord, that we have got to consider what were the schools which, from a religious point of view, the protestants were satisfied with, and what were the schools, which, from a religious point of view, the Roman catholics were satisfied with. I say it is absolutely and entirely foreign to this question to consider whether within the protestants there were wesleyans, baptists, congregationalists and other sects of importance.

Lord WATSON:—Laying aside race altogether, if one set of schools were such that the protestants would send their children to them, and the Roman catholics would not, and the other such that the Roman catholics would send their children and the protestants would not, I should say those were denominational schools.

The ATTORNEY-GENERAL:—It is only my argument now, that, as I shall submit, when you look either at the history or at the legislation, that is what is meant by denominational in the British North America Act of 1867 and in the Manitoba Act of 1870; and I know Lord Hannen will follow what I have in my mind. What I am endeavouring to submit respectfully to your lordships is this, that if you come and endeavour to argue this case by construing the word "denominational" as though you were dividing the protestant sects up into a number of grades, you will lose sight entirely of what was the reason and object of the act.

Lord WATSON:—Experience may be different in America or in Canada, but I know of no school which can be called purely sectarian which any denominationalist would approve of. Denominationalists would not be satisfied, as far as my experience goes, with schools in which there was no religious teaching.

The ATTORNEY-GENERAL:—I am anxious to confine my mind at present to the particular points which I had hoped to enumerate before your lordships to-day. I am not suggesting that there is not difficulty in my way, and I am not suggesting that we may not have to consider whether denominational has not got the meaning that Lord Hannen indicated it might have in certain places.

Lord HANNEN:—Does your argument amount to this, that no non-sectarian school is denominational?

The ATTORNEY-GENERAL:—I should suggest that these sectarian schools constituted under the act are clearly denominational as compared with the Roman catholic schools. My lord, a Roman catholic school is denominational in one sense.

Lord HANNEN:—Of course it is.

The ATTORNEY-GENERAL:—Therefore, your lordship will forgive me for a moment. I merely wanted to say that I was not overlooking the point.

Lord HANNEN:—But everything that is not Roman catholic is not necessarily denominational.

The ATTORNEY-GENERAL:—Certainly not. I perfectly agree. I would like to put a case which, it seems to me—I do not know that I may not get into difficulties—would be clear: for instance, take a school of cookery. I do not know, I am sure, whether there are any rules of the Roman catholic church that a school of cookery would have to be preceded by any grace or religious ceremony before the lesson was commenced, but I will accept any form of education in which it would be admitted by all persons religious principles would not be supposed of necessity to be introduced.

Lord SHAND:—The archbishop's affidavit goes the length of saying that whatever the branch of education is, it must be taught by a Roman catholic, and a Roman catholic thoroughly imbued with Roman catholic principles.

The ATTORNEY-GENERAL:—Let me explain that when I come to it; but I only desire your lordships to follow my argument when I suggest that I am not here to say for a moment that it is to be pressed to the length that everything must be imbued with Roman catholicism. But I do say this, that the strength of our argument depends upon an examination of what this statute of 1890 is; and I say that upon the facts, whether you regard the statute itself, or whether you regard the affidavits which speak of the schools referred to in the statutes, they are denominational—and I accept the word at once—in the sense that they are of that class which was intended to be separated from the Roman catholics in the year 1870.

My lords, will your lordships allow me to make one or two very brief references upon this question of separate schools and denominational? I think, but I speak with great deference in the presence of my learned friends from Canada, that there is a mistake with reference to the use of the word. I will ask your lordships to be kind enough to refer to page 109, where Mr. Justice Taschereau cites the French statute. Your lordships will remember that the law is equally law in both French and in English. I believe the original document is written in French.

Mr. MCCARTHY:—No.

The ATTORNEY-GENERAL:—The, law, at all events, is written in French as well as in English. Mr. Justice Taschereau at any rate says so, and I will take it from him.

Lord WATSON:—Although it does not apply strictly, I think you may apply the rule which is formulated by the Quebec code; you must take that construction which appears to be most in conformity with the spirit of the legislation.

The ATTORNEY-GENERAL:—That is the principle of my argument. It is because I humbly submit the distinction, which my friend Mr. McCarthy told your lordships was of great importance, between denominational and separate, is inconsistent with the general scope of the legislation, that I have called your lordships' attention to this.

Lord SHAND:—I may have misunderstood him, but I thought he used that more historically than anything else—the moment you have a separate school undoubtedly it then is a class school, the moment you have a separate school it is a denominational school.

The ATTORNEY-GENERAL:—I am not comparing separate with class, but separate with denominational.

Lord SHAND:—The moment you get what he called a separate school, it is undoubtedly denominational.

The ATTORNEY-GENERAL:—Nobody knows better than your lordship that I do not desire to press anything Mr. McCarthy said, unduly against him. I meant to say that we considered that undue stress has been laid on the word "denomination."

Lord MORRIS:—Mr. McCarthy suggested that Mr. Justice Taschereau rather fell into a mistake by using "separate" as a synonymous term with "denominational."

The ATTORNEY-GENERAL:—Yes. Of course we all understand, standing here, we are only endeavouring to answer one another, but when the question was put by one of your lordships to my friend, Mr. McCarthy, whether he considered it important, I think he said it was of very great importance. Will your lordships look at page 109, where the French language is given: "Rien dans ces lois ne pourra pré-

Manitoba School Acts.

judicier à aucun droit ou privilège conféré, lors de l'union, par la loi ou par la coutume." It is a little curious to notice that that is translated "practice." I am not sure that "custom" would not be rather stronger, but it makes no difference—"à aucune classe particulière de personnes dans la province, relativement aux écoles séparées,"—then the parenthetical translation put, I have no doubt, by Mr. Justice Taschereau is "denominational schools."

Lord WATSON:—It is quite possible that the word "séparées" may have had a special meaning, or technical meaning, in Ontario and Quebec. That is quite possible, because even in the act of 1867, the words separate or dissentient are used there as indicating, in the provinces to which the act then applied, at all events, two varieties of denominational schools.

The ATTORNEY-GENERAL:—"Separate" in one province and "dissentient" in the other.

Lord WATSON:—But they both refer back to the word "denomination." They are special provisions with regard to special classes or denominations.

The ATTORNEY-GENERAL:—I hope not to fall, if it be an error, into the same error, as I humbly submit it is, by attaching undue importance to the word "séparée" or separate, but I do say that when you start with the history and look at the legislation of 1870 and look at the subsequent legislation, it is not correct to allege that denominational means sectarian in the sense of breaking up the protestants into a number of different sects. On the other hand, it is correct to say that the people intended to be protected were the protestant religionists on the one side and the Roman catholic religionists on the other.

Now, my lords, I think a little error was made, quite unintentionally, by one of your lordships with regard to Mr. Barrett's affidavit, and I should like to call your lordships' attention to what Mr. Barrett complains of, because I now desire to submit to your lordships what is the strength of our position from the Roman catholic point of view. We say that the schools under the act of 1890—call them non-sectarian or sectarian, or call them denominational or undenominational—call them what you like—public schools—are schools to which, according to their consciences, Roman catholics cannot send their children, and we submit that to force Roman catholics, in the event of necessity, namely, there being no other school, either to leave their children in ignorance, or to send them to these schools, and at the same time to force them to contribute to these schools in places where they are minded to establish the Roman catholic schools does prejudicially affect rights and privileges as they existed. I must not be drawn to-day into arguing before your lordships what "right or privilege" means, or what "prejudicially affected" means. I am going to protest against the doctrine that it is to be construed by some technical meaning like *privilegium*. I shall submit presently that the reference to the word "practice" indicates clearly that that is not the way in which the word "privilege" has been used, but in a far wider sense. But, my lords, I am about to point out, when I come to argue on the statute of 1890, that the schools which are therein by law established are schools to which no conscientious Roman catholic, whose rights and privileges are to be respected, can send his children, or to which he would willingly be called upon to subscribe, and it is, my lords, because I think that it was a little too readily assumed on the statement by my learned friend that you must regard these schools as absolutely unsectarian—as absolutely undenominational, because they are called so in the statute—that an error has crept in upon which, at any rate, we are entitled to address some argument. I shall point out that on the admitted facts the schools are acceptable to the protestants. I entirely deny that Mr. Logan is a *bona fide* objector—entirely. He is here to assist and sent here by the provincial government to assist them.

Lord HANNEN:—You do not suggest that the bishop is not sincere.

The ATTORNEY-GENERAL:—I say the bishop's affidavit is very much in my favour. I know I am entitled to refer to it, and I shall refer to it.

Lord MORRIS:—By his affidavit he does not allege that there was any doctrine objectionable to the church of England: he only says that a great many bishops and persons do not like it.

The ATTORNEY-GENERAL:—He says more. He says that the protestants are satisfied with these schools. Would your lordships kindly turn to page 12 and just see what Mr. Barrett really says. I think Lord Shand or Lord Watson referred to it. "I am a ratepayer and resident of the city of Winnipeg, and have resided in the said city continuously for the past five years, and am a member of the Roman catholic church. On and prior to the 30th 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. 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 in Hargrave street, I have for three years past sent my children for instruction, which children are aged respectively ten, eight and five years. 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 children still attend said school."

Lord WATSON:—In point of fact, St. Mary's school had become a school under the provisions of the act of 1871, the act of 1870 having come to an end.

The ATTORNEY-GENERAL:—Your lordships will see how that is when I look at the statute. It is very important, because my friend, not unnaturally, called your lordships' attention to the fact that he was continuing to send his children to schools where there was no religious instruction at all. That is not so.

Lord WATSON:—He said the very reverse. I referred to that.

Lord SHAND:—I suppose there is no doubt that that is a denominational school in every sense of the word.

The ATTORNEY-GENERAL:—I have said so.

Lord MORRIS:—Is not that his complaint, that the school which was paid for up to the year 1890, being a denominational one, he still continues sending his children there, but it is now struck off? That is the point.

The ATTORNEY-GENERAL:—May I point out, though I am going into another matter now, that that school would have been paid for and contributed to out of catholic contributions, and yet it will become a public school and non-sectarian under the act of 1890. I will call your lordships' attention to the actual language of the statute which deals with that point; but it is very important that I should point out that he distinctly confirms the affidavit of the archbishop so far as he is concerned as a parent of the child. He says he has read it, and so far as the same lies within his personal knowledge, it is true, and as to the rest he believes it to be. Then in paragraph 13, he says that "the effect of the by-laws is that one rate is levied upon all protestant and Roman catholic ratepayers in order to raise the amount mentioned in the said exhibits "C" and "D," 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." I am not on the question of *quantum*: I do not propose to argue this case on that, but I am about to point out, when I come to deal with the act of 1890, that the position is this, that to a school which we are entitled to say is not Roman catholic, as it existed at the date of the passing of the act of 1890, the Roman catholics are called upon to contribute and that those are schools at which conscientiously they cannot allow their children to attend.

[Adjourned to to-morrow at 10.30.]

Manitoba School Acts.

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

COUNCIL CHAMBERS, WHITEHALL, Thursday, 14th July, 1892.

Present :

The Rt. Hon. Lord Watson,	The Rt. Hon. Lord Hannen,
The Rt. Hon. Lord Macnaghten,	The Rt. Hon. Lord Shand,
The Rt. Hon. Lord Morris,	The Rt. Hon. Sir Richard Couch.

THE CITY OF WINNIPEG

vs.

BARRETT,

and

THE CITY OF WINNIPEG

vs.

LOGAN.

[Transcript of the shorthand notes of Messrs. Marten & Meredith, 13 New Inn, Strand, W.C.]

Counsel for the appellants:—Sir Horace Davey, Q.C., Mr. McCarthy, Q.C., and the Hon. Mr. Martin.

Counsel for the respondent Barrett:—The Attorney-General (Sir Richard Webster, Q.C., M.P.), Mr. Blake, Q.C., Mr. J. S. Ewart, Q.C., and Mr. Gore.

Counsel for the respondent Logan:—Mr. A. J. Ram.

Third Day.

The ATTORNEY-GENERAL:—When your lordships adjourned yesterday I had discussed what was the condition of matters at the time of the union of Manitoba with Canada. In our submission to your lordships, had this act of 1890 been passed in the year 1871 it would have been extremely difficult for anyone to contend that it did not interfere with rights or privileges with respect to denominational schools which some class of persons had by law or practice in the province at the union. It is because that is our main contention before your lordships that I postpone altogether for the present any consideration of what had happened between the year 1870 and the year 1890. It is well that I should very briefly recall your lordships' attention to the affidavit of the archbishop with regard to this matter at page 14 because I cannot quite accept the view presented by my learned friends as to what was the fair effect of the affidavit and of the other evidence as to the state of the facts. If your lordships will look at the top of page 14 of the record he says: prior to the passing of the act—that is the act of 1870—"there existed in the territory now constituting the province of Manitoba a number of effective schools for children," &c. [Reading to the words at line 14]. "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." My lords, I do not know that my learned friend will dispute it, but I am going to contend that the exemption from subscription to the schools of protestant denominations was a privilege of the class of persons called Roman catholics. "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." I venture to read this again and to press it upon your lordships' attention once more. I know of course that it was very fairly read two days ago by my learned friend, but at the same time I venture to press it again because it has rather been suggested that there was practically no educational system at all in Manitoba prior to this time, and it has been rather put by my learned friends as though it was a school here and a school there. I submit that upon the facts which must have been in the minds of those

who framed the act of 1870, it is clear that the Roman catholics were arranging their own educational establishments—their own schools, and the protestant denominations were doing the same. Then I ask your lordships to consider what must be a matter of very great importance, and that is the allegation in paragraph 7:—“Roman catholic schools” have always formed an integral part of the work of the Roman catholic church,” &c. [Reading to the words at line 30.] “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 positively”—I think it must be “possibly”—“detrimental and not beneficial to the children.”

Lord SHAND:—It is “possibly” in the affidavit in the other case.

Lord MORRIS:—One must judge of what he was likely to swear. He would not swear that it was “positively.”

The ATTORNEY-GENERAL:—“With this regard the church requires that all teachers 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 school, with regard to certain subjects as shall combine religious instruction with those subjects, and this applies peculiarly to all history and philosophy.”

Lord MACNAGHTEN:—I suppose that is true of all denominations, is it not?

The ATTORNEY-GENERAL:—At any rate, it is sufficient for my purpose to say that it is true of the Roman Catholics for this purpose, because we are considering what was the constitution of the denominational schools which the Roman catholics were entitled, as we submit, to have protected at the time that the act introducing Manitoba into the union was passed.

Lord SHAND:—I think the last two paragraphs of section 7 are peculiar to the Roman catholics.

The ATTORNEY-GENERAL:—Probably; I ought, perhaps, to read paragraph 8: “The church regards the schools,” &c. [Reads paragraph 8.] My learned friend Sir Horace Davey has used that passage in the affidavit as an admission that there was no interference with any right or privilege. I shall have to argue on the meaning of the words “prejudicially affected” in a very few moments. I humbly submit it is not right to assume that, because his grace the archbishop has said that they will revert to the system, that therefore there is no prejudicial affection in regard to their rights and privileges.

Lord MACNAGHTEN:—I do not see what authority he has to speak on behalf of protestants. Of course, everything he says is worthy attention.

The ATTORNEY-GENERAL:—I am going to point out that the protestants say it for themselves.

Lord MACNAGHTEN:—It has not the same effect.

The ATTORNEY-GENERAL:—But, on the other hand, when the statement is made and not contradicted, and this is an affidavit in the proceedings, I submit I am entitled to call attention to it.

Lord MACNAGHTEN:—He speaks with a different weight of authority when he is speaking of his own church.

The ATTORNEY-GENERAL:—I accept what your lordship says as a criticism on it.

Lord MACNAGHTEN:—It does not seem to be accurate with regard to protestants.

The ATTORNEY-GENERAL:—I propose to point out that the protestant bishop does not object to the schools in so far as they go. He would like something more. The point I am desirous of making here is that the statement that the archbishop makes—of course your lordships may say it is not to be regarded—

Lord MACNAGHTEN:—I do not say it is not to be regarded, but I say it has not the same weight.

The ATTORNEY-GENERAL:—In that view I think I ought to submit to your lordship that this allegation is not going one bit too far.

Lord MORRIS:—There was an affidavit made by Mr. Bryce.

Manitoba School Acts.

The ATTORNEY-GENERAL:—I am going to call attention to it in a moment. "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 passing of the said act." We have a form of prayers used here both before and after the passing of the act of 1890, and it is the fact that the prayers which are in use in the schools under the act of 1890 are identical with those which were in use in the protestant schools prior to the act of 1890.

Lord HANNEN:—The question is what were in use in 1870? What was done between 1870 and 1890 is not important.

The ATTORNEY-GENERAL:—I was not applying my mind to that for the moment. I was meeting the observation of Lord Macnaghten's that the statement that the protestants were willing that their children should attend these schools might not be entitled to weight. That is the whole point of my observation. It has no reference to a comparison between the period of 1870 and the period of 1890. I was dealing with the allegation made that the affidavit was not in this respect entitled to so much respect as in other parts.

Lord SHAND:—The prayer was adopted on the 21st May, 1890, by the advisory board. This affidavit is made in October, 1890, and there is no objection taken to the prayer in any way.

The ATTORNEY-GENERAL:—I have the forms here. I have not made my meaning clear. I am not saying that he raised any objection to the prayer. I am simply on the point that the protestant members are satisfied with the schools as they stand at present.

Lord SHAND:—I think it would be very difficult to make that out if you take the other affidavit out of Bishop Machray.

The ATTORNEY-GENERAL:—I have a great difficulty in dealing with more than one thing at a time. I was for the moment dealing with this allegation.

Lord SHAND:—My observation bears upon that very matter.

The ATTORNEY-GENERAL:—Certainly.

Lord WATSON:—Is the act of 1890 except in that one matter of imposing an equal assessment and thereby, it is said, creating a distinction doing away with the privileges possessed before 1890—is the act not capable of being worked so as not to injure any person?

The ATTORNEY-GENERAL:—No, with great deference, I submit not.

Lord WATSON:—The complainant in this case, the objector Mr. Barrett, states a much smaller case against the act.

The ATTORNEY-GENERAL:—He distinctly refers to this affidavit of the archbishop and confirms it. I mentioned that yesterday. I propose to call your lordships' attention to the act of 1890. Your lordships will remember he is sending his children, at the time this application is made, to a school which is conducted as a catholic school had been conducted, and not as a protestant school, but at present I only desire before passing on to point out to your lordships the allegation is that the schools are in fact similar in all respects to the schools maintained by the protestants under the legislation in force immediately prior to the passing of the act.

Lord WATSON:—Am I to assume that he was dissatisfied with the teaching before the act?

The ATTORNEY-GENERAL:—No, certainly not. I shall have to show your lordship that that school, if continued, will not be entitled to have its share of the grant; that under the act of 1890 it would cease to be a public school, and to have its share of taxation; and in fact will not be a public free school within the terms of the act of 1890.

Lord MORRIS:—By the act of 1890 it has been.

The ATTORNEY-GENERAL:—He is speaking of a time at which the act has not come into force. I will not overlook that, because I have noted the sections of the act of 1890 to which your lordships' attention has not yet been called, which, we venture to think, interfere, and prejudicially affect the rights and privileges to a much greater extent than the mere question only of being bound to contribute, though that in itself is extremely important. I would ask your lordships' permission to call attention to the passage I was reading at the top of page 15:—"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 passing 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."

Lord SHAND:—Do you submit that to be the fact?

The ATTORNEY-GENERAL:—I do.

Lord SHAND:—That protestants are quite content with this system?

The ATTORNEY-GENERAL:—No, I did not say "quite content."

Lord SHAND:—"Content." The distinction between "quite content" and "content" is small.

The ATTORNEY-GENERAL:—My reason for only asking your lordships to let me put it in my own way is this: that I do understand the affidavits to indicate that many protestants are quite content that their children should go to this school intending to provide them with a religious education elsewhere, whereas the Roman catholics say that a school so conducted is not a school to which they can conscientiously send their children.

Lord WATSON:—One would suppose that that must be the case to some extent, or else the act of 1890 would not have been passed.

Lord MORRIS:—Why is it necessary for the archbishop to go into the question of what protestants think? It is enough for you what the catholics think.

The ATTORNEY-GENERAL:—It is quite enough for me that when the point has been put by some of your lordships that they are not asked to subscribe, or to make any contribution, to any school which is in any sense denominational. I think upon the affidavits the facts show that the public schools which have been established, and which are paid for by catholics, are schools which are in the main, I do not say entirely, but in the main, satisfactory to the protestant denominations; and therefore they do directly prejudice and interfere with the schools which are satisfactory to the Roman catholic denominations.

Lord MORRIS:—I do not follow how that takes the argument further than the fact that the Roman catholics cannot go there. If they cannot attend these schools, these schools are as if they never existed, as far as they are concerned.

Lord SHAND:—What Bishop Machray says on this very subject is:—"With the great majority of the bishops and clergy of the church of England, I believe that the education of the young is incomplete, and may even be hurtful if religious instruction is excluded from it." That is identically what the archbishop says.

The ATTORNEY-GENERAL:—He does not say that the children will not be sent to those schools. The distinction I am endeavouring to draw is the distinction which is in the mind of Lord Morris.

Lord MORRIS:—It is very much in my mind, because I am very conversant of a country in which the whole thing comes up every day, and in which I am the senior member of the board of education which has to deal with the subject. Protestants, as a matter of fact in Ireland, will send their children to the model school, although some of them may prefer this, that, and the other; but they are under a ban so far as the Roman catholics are concerned.

The ATTORNEY-GENERAL:—I cannot neglect any point that is made against me. I think it is important to consider whether the public schools established under the act of 1890 —

Lord SHAND:—I think the other element you desiderated is also given by bishop Machray: "I have no doubt that if religious training is excluded from the public schools, as is threatened, this will be the policy in future of the church of England, and of myself. The re-establishment of our parish schools is merely a question of means and time." That is identical with the archbishop.

Lord MORRIS:—I do not see that it is identical. The Roman catholic archbishop swears that it is substantially against the tenets of the Roman catholic church for Roman catholic children to attend these non-sectarian schools.

Lord SHAND:—There is that distinction.

Manitoba School Acts.

The ATTORNEY-GENERAL :—That is the point I was upon.

Lord SHAND :—I thought the protestant view was that their children would still go to the public schools.

The ATTORNEY-GENERAL :—The distinction is not that they will not supplement the protestant education of other schools, but that they will be content.

Lord WATSON :—I do not know whether one can rely upon one's own experience. These kind of questions were more or less burning questions in Great Britain about the year 1865 or 1866, and during the whole of that period, as far as my knowledge and experience goes, there were large classes of protestants, and especially presbyterian protestants, who I am glad to see are recognized as Christians in Manitoba, who were in favour of secular education, and think that religious education ought to be imparted in the family, or by the church, and not in a secular school, where they are learning the rudiments of knowledge. On the other hand there are a great number of episcopalian protestants who take a different view: but I have never yet met a Roman catholic who took that view.

The ATTORNEY-GENERAL :—What I would desire to be allowed to submit as part of my argument is this: that there are two questions, the one question whether the several respective denominations, protestant and catholic, will supplement the school by religious instruction, upon which I admit, and was going to have said if I had not been anticipated, I think the views of Bishop Machray accord with the views of the archbishop; the other question, whether the protestants will permit their children to go to these schools, whereas the Roman catholics honestly and conscientiously cannot.

Lord SHAND :—I do not take the view you have been suggesting on that second point.

The ATTORNEY-GENERAL :—I desire merely to be allowed to present my argument to your lordships on the point. Of course it is not for me to suggest that my argument is right; but I ask your lordships' consideration of it. Will your lordships turn to Mr. Bryce's affidavit, pages 20 and 21. I had no knowledge of the Logan papers until they were given me for the purposes of this case. He says: "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." So far I submit it confirms the view I have taken that they do not object on conscientious principles to the children going to a public school. They are satisfied by supplementing those schools by their own schools. He says in terms "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." Possibly Lord Macnaghten will not object to my saying— and I should like to make the observation—

Lord MACNAGHTEN :—I do not think Mr. Bryce has added anything to the weight of his argument or affidavit by stating his view of what Roman catholics do or ought to do.

The ATTORNEY-GENERAL :—My whole point is to show that there is this broad distinction with regard to the right and privilege that in the one case protestants are willing and can conscientiously avail themselves of the benefits of the public schools supplementing that by their religious instruction.

Lord SHAND :—He speaks for presbyterians only.

The ATTORNEY-GENERAL :—For presbyterians who are an important protestant body.

Lord MORRIS:—They are much the largest body.

The ATTORNEY-GENERAL:—Yes, much the largest body among the protestants.

Lord MORRIS:—And I believe the methodists come next. The church and catholics come down very low.

The ATTORNEY-GENERAL:—It is a completely different point to the one which I am humbly submitting to your lordships that in the case of a Roman catholic they cannot conscientiously avail themselves of the advantages of the public instruction because of their view with regard to what education should be.

Lord MORRIS:—Looking at this as a matter of fact anybody who takes the trouble of reading the report of the commission to inquire into the national system of education in Ireland will see that Cardinal Cullen claims what this archbishop claims also; namely, the exclusive right of the church to superintend education. That may be right or wrong; we are not going to discuss theological questions; but that is asserted as a matter of fact.

Lord WATSON:—In Winnipeg, as far as one can judge from the sum expended on the respective schools belonging to the protestant and the catholics, the protestant element must be to the catholics as 30 to 1. There are 75,000 dollars required for the protestants, and 2,500 for the catholics.

Lord MORRIS:—I do not see the object of all this, except to ascertain the fact that the members of the Roman catholic church will not go to those schools.

Mr. McCARTHY:—The actual population taken from the census in Winnipeg is 2,470 Roman catholics, 6,850 church of England, 4,310 methodists, 5,952 presbyterians, 1,000 baptists and 5,000 all others.

Lord MORRIS:—That is the town of Winnipeg, but what is the proportion in the province of Manitoba?

Mr. McCARTHY:—There is a total population of 152,000; baptists 16,000, Roman catholics 20,000, church of England 30,000, methodists 28,000, presbyterians, 39,000 and all others 17,000.

Lord MORRIS:—That is the reason I said the presbyterians were by far the largest body.

The ATTORNEY-GENERAL:—I am merely anxious to direct your lordships' attention to one or two matters in this particular connection and to pass on. I do not want to occupy your lordships' time by unnecessary discussion, but it is important that I should make my meaning clear. I am only here to submit what I think is entitled to some weight. Now I turn to Professor Bryce's affidavit in the Logan case. I only use it because it has been referred to by my learned friends. I do not know that I am entitled to use it, but it does bear directly on the point which I mentioned, especially with reference to an observation of Lord Shand's as to what the attitude of the presbyterian body was. It is at page 19 of the Logan case, paragraph 5.

Lord SHAND:—I spoke of the protestants, not of a section of them, the presbyterians.

The ATTORNEY-GENERAL:—This bears directly at any rate upon my argument.

Lord SHAND:—I merely made my observation. I did not assert anything about the presbyterians.

The ATTORNEY-GENERAL:—At page 20:—“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.” Then he proceeds to deal with the question of supplementing public education of a secular character by a religious education.

Lord SHAND:—I think you have made out that presbyterians have little, if substantially any objection.

The ATTORNEY-GENERAL:—Then will your lordships kindly turn back to Bishop Machray's affidavit at pages 6 and 7. The important paragraph is the 21st:—“When the School Act was passed as above mentioned,” &c. [Reading down to line 44, page 7 of the Logan case.] “The re-establishment of our parish schools is merely a question of means and time.” I understand that gentleman to say not that they object to their children going to these public schools, but that they will supplement

Manitoba School Acts.

them by the establishment of parish schools in which religious instruction will be given.

Lord SHAND :—I do not take that view of it, particularly if you take with it the passage :—“ With the great majority of bishops and clergy of the church of England, I believe that the education of the young is incomplete and may even be hurtful if religious instruction is excluded from it.” He means to say he will be obliged to re-establish parish schools and thereby have double rates to pay—a public school rate and a parish rate.

The ATTORNEY-GENERAL :—If so, it is an argument in my favour from the church of England point of view.

Lord SHAND :—Quite so ; I think it is. That is exactly what I have been indicating.

The ATTORNEY-GENERAL :—I did not conceive upon the general scope of the affidavit that there was the same objection, particularly as I know, from the official documents which we have, that the prayers which are being continued and the religious instruction which is being continued are the same as existed in the protestant schools before the passing of the act of 1890.

Now, my lords, in this state of things, may I for a few moments ask your lordships to consider what is the real construction of the act of 1870 ?

Lord MACNAGHTEN :—That is the only question. To my mind everything after 1870 may be put on one side.

The ATTORNEY-GENERAL :—I ventured to say so to your lordships yesterday. There are two matters which I must ask your lordships to consider beyond that, and one of them is what has been done by the act of 1890 ? Your lordships must not overlook that, and further I desire to enforce what I said yesterday, that the only denominations regarded by the legislature at any time, 1867, 1870, or later periods, are the denominations of protestants and Roman catholics.

Lord MACNAGHTEN :—That is a question of construction of the act.

The ATTORNEY-GENERAL :—It is ; but I shall submit to your lordships that from a historical point of view—I am not saying for the purpose of construction—I endeavoured to disclaim that as strongly as I could yesterday, my learned friends cannot point to anything, to any other dividing line, except that between protestants and Roman catholics. That is my object in referring to it again. I should not have done so but for your lordship indicating what I was saying was not material.

Now, what was the position of things when the act of 1867, the British North America Act, was passed ? In Upper and Lower Canada, in Ontario and Quebec, as it was subsequently called, there was legislation with reference to the existence of separate schools and contribution to them. I care not whether they are called separate, whether they are called denominational, or whether they are called dissentient. I think that that difference of language is simply adopted because different names had been used in different acts of the various provinces and under different circumstances, but they all point to the same things, namely, schools which were established in the interests of Roman catholics, and schools established in the interests of protestants.

Lord WATSON :—Unquestionably the dissentient schools are spoken of in the British North America Act as denominational schools.

The ATTORNEY-GENERAL :—I am reading from page 4 of the Record—sub-section 2, section 93 of the act of 1867. If you look at the words “ denominational ” in the first sub-section, and at “ separate ” and “ dissentient,” and remember what had existed in Upper Canada and in Quebec, that in the one part there had been a majority of Roman catholics, and in the other a majority of protestants, you will see that this distinction between these expressions is not of any importance and was not inserted by the legislature with any intention of conveying a different meaning. I desire to supplement a statement made by my learned friends, Sir Horace Davey and Mr. McCarthy, with which I in no way quarrel, by telling your lordships that most unquestionably in Upper Canada—that will be in Ontario—this exemption from contributing to the other schools existed by law, and was regarded as being a right existing by law. I have the statute before me. It is the act of 1863. It is

called "an Act to restore to Roman catholics in Upper Canada certain rights in respect to separate schools." By the 14th section of that act "every person paying rates, whether as proprietor or tenant, who by himself or his agent on or before the 1st of March gives, or has given to the clerk of the municipality notice in writing that he is a Roman catholic and supporter of a catholic school, situated in the said municipality, or in a municipality contiguous thereto, shall be exempted from the payment of all rates imposed in support of common schools and common school libraries, or for the purpose of purchase of land or erection of buildings for common school purposes." The reference is to 26 Victoria, chapter 5, in the Statutes of Canada. So I point out that at the time this British North America Act was passed, in one of the provinces there existed by law a right that the Roman catholic should not be called upon to contribute to what they there call common schools.

Lord SHAND:—That was extended to Quebec—was it by section 2?

The ATTORNEY-GENERAL:—I rather think they had got legislation in Quebec under another statute, which, practically speaking, was to the same effect; but at any rate your lordships will find it in chapter 15 of the Consolidated Statutes of Lower Canada. I think they were published in 1861. "Whenever the arrangements made by the school commissioners for the conduct of any school are not agreeable to any number whatever of the inhabitants professing a religious faith different from that of the majority of the inhabitants of such municipality, the inhabitants so dissentient may collectively signify such dissent in writing to the chairman of the commissioners, and give him the names of three trustees chosen, such trustees shall bear the same powers and duties as the school commissioners." Unfortunately I have not had this act before. I do not remember whether there was the actual prohibition that the persons who dissented should not contribute, but I will ask my learned friend just to look and see whether that be so, and if necessary, Mr. Blake will call attention to that. But it is sufficient for my purpose to show that in some of the provinces there existed by law this exemption from having to subscribe to the schools of another denomination, meaning thereby, as I humbly submit, protestant as distinct from Roman catholics.

Lord MACNAGHTEN:—Sub-section 1 is general. Then we come to sub-section 2.

The ATTORNEY GENERAL:—That is only applying it to Lower Canada.

Lord SHAND:—The effect of section 2 is that whatever is going on in Upper Canada shall now go on in Quebec.

The ATTORNEY-GENERAL:—Yes, but for the purpose of the protection of Upper Canada, it must depend on sub-section 1, I think.

Lord SHAND:—You say there were such privileges in Upper Canada and even in Quebec, but I suppose you do not dispute, on the other hand, what was stated to us by the learned counsel who last addressed us that neither in New Brunswick nor in Nova Scotia was there any such privilege.

The ATTORNEY-GENERAL:—Yes, I do dispute it as regards New Brunswick. As to Nova Scotia I do not know. I think my learned friend may be right. I must be permitted to make my point with reference to that. I am going to point out when I come to consider the Manitoba Act of 1870, that they have framed a section bearing in mind what was the condition of things in Manitoba and also bearing in mind what questions had been raised with reference to New Brunswick. I understand that the protection given to Upper Canada or Ontario is by virtue of sub-section 1. Sub-section 2 is to extend to Lower Canada the same protection that exists in Upper Canada. That is my idea. Of course the question would arise whether Upper Canada got the protection which we are contending for. I shall submit that when the British North America Act was passed it was intended to reserve to Upper Canada and by virtue of sub-section 2 to give to Lower Canada the statutory exemption from having to subscribe to schools of another denomination,—meaning thereby catholics not to subscribe to protestant schools and *vice versa*, for all I know, but at any rate that—which existed in Upper Canada.

Lord SHAND:—I rather thought that was not disputed. I do not think it is. Whatever privilege they had was certainly retained to them.

The ATTORNEY-GENERAL:—Now, with regard to the questions which were put to me with regard to New Brunswick, it stood in this way: There was a statute relat-

Manitoba School Acts.

ing to schools in New Brunswick and the only point that was decided in the Renaud case was not that there were no schools or that there were no privileges of a class in relation to denominational schools, but that that privilege had not been taken away or interfered with, that is to say, the privilege they claimed. They claimed that whatever was read in the Scriptures must be read from the Douay Bible, and that, inasmuch as there was a discretion given by the New Brunswick Act of 1871 to allow the teacher or allow the board to direct the teacher to read from another version of the Bible the privilege had been interfered with.

Lord SHAND:—Then is the head note wrong? It says: “At the union the law with respect to schools in the province of New Brunswick was governed by the Parish School Act, under which no class of persons had any legal right or privilege with respect to denominational schools, and a subsequent act, 34 Victoria, cap. 21, providing that the schools conducted thereunder should be non-sectarian.”

The ATTORNEY-GENERAL:—I think the head note is wrong, but I will read the passage which I had in my mind which is at the bottom of page 466. “Those relied on are that the Common Schools Act has no enactment similar to section 8 of the Parish Schools Act, that the Parish School Act had no enactment similar to section 58, sub-section 12 of the Common Schools Act, and this section it is alleged, prohibits the granting provincial aid to any but schools under the Common Schools Act; and that by the 60th section of the Common Schools Act, all schools conducted under its provisions shall be non-sectarian—a provision not to be found in the Parish School Act, and it is contended, that the omission in the one case, and the express enactment in the other, prejudicially affect the rights and privileges which the Roman catholics, as a class of persons and a denomination, had in the schools established or which might have been established under the Parish School Act; in other words, that the rights and privileges which they had under the one, the omission and the enactments referred to prevented their claiming or obtaining under the other. With reference to the omission, the Parish School Act no doubt declares that the board of education shall secure to all children, whose parents do not object, the reading of the Bible, and that when read by Roman catholic children, if required by their parents, it shall be in the Douay version, without note or comment. Here we have expressly directed to be secured to all children, what many persons no doubt consider a great right and privilege; and Roman catholic parents have a great right secured to them, viz.:—to have, if they require it, a particular version of the Bible read.” That is under the old act which existed in New Brunswick before the passing of the Common Schools Act of 1871. “As to the reason why a similar provision, securing these important rights, in which protestants and catholics were both interested, was excluded from the Common Schools Act, it is not our business to inquire; what we have to determine is, does this omission make the law void, if in other respects unobjectionable? We think not. If this was a right or privilege which existed at the union, the legislature certainly has not protected it by any express enactment. But is the right taken away? May it not still exist, provided always it is a right which legitimately comes under sub-section 1, section 93? Because that section declares that nothing in any such law shall prejudicially affect any such right, and in such case, reading the Common School Law by the light of this section, would it not be the duty of the board of education under the Common Schools Act, instead of making regulation 21, declaring as follows:—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 or guardian, expressed in writing, to the board of trustees, to secure by regulation, just what the board of education were bound to secure under the Parish School Act of 1858, that is, to make just such a regulation as the Parish School Act required to be made? We have seen they have precisely the same, and only the same powers to make regulations, as the board had under the Parish School Act. By this simple means, the rights of all the children and their parents in the province—as well protestants as Roman catholics—which existed at the union, would be preserved, and all just

cause of complaint on this head removed. Why the board of education should have departed from the principle and policy of the Parish School Act, and taken from the parents of all the children of the country—protestant and Roman catholic alike—the great boon and privilege of insisting on the Bible being read in schools, as they have done, and should have conferred on the teacher, not only the privilege of reading the Bible or not as he likes, but out of the common or Douay version—not as the children or their parents may choose, but as the teacher may prefer, though he cannot compel the attendance of the pupils,—is not for us to explain, we simply point out the fact. But if the right secured by the Parish School Act is protected by the British North America Act 1867, we fail to see because the board of education may not have made such a regulation as they ought in such case to have made or have made a regulation they ought not to have made, that the action of the board or its non-action can render the action of the legislature inoperative.”

Lord SHAND:—That was a privilege that had been secured by statute.

The ATTORNEY-GENERAL:—I was criticising the contention that there was no privilege by statute in New Brunswick prior to the passing of the British North America Act, and I was pointing out that when rightly understood, as the chief justice himself says in his judgment, they did not intend to decide in the Renaud case that there was no privilege by law; but what they did decide was that the privilege by law had not been infringed by the statute made, but had only been temporarily abrogated by a direction of the education department, which need not have been made under the statute, and, therefore, that the law was not objectionable, but that the declaration was.

Now, my lords, with regard to Nova Scotia, my learned friends informed me that they are not aware, and of course Mr. McCarthy would have told you if he was aware, that there was any act. Therefore, there was in that case, apparently, what I may call no protection existing by law at that time, as far as that province was concerned.

I think it must be taken that at the time that the British North America Act was passed they meant to protect whatever rights and privileges the persons had by law. It is important to observe when the Manitoba Act was passed. I will ask your lordships just to refer to page 61, where you will find a very convenient reference to dates in the judgment of Mr. Justice Dubuc. He points out that the New Brunswick case had been under discussion, and that there had been active discussion with reference to this matter shortly before the introduction of the Manitoba Bill. Now, my lords, it may not have the slightest effect on the language used any more than what happened afterwards, but it is important to see whether or not the difference in language used with reference to the Manitoba Act was not aptly chosen with reference to what was the known state of things at the time that Manitoba Act was passed. I remind your lordships once more that in some of the provinces—which is sufficient for my purpose—under the act of 1867, there was an exemption against having to subscribe to schools of a different denomination. Your lordships will forgive me for not always repeating: when I say different denomination, I am arguing from the point of view of protestants and catholics—I say that the exemption in some of the provinces from having to subscribe to schools of another denomination existed by law; it did not exist by law in Manitoba. Perhaps I may ask your lordships here to refer to Mr. Justice Fournier's judgment, which has not been read. I have a translation, and it is on the first page. “It is important for the decision of this question to advert to the circumstances which led to the entry of this province into the Canadian confederation. It must be remembered that it was at the end of a rebellion which had thrown the population into a profound and violent agitation, raised religious and national passions, and caused great disorders, which had rendered necessary the intervention of the federal government. It was with the view of re-establishing public peace and of conciliating this population that the federal government accorded to them the constitution which they have enjoyed up to the present time. The principle of separate schools introduced in the British North America Act, section 93, was also introduced into the constitution of Manitoba and declared to apply to separate schools which existed *de facto* in that territory before its organization into a province. The population was then divided

Manitoba School Acts.

almost equally between catholics and protestants. While giving to the province the power to legislate concerning education, sub-section 1 of section 22 adds to the restriction of section 93 of the British North America Act, not to prejudicially affect any right or privilege conferred by law respecting separate schools, that in addition to not prejudicially affecting separate schools existing by the custom of the country (by practice)." If your lordships want the page in the book for the French, it is page 109.

Lord SHAND:—I have it before me. I was looking at the act.

The ATTORNEY-GENERAL:—It is upon this extension of the prohibition contained in the 93rd section, which protected separate schools existing by custom, that the legislature of Manitoba acted in introducing the principle of separate schools. I will not refer to that, because that is an argument which I do not think I desire to press, although I am going to refer to it in another connection. Now that is not the only difference in the 22nd section between the two statutes. I will ask your lordships' kind attention to the opening words of sub-section 3 of the British North America Act, and the corresponding words in sub-section 2 of the Manitoba Act. Sub-section 3 of section 93 of the British North America Act begins in this way: "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," and so on. Therefore, at the time that the Manitoba Act was passed, rights had been intended to be given to the protestant and catholic minorities under the British North America Act in the event, either of their being "separate or dissentient," which I submit is exactly the same as denominational, "schools existing by law at the union, or thereafter established by the legislature of the province." Those words are omitted from the commencement of sub-section 2 of section 22 of the Manitoba Act. If your lordships will look, kindly, at the parallel columns on page 4 of the Record, you will see exactly what I mean. Sub-section 2 begins: "An appeal shall lie to the governor-general," without any of the introductory words, "Where in any province." I am justified, and entitled to submit, that the reason of the omission of these words is because both parties—I have no right to say both parties—but both contending parties in the state, who would have to influence the legislature, knew that the schools did exist. There is no necessity for a condition precedent in this respect. Your lordships must remember that they are modifying it in connection with practice, as distinguished from law alone, and, therefore, having widened sub-section 1 by the inclusion of the words "or practice," when they come to frame the corresponding section to sub-section 3, they leave out the narrowing words there, because I point out to your lordships that if an appeal had been brought under sub-section 2 of the Manitoba Act, it might have been contended, had those words been left in, separate and dissentient schools did not exist in Manitoba by law; they had not been established by the legislature subsequently, and, therefore, no question of the rights of the protestant and catholic minorities could be considered by the governor-general under the sub-section. I, therefore, point out that the whole framing of the section 22 of the Manitoba Act of 1870 indicates that the legislature knew and were informed of that which the learned judges of course say everybody did know at the time; that in fact there had been in Manitoba a separate system of education by protestants and Roman catholics, each separately supported, the one by the protestants and the other by the Roman catholics.

Lord SHAND:—There is this distinction, that in order to make a difference about the word system, in the one case you had a mere voluntary series of schools, and in the other case there were government schools.

The ATTORNEY-GENERAL:—I do not think they were government schools.

Lord SHAND:—They were state schools.

The ATTORNEY-GENERAL:—They were regulated by statute.

Lord SHAND:—They were state aided.

The ATTORNEY-GENERAL:—No, I do not think so.

Mr. McCARTHY:—Yes.

The ATTORNEY-GENERAL:—There was state aid?

Mr. McCARTHY:—Yes.

Lord SHAND:—They were all getting state aid.

The ATTORNEY-GENERAL:—That is why I ventured to explain what the word “state” meant.

Mr. McCARTHY:—They get a portion of the government grant.

Lord WATSON:—The difference would be this: that, if you are right, there would be some distinction in Manitoba. The schools before the statute were private schools, erected, set up and managed privately, and any person who set up and managed a private school at that time was not liable to be called upon for any school assessment; but in Ontario it seems to have been somewhat different. In Ontario there were schools formed—separate schools for catholics, which were set up under the provisions of an act, under certain conditions as to teaching and so forth, and it was only when he supported one of these schools that he got any exemption. If he set up any school of his own, as was done in Manitoba before the passing of this act, there would have been no exemption from the law to contribute to the school rate.

The ATTORNEY-GENERAL:—I have not suggested, of course, that the circumstances are identical. I quite agree that your lordship has pointed out certain differences.

Lord WATSON:—One, if I may say so, is a much wider right.

The ATTORNEY-GENERAL:—I am, of course, submitting to your lordships that it is because there were these differences that you find that an expression has been used to which the widest meaning is intended to be given, and should be given. I want, my lords, to test it by two observations. First, my learned friends say: This may have been directed to some possible legislation or *quasi* legislation of the Hudson's Bay Company. Now, I say there is no trace of it in any one of the judgments in the court below, nor in any of the facts stated as to the existing facts in Manitoba. There is absolutely no suggestion made in the whole course of the previous proceedings which can be directed to that. Then, my learned friends say, and I think it was more Sir Horace Davey's argument—that “privilege” is a sort of technical word—*privilegium*. Well, it would be strange if it had been used in that sense in any such statute as this, but it is very difficult, if I understand the law, to understand what a *privilegium* by practice would mean. If *privilegium* is to be construed in the strict sense which my friend Sir Horace Davey indicated, I should have thought it was, I will not say a contradiction in terms, but almost a contradiction in terms, to speak of such a *privilegium* as existing by practice. My lords, I submit to your lordships that this is a kind of legislation which is intended to be construed by giving a liberal and wide meaning to the words, and that the meaning is to be gathered from what was to be protected. I say that the words “rights and privileges” are general words. I do not know that I should assist your lordships much by citing authorities, but of course I could cite to your lordships several authorities indicating that the word “rights” and the word “privileges” have been given wider meanings than the narrower meanings which are suggested by my learned friends. My lords, my learned friend Sir Horace Davey endeavoured to draw a distinction in which he said one of the privileges was, not being compelled to attend any school at all—that there was no obligation on a Roman catholic prior to the act of 1870 to send his children to any school.

Lord WATSON:—Is not it almost an inversion of the use of language to speak of *privilegium* as existing by practice.

The ATTORNEY-GENERAL:—I was not using this as an argument in my favour, but I was endeavouring to answer the argument used by my friend Sir Horace Davey against me. He said there still is preserved in the act of 1890, so to speak, by there being no section compelling attendance, that privilege of non-attendance; but, my lords, surely, the answer is obvious. There were no public schools at all before the act, and therefore it cannot be said that there was an exemption by practice from attending schools in the sense that Sir Horace Davey means. In fact, the same argument which he uses to answer our argument with reference to exemption from subscription to schools of other denominations.

Lord SHAND:—It is the same point taken against you. Sir Horace Davey says because there were no schools before, you were not enjoying any privilege such as you say now you are to have protected.

Manitoba School Acts.

The ATTORNEY-GENERAL:—Then of course my reply would be, what do they say is to be preserved to us in the words "rights and privileges."

Lord SHAND:—I think there are two things said. He says in the first place it preserves your right to open such schools, and it would also protect you against any act creating disabilities against Roman catholics.

Lord WATSON:—His argument may be expressed in these words. He said, a privilege of this kind is of the nature of an exemption, but there cannot be an existing exemption when there is no rule from which to exempt it. That was the gist of his argument.

The ATTORNEY-GENERAL:—I was fully alive to those points which I had in my mind, and I was about to enumerate them. Let us take the exemption from civil disability by the legislation which would exclude catholics who had not gone to protestant schools.

Lord HANNEN:—Which would exclude catholics who had not gone to public schools.

The ATTORNEY-GENERAL:—Yes, my lord, who had not gone to public schools.

Lord SHAND:—There is such a law in one of the other provinces we are told.

The ATTORNEY-GENERAL:—Oh! no, my lord, my friend was referring to the United States—to the state of Maine, I think.

Mr. McCARTHY:—Massachusetts.

The ATTORNEY-GENERAL:—That has nothing in the world to do with Canada, not the least in the world. That was given by my friend Mr. McCarthy as an illustration.

Lord SHAND:—I thought it applied to one of the provinces.

The ATTORNEY-GENERAL:—But, my lord, acts could be passed excluding catholics from civil employment. There is absolutely nothing to prevent the legislature doing it. Far wider powers have been used under such legislation.

Lord HANNEN:—But is that example applicable? We are supposing the legislature to point to their not having attended a particular public school.

The ATTORNEY-GENERAL:—My argument is because the legislature has been prevented in this respect from imposing restrictions upon catholics, that is the reason why the particular matter has been picked out. It is all very well for my friend to say that is one thing that is preserved, but I am entitled to say what we argue for is preserved also. I submit it is not because those who are arguing for the other contention can pick out a thing and say we admit that this particular thing is something which is preserved to them.

Lord SHAND:—I think the argument was only used to show that they could satisfy the language of this act.

The ATTORNEY-GENERAL:—But why are they entitled to satisfy it in that way? Supposing a law was passed excluding persons from employment who had not gone to the public schools, taking the more accurate expression which Lord Hannen was good enough to give me, why should not they say in reply, "It is all very well, but you had no privilege at the time of the union in that respect; it is perfectly true there was no law respecting it; there was no practice one way or the other with regard to the matter; the matter had not formed the subject of legislation. I submit that you are not entitled to pick out one particular burden that might be imposed by legislation and say that was prevented; that was barred, and at the same time exclude that which we humbly submit must have been present to the legislature at the time that they were dealing with the system of education.

Lord WATSON:—I can understand this view that you found on the language of the statute. "Law and practice" is an expression that one is familiar enough with, and in that case it generally signifies some practice having the force and effect of law; but when you have the expression "law or practice," which makes them alternative and contrasts "law" with "practice," I take it that "practice" there can hardly mean practice having the effect and force of law. Then that raises the question, What in that case does "practice" mean?—A right or privilege arising from practice, which has not the force of law. It may be that privilege in that sense simply means arising or depending on practice; and practice, using the word in that sense, simply means that they were in practical enjoyment of immunity—

that they did not do certain things at the time and they were not liable for them. Can you put the statute higher than that?

The ATTORNEY-GENERAL:—I do not know that I want to put it higher than that.

Lord WATSON:—That seems to me to be the most favourable aspect in which it can be put for you, that “practice” here cannot mean practice equivalent to law.

Lord HANNEN:—The effect of this is, I think, as though it had said that any practice with respect to denominational schools shall have the force of law.

The ATTORNEY-GENERAL:—May I endeavour to illustrate my argument by assuming that “churches” were there instead of “denominational schools.” Supposing there had been a completely voluntary church system, as I dare say there was a church system, and supposing the section had read in this way:—“In and for the province the legislature may exclusively make laws in relation to religion, subject and according to the following provisions:—Nothing in any such law shall prejudicially affect any right or privilege with respect to churches which any class of persons have.”

Lord WATSON:—But in conventional language—not strictly legal language—I take it “privilege” has a much wider meaning. Take a place where there is little taxation: there is nothing erroneous in saying that a resident in that country is in the enjoyment of privileges because he can do this, that, and the other because the force of law has not yet stepped in to prevent it.

Lord MORRIS:—Just as, in the case of Jersey, the residents have not the privilege of paying duty on their wines.

Lord WATSON:—If you go into a part of the world where there is no law against trespass, you may say the fact that there is no law enacted against trespass, gives you the privilege of going into another person’s land.

The ATTORNEY-GENERAL:—May I say what I desired to say with respect to the illustration of churches?

Lord MACNAGHTEN:—I think that is rather adding to your difficulties.

The ATTORNEY-GENERAL:—Of course I did not intend to do so in putting it. I thought that it was not an unfair parallel to put “religion” corresponding to “education,” and “churches” corresponding to “schools,” and I assume that there are voluntary church rates for both.

Lord MORRIS:—Have you any objection to deal with what Lord Watson says—that they are not to do anything to prejudicially affect the condition of things which these two churches practically enjoyed at the time of the passing of the act?

The ATTORNEY-GENERAL:—Certainly not. I hope I was not understood as dissenting from what Lord Watson put to me. I was submitting an illustration and I was going simply to consider whether the illustration was not a good one, but if Lord Macnaghten says it is not, I am sure I must be wrong. It does help sometimes to consider what may be thought to be parallel cases.

Lord MORRIS:—I do not think you can put it higher than what he says was the highest point—that the condition of things as regards denominational education, which was then practically enjoyed, was not to be altered prejudicially.

Lord MACNAGHTEN:—You say that it means, with respect to denominational schools, no class of persons shall be put in a less favourable position than they occupied at the time of the union?

The ATTORNEY-GENERAL:—That is my submission, my lord.

Lord MACNAGHTEN:—You put it as high as that?

The ATTORNEY-GENERAL:—Yes. I submit it means “prejudicially affect the rights or privileges of a class of persons.” They are very wide words.

Lord MACNAGHTEN:—Yes, they are very wide words.

The ATTORNEY-GENERAL:—To prejudicially affect does not mean to take away absolutely.

Lord MACNAGHTEN:—But would not that prevent them from legislating with regard to education at all?

The ATTORNEY-GENERAL:—No, I say most distinctly it would not.

Lord MACNAGHTEN:—You will come to that presently. I wanted to know exactly how high you put it. May I take it from you that you accept that?

Manitoba School Acts.

The ATTORNEY-GENERAL:—I do.

Lord MACNAGHTEN:—May I take it that you say that the real effect of this section is that with respect to denominational schools no law shall be passed which would put any class of persons in a less favourable position than they occupied at the time of the union?

The ATTORNEY-GENERAL:—With respect to their own denominational schools, and with respect to the denominational schools of the other party. I put that in for this reason: I think too much stress has been laid upon the view that there is only one side on this question. There are the denominational schools of the Roman catholics which they have to maintain, as to which they have rights and privileges; there are the denominational schools of the protestants, which the protestants have to maintain, and as to which they have rights and privileges. There are also rights and privileges *inter se*.

Lord MACNAGHTEN:—No doubt—as we have seen the presbyterians, as a body, seem to take a different position from the church of England.

The ATTORNEY-GENERAL:—I do not only mean that. I am afraid your lordship thought it was more in my favour than I meant to put it. I was putting this: I submit that the right to conduct, and the privilege of conducting, your own education without having anything to do with the schools of the other denomination is just as much a right and privilege of a class of persons with respect to your own denominational schools, as to say you may yourselves keep your own—

Lord MACNAGHTEN:—Would not that exclude all government interference?

The ATTORNEY-GENERAL:—No, I will come to that at once, because I have no difficulty in arguing the point.

Lord MACNAGHTEN:—Before you go to that, I put down what I thought you said “right or privilege” was, and I want to see if I put it down correctly. It was the right or privilege to maintain by their own contributions their own schools, and not to be taxed directly for the maintenance of schools to which they conscientiously objected, and to which they could not send their own children.

The ATTORNEY-GENERAL:—That is in substance what I meant to say. I wished to put the two limbs, the freedom of contribution and the exemption from contribution to other schools. I submit both those were by practice, rights or privileges of the Roman catholics and the protestants respectively.

Now I should like to grapple at once with the point, which is a point evidently pressing upon your lordship.

Lord SHAND:—Of course in the second branch of that the idea of exemption occurs.

The ATTORNEY-GENERAL:—Certainly.

Lord SHAND:—And it all comes back really practically to the second.

The ATTORNEY-GENERAL:—Yes.

Lord MACNAGHTEN:—Then on the other side it was said that was not fair, because if they had a right or privilege at all not to be taxed directly for any education—

The ATTORNEY-GENERAL:—No I did not say that, my lord.

Lord MACNAGHTEN:—No, you did not say it, but the other side did.

The ATTORNEY-GENERAL:—Yes. I am going to say that my friend, Sir Horace Davey, goes too far, and I should like to take the point now, because it really fits in with the argument and it has been mentioned by both your lordship and Sir Richard Couch. Will your lordships look at the section once more? “The legislature may exclusively make laws in relation to education.” Therefore they are intended to legislate with respect to education, but they are to be subject to provision number one, which I need not read again. I say that provided they did not put the Roman catholic denomination in a worse position than the protestant denomination the legislature clearly was entitled to legislate, and I desire to point out that it is not sound to say that all this legislation has been *ultra vires*. That was put compendiously to my friend Sir Horace Davey by one of your lordships yesterday; provided that the law up to 1890 preserved equality as between the Roman catholics and the protestants, the legislation was perfectly *intra vires*. My learned friend put it that we say it was a compromise.

Lord WATSON:—I do not think it can be said for one moment that this reservation in favour of denominations was intended to stifle or deprive the legislature of a free hand in saying who should be educated, how they should be educated, and what standard of education there should be.

The ATTORNEY-GENERAL:—But Lord Macnaghten was putting to me while your lordship was absent for a moment that my argument paralyzed, or might be said to paralyze, the hands of the legislature, and that they could not legislate at all. I am endeavouring to answer that, by pointing out that there was a permission to the provincial legislature to legislate, with the condition that no such law shall have the prejudicial effect intended to be provided against.

Lord SHAND:—The difficulty I have about that is, that if you interpret the condition in the strict way you are doing, I cannot see very much what is left to the legislature to do, except to keep up denominational schools.

The ATTORNEY-GENERAL:—What I am endeavouring to answer is this: I would take every section of the act of 1870, and the act of 1881, and I think it could be honestly contended that not one of them infringed that first condition—not one of them. The whole point that is suggested is this: that because there being a customs taxation, and because the result of that customs taxation was handed over to the Dominion, and then the Dominion might make to the province a payment in the nature of a grant—that because when the state—that is the province—came to make the grant towards education, supplementing a rate, that would be or might be supposed to be, a product of the customs, paid by Roman catholics, and therefore that was an illegal application of moneys by the province.

Lord WATSON:—For instance, take the act of 1871—the education act. I certainly have been unable to see any enactment in the statute which would not infringe the right you claim.

The ATTORNEY-GENERAL:—We are not entitled to say our educational rights are not to be interfered with at all—that they are not to be governed or controlled, but as between the classes there is not to be a prejudicial affection of our rights.

Lord SHAND:—Is not it a just observation to say that both the act of 1871 and the act of 1881 are acts which establish or keep up denominational schools?

The ATTORNEY-GENERAL:—Yes, I think it is a right observation.

Lord SHAND:—Then this follows if that be so that what I have said and think about this, subject to what you can say, is that your argument comes to this, that from the day the Manitoba act was passed, the government could have established nothing but denominational schools, because both the statutes you have referred to establish denominational schools. Now is it the case that the government cannot establish schools of a non-sectarian character?

The ATTORNEY-GENERAL:—No, I do not say in the least that the government cannot establish schools of a non-sectarian character.

Lord SHAND:—But the moment they do, then the question arises.

The ATTORNEY-GENERAL:—I do not say that in the least.

Lord SHAND:—But they must relieve the protestants and the catholics from payment.

The ATTORNEY-GENERAL:—Your lordship is asking me to put it too much in the concrete, though I do not shirk the responsibility. I say that when I come to examine the act of 1890 what the legislature has done is to take away catholic schools and turn them into public schools, and insist on taxing the catholics for those schools. Those are the rights interfered with by the legislation of 1890. But I would willingly take hypothetically any part of the acts of 1871 and 1881—I have studied them carefully, and I am not aware of any provision down to the act of 1890, which interfered with the equality and freedom of Roman catholics and protestants.

Lord SHAND:—I take it so, but on the other hand, both those acts establish denominational schools. Now the question is whether the government having been told that they are to legislate on education can establish anything but denominational schools? It is no answer to say they were all allowed under these acts because they were denominational. Do you contend that they cannot establish non-sectarian schools? I do not think these acts help in the argument.

Manitoba School Acts.

The ATTORNEY-GENERAL:—I do not say that they cannot establish non-sectarian schools but what they have established under the act of 1890 does in fact interfere prejudicially with our rights.

Lord SHAND:—What class of schools would not do that? Is there any class of schools that you can mention that would not by your argument infringe the act?

The ATTORNEY-GENERAL:—I am bound to answer the questions which your lordship puts, but I should say for instance a school of gymnastics—a most useful thing.

Lord SHAND:—That is a very limited class of school.

The ATTORNEY-GENERAL:—It is not very limited, I can assure your lordship. I speak with some knowledge of the educational system of the present day and I can assure your lordship that it forms a very substantial element of expense in the board schools.

Lord SHAND:—I was rather referring to schools for educating the mind than to schools for educating the body.

The ATTORNEY-GENERAL:—The Swedes tell us that both are equally important. In the Swedish system we are told the best products are obtained from those schools which educate both the mind and the body. I am rather disposed to suggest that there may be schools of that sort which would not infringe the act.

Lord MORRIS:—Is not this intended to be confined to what may be substantially called primary schools?

The ATTORNEY-GENERAL:—Certainly.

Lord MORRIS:—What light is thrown upon the subject by going into schools of that sort or schools of medicine or training?

Lord SHAND:—Well, take schools for teaching “the three R’s.” Could the government establish such schools? A Roman catholic, according to what the archbishop says, would not allow one of his children to go.

The ATTORNEY-GENERAL:—I think that in this province if a Roman catholic was made to contribute to a school that taught “the three R’s” without any religious teaching at all, that would be an infringement of the act of 1870.

Lord SHAND:—Does not that show that you are paralyzing the government if you will not allow them to have schools for teaching “the three R’s?”

The ATTORNEY-GENERAL:—I submit distinctly not.

Lord MORRIS:—In such a school in the teaching of writing any atheistic teacher would set a line. “There is no God.” You get into an extraordinary line of controversy when you get into that.

Lord WATSON:—I can quite conceive that there might be a very great many branches of education taught in schools set up for both classes of religionists without any distinction of creed, such as cookery, science and a number of things—things that we are quite intimate with and not within the meaning of the word denominational.

The ATTORNEY-GENERAL:—I really put my proposition higher than that. I put it, and I meant to put it, including and not excluding these debateable subjects. I say that the act of 1881 is an instance to show that useful legislation could be passed by the legislature controlling protestants and controlling catholics and yet not prejudicially affecting their rights.

Lord WATSON:—My own impression is this: I do not think that a school of that kind set up for teaching these branches has ever been heard of as a denominational school. I never heard of such a thing.

Lord MORRIS:—These are very chimerical things.

The ATTORNEY-GENERAL:—As to the words used, “privilege with respect to denominational schools,” they could not apply that with respect to a school which no human being would think of calling a denominational school.

Lord SHAND:—Take a science school, which Lord Watson mentioned: that would be the very first thing they would object to; they would say that the government could not open a science school.

The ATTORNEY-GENERAL:—I can assure your lordship I am not, on behalf of the Roman catholics of this province, here to ride off on a minor point, but I am here to submit that within the four corners of this 22nd section there may be, not

only useful legislation and useful legislation, controlling and interfering with the rights of both parties, protestants and Roman catholics, but that it was intended to protect *inter se* the rights which these two classes had by practice with regard to each other's denominational schools and their own denominational schools.

Lord MACNAGHTEN :—Then, do you object to this, that according to your view—I do not know whether I am putting it right—the only legislation which could be effected under this section would be legislation with regard to education more or less on the denominational system and not on a national system ?

The ATTORNEY-GENERAL :—I think, my lord, it must be more or less on the denominational system, if it is to apply to the whole community, I should be disposed to say that they might legislate for protestants in protestant schools and they might legislate for Roman catholics in Roman catholic schools.

Lord MACNAGHTEN :—But there could be no general system of national education according to your view ?

The ATTORNEY-GENERAL :—Is not it a little involved in what is a national system of education ?

Lord MACNAGHTEN :—It is one of the most difficult questions.

The ATTORNEY-GENERAL :—What your lordship puts is a general system of national education.

Lord MACNAGHTEN :—I do not want to put words into your mouth.

The ATTORNEY-GENERAL :—No; but does not it require a definition of what a general system of national education means ?

Lord WATSON :—Even in Ireland, it would be news to me to be told, and I should be very much surprised if I was told that the teaching of the Dublin university in the arts schools and science schools is denominational.

The ATTORNEY-GENERAL :—I think Lord Macnaghten was pressing me a little too far in asking me to say that no general system of national education could be established. I can conceive it being a general system applicable to all, but still so erected within the general system that there was no infraction of the sub-section. I can imagine a general system contemplating schools established for Roman catholics and schools established for protestants.

Lord MACNAGHTEN :—That would be easy enough with regard to such a place as Winnipeg, but with regard to a large district of this size sparsely inhabited, would it be possible ?

The ATTORNEY-GENERAL :—I am about to point out, when I come to the act of 1890, they have gone a great deal further than that. I say when you look at what the act is, this act has crushed out the Roman catholic schools. I know not whether it is in consequence of any violent agitation on behalf of Orangemen or others, but that is the fact.

Lord MACNAGHTEN :—I think you need not bring Orangemen into it.

The ATTORNEY-GENERAL :—I do not know, my lord. I am not sure that before this argument is over, your lordship may not hear from my friend, Mr. Blake, something which may render it necessary to introduce the word, but I will say “strong protestants or others.”

Lord MACNAGHTEN :—I do not know what a “strong protestant” is.

The ATTORNEY-GENERAL :—I will say “protestants or others.”

Lord MACNAGHTEN :—You may leave out all epithets.

The ATTORNEY-GENERAL :—I will leave out all epithets. I am very much obliged to your lordship for your assistance; but I do say this, that when you come and look at this act of 1890, our contention on behalf of the Roman catholics is that it has crushed and killed any possibility of schools in which there should be such education as the Roman catholics think they are entitled to have and to maintain freely. That is why we are here. It is absolutely unfounded to say that our argument stifles and crushes all legislation in Manitoba with regard to education. We appeal to the legislation of twenty years, which has been absolutely successful, and we say that to contend that there is a stifling of legislation by this contention is not sound. If you only look at the provisions of the act of 1890, we say it is a stifling of any school at the public expense to which Roman catholics can conscientiously send their children, and therefore we say that the legislature of the province

Manitoba School Acts.

has legislated with respect to education, as they are bound to do if they think it right, so as to most materially prejudice the rights of the Roman catholic class.

Lord MORRIS:—Is not the only system of education founded by this act of 1890 one which Roman catholics in Manitoba cannot conscientiously avail themselves of?

The ATTORNEY-GENERAL:—That is my contention.

Lord MORRIS:—It is not a bone of contention, but that is the fact.

The ATTORNEY-GENERAL:—Of course, I am only here as an advocate.

Lord MORRIS:—What is the use of discussing other matters. Nobody can deny that the Roman catholics cannot avail themselves of the system.

The ATTORNEY-GENERAL:—Surely your lordship will be of opinion that it is useful to discuss such questions as have been put to me, because it helps the ultimate decision on the argument.

Lord MORRIS:—But supposing those questions are put on the theory that that ought not to be the theory of the Roman catholics?

Lord SHAND:—I think it is put in this way, that these schools have been proved to be unacceptable to Roman catholics, but if you carry the principle far enough there could be no schools which would be acceptable, and therefore you could not have a national system.

The ATTORNEY-GENERAL:—I do not agree with that.

Lord SHAND:—That is the point.

The ATTORNEY-GENERAL:—That is the point, but I do not agree with it.

Lord MORRIS:—I understand there is a national system in England, but I am not so acquainted with that as I am with Ireland—I understand there are schools which are acceptable to the Roman catholics, and, therefore, why should not there be in Winnipeg?

The ATTORNEY-GENERAL:—Will Lord Morris pardon me. Why should I go to England? Why not take Manitoba?

Lord MORRIS:—So I say.

The ATTORNEY-GENERAL:—I have been trying to stick to Manitoba. I say for eighteen years there has been a perfectly legitimate, lawful and *intra vires* working out of this act.

Lord MORRIS:—Not by any undenominational schools.

The ATTORNEY-GENERAL:—I do not care whether or not. I do not quite agree that it was so. In one sense I will accept that it is denominational.

Lord SHAND:—All that it shows is that if you have a denominational system it is not objected to, but the moment you make it undenominational it is objected to.

The ATTORNEY-GENERAL:—I think that is too narrow, if you come to look at the act of 1881. I do not shrink from it because it may well be that section 22 did mean it may be necessary to maintain a denominational system. I do not shrink from it from that point of view, but I say that it is narrow, because I think it is an illiberal view of the acts of 1871 and 1890, simply to refer to them as being purely what I may call denominational schools. I admit the catholics manage the catholic schools, and the protestants manage the protestant schools, but in no other sense do I admit it was denominational. I admit it was baptist for baptist, or presbyterian for presbyterian, or churchman for churchman. It was denominational in that sense of the word, denominational under the 22nd section of the act. May I trouble your lordships to look at the act of 1890. It is really of very considerable importance. First your lordships must be possessed of what the advisory board were, and I can further briefly explain that. I will ask your lordships' attention to pages 107 and 108 of the statutes. The advisory board is established. Four members are nominated by the department of education; two are elected by the teachers, and one by the university by ballot. Then there are two important matters the advisory board have to deal with, and this is entirely new. They have first under 14 B "to examine and authorize text books and books of reference for the use of pupils and school libraries." May I point out at once a most important point as to which legislation could take place, and that is sub-section 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. That is a most important branch of legislation which would be

perfectly independent of, and could not infringe the rights of catholics or protestants, because it could not be said that it could be a right of the Roman catholics to have the children educated in unhealthy schools.

Lord HANNEN:—That is only as to the school houses. It is not in relation to education.

Lord SHAND:—At all events, those are the words of the act.

The ATTORNEY-GENERAL:—The school houses would mean the buildings in which the children are. Then there is sub-section G.

Lord WATSON:—It is not made requisite that the advisory board should contain any catholic.

The ATTORNEY-GENERAL:—I was going to mention that. Sub-section G is to prescribe the forms of religious exercises to be used in schools. Now, on this advisory board there is no representation of any denomination, and no provision that any catholic element should be included, therefore, from the point of view of Roman catholics, it is a purely secular board. Then if your lordships will turn to the statute, knowing what the advisory board is, at page 111, there are certain sections which I think ought to be considered. The first is the 3rd. Remember that prior to this statute there were catholic and protestant districts, and the people were taxed. The grant was given to the schools by capitation, I think, or in some way or other of that character, and the catholics were taxed.

Lord WATSON:—They were either taxed or contributed.

The ATTORNEY-GENERAL:—They were either taxed or contributed. “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.” Therefore that puts all the protestant and catholic districts under the provisions of the act. Then section 5 is:—“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.” Then section 6 is:—“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.” Then the parent may notify that he wishes the pupil to be exempt. “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 teachers to hold such religious exercises.” Therefore the school may be one in which there is absolutely no religious exercise at all. “The public schools shall be entirely non-sectarian and no religious exercises shall be allowed therein except as above provided.”

Lord SHAND:—I think that necessarily excludes doctrinal teaching.

Lord HANNEN:—Of course.

The ATTORNEY-GENERAL:—“No religious exercises shall be allowed therein except as above provided.”

Lord WATSON:—I do not understand how a school purely non-sectarian can teach religion on the one side and can refuse to teach religion on the other.

Lord SHAND:—I agree in that.

Lord WATSON:—We call them non-sectarian in Scotland also, but I do not understand it.

Lord MORRIS:—Really the word should be “secular,” but they do not like that word.

The ATTORNEY-GENERAL:—What I wish to point out is this, that really the use of the word “sectarian”——

Lord HANNEN:—It means not to teach the doctrines of any particular sect.

The ATTORNEY-GENERAL:—I should have said myself that “sectarian” there means to draw a distinction between the various sects of religion. It is not used in the sense that “denomination” is used in the act of 1870. It is not used with reference to the broad dividing line between Roman catholics and protestants. It is used in a more limited or a more definite sense, of the sects of religion.

Manitoba School Acts.

Lord MORRIS :—In all the legislation as affecting Manitoba up to 1890, beginning with the act of 1871, is there any reference at all to anything except protestants on the one side and Roman catholics on the other?

The ATTORNEY-GENERAL :—Not the slightest, my lord. Not a word. The whole of the legislation proceeded on the lines of drawing that sole distinction and proceeded on an absolute equality between the two sections, protestant on the one hand and Roman catholic on the other.

Lord MORRIS :—I mean, the legislation never seemed to contemplate any provision for the different sects of protestants.

The ATTORNEY-GENERAL :—Never, my lord. I may ask your lordship's consideration of this. Neither before 1870 nor between 1870 and 1890 has there been any reference in any of the statutes relating to Manitoba, or in the practice, to any distinction between sects, properly so called. The sole distinction is between Roman catholics and protestants.

Lord MORRIS :—That is continually put forward.

The ATTORNEY-GENERAL :—Certainly.

Lord SHAND :—There is one matter I have never had information about. What became of the school buildings, were those just appropriated?

The ATTORNEY-GENERAL :—I am coming to that directly, my lord.

Lord SHAND :—Do not let me induce you to take it out of its order.

The ATTORNEY-GENERAL :—I mentioned it yesterday by anticipation. I might point out to your lordship that the school buildings which had been created by catholic money would become and be public schools under this act. I mentioned that with reference to an argument which my learned friend Mr. Blake may use to-day, that it amounts, to a great extent, to the confiscation of catholic property.

Lord SHAND :—It has occurred to me, for example, that after the act of 1870—I mean the Manitoba Act—if the government had appropriated the catholic schools, I think that would have been invading a right or privilege. I confess that is my impression if that had been done at that time. Whether it may make a difference that in the two years the schools had changed their character or not, is another matter.

The ATTORNEY-GENERAL :—I shall show your lordships, if I may be permitted to refer to it only for the purpose of illustration, what the system was under the act of 1881. Of course I have borne in mind that your lordships have told me, and I have myself submitted, that I am not entitled to refer to it for the purpose of construction, but only for the purposes of illustrating what was the real position of the parties at the time. Now, I will pass the reading of the grant sections, to which I have to refer later on, and I will ask your lordships kindly to pass at once to section 141, page 140: "No teacher shall use or permit to be used as text books any books in a model or public school"—a model school, I am told, is for teaching teachers—"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." Now, from the point of view of catholics, that is an extremely important section. Your lordships will be good enough to remember that the books are to be selected by the advisory board, upon which the catholics are not given any representation, and as to which it is obvious that religious considerations may not enter into the mind of the board at all; but further than that, that is the board that is to control the religious exercises. I think your lordships would be of opinion that, at any rate, from the point of view of a conscientious Roman catholic, section 141, with regard to books that are to be used in the schools, has a very important bearing. Then of course there are sections as to penalties with regard to the use of books, which are only following out the same thing.

Lord MACNAGHTEN :—What is the meaning of the reference there at the end of that section, R. S. O.?

The ATTORNEY-GENERAL :—That is the Revised Statutes of Ontario, chapter 225. It is the Consolidation Act.

Lord MACNAGHTEN :—I suppose that was.

The ATTORNEY-GENERAL :—Now, will your lordships turn to sections 178 and 179, which is the point that Lord Shand asked me about. I will read section 179 first:—"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 exceeds 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 exceeds its liabilities, the difference shall be added to the amount to be allowed as an exemption." Now, will your lordships go back to section 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 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 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." So that your lordships observe that the property which has been created in catholic school districts has under section 179 to be handed over to the public schools board under this act, the only protection being that if the assets are more than the debts for the time being there shall be a partial temporary exemption from taxation in respect of that particular excess, but, assuming the debts and assets to be equal, the catholic school districts cease to exist and the schools go over to the public school trustees to be held under this act. If your lordships look back there is another section which is to the same effect as that I have mentioned.

Lord HANNEN:—Is there anything to show that any property that a Roman catholic school body possessed before 1870 has been transferred or could be transferred?

The ATTORNEY-GENERAL:—Only this, that if you look at the legislation of 1871 and 1881 you will find that the existing schools, practically speaking, come under the existing legislation.

Lord WATSON:—There were no school districts in 1870.

The ATTORNEY-GENERAL:—No. If your lordships think it right to look, as I shall ask your lordships to look, at the legislation of 1871 and 1881, your lordships will find that the schools in existence get certain benefits by certain contributions being made and come under the then existing legislation; but if your lordships ask me whether there was a building here or there —

Lord HANNEN:—Or any funds or any assets.

The ATTORNEY-GENERAL:—I have no detailed information about that point, but I shall submit it clearly must have been so. Possibly one of my learned friends can help your lordships on that matter.

Sir RICHARD COUCH:—That would not affect anything existing at 1870.

The ATTORNEY-GENERAL:—No, I think not; but the outcome of what existed in 1870.

Sir RICHARD COUCH:—It affects them.

The ATTORNEY-GENERAL:—What I want your lordships to have in your minds is this: I said that the schools in existence in 1870 came under the acts from 1871 to 1881, grew up, were improved and increased in efficiency with the growth of population by the contributions of the catholic supporters in the one place and the protestants in the other. Now comes the act of 1890 and sweeps all that into the common schools trust.

Lord MORRIS:—The boy of 1870 became the man of 1881.

The ATTORNEY-GENERAL:—The infant before 1871.

Lord MORRIS:—And is now transferred, man and boy, bodily.

Manitoba School Acts.

The ATTORNEY-GENERAL:—I must ask your lordships to look at the taxing section for a moment. Your lordships are aware that the council levy an equal rate on all property. Section 89 says that it shall be the duty of the council to levy and collect by assessment upon the taxable property an equal rate on all property, and by sections 92 and 93, it is charged on all school property. I only mention this as affording an illustration that a catholic school voluntarily maintained would have to pay to the school rate for the purpose of the schools under this act. If your lordships look at section 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." It is only an aggravation of the grievance, but it is worth a word of notice that owners of Roman catholic school property would have to contribute to this rate for school purposes.

Lord SHAND:—Even voluntary schools would be subject to assessment?

The ATTORNEY-GENERAL:—Even voluntary Roman catholic schools would be subject to assessment to this rate for other schools. Then the legislative grant depends on the school maintaining its character. That your lordships will find at section 108: "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." Therefore, of course, that makes it absolutely impossible for any school in which there has been any religious teaching other than that permitted by the advisory board to receive its grant.

Lord WATSON:—Do you say that excludes anything like an adventure school that complies with the terms of the advisory board and the education act?

The ATTORNEY-GENERAL:—From any benefits under the act. It excludes any school.

Lord WATSON:—It rather suggests a school which is not a public school.

The ATTORNEY-GENERAL:—I think it is in the nature of restriction.

Lord WATSON:—A school other than that maintained by the district board may be a public school and may participate in the grant.

Sir RICHARD COUCH:—If not conducted according to the regulations of the board.

Lord MORRIS:—No school could get any public grant in which there was any religion taught other than that which was prescribed by the advisory board, who are entitled to form a sect of their own. By calling it non-sectarian they become a sect, because they could prescribe what religion they liked.

The ATTORNEY-GENERAL:—Would it be convenient if I say to your lordships now what was the system under the act of 1881? It is quite sufficient for me if I state that the whole of that legislation preserved absolute equality between the two sections, and the state managed the schools of the catholic and protestant sections respectively.

Lord MORRIS:—It never contemplated anything but the broad and known distinction historically and theologically on this subject between protestants and catholics.

The ATTORNEY-GENERAL:—There is one section that does bring that out in clear relief, and that is at page 42, namely, that the board is only divided into two sections. That is the act of 1881. Originally, there was equal representation of catholics and protestants. Now, in the year 1881, it is 21, 12 being protestants and nine Roman catholics. The board is to resolve itself into two sections, the one consisting of the protestant and the other of the catholic members. It is clear, I should think, that the reason why there were more protestants than catholics was because there was a larger population, but they do not intermix. The sections are still simply the protestant section and the Roman catholic section.

Lord SHAND:—Each has the management of its own schools.

The ATTORNEY-GENERAL:—Yes.

Lord SHAND:—So that these schools are purely denominational schools.

The ATTORNEY-GENERAL :—Are purely under Roman catholic management and protestant management respectively.

Lord SHAND :—Therefore the system is one of purely denominational schools.

The ATTORNEY-GENERAL :—Your lordship will understand why I do not quite accept that.

Lord SHAND :—You do not admit that ?

The ATTORNEY-GENERAL :—I do not dispute it at all, but only that denomination may be used in two senses. It was used yesterday in argument, by Sir Horace Davey, as meaning baptists and as meaning presbyterians. I want it to be understood in adopting the word denominational—

Lord SHAND :—You recognize only two denominations ?

The ATTORNEY-GENERAL :—That is what I meant.

Lord SHAND :—I have understood that quite.

The ATTORNEY-GENERAL :—If your lordships observe, each of the two sections selects its own books. If you look at the top of page 43, sub-section C, the protestant members select the protestant books, and the Roman catholic select the Roman catholic books. "Provided, however, that in the case of books having reference to religion and morals, such selection by the catholic section of the board shall be subject to the approval of the competent religious authority." That is because over the Roman catholics there might be still, according to their conscience, a higher authority than their own judgment with regard to that matter. Then section 9, a protestant member of the board shall be the superintendent of the protestant schools, and a catholic member superintendent of the catholic schools. Then section 12 :—"It shall be the duty of the council of the municipalities to establish and alter, when necessary, the school districts within their bounds, and if any of the said councils shall refuse or neglect so to do, then on the petition of at least five of the ratepayers of the school district, or proposed school district, of the section of the board of education to which the same belongs, the said section of the board shall establish or alter the same as may by them be deemed expedient. (a.) 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, and a protestant and a catholic district may include the same territory in whole or in part."

Lord MORRIS :—That sub-section shows that what was meant by denominations was nothing but protestants and catholics.

The ATTORNEY-GENERAL :—That is why I ventured to call attention to it, particularly with reference to the question put to me. It is obvious there they are referring to denominations in the sense of protestants and Roman catholics.

Lord SHAND :—I have not a doubt about it that the scheme did refer generally to protestants and catholics, but it remains that the system the government established under that was denominational.

The ATTORNEY-GENERAL :—Was catholic, and the other.

Lord SHAND :—Those are two denominations, but purely denominational, I should think. I do not see how it could possibly be put otherwise.

The ATTORNEY-GENERAL :—I was meeting the point made by Sir Horace Davey and pressed with great force upon your lordships that if we were right this work was to be broken up into a number of various sections.

Lord SHAND :—That depends upon another matter altogether—the particular section of the act of 1890 which was the word "class."

The ATTORNEY-GENERAL :—Oh ! no, my lord.

Lord SHAND :—You will deal with that when you come to Logan's case.

The ATTORNEY-GENERAL :—I should rather deal with that now. I am not instructed in Logan's case, and have no right to deal with it. The only proviso is "with respect to denominational schools which any class of persons have by law or practice in the province at the union." One class of persons who had privileges and rights were Roman catholics on one side and protestants on the other.

Lord SHAND :—That is a question of fact.

Sir RICHARD COUCH :—They were the only recognized classes of persons at that time.

Manitoba School Acts.

The ATTORNEY-GENERAL :—Certainly, so far as the evidence goes.

Sir RICHARD COUCH :—No subdivision of protestants seems to have been contemplated.

The ATTORNEY-GENERAL :—The affidavits state that the protestants combined for the purpose of the protestant schools.

Mr. McCARTHY :—Not before 1871.

Lord MORRIS :—They did not dream of anything but the two denominations of protestants and catholics.

Lord SHAND :—There is nothing in section 22 about either catholic or protestant. It is “denominational schools which any class of persons have by law or practice.”

The ATTORNEY-GENERAL :—Your lordship must look at the next section—“affecting any right or privilege of the protestant or Roman catholic minority of the queen’s subjects.”

Lord SHAND :—That is not the section that is founded on. Section 1 is founded on by Mr. Logan, who says I had denominational schools; they were a large and important class of schools, and I am affected in the same way as Barrett.

The ATTORNEY-GENERAL :—I am not counsel for Logan, and knowing the position in which Logan stands now—

Lord MORRIS :—As far as I am concerned, I am not capable of trying two cases at the same time. That is an objection I have to it—I could not.

The ATTORNEY-GENERAL :—I will judge it with reference to what your lordship said just now. I must be permitted to point out that I do not admit that “denomination” in sub-section 1 of the 22nd section means anything other than protestant and Roman catholic; and if you look the whole way through the British North America Act and everything in this case I humbly submit it points to identically the same consideration.

Lord HANNEN :—Do you say it would not apply even if it was proved in evidence, as I am not aware it was at all, that there were several presbyterian schools, and that the class of presbyterians had established schools of their own.

The ATTORNEY-GENERAL :—I think it would apply and I think it ought to be held to apply, but that was not my main argument as to what led to the words being inserted. I do not deny that it would apply and that they would get the benefit of it, because sufficiently strong language had been used; but denomination in Manitoba in 1870 meant the distinction between catholics and protestants.

Lord WATSON :—You might put it in this way: Supposing you had a presbyterian school teaching religion in a form of Calvinism which was very objectionable to episcopalians in the district, who would not send their children there. Would the persons maintaining that school be entitled to an exemption on a question of school rate for protestants?

The ATTORNEY-GENERAL :—I should have thought that if there was a class of persons representing Calvinism they would be entitled to say they were one of those included under the term denomination. We admit we were part of a larger group, but were included under the word denomination, and, therefore, come in, but not because they were Calvinists, but because they form part of that which the statute was regarding, the distinction between Roman catholics and protestants. Then if your lordships would be good enough to note that by section 25 there was power to assess in each school district, that is to say the catholic district and the protestant district, equally to supplement the grant, and it was to be laid equally—that is section 27.

Lord HANNEN :—I have not caught where the legislative grant is provided for?

The ATTORNEY-GENERAL :—In section 84, I think. It would be convenient to take it now, because I wanted it myself. The rate only supplements the grant in section 25. Section 84 says: “The sum appropriated by the legislature for common school purposes shall be divided between the protestant and Roman catholic section of the board of education in the manner hereinafter provided, in proportion to the number of children between the ages of five and fifteen, inclusive, residing in the various protestant and Roman catholic school districts in the province where schools are in operation as shown in the census returns.” Then there are provisions for the

apportionment, and provision for representation of the catholics and protestants respectively, and provision for the payments being made to the various sections. Then going back to section 25, the legislative grant is supplemented by an equal rate, which is to be levied equally upon the various sections, and if your lordships would kindly look at section 30: "The ratepayers of a school district, including religious, benevolent or educational corporations, shall pay their respective assessments to the schools of their respective denominations, and in no case shall a protestant ratepayer be obliged to pay for a catholic school, or a catholic ratepayer for a protestant school."

Lord SHAND:—I am not sure that I follow the object with which we are looking at this statute just now.

The ATTORNEY-GENERAL:—Perhaps your lordship would not mind looking at section 30 in connection with this. It is for two objects—to show that "denomination" meant, for the purposes of the act of 1870, catholics on the one side and protestants on the other; and to show that when the legislature of Manitoba worked out, as they did in 1871, as well as 1881—because I could show the same thing in 1871—the rights and privileges of each class of persons, they recognized that very same exemption which had existed in Ontario by law, was applied to Quebec by law, although it did not exist in Manitoba by law, but existed, as I submit, by practice. Section 30 is at page 48: "The ratepayers of a school district, including religious, benevolent or educational corporations, shall pay their respective assessments to the schools of their respective denominations, and in no case shall a protestant ratepayer be obliged to pay for a catholic school, or a catholic ratepayer for a protestant school." Then the next section, 31: "When property, owned by a protestant, is occupied by a Roman catholic, and *vice versa*, the tenant in such cases shall only be assessed for the amount of property he owns, whether real or personal, but the school taxes on said rented or leased property shall, in all cases, and whether or not the same has been or is stipulated in any deed contract or lease whatever, be paid to the trustees of the section to which belongs the owner of the property so leased or rented, and to no other, subject to the exemptions aforesaid."

Lord MORRIS:—If that was done in 1881, Logan would have no case.

The ATTORNEY-GENERAL:—Certainly not.

Lord MORRIS:—I have not heard his case yet. In the year 1881 no catholic would be obliged to pay for a protestant school, and no protestant would be obliged to pay for a catholic school. That is all.

The ATTORNEY-GENERAL:—Then section 34: "The school trustees in each school district shall be a corporation under the name of 'the school trustees for the protestant or catholic, as the case may be, school district'" of so and so. Then section 84 again, in reply to Lord Hannen's question, dealing with the grant, also divides it between catholic and protestant, and section 101 provided for regulations being made for compulsory attendance at the various schools. If your lordships would kindly take it from me—I will make good the statement—in substance, subject to slight alterations, the scheme of the act of 1871 was exactly the same, exempting the protestants from rating or subscribing to the catholic schools or catholics to protestant schools.

My lords, there is one part of the case that has not been read, which I think is entitled to respect and to some words of comment, and that is the judgment of the chief justice, Sir William Ritchie, because I submit to your lordships that he puts one or two arguments in my favour which are entitled to some consideration. I am not going to read the whole of it, of course. Your lordships are aware that the judgment of the five judges of the supreme court was unanimous, and this judgment, I think, does contain some rather important arguments. I read at page 85, from the second paragraph: "It must be assumed that in legislating with reference to a constitution for Manitoba, the Dominion parliament was well acquainted with the conditions of the country to which it was about to give a constitution, and it must have known full well that at that time there were no schools established by law, religious or secular, public or sectarian. In such a state of affairs, and having reference to the condition of the population, and the deep interest felt and strong opinions entertained on the subject of separate schools, it cannot be supposed that

Manitoba School Acts.

the legislature had not its attention more particularly directed to the educational institutions of Manitoba, and more especially to the schools then in practical operation, their constitution, mode of support and peculiar character in matters of religious instruction. To have overlooked considerations of this kind is to impute to parliament a degree of short-sightedness and indifference which, in view of the discussions relating to separate schools which had taken place in the older provinces, or some of them, and to the extreme vigilance with which educational questions are scanned, and the importance attached to them, more particularly by the catholic church, as testified to by Monsigneur Taché, cannot, to my mind, be for a moment entertained. Read in the light of considerations such as these, must we not conclude that the legislature well weighed its language and intended that every word it used should have force and effect? The British North America Act confers on the local legislature the exclusive power to make laws in relation to education, provided that nothing in such laws shall 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, but the Manitoba act goes much further and declares that nothing in such law shall 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. We are now practically asked to reject the words 'or practice' and construe the statute as if they had not been used, and to read this restrictive clause out of the statute as being inapplicable to the existing state of things in Manitoba at the union, whereas on the contrary, I think, by the insertion of the words 'or practice' it was made practically applicable to the condition at that time of the educational institutions which were, unquestionably and solely, as the evidence shows, of a denominational character. It is clear that at the time of the passing of the Manitoba Act, no class of persons had by law any rights or privileges secured to them, so, if we reject the words 'or practice' as meaningless or inoperative, we shall be practically expunging the whole of the restrictive clause from the statute." Then his lordship referred to some authorities on the question of the construction of statutes, which I do not wish to trouble about, but it is important I should read the passage on page 87 with regard to Renaud, because he was the presiding judge who decided Renaud. Perhaps I ought to begin a little earlier than that, at the second paragraph of page 87: "It cannot be said that the words used do not harmonize with the subject of the enactment and the object which I think the legislature had in view. But if the legislature intended to recognize denominational schools, how could they have used more expressive words to indicate their intention, since the words used read in their ordinary grammatical sense admit of but one meaning and therefore one construction? and I do not think we should speculate on the intention of the legislature, more particularly as that intention is very clearly indicated by the language used, considering the condition of the country and the state of education in that country. And the object appearing from these circumstances that the legislature must have had in view in using them, which in my opinion was clearly to protect the rights and privileges with respect to denominational schools which any class of persons had by law or practice, that is to say had by usage at the time of the union."

Lord SHAND:—I do not think there is very much difference between the judges as to the meaning of the words. It is rather in the application of the words that the difficulty arises. I do not think anything could be clearer than the way in which Mr. Justice Bain puts it. He puts it exactly as this judgment has done. I think they are really all practically agreed about the meaning, but it really comes to be a question of application.

The ATTORNEY-GENERAL:—Yes. "The decision of the court in the case of *ex parte* Renaud turned entirely on the fact that the Parish School Act of New Brunswick, 21 Vict., c. 9, conferred no legal rights on any class of persons with respect to denominational schools. It was then simply determined that there were no legal rights with respect to denominational schools, a very different case from that we are now called on to determine. It may very well be that in view of the wording of the British North America Act, and the peculiar state of educational matters in Manitoba, the Dominion parliament determined to enlarge the scope of

the British North America Act, and protect not only denominational schools established by law, but those existing in practice, for, as I am reported to have said, and no doubt did say in *ex parte* Renaud, that in that case, 'we must look to the law as it was at the time of the union, and by that and that alone be governed.' Now, on the other hand, in this case, we must look to the practice with reference to the denominational schools as it existed at the time of the passing of the Manitoba Act. That this was the view taken by the legislature of Manitoba would seem to be indicated by the legislation of that province up to the passing of the Public Schools Act, which very clearly recognized denominational schools and made provision for their maintenance and support, providing that support for protestant schools should be taxed on protestants, and for catholic schools should be taxed on catholics, and conferring the management and control of protestant schools on protestants, and the like management and control of catholic schools on catholics. This denominational system was most effectually wiped out by the Public Schools Act, and not a vestige of the denominational character left in the school system of Manitoba. Mr. Justice Dubuc gives an accurate synopsis of the legislation as follows." Then his lordship cites Mr. Justice Dubuc. "Then the bottom of page 90 bears on the question of confiscation. He has gone through the whole of the sections to which I have called attention, and he says:—"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, the 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. But it is said that the catholics as a class are not prejudicially affected by this act. Does it not prejudicially, that is to say, injuriously, disadvantageously, which is the meaning of the word 'prejudicially,' affect them when they are taxed to support schools, of the benefit of which, by their religious belief, and the rules and principles of their church, they cannot conscientiously avail themselves, and at the same time by compelling them to find means to support schools to which they can conscientiously send their children, or in the event of their not being able to find sufficient means to do both, to be compelled to allow their children to go without either religious or secular instruction? In other words, I think the catholics were directly prejudicially affected by such legislation, but whether directly or indirectly, the local legislature was powerless to affect them prejudicially in the matter of denominational schools which they certainly did by practically depriving them of their denominational schools and compelling them to support schools the benefit of which protestants alone can enjoy." I do submit to your lordships that those passages do contain a powerful argument in favour of the views I am submitting.

Lord WATSON:—Do you understand the learned judge there to confine the nature and extent of the privilege? There is a great deal of that that does not raise any controversial matter. He says "There was at that time in actual operation or practice a system of denominational schools in Manitoba well established and the *de facto* rights and privileges of which were enjoyed by a large class of persons." I do not find he specifies anywhere what the privilege acquired then was which is infringed now, till he comes to the last part.

The ATTORNEY-GENERAL:—No.

Lord WATSON:—And that may be directly or indirectly. It may mean having the privilege of not paying for another. That is one view the learned judges take that that is directly invaded by the act of 1890. Another view is that they had certain rights and privileges before which were indirectly assailed by the fact of their having to pay.

The ATTORNEY-GENERAL:—Yes. The words "prejudicially affect" are certainly large words.

Lord SHAND:—I think when you read at length what the judges say who take that view of the case it is this:—You have prejudicially affected a right or privilege of exemption.

The ATTORNEY-GENERAL:—Certainly.

Manitoba School Acts.

Lord SHAND :—That is what it comes to and the question is whether there is such a right of exemption.

The ATTORNEY-GENERAL :—And also prejudicially affect the schools which had been established, which were catholic schools and which are handed over to this board.

Lord SHAND :—I do not think that is made a point in the case at all—the taking over school buildings. I do not see any suggestion of that.

The ATTORNEY-GENERAL :—Sir William Ritchie refers to it most distinctly.

Lord WATSON :—If the learned chief justice had been of opinion that this was a privilege given by the first clause of exemption from payment of a rate towards the schools of another denomination when they were supporting their own it would not have been necessary for him to labour the point at all. It is clear that that privilege existed.

The ATTORNEY-GENERAL :—Would Lord Shand look at the bottom of page 90. It may be brief, but it is very distinct:—“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.”

Lord SHAND :—Those assets and property were, as I understand it, taken up in the year 1889 or 1890, whereas the thing we have to deal with is the property in 1870.

The ATTORNEY-GENERAL :—But your lordship will permit me to point out that that 1890 property has been built up under the act of 1870.

Lord SHAND :—If the father and boy theory can be worked out, it comes to that.

Lord MACNAGHTEN :—The chief justice does contrast very strongly the position under the act of 1890 and under the act of 1881. That possibly may have more effect.

The ATTORNEY-GENERAL :—I have only argued it with reference to what were the rights existing in fact at the time of the passing of the act of 1870; but we must look at it as a growing system. It has grown up, as we believe, under the protection of the rights which existed in 1870 and I do not know that you can say it has become a different thing. However, I have sufficiently troubled your lordships on that. The case of *Fearon vs. Mitchell* was cited to your lordships, but we submit it has no application to this case at all. That was the case of a general act of parliament. The Markets Clauses Act, 1847, says that no markets shall be established that shall interfere with any rights and the right there supposed to be interfered with was the right of a butcher to sell meat. It is obvious that in a general statute of that character “rights” could not be construed in the same way as where we are dealing with a special class referred to, as in section 22. It applied to all towns, and of course “rights” there would be rights analogous to market rights—rights such as are supposed to be protected by a franchise or by grant or privilege of that kind. No authority is of any use to your lordships, but I will cite one or two, because my friend Mr. Ewart, who has given me great assistance, has been good enough to give me the cases. There are a number of cases in which a wider meaning has been given to the word “rights” under the Lands Clauses Act and although there was unity of ownership, “rights” have been held to include rights of way which would not be strictly and properly called rights of way unless over the property of another person. I would call attention to the language of Lord Blackburn in *Musgrave vs. The Inclosure Commissioners*, 9 Law Reports Queen’s Bench, page 162, where the question was as to the right of pasturage. That was the case where under a general inclosure act the rights of pasturage which had been usually enjoyed by the lord of the manor and his tenants were to be specified and mentioned, and Lord Blackburn, referring to this language “a right of pasturage,” said :—“By the technical rules of English law, when the owner of the fee simple of the dominant hereditament is also the owner of the waste ground in which the right of pasturage is exercised he can have, strictly speaking, no such right at all. In cases where the land has been parted with by the lord and so severed and then again attached in different portions, as where the lord buys back a farm, and instead of having it conveyed back to

trustees, takes a conveyance to himself, he, *de facto*, as continually happens, loses the right of common. At the same time it is not an uncommon thing—and I take it to have been the case in the present instance—that the lord has farms on parts of the estates which have never been separated from the main estate, demesne farms that have always been his freehold, and which, therefore, never could strictly acquire the right of common. Nevertheless, that distinction not being recognized by those who practically managed these things in the days of old, the tenants of these demesne lands under the lord did enjoy the same rights of common over the wastes as those persons to whom lands had been conveyed; and they did *de facto* enjoy and use the rights of common just as if the freeholder of the demesne lands was not possessed of the freehold of the land over which the right of common was used. Looking at this enactment with a view to the existing *de facto* rights of that sort, I cannot construe the act of parliament, when it says ‘right of pasturage which may have been usually enjoyed by such lord or his tenants’ as meaning anything else than rights of pasturage and common which have been enjoyed by the lord and his tenants in such a manner as, if it were not for this technical rule—that the lord, being the freeholder of the dominant tenements and of the soil of the waste, too, cannot have a right to common—would prove an established right.” Then Lord Blackburn speaks of them as *quasi* rights.

In the same way, Mr. Justice Chitty, in *Bayley vs. Great Western Railway*, 26 Chancery Division, where he was dealing with such words as “rights, numbers and appurtenances belonging to hereditaments” pointed out that where such enumeration was made, “rights” was meant to include benefits enjoyed as distinguished from rights in a secondary sense and something less than a legal sense. He actually uses that expression—“‘rights’ must be used in some secondary sense.”

Sir RICHARD COUCH:—It has been applied in the case of right of way.

The ATTORNEY-GENERAL:—That was a right of way case, and in *Barlow vs. Ross* (24 Queen’s Bench Division, p. 381), under the Artizans’ Dwellings Act, the local authority were to purchase all rights or easements in or relating to such land, and they were to be extinguished, and the present chief justice said: “I admit that the words *prima facie* mean rights or easements actually existing, and it is true that under the Prescription Act a right or easement is gained only after the lapse of the particular time specified, and cannot be considered as existing before that period. All that must be conceded, and if we were dealing with an act the subject matter of which was different from that of the act now in question, and we could see that to give the words their *prima facie* effect would not defeat the scheme of legislation, we should interpret the words according to their ordinary meaning. But it is plain, if this contention were correct, the result would be that in many cases the objects of the act would be defeated.” There we have got “rights and privileges” existing by practice—rights and privileges which the class of persons had by practice, and I submit that when you find the object being clearly to protect the Roman catholics and the protestants respectively, and the language being used of a general character, it is that class of legislation to which a wide meaning will be given, and not, as attempted by my learned friends, as we humbly submit, a narrow meaning. My lords, I do not hesitate to put before your lordships that, if this statute of 1890 had been attempted to be passed in the year 1871, upon the information before your lordships, it would have been regarded as being a breach of the conditions upon which Manitoba had consented to come in, and had asked to be brought into the union. It is only in consequence of it being what I may call the development of the educational system from the point of view of those who desire to divorce religion from education that such a statute can be forced or attempted to be forced upon Roman catholics, and they ordered to contribute to the cost of a purely secular education. I submit that however good may be the motives—no doubt they are excellent—of persons who hold those views, it was intended in the year 1870 to protect the privileges of Roman catholics, and to prevent their being prejudicially affected, and I do humbly submit to your lordships that a consideration of the provisions of that act of 1890 would lead your lordships to the conclusion that it does most prejudicially affect those rights, and that the unanimous judgment of the supreme court ought to be affirmed.

Manitoba School Acts.

Mr. BLAKE:—My lords, in this case I need scarcely say I have a great deal of diffidence in addressing your lordships after the attorney-general and at the close of the third day that the case has been occupying the attention of your lordships. The first observation I was about to make was that which was stated by Lord Shand, that it is worthy of note that the nine judges in the court below all put, in language differing certainly the one from the other, our first ground or proposition, that is to say, that there are rights or there are privileges as was put by Mr. Justice Bain, at page 78: "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." The whole of the nine judges concurred in that. Mr. Justice Dubuc (if your lordships care to take the page where he speaks of that) at page 61; Mr. Justice Bain at pages 78 and 80; Chief Justice Taylor, at pages 47 and 48; Mr. Justice Killam, at pages 33 and 34; Sir William Ritchie, in the same way, at pages 86 and 87; Mr. Justice Patterson, at pages 92 and 93; Mr. Justice Fournier, at pages 96 and 97; and Mr. Justice Taschereau, at pages 109 and 113, all concur in the conclusion that, notwithstanding the New Brunswick Act, there were rights in Manitoba, whether we call them rights or privileges—or there was a state of matters which it was intended should be preserved, and the point on which they differ is simply this: Six of the learned judges concluded that there was a prejudicial affecting of these rights and the other three came to the conclusion that these rights conceded to them were not prejudicially affected.

Now, my lords, I think it might perhaps be helpful, in answer to one or two of the statements made by your lordships in regard to the question of whether it would be possible to have any general system of school education in the province of Manitoba, just to call the attention of your lordships to our position in the province of Ontario and in the province of Quebec. There can be no doubt that a very large number, more probably in the province of Ontario, were very much in favour of having a general system of school education where all denominations, whether members of the church of England, Roman catholics, presbyterians, congregationalists or baptists, all could attend. There is no doubt whatever that the matter was bitterly, and very bitterly fought; the Honourable George Brown and the Honourable Alexander Mackenzie leading on the one side in favour of that, and the great benefits to arise from all the young of the country being educated in all general matters at the same schools, helping to efface to a large extent the bitterness which unfortunately sometimes does arise. Well, it was found that that could not be attained. The Roman catholics insisted that they would not have that. They made it a matter of faith. The leaders, whether they were right or whether they were wrong, insisted on the old-fashioned notion: Give me the child from the age of 5 to 15 and you may take the man after that and deal with him as you please; you cannot take from him the religion that we have saturated him with during the school period. A very great number of us thought it was most unfortunate, but still it exists, and it existed in these two provinces virtually of the dominion of Canada, representing four millions of inhabitants, as against the whole population of something under five millions. It was a matter that was well known. Persons who had gone to the province of Manitoba were from these two provinces. They knew perfectly well all these old fights, and knew perfectly well the way in which it had been resolved, and knew perfectly well that there was this right in each of these provinces that, if you choose to support either the protestant or the Roman catholic schools, you are absolved from any payment to the other schools. They knew perfectly well that these were the two divisions. They were divided into the Roman catholic and the protestant. To a large extent, although I quite admit that there were exceptions, the protestants generally ranged themselves on the side of the general education. All kinds of epithets were hurled—the godless schools and the godless colleges—and all through that war, which was well known, we passed. It had raised as much trouble as a few pence of ship money here or a few shillings of tithe in this land, and persons were all alert and were all alive to these questions.

Now, we in the province of Ontario cannot have, except in a very qualified way, any general system of education just because of that. A Roman catholic gives notice, and the result is that he is free from paying a cent to the assessment excepting so far as his own school is concerned. A protestant does the same. That is so in the province of Quebec; and that was a system which was introduced in 1865, and, when at the time of confederation it was thought reasonable to make another exertion and to introduce a system whereby there should be the general, or common, or national schools, then the arguments that took place in the confederation debate show that they submitted that was a matter that had been settled, and these very gentlemen I have referred to, though they were so very strongly wedded to the more general system of secular education, admitted in the confederation debate—that is the late Mr. George Brown and the late Mr. Alexander Mackenzie—that that had been settled and that they could not go back on that, and that they must accept the British North America Act with the introduction of those words that were to preserve these rights. I think, therefore, that perhaps it would be helpful for us to understand that in 1870 that was the position of matters; on the one side the protestant schools and on the other side the Roman catholic schools; a fierce and continued and lengthened war in favour of what a great many of us considered to be right, undenominational schools, but still the country had found in favour of the other. Therefore when they were dealing with Manitoba, this question was one that was well known to those persons, to a large extent a majority from these two provinces, who would know very well what had taken place in Ontario and in Quebec; perhaps as little knowing as to New Brunswick as perhaps many of the inhabitants of England would know about what might be the peculiar laws of the Channel Islands or some other place with which there may be as little commercial or other intercourse as between the islands of Guernsey and Jersey here.

Then that being so, I simply desire to call attention to one other matter in this book which was given yesterday to your lordships.

Lord MACNAGHTEN:—Before you pass from that, would you say that the act of 1890 would be unobjectionable if the catholics had been exempted from contributing to the school rate as they are in the Ontario Act?

Mr. BLAKE:—I think, my lord, that at all events a very great ground of objection would be removed.

Lord MACNAGHTEN:—That is the case in Ontario, is it not?

Mr. BLAKE:—Yes.

Lord MACNAGHTEN:—There is what you call undenominational education very much on the lines of the act of 1890 with this exception, that any person who contributes to a catholic school and gives proper notice is exempted from taxation.

Mr. BLAKE:—Quite so.

Lord MACNAGHTEN:—That is so.

Mr. BLAKE:—That is so, my lord.

Lord MACNAGHTEN:—There is no exemption in the act of 1890, but if there were that exemption in the act of 1890, you think it would remove a very great ground of objection?

Mr. BLAKE:—Yes.

Lord WATSON:—Under the Ontario act he must become a contributor to a catholic school which is approved of under the act?

Mr. BLAKE:—Yes.

Lord WATSON:—He must conform to a certain extent to the prescription of the act?

Mr. BLAKE:—Quite so, undoubtedly; but these acts from 1870 to 1890 are based very much upon our system in Ontario; that is to say, A gives a notice: I am a Roman catholic and I desire to support Roman catholic schools, and then the protestant collector cannot touch him or his property.

Lord WATSON:—Then he will not only get that relief, but participate in the government grant?

Mr. BLAKE:—Yes.

Lord MACNAGHTEN:—I was looking at the Ontario act, and I see that nothing in the act authorizing the levying of rates for public school purposes shall apply to

Manitoba School Acts.

the separate Roman catholic supported schools, and then there is a reference to the 48th Victoria. What act is that?

Mr. BLAKE:—That is the act which is consolidated. In our consolidations, for convenience, in following them they put in the clauses.

Sir RICHARD COUCH:—Show where they come from?

Mr. BLAKE:—Quite so; just as they do in the Manitoba Act they put the Ontario statute to show where it comes from, so that if there is a decision upon it they will be able to apply it at once to these clauses in the act.

Lord SHAND:—I feel the force of what you say, that on looking to the act of 1870 it is quite right and proper to see what is doing in all the different provinces, but am I not right in thinking that when the British North America Act of 1867 was passed there were clearly privileges and rights of Roman catholics under previous legislation which had to be preserved?

Mr. BLAKE:—Yes, in 1865.

Lord SHAND:—There was that distinction, that when you passed the act of 1867 you had clearly rights which must be preserved as they were under previous statutes. When you came to pass the act of 1870 you were in controversy whether there were any such?

Mr. BLAKE:—Quite so; but that would depend on whether when the representatives of these four provinces met they thought it would be too great a sacrifice to give up the right of having the general schools in favour of denominational schools. If they had stood by that they could not have had confederation at all, and it was then they said, as we made that sacrifice—and we consider it a great sacrifice—in 1865, we do not want to go back on that in 1867 and throw it down as a bone of contention to prevent confederation being carried out.

Then, I was going to make one other observation before going for a very few moments into details, and it was this: I argued the case before the supreme court, the judges of which seem to have been satisfied to allow the matter to be disposed of upon some of the grounds argued, but they did not pay so much attention to what I consider to be one of the principal points that was brought forward. We contended there that, as the judges in the courts below had found that we were entitled to the continuation of the state of matters that existed, modified as it might be by legislation that did not interfere with those—that as we had those, they could not be interfered with in any, at all events, of three ways. First, you cannot interfere with them by in any way altering our denominational schools; you must allow that to stand, you cannot compel us to support or sustain a school of another class. Second, because it takes away so much of the money that otherwise would have been expended in the sustainment of our own schools. But one point that I have thought of immense moment, and I put it in the foreground there, was this: You cannot stifle my conscientious religious convictions, and although I may be entirely wrong in the view of a vast number of persons, you cannot compel me to pay money to the support of a school that the head of my church says is a school which wanting the very foundation of all true education—wanting a religious training—should not be supported by you. My argument was that where you accord to persons rights in regard to denominational schools you cannot but interfere when you say under compulsion your money shall go to the support of that which you conscientiously believe to be doing a wrong in the community, and which the head of your church says is doing a wrong, and in respect of which, in the province of Quebec, if a Roman catholic were to attempt to send a child to a protestant school the rites of the church would at once be denied to that person.

Lord WATSON:—You suggest in other words, I think, that the object of the clause in the act of 1870 was to stereotype the relations to each other *inter se* of the two denominations, protestant and catholic, preserving to the legislature the right of regulating the kind of administration, the mode in which the funds should be raised and applied —?

Mr. BLAKE:—Yes.

Lord WATSON:—And preserving throughout that relation of immunity of the one party paying for the other's schools?

Mr. BLAKE:—Helping each of these two denominations by making the rules so as to compel payments, and as to attendance, and in all the various ways in which it has been helped from 1870 to 1890, but not to affect that which was one of the matters that the Roman catholics had for a quarter of a century been absolutely insisting on, and had been a matter in respect of which there was very strong feeling from 1845, at all events up to this period of 1870.

Lord SHAND:—In other words, continuing denominational education for all time coming.

Mr. BLAKE:—I dare say that that may be the result of it. I dare say it may be the result. I, for one, deplore it in our own province of Ontario. I had a great deal rather it was not so. I was one of those who struggled against it. I was not a bit convinced.

Lord SHAND:—I do not say that it is not right, if the statute does it; but I want to see the result.

Mr. BLAKE:—Quite so; and your lordship will bear in mind that although we have a large protestant majority in Ontario, there is a very large—a much larger—Roman catholic majority in the province of Quebec, and one thing that solaced the protestants in Ontario was this: You want your rights protected in Quebec, do not you? Yes. Then we will award you in the same way protection there. So that it was a kind of compensating pendulum, the motion there—it equalized in both of the provinces, and made a great many people accept it that never would have accepted it in the province of Ontario. Their protestant friends wrote and communicated and urged: We are here at the mercy of Roman catholics, must not you think of us and not press too strongly to have a general school, although you may carry it in Ontario, because the evil results of it will be felt by us in the province of Quebec.

[Adjourned for a short time.]

Mr. BLAKE:—I was saying it was under these circumstances, and the matter being in a comparatively far off land, New Brunswick, creating the difficulty, that the questions were raised in 1869, of entering upon Manitoba, and your lordships will find in the blue book that my learned friend, Mr. McCarthy, gave in the day before yesterday, at page 73, the proclamation that was made when the country was in a state of rebellion. The governor general sends this proclamation, and on page 73, the 2nd paragraph, it says: "By her majesty's authority I do, therefore, assure you that on the union with Canada your civil and religious rights and privileges will be respected, your property secured to you, and that your country will be governed, as in the past, under British laws, and in the spirit of British justice." And your lordships will find that the then archbishop, who was at Rome, was cabled to come over and help in allaying the difficulty that had arisen in the province of Manitoba. It is part of the petition that is presented, the return to which, in the shape of the opinion of Sir John Thompson, was referred to, and I refer to pages 2 and 5 of that book in addition to the page that I have given. Then it was simply a question as between the protestants on the one side and the Roman catholics on the other. The principle of separate schools was the admitted principle introduced, as your lordships see, by the 93rd section of the British North America Act, and the protection afforded as much needed in the new land of Manitoba, as much demanded, they being in a state not willing to abandon any of their rights, and on the other side not in a position to make a demand against them, but on the contrary freely to accede almost anything in reason that was asked by the large body of Roman catholics in that province. Then it is to be observed also, I think, that the matter of education is the only one in respect of which there is special legislation and special restriction. There are various clauses as to what can be done, but in respect of this alone has the legislature deemed it necessary that there should be these especial clauses conferring these especial rights, and giving those limited powers of dealing therewith. It is also to be observed that the act of 1863, which was referred to, is an act to restore the Roman catholics in Upper Canada certain rights in respect to certain schools, and by section 14 of that act immunity from subscription to public schools is provided for. It is not a right which they had absolutely prior to that, and it is simply to show that the word "right" and

Manitoba School Acts.

that the word "privilege," and these words that are used in this enactment, as one of the judges in quotation said, *uti loquitur vulgus*, and not to be taken in any restricted or narrow signification. The general idea was that you have got a system of education, and that system of education is to be preserved, not to be interfered with prejudicially, and the same mode of dealing with the children is to be kept alive subsequent to the passing of this act as was in existence at the period previous to it. Your lordships will perceive that in the British North America Act it is called there a system of separate or dissentient schools, clearly referring to protestant and Roman catholic schools, from the second section, and I submit that in the same way this being, or the other act being, *in pari materia*, where we have "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," and the next section gives you the appeal shall lie affecting a right or privilege of the protestant or Roman catholic minority in the queen's bench. I do not think that it would be unfair to say that what is presented there is a system of education headed, on the one hand, by protestants, a system of education headed, on the other hand, by Roman catholics, and whatever may be the position—whatever may be the exemptions—whatever may be the benefits—nothing is to be taken from the one side and nothing is to be added to on the other. I would also ask your lordships' consideration of this in the Manitoba Act. I am reading of course from page 4 where the two are contracted. It is not merely that it shall not do away with the denominational schools at the date of the union but that the legislation shall be subject to and according to the following provisions. Therefore, there may be and it is intended to be legislation, but with this restriction, "That 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." It is not that it shall be with reference to the denominational schools in existence, but there may be legislation—there may be a dealing with these schools, there may be additions made and there may be great improvements of these schools, and it is with that class of matters, which is the result of what was in existence at the time of the union, that I submit the Manitoba Act says is not to be interfered with. Then I say that the language of the act plainly deals with and intends to preserve certain rights: that, virtually, giving it the meaning of my learned friend on the other side, it is making it absolutely meaningless. It is not preserving to us any rights, for it never was questioned in our country but that you might, if you pleased, have your school supported by yourself. And as to the very far fetched idea that in Massachusetts the land of blue laws, they should not yet have forgotten them and added something of the kind, it can scarcely be an illustration to read I should think in the construction of our act. At that time there was no question whatever but that there was no thought in any person's mind but that you could have your school and could sustain your school. That was not the thought but the thought was: Can we have these separate or denominational schools? Can we have that system whereby, if we throw our money and our aid and our intelligence to the sustainment of those, and if we do carry them on, are we at liberty to do that fairly, and are we free at the same time from being charged with anything to the support of other schools? That, I submit, is what the position of matters, looking previous to the act, would reasonably be intended and desired, and that which is suggested, as a matter of fact, that might possibly be, is something that could not possibly be in the minds of those persons that either were asking for or passing this act. The one matter was one as to which no question had been raised. The other was one in respect of which all parties were very desirous of having the arrangement which had been found to work and which had been readopted at the time of confederation. That same thought pervaded the legislation in respect of the same subject matter.

Then, it is a fact not to be forgotten that by the confirmatory act, the Dominion parliament is not permitted to interfere on this subject at all. That is on page 31 and 32 of the collection of acts.

Now, what is meant by "any class?" It is, I submit, made very clear by those portions of the acts cited by the attorney-general, which referred to this subject

matter from beginning to end. We have got nothing but on the one side protestants, and on the other side Roman catholics. It begins with that. They appoint a superintendent of the protestant school and one of the catholic to each section of the board, one being protestant and the other catholic. The districts are protestant districts and catholic school districts. Each is a section or class, and then the protestants resident in catholic districts, and the Roman catholics in the protestant, all through the very first act—it is nothing but the two classes. Then, when there are members appointed to the board, it is not that some shall be protestants and some church of England and the like, but twelve of whom shall be protestants and nine Roman catholics. Again, the board shall divide itself into two sections, protestant and Roman catholic, and the “selection by the catholic section of the board shall be subject to the approval of a competent religious authority.” Then it certainly was very strong in a passage that was given. “The establishment of a school district of one denomination shall not prevent the establishment of a school district”—not of another, but—of the other denomination in the same place, and “a protestant and a catholic district may include the same territory in whole or in part.” Two denominations, protestant and catholic. Again, “neither protestant nor catholic shall be assessed,” and, again, the respective denominations are limited by the words that follow: “In no case shall a protestant, ratepayer be obliged to pay for a catholic school, or a catholic ratepayer for a protestant school.” And then again, it shall be the protestant or catholic school district. That is in the compilation of 1881. And again in the act of 1884, page 73 of the compilation, sub-section A: “The minority shall have power, by the action of their section of the board of education, to maintain their own district as it existed upon the incorporation of said city or town, or so to extend their district as to include members of their own denomination residing in the same vicinity where no school of the same denomination is in operation.” So that I submit that, as that was expounded by the legislation that succeeded, the idea which I submit was present, as shown by the language of the act, is the preservation of these two classes identified here—the protestant on the one side, and Roman catholic on the other.

Therefore, I submit that by the language of the act—the confirmatory act—thereby the existing denominational schools were recognized, and that the legislature preserved matters in this respect *in statu quo*, and that nothing could be done by local or Dominion legislation to interfere with the state of matters.

I desire to say a word, my lords, upon the New Brunswick Act, on a point which was raised in the supreme court, but which they did not think it was necessary to dispose of, because they gave to the word “practice” such a signification that did not render it necessary. It will possibly be necessary for your lordships to consider it, and it is this: In the New Brunswick Act there was something for the words “by law” to operate upon, because there were schools established by law, but in the Manitoba Act there would be nothing for the words to operate upon—unless it is upon this state of matters that existed which has been described, and as there were the New Brunswick schools that had been established by act of parliament, and as there were also schools that existed grown out of those that were not established by act of parliament, they said: “As you have these two classes, and as it is established by law, we must hold it limited to those that come exactly under that language, and we cannot extend it.” But I submit, with great deference to your lordships, that if there had been nothing for the words “by law” to operate upon, excepting such a state of matters as existed in Manitoba, the court would have come to the conclusion: “We must give some force to those words, and we cannot read them out of the acts.” We must, therefore, allow to be preserved that which they have had, in strictly legal language, in existence and frequently spoken of as “That is my right or that is what I considered to be my position,” and so on. I say there was no specific act as there is in the Manitoba Act, and their lordships read the language of the New Brunswick cases to cover the state of matters which did exist and were covered more strictly by the word “law” than by the other state of matters which, I submit, however, may also be covered by it, in view of other language in this Manitoba Act.

Manitoba School Acts.

Now, I ask permission to emphasize what the attorney-general referred to—that in section 2 of the Manitoba Act: “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.” Now, in section 3 it says: “Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established by the legislature,” there may be the right, and, therefore, when they were dealing with the Manitoba Act they did not put in, “Where in any province a system of separate or dissentient schools exists by law,” then there is to be liberty to appeal to the governor-general, but, knowing that that system may not have been exactly inaugurated or subsisting by law, they allow the appeal against anything that may be considered to be unreasonable, although there was no law to establish the schools. There must have been some reason for the omission of that—for the change in the language between the British North America Act and the Manitoba Act. Then the third, and that which the Chief Justice Ritchie, who, it is to be observed, was also chief justice in the New Brunswick court when the decision in the Renaud case was founded, lays stress on the enlarging of the language in the special act by the introduction of the word “practice” which, as Mr. Justice Taschereau refers to and is spoken of in the French as *par la coutume*, preserves that which exists by practice or custom in respect of denominational schools, that is, preserves as to the school in question, so that nothing injuriously affecting the same can be done because it says: “Nothing in any such law shall prejudicially affect any right or privilege with reference to denominational schools,” not the school itself, as it then existed, but everything connected with it—much wider, I submit, than the narrow construction that was put upon it by the learned judges in the court of Winnipeg—larger and wider. I submit, therefore, that upon that it was intended to preserve to the Roman Catholics as a class and to the Protestants as a class—that being the way in which, up to that time, they had been divided and had been dealt with—the enjoyment of the custom, of the practice of the system relevant to denominational schools as enjoyed at the date of the act of union, just as to these classes in the older provinces these rights were preserved. It is not pretended that there was any urging that there should be a further cutting up under the Manitoba Act than existed under the Ontario and Quebec Act.

Then, I have referred to the reasons which existed for promoting such a class as spoken of by the chief justice of the supreme court and Mr. Justice Fournier—the state of matters in the province—the not procuring the consent of the French Canadian Roman Catholics, and the impossibility of procuring this consent, without agreeing to the preservation of the existing state of matters as to Roman Catholic education. The situation was virtually controlled there, and it was necessary to exhibit a spirit of toleration in order to prevent the recurrence of a state of rebellion. This legislation would then, my lords, be on the same lines—would carry out the same thought, and would afford to both the parties in this new province those rights which they had struggled for, and which had been reasonably settled between them in these two provinces. Then, if the system of school education was by this act preserved to the Roman Catholics of Manitoba, can it be said that it has not been partially interfered with? I should have referred, although the attorney-general did also, just in that view to reiterate it, that the only evidence that we have in this case upon this point is the evidence of Professor Bryce. Of course, I, personally, do not know anything about the other case. We have not got the affidavits and they were not before the supreme court, because the case was not launched until after the disposition of this present case and, therefore, the only evidence that we have is that which has been referred to, the archbishop of St. Boniface, and then Professor Bryce says at page 21: “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.” They can all join. He is not claiming that the Presbyterians stand in a different position to the members of the church of England, but they can all join in that, treating them as one body and not making the separation that has been indicated in the argument. They now seem to think this was not enough and so seem to have put in that further affidavit in the Logan case.

Then, my lords, the archbishop says that according to the view, not of himself individually, but, of the church, that each school is virtually to be a propaganda institution. Religion is not to be a matter to be divorced from general education, but it is to be a central point, and it is to be taught not merely through the catechism, but it is to be taught in history; it is to be taught in philosophy or whatever else may be taught in the school. It is to be pervaded by religion. In fact religion is to pervade everything from the moment the school opens until it closes. Anything less than this dethrones religion from its true position and degrades it, and in order to accomplish the better these views, persons skilled in the religion of the church must be appointed under the direction of the church, and so Roman catholic teachers are the only ones fit to carry on this work. It is not simply by Roman catholics that that is strongly felt, because the late Lord Justice Thesiger put it more strongly than I have ever seen it put by any person in an address by him, that where you have the best education without religion, you simply make a man a skilled villain. I thought at the time the language was very strong, but it shows that it is not merely the Roman catholics that have a strong opinion upon that matter.

Now then, my lords, what is asked to be done is that Roman catholics shall stifle their religious convictions by payment to the support of a system to which they are utterly and conscientiously opposed. Certainly they could not be compelled to do that before 1870. It is not merely a matter of education. Although it is not a matter of education, but the religious education—this denominational education, this particular class of school which is referred to here, their rights or privileges or position in respect of that is one, which strikes me, and always did, as one of the most vital points. It has been grievously attacked by the legislation. Their money is taken to support a system in competition with their denominational schools, thus weakening their ability to sustain their schools, and by their money strengthening the schools obnoxious to them; because it is not merely that their money is taken, but the schools that are obnoxious are, by their money, strengthened. The protestant schools are, partly through the money of Roman catholics, made free schools in opposition to their own denominational schools, in which fees are charged. That other class or body may have their free schools if they please, nobody objects, but it is submitted that before October, 1870, there was no right to have these denominational schools, or class of virtually protestant schools at the expense of Roman catholics. Then, there is the temptation to the poor Roman catholics to go to a free school, rather than to the paid schools of Roman catholics, and this again to some extent is the result of the Roman catholics' money, involuntarily taken. Then what was considered by Mr. Justice Taschereau is a very strong point; it is that the very school houses and places of education of the Roman catholics are taxed in order to give a free education through this other system. A free school to which a Roman catholic could not send his children may be started in the centre of a Roman catholic district, where the poor will be tempted to send their children, made free by their money. Then that it is an act of confiscation, which was the language which was used by Mr. Justice Taschereau, I think appears reasonably plain from the language of the section referred to by the attorney-general, and it is based upon this argument: that under the Manitoba Act there may be legislation, but it is "according to the following provisions." There has been legislation according to these provisions, and the result of the denominational school of 1870 is that in and through that legislation you have property, you have assets, it is the outcome of it, and it is now represented in 1890 by property that is dealt with by clause 179; that is, the denominational school which was nursed and sustained by this legislation has resulted in a school which is at present (we will call it Z) in existence, the work all carried on under this, which is the denominational school referred to, I submit, in this Manitoba Act. That is to cease and all the assets of such catholic district shall belong to, and all the liabilities be paid by the public school district. It was on that argument that Mr. Justice Taschereau considered that there was virtually a confiscation of the rights which, existing in 1870, were moulded by the legislation up to 1889—that which existed in and through the various evolutions from 1870 to 1890. That is to cease to exist. That is blotted out and the assets of it are handed over to this other body.

Manitoba School Acts.

It is not pretended but that the Roman catholic schools fully answer all the purposes of the state in their idea of educating the children. It is not pretended that there is any need for an act on that ground. And then, as to the many matters that can be done, Mr. Justice Patterson refers to those, and the amendments of the nineteen years show how much could be done, not as a matter of compromise, but exercising the absolute right and with the restriction referred to of making laws in relation to education. All their books are done away with—their teachers—their schools are confiscated, and their apparatus, and everything which is a result of the denominational school of 1870. All that ends. When a denominational or a separate school was referred to it means that system which is in existence at the time of the Manitoba Act.

This, it is to be observed, my lords, is not an act which compels attendance at the schools, although it has been claimed to be a necessary act for the furtherance of this most important matter of the general education of the people of the land. I dare say the Roman catholics would consent as much as the protestants to such a law being passed. As to the compulsory assessment, I presume the Roman catholics would not object to that so long as the money raised went in the two-fold channel—that from protestants to support their schools, and that from Roman catholics to support their schools. But I submit, my lords, that this is an act which prejudicially affects this class of persons in organizing the catholic schools and gives them corporate powers. Then, though it is not prejudicially affecting, it helps them, therefore, this legislation comes exactly within the terms of the act.

I submit, therefore, in closing, my lords, that this is an act which does prejudicially affect this class of persons as to their conscientious convictions—as to their pockets—and in relation to their church, all of which was covered by that system which was in existence in 1870, and in the most important matter of secular and religious education of their young. It is in most marked contrast to the spirit of conciliation displayed in the act of 1870, and in those which deal with these rights, and to the wise spirit of toleration which is displayed in the enactments that follow for twenty-one years. I submit that it offends against the spirit and against the letter of the act which defines the rights of these persons, and that therefore it will be held unconstitutional.

Mr. RAM:—My lords, on behalf of Mr. Logan, I have presumed, inasmuch as it was arranged that the two cases—Barrett's case and Logan's case—should be taken together, that any remarks that I have to make to your lordships should be limited to the point which has been asserted, that Mr. Logan's case differs to that of Mr. Barrett's, and that although Mr. Barrett may rightly claim to be here before your lordships, Mr. Logan has no such right.

The position of Mr. Logan is somewhat peculiar. The learned attorney-general has repeatedly and strenuously disavowed any connection with him at all, or any relation to him. On the other hand his claim has been received with some favour by his nominal opponent as represented by Sir Horace Davey.

The learned attorney general indicated in some ways that he thought and suggested that Mr. Logan's was not a *bona fide* claim. I am sure he would not have made a suggestion unless he felt there was good ground for it, but I may point out to your lordships there is no sort of evidence at all before you to invalidate, in any way, or cast the slightest suspicion on the claim so made by Mr. Logan, and more, that his claim rests for its principal foundation upon the affidavit made by the bishop of the diocese, that the affidavit so made by him would be regarded by your lordships as free from any taint of suspicion or *mala fides* whatever.

Therefore, my submission to your lordships will be this, that Mr. Logan is in the same position as Mr. Barrett; that he is, in other words, one of a class of persons having by practice in the province rights or privileges with reference to the denominational schools which have been affected by the act of 1890.

My lords, that question, namely, whether the denomination must be confined only to the broad details of Roman catholic and protestant, has already been decided in the supreme court of New Brunswick in the case already cited to your lordships of *ex parte* Renaud, from which case no appeal was brought to your lordships' bar.

Mr. MCCARTHY :—Yes.

Mr. RAM :—It was confirmed here. I am obliged to my friend. I meant to say no appeal —

Lord SHAND :—It was this point.

Mr. RAM :—It was this point, disputing the ruling of the court below with regard to the point which I am now urging. The words of the learned judge below, at page 464 of that case, were as follows: "It is contended in this case that the words 'denominational schools' were not used by the legislature" —

Lord WATSON :—I should like to know what you say is the effect of this point. You both complain that it is a hardship to you to have to pay for others. Mr. Barrett, who is a catholic, complains that a part of what he contributes goes to the education of English protestant children, and you complain that part of yours goes elsewhere.

Mr. RAM :—Yes, my lord.

Lord WATSON :—Your allegation is made in such a manner, and in the strongest possible manner, that part of your money may go to them, but you do not shut out the alternative that the larger portion of their money comes to you. If so, where is your prejudice? One side or other may be prejudiced. You frame the particular allegation in such a way as to make it clear that they are prejudiced. More money goes to the protestants than protestant money to the others, but your client does not make his averment in such a fashion as to lead to that conclusion, necessarily.

Mr. RAM :—I think the averment made on behalf of Mr. Logan is certainly much less than that made on behalf of Mr. Barrett.

Lord WATSON :—They are so less that there may be no prejudice except in this fact, that you send 1s. and get 2s. 6d. back.

Mr. RAM :—I submit, my lord, that Mr. Logan's contention is this: He complains not only with regard to the distribution of the money, because it may be that there is little or no loss to him on that, but he complains, that while he sends his boy to a school other than the public school, which is established by law, he has to pay for that public school. He is forced to do so, although at the same time to satisfy his conscience he sends his boy to the other school.

Lord WATSON :—He says: "The tax by which I am compelled to contribute for the support of schools not under the control of the church of England, prejudicially affects my rights as a member of the church of England."

Mr. RAM :—"And if compelled to pay such tax, I and others, members of the church of England, are less able to support schools in which religious exercises and teachings in accordance with our form of worship could be conducted."

Lord WATSON :—As to his other claim. That is the one he complains of—the other consists of this claim, "I claim the right to have my children taught religious exercises in school according to the tenets of the church of England." What school? Where? How maintained and how managed?

Mr. RAM :—I presume, my lord, one of the schools referred to in the affidavit.

Lord WATSON :—It is a claim of a totally different kind. Does it mean one of the schools under the act? I think that is what it means.

Mr. RAM :—I confess I read it otherwise, I read it to mean one of the schools referred to in the affidavit.

Lord WATSON :—Do you mean that he claims to be allowed to found and support a school at which his children shall be taught? Does he base his right on one of the public schools established by the act, and if so, where?

Mr. RAM :—I suggest to your lordship that the complaint that he makes is that he is prevented from doing what he was doing before the year 1870, namely having his child taught in a school where the child was taught the tenets of the church of England.

Lord WATSON :—I confess at this moment I am entirely in ignorance of what he complains either one way or the other. Will you explain?

Lord SHAND :—I see that in the application where you find what he says he complains of and requires the order to be quashed upon the following grounds:—"That by the said by-law the amount to be levied for school expenditure is levied upon members of the church of England and all other religious denominations alike,"

Manitoba School Acts.

and, "that it is illegal to assess members of the church of England for the support of schools which are not under the control of the church of England and in which they are not taught religious exercises prescribed by that church," and I rather read that as meaning that he, just as much as a Roman catholic, says he objects to be taxed for this at all and insists upon maintaining his own school and being relieved from taxation.

Mr. RAM:—That is what I am endeavouring to put to your lordships. That is therefore the same as the Roman catholics, although the claim is worded with much less precision in Mr. Logan's affidavit.

Lord MORRIS:—I do not know that there is any want of precision. He says I claim so and so.

Lord WATSON:—They are both of the city of Winnipeg. The other makes a distinct averment and they are both under the very same assessment. Barrett's statement is that each Roman catholic will have to subscribe more than if he were assessed for Roman catholic schools alone.

Lord SHAND:—I understand you do not complain about the question of amount at all, "I do not care about the Roman catholics or anybody else. I object to pay a single penny because I have to maintain my own school." It is not a question of division. It is a question of exemption.

Mr. RAM:—Of exemption, my lord.

Lord SHAND:—It does not satisfy him that money is to be paid.

Mr. RAM:—As your lordship sees, he has to pay a general tax to maintain the general schools.

Lord WATSON:—Where is the school he wishes his children to go to?

Mr. RAM:—He does not say any school.

Lord MORRIS:—He is claiming the right to have his children taught religion in school, and I put the question to you, where?

Mr. RAM:—He does not say where. He says a school where they teach the tenets of the church of England, and, reading that with the next paragraph of his affidavit, he goes on to say what he desires to have.

Lord WATSON:—He is taking it, I infer, to the school established under the act.

Mr. RAM:—No.

Lord MACNAGHTEN:—"I want to have a school on a religious basis."

Lord SHAND:—"And we shall provide that for ourselves." He means to have them taught in a school of his own and wants to be free to do it.

Mr. RAM:—That is how I read it, my lord. Then in the affidavit of Mr. Hayward, in support of Mr. Logan, the question of the school is perhaps more accurately defined. That is on page 12, my lords, of Logan's Record, paragraph 10. He there states what he does as a matter of fact with regard to his boys. "I have one boy of school age, namely, the age of 13 years, and although I am compelled by the said by-law and by the Public Schools Act to contribute to the support of the said public schools, established under the Public School Act——"

Lord SHAND:—That illustrates it exactly.

Mr. RAM:—"I send him to a school established by the rector of the English church parish of All Saints, in the said city of Winnipeg."

Lord SHAND:—That just illustrates what the other man means. It is very clear.

Mr. RAM:—"And under the control and management of the said rector, where he receives religious instruction according to the tenets of the said church of England in addition to ordinary school instruction and I voluntarily pay fees for his tuition at said school, and I do not send him to any of the said public schools. There are many other boys in the said city of Winnipeg sent by their parents, who are resident ratepayers of the city of Winnipeg and members of the church of England, to the said All Saints school, which I verily believe are similar to my own."

Lord MORRIS:—Is there any statement in the petitions that it is contrary to the belief of the episcopalian church?

Mr. RAM:—I think so, I will refer your lordship to page 7 of the Record in Logan's case. Your lordships will kindly allow me to read the 17th paragraph—the last sentence of it: "With the great majority of the bishops and clergy of the

church of England, I believe that the education of the young is incomplete, and may even be hurtful if religious instruction is excluded from it."

Lord MORRIS:—So far from that being an affirmative answer, it is a negative to what I asked, because if it is only the majority it is only the opinion of the majority—it is not the belief amongst them. Where is it stated that it is the belief of the church of which he is a member? If there is anybody who takes a different view, he *ipso facto* ceases to be a member.

Mr. RAM:—I think I can put it a little higher, if I may read paragraph 19.

Lord WATSON:—19 and 20 are very distinct, and amount to this, that a sufficient moral training is not given in the public schools, according to the views of the church, and that it will be necessary for the church to re-establish their own parish schools.

Mr. RAM:—In the 19th paragraph, your lordship will see he says: "And is not in accordance with the views of the church of England," and further down in the 21st paragraph: "I have no doubt that if religious training is excluded from the public schools, as is threatened," that is the re-establishment of separate schools, "this will be the policy in future of the church of England and myself. The re-establishment of our parish schools is merely a question of means and time."

Lord WATSON:—Is it quite as distinct as the other?

Mr. RAM:—I submit, my lord, that it is so, that he as distinctly asserts that his position is the same.

Lord MORRIS:—If a person says that it is the opinion of the majority of the members of his church, so and so, does not he imply that there is a minority of the church still who hold the reverse?

Mr. RAM:—I submit on that that even if there were a minority—

Lord MORRIS:—I do not think that is the same at all as the statement that it is the opinion of the church altogether.

Mr. RAM:—It does say that it is not in accordance with the views of the church of England.

Lord MORRIS:—Paragraph 17 states the majority believe one thing and the minority believe another. Is that the same as the statement of the archbishop of the Roman catholics that there is no minority at all, but it is the opinion of the whole?

Lord HANNEN:—I think there is a doctrine of the church of England, and that if a man ceases to hold that doctrine he ceases to be a member.

Mr. RAM:—If that minority forms itself and becomes a class it would also be within the purview of this fourth section.

Lord WATSON:—There are some points of doctrine upon which they have not all agreed.

Mr. RAM:—My lords, I was about to refer to the judgment of the case of *ex parte* Renaud, and there the learned judges discussed the question as to whether—

Lord MORRIS:—I do not think there is anything in that.

Mr. RAM:—I was about to refer your lordships to the judgment in the case *ex parte* Renaud. The learned judges say: "It is contended in this case, that the words 'denominational schools' were not used by the legislature, and should not be construed by us in their ordinary grammatical sense and meaning, but should have a much broader interpretation. While freely admitting that, though the general rule is that every word must be understood according to its legal meaning, in construing an ordinary, as opposed to a penal enactment, where the context shews that the legislature has used it in a popular or more enlarged sense, courts will so construe the language used." The learned judges discuss the sub-sections of the British North America Act put in parallel columns in the Record and they say, "But we are at a loss to understand why sub-sections 2 and 3 should be held to control or in any way limit or affect a previous distinct enactment, couched in plain and unambiguous language, and which, by quite as clear and unequivocal terms, has relation to all classes of persons or denominations, and to all the provinces of the Dominion; or why, because separate and dissentient schools, as between protestants and Roman catholics, not only in Ontario and Quebec, but in any province in which they may exist at the union, or be thereafter established, are provided for and protected, therefore, we must necessarily infer therefrom that, in using the term 'denominational schools' in sub-

Manitoba School Acts.

section 1, the legislature intended to legislate only as between Roman catholics and protestants, and then also as to schools not necessarily denominational in the ordinary acceptation of the term. 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 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. If it had been intended that the clause was to be limited in its application to Roman catholics and protestants only, as dissentient one from the other, and apply to schools other than those usually understood as denominational schools, is it not fair to presume that the legislature would have used some expression in the sub-section itself indicating such a particular sense, especially as we have seen there were at the union, in this province at any rate, strictly denominational schools, both protestant and Roman catholic, to which such a clause would be applicable; and for the very reason also, that when dealing with schools as between protestant and Roman catholic, in sub-sections 2 and 3, the language clearly confines it to those bodies respectively?"

Lord MORRIS:—If any class with respect to denominational schools in sub-section 1 was not really protestant or Roman catholic, but was intended to apply to some infinitesimal body, why was not there an appeal left to them under sub-section 2?

Mr. RAM:—I venture to think that under sub-section 2 what was contemplated was this, that apart from any question of *ultra vires* or not, if a minority said, "I am oppressed," that was the party who had to come under that sub-section 2 and appeal to the government.

Lord HANNEN:—It has a right to appeal against any act of the legislature.

Lord SHAND:—Even *intra vires*.

Lord WATSON:—It is a curious thing that if there were other denominations, there has been recognition, and nobody has said a word; I have not heard even of the existence of anybody who could not be ranked under the class either of a Roman catholic or a protestant, and then we come to the sub-section which has already been pointed out, and it would be a very singular thing if, after giving the privilege to a certain class, it should select a sub-class only, who have the right of appeal under that. In questions of this kind, apparently, nobody ever heard of any denomination except protestant and Roman catholic.

Lord MORRIS:—In all this legislation in Canada, in the Confederation Act and all the acts in Manitoba and all the other acts, is there any other denomination spoken of?

Lord WATSON:—The acts of 1871 and 1882 were a grievous intrusion on the rights and privileges of these denominations. Why have they been silent for the 19 years between 1871 and 1890 and are silent at this moment?

Mr. RAM:—I think there is one section in the act of 1881 which does so protect the rights of what one of the noble lords has called an infinitesimal number of persons. It is the 30th section of the Manitoba School Act of 1881. Your lordships have already had it read to you, but in response to what has been put to me I venture to draw your attention to it again. It is at page 48 of the Statutes. "The rate-payers of a school district, including religious, benevolent or educational corporations, shall pay their respective assessment to the schools of their respective denominations, and in no case shall a protestant ratepayer be obliged to pay for a catholic school or a catholic ratepayer for a protestant school."

Lord WATSON:—That is the two denominations. If there was such a thing as a third denomination, what was to become of them?

Mr. RAM:—That is what is aimed at in the concluding words of that section. If there is a denomination who have got a school, then a ratepayer who belongs to that denomination is to pay to the school of that denomination; but if there is a denomination so small that they have not got a school, in that case the protestant is to be relieved from payment to what may be the only alternative in that case.

Lord WATSON:—Do you mean to suggest that the respective denominations mean anything but protestant and catholic?

Lord HANNEN:—You say the last part would only be repeating it in different words.

Mr. RAM:—The last part would be redundant.

Lord WATSON:—The first part merely directs where he is to pay and then it goes on to say that is to be the only payment.

Mr. RAM:—The section would be complete if it ended with the semi-colon.

Lord WATSON:—If that first part of the clause included other denominations than protestant and catholic, the plain inference would be that that other ratepayer might be called upon to pay as well.

Lord MORRIS:—Is there any act of parliament of the whole series, not only of Manitoba but of the Canadian provinces from the time that they were confederated in 1867, or before, that ever in words or in any reasonable intendment contemplates any sub-division of protestant sects?

Mr. RAM:—I must say candidly that I do not find any such.

Lord MORRIS:—Is not that one of the strongest arguments?

Mr. RAM:—It seems to me that in this act of 1890, it may be, because there was no such division that these exceptionally wide words "of any class" are used. Had there been the rights of smaller denominations preserved in subsequent acts it may be that no such wide words would be necessary and it may be in consequence of those rights not being specially and exceptionally reserved that, therefore, so wide a phrase is used as "any class of persons."

Lord WATSON:—"The ratepayers of a school district, including religious, benevolent or educational corporations, shall pay their respective assessment to the schools of their respective denominations." If you go back to section 12a it is, "The establishment of a school district of one denomination shall not prevent the establishment of a school district of the other denomination,"—speaking of them as two. Then it goes on, "And a protestant and a catholic district may include the same territory in whole or in part."

Mr. RAM:—May I point out on that, that that only precludes the establishment of a school district otherwise than protestant or Roman catholic?

Lord WATSON:—The words are "shall pay to the schools of their respective denominations," and the only two kinds of schools authorized by the act are protestant schools and catholic schools.

Lord MORRIS:—And only two classes are authorized by any act.

Lord WATSON:—If there is the third denomination referred to in section 30, the act provides no school for which he is to pay.

Mr. RAM:—May I submit that the act provides for districts of two denominations and that one of those districts may contain in its schools of other sub-denominations, if I may use the word, if it is a protestant district; in that district there may be a church of England or presbyterian school. If so, then comes in section 30, which says that the ratepayer is to pay to the school of his respective denomination.

Lord WATSON:—A man of that third denomination would be obliged to pay either to the protestant or the catholic school. He might be sending his children to the school of his own denomination.

Mr. RAM:—He might, because that school would be maintained by the funds collected in common.

Lord WATSON:—He is to be left out in the cold, unquestionably, in the acts of 1871 and 1881—quite as clearly left out as your client is in the act of 1890.

Lord SHAND:—What is your interest in struggling against this? You get catholics and you get protestants and you concede that those are the two great bodies referred to, but if protestants happen to be divided into five or six different classes, is not that enough for your case?

Mr. RAM:—I think it is.

Lord SHAND:—If you are a class that had the privilege and your class has been injured, is not that enough for your purpose?

Lord WATSON:—The third denomination appears to me to be a perfect myth.

Manitoba School Acts.

Lord SHAND:—It is a class of protestants. One of those classes is represented by this gentleman.

Lord WATSON:—That is not disputed, but Mr. Ram is maintaining that there are more denominations than protestant and catholic.

Mr. RAM:—I was rather induced to go into that argument, perhaps a mistaken one, in consequence of your lordship putting to me the section, and endeavoured to show that this section was not fatal to me, and to that effect only I talked about another denomination. The matter on which I should rely is that indicated by Lord Shand, which I put a short time ago; but if I am a class I do come within the wide words, I come within the first sub-section.

Lord SHAND:—That is all you want.

Mr. RAM:—I think so. I venture to think, if I prove that, then Mr. Logan stands on the same footing as Mr. Barrett and therefore I am entitled to pray in aid all the arguments which have been so forcibly urged before your lordships which I could not attempt to repeat on behalf of Mr. Barrett.

I only desire to draw attention to one other matter, which is this, that this question was also discussed before the learned judges from whom an appeal is brought to your lordships to-day. In the judgment both of Mr. Justice Dubuc and Mr. Justice Bain the matter is discussed.

Lord MORRIS:—The appeal is brought from the supreme court.

Mr. RAM:—That is so, Mr. Justice Bain gave a judgment which has been read before your lordships to-day.

Lord MORRIS:—Mr. Justice Bain held that the Roman catholic party had no claim.

Mr. RAM:—He did.

Lord MORRIS:—He was reversing that and he thought this would go in with it.

Mr. RAM:—I think not; I think Mr. Justice Bain in his judgment, at page 77, dealt with this as a separate matter.

Lord MORRIS:—He thought this went in with the judgment in Barrett's case.

Mr. RAM:—Yes.

Lord MORRIS:—That is what I said. He considered that the judgment of the supreme court would rule Logan's case.

Mr. RAM:—Yes, he did.

Lord MORRIS:—He said if Barrett's case is good, Logan's ought to be so too.

Mr. RAM:—It is not in Logan's case that he gives this judgment but in Barrett's case.

Lord SHAND:—Anticipating some point of this kind?

Mr. RAM:—Yes, at page 77 he says "It is to be observed too that in this sub-section 1." [Reading down to line 40 of page 77.] "Whether such class should be one of the numerous denominations of protestants or Roman catholics should be protected in such rights."

Lord WATSON:—He says you are not to inquire very nicely into what a man's religious views are, but if he is in the habit of resorting either to the catholic or protestant school then he should have the same right.

Lord MORRIS:—Is the chief justice, whom Mr. Justice Bain is quoting in that case, the same chief justice who decided this case in the supreme court?

Mr. RAM:—Yes, Mr. Justice Bain goes on to quote the archbishop's affidavit, which says that some of the schools which are denominational schools have been controlled by the Roman catholic church and others by various protestant denominations. I submit that that, as a matter of fact, establishes before your lordships that there was the existence at the time of the union of such classes and that Mr. Logan as representing such a class is entitled to be heard before your lordships and to maintain his case.

Mr. McCARTHY:—My learned friend, Sir Horace Davey, was not present during the argument, and with your lordships' permission I will reply.

I desire in the first place to point out that the clauses which have been referred to as the confiscating clauses, do not fairly bear the meaning which the learned attorney-general has given to them. I refer to clauses 178 and 179, which transfer, it is true, the then existing Roman catholic schools and all their property to the

public schools. I think they can be justified on public grounds and as just and fair in view of the whole scheme of legislation. But is it not sufficient to point out that Barrett has no right to complain? He had no interest in any school which has been confiscated, if they were confiscated; he has no right to come and complain of anything more than the imposition of the tax. It is the by-law of the municipality which he applied to quash and it is the by-law which has in effect been quashed by a judgment of the supreme court. Now, it might well be, though I do not concede that it is so, that sections 178 and 179, in transferring the property of the Roman catholics, were in contravention and in prejudice of their particular rights in respect of schools. But who is to complain of that? Not Mr. Barrett; his complaint and the only complaint is, that he objects to a by-law which imposes a tax upon him because under the taxing clause of the act it is *ultra vires*, and as to that alone. Your lordships perhaps will remember, and therefore it is needless for me to repeat, the explanation that was given of these two clauses. At the time when this act was brought into force in the year 1890, there were public schools throughout the whole province. The major number of these schools were connected with the protestant section. The legislature appears to have assumed—because no particular clause is to be found—that these would be the schools that would be continued. But there were in some few cases, not many cases, localities where both protestant and catholic schools existed and the question arose what was to be done with those schools? Now, they were not private property, they were public property; schools that had been built and established and maintained under the act of 1881 and not under the act of 1871. These schools had therefore to be disposed of, the property had to be disposed of; and the scheme, and the disposition was that they are to be valued—assets and liabilities. A liability would be in connection with the debenture debt for the establishment or building of the school or the purchase of school apparatus or matters of that kind.

Lord WATSON:—I suppose they had been chiefly erected by a public rate.

Mr. McCARTHY:—Altogether, as far as we know.

Lord WATSON:—Or money borrowed on the security of debentures.

Mr. McCARTHY:—Yes.

Lord MACNAGHTEN:—Is it clear that there were no private schools existing before?

Mr. McCARTHY:—Quite clear. The scheme was to put the assets on the one side and the liabilities on the other. If the assets exceed the liabilities, to that extent the Roman catholics are to be exempt, those who have contributed to that excess of assets over liabilities are to be exempt until that excess is worked off. Could anything be fairer? Schools had to be dealt with; could anything be fairer than saying, the property being taken over for that purpose, the one is to be placed against the other and credit is to be given and a provision is to be made, not in favour of the protestant section but of the Roman catholic section in case their assets exceeded their liabilities.

Lord WATSON:—That was all in winding up under the act of 1881.

Mr. McCARTHY:—They had to make some provision for them or else these schools would have become useless. They were the property of the public and if they had not been taken over in that way and exemption given for their value the Roman catholic ratepayers would have been so much the worse off.

There was another provision of the act, and that was as to the application of the provincial grant to which objection was also made upon similar grounds. Perhaps that has not been very clearly understood. A subsidy is granted to all the provinces of the Dominion—the subsidy that was granted to Manitoba was not merely in consideration of Manitoba surrendering its right to levy the customs duties, but as a part of the whole scheme of the federation, that a definite sum based upon population and upon the liability for debts and so on, should be granted yearly by the Dominion to the province. That and the power of direct taxation, and the right to obtain an indirect tax by licensing—exacting a fee for licenses, and so on, forms the provincial fund, and that provincial fund is subject, of course, to the legislative control of the province. Now, your lordships will see the far reaching nature of objection which has been put forward in this appeal that the provincial

Manitoba School Acts.

legislature cannot assist a public school system by the distribution of a portion of the consolidated fund of the province.

Very briefly then, going back to the question which is chiefly in dispute between the other side and the side that I represent, I have to quarrel with my learned friend the attorney general's construction of this word "denominational." Your lordships see, it is, "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." I was going to read to your lordships that which has been read by my learned friend who last addressed you, the case of *ex parte* Renaud, but is it possible to cut down the plain, simple, ordinary meaning of the word denominational, the rights which any class of persons have in respect of denominational schools, to say that means only the two leading divisions into which Christians are divided—Roman catholic and protestant?

Lord SHAND:—Can you explain to me what you think is the importance of that, for I have not been able to see it?

Mr. McCARTHY:—The importance of that is this, and it appears to have a good deal of importance in this way—

Lord SHAND:—If Logan is one of a class of protestants, is not he just as good as if he were specially named in the act?

Mr. McCARTHY:—No, not as it affects the provincial power. Logan comes here and says, I claim not merely to be a protestant, but I claim to be a protestant connected with the church of England, and my claim is that I cannot be taxed for any scheme of education embracing all protestants, I have a right to insist that if I am to be taxed at all, if I have not an immunity from all taxation, I can only be taxed for a school in which the doctrines of the church of England and the tenets of the church of England are taught. So a presbyterian can come, so a methodist can come, and so we say that the result of all this is, taking it most strongly against ourselves, all we can do, is to establish the four systems of schools, Roman catholic, presbyterian, methodist, church of England, which existed in 1871. The most we can do is to do that, and if we are compelled to do that, if that is our limited power, then, in point of fact, in a country like Manitoba, where the farmers live upon sections a mile or a half a mile square it would be utterly impossible to establish a system of schools at all. That is the great importance of it in a provincial point of view.

Lord HANNEN:—Is there any proof that there were in 1870 any methodists and so on established and having rights?

Mr. McCARTHY:—The only proof is in these general words in the archbishop's affidavit, at page 14, section 2, he says: "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 3, known as The Manitoba Act, and prior to the order in council issued in pursuance thereof, there existed in the territory now constituted 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."

Your lordships will have observed, the judges, of course, are familiar with it. I have the history of Manitoba here, if I was at liberty to refer to it, and I do not know why I should not in an important case of this kind, because it would be a thousand pities if it should turn on a question of that kind, and should require to go back for a fuller statement of facts. The facts are not really in dispute. There were church of England schools, presbyterian schools, Roman catholic schools and, just within a year or two of the union, a methodist school had been started. Now, if the "rights and privileges" are as the other side contend, how is it possible to say that that means the rights of the protestants as a whole, and not the rights of these classes of persons—all the various sects or denominations into which the protestant church is divided? If the other view was intended, why did they use the word "any?" Either would have been a much more appropriate term to use—"either denomination," but the phrase is "any class of persons." My learned friend, the attorney-general, seemed to base the argument on the fact that, as a matter of history, the struggle hitherto in the older provinces had been between protestants

and catholics. That, no doubt, is true—not, perhaps, quite in the sense in which the learned attorney-general referred to it, but in the larger sense, no doubt, it is correct to say that. But I point, in answer to that, to the clear distinction that is made in the British North America Act between the word “denominational” and the word “separate.” We have in the three sub-sections here the term “denominational school” used, and instead of that being repeated again, we have in the second section, the words “separate schools,” and we have again in the third section the words “dissentient or separate schools.” Now, is it possible to say that the word “denominational,” which is a word of well known signification, which the archbishop uses himself as applicable to the protestants, and which the chief justice of the court of New Brunswick thought could be more properly applied to protestant denominations than it would be to the Roman catholic denomination—is it possible, I say, not to note that these words have a separate and distinct signification, and that they ought to have their proper meaning? That is more clear when you come to look at the use of the word “separate,” which I think it is not perhaps too much to say might be treated as a word of art. The Separate School Act of Ontario—not the first—will be found in the Consolidated Statutes of Upper Canada, chapter 65, and it is headed: “An Act respecting Separate Schools.”

Lord WATSON:—For which province?

Mr. McCARTHY:—For the old province of Upper Canada. That was before the days of confederation. It is an act of the old province of Canada, and it deals with merely the upper portion of the province. Now, the privilege that is given here is a very peculiar one, to which, perhaps, sufficient attention has not already been directed, that if the teacher of a public school, although the school is conducted under school regulations, was a Roman catholic, that fact gave the right to any twelve protestants to demand that they should be associated together into a separate school, and it also gave the right to the coloured people of the province to have a separate school, not as a denomination at all, but merely as a coloured race they have the right by this clause to have their separate schools.

Lord WATSON:—They may be very good protestants.

Mr. McCARTHY:—They may be catholics and protestants.

Lord WATSON:—I suppose that *inter se* these denominations have the privilege of selecting the persons they admit to the schools?

Mr. McCARTHY:—No, I think not.

Lord WATSON:—I am talking of the privilege before the act. As regulated by statute, it may not be so—that is a different question, but I suppose there can be no doubt that the privilege existing in Manitoba of having a school meant as many separate schools as they chose.

Mr. McCARTHY:—The privilege was the existing privilege at the time, we say, and the existing privilege was to have private schools. As I have already mentioned to your lordships yesterday, such a thing as a separate school was unknown in the territory. There is no evidence that there was such a thing as a separate school. There was simply a private school at Kildonan, St. Boniface, St. John's and one or two other places—parish schools, as they are perfectly well understood in this country.

Lord WATSON:—I suppose, if you say, “parish schools as they are perfectly well understood in this country,” the conditions are not quite the same. As far as I can gather, in Canada a parish school meant originally the school that sprang up alongside of the church or chapel.

Mr. McCARTHY:—I think so, my lord.

Lord WATSON:—It was really a denominational school in connection with a place of worship—at least chiefly.

Mr. McCARTHY:—I think so. At all events in Manitoba that was the real meaning of it.

Lord WATSON:—That seems to have been so according to the evidence on both sides.

Mr. McCARTHY:—That is so. I do not think there is any question that every school in Manitoba was in connection with some one or other of the denominations, but the presbyterians had their own school, although they lived not very far from

Manitoba School Acts.

the place where the bulk of the people of the church of England resided. Now, apply this condition of the law to the province of Upper Canada. "All powers, privileges and duties," says the second section, "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 and made applicable to the province of Quebec," but "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 the provincial authority," and so on. Now, the schools of the coloured people are protected by that clause, and also the right of twelve protestants to form a separate school, if the teacher is a Roman catholic, and although he has passed the public school examination, although he has a better certificate, and although he is bound to teach in accordance with the provisions of the general school law, still they have got that right preserved to them by sub-section 3. I submit, therefore, still, with confidence, and with deference to the attorney-general's argument, that there is a distinction in the statute between the denominational and the separate schools, and I mention to your lordships, though I do not give you the statute, that in the establishment of the North-west Territories Act, where parliament, having sole control over the North-west Territories, had, as I think, to deal with the subject of schools, in giving the constitution to the North-west Territories they expressly provide for separate schools, and in these terms. Your lordships will find the act consolidated in the Revised Statutes of Canada, cap. 50, section 14. This was a consolidation of the acts which gave power to the North-west Territories to deal with various subjects, but on the school matter the power is limited in this way: "The lieutenant-governor in council shall pass all necessary orders with respect to education, but it shall therein always be provided that the majority of the ratepayers of any district or portion of the territories, or in any less portion or sub-division thereof, by whatever name the same is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor, and also that the minority of the ratepayers therein, whether protestant or Roman catholic, may establish separate schools therein, and in such case the ratepayers shall be"—

Lord WATSON:—I do not think there is any wide divergence between the two sides of the bar as to the fact or as to the statutes; the controversy chiefly is as to the construction to be put upon them, and as to the construction bearing it appears to me on one point only, and it all comes back to that. The light we have got from both sides is all directed as far as I can see to this: You admit there was a privilege in certain persons with respect to denominational schools in Manitoba; the real controversy between you is this: Was it a natural or implied incident of that privilege that the persons enjoying it were to be exempt from any taxation for the maintenance of national schools?

Mr. McCARTHY:—That of course is really what the argument resolves itself into.

Lord SHAND:—I understand you to qualify that by saying that the only privilege they had was that of having their own schools.

Mr. McCARTHY:—Yes.

Lord SHAND:—And if that is not the privilege, then they had no other and there was no privilege to which these words would apply.

Mr. McCARTHY:—I do not desire to abandon the point I put forward before, that it is not necessary absolutely to find that these words had any application.

Lord SHAND:—You say these words may be put there just to cover any possible privilege and we may find there was none.

Mr. McCARTHY:—Yes, and when your lordship sees that the whole scheme of the establishment of the provinces by the Dominion parliament, which was in that sense made the mother of these younger states, is simply to preserve such vested rights as they have, and when it would be fettering a legislative body, which, although at that time it only had a territory containing a population of 15,000, might before long hope to have a population of one or two millions, as the population of Ontario is. If I may venture to say so, it is dangerous to fetter and restrict, beyond what is absolutely necessary to preserve vested rights, the exclusive power to deal

with the vast and great subject of education, which is exclusively conferred on the province.

Lord MORRIS :—But if you put that limitation on the privilege, that it was only the privilege to have their own schools ; one of the judges says that that is the same privilege as to eat bread or drink water. I feel great difficulty in putting myself in the attitude to bring to the consideration of the case what I think proper and right to bring to bear on the subject. When considering the legislation, I think it perfectly right to put yourself as far as possible, and to regard as far as possible, the position of the parties who were asking for admission to the union on these terms ; and even then, after you have done all that, the question will come back to be what they have meant by what they have said.

Mr. McCARTHY :—Will your lordship allow me to correct your statement ? Manitoba was not like the other provinces. Manitoba was part of the Hudson's Bay territory which had been acquired by the dominion of Canada.

Lord MORRIS :—All that I think we are agreed upon.

Mr. McCARTHY :—And as to which the dominion of Canada had had to make no bargain. When British Columbia came in, as your lordships will find by the orders in council, a bargain had to be made between the province of British Columbia and the Dominion, which was carried out by orders in council and approved of here ; but when Manitoba came in, it was part of that great territory which belongs to the Dominion and which the Dominion is daily or hourly in expectation of making new provinces of, and this was the first. But there was no bargain. It was merely the Dominion parliament itself applying to a portion of its own territory, which it thought fit to constitute into a province and to give provincial rights to, such laws as would protect whatever vested institutions they might have.

Lord MORRIS :—But although Manitoba may not have existed before, surely the dominion of Canada, that called it into existence, bargained with it the sort of existence it was going to have.

Mr. McCARTHY :—There was nobody to bargain with.

Lord MORRIS :—I beg your pardon, it bargained with the future Manitoba.

Mr. McCARTHY :—Of course they legislated for it.

Lord MORRIS :—Yes, I call that a bargain.

Mr. McCARTHY :—I draw a distinction between a bargain which is made with a new province and a bargain which is made with an existing province.

Lord WATSON :—I do not know how to get to the mind of the Dominion on the subject.

Sir HORACE DAVEY :—Except by understanding the words they have used.

Mr. McCARTHY :—That is what I am asking your lordships to do.

Lord WATSON :—The mind of the Dominion seems to have been that it had better not deal with the subject. It has left it to the province to deal with. That, I think, seems to have been their mind.

Mr. McCARTHY :—I think your lordship has struck the key-note of the question.

Lord WATSON :—It is a thorny question to be dealt with by anybody, demanding a certain power of moderation.

Mr. McCARTHY :—I was only desiring in that observation to answer the appeal that the learned attorney general made to this board as to the legislation that had passed during the earlier period. Surely a province which is to be, we hope, a great province, is not to be fettered by what 15,000 or 16,000 people did between 1871 and 1881.

Lord WATSON :—If I were to speculate on the subject at all, I would say that the legislative power relative to educational subjects was a power that the province desired to possess for themselves ; and that the Dominion was quite willing to let them have it.

Mr. McCARTHY :—That, of course, is the scheme of the first act. It was one of those things which was exclusively assigned to the province, but, owing to the difficulties that had arisen, the power of the province was cut down, and there is no reserved power in the Dominion to deal with it. It is not a matter as to which there is any reserved power to pronounce as to the power that there is, and if it does not rest with the province it is not to be found anywhere.

Manitoba School Acts.

My learned friend, Mr. Blake, pressed before your lordships a new contention—new, at all events, as not appearing in the judgments before, and not having been advanced by the attorney general—and that is the conscientious right which he claimed against contributing to a system of education which the Roman catholics disapproved of; but, with great respect to my learned friend, is not he confounding a private right with that? That was not a right of a class of persons, but a private right. It is not a private right that is preserved, but it is the right of the class of persons. I think that seems to be the answer to that. There only just remains now to be said that what we contend for is this—

Lord SHAND:—Does the archbishop, in his affidavit, carry it the length which was contended for?

Mr. McCARTHY:—No.

Lord SHAND:—I do not think he does. I think he puts it entirely on this, that they were obliged to pay for two sets of schools.

Mr. McCARTHY:—As an historical fact, I may say that he is one of the members of the present advisory board.

Lord MACNAGHTEN:—One of the last board; is he one of the advisers of the present?

Mr. McCARTHY:—I was mistaken—I was misinformed. It was the bishop of Rupert's Land.

Lord MORRIS:—I was startled at that. I think he puts himself in a very dangerous position, because I think if he had become a member of the board he would have become rather outlawed.

Mr. McCARTHY:—I do not know that he would. One of the very distinguished prelates of the church of Rome has recently, with the sanction of the holy see itself, permitted the attendance of the Roman catholics at the public schools in the adjoining states.

Mr. BLAKE:—In case of absolute necessity.

Mr. McCARTHY:—In case of absolute necessity, that is true, but still it is not a matter of conscience to that extent, because the bishop recently appealed to Rome to know whether, considering the difference of country and the difficulty of establishing parish schools, the children of his diocese might not attend at the public schools, and permission was given. And as another fact, I may say that many of the Roman catholics all through the Dominion attend the public schools even when they have separate schools.

Lord MORRIS:—They may do that. As I said before, I was in college with the present bishop of Ontario, who was an old fellow pupil of mine. What particular Roman catholics do does not prove anything.

Mr. McCARTHY:—Only there cannot be said to be any conscientious scruples about it in that sense, because in many cases they attend public schools even when they have established separate schools.

Lord MORRIS:—It is not what the individuals may do.

Lord HANNEN:—There would appear to be no doctrine of the church against it. It seems to be a matter of discipline in particular cases.

Mr. McCARTHY:—That is what I think it is, more correctly speaking. Now, the immunity that may be claimed is surely not an immunity against contributing to a public school system. The immunity that they enjoyed was, what? The immunity was that each individual of the class—because you cannot find out the immunity of the class without seeing what the immunities of the individuals composing it were—that they were bound to contribute nothing, or only just so much as they pleased. How can that be called an exemption, or a privilege, or a right? There was the right to their schools. Any law which said they could not have the denominational schools would be beyond the power of the legislature. Any law which prejudiced that right would be beyond the power of the legislature.

Lord WATSON:—Yes, but the legislature might by positive enactment grant an exemption which would be recognized as a privilege. It is perfectly true that no government can bind its successor by granting an exemption. That exemption may be repealed.

Mr. McCARTHY:—Yes, my lord.

Lord WATSON:—But suppose there is a standing statutory exemption, would not that have enured to their right?

Mr. McCARTHY:—Unquestionably.

Lord WATSON:—I say, if there had been a statutory exemption before 1870, would not that have enured?

Mr. McCARTHY:—Undoubtedly, my lord.

Lord WATSON:—The question is whether, no exemption having been enacted, there can be any circumstances here sufficient to raise an implied exemption?

Mr. McCARTHY:—Undoubtedly. It just comes back to the question of fact.

Lord WATSON:—Are there any circumstances which imply it, or is there anything in this case which, there being no enacted exemption, warrants the supposition of one? As I understand the judges of the supreme court, the latter is the view they have taken.

Mr. McCARTHY:—Undoubtedly, that is their view.

Lord WATSON:—They contended that the legislature by that recognition of the rights and privileges, meant to agree to recognize it as an existing exemption, although it was not a legal exemption.

Mr. McCARTHY:—That undoubtedly is the view they have taken. That, of course, is the view that we contend against here, but your lordships will not forget that the two French judges, Mr. Justice Taschereau and Mr. Justice Fournier, take it on the ground that there was a system of separate schools. Now, if in fact there was no system of separate schools, then it is quite clear that those learned judges have erred in the conclusion that they have drawn from the facts which existed at the time of the union.

Lord WATSON:—Is not it part of the constitution of a separate school that this immunity should accompany it?

Mr. McCARTHY:—It is.

Lord WATSON:—It is essential to the definition of the word.

Mr. McCARTHY:—Precisely, and therefore if the legislature proposed to say they shall have separate schools, or if parliament proposed to say they shall have separate schools—

Lord WATSON:—Of course the learned judges do not mean to say that the one is as plain a case as the other, but they say, taking into account what the legislature must have meant to do, and what the two parties before them were—they did not use the word contracting, but were really arranging, this must have entered into it.

Mr. McCARTHY:—I desire just to add one word with regard to the question as to whether the schools established by the act of 1890 are in fact denominational schools.

Lord SHAND:—I have already drawn attention to the fact that at page 8 the counsel in their pleadings expressly say that they are not denominational.

Mr. McCARTHY:—Yes, and they put that forward as a ground why the archbishop—

Lord SHAND:—But I understood you to say that most of the judges took that view also.

Mr. McCARTHY:—They all do. There is not a single judge of the court, out of the nine judges, who does not take, so far as he has expressed any view at all, the view that these schools were non-denominational and non-sectarian.

Lord SHAND:—Schools under the act of 1890?

Mr. McCARTHY:—Yes, schools under the act of 1890. Of course if you put forward the view that every school that a Roman catholic cannot attend is a denominational school, then there may be some foundation for the argument, but look at where it leads to.

Lord WATSON:—I rather think the original idea of denominational schools is a school of a sect of people who are desirous that their own religion should be taught in it, and taught in their own way—a doctrinal religion; and not only taught because religion is taught in a non-sectarian school, but, in the view of those who founded denominational schools originally, the theory was that their views of religion and teaching of their religion should permeate and run through all the education

Manitoba School Acts.

given in the school—that, whether it were rudimentary science or anything else, there should be an inoculation of the youthful mind with particular religious views.

Mr. McCARTHY:—History and philosophy, as the archbishop puts it, at all events are embraced within this view. He puts it so in his affidavit.

Lord WATSON:—That is their theory of what the teaching ought to be. In fact the essence of denominational views is that secular instruction and religious instruction ought not to be made separate matters.

Mr. McCARTHY:—Then these may be in a sense secular schools, but they certainly cannot be called denominational schools.

Lord WATSON:—I take it that the word may come to mean this: a school to which the denomination does not object, but that is not the primary signification of the word.

Mr. McCARTHY:—If your lordships will just look at what this conclusion leads to. No model school—your lordships have heard what a model school is—

Lord SHAND:—What is it?

Mr. McCARTHY:—It is a model school under the act for the training of teachers—no normal school, which is a school of a somewhat similar character; no-provincial university—

Lord MORRIS:—Do not provincial universities come within this act?

Mr. McCARTHY:—I think they do.

Lord MORRIS:—Under the act of 1890?

Mr. McCARTHY:—Yes, and they would be denominational schools. There was in point of fact something in the nature of a provincial university.

Lord MORRIS.—You must have a peculiar mode of description in Manitoba if you describe a university as a school. It may be a school in one sense, as the school of Plato, but a university can hardly be called a school.

Mr. McCARTHY:—Originally, in the province of Manitoba, there was something in the nature of a university, but there is not one leading denomination which has not a university of its own, and I think I am not going too far in saying that more importance is attached to the university education in a denominational sense than even to the earlier education.

Lord MORRIS:—Not necessarily from the Roman catholic point of view. I do not think the archbishop would have made an affidavit that it was contrary to the practice and rules and tenets of the Roman catholic church for a Roman catholic to go to a university.

Mr. McCARTHY:—If I may use contemporary and current history, I have always understood there is a great controversy in Ireland on the very fact that the Roman catholics had not university education according to the Roman catholic faith.

Lord MORRIS:—They wish it, but there is no objection to any Roman catholic going to Trinity college.

Mr. McCARTHY:—Because at present it is undenominational.

Lord MORRIS:—Very well.

Mr. McCARTHY:—But what I say is that these words are not to be a fetter.

Lord WATSON:—There was a great deal of controversy at one time in the country about a Roman catholic university in Ireland.

Mr. McCARTHY:—It is not dead yet.

Lord WATSON:—There was a great deal of controversy at one time, but I always understood that it was limited to the education of priests for the service of the church.

Mr. McCARTHY:—It was only the other day that I read a statement of one of the Roman catholic prelates in Ireland pointing out how unfairly their people were treated because they had to go to the university school, which, although undenominational, was under the teaching of members of the church of England.

Lord MORRIS:—I was only saying, when you were saying that you considered there was even a stronger objection to a Roman catholic going to a non-denominational university than there was to going to a primary school, I do not agree with that, because I think it is the converse of that; there is a much greater objection to going to a non-denominational primary school than to a university, for the very

reason that is given there, that in the one you are reared, and in the other you are supposed to be so invulnerable that you cannot be led astray.

Mr. McCARTHY :—I am speaking of the fact, and I am submitting—and that is the point of the argument—that if the schools cannot be narrowed down to training schools or early schools, they must embrace every class of school, and I am unable to see why that word would not cover colleges or so-called universities. The result is, as I say, that if this judgment is upheld, practically the educational power granted by the legislature would be practically stifled.

Lord SHAND :—Would not it be very much what it is in the other provinces if this decision is confirmed? We are told in the other provinces that you have nothing but denominational education.

Mr. McCARTHY :—In two out of seven, my lord. In New Brunswick they have got no denominational schools, except in the sense only that they read the Douay Bible.

Lord MORRIS :—It is so in the two important ones—Ontario and Quebec. New Brunswick has been always different.

Mr. McCARTHY :—Of course the reason as to Ontario and Quebec is that each had its own special history. It is owing to the large French population, and the province of Quebec formed a part of the old province of Canada. It was they who insisted on imposing the separate schools on the upper provinces. It was done against the will of the majority of the people of the upper provinces and against their voting, but when they got in one legislature, it was imposed on them, and they also imposed at the time of the confederation that it should be made perpetual, but the people who go out to the new provinces want to be free.

Lord MORRIS :—What are the five where there is none?

Mr. McCARTHY :—Nova Scotia, New Brunswick, British Columbia, Prince Edward Island, those four are perfectly free, and then there is one in Manitoba, which is the fifth. Then the other two provinces make seven, and the North-west Territories have not yet any act, but talk is now going on in parliament as to the question of schools in the North-west Territories.

Judgment reserved.

FURTHER RETURN

(33b)

To an ADDRESS of the HOUSE OF COMMONS dated the 6th February, 1893, for a copy of the judgment of the Judicial Committee of Her Majesty's Privy Council in the appealed case of Barrett *vs.* the City of Winnipeg, commonly known as the "Manitoba School Case;" also copy of factums, reports and other documents in connection therewith.

By order.

JOHN COSTIGAN,

Secretary of State.

OTTAWA, 20th February, 1893.

Manitoba School Acts.

RECORD OF PROCEEDINGS

Before the Judicial Committee of the Privy Council, and the cases of the Appellants and Respondent in "Barrett vs. the City of Winnipeg" (the Manitoba School Case), and Record of Proceedings and the Appellants' and the Respondent's cases in Logan vs. the City of Winnipeg.

CONTENTS.

	PAGE.
Barrett vs. City of Winnipeg:	
Factum of the Appellant.....	3
Factum of the Respondents.....	7
Factum of Case on Appeal.....	9
Order of Supreme Court of Canada allowing appeal.....	9
Registrar's Certificate verifying Transcript Record	10
Case of the Appellants.....	11
Case of the Respondent.....	15
Logan vs. City of Winnipeg:	
Case of the Appellants.....	19
Case of the Respondent.	23
Record of Proceedings.....	26, 27

IN THE PRIVY COUNCIL

ON APPEAL FROM THE SUPREME COURT OF CANADA.

BETWEEN

THE CITY OF WINNIPEG	- - - - -	<i>Appellants,</i>
	AND	
JOHN KELLY BARRETT	- - - - -	<i>Respondent.</i>

RECORD OF PROCEEDINGS.

" B. "

IN THE SUPREME COURT OF CANADA.

In the Matter of an Application to quash By-laws 480 and 483 of the City of
Winnipeg.

APPELLANT'S FACTUM.

John Kelly Barrett (Applicant) - - - - - *Appellant,*

and

The City of Winnipeg (Respondents) - - - - - *Respondents.*

1. The question at issue upon this appeal is whether the Manitoba Public School Act, 53 Vict., c. 38, 1890, is void, as offending against the following provision in the Constitutional Act of Manitoba, 33 Vict., c. 3 (Dom. 1870), "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 appellant contends that the school law offends against this provision in its effects on the Roman Catholics of Manitoba. The question arises upon an application in the court of Queen's Bench to quash certain assessment by-laws of the city of Winnipeg made under the school law. Mr. Justice Killam dismissed the application; and the full court in term confirmed his judgment, Mr. Justice Dubuc dissenting.

2. In attempting to construe the provision in question, it is proper to compare it with the provision *in pari materia* of "The British North America Act, 1867," and to examine into the history of the legislation.

See "Rex vs. 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 to each other."

See also "Hawkins vs. Gathercole," 6 De G. M. and G. 1.

See also "Maxwell on Statutes," 40, 41.

See also "Wilberforce on Statutes" 260-4.

3. For convenience there are set out below in parallel columns the corresponding paragraphs of "The British North America Act, 1867," and "The Manitoba Constitutional Act."

Manitoba School Acts.

BRITISH NORTH AMERICA ACT.

In and for the 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 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 an 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.

MANITOBA ACT.

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 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 authority in that behalf, then and in every such case, and as far only as the circumstances of each case may 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.

4. Some years prior to 1867, when "The British North America Act" was passed, the parliament of the late province of Canada had passed a separate school law for Upper Canada, which was understood to be a final settlement of a long standing subject of contention. The understanding preceding the addresses on which "The British North America Act" was passed, was, that the privileges granted by this separate school law to the Roman catholic minority of Upper Canada should be secured to them, and that like privileges should be granted and secured to the protestant minority of Lower Canada. It had been intended that the latter privileges should be granted by legislation of the provincial parliament before confederation, and that the privileges so granted to the minorities in both Upper and Lower Canada should be secured by an identical process in the Confederation Act. The suggested provincial legislation failing, the clauses of "The British North America Act" above set out were moulded to accomplish the desired object by means of that act itself.

5. It will be observed that sub-section 1 of the clause of "The British North America Act" deals only with rights or privileges had by law at the union. Shortly after confederation a question arose as to the effect of this provision when applied to the state of things existing in New Brunswick at the union. In the session of the New Brunswick legislature of 1869 a school bill was introduced by the government of the day; and it was reintroduced in 1870, and debated at great length in March and April of that year, the Roman catholic minority of New Brunswick asserting that the privileges which in practice the Roman catholics had before the union in connection with denominational schools were theirs by law within the meaning of "The British North America Act," and therefore could not be, as it was alleged they were being, violated by the proposed legislation; while the protestant majority asserted, and the proposed legislation was based on, the view that such privileges were not had by law, but only by practice, and therefore were not protected from infringement by the provision.

6. It was under these circumstances that "The Manitoba Constitutional Bill" was, on the 2nd of May 1870, introduced into the Canadian house of commons, and it became an act on the 12th of that month. The appellant contends that the addition in the Manitoba Act to the words "by law" of the words "or practice" contained in the definition of the protected rights or privileges must be taken to have regard to the existing state of things in the territory then being formed in the province of Manitoba, and to the difficulties likely to arise there, as developed by the controversy in New Brunswick; and that the obvious object of the parliament of Canada, to be if possible effectuated by the courts, was to extend the security for privileges so as to cover the *status quo*, whether that *status quo* existed under the authority of law or that of practice only.

7. What, then, was the *status quo*? The affidavit of Archbishop Taché shows that:—

"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 aspect 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."

This affidavit further shows that:—

"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 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. These schools were denominational schools, some of them 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 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.

"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.

Manitoba School Acts.

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."

8. Shortly after the passing of "The Manitoba Constitutional Act" in the year 1871, the local legislature of Manitoba passed a school law, by which and its amendments educational matters were, so far as the questions now in issue are concerned, substantially regulated until 1890, when the act now impeached was passed. The question whether this intermediate law violated the rights of the Roman catholics was never tested in the courts. But its bearing is described by Mr. Chief Justice Taylor in his judgment in the present case, as follows:—"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."

9. By the School Law of 1890, now attacked, all the former statutes were repealed. Its practical effect may be said to be to abolish all provisions for Roman catholic schools, and to continue the former protestant schools under the name of public schools; for while some changes in methods of government are provided for, the new schools are substantially identical with those formerly established by protestants under the repealed law. Such inadequate provision as is made for religious exercises requires (as the divisions of protestants into numerous denominations necessitates) that the exercises should be of an unsectarian character, and it is thus diametrically opposed to the principles and practice of the Roman catholic church. This provision being accepted by the protestants, and satisfactory to them as a whole, the schools may be not unfairly described as protestant schools, in the sense that they conform to the protestant, and do not conform to the Roman catholic principles and practices in education.

10. These schools, being the only ones established under and recognized by the law, are to be maintained under that law at the cost of the whole population, Roman catholic as well as protestant; and the assessment by-laws, which are objected to, provide for the levying of rates upon the whole population, including the Roman catholics, for the maintenance of such schools in Winnipeg. The Roman catholic church, as shown by the eighth paragraph of the affidavit of Archbishop Taché, "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. 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 before mentioned."

11. Under these circumstances it is that the appellant contends that the school law of 1890 does prejudicially affect rights or privileges in respect to denomina-

tional schools, which the class of persons called Roman catholics had by law or practice in the province at the union. At the union, Roman catholics had by practice the right to support their own denominational schools, at their own charge, for the purpose of instructing their own children, separate from those of the other denominations in the community, free from all charge in respect of the support of schools for or used by any other denomination. At the union, Roman catholics were in practice enjoying and acting upon these rights. By the law impeached, the Roman catholics are compelled to bear a ratable share of the charge for the schools there-under established, schools which are not denominational, not Roman catholic, not separate, and of which Roman catholics cannot conscientiously avail themselves; while these schools are under the name of "public," substantially protestant, and are at any rate accepted and used by, and satisfactory to, the various denominations of protestants.

12. The Roman catholics being obliged to re-establish and maintain separate and denominational schools according to the practice at the union, are thus prejudicially affected by the change, in being compelled first of all to pay the whole cost of those denominational schools, and secondly, to bear a ratable proportion of the charge for the so-called public schools of which they can and do make no use. This change does not merely prejudicially affect the Roman catholics in their purse, but (tending, as it must, to increase very greatly the burden of Roman catholics in connection with education, while it diminishes those of the protestant denominations) difficulties are thrown in the way of efficient and wide-spread Roman catholic denominational education in schools most prejudicial to that body. It is therefore obvious that they are prejudicially affected within the meaning of the provision.

For these reasons the appellant contends that the appeal should be allowed and the by-laws quashed, with costs.

JOHN S. EWART,
Counsel for Appellant.

"C."

IN THE SUPREME COURT OF CANADA.

Appeal from the Court of Queen's Bench for Manitoba.

In the Matter of an Application to quash By-laws 480 and 483 of the City of Winnipeg.

RESPONDENTS' FACTUM.

John Kelly Barrett (Applicant) - - - *Appellant*

and

The City of Winnipeg (Respondents) - - - *Respondents.*

This is an application to quash two by-laws of the city of Winnipeg, numbered 480 and 483, on the ground "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."

The application is made under section 258 *et seq.*, of "The Municipal Act" of 1890, of the province of Manitoba, and raises the question as to the legality, or illegality, of "The Public Schools Act," chapter 38 of 53 Vict., Statutes of Manitoba.

The first legislation in Manitoba, for the establishment of a public school system, was passed in the year 1871 (34 Vict., c. 12), whereby a board of education, composed of not less than 10 nor more than 14 persons, was established, one-half of whom were protestants and one-half catholics. Each section of the board had a

separate superintendent, and, amongst other powers, had under its control and management the "discipline" of the schools of the section, and the prescribing of such books as had reference to religion or morals. The moneys appropriated by the legislature for common school education were, after deducting the expenses of the board, and superintendents' salaries, to be "appropriated to the support and maintenance of common schools, one moiety thereof to the support of protestant schools, and the other moiety to the support of the catholic schools" (section 13).

By subsequent legislation, enacted at various times up to the passage of "The Public Schools Act" (53 Vict., c. 38), the powers of the protestant and catholic sections of the board of education were enlarged, whereby the entire control and management of the schools, their general government and discipline, were delegated to the section of the board to which the school belonged. Each section had power to select all the books, maps, and globes to be used in the schools under its control, and to approve of the plans for the construction of school houses, "Provided, however, that in the case of books having reference to religion and morals, such selection by the catholic section of the board shall be subject to the approval of the competent religious authority." See Man. Stat., 34 Vict., c. 12; ditto, 36 Vict., c. 22; ditto, 39 Vict., c. 1; ditto, 42 Vict., c. 2; ditto, 44 Vict., c. 4.

By the act respecting the department of education (53 Vict., c. 37) and by "The Public Schools Act" (53 Vict., c. 38), all prior legislation as to schools and education in Manitoba was repealed, and a department of education created, to consist of the executive council or a committee thereof, which, with an advisory board, to be elected in the manner prescribed by the act, practically replaced the old board of education. It was further provided that all public schools in the province were to be free schools (section 5), that all religious exercises in the public schools should be conducted according to the regulations of the advisory board (section 6), and that, except as above, no religious exercises were to be allowed in the schools which were declared to be "entirely non-sectarian" (section 8).

Power was given to municipalities to levy on the taxable property in each school district the sum required by such district, in addition to the legislative and municipal grants (section 90), and in cities, towns, and villages the municipal councils are 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" (section 92), and it was declared that the taxable property in a municipality for school purposes was to include all property liable to municipal taxation, and also all property exempt by the council from municipal and not from school taxation (section 93).

"The British North America Act, 1867," enacted, 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 at the union."

By the 22nd section of the Manitoba Act, "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."

Prior to the province of Manitoba entering confederation, the schools then in existence were purely private schools, and were not in any way subject to public control, nor did they receive public support. No school taxes were levied or collected by any authority, and whatever contributions were made for the support of said schools were purely voluntary. See affidavit, Alexander Polson, affidavit, John Sutherland, and affidavit, Archbishop Taché.

The respondents submit that the words "law or practice," as used in sub-section 1 of section 22 Manitoba Act, can only mean some binding rule or obligation to

Manitoba School Acts.

which the inhabitants of the province were at the date of the union committed. There is no evidence showing such to have been the case. *Ex parte Renaud*, 1 Pugsley, N. B. R., 273; S. C., 2, Cart., Cas. 445.

The "right or privilege" with respect to denominational schools at the date of the union was, according to the affidavit of his grace Archbishop Taché, the right to establish denominational schools supported by private contributions of parents or by the funds of the church. This right has in no way been interfered with by "The Public Schools Act." Roman catholics are still entitled, notwithstanding the abolition of separate schools, to establish and maintain denominational schools the same as before the union.

The Manitoba Act (section 22) contemplated the establishment of a system of free undenominational public schools, and the maintenance of the same by grants of provincial funds or by direct taxation, or both. The enactment of "The Public Schools Act" was therefore within the powers granted to the provincial legislature by the Manitoba Act, and was not an interference with the rights and privileges with respect to "denominational" schools.

The respondents contend that the provincial legislature was intended to have power to provide against popular ignorance as an evil, and for that purpose to expend the public moneys, and, if necessary, to levy taxes. That certain individuals in the community, who voluntarily contribute to and maintain denominational schools would have to pay the rates imposed by the legislature for the support of free schools, is too indirect and remote an effect to bring it within the act as an invasion of their rights and privileges thereunder.

The establishment and maintenance of private denominational schools by certain individuals or classes in the community, prior to and at the time of the union, was not a "right or privilege" within the ordinary meaning of these words as used in the Manitoba Act. "Bac. Abrid.," Vol. 8, p. 158; Com. Dig. (*Stc.*); "McKeddy's Roman Law," Section 189; "Campbell v. Spottiswoode," 3 B. and S., 769; "Fraser v. Mitchell," L. R. 7, Q. B., 690. See definitions in "Bouvier's Law Dictionary"; ditto "Browne's Law Dictionary"; ditto "Wharton's Law Lexicon"; ditto Imperial and Webster's Dictionaries.

"A."

IN THE SUPREME COURT OF CANADA.

FACTUM OF CASE ON APPEAL TO THE SUPREME COURT OF CANADA.

NOTE.—See *Sessional Paper No. 63b*, 1891.

D.

ORDER OF SUPREME COURT OF CANADA ALLOWING APPEAL, DATED 28TH OCTOBER, 1891.

E.

REASONS OF JUDGES OF THE SUPREME COURT OF CANADA.

NOTE.—See *Sessional Paper No. 46*, 1892.

Manitoba School Acts.

IN THE SUPREME COURT OF CANADA.

REGISTRAR'S CERTIFICATE VERIFYING TRANSCRIPT RECORD.

In the Matter of an Application to quash By-laws 480 and 483 of the
City of Winnipeg.

Between

John Kelly Barrett (Applicant) - - - *Appellant.*

and

The City of Winnipeg - - - *Respondents.*

I, Robert Cassels, registrar of the supreme court of Canada, hereby certify that the printed document annexed hereto marked A is a true copy of the original case filed in my office in the above appeal; that the printed documents also annexed hereto marked B and C are true copies of the factums of the appellant and respondents respectively deposited in said appeal; and that the document marked D, also annexed hereto, is a true copy of the formal judgment of this court in the said appeal; and I further certify that the document marked E, also annexed hereto, is a copy of the reasons for judgment delivered by the judges of this court when rendering judgment, as certified by George Duval, Esq., the official reporter of this court.

Dated at Ottawa, this 28th day of December, A.D. 1891.

(Seal.)

ROBERT CASSELS,

Registrar.

IN THE PRIVY COUNCIL

ON APPEAL FROM THE SUPREME COURT OF CANADA.

BETWEEN

THE CITY OF WINNIPEG - - - - - *Appellants*

AND

JOHN KELLY BARRETT - - - - - *Respondent.*

CASE OF THE APPELLANTS.

1. This is an appeal from a judgment of the supreme court of Canada pronounced on the 28th October, 1891, reversing a judgment of the court of queen's bench for the province of Manitoba pronounced on the 2nd February, 1891.

2. The respondent, John Kelly Barrett, applied to a judge of the court of queen's bench for Manitoba, under section 258 of the Manitoba Municipal Act (53 Vict., cap. 51), to quash two by-laws of the appellants, the city of Winnipeg, being by-laws numbered 480 and 483, for "illegality," and upon the ground, "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 protestant and Roman catholics alike for the whole sum."

3. The application was heard before Mr. Justice Killam, who dismissed it, his reasons for doing so being reported in 7 "Manitoba Law Reports," page 273, and also printed in the Record.

4. From this judgment the respondent appealed to the court of queen's bench for Manitoba. The appeal was heard before the full court, consisting of the chief justice, Mr. Justice Bain, and Mr. Justice Dubuc, and was dismissed by that court, Mr. Justice Dubuc dissenting, the reasons of their lordships being reported in the same number of the Manitoba Law Reports, commencing at page 304, and also printed in the Record.

5. From this judgment the respondent appealed to the supreme court of Canada, and the appeal was allowed by that court, and an order made quashing the said by-laws, the reasons for the judgment of their lordships being printed in the Record.

6. The two by-laws in question were passed for levying a rate for municipal and school purposes in the city of Winnipeg for the year of 1890. The principal by-law, viz., by-law 480, recited amongst other matters the aggregate amount necessary to be raised to meet the interest for debentures and for the ordinary current municipal and school purposes without distinction and the total value of the ratable property in the city as shown by the last revised assessment rolls, and enacted that there should be raised, collected, and levied a rate of 2 cents on the dollar upon the whole assessed value of the real and personal property in the city according to such rolls for meeting the expenditure mentioned. The by-law is set out in full in the Record.

7. By-law 483 amended the former by-law. It recited that the property of certain corporations was liable only for school rates, and that it was desirable to distinguish the rates providing for city schools, but so that the total several rates should not exceed 2 cents on the dollar, and it amended the former by-law so as to make the rate 15½ mills on the dollar for interest on debentures and for the ordinary current municipal expenditure for the year, and 4½ mills for school purposes also for the year.

8. The substantial question in the appeal is whether the Public Schools Act, passed by the legislature of the province of Manitoba in 1890 (53 Vict., cap. 38,

Manitoba School Acts.

Manitoba), under the authority of which the said by-laws were passed, is within the power of that legislature to enact. This act established one system of public schools throughout the province and abolished all the laws regarding public schools which had theretofore been passed and were then existing. The respondent contends that the act is *ultra vires*, and that the by-laws in question which levied a rate for school purposes pursuant to it on all the ratepayers alike are consequently illegal, his ground for so contending being that the act, as he alleges, offends against the following provision contained in "The Manitoba Act," under which the province was admitted into confederation (33 Vict., cap. 3, Dominion, 1870):—

"21. 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."

9. The respondent filed, in support of the application, his own affidavit, which stated that he was a ratepayer and a resident of the city of Winnipeg, and a member of the Roman catholic church, and that the effect of these by-laws was that one rate was levied upon all protestant and Roman catholic ratepayers, in order to raise the amount required for school purposes, and he claimed that the result to individual ratepayers was "that each protestant will have to pay less than if he were assessed for protestant schools alone, and each Roman catholic would have to pay more than if he were assessed for Roman catholic schools alone."

10. An affidavit of his grace the archbishop of St. Boniface was also filed by the respondent, and several affidavits in answer were filed on behalf of the appellants. The material facts relied upon by the respondent are set out in the affidavit of the archbishop as follows:

"(a) Prior to the passing of 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.

"(b) These schools were denominational schools, some of them being regulated and controlled by the Roman catholic church, and others by various protestant denominations.

"(c) 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.

"(d) 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.

"(e) The Roman catholic schools were all conducted according to the distinctive views and beliefs of Roman catholics."

11. The affidavits filed by the appellants, the city of Winnipeg, showed that prior to the province of Manitoba entering confederation the schools then in existence were merely private schools, and were in no way subject to public control, and did not receive public support; that no school taxes were levied or collected by any authority, and whatever contributions were made for the support of said schools were purely voluntary.

12. The province of Manitoba became one of the provinces of the dominion of Canada on 15th July, 1870, under the following circumstances:

(a) Prior to the union the district comprised in the province of Manitoba was a portion of Rupert's Land, and was a part of the territory granted to the Hudson's Bay Company on 2nd May, 1670, by King Charles II.

(b) Prior to 1870 a number of white settlers and half-breeds had established themselves along the banks of the Red and Assiniboine rivers, in what was known as the Red River Settlement, all of which was included in the new province.

(c) By the British North America Act (Imperial Statute 30 and 31 Vict., cap. 3) the old provinces of Upper and Lower Canada, Nova Scotia and New Brunswick were confederated into the dominion of Canada.

(d) On the 23rd of June, 1870, an imperial order in council was passed admitting Manitoba into confederation, the same coming into force on the 15th July, 1870, from which last mentioned date Manitoba has been one of the provinces of the Dominion.

(e) The Dominion Statute (32 and 33 Vict., cap. 3) commonly called "The Manitoba Act," provided for the government of the new province, and declared that the provisions of the British North America Act should, except as to those parts thereof which were in terms made or by reasonable intentment might be held to be specially applicable to or only affect one or more but not the whole of the provinces then comprising the Dominion, and except as the same might be varied by that act, be applicable to the province of Manitoba. This act was confirmed by the imperial act (34 and 35 Vict., cap. 28.)

(f) By the British North America Act it is enacted (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 the 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."

(g) The provisions of section 93 of the British North America Act were varied in and by the provision hereinbefore set out in full in paragraph 8 of this case. And in addition the section 22 in sub-section (2) provides somewhat more generally for an appeal to the governor-general in council from any act or decision of the provincial legislature or authorities affecting any right or privilege of the protestant or Roman catholic minority of the queen's subjects in relation to education. The provisions contained in section 92 of the British North America Act and above referred to are not altered, and apply to Manitoba:

13. The act known as the Public Schools Act, the validity of which is in question, enacts that all public schools in the province are to be free schools (section 5); that all religious exercises in the public schools shall be conducted according to the regulations of the advisory board, which is provided for (section 6); but in case the guardian or parent of any pupil notifies the teacher that he does not wish such pupil to attend such religious exercises, then the pupil shall be dismissed before the religious exercises take place, the time appointed for such religious exercises being just before the closing hour. All public schools are non-sectarian, and no religious exercises shall be allowed therein except as above provided. The act is not compulsory; no parent or guardian is compelled to send his child to a public school.

14. The question involved in this appeal turns largely upon the effect of the words "by law or practice" contained in section 22 of the Manitoba Act (33 Vict., cap. 3). The law in force prior to the union in the territory which now forms the province of Manitoba was the law of England as at the date of the Hudson's Bay Company's charter, viz., 2nd May, 1670, in so far as such law was applicable to the country. Roman catholics did not therefore possess any right or privilege with respect to denominational schools by law in the province at the union. The "right

Manitoba School Acts.

or privilege" with respect to denominational schools existing by practice at the date of the union was, as shown by the affidavits, merely the privilege to establish and maintain private schools which were supported by fees paid by the parents or guardians of the children who attended them, supplemented, it may be, by those who belonged to the Roman catholic church. This right has in no way been interfered with or "prejudicially affected" by the Public Schools Act of 1890. Roman catholics are still entitled to establish and maintain denominational schools in the same manner as before the union.

15. The appellants petitioned your majesty in council for special leave to appeal from the judgment of the said supreme court, dated the 28th October, 1891, and by an order dated the 9th May, 1892, leave to appeal was granted.

16. The appellants submit that the judgment of the supreme court of Canada should be set aside, and the judgment of the court of queen's bench for Manitoba reinstated, with their costs in the courts below, for the following amongst other

REASONS:

- (1) Because the reasons of Killam, J., Taylor, C.J., and Bain, J., are right in law and fact.
- (2) Because the provincial act respecting public schools does not affect any right or privilege with respect to denominational schools which the respondent or any class of persons had by law or practice in the province prior to the union.
- (3) Because the respondent had not, nor had the Roman catholics of the province, prior to the union any right or privileges by law in relation to the Roman catholic denominational schools.
- (4) Because the respondent had not, nor had the Roman catholics of the province, prior to the union any right or privileges by practice respecting denominational schools other than that of establishing and maintaining private schools in which the tenets of the Romish church were taught, which is in nowise interfered with by the act in question.
- (5) Because in any view the School Act does not prejudicially affect any right or privileges which the Roman catholics had respecting denominational schools in the sense in which these words have been judicially interpreted.
- (6) Because the respondent has not shown that the School Act interferes with any right or privileges which were locally enjoyed in the part of the province which is now within the limits of the city of Winnipeg.

HORACE DAVEY,
D'ALTON McCARTHY.

IN THE PRIVY COUNCIL

ON APPEAL FROM THE SUPREME COURT OF CANADA

BETWEEN

THE CITY OF WINNIPEG *Appellants*

AND

JOHN KELLY BARRETT *Respondent.*

CASE OF THE RESPONDENT.

1. This is an appeal by special leave of her majesty in council from a judgment of the supreme court of Canada ordering that certain by-laws of the city of Winnipeg should be quashed. The question at issue, which is one of great importance, is whether the Public Schools Act, 1890, (Manitoba Statute) is within the power of the provincial legislature of Manitoba. The judges of the supreme court reversing the decision of the court of queen's bench of Manitoba, unanimously held that it was not.

2. Manitoba joined the union in 1870, upon the terms of the Constitutional Act of Manitoba, 1870, 33 Vict., c. 3 (Dominion Statute). Section 22 of that act is as follows:—

“ 22. In and for the province (*i. e.*, of Manitoba) the said (*i. e.*, 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 :

“ (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 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.”

3. The first sub-section of the above section, upon which the question in this case mainly turns, is identical in terms with section 93 sub-section 1 of the British North America Act, 1867, with the exception that the words “*or practice*” printed above in italics do not appear in section 93 sub-section 1 of the British North America Act, 1867. The two sections above mentioned are collocated for comparison in the Record.

4. At the date of union in 1870 there was not, nor ever had been, any state system of education in Manitoba, nor any compulsory rate or state grant for purposes of education. There was, however, and for many years previously had been, an established and recognized system of voluntary denominational education. There were in particular throughout Manitoba a number of effective Roman catholic (hereinafter called catholic) schools, at which the children of catholics attended, and where the education was under the control of the catholic church. These schools were supported partly by school fees and partly by voluntary contributions from catholics.

Manitoba School Acts.

In a similar way the various protestant sects supported schools of their own, which were also exclusively under their control.

5. In 1871 the legislature of Manitoba passed an act, 34 Vict., chapter 12, establishing a state system of education in the province, and in subsequent sessions other enactments dealing with the subject were passed. The legislation on the subject was codified and extended by 41 Vict., chapter 4, and subsequent modifications were introduced by 45 Vict., chapters 8 and 11; 46 and 47 Vict., chapter 46; 47 Vict., chapters 37 and 54; 48 Vict., chapter 27; 50 Vict., chapters 18 and 19; 51 Vict., chapter 31; 52 Vict., chapters 5 and 21.

6. By virtue of this legislation a board of education was established in the province appointed by the lieutenant-governor in council, of whom a certain specified proportion were protestants and a certain specified proportion were catholics. This board was divided into two sections, protestant and catholic, each section being exclusively composed of the members professing these faiths respectively, and the control of protestant schools was exclusively vested in the protestant section, while the control of the catholic schools was (subject as regards the selection of books relating to religion and morals to the control of competent catholic religious authority) exclusively vested in the catholic section. The acts then provided for the division of the province into school districts, which were styled respectively protestant and catholic school districts. It was further provided that the establishment of a school district of one denomination at a particular place should not prevent the establishment of a school district of another denomination at the same place. Provision was made for the election of school trustees of each school district, the electors being the ratepayers within such district of the religious denomination which such district bore, and the school trustees, when elected, became a corporation under the name of "The School Trustees for the Protestant (or Catholic, as the case may be) School District of

" The school trustees had power under certain conditions to levy compulsorily a rate within their district, for school purposes, but only upon ratepayers of of the religious denomination of the particular district, so that no protestant was under liability to contribute to a catholic school nor a catholic to a protestant school. Provision was further made for the division of such grants as were made by the state in aid of education between the various catholic and protestant district schools in proportion to population.

7. In 1890 (53 Vict.) the legislature of Manitoba passed two statutes relating to education. By chapter 37 a state department of education was established, together with an advisory board consisting of seven members, all appointed without reference to their creed, of whom four were appointed by the department of education and three by the teachers of the province. The advisory board so appointed was substituted for the protestant and catholic sections of the board of education previously existing, which was abolished. By chapter 38, which is the act the validity of which is now in question and which was entitled "The Public Schools Act," 1890, the previous legislation relating to public education was repealed. It was provided that existing protestant and catholic school districts should become subject to the provisions of the act, and that religious exercises in the public schools should be conducted according to the regulations of the advisory board, it being on the one hand optional upon the school trustees of each district whether any religious exercises should take place, and upon the other optional upon any parent or guardian to refuse to allow his child to attend such religious exercises. It was further provided that the schools should be entirely non-sectarian and no religious exercises should be allowed except as above provided. Subject to the control of the advisory board, the management of the school was vested in school trustees who were to be elected by the ratepayers without distinction of creed. The act further provided for the assessment by the municipal authorities upon all ratepayers within the municipality of such rates as should be necessary for the maintenance of the public schools therein. In the rural districts the amount to be assessed was a fixed sum for each school, while in the cities, towns and villages the municipal authorities were required to raise such sum as might be required by the school trustees of the district. It was provided that amongst other persons any

clergyman should be a school visitor within the place where he had pastoral charge and might examine the pupils and give advice to the teachers and pupils. Section 179 further provided that in all cases where, before the coming into operation of the act, catholic school districts had been established such catholic districts should cease to exist, and all the assets of such catholic schools should belong to and all the liabilities thereof be paid by the public school district.

8. It appeared by an affidavit of the archbishop of the Roman catholic ecclesiastical province of St. Boniface, that it was in the view of members of that church an essential element in the education of children that such education should be a religious education, and should be conducted under the supervision of the church. He stated (and it was not substantially disputed) that the schools provided by the Public Schools Act would be regarded by catholics as unfit for the education of their children, and that they could not conscientiously permit their children to attend them, and would consequently have to establish throughout the province fresh voluntary schools, conducted in accordance with the principles of their faith, and to support and maintain such schools. It would appear on the other hand that schools conducted as specified in the Public Schools Act would have the approval of certain protestant denominations in Manitoba and among others of the presbyterians, and it appears probable that such schools would be conducted mainly for the benefit of these denominations, and would be in effect their schools.

9. On the 14th and 28th July, 1890, the appellants, the corporation of Winnipeg, passed two by-laws, nos. 480 and 483, sanctioning the raising of a large sum of money for the purpose, amongst others, of defraying the amount required for school expenditure under the Public Schools Act, 1890, for the public schools within the district. The amount of the said rate which was required for this purpose was a sum of 77,550 dollars, made up of a sum of 75,000 dollars, required for school purposes by the trustees of a public school within the municipality called the school trustees for the protestant school district of Winnipeg, no. 1, in the province of Manitoba, and a sum of 2,550 dollars required for similar purposes by the school trustees for the catholic school district of Winnipeg, no. 1.

10. For the purpose of obtaining a decision upon the question of the validity of said act, the respondent obtained a summons calling on the appellants to show cause why the said by-laws should not be quashed for illegality upon the ground that the amounts levied for protestant and catholic schools were therein united, and that one rate was levied upon protestants and catholics alike for the whole sum. A rate so levied would be invalid according to the education acts in force at the time of the passing of the Public Schools Act, 1890.

11. The application was heard before Killam, J., who dismissed the summons. His formal order appears at p. 23, and his reasons at pp. 24 to 38 of the Record. He held that the rights and privileges referred to in the act were those of maintaining denominational schools of having children educated in them, and having inculcated therein the peculiar doctrines of the respective denominations. He regarded the prejudice effected by the imposition of a tax upon catholics for schools to which they were conscientiously opposed as something so indirect and remote that he could not take it to be within the act.

12. The respondent appealed to the court of queen's bench of Manitoba *in banc*, composed of three judges who, after argument, dismissed the appeal, Dubuc, J., dissenting. The formal judgment appears at p. 83, the reasons of Taylor, C. J., at p. 39, of Dubuc, J., at p. 52 and of Bain, J., at p. 73 of the Record.

13. Taylor, C. J., thought that the "rights and privileges" included moral rights, and that parliament intended in fact that whatever any class of persons was, at the time of the union, in the habit or custom of doing in reference to denominational schools, should continue and should not be prejudicially affected by provincial legislation, but he held that none of these rights or privileges were in any way affected by the act. Bain, J., delivered a separate judgment but, substantially on the same grounds. Dubuc, J., held that the right or privilege existing by practice at the date of the union, and intended to be protected, was the right of each denomination to have its denominational school with such teaching as it might think fit, and the privilege of not being compelled to contribute to other schools of which

Manitoba School Acts.

members of such denominations could not in conscience avail themselves, and that this right or privilege was invaded by the Public Schools Act, 1890, which was consequently *ultra vires*.

14. The respondent then appealed to the supreme court of Canada, which court, composed of five judges, after taking time for consideration, unanimously allowed the appeal. The formal order of the court appears at p. 84 of the Record, the reasons of Ritchie, C. J., with which Strong, J., agreed at pp. 85 to 91, those of Patterson, J., at pp. 91 to 96, those of Fournier, J., at pp. 96 to 108, those of Taschereau, J., at pp. 108 to 113 of the Record.

15. Ritchie, C. J., held that as catholics could not conscientiously continue to avail themselves of the public schools as carried on under the system established by the Public Schools Act, 1890, the effect of that act was to deprive them of any further beneficial use of the system of voluntary catholic schools which had been established before the union and had thereafter been carried on under the state system introduced in 1871. Patterson, J., pointed out that the words "injuriously affect" in sec. 22, sub-section 1, of the Manitoba Constitutional Act, would include any degree of interference with the rights or privileges in question, although falling short of the extinction of such rights or privileges. He held that the impediment cast in the way of obtaining contributions to voluntary catholic denominational schools by reason of the fact that all catholics would under the act be compulsorily assessed to another system of education amounted to an injurious affecting of their rights and privileges within the meaning of the sub-section. Fournier, J., pointed out that the mere right of maintaining voluntary schools if they chose to pay for them and causing their children to attend such schools could not have been the right which it was intended to reserve to catholics or other classes of persons by the use of the word "practice," since such right was undoubtedly one enjoyed by every person or class of persons by law, and took a similar view to that taken by Patterson, J. Taschereau, J., gave judgment in the same sense, holding that the contention of the appellants gave no effect to the word "practice" inserted in the section.

16. The respondent submits that the judgment appealed from is correct and should be affirmed for the following amongst other

REASONS.

1. Because the provisions of the Public Schools Act, 1890, prejudicially affect the rights and privileges of catholics in the province as they existed by law or practice at the date of the union with respect to denominational schools.
2. Because catholics cannot conscientiously permit their children to attend the public schools as constituted and carried on under the said act.
3. Because by reason of the compulsory rate levied upon catholic ratepayers in support of the public schools, material impediments are cast in the way both of subscribing and of obtaining subscriptions in support of catholic denominational schools, and of setting up and maintaining the same, and the rights and privileges of catholics in reference thereto are thereby prejudicially affected.
4. Because by the operation of the said act catholics are deprived of the system of catholic denominational schools as they existed at the date of the union, or are prejudicially affected in reference to such system.
5. Because the public schools as constituted by the said act are or may be protestant denominational schools, and catholic ratepayers are by the said act compelled to contribute thereto.
6. Because the judgments and reasons of Dubuc, J., and of the several judges of the supreme court of Canada are correct.

RICHARD E. WEBSTER.
JOHN S. EWART.
FRANCIS C. GORE.

IN THE PRIVY COUNCIL
ON APPEAL FROM THE COURT OF QUEEN'S BENCH OF
THE PROVINCE OF MANITOBA.

BETWEEN

THE CITY OF WINNIPEG - - - - - *Appellants,*

AND

ALEXANDER LOGAN - - - - - *Respondent.*

CASE OF THE APPELLANTS.

1. This is an appeal from a judgment of the court of queen's bench for the province of Manitoba, dated the 19th day of December, 1891.

2. The respondent, Alexander Logan, applied to the chief justice of the court of queen's bench for Manitoba under section 258 of the Manitoba Municipal Act (53 Vict., cap. 51), to quash a by-law of the appellants, the city of Winnipeg, being by-law numbered 514, "for illegality," upon the grounds, "That by the said by-law the amount estimated to be levied for school expenditure is levied upon members of the church of England and all other religious denominations alike.

"That it is illegal to assess members of the church of England for the support of schools which are not under the control of the church of England, and in which there are not taught religious exercises prescribed by said church, and upon grounds appearing in affidavits and papers filed."

3. The application was by consent referred to the full court in term, and the court after argument quashed the by-law on the ground that the case could not be distinguished from the decision of supreme court in the case of *Barrett vs. Winnipeg*, which is now under appeal to her majesty in council. This case is reported in Manitoba Law Reports, vol. 8, p. 3, and the judgments are printed in the Record.

4. The substantial question in the appeal is whether the Public School Act, passed by the legislature of the province of Manitoba in 1890 (53 Vict., cap. 38, Manitoba) is within the powers of that legislature to enact. This act established one system of public schools and abolished the protestant and Roman catholic separate public schools theretofore existing. The respondent claims that the act is *ultra vires*, and that the by-law in question which levied a rate for school purposes, pursuant to the act, upon all ratepayers alike is consequently illegal, his ground for so contending being that the act, as he alleges, offends against the following provision contained in the act under which Manitoba was admitted into confederation (33 Vict., cap. 3, sec. 22, Dominion of Canada, 1870):—

"In and for the province the said legislature may exclusively make laws in relation to education, subject and according to the following provisions:

"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."

5. The by-law in question was passed for levying a rate for municipal and school purposes in the city of Winnipeg for the year 1891. It recited the aggregate amount necessary to be raised to meet interest for debentures and ordinary current municipal and school purposes, the total value of the ratable property in the city as shown by the last revised assessment rolls, and enacted that there should be raised, collected, and levied a rate of 15 $\frac{3}{10}$ mills on the dollar upon

Manitoba School Acts.

the whole assessed value of the real and personal property in the city according to such rolls for meeting the interest on debentures accruing due and for ordinary municipal expenditure, and a rate of $4\frac{2}{10}$ mills on the dollar on all ratable property for school expenditure for the year 1891.

6. The respondent filed in support of the application his own affidavit, which stated that he was a ratepayer and a resident of the city of Winnipeg; that he was born in 1841 within what are now the city limits, and had continuously resided therein since, is a member of the church of England, and has several children within school age.

7. Affidavits of the bishop of Rupert's Land, and of Robert Henry Hayward, also a ratepayer of Winnipeg, who objected to the public schools system, and who sent his children to a church school unsupported in any way by public funds, were also filed by the respondent; and several affidavits in answer were filed on behalf of the appellants. The material facts relied upon by the respondent are set out in the affidavit of the bishop as follows:—

(a) Prior to the passing of the act of the dominion of Canada, passed in the thirty-third year of her majesty Queen Victoria, chapter 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.

(b) These schools were denominational schools, most of them being regulated and controlled by the church of England, and others by the Roman catholic church and the presbyterians. The system of schools controlled by the church of England is efficient.

(c) The means necessary for the support of 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 churches.

(d) There were no public schools in the sense of state schools.

(e) The clauses of the Public Schools Act of 1890, prohibiting religious instruction and limiting religious exercises in the schools as therein provided, are unsatisfactory to the bishop.

8. The affidavits filed by the appellants, the City of Winnipeg, showed that prior to the province of Manitoba entering confederation the schools then in existence were:

Purely private schools.

In no way subject to public control.

Did not receive public support.

No school taxes were levied or collected by any authority, school board or otherwise.

There was no government or municipal grant of any kind made to schools, and whatever contributions were made for the support of said schools were purely voluntary.

9. The province of Manitoba became one of the provinces of the dominion of Canada on the 15th July, 1870, under the following circumstances:

(a) Prior to the union the district comprised in the province of Manitoba was a portion of Rupert's Land, and was part of the territory granted to the Hudson's Bay Company on 2nd May, 1670, by King Charles II.

(b) Prior to 1870 a number of white settlers and half-breeds had established themselves along the banks of the Red and Assiniboine rivers, in what was known as the Red River Settlement, all of which was included in the new province.

(c) By the British North America Act (Imperial Statute, 30 and 31 Viet., cap. 3) the old provinces of Upper and Lower Canada, Nova Scotia, and New Brunswick were confederated into the dominion of Canada.

(d) On the 23rd June, 1870, an imperial order in council was passed admitting Manitoba into confederation, the same coming into force on 15th

July, 1870, from which last-mentioned date Manitoba has been one of the provinces of the Dominion.

(e) The Dominion Statute (32 and 33 Vict., cap. 3), commonly called the Manitoba Act, provided for the government of the new province, and declared that the provisions of the British North America Act should, except as to those parts thereof which were in terms made or by reasonable intendment might be held to be specially applicable to or only affect one or more but not the whole of the provinces then comprising the Dominion, and except as the same might be varied by that act, be applicable to the province of Manitoba. This act was confirmed by the imperial act (34 and 35 Vict., cap. 28).

(f) By the British North America Act it is enacted (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 at the union."

(g) The provisions of section 93 of the British North America Act are altered by section 22 of the Manitoba Act, the words 'or practice' being inserted after the words 'by-law' in the sub-section last above cited. In addition to this, the said section 22 in sub-section 2 provides somewhat more generally for an appeal to the governor-general in council from any act or decision of the provincial legislature or authorities affecting any right or privilege of the protestant or Roman catholic minority of the queen's subjects in relation to education. The provisions contained in section 92 of the British North America Act and above referred to are not altered, and apply to Manitoba.

10. In the year 1890 the legislature of the province of Manitoba passed two acts in reference to education. One is the act respecting the department of education (53 Vict., cap. 37), and the other is the Public Schools Act (53 Vict., cap. 38). By these acts all prior legislation as to schools and education in Manitoba was repealed, and a department of education created, to consist of the executive council or a committee thereof, with an advisory board to be elected in the manner prescribed by the act. The Public Schools Act provides that all public schools in the province are to be free schools (section 5); that all religious exercises in the public schools shall be conducted according to the regulations of the advisory board (section 6); but in case the guardian or parent 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, the time appointed for such religious exercises being just before the closing hour. All public schools by the act are to be entirely non-sectarian, and no religious exercises shall be allowed therein except as above provided.

11. The act is not compulsory. No parent or guardian is compelled to send his child to a public school.

12. The only "right or privilege" with respect to denominational schools existing by practice at the date of the union was, as shown by the affidavits, a right or privilege of establishing private schools of a denominational character, supported by fees paid by parents and by voluntary contributions. This right has in no way been interfered with or "prejudicially affected" by the Public Schools Act of 1890. Members of the church of England are still entitled to establish and maintain denominational schools in the same manner as before the union.

13. The appellants petitioned your majesty in council for special leave to appeal from the judgment of the court of queen's bench for Manitoba, dated the 19th day

Manitoba School Acts.

of December, 1891, and by an order dated the 9th day of May, 1892, special leave to appeal was granted.

14. The appellants submit that the judgment of the court of queen's bench for Manitoba should be set aside with costs for the following amongst other

REASONS.

1. Because the judgment of the supreme court of Canada in *Barrett vs. Winnipeg*, on which the judgment of the court of queen's bench is founded, is erroneous.
2. Because the respondent has not established that he is one of a class of persons possessed of any right or privilege with respect to denominational schools in the province at the union which has been prejudicially affected by the Public Schools Act, or the by-laws complained of.
3. That the words "by law or practice" refer only to some binding rule or obligation, if there were any such, to which the inhabitants of the province were at the date of the union committed, and no such rule or obligation existed.
4. None of the rights or privileges which members of the church of England had at the union with respect to denominational schools have in any way been interfered with by the act complained of.

HORACE DAVEY,
D'ALTON McCARTHY,
ISAAC CAMPBELL.

IN THE PRIVY COUNCIL.

ON APPEAL FROM THE COURT OF QUEEN'S BENCH FOR MANITOBA.

BETWEEN

THE CITY OF WINNIPEG - - - - - *Appellants,*

AND

ALEXANDER LOGAN - - - - - *Respondent.*

THE CASE OF THE RESPONDENT.

1. This is an appeal from the decision of the court of queen's bench for the province of Manitoba unanimously quashing by-law 514 of the city of Winnipeg the appellants.

2. The said by-law provided for the levying of a rate of $15\frac{3}{10}$ mills in the dollar to pay interest on the debentures of the appellants and ordinary current expenditure during the year 1891 and $4\frac{3}{10}$ mills in the dollar for school expenditure for that year, these rates being levied upon all the ratable property in the city of Winnipeg and the school-rate being levied upon persons of all religious denominations alike.

3. The respondent obtained a rule *nisi* to quash the said by-law for illegality on the following grounds:—

(a) That by the said by-law the amount to be levied for school expenditure is levied upon members of the church of England and all other religious denominations alike.

(b) That it is illegal to assess members of the church of England for the support of schools which are not under the control of the church of England and in which there are not taught religious exercises prescribed by that church, and upon grounds appearing in affidavits and papers filed.

4. The respondent established by the affidavits filed the following facts about which there is no dispute.

(a) That he is a resident ratepayer of the city of Winnipeg and a taxpayer to a large amount.

(b) That he has always been a member of the church of England; that he was born in the territory now comprised in the city of Winnipeg and has always lived there, and that he was married and had children at the time of the union of the province of Manitoba with Canada.

(c) That at the time of the union there was a parochial denominational school of the church of England in the territory now comprised in the city of Winnipeg, which school was conducted by teachers appointed by the church of England bishop of the diocese and in which religious exercises in accordance with the tenets of the church of England were taught.

(d) That the said school was the only public school at the union in the territory now comprised in the city of Winnipeg.

Manitoba School Acts.

(e) That there was at the union and for some time previously thereto a complete system of schools established in the province by the church of England, all of which were under the control of the bishop and clergy of that church and were purely denominational schools in which religious exercises were conducted in accordance with the tenets of the church of England.

(f) These schools were supported partly by the funds of the church, partly by voluntary subscription and partly by fees charged to the parents of the children, but no child was excluded by reason of poverty.

(g) The respondent objected to the manner in which religious exercises are conducted in schools under the Public Schools Act and claimed the right of having his children given religious instruction in schools according to the tenets of the church of England.

5. The Public Schools Act passed by the legislature of the province of Manitoba in 1890 (53 Vict., c. 38 Man.) established one system of free public schools for the support of which all religious denominations alike should be taxed and in which no religious exercises should be taught except those prescribed by the advisory board of the department of education.

6. The respondent claimed that this act was not within the powers of the legislature of the province to enact by reason of the following provisions contained in the statute under which Manitoba was admitted into confederation, being 33 Vict., c. 3, Dominion:—

“ 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 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 so far only as the circumstance 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.” (33 Vict., c. 3 sec. 22.)

7. Upon hearing the argument of the rule *nisi*, which was heard before the full court of queen's bench for Manitoba, that court (consisting of Taylor, C.J., Dubuc, J., and Bain, J.,) gave judgment ordering the said by-law to be quashed upon the grounds taken, the court being unanimous. The reasons of their lordships are reported in 8 Manitoba Law Reports, page 3, and are printed in the Record.

8. The respondent submits that the judgment of the court of queen's bench for Manitoba should be affirmed and that this appeal should be dismissed with costs for the following amongst other

REASONS.

1. Because the judgments of the said judges of the court of queen's bench are right in law and fact.
2. Because the members of the church of England had at the union rights or privileges with respect to denominational schools by law or practice which are prejudicially affected by the Public Schools Act and by the by-law in question.
3. That the respondent and all other members of the church of England have the right to have religious instruction given to their children in schools in accordance with the tenets of that church.

4. Because the members of the church of England had at the union a system of schools in the province in which religious instruction was given according to the teachings of their church and the Public Schools Act in effect precludes them from now having such by compelling them to pay taxes to support non-sectarian schools from which religious instruction is practically excluded.
5. Because the provisions contained in the first sub-section of section 22 of the Manitoba Act (33 Vict., c. 3 Dominion) and above set out were specially framed to protect the rights of all classes of persons having denominational schools at the union, and the respondent belongs to one of such classes.
6. The respondent has not acquiesced in the legislation by the provincial legislature in regard to schools.
7. Acquiescence by individuals in legislation that is *ultra vires*, or tacitly submitting thereto, cannot make such legislation good.

W. E. PERDUE.

Manitoba School Acts.

IN THE PRIVY COUNCIL

ON APPEAL FROM THE COURT OF QUEEN'S BENCH FOR
MANITOBA.

BETWEEN

THE CITY OF WINNIPEG - - - - - *Appellants,*

AND

ALEXANDER LOGAN - - - - - *Respondent.*

RECORD OF PROCEEDINGS.

INDEX OF REFERENCE.

Description of Document.	Number of Document.
Rule nisi to show cause why an order should not be made quashing the by-law 514 of the city of Winnipeg.....	1
Affidavit of service of copy rule	2
Affidavit of the Most Reverend Robert Machray, the bishop of Rupert's Land.....	3
Affidavit of Alexander Logan (the respondent).....	4
By-law no. 514 of the city of Winnipeg.....	5
Affidavit of Robert Henry Hayward	6
Certified copy regulations of the advisory board regarding religious exercises in the public schools.	7
Affidavit of Alexander Polson.....	8
Affidavit of George Bryce.....	9
Affidavit of Edmund M. Wood.....	10
Affidavit of Thomas Dickey Cumberland	11
Affidavit of Hector Mansfield Howell.....	12
Judges' reasons, viz. :—	
The chief justice of the court of queen's bench.....	13
Mr. Justice Bain.	13
Rule absolute quashing by-law 514.....	14
Order granting leave to appeal to her majesty in council..	15
Prothonotary's certificate of correctness of transcript record.....	16

IN THE PRIVY COUNCIL

ON APPEAL FROM THE COURT OF QUEEN'S BENCH FOR MANITOBA.

BETWEEN

THE CITY OF WINNIPEG - - - - - *Appellants*

AND

ALEXANDER LOGAN - - - - - *Respondent.*

RECORD OF PROCEEDINGS.

No. 1.

Rule Nisi to show cause why an Order should not be made quashing the By-law No. 514 of the City of Winnipeg, dated 5th December, 1891.

In the Queen's Bench.

In the Matter of the Application to quash by-law 514 of the City of
Winnipeg.

Upon the application of Alexander Logan, a resident ratepayer of the city of Winnipeg, and upon hearing read a copy of said by-law 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 Alexander Logan and the affidavits of the Right Reverend Robert Machray and R. H. Hayward, and the exhibits therein referred to, and upon hearing the attorney for the applicant;

I do order that the attorney or agent for the corporation of the city of Winnipeg attend before the presiding judge in chambers at the court house in the city of Winnipeg on the 17th day of December instant, at the hour of half past ten o'clock in the forenoon, or so soon thereafter as the matter can be heard, and show cause why an order should not be made quashing the said by-law for illegality because of the following among other grounds:—

1. That by the said by-law the amount estimated to be levied for school expenditure is levied upon members of the church of England and all other religious denominations alike.

2. That it is illegal to assess members of the church of England for the support of schools which are not under the control of the church of England and in which there are not taught religious exercises prescribed by said church; and upon grounds appearing in affidavits and papers filed.

Dated at chambers this 5th day of December, A. D. 1891.

T. W. TAYLOR,
Chief Justice.

Certified a true copy of the rule *nisi* on the above application.

G. H. WALKER,
Prothonotary.

“ A.”

This is Exhibit “ A ” referred to in the affidavit of Daniel Coyle, sworn before me this 5th day of December, A. D. 1891.

J. O'REILLY,
A Commissioner.

Manitoba School Acts.

No. 2.

Affidavit of service of Copy Rule, sworn 5th December, 1891.

In the Queen's Bench.

In the Matter of the Application to quash by-law 514 of the City of
Winnipeg.

I, Daniel Coyle, of Winnipeg in the county of Selkirk, clerk, make oath and say:—

That I did on the 5th day of December, 1891, serve C. J. Brown with a true copy of the rule marked exhibit "A" hereunto annexed by delivering such copy to and leaving the same with the said C. J. Brown.

DAN. COYLE.

Sworn before me at Winnipeg, in the county of Selkirk, this 5th day of December, 1891.

J. O'REILLY,

A Commissioner for taking Affidavits in B.R., &c.

Certified a true copy of the affidavit of Daniel Coyle filed on the above application

G. H. WALKER,

Prothonotary.

No. 3.

Affidavit of the Most Reverend Robert Machray, Bishop of Rupert's Land, sworn 3rd December, 1891.

In the Queen's Bench.

In the Matter of the Application to quash By-law 514 of the City of
Winnipeg.

I, the Most Reverend Robert Machray, doctor of divinity, of the city of Winnipeg, in the province of Manitoba, the bishop of Rupert's Land, make oath and say:—

1. In the year 1865 I was appointed by the crown, on the recommendation of the archbishop of Canterbury, under the sign manual of the queen, bishop of Rupert's Land.

2. The diocese of Rupert's Land in 1865 covered the whole of the North-west Territories of Canada, the district of Keewatin, the present province of Manitoba, and that portion of the westerly part of the province of Ontario lying westerly of the height of land and running between Rat Portage and Port Arthur.

3. Subsequently the diocese was subdivided into eight bishoprics, one of which, still known as Rupert's Land, consists of the province of Manitoba and that portion of the province of Ontario referred to above. The whole of the said original diocese of Rupert's Land is now called the ecclesiastical province of Rupert's Land, of which I am the metropolitan, and I am also bishop of the smaller diocese of Rupert's Land last above described.

4. I have continued to be bishop of the old diocese of Rupert's Land first above described and of the smaller diocese last above described ever since my appointment in 1865.

5. Upon my arrival in the diocese in 1865, I found there existed a great want of schools for the education of the youth, and I at once set about reorganizing St. John's college, and in 1866 I opened it for higher education and it has so continued ever since, and I commenced as soon as I could the reorganization of the system of primary schools of which I found most vacant.

6. I endeavoured to start at least one parochial school in each parish where there was a missionary of the church of England, and I so far succeeded in this

work that with the assistance of the church missionary society of the church of England there were under my care in 1867, 14 common parochial schools within the Red River Settlement, as well as schools at the missions in Manitoba outside the settlement and missions in the interior.

7. In the year 1869 there were 16 schools regularly organized for the teaching of boys and girls in the different parishes in the said Red River Settlement, inclusive of the Westbourne and Scanterbury.

8. I find that in my address to the synod of Rupert's Land, delivered on the 29th day of May, 1867, I used the following language with reference to the schools, viz.—“Passing now from the college to the common schools, I rejoice to say that there has been during the past half-year a full opportunity for learning the elements of education—reading, writing, and arithmetic—from the extreme end of the Indian Settlement up to Westbourne, with the single exception of the small parish of St. Margaret's at the High Bluff; and in that parish a very creditable subscription was promised towards the salary of a master, so that I trust by another year even that blank may be supplied. And I believe the distances to be travelled to these schools are not greater than are frequently performed in our home parishes in England and Scotland. Excluding the school at Westbourne, which remains on the church missionary list, being about 35 miles beyond the settlement, we must look to the maintenance of 14 schools. Of these, eight have hitherto been supported by the church missionary society at a cost of 285*l.* a year. The society said, some time ago, that this help must at once cease.”

And in my charge to the synod of Rupert's Land on the 24th day of February, 1869, I used the following language:—“Schools have been established in every parish, but the effort to maintain them has been a difficult one, from the larger amount now required to obtain the service of a schoolmaster, and from frequent resignations. The whole question must, however, soon be grappled with. There must be some distinct regulations laid down, defining the conditions under which grants from the diocesan fund are to be given, and some plan of diocesan inspection will be necessary. But before we can obtain all we could wish with our schools, I feel we must be able to provide still larger salaries and have trained teachers. How to secure such a training has been a good deal in my mind, but I do not yet see the way to the accomplishment of what I wish.” And the statements therein made by me on those two occasions are, I believe, true in substance and in fact, and are given in the reports of the synod published at the time.

9. The schools which were established as above set forth, continued until the establishment of public schools by the laws of Manitoba hereinafter referred to.

10. The teacher in each of these schools was under the control of the vestry and the clergyman of each parish, and in some cases there were two and even three parochial schools in one parish. The schools were opened and closed with forms of prayer, and the teacher of each of these schools was required to instruct the school every day in the Holy Scriptures, and he was required to teach the children the English church catechism. The missionary in each parish was expected to look after such religious training and to teach the children or see that the children were taught according to the tenets of the church of England, and the said schools were denominational schools belonging to and supported by the religious denomination of the church of England.

11. The teachers were paid a salary, part of which was paid through me to the parish clergyman, as I was treasurer of the synod, and specially looked after the funds for the support and maintenance of these various schools.

12. The money for the payment of the school teachers and for the maintenance of the schools was procured partly from the funds of the church, partly from voluntary subscriptions, and partly from fees charged the parents of the children attending the parochial schools; but, as far as my knowledge goes, no child of any English church parents was prevented from attending these schools by reason of poverty.

13. The schools above described were purely denominational schools, the teachers were members of the church of England. I do not remember in my time any instance of a teacher who was not a member of our church, with one exception.

Manitoba School Acts.

14. At the time of the union of this province with Canada there were estimated to be, and I believe there were, about 12,000 Christians residing in this province. Of these over 6,000 were Roman catholics, and nearly 5,000 were members of the church of England, the rest were chiefly presbyterians, with a few of other denominations.

15. The Christians residing in this province as above set forth resided in what was known as the Red River Settlement, and would practically be included in an area not exceeding 60 miles from the city of Winnipeg.

16. In the year 1871, when the first Public Schools Act of Manitoba was passed, I joined heartily with the provincial executive in endeavouring to carry into effect the school law then enacted, believing that under that act public schools could be carried on giving such religious instruction as would be satisfactory to the members of the church of England and to myself.

17. But many of the members of the protestant section of the board of education did not hold the same views as myself as regards, for example, the necessity of not only reading but teaching the Bible, so that the religious instruction given in the schools was never satisfactory to me; but there was nothing in the act preventing a more satisfactory amount of religious teaching when the members of the section became favourable to this, so I always looked forward to securing some day more satisfactory provision. With the great majority of the bishops and clergy of the church of England, I believe that the education of the young is incomplete, and may even be hurtful if religious instruction is excluded from it.

18. The Public Schools Act passed by this province in the year 1890 has so limited religious exercises that it is doubtful if under it there can be any religious teaching given in the schools, so that the public schools to-day are not, as regards religious teaching, as I hoped and expected they would be when the first act was passed.

19. The religious and moral training given to children in the public schools of this province, under sanction of the laws of this province, is not in accordance with my views or wishes, and is not in accordance with the views of the church of England; and consequently the present law, in taxing all members of the church of England, and giving no aid from the state to denominational schools, prejudicially affects the rights and privileges of the people belonging to the church of England with respect to the denominational schools which they had by practice, and were lawfully exercising, before and at the union of this province with Canada.

20. Before the union, I, with the advice of my synod, controlled the religious training of children of persons belonging to the church of England in their education in the parochial schools.

21. When the first school act was passed above mentioned, and when the first schools under that act were established, the various parish vestries, with my sanction, permitted schools to be established and to be carried on under that act in most, if not all, the schoolhouses in which the church of England parish schools had previously been carried on, and my sanction was given in the hope and belief that at least those public schools would still give a religious and moral training such as I thought it necessary for children to receive; but if I had known then that the public schools law would permit and allow schools under that act to be carried on without, or with as little, religious training as is now given in the public schools of this province, I should have done what I could to resist it, and if unable in our peculiar circumstances to continue those parochial schools, I should have encouraged the opening of such schools and the increasing of them as soon as it was permitted; and I have no doubt that if religious training is excluded from the public schools, as is threatened, this will be the policy in future of the church of England and of myself. The re-establishment of our parish schools is merely a question of means and time.

22. If separate schools are granted to any body of Christians because of rights secured owing to practice existing prior to the union, then I claim that the church of England is peculiarly entitled to such separate schools.

23. As far as I have had any influence, I have always endeavoured to influence public opinion and the legislature as much as I could to have provision made for the

religious training of youth, and by the Public Schools Act of 1890 I was deeply disappointed; and I believe that by that act, if separate schools do not receive state aid as well as the schools under the act, the children of parents of the church of England have been prejudicially affected.

24. Before the act of 1890 was passed I expressed my views on the schools question and on the rights of the people of the church of England, under the Manitoba Act, in my charge to the synod, given on the 29th day of October, 1889, in which I used the following language:—"Though we have not now any primary schools, it is not because, in view of the church, such schools are of small importance. The day was when we had a church primary school wherever we had a clergyman. That was our position when this province was transferred to Canada, and it seems probable that the Dominion intended to recognize such efforts in the past and to protect the school interests that then existed. But our church saw such advantages in a national system of schools, and such reason to have confidence in the administration of it, that it went heartily into it, trusting that the schools would be worthy of a Christian people and give an education in which the first, namely, the religious interests of the children, would not be lost sight of. And I may say that the only reason which has led me for so many years to give up time that I could ill spare to be a member of the board of education has been the hope that, by conciliatory action, I might help in securing a measure of religious instruction reasonably satisfactory at once to ourselves and the other religious bodies."

25. One of the schools conducted by the church of England as hereinbefore mentioned was situate in the parish of St. John's, which parish now forms a part of the city of Winnipeg, and said school was situate at the time of the union of this province with Canada in a territory which now forms part of the territory of the city of Winnipeg.

26. Said schools of the church of England were supported in part by funds of the church, in part by voluntary subscriptions, and in part by fees voluntarily paid by members of the church of England and by the parents and guardians of children attending such schools, and were in no way supported or aided by funds raised by general rates or taxation.

R. MACHRAY,

Bishop of Rupert's Land.

Sworn before me at Winnipeg, in the province of Manitoba, this 3rd day of December, A.D. 1891.

J. R. FULLERTON,

A Commissioner in B. R., &c.

Certified a true copy of the affidavit of Robert Machray, Bishop of Rupert's Land, filed on the above application.

G. H. WALKER,

Prothonotary.

No. 4.

Affidavit of Alexander Logan (the Respondent), sworn 3rd December, 1891.

In the Queen's Bench.

In the Matter of the Application to quash by-law 514 of the City of Winnipeg.

I, Alexander Logan, of the city of Winnipeg, in the province of Manitoba, esquire, make oath and say:—

1. I was born in the year eighteen hundred and forty-one, at Point Douglass, in the Red River Settlement in Rupert's Land, and I have always resided at the said Point Douglass, and still reside there.

2. The said Point Douglass is in the parish of St. John's, in the province of Manitoba, and is within the territorial limits of the city of Winnipeg, and I am a resident of the said city of Winnipeg and a ratepayer thereof to a large amount.

3. I am and always have been a member of the church of England.

4. At the time of the union of the province of Manitoba with Canada I was married and had two children.

Manitoba School Acts.

5. At, and for many years prior to the said union, there was a parochial denominational school of the church of England within the said parish of St. John's, and within the territory now comprised in the city of Winnipeg, and the said school was a day school conducted by teachers appointed by the church of England bishop of Rupert's Land, in which, and in addition to the ordinary subjects taught in schools, the catechism of the church of England was taught, and the pupils in said school were instructed in religious subjects according to the tenets of the church of England.

6. The said school was continued up to and for some time after the union of the said province with Canada, and the same school still exists in a modified form, and I attended said school as a pupil before said union and received my primary education therein.

7. I was well acquainted with the said Red River Settlement before and after said union, and I say that at the time of said union there was established in each parish of the church of England throughout said settlement a parochial denominational school, and in some parishes more than one of such schools, and in all such schools teachings in religious subjects according to the church of England faith were conducted in a manner similar to the said school in the parish of St. John's, and the children of English church parents attend said schools and no other schools.

8. Save and except the said English church parochial school of the parish of St. John's and St. John's college, which also belonged to the church of England, and except a private school kept by the nuns on the property of the late William Drever, there was not at the time of said union any school or educational institution in existence within said territory now included in the city of Winnipeg.

9. The territory comprised in the city of Winnipeg covers an area of about 20 square miles.

10. The paper writing hereunto annexed and marked with the letter "A" is a certified copy of the above-mentioned by-law of the city of Winnipeg, no. 514, and said copy was received from the city clerk of the city of Winnipeg.

11. In and by said by-law a rate is levied for school purposes of four and two-tenths mills in the dollar upon all ratepayers alike, and upon persons of all religious denominations alike, and the moneys so raised are intended to be used in the support of public non-sectarian schools pursuant to the provisions of the Public Schools Act.

12. I have not yet paid my taxes for the year one thousand eight hundred and ninety-one, imposed under said by-law.

13. I have at the present time three children of school age, namely, one of the age of fourteen years, one of the age of eleven years, and one of the age of five years, and I claim the right to have my children taught religious exercises in school according to the tenets of the church of England, and I claim that such right was secured to me and other members of the church of England at the time of said union by the provisions of the Manitoba Act.

14. I do not approve of the manner in which religious exercises are taught in schools where they are so taught under the provisions of the Public Schools Act, and I claim that the tax for the support of schools imposed upon me by said by-law, and pursuant to said Public Schools Act, or by any other act of the legislature by which I am compelled to contribute for the support of schools not under the control of the church of England, prejudicially affects my rights as a member of the church of England, and if compelled to pay such tax I and other members of the church of England are less able to support schools in which religious exercises and teachings in accordance with our form of worship could be conducted.

ALEXANDER LOGAN.

Sworn before me, at the city of Winnipeg, in the province of Manitoba, this 3rd day of December, A.D. 1891.

R. H. HAYWARD,
A Commissioner in B. R., &c.

Certified a true copy of the affidavit of Alexander Logan, filed on the above application.

G. H. WALKER,
Prothonotary.

No. 5.

By-law No. 514 of City of Winnipeg, dated 13th July, 1891.

"A."

By-law No. 514.

A By-law to Authorize an Assessment for City and School Purposes in the City of Winnipeg for the current Municipal Year, A.D. 1891.

Whereas, it is expedient and necessary for city purposes to raise the sum of 389,327 dollars 19 cents, for interest on debentures and ordinary current municipal and district 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 1891, except properties wholly or partially exempt;

And whereas, the amount of the whole ratable property of the city of Winnipeg as shown by the last revised assessment rolls of the said city of Winnipeg is 19,944,270 dollars;

And whereas, certain properties are exempt from all rates save for schools and school expenditure, and it will require a rate of $19\frac{1}{2}$ mills on the dollar on the amount of the said ratable 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. 1891, whereof the rate of $15\frac{3}{10}$ ths mills on the dollar shall be for interest on debentures now accruing due, and for the ordinary current municipal expenditure, and the rate of $4\frac{2}{10}$ ths mills on the dollar shall be for school expenditure for the year 1891;

Therefore the council of the city of Winnipeg in council assembled enacts as follows:—

1. There shall be raised, levied, and collected a tax of $19\frac{1}{2}$ mills 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 1891, of which the amount of $15\frac{3}{10}$ ths mills on the dollar shall be to provide for the payment of interest on debentures now accruing due, and for the ordinary current municipal expenditure, and $4\frac{2}{10}$ ths mills on the dollar shall be for the schools of the city for the year A.D. 1891.

2. Upon properties ratable for school expenditure only, there shall be levied and collected a rate of $4\frac{1}{10}$ th mills on the dollar of assessment.

3. The sum of two dollars poll tax shall be levied and collected from every person residing within the city of Winnipeg, and being of the age of 21 years and upwards who has not been assessed upon the assessment roll 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 14th day of July, A.D. 1891.

Done and passed in council assembled at the city of Winnipeg this 13th day of July, A.D. 1891.

A. McMICHEN,
Chairman.

C. J. BROWN,
City Clerk.

Certified true copy of by-law no. 514 of the City of Winnipeg, passed in council on the 13th day of July, A.D. 1891.

C. J. BROWN,
City Clerk.

Certified a true copy of the copy of by-law filed on the application to quash by-law 514.

G. H. WALKER,
Prothonotary.

Manitoba School Acts.

No. 6.

Affidavit of Robert Henry Hayward, sworn 4th December, 1891.

In the Queen's Bench.

In the Matter of the Application to quash By-law 514 of the City of Winnipeg.

I, Robert Henry Hayward, of the city of Winnipeg, in the province of Manitoba, accountant, make oath and say :—

1. I am now and have been for the past 10 years a resident of the city of Winnipeg.

2. I am and have been for a number of years past a ratepayer of said city.

3. I am a member of the church of England.

4. The religious exercises conducted in the public schools of the city of Winnipeg at the present time are those prescribed by the advisory board of the department of education, pursuant to the provisions of the Public Schools Act, and such exercises consist of the reading, without note or comment, of certain selections from the authorized English version of the Bible, or the Douay version of the Bible, and the use of a form of prayer.

5. The said selections from the Scriptures are not taught, but are simply read without comment, and neither the catechism of the church of England nor any other catechism is taught in said schools, nor is any religious instruction given in said schools beyond the reading of said selections from the Bible, and the reading of said prayer.

6. The printed pamphlet now produced and shown to me and marked as exhibit "B" to this my affidavit, is a printed copy of the regulations of the said advisory board regarding religious exercises in public schools, and the said pamphlet was received from the department of education for the province of Manitoba.

7. I have read over the certified copy of the above-mentioned by-law, which is annexed to the affidavit of Alexander Logan, sworn to herein on the 3rd day of this present month of December, and which certified copy is now produced and shown to me at the time of making this affidavit, and is marked as exhibit "A" to this affidavit.

8. In and by the said by-law a rate is levied for school purposes of $4\frac{2}{10}$ ths mills in the dollar upon all ratepayers of the city of Winnipeg alike, and upon members of the church of England as well as upon members of all other religious denominations, no distinction being made in respect of religious denominations, and the moneys so raised are intended to be used in the support of public non-sectarian schools established pursuant to the provisions of the Public Schools Act.

9. The effect of said by-law is that members of the church of England are compelled to pay a tax for the support of public non-sectarian schools, in which there is not religious teaching according to the tenets of the church of England.

10. I have one boy of school age, namely, the age of 13 years, and although I am compelled by the said by-law and by the Public Schools Act to contribute to the support of said public schools established under said Public Schools Act, I send him to a school established by the rector of the English church parish of All Saints, in the said city of Winnipeg, and under the control and management of the said rector, where he receives religious instruction according to the tenets of the said church of England in addition to ordinary school instruction, and I voluntarily pay fees for his tuition at said school, and I do not send him to any of the said public schools.

11. There are many other boys in the said city of Winnipeg sent by their parents who are resident ratepayers of the city of Winnipeg and members of the church of England to the said All Saints school, for reasons which I verily believe are similar to my own.

R. H. HAYWARD.

Sworn before me, at the city of Winnipeg, in the county of Selkirk, this 4th day of December, A.D. 1891.

GHENT DAVIS,

A Commissioner in B. R., &c.

Certified a true copy of the affidavit of Robert Henry Hayward, filed on the above application.

G. H. WALKER.
Prothonotary.

No. 7.

Regulations of the Advisory Board regarding Religious Exercises in Public Schools, adopted 21st May, 1890.

Until further notice the religious exercises in the public schools shall be:—

- (a) The reading, without note or comment, of the following selections from the authorized English version of the Bible or the Douay version of the Bible.
(b) The use of the following forms of prayer.

SCRIPTURE READINGS.

Part I.—*Historical.*

1 The Creation.....	Gen. i., 1-19.
2 The Creation—cont.....	Gen. i., 20-31.
3 The Fall of Man.....	Gen. iii.
4 The Deluge.....	Gen. viii., 1-22.
5 The Covenant with Noah.....	Gen. ix., 1-17.
6 The Trial of Abraham.....	Gen. xxii., 1-18.
7 Isaac Blesses Jacob.....	Gen. xxvii., 1-29.
8 Esau's Blessing.....	Gen. xxvii., 30-45.
9 Jacob's Vision.....	Gen. xxviii., 10-22.
10 Jacob's Return to Bethel.....	Gen. xxxv., 1-15.
11 Joseph and his Brethren.....	Gen. xxxvii., 1-22.
12 Joseph Sold into Egypt.....	Gen. xxxvii., 23-36.
13 Pharaoh's Dream.....	Gen. xli., 1-24.
14 Joseph's Interpretations.....	Gen. xli., 25-43.
15 Jacob's Sons' Visit.....	Gen. xlii., 1-20.
16 Jacob's Sons' Return from Egypt.....	Gen. xliii., 21-38.
17 The Second Visit to Egypt.....	Gen. xliii., 1-14.
18 Joseph and his Brethren.....	Gen. xliii., 15-34.
19 Joseph and his Brethren—cont.....	Gen. xliv., 1-13.
20 Joseph and his Brethren—cont.....	Gen. xliv., 14-34.
21 Joseph Discovers Himself to his Brethren.....	Gen. xlv.
22 Jacob and his Household go into Egypt.....	Gen. xlv., 1-6, 28-34.
23 Jacob's Interview with Pharaoh.....	Gen. xlvii., 1-12.
24 Death of Jacob.....	Gen. xlviii., 1-21.
25 Burial of Jacob.....	Gen. l., 1-26.
26 Moses at the Burning Bush.....	Exod. iii., 1-20.
27 Grievous Oppression of the Hebrews.....	Exod. v.
28 The Passover.....	Exod. xii., 1-20.
29 The Israelites Escape through the Red Sea.....	Exod. xiv., 10-31.
30 The Song of Deliverance.....	Exod. xv., 1-22.
31 Giving of Manna.....	Exod. xvi., 2-35.
32 The Water from the Rock.....	Exod. xvii.
33 The Ten Commandments.....	Exod. xx., 1-17.
34 The Covenant with Israel.....	Exod. xxiv.
35 The Tabernacle.....	Exod. xl., 17-36.
36 Spies sent into Canaan.....	Num. xiii., 17-33.
37 The People Rebel at the Report of the Spies.....	Num. xiv., 1-30.
38 The Song of Moses.....	Deut. xxxii., 1-14.
39 The Death of Moses.....	Deut. xxxiv.
40 Joshua Succeeds Moses.....	Josh. i., 1-17.

Manitoba School Acts.

41 The Covenant with Joshua.....	Josh. xxiv., 1-28.
42 The Call of Samuel.....	1 Saml. iii.
43 The Israelites Desire a King.....	1 Saml. viii., 1-20.
44 Samuel Anoints Saul.....	1 Saml. ix., 21-27, xi., 1-11.
45 Samuel Anoints David.....	1 Saml. xvi.
46 David and Goliath.....	1 Saml. xvii., 1-27.
47 David Overcomes Goliath.....	1 Saml. xvii., 28-54.
48 David and Jonathan.....	1 Saml. xviii., 1-16.
49 David instructed as to the Building of the Temple.....	1 Chron. xvii., 1-17.
50 David's Advice to Solomon.....	1 Chron. xxviii., 1-20.
51 David's Preparation for Building the Temple.....	1 Chron. xxix., 1-19.
52 Solomon's Wise Choice.....	1 Kings iii., 1-15.
53 Preparations for Building the Temple.....	1 Kings v.
54 Solomon's Prayer at the Dedication of the Temple.....	2 Chron. vi., 1-21.
55 Solomon's Prayer—cont.....	2 Chron. vi., 22-42.
56 Elijah.....	1 Kings xvii.
57 Elijah and the Prophets of Baal.....	1 Kings xviii., 1-21.
58 Discomfiture of the Prophets of Baal.....	1 Kings xviii., 22-46.
59 Elijah in the Wilderness.....	1 Kings xix., 1-13.
60 Elijah and Elisha.....	2 Kings ii., 1-15.
61 Naaman the Leper.....	2 Kings v., 1-19.
62 The Fall of Israel.....	2 Kings xvii., 6-24.
63 Public Worship of God Restored.....	2 Chron. xxix., 20-36.
64 Deliverance under Hezekiah.....	2 Kings xix., 1-19.
65 Deliverance under Hezekiah—cont.....	2 Kings xix., 20-39.
66 Rejoicing of the Israelites at the Restoration of Divine Worship.....	2 Chron. xxx.
67 Jerusalem taken by Nebuchadnezzar.....	2 Chron. xxxvi., 5-21.
68 The Golden Image.....	Dan. iii., 1-18.
69 The Fiery Furnace.....	Dan. iii., 19-30.
70 Daniel in the Lions' Den.....	Dan. vi.
71 The Temple Rebuilt.....	Ezra i., 1-6, and iii.

Part II.—*The Gospels.*

1 Christ the Word.....	John i., 1-18.
2 The Birth of Christ announced.....	Luke ii., 8-20.
3 The Visit of the Magi.....	Matt. ii., 1-12.
4 The Song of Simeon.....	Luke ii., 25-40.
5 Jesus in the Temple.....	Luke ii., 41-52.
6 The Baptism of Jesus Christ.....	Matt. iii., 1-17.
7 The Temptation of Our Lord.....	Luke iv., 1-15.
8 Testimony of John the Baptist.....	John i., 19-34.
9 The First Disciples.....	John i., 35-51.
10 Jesus at Nazareth.....	Luke iv., 16-32.
11 At Capernaum.....	Matt. iv., 13-25.
12 Sermon on the Mount.....	Matt. v., 1-12.
13 Sermon on the Mount—cont.....	Matt. v., 13-20, 33-37.
14 Sermon on the Mount—cont.....	Matt. v., 38-48.
15 Sermon on the Mount—cont.....	Matt. vi., 1-18.
16 Sermon on the Mount—cont.....	Matt. vi., 19-34.
17 Sermon on the Mount—cont.....	Matt. vii., 1-14.
18 Sermon on the Mount—cont.....	Matt. vii., 15-29.
19 The Miraculous Draught of Fishes.....	Luke v., 1-15.
20 The Healing of the Paralytic.....	Luke v., 16-26.
21 The Twelve Apostles sent forth.....	Matt. ix., 36-38, x., 1-11.
22 The Centurion's Servant. The Widow's Son.....	Luke vii., 1-17.
23 The Declaration concerning John.....	Matt. xi., 2-19.
24 The Feast in Simeon's House.....	Luke vii., 36-50.

25 Privileges and Responsibility.....	Matt. xi., 20-31.
26 The Sabbath.....	Luke vi., 1-11.
27 Parable of the Sower.....	Mark iv., 1-20.
28 Parable of the Tares, &c.....	Matt. xiii., 24-35.
29 Parable of the Tares explained, with other Parables....	Matt. xiii., 36-52.
30 Children brought to Jesus. Condition of Discipleship..	Mark x., 13-30.
31 Tribute to Cæsar. The Widow's Offering.....	Matt. xxii., 15-22 ; Mark xii., 41-44.
32 Christ Confessed.....	Matt. xvi., 13-28.
33 Christ feeding Five thousand.....	Mark vi., 30-41.
34 Christ Walking on the Sea.....	Matt. xiv., 22-23.
35 The Transfiguration.....	Matt. xvii., 1-13.
36 The Great Supper.....	Luke xiv., 7-24.
37 The Lost Sheep and Lost Piece of Silver.....	Luke xv., 1-10.
38 The Two Sons.....	Luke xv., 11-32.
39 The Pharisee and the Publican.....	Luke xviii., 9-17.
40 Blind Bartimeus. Zaccheus the Publican.....	Luke xviii., 35-43 ; xix., 1-10.
41 The Good Samaritan.....	Luke x., 25-37.
42 The Good Shepherd.....	John x., 1-18.
43 Christ One with the Father.....	John x., 22-42.
44 Humility.....	John xiii., 1-17.
45 The Death of Lazarus.....	John xi., 30-48.
46 Thé Triumphal Entry into Jerusalem.....	Mark xi., 1-11 ; Matt. xxi., 9-16.
47 Parable of the Ten Virgins.....	Matt. xxv., 1-13.
48 Parable of the Talents.....	Matt. xxv., 14-30.
49 The Judgment.....	Matt. xxv., 31-46.
50 Christ Comforts the Disciples.....	John xiv., 1-14.
51 The Holy Spirit Promised.....	John xiv., 15-31.
52 Christ the True Vine.....	John xv., 1-17.
53 Last Sayings of Jesus.....	John xvi., 1-15, 26-33.
54 The Prayer of Christ.....	John xvii., 1-26.
55 The Box of Precious Ointment.....	Matt. xxvi., 1-13.
56 The Last Supper.....	Matt. xxvi., 17-29.
57 The Agony in the Garden. Betrayal of Jesus.....	Matt. xxvi., 30-56.
58 Christ before Caiaphas and Peter's Denial.....	Matt. xxvi., 57-75.
59 Christ before Pilate.....	Matt. xxvii., 1-25.
60 The Crucifixion.....	Matt. xxvii., 26-43.
61 The Crucifixion—cont.....	Luke xxiii., 39-56.
62 The Resurrection.....	Mark xvi., 1-7 ; John xx., 3-18.
63 The Journey to Emmaus.....	Luke xxiv., 13-35.
64 Jesus Appears to His Disciples. The Doubts of Thomas.....	John xx., 19-29.
65 Jesus Appears again to His Disciples.....	John xxi., 1-23.
66 The Ascension.....	Matt. xxviii.

FORM OF PRAYER.

Most merciful God, we yield thee our humble and hearty thanks for thy fatherly care and preservation of us this day, and for the progress which thou hast enabled us to make in useful learning; we pray thee to imprint upon our minds whatever good instructions we have received, and to bless them to the advancement of our temporal and eternal welfare; and pardon, we implore thee, all that thou hast seen amiss in our thoughts, words and actions. May thy good providence still guide and keep us during the approaching interval of rest and relaxation, so that we may be prepared to enter on the duties of the morrow with renewed vigour both of body and mind; and

Manitoba School Acts.

preserve us, we beseech thee, now and for ever, both outwardly in our bodies and inwardly in our souls, for the sake of Jesus Christ, thy Son, our Lord.
Amen.

Our Father who art in heaven, hallowed be thy name. Thy kingdom come. Thy will be done on earth as it is in heaven. Give us this day our daily bread; and forgive us our trespasses, as we forgive them that trespass against us; and lead us not into temptation, but deliver us from evil.—*Amen.*

The grace of our Lord Jesus Christ, and the love of God, and the fellowship of the Holy Ghost, be with us all evermore.—*Amen.*

Certified a true copy of exhibit "B" to affidavit of Robert Henry Hayward filed herein.

G. H. WALKER,
Prothonotary.

No. 8.

Affidavit of Alexander Polson, sworn 12th December, 1891.

In the Queen's Bench.

In the Matter of the Application to quash By-law 514 of the City of Winnipeg.

I, Alexander Polson, of the city of Winnipeg, in the county of Selkirk, in the province of Manitoba, license 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, so far as the people were concerned, purely private schools, and were not in any way subject to public control, nor did they in any way receive public support. Attendance at such schools was voluntary, and only the parents or guardians who had children attending school paid any fees. There was no law or statute as to schools. The schools were under the direction of the clergy or the governing bodies of one of the three churches, the Roman catholic, the church of England, and the presbyterian.

3. No school taxes or rates 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 of 4 per cent, but none of this was for schools. There were no municipal or school rates, and no direct taxes of any kind levied, whether by assessment on property, income tax, or otherwise.

ALEX. POLSON.

Sworn before me, at the city of Winnipeg, in the county of Selkirk, this 12th day of December, A.D., 1891.

CHAS. N. BELL,
A Commissioner in B. R., &c.

Certified a true copy of affidavit of Alexander Polson, filed on the above application.

G. H. WALKER,
Prothonotary.

No. 9.

Affidavit of George Bryce, sworn 11th December, 1891.

In the Queen's Bench.

In the Matter of an Application to quash By-law 514 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 the 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 had been previously voluntarily maintained by them or by the church for them, continued to them at cost to the general public, but were willing to support a public school system.

3. That in founding Manitoba college, in November, 1871, 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 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 are 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. I believe that the views of a large number of the presbyterians in this province are represented by the following extracts from a public address delivered by the Rev. J. M. King, D.D., principal of Manitoba college, on the 31st day of October 1889. After giving reasons in opposition to purely secular schools, Dr. King proceeds:—"At the opposite extreme there is a system of separate or denominational schools, such as to some extent now obtains in this province, a system under which not only is religious instruction given, but the distinctive doctrines and practices of individual churches are taught. Does the continuance and extension of this system promise a solution of the educational difficulty? By no means. Less injurious probably in its operation, it is even more indefensible in principle than the one which has been so freely criticised. First, it is in direct violation of the principle of the separation of church and state. It is unnecessary, indeed it would be quite irrelevant, to argue this principle here. It is that on which, rightly or wrongly, the state with us is constituted. I do not understand it to mean that the state may not have regard to religious considerations, such as it shows when it enforces the

Manitoba School Acts.

observance of the Sabbath rest, or that it may not employ religious sanctions, as it does when in its courts of law it administers an oath in the name of God; but I do understand it to mean that the state is neither to give material aid to the operations of the church in any of its branches, nor to interfere with its liberties. Each, while necessarily influencing the other, has its own distinctive sphere, and must bear all the responsibilities of action within that sphere

Second, the system of separate or sectarian schools operates injuriously on the well-being of the state. However useful it may be to the church or churches adopting it, enabling them to keep their youth well in hand and to preserve them from any danger to faith and morals which might result from daily contact with those of a different creed, it is in that measure hurtful to the unity and therefore to the strength of the state. It occasions a line of cleavage in society, the highest interests of which demand that it should as far as possible be one. It perpetuates distinctions, and almost necessarily gives rise to distinctions which are at once a reproach and a peril

Surely the state should not, unless compelled to do so, lend the authority of law and the support of public moneys to a system of education which so injuriously affects its unity and therefore its stability and well-being

But if a purely secular system of education is deemed in the highest degree objectionable, and a denominational or sectarian system only less objectionable, what is it proposed to establish in their place? I answer, a system of public, unsectarian, but not non-religious schools. It is admitted on all hands that the main work of the school ought to be instruction in the various secular branches. Its primary aim is to fit those in attendance for the active duties of life. But as not inconsistent with this aim, rather as in a higher degree subservient to its attainment, it is desired that the religious element should have a definite place assigned to it in the life of the school; that it should be recognized to this extent at least, that the school should be opened and closed with prayer; that the Bible, or selections from it, should be read daily, either in the common, or in the Douay version as the trustees may direct; that the morality inculcated should be Christian morality, and that the teacher should be at liberty to enforce it, and should be encouraged to enforce it, and should be encouraged to enforce it by those considerations, at once solemn and tender, which are embraced in the common belief of Christendom. A system of public education of this kind, in which religion has a definite but at the same time strictly guarded place assigned to it, ought to be acceptable to the great majority of the people of this province. It has certainly much to recommend it. It has no sectarian features, and yet it is not godless. Religion is recognized in it in such form and degree as to make it possible to give a high tone to the life of the school, as to secure more or less familiarity with the contents of Scripture on the part of every child, and as to make available for the teacher those lofty and sacred sanctions which have in all ages been found the most effective instruments in the enforcement of morality."

GEORGE BRYCE,

Sworn before me, at the city of Winnipeg, in the county of Selkirk, this 11th day of December, A.D. 1891.

ALEX. HAGGART,

A Commissioner, &c.

Certified a true copy of affidavit of George Bryce, filed in above application.

G. H. WALKER,

Prothonotary.

No. 10.

Affidavit of Edmund M. Wood, sworn 10th December, 1891.

In the Queen's Bench.

In the Matter of the Application to quash By-law 514 of the City of Winnipeg.

I, Edmund M. Wood, of the city of Winnipeg, in the province of Manitoba, esquire, make oath and say:—

1. I am an officer employed by the government of Manitoba, and occupy the position of chief clerk in the department of municipal commissioner, and am also employed in the public works department, and know the facts herein deposed to be true.

2. Pursuant to chapter 25 of the statutes passed in this province in the fifty-second year of her majesty's reign, the government of the province of Manitoba erected a building to be used as the Manitoba deaf and dumb institution, the erection and completion of which building with its furniture cost over 18,000 dollars.

3. The government of the province of Manitoba have for several years past carried on at public expense a school for the teaching of the deaf and dumb, and that school is now being carried on at an annual cost of about 7,500 dollars.

4. This money is paid out of the general funds of the province, and the school is open to all classes of people of every creed and belief.

5. The school is purely non-sectarian, and is for the education in a purely secular way of all classes of children.

E. M. WOOD.

Sworn before me, at Winnipeg, in the province of Manitoba, this 10th day of December, A.D. 1891.

JOHN O. SMITH,
A Commissioner, &c.

Certified a true copy of affidavit of Edmund M. Wood, filed on the above application.

G. H. WALKER,
Prothonotary.

No. 11.

Affidavit of Thomas Dickey Cumberland, sworn 10th December, 1891.

In the Queen's Bench.

In the Matter of the Application to quash By-law 514 of the City of Winnipeg.

I, Thomas Dickey Cumberland, of the city of Winnipeg, in the province of Manitoba, barrister, make oath and say:—

1. I have examined the Dominion government census returns of the census of the province of Manitoba taken during the year 1886, and I find that the population of the said province shown by said census was 108,640.

2. From the said returns I find that the five leading religious denominations in the said province were, according to the said census, in number as follows, namely:—Roman catholic, 14,651; church of England, 23,206; presbyterians, 28,406; methodist, 18,648; and baptist, 3,296.

3. I have been a resident of the province of Manitoba since the year 1881.

Manitoba School Acts.

4. I believe no material change has taken place in the relative numbers of the different denominations aforesaid since the year 1886 in Manitoba.

T. D. CUMBERLAND.

Sworn before me, at Winnipeg, in the province of Manitoba, this 10th day of December, A.D. 1891.

J. B. MORRICE,
A Commissioner, &c., in B. R.

Certified a true copy of affidavit of Thomas Dickey Cumberland, filed on the above application.

G. H. WALKER,
Prothonotary.

No. 12.

Affidavit of Hector Mansfield Howell, sworn 12th December, 1891.

In the Queen's Bench.

In the Matter of the Application to quash By-law 514 of the City of Winnipeg.

I, Hector Mansfield Howell, of the city of Winnipeg, in the province of Manitoba, esquire, make oath and say:—

1. I have resided in this province continuously for the last twelve years. I have travelled over large portions of this province, and am familiar with the general state of its settlement and the distribution of its population.

2. The chief city of the province is the city of Winnipeg, with a present population of about 25,000 people. There are two other towns with populations of about 4,000 each, and there is a large number of villages with populations ranging from 200 or 300 to 1,000 people.

3. According to the last census taken in this year, there is reported to be about 155,000 residents in the whole province, and in my opinion at least 50,000 of these reside in villages and in the towns and in the city of Winnipeg. The remainder of the population reside upon farms pretty evenly distributed over an area of country exceeding 23,000 square miles.

4. From my knowledge of the sparse settlement of this country, I verily believe that if separate schools are granted to the English church people and to the Roman catholics it will be very difficult to support any system of public schools except in the centres of population like towns and cities, and I verily believe that if three systems of schools were established, each system would be very defective and would be of little use towards general education.

H. M. HOWELL.

Sworn before me, at Winnipeg, in the province of Manitoba, this 12th day of December, A. D. 1891.

HEBER ARCHIBALD,
A Commissioner in B.R., &c.

Certified a true copy of the affidavit of Hector Mansfield Howell, filed in the above application.

G. H. WALKER,
Prothonotary.

No. 13.

Judges' reasons.—Judgment.

THE CHIEF JUSTICE.

This is an application made by a ratepayer, a member of the church of England, to quash the by-law no. 514 of the city of Winnipeg, for levying and raising the assessments for the year 1891, on the grounds:—

(1) That by the said by-law the amount estimated to be levied for school expenditure is levied upon members of the church of England and all other religious denominations alike.

(2) That it is illegal to assess members of the church of England for the support of schools which are not under the control of the church of England, and in which there are not taught religious exercises prescribed by that church. The affidavits filed in support of the application allege that at the time of the union with Canada of what is now the province of Manitoba, there were in operation a number of parochial schools, in which the distinctive principles and doctrines of the church of England were taught, and which were supported by members of that church, and out of the funds of the church. In the case of "*Barrett vs Winnipeg*," a Roman catholic ratepayer sought to quash two by-laws of the city, levying by assessment the amount required for the municipal and school purposes of the city for the year 1890. The ground upon which it was sought to quash these by-laws was that, by them the amounts levied for school purposes for the protestant and catholic schools were united, and one rate levied upon protestants and Roman catholics alike for the whole sum. The question involved in that case was whether "The Public Schools Act" of 1890, under the authority of which the city had acted, was one within the power of the local legislature to pass. The argument against its validity was that the Roman catholics had at the time of the union, denominational schools in this province, and therefore the act prejudicially affected a right or privilege which they, as a class of persons, then had by law or practice. The supreme court has decided this contention to be well founded, that the Public Schools Act is one which the legislature of this province had no power to pass, and has ordered the by-laws in question in that case to be quashed. If the facts alleged in the affidavits supporting the present application are correct, and no attempt has been made to contradict them, I do not see how it can be distinguished from "*Barrett vs Winnipeg*." The supreme court there decided a case in which the question was raised as here, by an individual member of the church. There can be no doubt that under the decision in that case the members of the church of England are also a class of persons who had, in the matter of education, a right or privilege by law or practice at the time of the union. In the New Brunswick case of *re Renaud*, the court in New Brunswick dealt with section 93 of the British North America Act. In that case the learned chief justice, now chief justice of the supreme court, held that the words of sub-section 1 were not intended to distinguish between Roman catholics on one hand and protestants on the other. The sub-section means, he said, just what it expresses, that "any," that is every "class of persons," having any right or privilege in respect of denominational schools, whether such class should be one of the numerous denominations of protestants or Roman catholics, should be protected. If that is the true reading of sub-section 1 of section 93 of the British North America Act, and I do not see how any other reading can be given to it, the same construction must be put upon the corresponding sub-section of the Manitoba Act. The words protestant and catholic are used in the British North America Act as in the Manitoba Act. That being so, there can, I think, be no doubt that under the decision of the supreme court in "*Barrett vs Winnipeg*," the members of the church of England are a class of persons who had, at the time of the union, a right or privilege by law or practice, which is prejudicially affected. I cannot see that the argument can be urged of acquiescence on the part of the applicant. He may not, indeed he did not, move while the previous school acts were in force, but it is a public right he is now contending for, and I do not see that such a constitutional right can be waived. It may slumber, or not be

Manitoba School Acts.

enforced, but it is there at the same time. If the members of the church of England have the right or privilege under the act, it is illegal to assess members of that church for the support of schools which are not under the control of that church, and as the by-law no. 514, now in question, levies one rate upon ratepayers of all denominations it is illegal and must be quashed. Mr. Justice Dubuc and Mr. Justice Bain both concurred.

Certified a true copy of the judgment of the chief justice of the court of queen's bench delivered on above application.

G. H. WALKER,
Prothonotary.

BAIN, JUSTICE.

I agree with the chief justice that the application should be allowed. In view of the decision of the supreme court reversing the judgment of this court in "Barrett vs. Winnipeg," 7 M. R., 273, it seems to me that the only question that is open to us to consider is whether the applicant has shown that he is one of a class of persons who at the time of the union were maintaining denominational schools; the affidavits filed show that Mr. Logan was at the time of the union, and still is, a member of the church of England, and at the time of the union the church of England was maintaining a number of schools, and that these schools beyond question were strictly denominational schools. Now, unless it can be held that sub-section 1 of section 22 of the Manitoba Act applies only to Roman catholics and protestants, and not to Roman catholics and the several protestant denominations or classes of persons who were maintaining denominational schools, the applicant here is in precisely the same position that Mr. Barrett was in in "Barrett vs. Winnipeg," and he has made out a much stronger case as regards the episcopalians than Mr. Barrett did as regards Roman catholics. What was shown in the Barrett case was, that the applicant was a ratepayer and a member of the Roman catholic church, and that the church prior to and at the time of the union had been maintaining denominational schools, and the supreme court holding that the Public Schools Act, 1890, prejudicially affected the rights of Roman catholics with respect to denominational schools, declared the act to be invalid, and quashed the by-law that the city of Winnipeg had enacted under its authority. As regards the application of sub-section 1, I agree with the chief justice that it applies not merely to protestants and Roman catholics, but to every class of persons who were maintaining denominational schools at the time of the union, and indeed, the decision in *ex parte Renaud* probably precludes any other view of its application.

I cannot distinguish the present case from "Barrett vs. Winnipeg," and I think the by-law must, therefore, be quashed.

Certified a true copy of the judgment of Mr. Justice Bain, delivered on the above application.

G. H. WALKER,
Prothonotary.

No. 14.

Rule absolute quashing By-law No. 514, date 19th December, 1891.

In the Queen's Bench.

In the Matter of the Application to quash By-law 514 of the City of Winnipeg.

Upon reading the rule granted herein on the 5th day of December, A.D. 1891, upon the application of the applicant, Alexander Logan, to quash the said by-law and the affidavit of service thereof, and upon reading the certified copy of the said by-law and the affidavits and papers filed in support of said rule, and the affidavits of the Reverend George Bryce, Alexander Polson, H. M. Howell, T. D. Cumberland, and

E. M. Wood, filed on behalf of the city of Winnipeg, and upon reading the order by the Honourable Thomas Wardlaw Taylor, chief justice of this court, referring the said rule to the full court, and upon hearing what was alleged by counsel for the said applicant, Alexander Logan, and for the city of Winnipeg and for the attorney-general of the province of Manitoba;

It is ordered that the said by-law 514 of the city of Winnipeg be and the same is hereby quashed.

And it is further ordered that the said city of Winnipeg do pay to the said applicant, Alexander Logan, the costs of and incidental to the said rule and application forthwith after taxation by the master of this court.

By the Court.

G. H. WALKER,
Prothonotary.

Certified a true copy of the rule absolute issued at the above application.

G. H. WALKER,
Prothonotary.

No. 15.

Order granting leave to appeal to Her Majesty in Council, dated 15th January, 1892.

In the Queen's Bench.

In the Matter of the Application to quash By-law 514 of the City of Winnipeg.

Upon reading the petition of the city of Winnipeg presented in this matter praying for leave to appeal from the judgment of this court given on the 14th day of December last past, and the affidavit filed in support thereof, and upon hearing counsel for all parties;

It is ordered that upon payment into this court to the credit of this matter of the sum of 2,000 dollars as security, that the city of Winnipeg will effectually prosecute this appeal, the said city be at liberty to appeal from the said judgment to her most excellent majesty the queen in council; and pending this motion the said sum of 2,000 dollars has been paid into this court in this matter by the city of Winnipeg.

It is further ordered that the same be taken as such security and that the said appeal of the city of Winnipeg to her most excellent majesty the queen in council be and the same is hereby allowed.

Dated at the city of Winnipeg this 15th day of January, A.D. 1892.

By the Court.

AUGUSTUS MILLS,
Deputy Prothonotary.

Certified a true copy of the rule absolute issued on the above application.

G. H. WALKER,
Prothonotary.

Manitoba School Acts.

No. 16.

Prothonotary's Certificate of Correctness of Transcript Record, dated 28th January, 1892.

In the Queen's Bench.

In the Matter of the Application to quash By-law 514 of the City of Winnipeg.

I, Geoffrey Henry Walker, of the city of Winnipeg, in the province of Manitoba, prothonotary of the court of queen's bench for the province of Manitoba, do hereby certify that the foregoing copy of the rule *nisi* herein and the foregoing copies of the affidavits of Daniel Coyle, the Most Reverend Robert Machray, Alexander Logan, Robert Henry Hayward, Alexander Polson, George Bryce, Edmund M. Wood, Thomas Dickey Cumberland, and Hector Mansfield Howell are true copies of the said rule *nisi* herein and of the affidavits of which they purport to be copies.

And I do further certify that the foregoing paper marked "A" attached to the copy of the affidavit of Alexander Logan is a true copy of the exhibit "A" to the said original affidavit of the said Alexander Logan being a certified copy of by-law 514 of the city of Winnipeg.

I do also certify that the pamphlet attached to the copy of the affidavit of Robert Henry Hayward is a true copy of the exhibit "B" to the affidavit of the said Robert Henry Hayward.

And I do further certify that the foregoing copies of the reasons for judgment of the honourable the chief justice of this court and of the Honourable Mr. Justice Bain are true copies of the said reasons for judgments, respectively, and that the foregoing copies of the rule absolute to quash the by-law and of the rule absolute allowing an appeal herein to her most excellent majesty the queen in council are true copies of the original rules absolute issued herein, and that the rules, affidavits, exhibits and reasons for judgments, above referred to, are the only rules, affidavits, exhibits, or other material or reasons for judgments made, filed or given in connection with the said application and constitute the complete record of all the proceedings upon said application.

In testimony whereof I have hereunto set my hand and affixed the seal of the said court of queen's bench for the province of Manitoba, this 28th day of January, A.D. 1892.

G. H. WALKER,

Prothonotary.

SUPPLEMENTARY RETURN

(33c)

To an ADDRESS to His Excellency the Governor General, of the 6th February, 1893, on the subject of the Manitoba School Acts of 1890, with a certified copy of a Report of a Committee of the Honourable the Privy Council, on the 22nd February, 1893, relative to the settlement of important questions of law concerning certain Statutes of the Province of Manitoba, relating to education.

By order.

JOHN COSTIGAN,
Secretary of State.

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 22nd February, 1893.*

The Committee of the Privy Council having considered the arguments advanced by Mr. Ewart on behalf of the Petitioners in Manitoba who have requested redress from Your Excellency with respect to certain Statutes of that Province relating to Education, are of opinion that the important questions of law which were suggested in the report of the Sub-Committee to whom said petitions were referred, should be authoritatively settled before the appeal which has been asserted by said petitions be further proceeded with.

The Committee therefore advise that a case be prepared on this subject in accordance with the provisions of the Act 54-55 Vict., chapter 25, and they recommend that if this Report be approved, a copy thereof be transmitted by telegraph to His Honour the Lieutenant-Governor of Manitoba and to John S. Ewart, counsel for the petitioners, in order that, if they be so disposed, the Government of Manitoba and the said Counsel may offer suggestions as to the preparation of such a case, and as to the questions which should be embraced therein.

JOHN J. MCGEE, *Clerk of the Privy Council.*

PARTIAL RETURN

[33d]

To an ADDRESS of the SENATE dated the 3rd February, 1893, for :—

1. A copy of the deliberations, resolutions and ordinances of the former council of Assiniboia, relating to educational matters within its jurisdiction as it existed on the banks of the Red river before the creation of the province of Manitoba.
2. A statement of the amounts paid by the said council of Assiniboia for the maintenance of schools, showing the persons to whom such payments were made, the schools for which such amounts were paid and the religious denominations to which such schools belong.
3. A statement of the amounts paid by the Hudson's Bay Company, or by its agents, to the schools then existing in the territories forming to-day the province of Manitoba.
4. A copy of all memoranda and instructions serving as a basis for the negotiations as a result of which Manitoba became one of the provinces of the confederation ; together with a copy of the minutes of the deliberations of the persons charged, on both parts, to settle the conditions of the creation of the province of Manitoba and of its entrance into confederation ; and also a copy of all memoranda, returns and orders in council, establishing such conditions of entrance, or serving as a basis for the preparation of "The Manitoba Act."
5. A copy of the despatches and instructions from the imperial government to the government of Canada on the subject of the entrance of the province of Manitoba into the confederation, comprising therein the recommendations of the imperial government concerning the rights and privileges of the population of the Territories, and the guarantees of protection to be accorded to the acquired rights to the property, to the customs and to the institutions of that population by the government of Canada, in the settlement of the difficulties which marked that period of the history of the Canadian west.
6. A copy of the acts passed by the legislature of Manitoba, relating to education in that province, and especially of the first act passed on this subject after the entrance of the said province of Manitoba into the confederation, and of the laws existing upon the same subject in the said province immediately before the passing of the acts of 1890, relating to the public schools and relating to the department of education.
7. A copy of all regulations with respect to schools passed by the government of Manitoba or by the advisory board, in virtue of the laws passed in 1890 by the legislature of Manitoba, relating to public schools and the department of education.
8. A copy of all correspondence, petitions, memoranda, resolutions, briefs, factums, judgments (as well of first instance as in all stages of appeal), relating to the school laws of the said province of Manitoba, since the 1st June, 1890, or to the claims of catholics on this subject ; and also a copy of all reports to the privy council and of all orders in council relating to the same subject since the same date.

By order.

JOHN COSTIGAN,

Secretary of State.

Manitoba School Acts.

Exhibit J.

A true copy.

DANIEL CAREY,

Clerk of the Crown and Peace.

(*Translation.*)

(No. 56.)

To Rev. N. J. RITCHOT, Ptre., &c.

SIR,—The president of the provincial government of Assiniboia in council, by these presents, grants authority and commission to you, the Reverend N. J. Ritchot, jointly with John Black, Esq., and the Honourable A. Scott, to the end that you betake yourselves to Ottawa, in Canada; and that when there you should lay before the Canadian parliament the list entrusted to your keeping with these presents, which list contains the conditions and propositions under which the people of Assiniboia would consent to enter into confederation with the other provinces of Canada.

Signed this twenty-second day of March, in the year of our Lord one thousand eight hundred and seventy.

By order,

THOMAS BUNN, *Secretary of State.*

Seat of Government, Winnipeg, Assiniboia.

Exhibit K.

A true copy.

DANIEL CAREY,

Clerk of the Crown and Peace.

(*Translation.*)

GOVERNMENT HOUSE, WINNIPEG, 22nd March, 1870.

To Rev. N. J. RITCHOT,

SIR,—Together with this letter you will receive also your commission and a copy of the conditions under which the people of this country would consent to enter the Canadian confederation.

You will betake yourself as speedily as possible to Ottawa, in Canada, and on reaching that city, you will associate yourself with Alfred Scott, Esquire, and John Black, Esquire, with a view to opening forthwith, with the government of the dominion of Canada, the negotiations forming the subject of your commission.

Be good enough to observe that, as regards articles numbered 1, 2, 3, 4, 5, 6, 7, 15, 17, 19 and 20, you may treat them freely and as you think best, but never forget that, inasmuch as the whole trust of this people rests on you, they rely on your so using that freedom of action as to do everything in your power to secure for us these rights and liberties which we have hitherto been denied.

As regards the other articles, I am instructed to inform you that they are peremptory.

I am also to notify you that all conclusions which you may reach with the government of Canada must first receive the ratification of the provisional government in order that Assiniboia may become a province of the Dominion.

I have the honour to be, reverend sir,

Your most humble and obedient servant,

THOMAS BUNN, *Secretary of State.*

Exhibit L.

A true copy.

DANIEL CAREY,

Clerk of the Crown and Peace.

OTTAWA, 26th April, 1870.

To THE REV. N. J. RITCHOT, Ptre., J. Black, Esq., Alfred Scott, Esq.

GENTLEMEN,—I have to acknowledge the receipt of your letter of the 22nd instant, stating that, as delegates from the North-west to the government of the

dominion of Canada, you are desirous of having an early audience with the government, and am to inform you in reply that the Hon. Sir John A. Macdonald and Sir George Et. Cartier have been authorized by the government to confer with you on the subject of your mission and will be ready to receive you at eleven o'clock.

I have the honour to be, gentlemen, your most obedient servant,

JOSEPH HOWE.

Exhibit M.

A true copy.

DANIEL CAREY,

Clerk of the Crown and Peace.

FORT GARRY, 12th February, 1870.

REV. N. J. RITCHOT, St. Norbert, R. R. S.

REV. SIR,—I am directed to inform you that you have been appointed by the president of the North-west Territories as commissioner, with John Black and Alfred Scott, Esquires, to treat with the government of the dominion of Canada upon terms of confederation.

I am, reverend sir, your obedient servant,

THOMAS BUNN, *Secretary.*

Exhibit "N."

A true copy.

DANIEL CAREY,

Clerk of the Crown and Peace.

(*Translation.*)

(1.)

That the territories heretofore known as Rupert's Land and the North-west will not enter the confederation of the dominion of Canada otherwise than in the form of a province, and known as the province Assiniboia, and in the enjoyment of all rights and privileges common to the several provinces of the Dominion.

(2.)

That until the time when the increase of the population of this country shall have entitled us to more, we shall have two representatives in the senate and four in the commons of Canada.

(3.)

That, on entering into confederation, the province of Assiniboia shall be completely exempt from the public debt of Canada, and that should the province be called upon to assume any part of that debt of Canada, it shall not be until after having received from Canada the precise sum for which it is sought to render the province responsible.

(4.)

That the annual sum of eighty thousand dollars be allowed by the dominion of Canada to the legislature of the province of the North-west.

(5.)

That all properties, all rights and privileges possessed, be respected, and the establishing and settlement of the customs, usages and privileges be left to the sole decision of the local legislature.

(6.)

That this country be not subjected to any direct tax except such as may be imposed by the local legislature for municipal or local purposes.

(7.)

That the schools shall be separate, and that the moneys for schools shall be divided between the several denominations *pro rata* of their respective populations.

(8.)

That in this country, except Indians, who are neither civilized nor settled every man having attained the age of twenty-one years and every British subject

Manitoba School Acts.

not a native of this province, but having resided three years in this country, shall be entitled to vote at elections of members of the local legislature and of the parliament of Canada, and that any foreign subject other than a British subject, having resided for the time aforesaid, and holding the property of a house, shall have the same right to vote, provided he takes the oath of allegiance

It is understood that this article is only subject to amendment by the local legislature exclusively.

(10.)

That the agreement of the Hudson's Bay Company respecting the transfer of the government of this country to the dominion of Canada shall be considered as null, inasmuch as it is contrary to the rights of the people of Assiniboia and may affect our future relations with Canada.

(11.)

That the local legislature of this province shall have full control over all the lands of the province and shall have the right to cancel all arrangements made or commenced with reference to the public lands of Rupert's Land and the North-west, now called the province of Assiniboia (Manitoba).

(12.)

That a commission of surveyors be appointed by Canada to explore the lands of the North-west, and to submit to the legislature within a period of five years a report on the mineral wealth of the country.

(13.)

That treaties be concluded between Canada and the several Indian tribes of the country, on the requisition and with the concurrence of the local legislature.

(14.)

That continuous communication by steam be guaranteed from Lake Superior to Fort Garry, to be completed within the period of five years.

(15.)

That all buildings and public edifices shall be a charge on the Canadian treasury, as well as all bridges, roads and other public works.

(16.)

That the French and English languages shall be common in the legislature and the courts, and that all public documents, as well as the acts of the legislature, shall be published in the two languages.

(17.)

(Reasons in English)

That the lieutenant governor to be appointed for the North-west shall be master of both languages—French and English.

(18.)

That the judge of the supreme court shall speak French and English.

(19.)

That the debts contracted by the provisional government of the North-west be paid by the Dominion treasury, in view of the fact that the said debts were contracted solely in consequence of the illegal and inconsiderate steps taken by the Canadian agents to create civil war in our midst. Moreover, that no member of the provisional government, nor any of those who acted under its orders, shall be held to account in relation to the movement which lead to these present negotiations.

(20.)

That in view of the exceptional position of Assiniboia, the duties on merchandise, except liquor, imported into the province, shall remain the same as at present, until the expiration of three years from our entering confederation and so long thereafter as means of communication by railway shall not have been completed between St. Paul and Winnipeg and Lake Superior.

RETURN

[35]

To an ADDRESS of the HOUSE OF COMMONS dated the 6th February, 1893, for all correspondence, documents, reports and Orders in Council about a Special Commission to inquire into the most feasible means of completing the Telegraphic System of the Empire.

By order.

JOHN COSTIGAN,

Secretary of State.

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 26th December, 1892.

On a report dated 19th December, 1892, from the secretary of state submitting the accompanying papers respecting a resolution passed by the board of trade of the city of Ottawa and communicated to him by a deputation from the said board, pointing out the advantages which would result from the appointment by the home and colonial governments of a special commission to inquire into the most feasible means of completing the telegraphic system of the empire.

The secretary of state states that he fully recognizes the importance of the subject, and the cogency of the arguments advanced by the gentlemen composing the deputation, and also by Mr. Sandford Fleming, C.M.G., in a letter, copy herewith, addressed by him to the president of the second congress of chambers of commerce and boards of trade of the empire, 1892.

The committee advise that your excellency be moved to forward copies hereof to the right honourable the secretary of state for the colonies, with an intimation that the Canadian government would view with satisfaction the appointment of a commission as proposed, and would gladly send, and bear the expenses of a delegate to act upon such commission.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,

Clerk of the Privy Council.

OTTAWA BOARD OF TRADE, OTTAWA, 12th December, 1892.

Hon. JOHN COSTIGAN, Secretary of State for Canada, Ottawa, Canada.

DEAR SIR,—I beg to inclose herewith a copy of a resolution passed by the board of trade, and two copies of Mr. Sandford Fleming's letter to Sir John Lubbock, chairman of the chambers of commerce, London, England. I take the liberty further of inclosing a copy of a letter prepared and signed by the committee appointed to present the resolution, they being at the time unable to gain an interview with honourable Mr. Patterson.

The papers were addressed to him in person and duly forwarded, but were returned to me a few days later with the information from Mr. Patterson that up to the time of his vacating the department of state he had been so pressed with other important business that he had been unable to attend to this matter, and that now, he

Telegraphic System of the Empire.

being no longer secretary of state, the papers must be sent to the honourable gentleman occupying the position. I make this explanation in order that I may beg that you will kindly accept the accompanying letter herewith, and act upon it, although addressed to Mr. Patterson in person, and that you will at your convenience grant an interview to the committee that they may explain more fully, if desirable, the intention of the resolution and accompanying letters.

I beg further to say that I have this morning received from Mr. Fleming a note in which he states that "he has been called to Montreal to-day and cannot return before to-morrow, and that on Thursday of this week he is obliged to go to Toronto," so that if Wednesday would suit your convenience it would give Mr. Fleming the opportunity of being present.

I will be pleased to receive your instructions, so that I may communicate them to the members of the committee in due time.

I am, &c.,
N. S. GARLAND,
Secretary.

THE OTTAWA BOARD OF TRADE.

Resolution passed by the Ottawa Board of Trade, 22nd November, 1892.

Resolved, That the Ottawa board of trade is deeply impressed with the national importance of establishing a complete system of direct telegraphic connection between all the great divisions of the empire in both hemispheres, and is strongly of the opinion that as an essential first step an authoritative inquiry should without delay be instituted;

That this board is of opinion that the inquiry could be made in the most effective manner by a commission specially appointed to make full investigation, and to report on the best means of bringing within the freest telegraphic circuit all British communities around the globe;

That in view of the imperial importance of the subject, and the position occupied by Canada as an integral part of the empire, it is obviously expedient that the Canadian government should co-operate in the investigation with the home government;

That a deputation from this board be appointed to submit this resolution to the secretary of state for Canada, respectfully requesting him to bring the subject to the attention of her majesty's government.

WM. SCOTT, *Vice-President.*
N. S. GARLAND, *Secretary.*

OTTAWA BOARD OF TRADE, OTTAWA, 23rd November, 1892.

The Honourable J. C. PATTERSON, Secretary of State for Canada.

SIR,—We have the honour to inform you that the Ottawa board of trade, at its sitting yesterday, appointed us a deputation to wait upon you to submit a resolution passed by the board pointing out the advantages which would result from the appointment by the home and colonial governments of a special commission to inquire into the most feasible means of completing the telegraphic system of the empire.

The question of an imperial telegraphic system has been dwelt upon in the report which has just been presented to the board by the delegate which they sent to the congress of the chambers of commerce of the British empire, held last summer in London. Its great importance is further set forth in a letter addressed by our delegate to the president of the congress, a copy of which we beg leave to inclose for your information.

On behalf of the board we have the honour respectfully to request that you will bring the subject to the attention of her majesty's government.

We have the honour to be, sir, your obedient servants,

WM. SCOTT, *Vice-President.*
CHARLES MAGEE,
F. McDOUGAL.

DIRECT TELEGRAPHIC COMMUNICATION THROUGHOUT THE EMPIRE.

To Sir JOHN LUBBOCK, Bart.,

President Second Congress of Chambers of Commerce of the Empire.

SIR,—I had the honour as delegate from the board of trade of the city of Ottawa, Canada, to take my seat at the recent congress. I listened with the liveliest interest to the addresses which were delivered before a body of men representing the commercial intelligence, the industry, the enterprise, the activity, the power and the wealth which have extended the honour and the prestige for fair dealing of British merchants to the remotest corners of the world.

There was one subject on the programme relating to the telegraph system of the empire, on which I had hoped to have an opportunity of saying a few words. In the absence of the gentleman who had charge of the motion upon this subject, it was unfortunately not brought forward, and as I attach to it the greatest importance, I desire, with your permission, to submit in this form the following remarks:

The following appeared on page 11 of the programme of business:—

Direct Telegraphic Communication Throughout the Empire.

London Chamber of Commerce, Sir George Baden Powell, K.C.M.G., M.P., to move:

“That in the opinion of this congress, the extension of direct telegraphic communication between the component parts of the British empire will facilitate defence, promote trade and investments, emphasize community of interests, and generally stimulate the development and consolidation of the empire.”

Montreal Chamber of Commerce, to move:

“Whereas an extension of direct telegraphic communication throughout the empire would considerably facilitate and increase the commercial relations of the mother country and her several colonies, and be also a source of security and strength in maintaining uninterrupted hourly communication in time of war; and

“Whereas the Atlantic and Canadian systems, now extending to the Pacific coast, offer special advantages over all other routes, to establish direct telegraphic communication between the mother country and Australia through uninterrupted British territory;

“Be it resolved: That as an alternate and direct line of communication, a cable should be laid between Australia and Canada without further delay, the imperial and colonial governments directly interested being respectfully requested to offer such inducements to the constructing company as may determine the laying of the Pacific cable at the earliest possible moment.”

I do not propose to dwell on the importance and even the necessity of a complete telegraph system as a means of defending our world-wide empire, quite apart from its commerce. This almost self-evident proposition has been set forth at other times and places. I shall, as is most fitting on this occasion, consider the subject mainly from its commercial aspects.

A large part of the discussions at the congress has turned upon drawing more closely the links of connection, not only between the mother country and the outlying parts of the empire, but also between the various great groups of colonies. The strongest views have been uttered upon this point and resolutions have been formally presented and unanimously passed, giving expression to the opinion that every step should be taken which would tend to increase the feeling among British subjects in every part of the world that they are one people, and that they have common interests in trade and commerce.

That the telegraph has already operated towards this end and in a very remarkable way is evident to all, that it may do so still more in the future is equally clear. Few questions, therefore, can have higher claims upon the attention of the chambers of commerce of the British empire than those which relate to telegraphic communications. The application of electricity to telegraphy has given to the world an entirely new means of communication at once the most sensitive and the most useful that the mind of man can conceive. In no department of human activity is

Telegraphic System of the Empire.

its utility more constantly thrust upon us than in the fields of commerce. Everywhere the opening of trade relations is quickly followed by the construction of telegraph lines; indeed, in new countries, such as Canada and Australia, the telegraph is not seldom the pioneer of settlement and railways. Everywhere the connection by telegraph and cable stimulates and facilitates commercial intercourse. The extraordinary extent of the change thus brought about is illustrated by the fact that, for communication across the Atlantic, no less than ten submarine cables are now in constant use instead of the one which first came into continuous use a quarter of a century ago; it is further strikingly illustrated by the rapid growth of telegraphic intercourse with the east and Australasia, necessitating an increase in the number of wires employed. Already more than £1,000 per day are spent on telegraphic communication between the United Kingdom and the Australasian colonies alone.

British shipping, which controls so large a part of the carrying trade of the world, has come to depend in great measure upon telegraphic advice for its most effective employment. The overwhelming relative interest which British people have in this comparatively modern means of communication is further proved by the fact that out of the 125,000 miles of ocean cable now in existence, at least 90,000 are owned by our people and carried on under their management, leaving only about 35,000 miles or about one-fourth of the whole for all the other nations of the world. The proportion furnishes no bad measure of the preponderance of British commerce. Great, however, as British enterprise has been in the matter of cable construction, the development of the outlying parts of the empire is constantly making upon it new demands. One great field has been left entirely untouched, and to it I now wish to direct special attention.

It may almost be taken for granted that, as British commerce expands, nothing short of a complete system, bridging all the great oceans, will fully satisfy its wants. For the present the Atlantic is not inadequately provided for by the ten cables to which I have referred, while another is now being added to the two laid to South America. The configuration of the Indian ocean makes the various lines which skirt its coasts satisfy the immediate necessities of the case. The Pacific alone is not traversed by a single line of wire.

That this condition of things presents a serious hindrance to commercial development; that from a strategic point of view it indicates a serious flaw in our national system for the defence of commerce, are positions which appear capable of conclusive proof.

At the present time the two largest divisions of the empire, Canada and Australia, though actually separated from each other by only the Pacific ocean, are telegraphically separated by but little short of the whole circumference of the globe. Both countries have growing interests upon the Pacific; both are manifestly destined to become great powers bordering upon that ocean; and both look forward to an increased commercial intercourse with each other. Circumstances might easily arise in the near future which would make it of the greatest consequence that those two countries should be prepared to exercise their influence jointly in order that it may be exercised most effectually. Obviously for either closer commercial relations or for joint action, better telegraphic connection is all but an absolute necessity. The cost of sending messages from Canada to Australia is now prohibitive for all practical purposes; with a wire traversing the Pacific it would be reduced to the lowest possible figure, since the line would be fully employed as an alternative route for European messages to and from the south Pacific. Australians should remember, too, that easy and cheap communication with Canada means the same with the whole continent of America, so closely are the Canadian and the American systems connected with each other.

When I brought this subject before the colonial conference of 1887, to which I was a delegate representing Canada, I proved by arguments and figures which have never yet been refuted, that the cost of sending messages between Great Britain and Australia over the proposed Pacific line would be far cheaper than by any existing route. Since that time the cost of sending such messages has been reduced one

half, and yet the cost per word by the Pacific route as then stated by me would be little more than one-half of the present reduced rate by eastern routes. The calculations on which this estimate is based will be found in memoranda submitted to the conference, and in the discussions thereupon.

I need not dwell upon the evident fact that any considerable cheapening of telegraphic rates would immediately react upon commercial prosperity and activity. How much importance is attached to this aspect of the question is proved by the willingness of the various Australian governments to give the guarantees which ensured the reductions made in 1891. Actual results confirm this view. The report of the Eastern Extension Telegraph Company, dated April 21st, 1892, conveys the information that the reduction in rates effected last year has already increased the volume of business 48 per cent over that of 1890, and 60 per cent over that of 1889.

These observations have hitherto borne mainly on the development of trade. I may now turn to the consideration of another equally important aspect of the question. The defence of trade is as well worthy discussion by chambers of commerce as are its development and prosecution. A large proportion of the national thought, a very large part of the national expense, are given to providing means for protecting trade in any great national emergency. In this connection our subject assumes a new importance.

The highest naval authorities are agreed that in time of war the use of the telegraph would furnish one of the most effective means of giving security to the vast commerce of the empire. Telegraphic orders sent out confidentially by the admiralty from time to time would indicate to merchant ships the precise course which they should take on both outward and inward voyages. By this means the protecting naval force could be disposed with complete knowledge of the whereabouts of the commerce to be defended, while an enemy would have no such knowledge. It is believed that by making at intervals changes in the routes indicated, greater security could be obtained.

In alluding to this branch of the subject, I cannot do better than quote from an excellent authority, Capt. R. W. Craigie [Naval Prize Essay, 1892]: "The protection of our commerce on the outbreak of war can only be secured by compelling it to follow certain fixed routes; these should be laid down beforehand and called A B C, etc., and all shipowners and masters should be acquainted with these routes. On the outbreak of war, all steamers would proceed by the route telegraphed out confidentially from the admiralty, and the route changed by telegraph when necessary, for instance, one route might pass 50 miles to the eastward of St. Helena, another 100 miles, and so on; by this means our cruisers would know where to find our commerce, but the enemy would not.

"All sailing ships should be stopped and laid up at the same time.

"If these precautions were adopted, our commerce ought not to suffer very severely and there ought to be no panic."

To no part of the commerce of the empire would such a device for protection be so serviceable as to that of Australasia. Without taking into account the new route by way of Canada which, in emergency, might be used for commercial purposes, if we take into consideration the alternative routes open around cape Horn and the cape of Good Hope, and the vast ocean spaces to be traversed, it will be seen that this system might give Australasian trade an almost complete immunity from attack except in the immediate neighbourhood of European waters, where the strongest force would be available for its defence; merchants and shippers will readily understand that among other advantages there would result an enormous money saving from reduced risks and insurance charges.

But the execution of any such plan manifestly depends upon the completeness and security of a national telegraph service around the globe. A glance at a telegraphic map of the world shows that at present we have no such complete and secure service. England has four possible main lines of connection with the east and Australasia. One goes by way of Gibraltar, Malta, Egypt, and the Red Sea. Another, passing through France, Italy and Greece, also goes on the Red Sea. A

Telegraphic System of the Empire.

third traverses Germany, Austria, Turkey, Russia and Persia. A fourth crosses Russia to the Pacific, whence it connects to the south with Chinese and Indian lines. Perhaps the new route now completed around Africa should be mentioned as a fifth alternative. But with all these lines it is for national purposes in time of war a fatal defect that they pass through possibly hostile countries, where they would be useless to us, or through shallow seas where the cables could be easily fished up and destroyed. For issuing instructions, such as have been mentioned, to the merchant ships of our southern colonies and our eastern dependencies, not one of these eastern lines could in time of war be depended upon for a single day.

A line across the Pacific, on the other hand, would not only be far removed from the political storm centres of the European continent, but would have two other great advantages—first, it would pass entirely over British soil, and second, that it would pass chiefly through deep seas where it could only be destroyed with great difficulty. It would complete the circle of communication around the empire. From a strategic point of view, then, the value of such a line in time of war would be immeasurable. So striking seems the necessity for its construction that we may fairly argue that, even if the line were for a time commercially unprofitable, the governments of the mother land and the colonies would be fully justified in bearing a portion of the expense for the sake of the added guarantee of national security which it would give.

The importance attached to the question of a Pacific cable by the colonial conference of 1887 led to the following minutes being unanimously assented to and recorded in the proceedings:—

“1st. That the connection recently formed through Canada from the Atlantic to the Pacific, by railway and telegraph, opens a new alternative line of imperial communication over the high seas and through British possessions which promises to be of great value alike in naval, military, commercial and political aspects.

“2nd. That the connection of Canada with Australia by direct submarine telegraph across the Pacific is a project of high importance to the empire and every doubt as to its practicability should, without delay, be set at rest by a thorough and exhaustive survey.”

Following up these and more specific representations of the members of the conference, the admiralty was induced to undertake a nautical survey to test the practicability of the route. The survey has been carried on during the intervening years. The soundings are all that could be desired, proving as they do the existence of a sea floor probably not less favourable for cable laying than that of the Atlantic which is used for this purpose. That the results of the survey are satisfactory may be judged from the fact that sounding operations have been closed, and the admiralty have taken possession of a number of islands in the Pacific for the purpose of establishing mid-ocean stations whenever they may be required.

The Canadian government has, on more than one occasion, indicated its willingness to give substantial support to this scheme of telegraph connection across the Pacific with Asia and Australia. At one time it had arranged for a special deputation to proceed to Australia to confer with the governments of the various colonies upon this and kindred subjects, the chief member of the deputation being the present premier of the Dominion, Sir John Abbott. The delay in sending this deputation was entirely due to the occurrence of political movements in Australia which seemed to render the time chosen inopportune.

Canadians may fairly claim that they have some right to press the matter of cable extension on the Pacific from a national point of view, since such an extension would be the natural complement of what they have done towards British consolidation. The great enterprise by which the Dominion has been spanned by a trans-continental railway and telegraph system has not only opened up new and immense fields for national growth, but has made great changes in the strategic relations of the empire. It has reduced by more than one-half the time required for supplying a Pacific squadron with drafts of men, or with arms or naval stores. It has provided an alternative military route to the far east. It has given the opportunity for a greatly improved postal service with Japan and other eastern countries. It has led

to the establishment of a line of fast steam-ships, capable of being easily changed into armed cruisers, upon the north Pacific, while it has opened the way for a similar line of steamers to the sister colonies in the south Pacific, for the establishment of which the parliament of Canada has already voted a liberal subsidy.

Representing, as I do, the board of trade of the capital of the Dominion, it is natural and proper that I should speak as a Canadian, and I may be pardoned for pointing out on behalf of Canada that it is in the genuine spirit of British enterprise that she desires to stretch out her arms to Asia and to Australia. Have not Canadians been associated from the first with the development of the great modern means of inter-communication? The man is yet alive who designed and built the first ship to cross the ocean under steam. That man, James Goudie, was born in Canada, and that ship, the "Royal William," was built at Quebec sixty-one years ago. It was the "Royal William" which inspired Samuel Cunard, himself a Canadian, to establish the great line which bears his name. The man is yet alive who assisted in driving the locomotive of the first passenger train on any railway in the world, and that man, Charles Whitehead, has been from the earliest days and still is connected with the railways of Canada. The man is yet alive who projected and took no small part in establishing the first Atlantic cable, and that man, Francis Gisborne, continues to serve the Canadian government as superintendent of telegraphs.

While I point with some pride to what has been done by Canada and by Canadians, we all recognize similar evidences of national spirit and enterprise in Australia and New Zealand, indeed throughout the whole colonial empire. It is by evidences such as these that British people throughout the world are made to feel that they do indeed belong to one great nation. And we have only to glance back but a few years, not even so far as the commencement of the reign of our present sovereign, to see the wondrous advance which has been made.

The national progress is largely due to the twin agencies, steam and electricity, which a beneficent Providence for wise and good reasons has been pleased to place at our command. It is impossible to believe that this remarkable advance is suddenly to be arrested. If we do well our part, will not the progress of the Britannic empire continue? Will not the next century, even the next generation, display a condition of national development beyond our present dreams? Those who are familiar with the great colonies and know their possibilities will have no difficulty in understanding that they are merely in their infancy, and precisely as the trunk of a great tree increases in size, solidity and strength around the circumference, so likewise it is in these vast continental possessions of the queen that her majesty's new empire is to grow and expand into colossal dimensions.

But if we are to keep the empire intact, if we are to combine all the parts into a lasting whole, we must connect the units by commerce and by every cord of attachment. To extend, expand, strengthen, consolidate, build up and maintain the new united empire; we must without delay take means to obtain the freest and best intercourse between all the parts. In establishing the telegraph system of the united empire, we cannot do better than take for our model, the telegraph system of the United Kingdom, where all centres of business are telegraphically connected. The British islands are covered with a network of wires; places the most remote as well as those in close proximity, can exchange communications on the same easy terms. Caithness and Cornwall are telegraphically as near each other as adjoining parishes, and it should be our steady aim to bring into similar close telegraphic contact every land which is British in the two hemispheres.

The telegraph is the nervous system of commerce. A complete telegraph system will be as indispensable to the commerce of the new empire, which is being developed, as the nervous system is to the human body. No human being can remain in healthful life with a defective nervous system. If the nerves become seriously impaired to any one of us, who can tell what disaster may follow? So, likewise, in the sphere of commerce. If we place our reliance on a telegraph system so insufficient and so exposed that it may receive fatal injury from causes beyond our control, trade and shipping may, at the first critical moment, be completely paralyzed. The desired telegraph system should be one which would bring every

Telegraphic System of the Empire.

unit of the empire within easy electric touch. If we are to build up a great British commercial union, the first essential step is to bring every British community throughout the world into direct telegraphic connection.

These considerations lead me to think it a matter of supreme importance to trade and shipping, to the expansion and support of British interests, that the telegraph should as speedily as possible be extended across the Pacific ocean. The day is not far distant when the Pacific will be traversed, as the Atlantic is by many cables, but we must take one step at a time, and the first step which circumstances demand is undoubtedly that which will give to Australia an alternative line of telegraphic connection with England. In my humble judgment this step is of vital importance to the empire as a whole, and I appeal to every one of the delegates who constituted the parliament of trade and commerce which recently met in London; I appeal to every British merchant at home and abroad; I appeal to every chamber of commerce within her majesty's dominions, to urge upon the home and colonial governments that the establishment of this cable should not be long delayed. There is no section of the globe's surface where a telegraph is more needed; nowhere within the influence of the empire would it serve purposes more important. The spanning of the Pacific ocean by the electric wire will be of immense advantage to British shipping. It will stimulate the development of new trade; it will strengthen the attachment of the great sister colonies on both sides of the ocean to the mother land; it will effectively promote that Britannic union of trade and commerce so earnestly desired by every speaker at the recent congress of chambers of commerce of the empire.

I have the honour to be, sir, your obedient servant,
SANDFORD FLEMING.

July 1st, 1892.

STATEMENT

(37)

SHOWING quantity and bounty paid on pig iron produced in Canada, since date of last Return to House of Commons, namely, 4th March, 1892.

Date.	Tons.	Amount paid.	To whom paid.
1892.		\$ cts.	
April 6	2,241 1248	2,241 62	Londonderry Iron Co.
do 13	613 0000	613 00	John McDougall & Co.
May 4	2,134 1104	2,134 55	Londonderry Iron Co. (Limited.)
do 9	909 0780	909 38	Canada Iron Furnace Co. (Limited.)
June 3	2,339 0240	2,339 12	Londonderry Iron Co. (Limited.)
do 4	596 1150	596 57	Canada Iron Furnace Co. (Limited.)
do 30	644 1520	644 76	do do
July 7	2,387 0000	2,387 00	Londonderry Iron Co.
do 14	558 0640	558 32	John McDougall & Co.
Aug. 3	2,131 0496	4,262 50	Londonderry Iron Co. (Limited.)
do 4	639 1700	1,279 70	Canada Iron Furnace Co. (Limited.)
Sept. 3	640 0440	1,280 44	do do
do 4	2,160 1744	4,321 74	Londonderry Iron Co.
Oct. 3	2,032 1376	4,065 38	do
do 4	586 1760	1,173 76	John McDougall & Co.
do 4	518 1910	1,037 91	Canada Iron Furnace Co. (Limited.)
Nov. 3	565 1880	1,131 88	do do
do 3	2,529 1264	5,059 26	Londonderry Iron Co. (Limited.)
do 12	4,256 0000	8,512 00	New Glasgow Iron and Coal Railway Co.
Dec. 2	626 0180	1,252 18	Canada Iron Furnace Co. (Limited.)
do 3	2,427 0752	4,854 75	Londonderry Iron Co.
do 27	602 1580	1,205 58	New Glasgow Iron and Coal Railway Co.
1893.			
Jan. 4	502 0870	1,004 87	Canada Iron Furnace Co.
do 5	2,442 1440	4,885 44	Londonderry Iron Co.
do 6	635 0080	1,270 08	John McDougall & Co.
do 13	1,271 0400	2,542 40	New Glasgow Iron & Coal Railway Co.
Feb. 2	497 0410	994 41	Canada Iron Furnace Co. (Limited.)
do 3	2,436 1232	4,873 23	Londonderry Iron Co. (Limited.)
	39,928 0196	67,431 83	

RETURN

(37a)

To an ORDER of the HOUSE OF COMMONS, dated the 20th February, 1893, for a Return showing the quantity of pig iron produced in Canada in the years 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879 and 1880, and bounty paid, if any, during those years; also amount of pig iron imported from Great Britain and the United States respectively, and the total amount imported during those years.

By order.

JOHN COSTIGAN,
Secretary of State.

CUSTOMS DEPARTMENT, OTTAWA, 23rd February, 1893.

L. A. CATELLIER, Esq.,
Under Secretary of State, Ottawa,

SIR,—Referring to an order of the House of Commons, dated the 20th February instant, calling for a return showing the quantity of pig iron produced in Canada in the years 1870 to 1880, both inclusive; also that imported from Great Britain and the United States respectively during those years.

In reply, I beg to state that the records of the customs department do not contain the information asked for.

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

THOS. J. WATTERS,
Assistant Commissioner.

RETURN

(37b)

To an ORDER of the HOUSE OF COMMONS, dated the 6th February, 1893, for a return showing the quantity of pig iron produced in Canada in the years 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, and the bounty paid for the production in each of those years.

By order.

JOHN COSTIGAN,
Secretary of State.

CUSTOMS DEPARTMENT, OTTAWA, 8th March, 1893.

L. A. CAPELLIER, Esq.,
Under Secretary of State, Ottawa,

SIR,—Referring to an order of the House of Commons, dated the 7th February, 1893, calling for a return showing the quantity of pig iron produced in Canada during the years 1881 to 1892, inclusive, I have much pleasure in forwarding you herewith the return asked for, so far as it is in the power of this department to furnish it, no bounty having been paid on pig iron prior to the year 1883-84.

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

THOS. J. WATTERS,
Assistant Commissioner.

STATEMENT of claims for bounty on pig iron manufactured in the Dominion since the inception of the bounty principle, and showing the quantities claimed upon as well as amount paid in each fiscal year.

Year.	Number of tons claimed upon.	Amount of duty paid.
		\$ cts.
1883-84.....	29,388 16	44,089 91
1884-85.....	25,769 13	38,654 91
1885-86.....	26,179 19	39,269 56
1886-87.....	39,717 00	59,576 16
1887-88.....	22,209 61	33,314 41
1888-89.....	24,822 42	37,233 62
1889-90.....	24,373 10	25,697 27
1890-91.....	20,153 01	20,153 05
1891-92.....	30,289 17	30,294 37
1892-93—from 1st July, 1892, to 3rd March, 1893.....	35,268 01	67,590 87

RETURN

(43)

To an ADDRESS of the HOUSE of COMMONS, dated 2nd February, 1893, for copies of all correspondence, memorials, departmental orders and orders in council, not already laid before the House, respecting the North-western, Northern and Eastern boundaries of the province of Quebec, together with all reports of surveys or explorations ordered thereon, or in connection therewith, by the Government of Canada, since last Session of Parliament, including the instructions for said surveys or explorations.

OTTAWA, 27th February, 1893.

GEOLOGICAL SURVEY DEPARTMENT, OTTAWA, 7th February, 1893.

Reports of Explorations around James Bay and Hudson's Bay by Dr. R. Bell and Mr. A. P. Low, published in the Reports of Progress of the Geological Survey as follows:

- Report for 1875-76 (p. 294).—On the valley of Moose River and the southern part of James Bay.
- Report for 1877-78 (Part "C").—On the east main coast (of James and Hudson's Bays) from Rupert's House to Cape Dufferin.
- Report for 1877-78 (Part "CC").—On the boat route from lake Winnipeg to Hudson's Bay, the vicinity of York Factory and the lower portion of Nelson River.
- Report for 1878-79 (Part "C").—Track survey and Geological exploration of Nelson River and Churchill River.
- Report for 1879-80 (Part "C").—Voyage from York Factory through Hudson's Strait to England.
- Report for 1882-83-84 (Pt. "DD").—Government expedition to Hudson's Strait and Bay by S. S. "Neptune."
- Report for 1885 (Part "DD").—Government expedition to Hudson's Strait and Bay by S. S. Alert.
- Report for 1886 (Part "G").—Survey of Attawapishkat River and parts of Albany River and visit to the coast of James Bay between the two rivers.
- Report for 1885 (Part "D").—Report on the Mistassini expedition, including the Rupert River to James Bay.
- Report for 1886 (Part "F").—Preliminary report on an exploration of the country between Lake Winnipeg and Hudson's Bay.
- Report for 1887-88 (Part "J").—Report and explorations in James Bay and country east of Hudson's Bay, drained by the Big, Great Whale and the Clearwater Rivers.

NOTE.—The above is a list of Reports that have been published by the Geological Survey Department in connection with exploration and survey around Hudson's Bay and James Bay from 1875 to 1888.

Boundaries of Quebec.

OTTAWA, 14th February, 1893.

Dr. SELWYN,

Deputy Head and Director Geological Survey Department.

SIR,—I herewith beg to submit to you a preliminary report on the exploration of the East Main river, made by me during the summer of 1892. And also a tracing of the survey on a scale of about fifty miles to an inch. This shows the relation of the part surveyed to the rest of the river and to the surrounding country. I have marked previous surveys made by this department in blue, and possible routes from the headwaters of the East Main river in a dotted red line. The survey of 1892 is put down in a fine red line.

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

A. P. LOW.

Preliminary Report on an Exploration of the lower part of the East Main River.

A. P. Low, B.Ap.Sc.

The portion of the East Main river surveyed during the season of 1892, extends, from its mouth, inland, for a distance of three hundred and eight miles. The distance was scaled with a Rochon micrometer, and the bearings taken with a prismatic compass, except for the upper one hundred miles, where a small transit was used to turn off the angles. A number of observations for latitude were made with this transit, but, owing to its small size and imperfect graduations, these have been found to only approximately agree with the positions laid down by the surveyed line. As that line fits closely in direction and distance between its fixed ends, it has been taken as correct, and the observed latitudes thrown out, the survey in most places being from one to four miles north of the points fixed by observation. The determination of longitude was not attempted owing to the absence of any chronometer.

The mouth of the East Main river as determined by Mr. W. Ogilvie in 1890, is in lat. $52^{\circ} 14' 44.91''$ and w. long. $78^{\circ} 29' 15''$; while the upper end of the present survey is in lat. $52^{\circ} 0'$ and w. long. $73^{\circ} 37'$.

From this it will be seen that the course of the river is practically due east to west, making, in a distance of 308 miles, only about 15 miles southing; while beyond the upper end of the survey it again appears to trend slightly to the north of east. Of course, in this distance, there are a number of minor bends, that in ascending turn sharply to the south where the river breaks through ridges of hills, and then run slightly to the north of east in the valleys between the ridges.

At its mouth the East Main river is a mile and a half wide, but is obstructed by a number of sand and shingle shoals, bare at low water, with shallow channels between them. The banks at the mouth are low and sandy. As the river is ascended the sand gives place to clay, cut in places by the river into steep faces. The Hudson's Bay Company post is situated on the south side, three miles from the mouth; the banks here are about fifteen feet high. The river opposite the post is a little under a mile wide. Three large islands of clay occupy the southern side of the river for two miles and a half above the post, with a narrow, shallow channel between them and the mainland on that side. Opposite the head of the upper island, a small river, called Fishing river, falls into the main stream from the north-east.

Tide water extends seventeen miles up the river; in this distance the course is about due east. The banks are low, and are formed of stiff blue clay, and much of the land on either side is low and swampy. Along the river bottom there is an abundant growth of medium sized white and black spruce, balsam fir, aspen poplar and balsam poplar.

The river gradually narrows from a width of three-quarters of a mile, above the islands, to about a quarter of a mile at the head of tide, where a small stream called Coldwater river comes in from the south.

The current from the mouth to the head of tide varies from two to four miles per hour.

Immediately above tide head the character of the river changes to a succession of rapids, and for the next six miles the banks become higher and higher, with steep cut faces, showing clay overlaid by sand, or sometimes coarse boulder till, with an occasional exposure of rock coming up from beneath. The banks here rise from fifty to one hundred feet above the level of the river. The valley becomes more and more narrow and the rapids heavier until, in the upper mile and a half, the river is only about one hundred yards wide, and falls seventy-five feet through a shallow, rocky gorge. The general course of this stretch is $n. 75^{\circ} e.$ Immediately above these rapids the river again changes to a quiet flowing stream about six hundred yards wide with low banks and a flat country on either side.

Two miles above the head of the rapids and twenty-five miles from its mouth, the river divides into two branches. At the forks these branches appear nearly equal in size, one coming from the north-east, the other from the east; the latter being the one surveyed. From the Indians at East Main post, it was learned that the north-east branch is called the Opinaca or Straight river, and that its volume is about two-thirds that of the other branch. It is much the easier river to ascend, being free from long rapids and portages, and takes its rise in a number of large lakes between the headwaters of the east branch and those of the Big river.

Above the forks the course of the east branch is due east for seven miles, while its width varies from six to eight hundred yards; the current is sluggish and the banks low, but they rise gradually as the stream is ascended, so that in the last mile and a half of this course they are from fifty to seventy-five feet above it, and present cut faces of stratified sands and clays or boulder till. The river narrows to a width of three hundred yards and is quite rapid.

At the end of this course there is a sharp bend to the south with a chute of twenty feet, a quarter of a mile above the bend, with strong rapids below and above it. From this chute the river, with several minor bends, has a general south-east course for the next six miles, being almost a continuous rapid with about one hundred and twenty feet fall, including a chute of sixty-five feet at the upper end. At this chute the river is divided into a number of narrow channels by several small rocky islands.

There is a portage of four hundred yards on the south side past the chute.

There is a small river, called the Miskimatao, that comes in from the south, two miles above the chute.

Above the chute the river again expands to an average width of six hundred yards, and flows from $n. 60^{\circ} e.$, between low banks of clay capped with sand almost on a level with the surrounding country. The timber remains the same as that mentioned above, but is somewhat smaller. The river now narrows to two hundred and fifty yards, and passes into small rapids to the northward for a mile between rocky hills, then turning east, it widens slightly and is less rapid for another mile to the foot of a narrow rocky gorge. This gorge, for a mile and a half from its mouth, is perfectly straight, and is never more than one hundred feet wide, narrowing in one place to thirty feet with rocky sides that rise almost perpendicular one to two hundred feet above the river, which rushes through it in one great rapid, falling in the interval one hundred and five feet.

Above this the course changes to $s. 70^{\circ} w.$, and the river, becoming slightly wider, mounts, in the next three-quarters of a mile, twenty feet, to the foot of a rocky island, twelve hundred yards long, with a narrow channel on either side. Through these channels the river falls, in a succession of chutes, over one hundred feet. For three-quarters of a mile above the head of this island there are a number of small islands with rapids between them.

To pass these obstructions it is necessary to portage canoes and outfit three miles through a deep swamp, with only one spot sufficiently dry to allow the loads to be rested. The portage begins immediately below the gorge on the south side, and ends in a small bay near the head of the islands. The river, now having risen to the level of the surrounding country, again flows with a sluggish current between low banks that become more and more sandy. The general course of this stretch is $n. 60^{\circ} e.$, and the distance twenty-two miles, the breadth of the river varying

Boundaries of Quebec.

from a quarter to three-quarters of a mile, with an average of about half a mile. The limit of balsam poplar is reached near the upper end of this stretch, due probably to the absence of low clay banks along the river above. The other trees are smaller, and white spruce beyond this becomes scarce. White birch is now a common tree, and banksian pine is found wherever second growth timber occurs on sandy soil.

Continuing on the same course for three miles and a half, the river again becomes rapid, and passes into a valley which at first is about two hundred yards wide, with cut sand banks, that rise almost one hundred and fifty feet above the water. Soon the channel narrows to less than one hundred yards, and the sandy banks give place to rock. In the upper half of the distance, the fall is very steep, the river passing with a succession of chutes in small channels between a number of small, narrow, rocky islands. The total fall here is over one hundred feet, including three chutes of twenty, ten and thirty feet.

From the head of this rapid, the river bends to the south for a mile, then s. 30° w. one mile, and again south another mile to a chute of ten feet.

With the last fall the character of the river and surrounding country changes. From its mouth to this point, the river has flowed in a shallow valley, near the surface of a number of broad terraces of stratified sand and clay, arranged one above the other. Where the descent of the country is made from one level to the next lower, the river has cut a valley back into the sands and clays of the upper terrace until the underlying rock has been reached, over which it falls in a succession of rapids and chutes often hemmed in by steep rocky walls.

The terraces are composed of marine deposits laid down during the depression of the land at the close of the glacial period, when the level of the western side of the Labrador peninsula was over six hundred feet lower than at present. Farther up the river marine deposits are wanting, and the surface material is formed of unstratified boulder till.

Owing to the absence of terraces, there are no marked drops from level to level, but rather a more or less gradual slope to the whole country, while the river, without even the shallow valley of its lower part, flows almost on the surface of the country and follows the general slope, except where it is diverted by ridges of rocky hills, that cross its course obliquely in several places. In the lower part the river is only obstructed by islands at the various falls, and there are few rock exposures elsewhere, while in the upper part rocky islands are everywhere numerous, and long stretches of the shores are also formed of rock.

The surrounding country in the lower part is generally flat and often swampy, but there is a marked absence of small lakes that, about the upper part of the river, are found in every valley between the low, rounded, rocky hills that characterize this region. Here the soil is scant and poor, being composed wholly of boulder till, often with very little of the finer materials; the climate also appears to be more rigorous than it is nearer the sea coast; the timber in consequence is much smaller and is made up of the following species arranged in order of abundance: black spruce, banksian pine, tamarack, balsam fir, white birch, and a few stunted aspen poplar. The tamarack grows to the largest size, a few trees being upwards of twelve inches near the base, the other species seldom or never have a diameter exceeding nine inches, and in the upper part of the river are only found growing thickly on the lower ground about streams or lakes, with the hills only partly covered by small trees of black spruce and banksian pine. The white spruce does not grow beyond the limits of the deposits of marine sands along the East Main river.

Above the last mentioned chute, the next course is about due east, including two short, sharp bends to the south in a distance of eight miles. Along this course the river flows in a shallow, rocky channel, about a quarter of a mile wide, through an almost flat region, broken only by a few low, rounded hills. The descent is sharp, there being five rapids and two chutes of six and eight feet, separated by short intervals of swift current. At the last rapid and chute the river bends to the south-east for another eight miles. In this interval it is broken into several channels by a number of large, low islands, that are strung out along the entire distance. The current in

these channels is moderate with only one small rapid near the upper end. The Cowesabiscow river is a small stream that falls in on the south side near the foot of this rapid.

Above, the river, for twenty-five miles, forms a long shallow curve, bending first slightly north and then south of east, so that a line joining the ends of the curve would run east and west. Here stretches of quiet water connect five short, heavy rapids. Rocky islands are numerous, and the shores are low and in places rocky, but more commonly swampy. To the south there are hills running in ridges roughly parallel to the course of the river.

These culminate four miles up this course in a flat-topped mountain that rises five hundred feet above the water level. The rest of the range rarely exceed three hundred feet in elevation, and two hundred and fifty feet may be taken as their mean height above the general level. Similar ridges of rounded hills are seen to the northward, but they do not appear to be as high as those on the other side, and are more distant, leaving a wide margin of low swampy land between their base and the river. The trees on these hills have almost all been burnt recently, leaving only a few patches of green wood.

Where the rapids occur in the river the hills close in on either side.

Medium sized rivers fall into the main stream at the second, sixth and tenth mile of this course. The first and third are called respectively Wabistan and Aquatago, both coming from the southward; the second is called the Wabamist, and comes from the northward; it is much larger than the others, being about two hundred feet wide at its mouth, with a slow current. The main river now bends to the south-east for eight miles, and then again to the east for another eight miles. The country and river have much the same character as the part last described, the current being somewhat stronger, with three small rapids. At the upper end of the last course there is a small stream, called the Kawachagachistic river, that comes in on the north side, and flows in a wide straight valley from east north-east, a continuation of the valley in which the main river flows below. The Indians who hunt in this region say that it is only a half day's journey from the mouth of this stream to a large lake on a branch of the Straight river.

Turning now sharply to the south-west, the main river, which has had an average breadth of over a quarter of a mile, now contracts to about one hundred yards, and for the next fifteen miles is nothing but a succession of heavy rapids and chutes. Its banks are in most places high and rocky, as it breaks the range of hills before mentioned on the south side. The surrounding country is much rougher than any before seen, with rounded hills from two to three hundred feet high, arranged in close parallel ridges.

The lower six miles of the river are particularly rough, and as the perpendicular cliffs on both sides render portaging impossible in many places; it was with difficulty that this part was descended with the canoes. At one place, about three miles from the foot of the rapids, there is a sharp bend to the northward, and the water rushing down is deflected by a sharp point running out from the east side at the bend, which causes the greater volume of the water to enter a small bay, where an immense whirlpool is formed; it is stated that many years ago two large canoes belonging to the Hudson's Bay Company were drawn into this whirlpool and everybody on board drowned.

At the upper end of this south-west course a small stream, called the Misiatawagamisistic river, comes in from the south-west; and it is believed that there is a portage route by it past the rapids below.

Turning now to s. 40° e. for three miles, the river gradually widens, and passing two small rapids again becomes easily navigable. It flows, with a sluggish current, in a channel five hundred yards wide, and only slightly below the level of the surrounding low, flat, swampy country. This continues for fifteen miles, the general course being n. 60° e.

Two small rivers come in along this course from the north. At the upper end there is a fall of ten feet, and above the river, continuing along the same course for fourteen miles, has the same sluggish current, with the exception of one small rapid

Boundaries of Quebec.

at the head of two large islands. The surrounding country remains low and swampy, except in the vicinity of the rapid, where a low range of hills pass close to the river on the south side.

Above the two islands the river again turns to the east and flows with a remarkably straight course for nineteen miles. The hills on either side here close in to form a narrow valley, through which the river flows at a uniform rate of about four miles per hour, in a shallow channel averaging four hundred yards in width. The hills as a rule do not rise much above two hundred feet from the water level, and only an exceptional one reaches three hundred feet. They are arranged in ridges nearly parallel to the course of the river.

Along the upper three miles of this course the channel narrows to about one hundred and fifty yards, and the current increases where a descent is made through a narrow cut in the hills. There is now a sharp bend to the south and then to the south-west, for a mile and a half, as the river cuts through a range of hills with a fall of twenty-five feet, including a chute of fifteen feet. At the bend a small river comes in from the north-east.

The surface material covering the hills along the last two courses is generally thin, and is in places composed largely of boulders, often of large size, with the spaces between them only partly filled in with finer material. The forest for the most part is made up of small second growth black spruce, banksian pine, tamarack, balsam fir and white birch, with a few aspen poplar.

Above the bend, the river again enters another valley between parallel ridges of hills. Its courses are: First east for five miles, then n. 60° e. for four miles, and again east for eight miles. The average width is again about four hundred yards, with a swift, uniform current and only one small rapid. As this portion is ascended the country becomes rougher and the hills rise with steep slopes from two to four hundred feet above the water. The greater part of this region has been recently burnt, leaving only patches of blackened soil to partly cover the rocky hills, while innumerable boulders are seen scattered everywhere over the surface. A river about three chains wide at its mouth comes in from the south at the end of the first course.

Another sharp bend of three and a half miles to the west of south now follows, and in the lower mile and a half the river passes through a narrow rocky gorge with perpendicular sides, and falls in a succession of chutes and rapids over one hundred feet. To avoid this obstruction the river was left four miles and a half below the bend, by a portage of three-quarters of a mile, which passes over a ridge of hills, and ends about the middle of the west side of a lake three miles long and three-quarters of a mile wide. This lake discharges from its north-east end by a small stream nearly a mile long into a second lake one mile long by half a mile wide; crossing this, the small, crooked stream, by which it discharges, is followed some two miles to where it falls into the main river two miles above the bend, and thus above the chutes and rapids. There is only a slight fall from the upper lake to the river, and, as a consequence, when there is freshet in the main stream, the water from it backs up into the lakes instead of discharging from them. Above the portage the river becomes very crooked; it first flows from the east for a mile and a half, then from south-east for one mile; n. 80° e. for three miles; s. 30° e. for three-quarters of a mile; south-west for a mile and a half, and finally south-east for six miles, which brings it to an expansion over one mile wide and full of large islands, at the foot of another deep gorge running south.

Through this gorge the river falls sixty feet in two miles. The portage past this fall starts from a small bay on the west side, and is divided into two parts by a small pond. The first part is three hundred yards long and rises about one hundred and fifty feet; the second is three quarters of a mile in length and passes over a steep ridge of boulder till, and ends in a small stream which enters the river a short distance above the head of the chute.

About half a mile below the upper end of the portage, a river falls in on the north side. It flows in a deep, rocky valley running east-north-east for several miles and has a long, heavy rapid above its mouth. Its size has been estimated at about

one-half that of the main branch, and it has been called Pond Portage river for want of a better name.

Above the gorge, the main river is split into a number of small channels by several low islands. These islands form a delta in the eastern end of lake Nasaquiseau, which extends to the westward six miles, and is a mile and a half across in its widest part. The river only passes through the east end of the lake, which formerly extended to the head of the portage, the portion now occupied by the delta having been filled up with detritus brought down and deposited there by the river. Surrounding the lake are rocky hills that rise from two to four hundred feet above its surface. The greater part of the adjacent country has been burnt over recently. From its west end, the canoe route of the Hudson's Bay Company leaves the East Main river to cross the Rupert river, on the way from Nichicoon to Rupert House.

This lake is reckoned by the employees of the company as being situated half way between these two posts. The Indians who hunt in this region are in the habit of congregating here and on the lakes at the foot of the large island above, to meet the canoes going and returning from Rupert House. Above lake Nasaquiseau the character of the river and country again changes, the latter becomes flatter and less rugged, the hills seldom rise over one hundred feet above the river, and the ridges are farther apart, with swamps and small lakes filling the broad, shallow valleys.

The river flows almost on the surface, and is often divided into several channels by large islands. Small lakes and bays also branch off on either side, so that it is difficult to tell when a branch river falls in.

In this manner the river flows for nine miles, and is then divided into two main channels by a large island fourteen miles long and five broad. The north channel is more than twice the size of the south one, and it is further subdivided, especially in its lower part, by other large islands. The south branch, from the foot of the island, passes southward about five miles, and widens out into two lake expansions with numerous bays, all having an east and west direction. Into the south-west bay of the upper lake, and five miles from its outlet, the Kawachagami river enters. This is a small stream, flowing out of a large lake of the same name, on the route from lake Mistassini.

The upper lake referred to above has been called Tide lake on account of the deposits of mud that cover the shores and islands up to freshet mark of the river and which gives the lake the appearance of a tidal bay at low water.

For seven and a half miles above the head of large island the river averages five hundred yards in width, but is shallow and much obstructed by sandy shoals. Its course is again east, and at the head of this course is the junction of the Tshegami river. This stream takes its rise, according to the Indians, to the south-east, near the headwaters of the rivers flowing into the north end of lake Mistassini. In volume it appears to be about two-thirds that of the north-east branch. There is a heavy rapid at its mouth.

The survey was continued up the north-east of main branch to a small rapid three miles above the forks.

From information obtained from Mr. Moore, of Mistassini, who was formerly guide for the Hudson's Bay Company, from Rupert House to Nichicoon, the main river again forks some thirty or forty feet above where the survey ended, one branch coming from the south-east. This stream about fifty miles above its mouth splits up into a number of small streams that take their rise in the hilly country about the height of land, which is here supposed to be nearly due east from the end of the survey or near the 52nd parallel of latitude.

The other branch is the longer, and it is followed for a good distance on the way to Nichicoon.

There are only a few families of Indians who hunt along the lower part of the East Main river, there being a long interval from lake Nasaquiseau to below the Big Bend that is totally uninhabited. Owing to the numerous rapids and chutes, this river is not used as a highway to the interior above the mouth of the Straight river, and only one family ascend it above that stream.

Boundaries of Quebec.

Previous to 1889, there were three families who hunted in the neighbourhood of the Wabamisk river, but, during that winter, with the exception of one woman and a small boy, these all perished by starvation or cannibalism; last summer the scene of this tragedy was found at the mouth of that river, but having no knowledge of such an occurrence it was only remarked as unusual for Indians to leave their tents standing and their household effects scattered about.

Above lake Nasaquiseau, from the number of old camps seen along the river, there must be a number of families who hunt in this vicinity and who in the summer descend to Rupert House by the portage route to the Rupert river. Owing to the absence of hunters along the greater part of the river, the fur-bearing animals are rapidly increasing, and beaver signs are quite common; bear tracks are also numerous in the burnt regions. Not a sign of cariboo was observed from lake St. John to James bay, and these animals seem to have been totally exterminated in the region about lake Mistassini and from there westward to James bay, being now only met with to the north and north-east of the East Main river.

Fish are found in abundance in every lake and river throughout the region passed through last season. The following kinds were taken in the net along the East Main river: whitefish, pike, pickerel and suckers. In the lower parts, where the banks and bottom are formed of clay, sturgeon are taken in abundance by the Indians; and from the mouth to the first fall and in the tributary streams, a small whitefish and sea trout ascend from the sea in large numbers, from about 1st September until the river is closed by ice. Trout are also reported as being caught in the rapids of the upper part of the river.

If it is contemplated to continue the exploration of the upper part of the East Main river, the easiest and only practicable route to the upper end of last season's survey is the one followed on that occasion. It starts from lake St. John and ascends to lake Mistassini, and from there descends the north branch of the Rupert river, and thence crosses through a chain of lakes and falls into the East Main river about thirty miles below the end of the survey. About thirty days will be required to reach this part, and as lake St. John cannot be left much before June 15th, the end of the survey will only be reached about July 15th.

At Mistassini it may be possible to obtain a guide to Nichicoon, which is situated somewhere on or near the head waters of the East Main river, and it would probably be found advisable to follow this route, in the chance of there obtaining a guide to the routes beyond.

Arriving at Nichicoon, about August 15th, an attempt might be made to reach a branch of the Koksoak river falling into Ungava bay, and which is stated to head a short distance from Nichicoon. The return trip from Ungava could be made in the Hudson's Bay Company steamer, as the season would not allow a return in canoes.

If this trip were not undertaken, there is a chance that the headwaters of the Hamilton river might be reached, but this is unlikely as, from the information obtainable, there appears to be a wide interval of country between the heads of the East Main and Hamilton rivers, that drains to the northward into Ungava bay.

A third course from Nichicoon could be to proceed southward across the height of land, which is said to be no great distance from that place, and then descend to the Peribonka, Outarde, or Manicougau river to the St. Lawrence. Finally the party might return by the route already passed over, if circumstances did not permit of any other.

Of course, in a trip of this description, everything depends on varying circumstances of weather, water, men, etc., and much must be left to the judgment of the person in charge. The greatest difficulty found in exploring this region is the lack of game or any depot at which provisions sufficient can be obtained. The Hudson's Bay posts at Mistassini and Nichicoon have only a supply of provisions sufficient for the inhabitants, and are absolutely bare during the summer, when those persons who remain at them are wholly dependent on the supply of fish caught in the nets from day to day. In consequence, provisions for the whole summer must be taken along with any exploring party in this part of the country.

Another difficulty arises from the lack of men to aid in the transport of provisions or to act as guides. Owing to the number of able bodied men at both posts being insufficient to man the canoes engaged during the summer bringing in provisions and goods for the year's outfit, only the very old and very young are left behind, and therefore it becomes necessary to hire all the men required to transport provisions at lake St. John, and then to send them back to that place as their services can be dispensed with: this entails extra expenditure of money and also, a very important item, of extra provisions.

GEOLOGICAL SURVEY OF CANADA, MONTREAL, 6th December, 1880.

Lieut. Col. DENNIS, &c., &c., &c., Ottawa.

MY DEAR COL. DENNIS,—I have just received a letter from Mr. Bell, dated London, 17th November. He left Hayes river, York Factory, on the 13th September. He says: "We had fine weather but very light winds across Hudson's Bay. In the straits the wind failed almost altogether and we were more than a fortnight passing through. In one place we passed through a little pan ice and I was astonished to hear the captain say he had never seen so much on the homeward passage before. The ship moved through it quite easily with the gentlest wind. To illustrate the kind of weather we had, I may mention that the bishop held services on deck twice on each of the three successive Sundays we were in the straits, and the men attended in their shirt sleeves or 'guernseys' and no one experienced any inconvenience from bare heads and bare hands throughout all the services, lasting an hour and a half each time. With the exception of one or two days, when we had flurries of sleet, the weather resembled our Indian summer. We got out of the straits the second week in October. Since that time we have had almost continual gales from the south-east. The captain describes his ship as an old box, square at one end and round at the other." They lay "off and on" the south-west coast of Greenland for a week, then down the Labrador coast across the north-east point of the Great (N.F.) Bank and south to the latitude of Halifax. This account does not correspond much with the general impression of the autumnal weather of Hudson's strait, and the difficulty of navigating it.

Yours sincerely,
ALFRED R. C. SELWYN.

RETURN

(49)

To an ADDRESS of the HOUSE OF COMMONS, dated the 6th February, 1893, for a statement showing total amount of money paid by years since Confederation on each of the following accounts :—

- (a.) Salary of Governor-General.
- (b.) Travelling expenses of Governor-General.
- (c.) Expenditure on Rideau Hall on capital account.
 - do on Rideau Hall maintenance.
 - do Rideau Hall grounds on capital account.
 - do Rideau Hall grounds maintenance.
- (d.) Expenditure on furnishings of all kinds for Rideau Hall.
- (e.) Allowance to Governor-General for coal and light.
- (f.) Expenditure on any other account in connection with the office of Governor-General.
- (g.) Expenditure on any other account in connection with Rideau Hall and grounds.
- (h.) Total expenditure of every kind since Confederation in connection with the office of Governor-General.
- (i.) Total expenditure of every kind in connection with Rideau Hall and grounds.

By order.

JOHN COSTIGAN,
Secretary of State.

Expenditure *re* Governor-General.

STATEMENT in answer to an Address of the House of Commons, showing the Salary and Travelling Expenses of the Governor-General, and also the Salaries and Contingencies of the Governor-General's Secretary's Office, from 1868 to 1892.

Year.	Gov.-General's Salary.	Gov.-General's Travel- ling Expenses.	Salaries of the Governor- General's Sec- retary's Office.	Contingencies of the Gov.-General's Secretary's Office.
	\$ cts.	\$ cts.	\$ cts.	\$ cts.
1868	48,666 63		10,210 00	11,589 62
1869	48,666 63		9,597 90	7,809 03
1870	48,666 63		8,912 40	7,899 91
1871	48,666 63		9,018 10	7,033 31
1872	48,666 63		7,851 96	6,608 80
1873	48,666 63		8,240 00	8,140 66
1874	48,666 63	5,000 00	10,079 76	11,530 22
1875	48,666 63	13,187 47	11,345 13	11,075 81
1876	48,666 63	6,000 82	10,971 19	10,822 65
1877	48,666 63	22,554 25	10,092 50	8,243 60
1878	48,666 63	5,000 00	10,267 50	9,306 19
1879	48,666 63	6,500 21	10,837 80	13,744 92
1880	48,666 63	5,000 00	12,841 64	9,865 80
1881	48,666 63	5,000 00	12,875 00	9,124 60
1882	48,666 63	16,135 82	12,849 80	8,301 08
1883	48,666 66	16,253 39	10,683 31	13,144 64
1884	48,666 66	4,999 98	10,917 43	10,186 05
1885	48,666 66	5,000 00	11,360 00	8,185 03
1886	48,666 66	5,000 00	11,740 00	6,570 49
1887	48,666 66	5,000 00	11,035 00	6,552 28
1888	48,666 66	4,764 97	11,804 43	6,763 18
1889	48,666 66	5,506 54	12,150 00	5,871 75
1890	48,666 66	5,000 00	12,350 00	5,533 82
1891	48,666 66	5,000 00	11,611 04	6,611 04
1892	48,666 66	5,000 00	12,708 25	6,912 15
Totals	1,216,666 05	145,903 45	270,350 14	217,426 60

RIDEAU HALL.

STATEMENT of Expenditure from 1st July, 1867, to 30th June, 1892.

Year ending 30th June.	Rent of Domain.	Purchase of Domain.	Totals.	Additions, Alterations, Repairs and Maintenance.	Furniture.	Gardens and Grounds.	Fuel and Light.	Totals.	Grand Totals.
	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.
1868	4,000 00		4,000 00	24,326 95	22,466 45	4,235 70		51,029 10	55,029 10
1869	3,854 00	82,000 00	85,854 00	12,521 23	2,041 55	1,679 85		16,242 63	102,046 63
1870				13,189 67	1,592 80	1,793 45		16,535 92	16,535 92
1871				1,600 28		2,160 96		3,761 24	3,761 24
1872				3,656 95		1,472 69		5,129 64	5,129 64
1873				55,046 89	6,077 28	1,704 10		62,828 27	62,828 27
1874				36,435 03	12,479 87	3,102 53	5,000 00	56,017 43	56,017 43
1875				30,567 69	4,491 09	3,346 96	6,622 00	45,027 73	45,027 73
1876				26,290 76	5,086 17	3,465 39	7,199 60	42,031 92	42,031 92
1877				27,530 43	2,735 34	3,311 71	7,888 80	41,466 28	41,466 28
1878				29,164 87	2,295 96	2,939 53	10,211 10	44,611 46	44,611 46
1879				38,678 69	11,487 05	4,076 62	7,723 06	61,976 32	61,976 32
1880				43,525 57	12,799 78	4,612 41	9,014 44	69,952 20	69,952 20
1881				11,076 42	508 20	4,027 99	9,312 10	24,924 71	24,924 71
1882				17,742 39	492 27	4,244 87	8,200 00	30,679 53	30,679 53
1883				17,420 71	805 25	6,492 05	8,200 00	39,602 01	39,602 01
1884				24,104 71	8,125 37	8,125 37	8,000 00	43,507 94	43,507 94
1885				21,320 63	7,606 57	6,074 75	8,000 00	39,296 45	39,296 45
1886				17,615 13	1,980 75	2,181 26	8,000 00	34,280 40	34,280 40
1887				22,118 39	1,479 03	2,111 80	8,000 00	37,550 71	37,550 71
1888				25,959 88	1,492 49	6,282 83	8,000 00	30,972 21	30,972 21
1889				15,216 89	7,268 32	6,411 72	8,000 00	39,714 00	39,714 00
1890				18,033 96	1,354 65	4,685 33	8,000 00	28,107 41	28,107 41
1891				12,067 43	5,242 98	2,940 00	8,000 00	28,627 38	28,627 38
1892				7,906 21	5,996 32	2,940 00	8,000 00	19,844 53	19,844 53
Totals	7,854 00	82,000 00	89,854 00	547,143 45	118,853 01	94,349 86	151,371 10	911,717 42	1,001,571 42

N.B.—The whole of above expenditure was charged to "Income."

O. DIONNE,
Accountant.

DEPARTMENT OF PUBLIC WORKS,
OTTAWA, 25th February, 1893.

RETURN

[50]

To an ADDRESS of the HOUSE OF COMMONS, dated 6th February, 1893, for a return of all letters, correspondence, reports and all other matter on record, passed between the Department of Agriculture and the High Commissioner of Canada in London, the Imperial Board of Trade or any other officials of an authoritative body, in reference to the scheduling of Canadian cattle in the ports of Great Britain and Ireland, on and after 20th October last.

By order.

JOHN COSTIGAN,

Secretary of State.

COPIES OF TELEGRAMS AND LETTERS *RE* CATTLE SLAUGHTERED AT DUNDEE ON SUSPICION OF PLEURO-PNEUMONIA.

Cipher message from Sir Charles Tupper to Hon. Mr. Carling.

London, 24th October, 1892.

Two animals, one a cow, ex steamer "Monkseaton" or "Huronion" at Dundee and Fifeshire slaughtered suspicion pleuro-pneumonia. Post-mortem indication very similar pleuro but no decision yet arrived at. Have seen authorities and pointed out impossibility disease being pleuro. Make immediate inquiry where all animals came from. Most important to prove no contact with American cattle and no disease in locality stock came from.

TUPPER.

Copy of letter to Professor McEachran, 24th October.

DEAR MR. MCEACHRAN,—The following is the reading of a cipher message received this afternoon at 4.20 from Sir Charles Tupper:—

Two animals, one cow, ex steamer "Monkseaton" or "Huronion" at Dundee and Fifeshire slaughtered suspicion pleuro-pneumonia. Post-mortem indication very similar pleuro but no decision yet arrived at. Have seen authorities and pointed out impossibility disease being pleuro. Make immediate inquiry where all animals came from. Most important to prove no contact with American cattle and no disease in locality stock came from.

Can you get the information desired by Sir Charles Tupper in this message?

Kindly see the steam-ship people and ascertain the names of the shippers and then find out from them where they picked up the animals. We shall soon be able to see whether there is any sickness in the localities whence they came.

Kindly do this as promptly as possible.

Believe me, &c.,

J. LOWE, D. M. A.

Answer to above:—

MONTREAL, 25th October, 1892.

In answer to yours of yesterday containing copy of cablegram from Sir Charles Tupper *re* suspected pleuro-pneumonia in a Canadian cow at Dundee, I beg to say:—

Scheduling of Canadian Cattle.

The shipper was John Crowe, 522 on "Monkseaton," 685 on "Huronian." The "Monkseaton's" cattle were all bought in different lots in Toronto. It would be impossible to trace whence they were brought to that market. There were 13 springers (cows to calve) in this lot.

Mr. Crowe is of the opinion that the animal in question was on the "Huronian." He bought 191 head from John Wakes, of Minnedosa, Manitoba, and 37 head from one Collins, also Manitoba cattle. There were two cows in each lot. He suspects one of Wakes' cows, as both of them were old, stub-horned, worn-out cows—the very class of cattle that this form of chronic pneumonia has been found in before.

All his cattle were marked with a long straight bar, clipped on the left hip. This would serve to identify the animal as one of the Canadians. I have no doubt but the hide has been preserved.

I would advise that McFadden, or, better still, Fred. Torrance, B.A., D.V.S., Brandon, Man., be sent at once to trace all the cows bought in Manitoba by Wakes. This can easily be done. Collins can also be found. The Canadian Pacific Railway people with whom he shipped his cattle can trace him.

With only four cows to trace there can be no difficulty, nor need there be much delay. Supply them with a cipher code to wire result of inquiry.

I have no doubt but it will prove to be another case of so-called "Canadian lung," as explained by me in the *Montreal Gazette* this morning.

Yours truly,

D. McEACHRAN.

Copy of letter to D. McFadden, V.S.

OTTAWA, 26th October, 1892.

DEAR SIR,—I send to you herewith a copy of a cipher telegram from Sir Charles Tupper, and also a copy of an extract from a letter of Professor McEachran, of Montreal, to whom the matter was referred.

It is desired by the minister that you endeavour to carry into effect the directions of Professor McEachran with the object of identifying the four cows referred to, if possible. Please do this at once and wire the result. Mr. McEachran suggests a cipher, but I do not think it is necessary. If, in your telegram, you refer to cow traced, nobody can understand it unless knowing the previous particulars.

Please take this action immediately and report at the earliest moment.

Believe me, &c.,

J. LOWE, *Deputy Minister of Agriculture.*

Further cable from Sir Charles Tupper, 27th October.

Reply earliest possible moment. Matter still under consideration. Satisfactory answer on point raised would have considerable weight.

TUPPER.

Answer to above:—

OTTAWA, 27th October.

McEachran's inquiries indicate cow in question was from "Huronian." Two on board were old, worn out and likely class for chronic pneumonia, but no pleuro; this unknown in Canada.

AGRICULT.

Telegram to Department of Agriculture from Professor McEachran.

MONTREAL, 28th October.

Seven hundred sixty-four cattle bought from forty-eight owners by John Rogers, Crowe's agent, Bull's Head, Toronto. Think I should go to Ottawa to-night, or, to save time, to Toronto, to co-operate with Smith investigation to make report. Answer by wire.

D. McEACHRAN.

Answer to above:—

OTTAWA, 28th October.

Better go directly to Toronto and get all possible information.

J. LOWE, D.M.A.

Further cable from Sir Charles Tupper, 29th October.

Authorities say cow ex "Monkseaton" and other animal ex "Huronian." All cattle both ships being traced and are to be slaughtered. Hope possible find out where animals came from and have districts examined. Cable stating this had been done most effective.

TUPPER.

Answer to above:—

OTTAWA, 29th October.

"Monkseaton's" animals purchased in Toronto. Believe collected in Ontario. McEachran now tracing them. Same is being done respecting "Huronian." Districts will be strictly examined. Confident no contagious pleuro.

AGRICULT.

Further telegram from Professor McEachran.

TORONTO, 29th Oct.

Cattle bought various places from London to Peterborough. A thorough search necessitates employment number of veterinarians one or two days. Will we do so, or report on general information obtainable at important points?

D. McEACHRAN.

Answer to above:—

OTTAWA, 29th Oct.

Yes, employ veterinarians necessary for immediate thorough search and report. Sir Charles cables cow traced to "Monkseaton's" animals and asks urgently for information of districts as you indicate. All animals of both steamers ordered slaughtered.

J. LOWE, D.M.A.

Further cable from Sir Charles Tupper, 29th Oct.

Standard to-day says plain duty Board Agriculture to schedule Canada. Subject is to be discussed by Central Chamber Agriculture Monday, and Royal Agricultural Society Wednesday. Most important you should cable at once statement in plainest possible language the animals shipped by "Monkseaton" and "Huronian" have been traced to their places of origin and that no disease exists there. Urgent.

TUPPER.

Cable from Sir John Abbott to Hon. Mr. Carling.

LONDON, 29th Oct.

Of highest and essential importance you should comply literally with Tupper's request to-day's message. I feel much anxiety results action of agricultural societies pressing upon ministers. If once scheduled consequences most serious and lasting.

ABBOTT.

Cable to Sir John Abbott in answer to preceding.

OTTAWA, 29th Oct.

Urgent directions given in literal sense of Sir Charles' cable to-day. Several veterinarians employed. Expect report of districts on Monday.

CARLING.

Scheduling of Canadian Cattle.

Further telegram to Professor McEachran, 29th Oct.

Further telegram from Sir Charles and Sir John Abbott stating extreme danger and urgency. Employ, therefore, necessary number veterinarians and have report telegraphed department on Monday.

J. LOWE, D.M.A.

Reply from Professor McEachran to above:—

TORONTO, 31st Oct.

Have been at Hamilton, Woodstock, and London. Have men out in all districts. Reports received so far animals perfectly healthy. Expect all in to-morrow when I will wire report.

D. McEACHRAN.

Cable from Sir John Abbott to Hon. Mr. Carling.

LONDON, 1st Nov.

Commissioner reports no information received of district. Reports results of investigation urgently needed by wire as they come in. Matter becoming extremely critical. *Times* recommends scheduling.

ABBOTT.

Answer to above:—

OTTAWA, 1st Nov.

McEachran sends now interim report. Has been at Toronto, Hamilton, Woodstock, London. Has men out in all districts whence cattle came. Remains on ground to gather reports. Those so far in establish absolute healthiness. Expect all reports in to-day when will wire Tupper. Inform him.

CARLING.

Cable from Sir Charles Tupper to Hon. Mr. Carling, 1st Nov.

Times urges scheduling. Altogether four suspected cases in "Monkseaton" and "Huronian" cargoes. No reports of examination of districts from which cattle came yet received from you. Matter most urgent and critical.

TUPPER.

Answer to preceding:—

1st Nov.

Owing holiday your message just received. Sent Abbott answer with interim report, requesting him communicate to you.

CARLING.

Telegram to Professor McEachran, 1st Nov.

Have further cables *Times* urges scheduling Canada. Most important have your full wired report.

J. LOWE, D. M. A.

Further cable from Sir John Abbott to Hon. Mr. Carling.

LONDON, 1st Nov.

Matter most critical. Fear indication points to scheduling to-morrow. Cable fullest possible information at once.

ABBOTT.

Answer to above:—

1st Nov.

Your second cable to-day:—Have not yet received McEachran's final report of investigation, but continued progress reports fail show slightest trace pleuro-pneumonia. Am positively informed by McEachran and all veterinarians communicated with, this disease does not exist in Canada. I state with positive confidence it does not. Wiring McEachran urging final report to-night.

CARLING.

Telegram to Professor McEachran, 1st Nov.

Both premier and high commissioner cabling is critically important your final report be cabled London to-night. Decision relative scheduling given to-morrow.

J. LOWE, D. M. A.

Cable message sent to Sir Charles Tupper.

10.30 1st Nov.

Professors McEachran and Andrew Smith jointly sign following official telegram from Toronto this evening:—

You can state positively that pleuro-pneumonia does not exist in Canada. Inspectors' reports from all districts prove this. Detailed reports follow by mail.

CARLING.

Cable to Sir Charles Tupper, 2nd Nov.

Report mentioned in McEachran and Smith's telegram last night received, including reports of farms visited in following named districts whence cattle came, namely:—Markdale, Meaford, Orangeville, London, Hamilton, St. Thomas, Galt, Dunnville, Woodstock, Ailsa Craig and Toronto. Districts visited by eleven qualified veterinary inspectors. Their reports uniform, no trace found of pleuro-pneumonia confirming my cable Abbott.

CARLING.

Further cable to Sir Charles Tupper, 2nd Nov.

Professor McEachran obtained from shipper names of every dealer from whom cattle composing cargo of "Monkseaton" and "Huronion" were bought, interviewed them and obtained names of farmers who raised and sold them. Sent eleven skilled veterinarians to visit each farm, whose reports show non-existence of or slightest trace of pleuro-pneumonia. Investigations are being continued and will be most thorough.

CARLING.

Cable received from Sir John Abbott, 3rd Nov.

Special meeting of cabinet to-day considering cattle question. Fear scheduling practically foregone conclusion. We were heard and finally suggested that if determined on that step, we would prefer to prevent exportation here for remainder of season, say from twentieth instant, and bear expense of thorough investigation during winter, if scheduling postponed till investigation made. This proposal was agreed upon by Foster, Tupper and myself, but affords faint chance of postponing scheduling. Would council sanction it if accepted?

ABBOTT.

Answer to above:—

3rd Nov.

Council sanctions proposal in your cable to-day. Please advise if accepted.

CARLING.

Further cable to Sir John Abbott, 3rd Nov.

Am advised by Professors McEachran and Smith if Canada scheduled on evidence of animals slaughtered from "Monkseaton" and "Huronion" will rest on erroneous diagnosis. I confidently believe this.

CARLING.

Scheduling of Canadian Cattle.

Telegram from Professor Andrew Smith.

TORONTO, 3rd Nov.

Have received reports from Hamilton, London, Chatham, Wellington and Orangeville. No signs of any disease.

ANDREW SMITH.

Letter from Professor Andrew Smith, 4th Nov.

J. LOWE, Esq., &c., &c.

MY DEAR SIR,—As I telegraphed you last night, I had received reports from Orangeville, London, county of Wellington, Hamilton, stating that there are no signs of disease among cattle in the districts examined.

From my general acquaintance with the country, and through frequent communications received from graduates of our college, I think it scarcely possible that any such dire and fatal disease as contagious pleuro could exist among cattle without it being generally known.

I am pleased to notice that the suspected animals and their viscera have been examined by Prof. Williams. I am well acquainted with Prof. Williams, and value his opinion highly, as he is well able to give an opinion on such cases.

To-day I have received a message from the neighbourhood of Currie, stating that no disease exists there.

Hoping everything will be all right, and the cattle business will be carried on as before this scare.

I am, &c.,

ANDREW SMITH.

Telegram from D. H. McFadden, V.S.

MINNEDOSA, MAN., 4th Nov.

To J. LOWE, Esq., &c., &c.

Have traced everything referred to in your letter. Find no trace of anything wrong. The professor must be right. Will report fully from Emerson.

D. H. McFADDEN.

Copy of letter from D. H. McFadden, 8th Nov.

EMERSON, MAN., 8th Nov.

To J. LOWE, Esq., &c., &c.

DEAR SIR,—On receipt of your letter of the 26th October, ult., I proceeded to Brandon, where I found Mr. R. J. Collins, who informed me that on 7th September last he shipped 37 head of cattle to Mr. Crowe, of Montreal, amongst which were the four following described cows:—

(1.) Roan cow, 4 years old, thorough-bred Durham, branded V on right hip, raised by Mr. Underhill, of Rapid City.

(2.) Brindle cow, aged.

(3.) Two red and white cows, young, branded on left hip by bars cut in the hair. These last three were raised by Mr. Barber, of Brandon.

Proceeding to Minnedosa, I interviewed Mr. Wakes, who informed me he had shipped 191 head of young stock to Mr. Crowe, and on the same date shipped 24 cows to another dealer for the Montreal market. These cows are more fully described on the inclosed slip. All the persons mentioned as having any connection with these cattle are prepared to give sworn affidavits that they were healthy when they left here, and that there has been no contagious disease amongst cattle in their districts. For myself, I know of no instance of disease of a contagious character amongst cattle anywhere in the province, and in my opinion if Great Britain and the United States were as free as Canada there would be no need for quarantine or inspection. The cattle shipped from Manitoba never saw the United States, they being bred and raised in Manitoba and shipped to Montreal *via* the C. P. R.

I am, &c.,

D. H. McFADDEN.

List of cows shipped by Mr. Wakes, to Montreal, not to Mr. Crowe:—

Frank Hirst, Clanwilliam.....	1 cow, red.
R. Hamilton, Newdale.....	5 cows, red and white.
Wm. Gardner, Shoal Lake.....	3 cows, red and white.
Menzies Bros., Shoal Lake.....	1 cow, red.
Harrower, Shoal Lake.....	1 cow, white.
Ed. McGill, Harrison.....	2 cows, red.
Jas. Thompson, Newdale.....	2 cows, red and white.
H. McNabb, Cadurecis.....	1 cow, red and white.
W. Smith, Cadurecis.....	3 cows, red and white.
F. Miller, Shoal Lake.....	2 cows, white.
A. S. Arnold, Shoal Lake.....	3 cows, red and white.

Some of them may be marked with W on right rump.

Cable from Sir Charles Tupper, 4th Nov.

Am informed that in view opinion expressed by law officers of the crown this morning board agriculture have decided they have no alternative but to withdraw privilege free importation hitherto allowed Canadian cattle. Order will come into force twenty-first instant.

TUPPER.

Telegram to Professor McEachran, 4th Nov.

Canada scheduled on twenty-first instant. Shippers free to send cattle to land before that time.

J. LOWE, D.M.A.

(The same telegram was sent to Professor Andrew Smith, Toronto, and to the Messrs. Allans, Torrance, H. E. Murray, C. Coughlin and Robt. Reford & Co., Montreal.)

4th November.

Sir John Abbott's cable this date to Sir John Thompson is not filed in the department. But the news despatch in the *Standard* of 4th Nov. has since been received and is as follows:—

OTTAWA, Thursday evening.

The minister of justice states that immediate steps will be taken in the direction of the exercise of greater vigilance of the cattle coming from the United States. These cattle are now admitted to the North-west Territories and Manitoba from the western states of the Union without inspection. For the future they will be subject to ninety days' quarantine.

Cable to Sir Charles Tupper, 4th Nov.

Re Abbott's cable to Thompson. In provinces east of Manitoba prohibition against importation American neat cattle absolute, with no relaxation, except for breeding purposes at Point Edward only, on quarantine of ninety days. In western provinces same rule strictly applies with exception that immigrant settlers are allowed bring their stock with them, from contiguous parts, chiefly Minnesota and the Dakotas, on inspection and satisfactory affidavit of locality whence came, which is simply crossing geographical line on open prairie, conditions being same with more than half continent from seat of pleuro-pneumonia in east. That disease never known on prairies.

CARLING.

Telegram from Messrs. Robt. Reford & Co., Montreal.

2nd November.

We cabled William Thomson and Sons, Dundee, last night as follows:—

Evening papers report "Huronian," "Monkseaton" cattle slaughtered fearing pleuro; also Canadians scheduled. Answer.

Scheduling of Canadian Cattle.

And received the following reply to-day :—

Report about scheduling Canadians false. Facts are one cow "Monkseaton" suspected, slaughtered. Government examiners say pleuro. Professor Williams, Veterinary College, Edinburgh, says certain not pleuro but broncho-pneumonia or cornstalk fever. Another animal ill, another form, but reported recovering, slaughtered. Government examiner appears consider pleuro. Farmer to whom belonged, experienced regarding pleuro, says not. Board of Agriculture declared three farms infected and ordered slaughter all "Huronian" "Monkseaton" animals as precaution. These now mostly slaughtered without any signs pleuro their lungs as far as we can learn. Farmers here generally consider no pleuro, but cattle simply got cold being put fields all night. Very wet weather ex ship.

We hope the Canadian government is doing its utmost to prevent Canadian cattle being scheduled, which would be ruin to the trade.

ROBERT REFORD & CO.

Reply to above :—

2nd November.

Your telegram marine department transferred. Sir Charles Tupper telegraphed situation was very critical and decision probably given to-day. Not received yet. Department has made careful inquiries in districts whence slaughtered cattle came without finding any trace of pleuro-pneumonia. Professors McEachran and Andrew Smith have declared their positive belief such does not exist here. This has been cabled to high commissioner with declaration of minister agriculture of positive assurance pleuro does not exist in Canada. These representations have been made to imperial government. Sir John Abbott and Sir Charles Tupper making greatest exertions to prevent action taken on what is believed erroneous diagnosis.

J. LOWE, D.M.A.

Telegram from Bickerdike, Montreal, 5th Nov.

Have time of receiving cattle in Great Britain extended. Utterly impossible to get all the cattle away in time to land there by 21st. Large numbers at present in transit. Will be serious matter for Canada if not allowed to go forward. Time of shipment from Montreal should be 21st.

BICKERDIKE.

Cable to Sir Charles Tupper, 5th Nov.

Montreal cattlemen request me urge you get scheduling order amended to take effect on date of sailing twenty-first instead of arrival, for completing contracts. As date order is fixed in future for accommodation, request does not involve principle. Please advise if you think it can be granted.

CARLING.

Further telegram from Bickerdike, 9th Nov.

Cattle shippers asking Montreal board of trade to cable high commissioner to get time extended sufficiently to permit cattle now on ocean to land as usual. Owing to accident several steamers have been delayed. Kindly assist us with English government.

BICKERDIKE.

Answer to above :—

9th Nov.

Department will make request you desire.

J. LOWE, D.M.A.

Cable to Sir Charles Tupper, 9th Nov.

Cattlemen ask if freedom ship till twenty-first declined, shipments this week if hindered by weather be admitted?

AGRICULT.

Letter from Secretary Board of Trade, Montreal.

MONTREAL, 9th Nov.

Hon. JOHN CARLING, Minister of Agriculture.

SIR,—I have the honour to inform you that the council of this board has this day cabled Sir Charles Tupper, Canadian high commissioner in London, England, as follows:—

Owing stress of weather and accidents, steamers "State of Georgia," "Huron" and "Ontario," now on ocean, cattle may not arrive by twenty-first. Montreal board of trade strongly urges arrangements be effected permitting landing all Canadian cattle free, shipped prior ninth November.

The council prays your influence in the same direction.

I have the honour, &c.,

GEORGE HADRILL, *Secretary.*

Cable from Sir Charles Tupper, 12th Nov.

Board after full consideration find themselves unable agree extension order; but say individual cases any ships that might reasonably be expected to arrive before twenty-first, coming in after that date, will be dealt with considerately. Inform board trade Montreal, Reford and Bickerdike.

TUPPER.

Telegrams to Bickerdike, Reford and George Hadill, Secretary Board of Trade, Montreal.

12th Nov.

High commissioner, London, cables minister agriculture following words:—

Board after full consideration find themselves unable agree extension order; but say individual cases any ships that might reasonably be expected to arrive before twenty-first, coming in after that date, will be dealt with considerately.

J. LOWE, *D.M.A.*

Telegram from Bickerdike, Montreal, 16th Nov.

"State of Georgia," with 190 stockers on board, in St. Johns, Newfoundland; engines broken down; will take ten days for repairs. What would you advise?

BICKERDIKE.

Answer to above:—

17th Nov.

Could not take responsibility of advice, but may point out imperial authorities have stated will deal considerately with each case. Your detention is *force majeure*, and they have admitted principle extension time.

J. LOWE, *D.M.A.*

VICTORIA CHAMBERS, 17 VICTORIA STREET,
LONDON, S.W., 29th Oct., 1892.

The Hon. JOHN CARLING.

DEAR MR. CARLING,—I beg to confirm the inclosed telegraphic correspondence that has passed between us in the last few days. I also take the opportunity to send you some press extracts bearing upon the subject.

Immediately the case came to my notice, I went to the office of the board of agriculture, and discussed the matter very fully with the veterinary authorities there. I pointed out the impossibility of the disease being pleuro-pneumonia, as not a single case existed in the Dominion, and stated what they were of course perfectly well aware of, viz, that the disease cannot be communicated except directly from one animal to another.

The justice of these arguments was at once recognized, but, notwithstanding, the authorities still assert that the symptoms shown by the animal when alive, and the appearance of the lungs in the post-mortem, all tended to give rise to grave suspicion that the animal was suffering from pleuro-pneumonia. At the same time they

Scheduling of Canadian Cattle.

hesitated to come to any definite opinion, in view of the facts I brought before them, and the matter stands in this position at present.

In the meantime, the case is considered to present so many grave elements of doubt, that, in order to prevent the possibility of any spread of the disease, should it be finally decided to be contagious pleuro-pneumonia, all the animals of the steamers "Monkseaton" and "Huron" have been traced and are to be slaughtered, and as many of the lungs as possible examined. I hope you are arranging to trace the places of origin of all the cattle on board the two vessels. An examination of the localities, and an official report that they are perfectly healthy and that there is no disease there, would naturally carry much weight, and you know, as well as I do, the importance of the matter.

There is a tendency on the part of some persons to believe that animals are continually being smuggled across the boundary from the United States to Canada, and this is the only excuse that can be found for the alleged existence of pleuro or anything like it in these cargoes. Indeed it was said by a cattleman at Dundee a few weeks ago, that fifteen per cent of the cattle shipped from Canada came from the United States. This, of course, is obviously untrue, but I thought it wise to cable you upon the subject, and immediately upon receipt of your reply informed the board of agriculture accordingly.

I am satisfied that there is every desire at the board of agriculture to deal with the case in the fairest possible way, and to give us the benefit of any doubt that may exist. The veterinary officers referred to the case under suspicion in 1890, and stated that the lungs in the present case presented the same appearances as those in the former one. I understand that Dr. McEachran saw a portion of the lungs of the animal in 1890, and he will no doubt remember what passed at his interview with Professor Brown and Mr. Cope in reference to the matter. I, of course, pointed out that the case in 1890 could not have been pleuro-pneumonia, otherwise the disease must have shown development in Canada between then and now. In fact I strongly urged that our previous experience tends to show that the present case cannot be pleuro-pneumonia, and I may say in this connection that the authorities admit that while the appearance of the lungs presents the symptoms of pleuro-pneumonia, there are other indications which are not usually found in that disease.

You will observe from the cutting from the *Glasgow Herald*, of the 26th instant, that some eminent Scotch veterinary authorities have expressed the opinion that the disease from which the cow slaughtered suffered was not pleuro, but bronchial pneumonia, which is said not to be contagious.

Since writing the foregoing, I have again seen the officers of the board of agriculture, and shown them your telegram of the 27th instant. As I telegraphed you this morning, there is no doubt that the cow which has given rise to the difficulty came from the "Monkseaton" and not from the "Huron," as stated in your message. The other animal—for there are two—came from the "Huron," but I cannot say whether it is a cow or a steer. An impression prevails that the second animal may have been infected by contact with the cow in the lairs at Dundee.

I cannot help thinking it a pity, in any circumstances, that the two "old worn-out" cows, to which Dr. McEachran refers as having been shipped by the "Huron," should ever have been allowed to come over, and I am strongly of the opinion that we should follow the practice of the Danes, who rigorously keep back any animal that it is likely to cause suspicion, or require to be examined on landing in this country. We cannot be too careful, in view of the difficulties, trouble, expense and anxiety which any case like that at present under consideration causes, and I shall be glad if you will give the matter your attention.

I remain yours faithfully,

CHARLES TUPPER.

per J. S. COLMER.

VICTORIA CHAMBERS, 17 VICTORIA STREET,
LONDON, S.W., 16th November, 1892.

Hon. JOHN CARLING, Minister of Agriculture.

DEAR MR. CARLING,—I duly received, on Monday the 7th instant, your telegram of the 5th instant, as follows:—

“ Montreal cattlemen request me to urge you to get scheduling order amended to take effect on date sailing 21st, instead of arrival, for completing contracts, as date order is fixed in future for accommodation. Request does not involve principle. Please advise if you think it can be granted.”

I also received your further telegram of the 9th instant, as under:—

Cattlemen ask if freedom ships till 21st declined, shipments this week if hindered by weather be admitted.

Representations were also made to me direct by the shippers of cattle in Canada, including the Robert Reford Company, and Messrs. Bickerdike, as well as by the Montreal board of trade. The leading steam-ship companies on this side also communicated with me on the matter, urging me to endeavour to get the date of the order extended so as to cover any shipments made up to the 21st instant.

After consultation with Sir John Abbott and Mr. Foster, I placed the matter in the strongest possible manner before the secretary of state for the colonies, who commended my request to the favourable consideration of the board of agriculture.

I pointed out that before the order was issued, the shippers in Canada had made all their arrangements for the purchase of the cattle required for export during the remainder of the season, and that it was the custom to contract in advance for the space required on board the ships, so that if the order came into force on the date originally fixed, it would cause very serious loss to those engaged in the trade.

I also represented that the cattle which were coming over were lean cattle unfit for immediate slaughter, and that if the request I made for the order to be extended to cover shipments up to the 21st instant was complied with, both the shippers and the steam-ship companies would be glad to comply with any additional restrictions the board of agriculture might impose as a condition of such extension.

I now quote for your information the written communication I addressed to the colonial office upon the subject:—

DEAR MR. MEADE,—I wish to submit, for the consideration of Lord Ripon, the very serious loss that will be involved by prohibiting the landing of Canadian cattle after the 21st instant.

The knowledge in Canada that, after the most exhaustive examination in every part of the country, not a single case of pleuro-pneumonia was found to exist, induced those engaged in the shipment of cattle to believe that it was impossible that Canada would, under those circumstances, be scheduled.

The serious blow which a very important branch of our trade has been struck will involve a very great loss to those engaged in it, and who were, for the reason stated, quite unprepared for the possibility of such an occurrence.

I am therefore encouraged by the very kind interest that Lord Ripon and yourself have shown in my efforts to avert the calamity which has fallen upon Canada, to solicit the favourable consideration of the government to the appeal which is being made to me on all sides from those engaged in the trade in Canada, to allow cattle shipped from Canada before the 21st instant to come into this country as before, if found entirely free from disease.

You, of course, are aware that Sir John Abbott, the prime minister of Canada, took the responsibility of engaging that no cattle should be shipped to arrive after the 21st instant, provided Canada was not scheduled. This would have involved a heavy responsibility on the part of the government, but it was one that, for so important a purpose, we were prepared to assume.

With the continued evidence down to the present hour that no such disease as pleuro-pneumonia exists in Canada, and no doubt, to say the least of it, that must arise in this country in the minds of all acquainted with this question, I sincerely hope that his lordship will be able to induce the board of agriculture to allow, under

Scheduling of Canadian Cattle.

any conditions of examination they may impose, cattle shipped before the 21st instant to be admitted.

I inclose copies of communications on this subject from various parties who have a very large amount of capital engaged in this trade, and who are most disastrously affected by the restriction that has been imposed.

On the 12th instant, I received a letter from the colonial office, covering one from the board of agriculture (copies of which are inclosed herewith) expressing regret that the board were unable to sanction the proposed extension, and pointing out that the difficulty of doing so was increased by the fact of an additional suspected case of pleuro-pneumonia having been discovered among the animals from the "Monkseaton" and "Huronias."

You will notice, however, that the board will deal considerably with any individual cases of vessels which might reasonably have been expected to arrive at their destinations by the 21st instant, having regard to the date of their departure, but which might be delayed on the voyage by stress of weather or other causes.

On the receipt of this communication I sent you the following cablegram, which I now beg to confirm:—

Board after full consideration find themselves unable agree extension order, but say individual cases any ships that might reasonably be expected to arrive before 21st coming in after that date will be dealt with considerably. Inform board trade, Montreal, Reford, and Bickerdike.

I remain yours faithfully,
CHARLES TUPPER.

(Immediate.)

COLONIAL OFFICE, DOWNING STREET, 12th November, 1892.

The High Commissioner for Canada.

SIR,—With reference to your letters of the 8th, 10th and 11th instant, respecting the postponement of the date from and after which cattle imported into the United Kingdom from Canada will be subject to slaughter at the port of landing, I am directed by the Marquis of Ripon to transmit for your information a copy of a letter from the board of agriculture on the subject.

I am, sir, your most obedient servant,
R. H. MEADE.

BOARD OF AGRICULTURE, 4 WHITEHALL PLACE,
LONDON, S.W., 11th November, 1892.

The Under Secretary of State, Colonial Office.

SIR,—I have laid before the board of agriculture your letters of the 9th and 11th instant, with regard to the proposed postponement of the date from and after which cattle imported into Great Britain from Canada will be subject to slaughter at the port of landing.

In reply, I am to state, for the information of the Marquis of Ripon, that this question has already been brought before the board and has received their most careful attention, but that after full consideration of the case, and with every desire to meet as far as possible the wishes of those engaged in the trade, and to minimize any possible loss, the board have found themselves unable to sanction the proposed extension.

I may state that during the last day or two, another case of pleuro-pneumonia has been detected in an animal landed at Dundee ex the "Monkseaton" or "Huronias," a circumstance which confirms the view entertained by the board as to the risks attending the importation of animals from Canada otherwise than for slaughter; and with regard to the suggestion that these risks might be avoided by the imposition of restrictions at the port of landing, I am to say that the disease is of such a character as to render any restrictions which the board could impose, without subjecting importers to much greater losses than will now be the case, of no utility whatever in preventing its introduction into this country.

With regard to any accidentally belated cargo which may arrive after the 21st instant, the board desire me to observe that application will doubtless be made to them in respect of individual cargoes as and when they arrive. The board would certainly endeavour to deal with such applications considerably, but they would of course require to be satisfied that at the time of shipment there was reasonable probability, having regard to the average length of the passage of the vessel at this season of the year, that the cargo would arrive prior to the order coming into force.

I am, &c.,

T. H. ELLIOT, *Secretary.*

Lord Ripon to Lord Stanley of Preston.

PRIVY COUNCIL OFFICE, 5th November, 1892.

[Extract from Code Telegram.]

Minister of agriculture reluctantly obliged to schedule Canadian cattle. Matter (has) been well considered by cabinet, subsequently referred to special committee of cabinet. Tupper and Abbott urged very well their views proposing to prohibit export of cattle till next season.

Unfortunately this is found incompatible with terms of act of parliament, consequently her majesty's government have no alternative but to issue necessary order.

RIPON.

VICTORIA CHAMBERS, 17 VICTORIA STREET, LONDON, S.W., 9th Nov., 1892.

The Honourable the Minister of Agriculture, Ottawa.

SIR,—With reference to my letter of the 7th instant, I now beg to transmit to you a copy of a letter addressed to me by Professor R. Wallace, of the agriculture department of the University of Edinburgh, together with a copy of the communication he has sent to the *Times* in relation to the withdrawal of the privilege hitherto enjoyed by Canada in connection with the free importation of live animals.

You will see from the newspaper cutting that the letter was published in the *Times* this morning.

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

CHARLES TUPPER.

THE UNIVERSITY, EDINBURGH, 7th Nov., 1892.

Sir CHARLES TUPPER.

DEAR SIR,—The inclosed is a copy of a letter I have sent to the editor of the *Times* by this post, so it cannot appear till Wednesday.

I thought, however, you might be glad to have the information before that time.

The *Times* has, of course, taken up a strong position on the other side, but I do not contemplate that it will in consequence refuse to publish my letter.

It would be well if some of the London societies were to ask Professor W. O. Williams to go up and show, by means of limelight projections and microscopic slides, the details of the differences in the appearances present in the two diseases.

I shall to-morrow write to the secretary of the central chamber, and also to the secretary of the royal agricultural society, suggesting this course.

I am faithfully yours,

ROBERT WALLACE.

AGRICULTURE DEPARTMENT, THE UNIVERSITY, EDINBURGH, 7th Nov., 1892.

To the Editor of the *Times*.

SIR,—The exclusion of store cattle from Canada is an important action, the full significance of which is not dreamt of, far less understood, by the great majority of people in this country. It has been brought about as the result of what is supposed to be an outbreak in Fife among Canadian cattle of contagious *pleuro-pneumonia*, and

Scheduling of Canadian Cattle.

had there been any substantial ground to believe that the supposition was correct, I should not have lifted my voice against it. A portion of the lungs of the affected animal was sent to Principal Williams and Professor W. G. Williams of the new veterinary college, Edinburgh, and naked-eye and microscopic examination convinced those experts that *broncho-pneumonia*, (the well-known cornstalk disease of America,) had been mistaken for *pleuro-pneumonia contagiosa*. I have subsequently examined the lungs and microscopic sections made from them, and I had no difficulty in recognizing that the pathological appearances presented were identical with those of the cornstalk disease, which I had the opportunity of seeing in Washington in 1890, by the courtesy of Dr. D. E. Salmon, the distinguished chief of the bureau of animal industry of the United States. The differences in the post-mortem appearances and in the actual seats of the two diseases, make it extremely unlikely for anyone versed in morbid anatomy to mistake the one for the other. In *pleuro-pneumonia contagiosa* the true seat of the disease is not in the bronchial tubes, although the smaller of these become gorged with an inflammatory coagulated exudate.

Broncho-pneumonia, not unknown in this country, is not a specific disease like *pleuro-pneumonia contagiosa*, but one which originates spontaneously when animals are exposed to cold and wet, especially after being heated, as cattle are during transit by rail and sea. It may fitly be compared with influenza in the human species, not of the recent epidemic type, but of the old and familiar form of a severe cold. It is termed cornstalk disease in America because it appears in autumn when the cornstalks are past their best and beginning to decay. The true seat of the disease in *broncho-pneumonia* is the air-passages, large and small. Although the lung-parenchyma, through which the multitudinous ramifications of the air-tubes pass, naturally becomes congested, it is not subjected to such changes as are found in a case of *pleuro-pneumonia contagiosa*. It is very different with the bronchial tubes, more especially the smaller of them. The columnar cells forming the epithelial lining of the air-passages, desquamating, or, in common language, peeling off, indicate the seat of the disease. As the alteration of structure does not extend to the blood vessels, nature may in time repair the injury, if death be not induced at the acute stage of the disorder.

Not only is the fibrinous exudate of *pleuro-pneumonia* absent in the air-passages, but pus and degraded epithelial debris take its place, and are expelled from the lungs by the act of coughing in a manner corresponding to expectoration in a human being. The differences described are readily determined by the aid of the microscope, but there is a plainly visible characteristic difference in the post-mortem appearances in the two diseases, which, under ordinary circumstances, is sufficient to guide the observant practitioner.

The question, as it is now raised, is not one between the British farmer and the Canadian exporter, neither is it a political question; it is an imperial question involving the relationship with one of our most important and most loyal colonies. Canada, conscious of her freedom from the fell disease, *pleuro-pneumonia*—a proud position which she has creditably held for years—cannot fail to smart under the injury about to be done to one of the industries which she so fondly fosters.

I am no advocate of free importation of "store" cattle into this country. On the contrary, I believe a mistake was made when it was determined to admit this class of animal from any part, so fraught must it always be with danger to our valuable pedigree herds; but duty will not permit me to stand aside and observe without protesting against what appears to be a meaningless injustice to a section of the agricultural community. The farmer has a sufficient number of unseen difficulties to contend with, without adding another cause of uneasiness and uncertainty as to the source from which he may or may not be permitted to draw his supply of "store" cattle.

ROBERT WALLACE.

DEPARTMENT OF AGRICULTURE, 3rd Jan., 1893.

The undersigned has the honour to report on a despatch of the Marquis of Ripon to your excellency, covering copies of correspondence relating to the desired

postponement of the date from and after which cattle imported into the United Kingdom from Canada shall be subject to slaughter at the port of landing, that:

The representations made to the high commissioner had for object to prevent the slaughter of animals arriving after the date fixed for placing Canada on the schedule in cases in which the detention had arisen from stress of weather or accident to machinery, and that the compromise obtained and telegraphed by Sir Charles Tupper to the effect that, without making an actual postponement of date, each case would be considerably dealt with on its merits.

The practice under this decision has been found satisfactory to cattle shippers. The whole respectfully submitted.

JOHN CARLING,
Minister of Agriculture.

The Marquis of Ripon to Lord Stanley of Preston.

DOWNING STREET, 18th November, 1892.

Governor General, &c., &c.

MY LORD,—With reference to my despatch of the 10th instant, no. 308, I have the honour to transmit to you, for the information of your ministers, copies of the correspondence with the board of agriculture on the subject of the desired postponement of the date from and after which cattle imported into Great Britain from Canada will be subject to slaughter at the port of landing.

I have, &c.

RIPON.

(*Immediate.*)

DOWNING STREET, 9th November, 1892.

The Secretary to the Board of Agriculture.

SIR,—With reference to your letter of the 5th instant, respecting the scheduling of Canada under the Contagious Diseases (Animals) Act, I am directed by the Marquis of Ripon to transmit to you, to be laid before the board of agriculture, a copy of a semi-official letter from the acting high commissioner for Canada, inclosing copies of representations which have been made to him by persons interested in the Canadian cattle trade, on the subject of the date fixed for the coming into force of the scheduling order.

It appears to Lord Ripon, from these papers, that unless the time for bringing the order into force can be extended as desired, subject to such precautionary measures as regards quarantine or otherwise, as may be considered proper, great hardship and loss will be entailed upon those who have entered into contracts and arrangements from which they cannot now withdraw, and he would be glad if the board could meet the wishes of the Canadian government and the British shippers, by extending the time or by making some arrangement for avoiding temporarily the requirement of slaughter at the port of entry, which, as pointed out, in the case of lean cattle such as those imported at the present season, is practically equivalent to total loss.

I am, &c.,

JOHN BRAMSTON.

VICTORIA CHAMBERS, 17 VICTORIA STREET, LONDON, S.W., 8th Nov., 1892.

To the Hon. R. H. MEADE, C.B., Colonial Office.

DEAR MR. MEADE,—With reference to my conversation with you this morning, I beg to inform you that Sir Charles Tupper has received the following telegram from the minister of agriculture of Canada:—

Montreal cattlemen request me urge you get scheduling order amended to take effect on date sailing 21st instead of arrival, for completing contracts, as date order is fixed in future for accommodation. Request does not involve principle. Please advise if you think it can be granted.

Scheduling of Canadian Cattle.

Sir Charles Tupper has also received telegrams from the Montreal cattle shippers to the same effect, and urgent representations from the steam-ship companies in this country who are engaged in the trade.

The shippers in Montreal state that they had contracted for space in the remaining steamers from that port this season, before the present difficulty arose, and that if the order comes into force on the date already published it will involve them in serious loss. In addition, it is an undoubted fact that the cattle which are now being sent over are lean cattle, unfit for immediate slaughter, and in this connection I would refer you to the inclosed copy of a telegram sent to Sir Charles Tupper by Messrs. Allans and Donaldsons of Glasgow.

Mr. Becket Hill, the London partner of the Allan line, called while I was with you and left the following message for me.

Mr. Becket Hill, of the Allan line, called and left word to say that he has called at the board of agriculture and has seen Mr. Gardner. He thinks that if a representation is addressed to Mr. Gardner he will make the 21st November the last day of sailing instead of the last day on which cattle are allowed to be landed without slaughter. He also wished to say that when the United States were scheduled they were allowed a month's grace.

At the request of Sir Charles Tupper I beg therefore to commend the matter to the consideration of the secretary of state, and trust that he will be so good as to use his influence to get the order extended, as urged by the cattle shippers and by the steam-ship companies.

I shall be glad to be favoured, for Sir Charles Tupper's guidance, with the decision arrived at, in order that it may be communicated at the earliest possible moment to Canada for the information of the shippers.

I am, &c.,

J. G. COLMER.

P.S. The compliance with the request would mean postponing the operation of the order from the 21st November to about the 4th or 5th December.

25 BOTHWELL STREET, GLASGOW, 7th November, 1892.

To the Hon. Sir CHARLES TUPPER, &c., &c.

DEAR SIR,—The serious consequences that would follow upon the sudden interruption of the import of Canadian cattle consequent upon the late order for their slaughter, have so alarmed the trade, not only shipowners but the dealers in stock, that we have been led to address a telegram to you of which we have sent a copy to the agricultural department. We need not state to you how important in the interests of the colony it is to have this order rescinded, as the nature of the trade as cultivated by Canadian exporters, viz., providing animals for distribution in this country, and in addition, ready for slaughter, would make it extremely hurtful on short notice to change front and supply stall-fed cattle ready for slaughter to the British market, besides, too, it would deprive Canada of the protection of their trade, which non-slaughter represents. Altogether the importance of the matter cannot be overstated in the interests of Canada, and we hope that the steps, which no doubt you are taking, as well as those which are being taken by others, may lead to a rescindment of the order.

There is not a moment to lose in getting the extension of time we ask, as people will be timid about despatching animals this week from the other side unless assured they will come on the old terms.

We also inclose a second telegram which we despatched to the board of agriculture, so as to ensure in meantime that the steamers sailing this week from Montreal may get their cattle shipped, as with the uncertainty of the steamer arriving in time to land her cattle on the 21st or not, people will be timorous about shipping this week even although, with an ordinary passage, the steamers would arrive in ample time to land them by the 21st. Whatever be decided as to extension, the date that should be inserted in the order should be a date for steamers leaving

Canada, so that the length of passage the steamers may make homewards should not enter into the question of the animals being landed or not.

We are, &c.,
JAMES & ALEXANDER ALLAN,
 per J. SMITH PARK.

Telegram from J. & A. Allan to Sir Charles Tupper.

The season for the export of cattle from Canada will end on 21st November, by which date the last steamer will have sailed from Montreal. Arrangements for shipments are already completed, and the cattle not being fat are unsuitable for immediate slaughter. We beg, therefore, you will extend the period for admitting Canadian cattle till arrival of steamers embarking cattle on and before 21st instant, placing the animals, if necessary, under extended observation on arrival before permitting distribution, and only slaughtering if found infected. This will avert very serious loss from shipowners and cattle importers.

J. & A. ALLAN.

Copy of second telegram sent to the President of the Board of Agriculture.

7th Nov., 1892.

Steamers leaving Montreal this week should in ordinary course land their cattle by 21st November, but might not if delayed by bad weather, thus leaving matter uncertain as to whether animals may be landed pending your decision as to extension to sailings up to 21st November. May we rely on vessels leaving Montreal this week being allowed to land their cattle if free from disease?

J. & A. ALLAN.

165 ST. VINCENT STREET, GLASGOW, 7th Nov., 1892.

HON. SIR CHARLES TUPPER, Bart., &c., &c.

SIR,—We confirm telegram sent you to-day in the joint names of Messrs. J. & A. Allan and ourselves.

The subject is one you are fully acquainted with and we need not now recapitulate all that can be said against the measures taken by the board of agriculture, entailing so much loss on Canadian shippers and shipowners alike.

We hope your good offices will be successful in getting the board to extend the operation of the measure until the last steamers have sailed from Montreal.

We are, &c.,

DONALDSON BROS.

165 ST. VINCENT STREET, GLASGOW, 7th Nov., 1892.

Copy of telegram sent to Sir Charles Tupper, Bart.

We have telegraphed the board of agriculture as follows:—

Please support our request.

The season for the export of cattle from Canada will end on 21st November, by which date the last steamer will have sailed from Montreal; arrangements for shipment are already completed, and the cattle, not being fat, are unsuited for immediate slaughter. We beg, therefore, you will extend the period for admitting Canadian cattle till arrival of steamers embarking cattle on or before 21st instant, placing the animals, if necessary, under extended observation on arrival before permitting distribution, and only slaughtering if found infected.

This will avert very serious loss from shipowners and cattle importers.

ALLANS, DONALDSONS.

CANADA SHIPPING CO., 32 DRURY BUILDINGS, 21 WATER STREET,
 LIVERPOOL, 7th Nov., 1892.

SIR CHARLES TUPPER, High Commissioner for Canada.

SIR,—With reference to the edict of the present government, that cattle arriving here from Canada after the 21st November shall be slaughtered, I have to point out

Scheduling of Canadian Cattle.

to you that this would mean a serious injustice to the Canadian trade. Arrangements for shipment have already been made, and the cattle are not fit for immediate slaughter.

We think, therefore, it is only reasonable that you should use your influence with the government to extend the period for admitting Canadian cattle, say, with the last sailings from the St. Lawrence of the 22nd November.

If the government wish, they can still place the cattle arriving before that date under extended observation on arrival, before permitting their distribution, but only slaughtering if found affected.

This will avert very serious loss to the shipowners and cattle importers, whilst not in any way preventing the board of agriculture from keeping a hold on the situation.

I am, &c.,

R. W. ROBERTS, *Manager.*

OFFICE OF THE HIGH COMMISSIONER FOR CANADA, 17 VICTORIA STREET,
LONDON, 9th November, 1892.

The Hon. R. H. MEADE, C.B., Colonial Office.

DEAR MR. MEADE,—I have had another interview with the representatives of some of our Canadian steam-ship companies to-day about the cattle matter, and I understand that they have been bringing it before Mr. Gardner on their own account. They say that before the order was published, most of the shippers had bought from the farmers the cattle to be shipped during the remainder of the season, and that they had made their contracts with the shipping companies with regard to space, so that if the order is not extended considerable loss will fall upon the trade, who have already been hit very hard this season by the low prices prevailing here.

As I understand it, the wishes of everybody concerned would be met if the order were made to come into force on the arrival in this country of any shipments made from Canada even up to the 18th instant.

If the request of the steam-ship companies can be acceded to, it will only mean an extension of the present order for about a fortnight, and save both farmers and dealers, as well as the shipping companies, from the considerable loss they will otherwise have to bear.

I am, &c.,

J. G. COLMER.

DOWNING STREET, 11th November, 1892.

The Secretary to the Board of Agriculture.

SIR,—With reference to the letter from this department of the 9th instant, respecting the scheduling of Canada under the Contagious Diseases (Animals) Acts, I am directed by the Marquis of Ripon to transmit to you, to be laid before the board of agriculture, a copy of a further letter from the high commissioner on the subject.

Lord Ripon trusts that the board of agriculture will take this matter into their early consideration, as it is very desirable that those interested should be made aware of the decision as soon as possible.

I am, &c.,

R. H. MEADE.

GRAND HOTEL, PARIS, 10th November, 1892.

DEAR MR. MEADE,—I wish to submit for the consideration of Lord Ripon the very serious loss that would be involved by prohibiting the landing, except for slaughter, of Canadian cattle after the 21st instant.

The knowledge in Canada that, after the most exhaustive examination in every part of the country, not a single case of pleuro-pneumonia was found to exist, induced those engaged in the shipment of cattle to believe that it was impossible that Canada could under those circumstances be scheduled.

The serious blow which a very important trade has been struck will involve a very great loss to those engaged in it, and who are, for the reason stated, quite unprepared for the possibility of such an occurrence.

I am, therefore, encouraged, by the very kind interest that Lord Ripon and yourself have shown in my efforts to avert the calamity which has fallen upon Canada, to solicit the favourable consideration of the government to the appeal which is being made to me on all sides from those engaged in the trade in Canada, to allow cattle shipped from Canada before the 21st instant, to come into this country as before, if found entirely free from disease.

You, of course, are aware that Sir John Abbott, the prime minister of Canada, took the responsibility of engaging that no cattle should be shipped to have arrived after the 21st instant, provided Canada was not scheduled. This would have involved a heavy responsibility on the part of the government, but it was one that, for so important a purpose, we were prepared to assume.

With the continued evidence down to the present hour, that no such disease as pleuro-pneumonia exists in Canada, and the doubt, to say the least of it, that must arise in this country in the minds of all acquainted with this question, I sincerely hope that his lordship will be able to induce the board of agriculture to allow, under any conditions of examination they may impose, cattle shipped before the 21st instant to be admitted.

I inclose copies of communications upon this subject from various parties who have a very large amount of capital engaged in this trade, and who are most disastrously affected by the restrictions that have been imposed.

I am, &c.,

CHARLES TUPPER.

Copy of a cable from the Minister of Agriculture to Sir C. Tupper.

OTTAWA, 9th November, 1892.

Cattlemen ask if freedom ship till twenty-first declined, shipments this week if hindered by weather be admitted?

AGRICULT.

Copy of a telegram from the Hon. J. Carling to Sir Charles Tupper.

OTTAWA, 5th November, 1892.

Montreal cattlemen request me urge you get scheduling order amended to take effect on date sailing twenty-first instead of arrival, for completing contracts, as date order is fixed in future for accommodation. Request does not involve principle. Please advise if you think it can be granted.

Copy of telegram from the Montreal Board of Trade to Sir C. Tupper.

MONTREAL, 9th November, 1892.

Owing stress weather and accidents steamers "State of Georgia," "Huron" and "Ontario" now on ocean, cattle may not arrive by 21st. Montreal board of trade strongly urge arrangements be effected permitting landing all Canadian cattle free shipped prior 9th November.

CANADA SHIPPING CO., LTD., 32 DRURY BUILDINGS,

21 WATER STREET, LIVERPOOL, 7th Nov., 1892.

To Sir CHARLES TUPPER, High Commissioner for Canada.

SIR,—With reference to the edict of the present government that cattle arriving from Canada after the 21st of November shall be slaughtered, I have to point out to you that this would mean a serious injustice to the Canadian trade. Arrangements for shipment have already been made, and the cattle are not fit for immediate slaughter.

We think, therefore, it is only reasonable that you should use your influence with the government to extend the period for admitting Canadian cattle, say, with the last sailings from St. Lawrence of the 22nd November.

Scheduling of Canadian Cattle.

If the government wish, they can still place the cattle arriving before that date under extended observation on arrival, before permitting their distribution, but only slaughtering if found affected.

This will avert very serious loss to the shipowners and cattle importers, whilst not in any way preventing the board of agriculture from keeping a hold on the situation.

I am, &c.,
R. W. ROBERTS, *Manager*.

25 BOTHWELL STREET, GLASGOW, 7th November, 1892.

To the Hon. Sir CHARLES TUPPER.

DEAR SIR,—The serious consequences that would follow upon the sudden interruption of the import of Canadian cattle consequent upon the late order for their slaughter have so alarmed the trade, not only shipowners but the dealers in stock, that we have been led to address a telegram to you of which we have sent a copy to the agricultural department. We need not state to you how important in the interests of the colony it is to have this order rescinded, as the nature of the trade as cultivated by Canadian exporters, viz., providing animals for distribution in this country and in addition ready for slaughter, would make it extremely hurtful on short notice to change front and supply stall-fed cattle ready for slaughter to the British market; besides, too, it would deprive Canada of their trade which non-slaughter represents. Altogether the importance of the matter cannot be overstated in the interests of Canada and we hope the steps which no doubt you are taking, as well as those which are being taken by others, may lead to a rescindment of the order.

There is not a moment to lose in getting the extension of time we ask, as people will be timid about despatching animals this week from the other side, unless assured they will come on the old terms.

We also inclose a second telegram which we despatched to the board of agriculture, so as to ensure in meantime that the steamers sailing this week from Montreal may get their cattle shipped, as with the uncertainty of the steamer arriving in time to land her cattle on the 21st or not, people will be timorous about shipping cattle this week, even although with an ordinary passage the steamers would arrive in ample time to land them by the 21st. Whatever be decided as to extension, the date that should be inserted in the order should be a date for steamers leaving Canada, so that the length of passage the steamers may make homewards should not enter into the question of the animals being landed or not.

We are, &c.,
JAMES & ALEXANDER ALLAN,
per J. SMITH PARK.

Telegram from J. & A. Allan to Sir Charles Tupper.

The season for the export of cattle from Canada will end on the 21st of November, by which date the last steamer will have sailed from Montreal. Arrangements for shipping are already completed, and the cattle, not being fat, are unsuited for immediate slaughter. We beg, therefore, you will extend the period for admitting Canadian cattle till arrival of steamers embarking cattle on and before 21st instant, placing the animals, if necessary, under extended observation on arrival before permitting distribution, and only slaughtering if found infected. This will avert a very serious loss from shipowners and cattle importers.

J. & A. ALLAN.

165 ST. VINCENT STREET, GLASGOW, 7th November, 1892.

The Hon. SIR C. TUPPER, Bart., &c., &c.

SIR,—We confirm telegram sent to you to-day in the joint names of Messrs. J. & A. Allan and ourselves.

The subject is one you are fully acquainted with, and we need not now recapitulate all that can be said against the measure taken by the board of agriculture entailing so much loss on Canadian shipping and shipowners alike.

We hope your good offices will be successful in getting the board to extend the operation of the measure until the last steamers have sailed from Montreal.

We are, &c.,

DONALDSON BROS.

Copy of telegram sent to Sir Charles Tupper.

165 ST. VINCENT STREET, GLASGOW, 7th November, 1892.

The season for the export of cattle from Canada will end on the 21st of November, by which date the last steamer will have sailed from Montreal. Arrangements for shipment are already completed, and the cattle, not being fat, are unsuited for immediate slaughter. We beg, therefore, you will extend the period of admitting Canadian cattle till arrival of steamers embarking cattle on or before the 21st instant, placing the animals, if necessary, under extended observation on arrival before permitting distribution and only slaughtering if found infected.

This will avert very serious loss from shipowners and cattle importers.

ALLANS, DONALDSONS.

Copy of a telegram from Robert Reford Co. to Sir Charles Tupper.

MONTREAL, 5th November, 1892.

Endeavour have time scheduling extended to cover all cattle shipped from Montreal up to 21st November, otherwise cattlemen and steam-ship lines suffer heavily. Many cattle waiting shipment. Answer.

ROBERT REFORD CO.

Copy of a cable from Messrs. Bickerdike, of Montreal, to Sir Charles Tupper.

MONTREAL, 5th November, 1892.

Endeavour have time cattle shipments extended to 21st. Large numbers in transit from west.

BICKERDIKE.

DOWNING STREET, 11th November, 1892.

The Secretary to the Board of Agriculture.

SIR,—With reference to the letter from this department of the 9th instant, and to previous correspondence respecting the scheduling of Canada under the Contagious Diseases (Animals) Acts, I am directed by the Marquis of Ripon to transmit to you, for the consideration of the president of the board of agriculture, a copy of an official letter from the acting high commissioner for Canada on the subject.

I am, &c.,

R. H. MEADE.

VICTORIA CHAMBERS, 17 VICTORIA STREET, LONDON, 10th November, 1892.

The Honourable R. H. MEADE, Colonial Office.

DEAR MR. MEADE,—With reference to my previous letters respecting the extension of the order issued a few days ago relating to the admission of cattle from Canada, I beg to quote, for the information of the secretary of state, the following telegram which Sir C. Tupper has received this morning from the Montreal board of trade:—

Owing stress weather and accidents, steamers "State of Georgia," "Huron" and "Ontario" now on ocean, cattle may not arrive by 21st. Montreal board of trade strongly urge arrangements be effected permitting landing all Canadian cattle free shipped prior to 9th November.

The following telegram has also been received from the minister of agriculture:

Cattlemen ask if freedom ships till 21st declined, shipments this week if hindered by weather be admitted?

Scheduling of Canadian Cattle.

I shall be glad to be informed at your convenience as to the decision of the board of agriculture in the matter, in order that it may be cabled to Canada.

Yours faithfully,
J. G. COLMER (for Sir C. Tupper).

TORONTO, 7th Feb., 1893.

J. LOWE, Esq., Deputy Minister of Agriculture, Ottawa.

SIR,—Some time ago, Professor Williams, of Edinburgh, sent me a portion of a lung from one of the Canadian cattle slaughtered at Dundee; also a piece of a lung of an animal slaughtered on account of contagious pleuro. Dr. Caven, our pathologist, has made a careful examination, and I inclose copy of his report, which might be useful for future reference. The specimen mentioned on report as labelled pleuro-pneumonia, refers to contagious pleuro, the other to lung of Canadian cow.

I am, sir, your obedient servant,

AND. SMITH.

PATHOLOGICAL LABORATORY, UNIVERSITY OF TORONTO, 4th Jan., 1893.

To A. SMITH, Esq., F.R.C.V.S.

DEAR SIR,—I have examined microscopically the specimens of lung tissue which you sent me and have to report as follows:—

The specimen labelled pleuro-pneumonia shows a distinct *croupous* inflammation, the alveoli being largely filled with a fibrinous exudate. The vascular engorgement is throughout the greater part of the specimen a very marked feature and there is almost no proliferation or desquamation of epithelium to be seen. The specimen labelled broncho-pneumonia, on the other hand, presents the characteristic features of a *catarrhal* inflammation, the bronchi and alveoli containing numerous epithelial elements with a few leucocytes. There is no fibrinous exudate, or at most a few isolated alveoli showing it, as is common in catarrhal pneumonia. Judging from the microscopic appearances, I would conclude that the two specimens were taken from animals suffering from pneumonia which had resulted from very different causes. The one corresponding to that in human practice is called lobar or croupous pneumonia and which is recognized as an acute *specific* form; whereas the other corresponds to the catarrhal or broncho-pneumonia of human pathologists and may result from a variety of causes.

Yours very truly,

JOHN CAVEN, *Prof. of Pathology.*

ORDER IN COUNCIL.

30th January, 1893.

The committee of the privy council have had under consideration a despatch hereto attached, dated 10th November, 1892, from the right honourable the secretary of state for the colonies, transmitting copy of a letter from the board of agriculture, stating the circumstances in which they have been compelled to remove Canada from the list of free countries under the Contagious Diseases (Animals) Acts, 1878 to 1892.

The minister of agriculture, to whom the question was referred, observes that he has considered the several statements contained in this correspondence, and he has noticed with satisfaction an expression of opinion conveyed by Lord Ripon that her majesty's government "are confident no effort will be spared by your ministers in taking such measures as may be necessary to warrant the board of agriculture in allowing the resumption of the trade at the commencement of the next season."

The minister further observes that it appears from the recital in a letter of the secretary of the board to the under secretary of state, forming part of this reference:

That one of the veterinary inspectors of the board for the county of Fife found an animal on the 17th of October last which was ascertained to have been one of a

cargo of Canadian cattle landed at Dundee on the 29th of September from the steamship "Monkseaton," from Montreal, and which he suspected was affected with pleuro-pneumonia—a suspicion which, the letter states, was confirmed on a post-mortem examination of the animal. That the cattle from the "Monkseaton" were kept at the place of landing until the 6th of October, when they were sold by auction with another cargo landed the day previous from the "Huronian," also from Montreal. These cattle, therefore, it was inferred by the board, could not have come in contact with any home-bred stock earlier than the date of the auction sale.

That the animal found to be diseased from the "Monkseaton" was purchased at the same time with six other cattle which formed part of the cargo of the "Huronian." It was found to be ill on the 7th of October. The district veterinary inspector was informed of the fact on the 8th, and on the 9th the animal was examined by him. He examined her again on the 10th, also on the 11th, when he communicated his suspicions to the board. That on the 23rd of October, the lungs of a home-bred animal slaughtered on that day, it is alleged, "were found to present appearances identical with those observed in the first or test animal, from the "Monkseaton," but indicating disease of quite recent origin.

"That it was ascertained, as held by the board, this home-bred animal had been at Parkhill farm since 1890, and on the night of 6th October, seventeen days previous to its slaughter, it had been associated in the same shed with the diseased Canadian cow from the "Monkseaton," which was removed to Linderes' farm on the 7th. No case (the letter of the secretary of the board states) of disease had been reported in these two farms prior to the arrival of the Canadian cattle, and the appearances were entirely compatible with the contraction of disease by contact with the diseased Canadian beast."

That on 21st October, it is stated, a suspicious case was reported from Colliston, Forfarshire, and on the following day another from Leckiebank, in Fifeshire. Both animals were slaughtered, and both declared by professional officers of the board to have been affected by pleuro-pneumonia. Both, it is alleged, were ascertained on the 27th of October to have formed a portion of the cargo of either the "Monkseaton" or the "Huronian."

That an order was made on 26th October for the slaughter of the whole of the animals from both these steam-ships.

That at the date of the letter of the secretary of the board, 5th November, nearly 200 sets of lungs had been examined, in which some morbid appearances were present, but "no resemblance to the pleuro-pneumonia found in the others" referred to.

That on the facts above summarized the "board no longer felt satisfied as they are required to be by law, that there was reasonable security against the importation of diseased animals from Canada." And, therefore, as they were advised by the law officers, forthwith revoked article 149 (I) of the "Animals Order of 1886," in conformity with which Canadian animals had not been subject to slaughter at the port of landing.

These statements as set forth in this correspondence do not materially differ from those communicated by the high commissioner and Sir John Abbott at the time the events occurred.

They establish, to recapitulate in brief, the board found one Canadian cow from the cargo of the "Monkseaton," seven days after it was purchased at the auction after landing, was found affected with pleuro-pneumonia; that one home-bred animal which had been in contact with it, in a shed, on the day of the auction had, in seventeen days thereafter, also been found affected with the disease inferred to have been contracted from such contact; and further, that on the 21st and 22nd October two cases of cattle sickness were found to be pleuro-pneumonia, both animals affected having been traced to the cattle from the "Monkseaton" or the "Huronian": the inference from the whole being that pleuro-pneumonia must, therefore, exist in Canada.

As against the case stated in the letter of the secretary of the board of agriculture, the undersigned has the honour to report to your excellency that, immediately on information of these proceedings being conveyed by cable message, (24th October and subsequently) by the high commissioner and Sir John Abbott, the minister of

Scheduling of Canadian Cattle.

agriculture, his predecessor, caused an inquiry to be made in all the localities whence the animals which were exported by the "Monkseaton" and "Huronian" came. Each of these animals was traced to the locality whence it came by a staff of veterinary surgeons acting under the directions of Professors McEachran, dean of the faculty of comparative medicine and veterinary science of McGill university, Montreal, and Andrew Smith, of the veterinary college, Toronto, both of these gentlemen being veterinary officers of the department of agriculture.

The minister further observes that reports stating the results of the detailed investigations are annexed hereto, and submitted for the consideration of your excellency. They establish that the disease of pleuro-pneumonia was not found in any of the localities whence the cattle in question were traced to have come, and further, that it had never been known or heard of in any of them. The reports are further equally positive in their declaration of such freedom from disease in relation to the whole of the Dominion.

The minister submits that it is impossible the very destructive disease of contagious pleuro-pneumonia among cattle could exist in Canada and the fact remain unknown. He is, therefore, forced to agree in the conclusion of the veterinary officers of his department, as stated in their reports, that, if there have been no mistakes made in the identity of the animals referred to in the circumstances stated in the letter of the secretary of the board of agriculture, or in the circumstances connected with the disease of the home-bred animal, there must have been an error of diagnosis.

The minister further states that it has been found in the experience of the department that animals sent from Canada which have been exposed to hardships on the voyage and after landing, have naturally manifested some of the forms of inflammation which has been known by the name of pneumonia, a disease, however, very different from that of contagious pleuro-pneumonia.

At the time of the occurrence of the events recited, Sir John Abbott communicated to the late minister information to the effect that newspaper reports were being circulated, and which attracted much attention, even to the extent of influencing the action taken, such reports being in substance that cattle from the United States were admitted to the North-west Territories and Manitoba, without inspection.

The facts are: that in all the provinces east of Manitoba, there is an absolute prohibition to allow neat cattle from the United States to cross the frontier, except (1) pedigree stock for breeding purposes at Point Edward only, on the river St. Clair, subject to a quarantine of ninety days; and (2) except in transit, from west to east across the peninsula of Ontario, from one United States port to another, under regulations which have for 12 years prevented any contact with Canadian cattle.

Both of these exceptions to absolute prohibition were made with the full knowledge of and by agreement with the imperial veterinary authorities in 1880, and the regulations have since been strictly carried out. Any case of attempting to smuggle an animal in has been promptly dealt with.

In those parts of Canada west of the Manitoba frontier, on the plains of the North-west, the conditions have been such as to offer even less danger than that incident to any chances of smuggling. When the Canadian cattle quarantine regulations were first established in the old provinces of the Dominion (commenced in 1876 and consolidated in 1880) there was no attempt made to extend them to the North-west until the passage of the order in council of 1884, in the circumstances hereinafter recited. It was impossible to do so in the then conditions of settlement and communications of the continent.

The disease of pleuro-pneumonia had not then, nor has it since been heard of on the north-western prairies on either side of the international frontier, from Manitoba to the Rocky Mountains. But in 1884 that disease was reported to exist in the more eastern state of Illinois; and the fact of its presence was verified by the then minister of agriculture, who caused an investigation to be made by a veterinary officer of his department; the result of which was officially communicated to the imperial

government; and the restrictive order in council of September, 1884 was, in consequence, immediately passed.

That order was necessarily adapted to the then state of communications in and information concerning the vast regions in question. The frontier from Emerson to Rocky Mountains was a geographical line across unsettled prairie plains of about 1,000 miles; and respecting which very little topographical information was in possession of the department. Winnipeg was distant from Ottawa over 1,500 miles; and the ranching country at the foothills of the Rocky Mountains 1,000 miles further west; the communication then being difficult as well as at long intervals.

The order of 1884 was amended and made more restrictive in 1887, when communication had been opened across the continent by the Canadian Pacific Railway. But it was even then found impossible to apply to the North-west all the conditions of the cattle quarantine of the eastern provinces. Adaptation to the circumstances had necessarily to be considered.

A reserve of two townships along the international frontier as far as the Rocky Mountains was, in 1887, constituted quarantine grazing ground, and as such declared an infected place within the meaning of the act, and on 17th September, 1892, when more precise reports of localities were obtained, an order in council was passed, defining and establishing three well marked and naturally bounded cattle quarantine stations, in the Territories, in the place of the indefinite strip of two townships, and cattle were prohibited to enter except at those stations.

The quarantine detention of 60 days by the order in council of 1884, was increased to 90 days by the order of 1887 for neat cattle entering, and no exceptions were allowed, except in the single case of animals brought by and accompanying immigrants from contiguous territory in small numbers, the regulations having been so framed as to permit such entries. The conditions were that the animals brought must be found healthy, and that the veterinary inspector must be satisfied as to the healthiness of the locality whence they came. But all ranch cattle and all cattle brought in by dealers were subjected to 90 days of detention, and no exceptions were allowed, notwithstanding much pressure at several times to the contrary. The restriction was very largely deterrent of importation.

It is alleged without qualification in the letter of the secretary of the board of agriculture that one of the animals, and that on which the chief reliance appears to have been placed, was from the "Monkseaton" or the "Huronian." The "Monkseaton's" cargo was wholly collected from the province of Ontario. The "Huronian's" in part from Manitoba and other provinces.

These points have significance in view of the remarks contained in a published letter in the *Times*, 26th November last, from Mr. Herbert Gardner, the minister of agriculture, to Mr. John Long, M.P. for Dundee. Mr. Gardner in that letter stated that, taking into account the importation of animals both from Canada and the United States, there had been no less than ten cases of pleuro-pneumonia imported from the commencement of October to the date of his letter at the end of November, and these formed parts of seven cargoes. He, therefore, inferred, to quote the terms of his letter, "that if 'settlers' cattle have been admitted into Canadian territory from the North-western states upon inspection only, and that the quarantine regulations were inefficiently carried out, it is not surprising that animals affected with pleuro-pneumonia should have reached this country from Canadian as well as United States ports."

These remarks rest entirely on unconfirmed and erroneous newspaper reports, and convey an inference which is at variance with the facts as above recited, in relation to the Canadian cattle quarantines.

It is believed that the alleged laxity which was the ground of newspaper report to which Mr. Gardner particularly alluded had reference to the cattle brought in by Mormon settlers at a point near the frontier, at the extreme west of the plains at the foot of the Rocky Mountains. These colonists brought a large number of animals which were all duly quarantined on the established reserve near their settlement, under the particular supervision of a veterinary officer of the department. No disease was found among their cattle, nor has any been alleged to exist. This settle-

Scheduling of Canadian Cattle.

ment is, moreover, more than 2,500 miles from the parts of the province whence the animal by the "Monkseaton" was taken, and about 1,000 miles from the province whence a portion of the animals by the "Huronian" were taken, there being no possibility of contact between the animals of the settlement and those of either of the provinces named.

In respect to the limited numbers of settlers' cattle admitted into Manitoba and the Territories, principally from Minnesota and the Dakotas, the facts are the same. The cattle of Manitoba and all the Territories have been singularly free from disease, and particularly from any form of lung disease. And there is no movement whatever of animals from that province or the Territories eastward to the old provinces of the Dominion, the distance separating them being equal to that from one end of Europe to the other.

Professor McEachran, in his report annexed, points out that the cattle brought in by immigrant settlers (with the exception of special importations by rail which are always under strict quarantine control) are driven very long distances, and that no animal affected with a lung complaint could bear the hardship of such a drive. The natural conditions are, therefore, protective against the introduction of disease.

The minister submits that the facts are of a nature, to use the words in the despatch of Lord Ripon as above quoted, "to warrant the board of agriculture in allowing the resumption of the trade at the commencement of the next season."

The committee concurring in the above advise that your excellency be moved to forward a copy of this minute to the right honourable the secretary of state for the colonies, accompanied with a request that the restrictive action of the board of agriculture in November last, in relation to Canadian cattle, may be reconsidered.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,

Clerk of the Privy Council.

REPORT OF INVESTIGATIONS TO DETERMINE IF PLEURO-PNEUMONIA EXISTS IN CANADA.

MONTREAL, 28th November, 1892.

HON. JOHN CARLING, Minister of Agriculture, Ottawa.

SIR,—In consequence of the action of the veterinary department of the imperial privy council, in ordering the slaughter of the cargoes of cattle on SS. "Monkseaton" and SS. "Huronian" on suspicion of pleuro-pneumonia, and in compliance with your instructions of 25th and 28th October, I have had a most searching and thorough investigation instituted. I have now received the reports from all the veterinary surgeons employed to make a farm to farm visit of inspection in all the districts whence the cattle forming the cargoes of these steamers came, extending from Brandon in Manitoba to Stanstead in the eastern townships of Quebec.

The following named resident veterinary surgeons, acting on instructions contained in my circular letter of 29th October, visited each farm in their respective districts from which cattle had been sold to local dealers, who subsequently sold them in the Toronto cattle market to Mr. Rogers, agent for Mr. John Crowe, who owned the cargoes of the two steamers in question, viz.:—

Professor Charles McEachran, D.V.S., Faculty Comparative Medicine, McGill University, visited and carefully inspected the following farms owned by the following named persons in the county of Stanstead, province of Quebec:—

E. A. Baldwin,
E. W. Merritt,
B. F. Knight,

James Darey,
A. Lincoln.

J. H. TenEyke, V.S., of Hamilton, Ontario, visited the farms of,—

Samuel Whaley, Ancaster, Ontario.
John Scroggie, Troy, do

Daniel Burt, St. George, Ontario.
James Stovel do do

H. H. Evely, V.S., of St. Thomas, Ontario, visited the farms of,—

George Norman, Yarmouth, Ontario.		
Rich. Sanders	do	do
Thos. Parsons	do	do
Mathew Gilbert	do	do
Isaac Styles, Southwood	do	
Edward Moore	do	do
Duncan Ackenson	do	do
John Park	do	do
Brown Bros.	do	do

John Carswill, Dunwich, Ontario.		
D. Graham	do	do
Thos. Burwell	do	do
M. McIntyre	do	do
John Williams, Talbot Point, Ontario.		
Chester Henderson	do	do
Thos. Pierce, Iona, Ontario.		
Fulton Bros, Fingal	do	

J. Perdue, V.S., of Orangeville, Ontario, visited the farms of,—

William Campbell, Dufferin co., Ontario.		
Jackson Potters, Albion, Peel co.	do	
Mr. Mimick	do	do
Simpson Hamilton, Adjala, Simcoe co., Ont.		
Thos. Potter, Caledon, Peel co., Ontario.		

Wm. Wolfe, Amaranth, Dufferin co., Ont.		
John Banks, Lamel	do	do
Simon Tremble, Amaranth	do	do
Lemon Carton	do	do
Christopher Bradon	do	do

D. McArthur, V.S., of Ailsa Craig, Ontario, visited the farms of,—

Mrs. Lockwood, Melbourne, Ontario.		
Mr. Kelly, Glencoe	do	

Mr. McTaggart, Apin, Ontario.		
-------------------------------	--	--

James Armstrong, V.S., of Gorrie, Ontario, visited the farms of,—

William Saunders, Howick, Ontario.		
J. J. McLaughlin	do	do

Thos. Hendry, Howick, Ontario.		
--------------------------------	--	--

R. Mitchell, V.S., of Owen Sound, Ontario, visited the farms of,—

Wm. Spratt, jr., Gray co., Ontario.		
Wm. Scutts	do	do
Jacob Lougheed	do	do
John Lindsay	do	do

Mr. McIntyre, Gray co., Ontario.		
Wm. Ferguson	do	do
Mr. Allan, Dufferin co.	do	

E. S. Rogers, V.S., of Meaford, Ontario, visited the farms of,—

Geo. Waddle, Sydenham, Ontario.		
Robt. Meelands	do	do
Thos. Laycock	do	do
John Jack	do	do
John Moffatt	do	do
Thos. Newman	do	do
Geo. Woods, s. centre road, Sydenham, Ont.		
do n. do do do		
Michael Hogan, Sydenham, Ontario.		
John Johnston	do	do
James Lemon	do	do
Edward Carr	do	do
Chas. Emary, tp. St. Vincent	do	

Robt. McConnell, tp. St. Vincent, Ontario.		
Albert Smith	do	do
Mrs. Hawkins	do	do
W. A. Robinson	do	do
Dougald McMillan	do	do
Samuel McKinnon	do	do
Thos. Howe	do	do
Thos. Douglas	do	do
Hugh Clarke, Euphrasia, Ontario.		
John Campbell, Sydenham	do	
Nelson Laffer	do	do
Hector Sutherland	do	do
Charles McDonald	do	do

Mr. Arrel, V.S., of Dunnville, Ontario, visited the farms of,—

Jonas Bradford, Monck co., Ontario.		
James Bradford	do	do
John Bradford	do	do
Milvame Vancurran	do	do
Joseph Newman	do	do
Robert Ramsay	do	do

Robert Logan, Monck co., Ontario.		
A. Albright	do	do
Edward Evans	do	do
J. C. Phillips	do	do
Jonas Furry	do	do

Professor M. C. Baker, D.V.S., Faculty of Comparative Medicine, McGill University, Montreal, visited the farms of,—

E. O. Mara, Smith's Falls, Ontario.		
R. A. Brown	do	do

John Wood, Smith's Falls, Ontario.		
------------------------------------	--	--

W. P. McClure, V.S., of Woodstock, Ontario, visited the farms of,—

James Munro, Embro, Oxford co., Ontario.		
Councilman Munro	do	do

John Kennedy, Embro, Oxford co., Ontario.		
---	--	--

Scheduling of Canadian Cattle.

W. Cowan, V.S., of Galt, Ontario, visited the farms of,—

Wm. Hall, Washington, Ontario. J. Hallman do do John Masters do do A. Marshall do do M. Hallman, Roseville do S. Snyder do do W. A. Armstrong, Strathroy, Ontario. C. N. Baker do do	James Dalziel, Chesterfield, Ontario. Chas. Dalglish do do Wm. Murray do do John Brown do do Wm. Johnston, Galt, Ontario. A. Elliott do do T. C. Douglas do do
---	--

J. H. Wilson, V.S., of London, Ontario, visited the farms of,—

Wm. Charlton, Ilderton, Ontario. Massey & Hickley, Chatham, Ontario.	Mr. Ross, Tilbury Centre, Ontario. Mr. Connors, London do
---	--

D. H. McFadden, V.S., of Emerson, Manitoba, visited the farms of,—

Frank Hirsh, Clanwilliam, Manitoba. R. Hamilton, Newdale do Wm. Gardner, Shoal Lake do Menzies Bros. do do Mr. Harrower do do F. Millar do do	A. S. Arnold, Shoal Lake, Manitoba. Jas. Thompson, Newdale do H. McNab, Cadurcis do Wm. Smith do do Edward McGill, Harrison do
--	--

All of these veterinary surgeons have sent in reports of the special inspections they were instructed to make, copies of which I herewith append.

It is in each and all of these reports most positively asserted that no pleuro-pneumonia, contagious or non-contagious, exists in the districts inspected, nor has such a disease as contagious pleuro-pneumonia ever been known to them or the oldest or any resident of the districts.

A copy of the letter of instructions which was sent to these veterinary practitioners in each district, from which it was learned the cattle forming the cargoes of the ships above named were obtained, is subjoined. Information was obtained from the books of Mr. Crowe, at Montreal, and his agent, Mr. Rogers, at Toronto, and from the books of each dealer who sold the animals to Mr. Rogers, we obtained the names of the farmers in the several districts in which the cattle in question had been bought.

In connection with this part of the investigation I beg to report that I found the utmost alacrity on the part of the shipper, Mr. Crowe, his agent, Mr. Rogers, and the several dealers who bought animals from the farmers, to furnish all the information in their power. Each and all without hesitation placed their books and their services at our disposal.

All were surprised to hear that even a suspicion of disease should exist, and all were equally determined to help us to verify the allegation. With this object in view one of the largest and most representative meetings of cattle dealers and exporters ever held in Canada, was convened at the Bull's Head Hotel, Toronto, immediately after my arrival in that city, when the following resolution was unanimously passed:—

“Resolved, That in our opinion no contagious pleuro-pneumonia exists in Canada, and that we present at this meeting do undertake to assist the government officials in every way in our power to make the investigations, now proceeding, effective.

“G. F. FRANKLAND, *Chairman.*”

The following is a copy of the circular letter of the instructions sent to each inspector:—

TORONTO, 29th October, 1892.

DEAR SIR,—Owing to a cow, which was landed in Scotland from ss. “Monkseaton,” being suspected of pleuro-pneumonia, it is necessary to trace the animal to the farm whence she came. From information received it would appear that some of the cattle forming cargo of said steamer came from your district and were sold in Toronto market, between the 10th and 13th September, by Mr. ——— to Mr.

John Rogers, agent for Mr. John Crowe, shipper, Montreal. I am authorized to employ you to trace said animals. Please, therefore, on receipt of this letter, proceed immediately to visit every farm from which any of these cattle came, make a careful inspection of the stock, and report on each farm separately to Professor Smith at Toronto.

Wire him in advance the substance of your report.

As the circumstances demand the utmost despatch, please give this your immediate attention.

D. McEACHRAN, *Chief Inspector.*

The name of the local dealer and the station from which he shipped the animals bought, was furnished to each inspector.

To Professor Andrew Smith, who is the veterinary inspector of the department of agriculture for the province of Ontario, and who was associated with me in prosecuting the investigations, I sent the following letter.—

TORONTO, 29th October, 1892.

PROFESSOR ANDREW SMITH, &c., &c., Toronto.

DEAR SIR,—Please see that all the farms are visited from whence the cattle forming the cargoes of the "Monkseaton" and the "Huronian" came as per list of names and places furnished to you.

No time must be lost, and as soon as you can forward by mail to me, at Montreal, all telegrams and reports, telegraphing me in advance the purport thereof, so that I may in our joint names report by wire to the department, at Ottawa, for transmission to London.

I need hardly say that it is very important that this investigation should be most thorough, and the urgency of the case demands that it be carried on with the utmost despatch.

D. McEACHRAN, *Chief Inspector.*

I have no hesitation in declaring that no contagious pleuro-pneumonia, nor any other contagious bovine disease exists or has existed at any time on any of the farms from which the cattle came.

I further declare that, having been resident of Canada for nearly 30 years, actively engaged in the practice and teaching of veterinary science, being constantly in direct and indirect communication with veterinarians throughout the entire Dominion, being extensively engaged in stock-raising, coming in contact with agriculturists constantly, from ocean to ocean, in addition to the official and other reports which reach me as chief inspector and adviser of the government in matters relating to health of animals, and seeing, it may be added, the correspondence in the veterinary advice columns of agricultural papers, I am in a position to say that, if contagious pleuro-pneumonia, or any other contagious disease in cattle, existed in any herd in Canada from the Atlantic to the Pacific, I should from one or other of these various sources have had intimation of it.

I am in a position, therefore, to make the above declaration, that no such disease exists in Canada; and that during the 30 years of my residence in the country no such disease has existed except that on one occasion it was brought from Scotland to the quarantine station at Quebec, in 1886, when and where it was promptly stamped out within the limits of the quarantine inclosures, not a trace of it being allowed to pass those limits; every hoof even suspected of possible contact being slaughtered and cremated.

The efficiency of the quarantines by which imported animals are allowed to enter Canada further warrants me in asserting that pleuro-pneumonia could not, and has not entered Canada through them.

At St. John, N.B., Halifax, N.S., and Point Lévis, Que., quarantine stations are established, which secure the most perfect isolation from native stock, and where imported animals are detained ninety days, under the close daily observation of the local veterinary inspectors.

Scheduling of Canadian Cattle.

At Point Edward, near Sarnia, in Ontario, and Emerson, Manitoba, similar quarantines are maintained and the regulations most rigidly carried out.

The north-west quarantines are three in number, in which cattle in herds are admitted to extensive isolated grounds, extending from six to twelve miles north of the boundary line, where they are detained ninety days, under supervision of a veterinary inspector, assisted by the north-west mounted police and customs officers. Many of the commissioned officers of the mounted police are veterinary surgeons.

And still further west, on the Pacific coast, in British Columbia, there are two cattle quarantine stations, one at Victoria and one in the Kootenay district, below Nelson, where the veterinary inspection and the caretaking are the same.

Owing to the great distance of the quarantines from all local settlement, from twelve to twenty-five miles, with the whole space of half a continent, from one to two thousand miles from the seat of the disease of pleuro-pneumonia, in the eastern parts of the continent, and it being a well-established fact that no contagious disease of cattle has ever been known to exist in the north-west United States bordering on the Canadian frontier, viz.: Minnesota, the Dakotas, Montana or Washington, whence all the animals imported across the frontier to the Canadian North-west come, it will be seen how improbable it is that pleuro-pneumonia could enter by these quarantines. Besides, such cattle have to be driven from three to four hundred miles over the prairies, across rivers and over foothills, and it is a fact that no animal suffering from pleuro-pneumonia, in any form, could stand for any length of time the rough usage of the drive.

The same remarks apply to settlers' cattle, which are admitted only on production of a certificate of health and of freedom from disease of the locality from which they came, and a careful examination by a veterinary inspector at the port of entry.

To fully understand the isolation of the boundary line quarantine requires more than a study of the maps. Those only who have driven for days and days over what appears a boundless prairie, meeting only roaming Indians or mounted police patrols can understand how and why such quarantines as those mentioned can be considered absolutely safe.

Furthermore—so thoroughly are the Canadian agriculturists informed of the danger of contagious disease in cattle, and of the ruin which this has produced in other countries where it has been temporized with, it is fair to infer that were such a disease by any means to enter Canada, there would be much excitement immediately. It could not be kept secret.

In conclusion I beg to repeat that pleuro-pneumonia contagiosa does not exist in any portion of the dominion of Canada.

From the above statement of facts it is evident that an error in diagnosis, (by which probably non-contagious broncho-pneumonia has been mistaken for the contagious disease), has been made in the cases of the Canadian cattle in question from the se. "Monkseaton" and "Huronian,"

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

D. McEACHRAN, F.R.C.V.S., D.V.S.,
Dean, Faculty of Comparative Medicine and Veterinary
Science, McGill University, and Chief Inspector of
Stock for the Dominion Government.

The Marquis of Ripon to Lord Stanley of Preston.

DOWNING STREET, 10th November, 1892.

Governor General, &c., &c.

MY LORD,—With reference to my telegram of the 5th instant, I have the honour to transmit for the information of your ministers a copy of a letter from the board of agriculture stating the circumstances in which they have been compelled to remove Canada from the list of free countries under the Contagious Diseases (Animals) Acts 1878 to 1892.

As I informed you in my telegram under reference, the matter was very carefully considered by her majesty's ministers, and was subsequently referred to a com-

mittee of the cabinet which had the advantage of hearing the views of your government urged with great ability by the premier Sir John Abbott and the high commissioner Sir Charles Tupper.

They propose on behalf of Canada that in order to meet the objection to the continued introduction of live cattle from Canada, an order of the Dominion privy council should be issued temporarily prohibiting the export of cattle from the Dominion.

This proposal was referred to the law officers of the crown with a view to ascertain whether her majesty's government could legally accept this assurance consistently with the provisions of the imperial acts, and as they unfortunately advised in the negative her majesty's government had no alternative but to issue the order prescribed by law. It is with extreme regret that her majesty's government have had to take this step, and to interfere even temporarily with a traffic which has proved so beneficial to this country as well as to Canada. They are glad to think that owing to the lateness of the season the traffic would in any circumstances shortly be terminated for some months, and they are confident that no effort will be spared by your ministers in taking such measures as may be necessary to warrant the board of agriculture in allowing the resumption of the trade at the commencement of next season.

I have, &c.,
RIPON.

BOARD OF AGRICULTURE, 4 WHITEHALL PLACE,
LONDON, S.W., 5th Nov., 1892.

The Under Secretary of State, Colonial Office.

SIR,—I am directed by the board of agriculture to acquaint you that they think it will be convenient for the following statement of facts relating to the recent detection of pleuro-pneumonia in Canadian cattle imported into this country to be placed on record.

On the 11th ultimo, information was received by the board from one of the veterinary inspectors for the county of Fife that he had had under his charge an animal suspected of being affected with pleuro-pneumonia, and as is usual in such cases he was instructed to slaughter the animal and send the lungs to London. This he accordingly did, at the same time stating that a post mortem examination had confirmed his suspicion. The veterinary experts of the board examined the lungs on the 14th ultimo, and found that they showed evidence of pleuro-pneumonia, which although of recent origin could not have been contracted subsequently to the arrival of the animal in this country.

At the time the lungs were examined it was believed that the animal was home-bred, but it was ascertained on the 17th ultimo, by one of the travelling inspectors of the board, that the animal was one of a cargo which had been landed at Dundee on the 29th of September from the steam-ship "Monkseaton" from Montreal.

It appears that the cattle comprised in that cargo were kept at the place of landing until the 6th ultimo, when they were sold by auction, together with 685 which had been landed, also from Montreal, from the steam-ship "Huron" on the previous day. The cattle could not have come into contact with any home-bred stock earlier than the 6th ultimo, the date on which these two cargoes were sold.

The animal found to be diseased was purchased by a Mr. Guild who at the same time bought six other cattle that formed part of the cargo of the "Huron." These seven cattle were trucked direct from the landing place to Newburgh in the county of Fife, and were, on their arrival, driven to Mr. Guild's farm at Parkhill. On the day after their arrival the animal purchased ex the "Monkseaton" was found to be unwell, and in consequence was moved to another farm called Lindores.

On the 8th ultimo, the district veterinary inspector was informed of the illness of the animal, and when he examined her on the following day he found that she was suffering from disease of the lungs, having all the symptoms indicative of contagious pleuro-pneumonia. He examined her again on the 10th and the 11th ultimo, and on the latter day he reported the case by telegram to the board as above stated.

Scheduling of Canadian Cattle.

The board, on the day when the existence of the disease in the animal was declared by their professional officers, gave orders for 107 head of stock on the farms at Parkhill and Lindores to be slaughtered, and took steps to trace the rest of the cargoes and prohibit the further movements of both the Canadian animals and those with which they had been in contact.

On the 23rd ultimo, lungs of another animal slaughtered on that day were found by the local veterinary surgeon to present a suspicious appearance. On these lungs being sent to London for examination, which took place on the 25th ultimo, a small portion of one lung was found to present appearances identical with those observed in the first or test animal, but indicating disease of quite recent origin.

An inquiry was instituted with regard to the previous history of this second animal, and it was ascertained that it was a home-bred beast and had been on the premises at Parkhill since 1890. On the night of the 6th ultimo, or 17 days previous to its slaughter, the animal had been associated in the same shed with the diseased Canadian cow that was removed to Lindores farm on the 7th ultimo. No case of disease had been reported in these two farms prior to the arrival of the Canadian cattle, and the appearances were entirely compatible with the contraction of disease by contact with the diseased Canadian beast.

On the 21st ultimo, a suspicious case was reported from Colliston, near Arbroath, Forfarshire, and on the following day another was reported at Leckiebank, Fifeshire. These two animals were slaughtered and in each case they were declared by the professional officers of the board to have been affected with pleuro-pneumonia. Both these animals were said to have formed a portion of the cargo of either the "Monkseaton" or the "Huronian," a statement which was definitely ascertained on the 27th ultimo to have been the case.

An order for the slaughter of the whole of the remaining cattle imported in the "Monkseaton" and "Huronian" was made on the 26th ultimo, and this operation is still proceeding, arrangements having been made for an examination of the lungs by the veterinary officers of the board in every case in which the slightest ground of suspicion of disease exists.

Up to the present time, nearly 200 sets of lungs have been examined. In some cases morbid appearances which might be accounted for by exposure to cold, or imperfect ventilation, have been present, showing, however, no resemblance to pleuro-pneumonia found in the others.

In view of the circumstances, the board no longer feel satisfied, as they are required to be by law, that there is reasonable security against the importation of diseased animals from Canada, and this being the case they have been advised that they are bound by the provisions of no. 1 of the fifth schedule of the Contagious Diseases (Animals) Act, (41 and 42 Vict. cap. 74) forthwith to revoke article 149 (1) of the Animals Order of 1886, in conformity with which Canadian animals have not hitherto been subject to slaughter at the port of landing. The board have accordingly issued the orders, a copy of which I inclose, the effect of which will be to make applicable to Canadian cattle the requirements of No. 1 of the fifth schedule of the act above referred to.

It only remains for me to say that the board deeply regret that it should have become necessary for them, in pursuance of the statutory obligations devolving upon them, to withdraw a privilege which has proved to be advantageous and profitable to many persons both in Canada and the mother country, and it would be a matter of the greatest satisfaction to the board to find themselves in a position to restore that privilege, and to permit the trade in cattle between the United Kingdom and the Dominion to be carried on once again under the conditions heretofore existing.

I am, &c.,

T. H. ELLIOTT, *Secretary.*

VICTORIA CHAMBERS, 17 VICTORIA STREET, LONDON, S.W., 7th Nov., 1892.

SIR,—In my letter of the 29th ultimo, I reported all the information at that time available on the subject of the animals which arrived at Dundee by the steamers

"Monkseaton" and "Huronía," about the end of September, two of which had been discovered about a fortnight afterwards, to be infected with disease, which, in the opinion of the veterinary officers of the board of agriculture gave rise to a suspicion of pleuro-pneumonia.

I now inclose copies of the telegraphic correspondence which has passed between us since the date of that communication.

In the first place I may mention that I left for Paris on the 27th ultimo, by arrangement with the Marquis of Dufferin and Ava in connection with the proposed negotiations for improving the commercial relations between Canada and France, for which purpose I had been appointed joint plenipotentiary with his lordship.

As explained in my previous communication, however, I took the opportunity before leaving London of discussing the question of the cattle at Dundee very fully with Mr. Cope, the chief veterinary inspector at the board of agriculture, and I left London with the impression that, as in the similar case which occurred at Dundee in 1890, the matter would pass over without any disastrous consequences to the cattle trade of the Dominion. I also sent Mr. Colmer to the department of agriculture, who saw Mr. Cope, and returned to me with the same impression. After my departure my secretary visited the board of agriculture several times, and informed the authorities of the steps that were being taken to trace the animals on the two steamers in question to the places from which they came, and that you were having all the districts examined by competent authorities, in order that it might be conclusively proved to the satisfaction of the board that pleuro-pneumonia did not exist anywhere in the Dominion, and communicated the telegrams as they came from you as to the progress of the investigations, and as to the conviction of yourself and of the veterinary authorities in Canada, which was shared by me, that pleuro-pneumonia did not exist in the country. Up to the date on which my letter of the 29th was written, everything tended to show that there was no probability of any alteration being made in the regulations governing the import of Canadian cattle into this country, although an article had appeared in the *Standard* urging the board of agriculture to withdraw the privilege Canada had so long enjoyed, in view of the suspicious cases that had been under the consideration of the board of agriculture. The substance of the *Standard* article was, however, immediately cabled to you by Sir John Abbott, and in my own name, in order that the information you were gathering, to prove the non-existence of disease in Canada might be communicated to me at the earliest possible moment, in view of any contingency that might arise. Nothing further happened to give rise to any suspicion of coming difficulties, until Tuesday, November 1st, when it was ascertained that reports had been received by the board of agriculture that morning, announcing that among the animals from the "Monkseaton" and "Huronía," which had been slaughtered, by order of the board, two more cases of disease had been discovered, which, with those already brought under notice, were regarded by the veterinary officers of the board of agriculture as displaying undoubted symptoms of pleuro-pneumonia, and as confirming their suspicions that the disease really existed in Canada. On the same day an article also appeared in the *Times* urging the government to withdraw from Canada the privilege of free importation; and it became apparent also that the matter was to be taken up by the great agricultural societies in a spirit unfriendly to the Canadian trade.

The position of affairs, therefore, at once and with suddenness, assumed a very critical condition, and a telegraphic message was sent to me by Mr. Colmer informing me of what had taken place, and stating that Sir John Abbott and the minister of finance both concurred in thinking it highly important that I should return to London immediately.

In the meantime, after consultation with Sir John Abbott and Mr. Foster, Mr. Colmer saw the secretary of the board of agriculture, and also the under secretary of state for the colonies, and discussed the matter very fully with them, pointing out that no contagious cattle disease existed in Canada, and that from the very nature of pleuro-pneumonia, and as it could only be communicated by direct contact, it was impossible that the animals, which had given rise to the difficulty, could,

Scheduling of Canadian Cattle.

have contracted the disease before being shipped. And when the 1890 case at Dundee was referred to, he at once urged in proof that the disease at that time was not pleuro-pneumonia, that no case of that disease had appeared in Canada before or since that occasion. Finding, however, that the board of agriculture seemed determined to act immediately, he then devoted his energies to obtain the postponement of any decision until I could arrive from Paris, in order that I might personally make the fullest possible representations to the government.

Another reason for urging upon the board of agriculture that the decision should be delayed, was found in the fact that no definite information had, up to that time, been received from you, as to the result of the investigations you were making, and which it was most important they should have before them for consideration before taking any action that might affect disastrously an important Canadian industry. The only information we had been able to place before the board of agriculture was of a negative and not of a positive kind; and as against this the board of agriculture had of course before them the reports of their veterinary officers. I inclose copy of a letter addressed by Mr. Colmer to the under secretary of state for the colonies, urging a postponement of the decision, together with a copy of Mr. Meade's reply, from which it will be seen that the decision was delayed until the next day.

In the meantime it was reported in the Scotch papers that a portion of the lung of one of the diseased animals had been despatched by the veterinary officer of the local authority of Fifeshire to Principal Williams and Professor W. Owen Williams, of the new veterinary college, Edinburgh, for examination, and that those gentlemen, who I may say are regarded as among the highest, if not the highest veterinary authorities in Scotland, had made the following report:—

"In accordance with your request we have examined the portion of the lung brought here by Mr. Reid, veterinary surgeon of Auchtermuchty, on Friday last, and found the said lung to be diseased and comprising all the signs found in what is known as bronchial pneumonia, called by American writers "corn stalk" disease; a disease which has been found by ourselves in 1879, and by Monsieur Nocard, in Paris, 1890-91, and proved by independent experiments conducted by M. Nocard to be a non-contagious lung disease." A message was, therefore, despatched at once to Principal Williams, asking him to let me have a full report of his examination of the lung of the Canadian cow sent to him, and pointing out the differences in the post-mortem indications of bronchial-pneumonia which he described the disease to be, and contagious pleuro-pneumonia.

The following reply was received on the night of the 1st instant from Principal Williams and Professor Owen Williams:—

"Are firmly convinced that the portion of the lung submitted to us recently was not affected with contagious pleuro-pneumonia, because there was no pneumonia, but purely bronchitis, bronchial pneumonia; and because there was no specific affection of the blood vessels which is always present and discernible in pleuro-pneumonia." Letter follows.

W. & W. OWEN WILLIAMS.

The matter was at this stage when I arrived in London on Wednesday morning, having left Paris on Tuesday evening immediately after receiving the telegram to which I have before alluded.

On my arrival, I was glad to find your message stating that Professors McEachran and Andrew Smith had jointly signed an official telegram to you as follows:—

"You can state positively that pleuro-pneumonia does not exist in Canada. Inspectors' reports from all districts prove this. Detailed reports follow by mail."

Armed with this and the other telegrams detailing the results of the investigation of the veterinary authorities who have been engaged in dealing with the matter, I immediately went to the board of agriculture, and was favoured with a long interview by the president, Mr. Herbert Gardner, M.P. I represented in the fullest possible manner that pleuro-pneumonia did not exist in Canada, and handed

him copies of your telegrams, and pointed out that even if the animals had contracted the disease in question it must have been after they were shipped, inasmuch as it could only be communicated by direct contact; and that no other case could be found in any part of the Dominion. I also referred to the extreme difficulty of deciding between the symptoms which a post-mortem examination displayed in the case of pleuro-pneumonia, and some other non-contagious diseases affecting the lungs, dwelling especially upon the fact that the passage across the Atlantic in the hold of a steamer was calculated to aggravate and to intensify the symptoms which would be apparent in a non-contagious disease, such as common or even chronic pneumonia. I took the opportunity of reading to him Principal Williams' telegram.

Mr. Gardner, while admitting the force of my arguments, said that the act of parliament dealing with the matter left him no option but to schedule Canada, having regard to the information that was before him, and he mentioned the cases which occurred in September, 1890, in cattle landed at Dundee from Canada in the ss. "City of Lincoln," and which he said the records of the department show to have been an undoubted case of contagious pleuro-pneumonia. I at once asked him how it was, if the department had no discretion in the matter, that Canada was not scheduled in 1890; and argued that if the board of agriculture at that time were able to exercise discretion, surely the same power existed at the present time. I further stated that subsequent events had quite justified the opinion I expressed in 1890, that the animals which were slaughtered could not have been suffering from pleuro-pneumonia: if they had been, the disease must have shown itself in Canada in the meantime; that no case had appeared in Canada; and that in the two years that have elapsed nearly a quarter of a million of cattle had been exported from Canada to Great Britain to different ports, and although rigorously examined not a single case of disease or suspected disease had been discovered until within the last few days. In urging Mr. Gardner not to take any action that would tend to destroy an important Canadian industry, and as a reason for giving us the benefit of the doubt, I placed stress upon the fact that the St. Lawrence navigation would be closing in the course of two or three weeks, after which no cattle would be shipped to the United Kingdom until next spring; that in the circumstances no order withdrawing the privileges of free importation from Canada could come into effect for at least a fortnight, and that by refraining from taking any extreme measures at the present time, while effectually guarding the flocks and herds of Great Britain from any danger of importing disease in the interval, ample opportunity would be afforded between now and next spring of proving to the most sceptical person that pleuro-pneumonia was a disease unknown within the boundaries of the Dominion. In support of my request I mentioned that since the "Monkseaton" and "Huronion" had arrived no less than 2,000 cattle from Canada had been landed at different ports in the United Kingdom and, being found after rigorous examination to be free from disease, had been allowed to pass into the country.

After discussing the matter with Mr. Gardner in all its bearings for an hour and a half and being unable to obtain an assurance from him that he would not carry out his determination to schedule Canada, I went immediately to see the Marquis of Ripon, the secretary of state for the colonies. I went over the ground again very fully with his lordship, by whom I was received with much consideration, and who listened sympathetically to the representations I made to him. I suggested as a way out of the difficulty that had been created, that, if the board of agriculture would refrain from taking the extreme course of withdrawing the privilege now enjoyed by Canada, I would undertake on the part of the government that the export of cattle from Canada should stop for this season and that no more animals should come over, except to complete existing contracts, which would also be subjected to the stringent regulations hitherto in force. I also said that I had no doubt whatever that the government would willingly undertake to defray the expenses of any experts who might be sent to Canada, in order that, before the season opened next spring, the board of agriculture might be satisfied by the assurance of the highest authorities available that pleuro-pneumonia was a disease unknown in Canada. The

Scheduling of Canadian Cattle.

Marquis of Ripon seemed to be much impressed by these suggestions, and immediately went to see Mr. Gardner. After leaving Lord Ripon I addressed a long letter to his lordship which was delivered immediately, and I inclose a copy of it herewith. The same evening I received a communication from Mr. Meade (copy inclosed), informing me that a small committee of the cabinet was to meet on the following morning, the 3rd instant, at 11 o'clock, to deal with the question, and asking Sir John Abbott and myself to attend it in order to confirm the assurances I had offered to give the government as to stopping the trade, from the date at which under the law the prohibition could take effect, and as to defraying the expenses of experts to examine the condition of the herds of the country.

On the 3rd instant I received your further telegrams as to the investigations that were taking place, and also a detailed report from Principal Williams (copy inclosed) with reference to his examination of the lungs of the diseased animal which had been submitted to him, giving in detail his reasons for the confident opinion he expressed that the disease was not pleuro-pneumonia, but non-contagious broncho-pneumonia. Principal Williams also sent me a letter addressed to him by M. Nocard, in December, 1891, upon a similar subject as confirming the examinations which he had made in regard to the two diseases of broncho-pneumonia and contagious pleuro-pneumonia.

I went with Sir John Abbott and attended the meeting of the committee of the cabinet as arranged, and placed before the members the statement of our case as I had done previously at my interviews with Mr. Gardner and the Marquis of Ripon, and handed in copies of your telegram stating in the most positive way that Canada was free from disease, and copies of communications from Principal Williams and M. Nocard, stating in the most confident manner that the disease was not what it was alleged by the veterinary officers of the board of agriculture to be. I drew attention to the fact that the veterinary authorities of the board of agriculture said the Canadian cases of 1890 were identical with the present, and yet Mr. Chaplin, the president of the board in 1890, had yesterday declared that contagious pleuro-pneumonia had never existed in Canada; that the importation of nearly a quarter of a million cattle during the past two years, without a suspicion of disease, demonstrated that a mistake had been made by the veterinary authorities of the board of agriculture at that time, and that it was evident that the then president of the board was of that opinion from his statement that contagious pleuro-pneumonia had never existed in Canada; that as the veterinary authorities had declared the evidences of this disease to be identical in 1890 and now, it was evident that a mistake had been made then and now. I added that I hoped under those circumstances that the committee of council would not hesitate to adopt the alternative I had proposed and thus avoid inflicting an unjustifiable blow on an important branch of Canadian trade. If this disease existed in Canada no one would complain if it were scheduled, but to schedule the country, when it was known that contagious pleuro-pneumonia had never existed, and did not now exist, would destroy all confidence in the trade. I also repeated the suggestions and the assurances I had made the day before as to the complete stoppage of the traffic, if the board of agriculture desired it, and as to the visit of experts to Canada. Sir John Abbott followed me in a weighty and judicial speech in which he dealt with the matter most ably and thoroughly, and gave the most authoritative assurances that my proposals would be confirmed by the government.

After commending the matter as one of vital importance to Canada to the consideration of her majesty's government, and after thanking the cabinet for their courtesy in receiving us, Sir John Abbott and I withdrew, feeling that we had done everything that lay in our power to safeguard the interests of Canada, and to ward off the blow that had seemed to be impending.

Up to the last I was hopeful, in view of the sympathetic reception we had met with, and of the impression which Sir John Abbott and I apparently made upon the members of the cabinet, that our efforts might be successful; but, in any case, there was nothing more to be done, and I therefore left in the afternoon for Paris, with the concurrence of the premier, to continue the negotiations with the French government in connection with Canadian trade.

You will understand, after all I have stated, with what extreme regret I received letters from the board of agriculture and from the colonial office, copies of which I inclose, informing me that in view of an opinion which had been expressed by the law officers of the crown, to whom the matter had been referred, the board had decided that they had no alternative but to withdraw the privilege of free importation hitherto allowed in the case of Canadian cattle, and that the order would come into force on the 21st instant.

It is apparent from Mr. Meade's letter that the committee of council and the cabinet would have adopted our proposals if the law officers of the crown had reported that they could legally adopt that course.

Upon receipt of the unofficial letter from the board of agriculture I telegraphed to you as follows:—

"Am informed that in view of opinion expressed by law officers of crown this morning, board of agriculture have decided they have no alternative but to withdraw privilege free importation hitherto allowed Canadian cattle. Order will come into force 21st instant."

I also inclose a cutting from the *Times* giving Mr. Gardner's reply to an influential deputation which waited upon him on Friday, the 4th instant, in reference to the matter, and copies of the supplement of the *Official Gazette* of the 4th instant, withdrawing from Canada the privilege of free importation, and recounting the conditions under which, until further notice, the importation of cattle from the Dominion must be conducted.

I have only now to express my deep regret that the efforts which I made to prove to the government that there was no case against us which would warrant our being scheduled have not been of any avail, and I can only hope that the continued absence of disease in Canada during the months that will elapse between the present time and the opening of the trade in the spring will enable us, in the meantime, to induce her majesty's government to remove the restrictions which have been placed upon the Canadian cattle trade.

I am yours faithfully,
CHARLES TUPPER.

P.S.—It is only right I should add that the reports of the veterinary officers of the board of agriculture declared that the disease from which three of the Canadian cattle suffered was undoubtedly contagious pleuro-pneumonia, and that the post-mortem examination of the lungs showed that the disease must have been contracted before they left Canada.

C. T.

COPY OF FURTHER TELEGRAPHIC CORRESPONDENCE BETWEEN THE
HIGH COMMISSIONER FOR CANADA AND THE MINISTER
OF AGRICULTURE.

[Inclosure No. 1.]

No. 1.

LONDON, 29th Oct., 1892.

Standard to-day says plain duty of board agriculture to schedule Canada and subject is to be discussed by central chamber of agriculture Monday, and royal agricultural society Wednesday. Most important you should cable at once statement in plainest language that animals shipped by "Monkseaton" and "Huronian" have been traced to their place of origin and that no disease exists there. Urgent.
TUPPER.

No. 2.

OTTAWA, 29th Oct., 1892.

"Monkseaton's" animals purchased in Toronto; believe collected in Ontario. McEachran now tracing them. Same is being done respecting "Huronian's." Districts will be strictly examined. Confident no contagious pleuro.

AGRICULT.

Scheduling of Canadian Cattle.

No. 3. LONDON, 1st Nov., 1892.
Times urges scheduling. Altogether four suspected cases in "Monkseaton's" and "Huronias" cargoes. No reports of examination of districts from which cattle came yet received from you. Matter most urgent and critical.

TUPPER.

No. 4. OTTAWA, 1st Nov., 1892.
Owing holiday your message just received. Sent Abbott answer with interim report requesting him communicate you.

CARLING.

Mr. Carling to Sir J. J. C. Abbott.

No. 5. OTTAWA, 2nd Nov., 1892.
Professors McEachran and Andrew Smith jointly sign following official telegram from Toronto this evening:—"You can state positively that pleuro-pneumonia does not exist in Canada. Inspectors' reports from all districts prove this. Detailed reports follow by mail."

CARLING.

No. 6. OTTAWA, 2nd Nov., 1892.
Report mentioned in McEachran's and Smith's telegram last night received, including reports of farms visited in following named districts whence cattle came, namely:—Markdale, Meaford, Orangeville, London, Hamilton, St. Thomas, Galt, Dunnville, Woodstock, Ailsa Craig and Toronto. Districts visited by eleven qualified veterinary inspectors. Their reports uniform. No trace found of pleuro-pneumonia, confirming my cable to Abbott.

CARLING.

No. 7. OTTAWA, 3rd Nov., 1892.
Professor McEachran obtained from shippers names of every dealer from whom cattle composing cargo of "Monkseaton" and "Huronias" were bought, interviewed them and obtained names of farmers who raised and sold them. Sent eleven skilled veterinarians to visit each farm, whose reports show non-existence or slightest trace of pleuro-pneumonia. Investigations are being continued and will be most thorough.

CARLING.

No. 8. LONDON, 4th Nov., 1892.
Am informed that in view opinion expressed by law officers of crown this morning board agriculture have decided they have no alternative but withdraw privilege free importation hitherto allowed Canadian cattle. Order will come into force 21st instant.

TUPPER.

[Inclosure No. 2.]

17 VICTORIA STREET, S.W., 1st November, 1892.

DEAR MR. MEADE,—With reference to my letter of yesterday, and to our conversation this morning respecting the alleged pleuro-pneumonia among the Canadian cattle landed at Dundee a month ago, I fear from what is being stated in the papers and from a visit I made to the board of agriculture to-day, that the matter is in a somewhat critical position.

No official intimation of the suspected cases has been made to this office, but immediately the high commissioner saw it mentioned in the newspapers a week ago, he went to the board of agriculture and pointed out the fact that pleuro-pneumonia was not known to exist in Canada, and that it was a disease which can only be communicated by contact with an infected animal.

After that interview, Sir Charles Tupper telegraphed to the minister of agriculture, suggesting that all the animals by the two vessels, "Monkseaton" and "Huronias,"

should be traced to the places from which they came, and the districts examined by competent authorities, in order that the results of the investigation might be communicated to the board of agriculture. The examination has been going on ever since, but up to the present time no trace of any contagious disease has been found in Canada. Sir John Abbott, the premier, who is now on a visit to this country, received a telegram from the minister of agriculture yesterday, stating that the results of the examination were not yet all before him, but promising to cable them directly he was in a position to do so, which he hoped would be yesterday. The expected message has not yet arrived, but another cable has been sent to the minister, urging that the results of the inquiry may be telegraphed over as they come in; and we hope to receive a full telegram to-morrow. As I explained to you, since the arrival of the two ships I have already mentioned, probably nearly 2,000 cattle from Canada have arrived at different ports of the United Kingdom, and although they must have been rigorously examined, no fresh suspicious cases have happened in any of these animals.

I see by the papers, also, that some doubt has been expressed in Scotland as to whether the disease is contagious pleuro-pneumonia, and that two gentlemen, who are described in the *North British Agriculturist* as eminent veterinary authorities, have given the opinion, after an examination of the lung of an animal submitted to them, that the disease is not a contagious one, but one called bronchial-pneumonia. I make no comment upon this, but only mention it in passing.

The object of my writing to you is to ask that a decision in the matter, whatever it may be, may be postponed for a short time, in order that Sir Charles Tupper, who is expected from Paris to-morrow morning, may have the opportunity of placing before the government all the information the Canadian government is able to collect on the subject. A few more days will surely not make much difference, and it will be more satisfactory to every one concerned. In this connection you will remember what I said before, that the matter was only brought to the notice of the high commissioner through the papers, on 24th October. It is one of such serious import to the agricultural industry of Canada, that I venture to commend the request for a postponement of any decision to the earnest consideration of the secretary of state.

I am, &c.,

J. G. COLMER.

[Inclosure No. 3.]

8 HEREFORD GARDENS, PARK LANE, WEST W., 1st Nov., 1892.

DEAR MR. COLMER,—I could not see Mr. Gardner till after 7 this evening and too late therefore to write to you at your office.

He would not pledge himself to postpone his measure even till Friday until he could get to his office to-morrow.

He was very sympathetic and quite understood my points on which I concentrated my efforts, viz.: that he should not act till he was in possession of the Canadian case.

I hope, moreover, he will not put out his ukase at any rate to-morrow, and he will be very glad to see Sir C. Tupper to-morrow if he returns from Paris.

If he does not, I strongly advise you and Sir J. Abbott going to see him to-morrow, whether you have your report from Canada or not.

He said that at the worst the prohibition would not take effect till 16th November, and that you would have till next May to satisfy him that there is no pleuro-pneumonia in Canada, and his words were "they will find me a sympathetic listener."

He repeated that the act left him no discretion; and I said all I wanted was a short delay, not an indefinite postponement.

Yours, &c.,

R. H. MEADE.

I am following up my conversation with him by a letter to-night, insisting on this last point.

Scheduling of Canadian Cattle.

[Inclosure No. 4.]

17 VICTORIA STREET, S.W., 2nd Nov., 1892.

The Right Honourable the Marquis of Ripon.

MY LORD,—In continuation of the interview with which your lordship favoured me this morning in regard to the question as to whether Canada shall be scheduled, I venture to offer a few suggestions upon this matter so vitally important to Canada. The great importance of the cattle trade between Canada and this country both on the part of the vendors and purchasers is abundantly shown by the large and rapid increase that has taken place within the past few years. I am fully alive to the necessity of preventing the importation of cattle suffering from pleuro-pneumonia into this country, but I view with great dismay the threatened proposal to deprive Canada of the advantages which complete immunity from this disease has given her down to the present time.

I can readily understand the difficulty that sometimes presents itself in deciding a case of pleuro-pneumonia, as the pathological symptoms of that disease have frequently been confounded with other diseases of a non-contagious character. In support of this opinion I may be permitted to quote a telegram I have to-day received from the highest veterinary authorities in Scotland, Principal Williams and Professor Owen Williams, of the new veterinary college, Edinburgh:—

“Are firmly convinced that the portion of lung submitted to us recently, was not affected with contagious pleuro-pneumonia, because there was no pneumonia but purely bronchitis and broncho-pneumonia, and because there was no specific affection of the blood vessels which is always present and discernible in pleuro-pneumonia.”

I hope to offer conclusive evidence that pleuro-pneumonia does not exist, and never has existed, in Canada. The difficulty of deciding as to what constitutes pleuro-pneumonia also attaches to the question of the period during which the disease may have existed in any special case. I am greatly startled to learn that it has been decided that in three or four cases from the two cargoes of cattle imported from Canada about a month ago, this disease has been supposed to exist. Assuming that these animals undoubtedly suffered from pleuro-pneumonia, the fact that it has never existed in the Dominion is *prima facie* evidence that it must have been contracted after the cattle left the country.

Although the records of the department of agriculture show that the cattle by the “City of Lincoln,” in September, 1890, were decided to be infected with pleuro-pneumonia, Canada was not scheduled, and out of over 200,000 cattle imported since that date, not a single case of disease has been discovered. This fact seems conclusively to show that if the animals were suffering from pleuro-pneumonia, it must have been contracted after the cattle left Canada. Had the disease been brought from the Dominion, from the extremely contagious nature of it, it seems simply incredible that during the past two years not a single case should have been found to exist there.

Since the arrival of the suspected cases, nearly 2,000 cattle have come into the country from Canada at different ports of the United Kingdom, and being pronounced free from disease, have been allowed to go to any part of the country. Before the proposed restrictions can be imposed under the law, practically all the cattle that are coming over from Canada this season will have been admitted. While, therefore, no additional security will be given to the prevention of disease in this country (as no cattle are sent across the Atlantic during the winter season) the consequences to Canada of withdrawing the privileges she has so long enjoyed will be of the most disastrous character.

Immediately upon learning of these suspected cases, I telegraphed the minister of agriculture requesting him to trace the source of origin of every animal on board the two steamers, and to make a most exhaustive examination as to the possibility of the existence of pleuro-pneumonia in any part of Canada. I have received to-day the following reply:—

"Professors McEachran and Andrew Smith jointly sign following official telegram from Toronto this evening:—

"You can state positively that pleuro-pneumonia does not exist in Canada. Inspectors' reports from all districts prove this. Detailed reports follow by mail."

Professor McEachran, who is the chief veterinary officer of the government, is well known to the department of agriculture here as an eminent authority on matters of this kind, and Professor Andrew Smith is also an expert of high reputation. Under these circumstances I sincerely hope that her majesty's government will not schedule Canada.

Your lordship can readily conceive the intense excitement that will be caused throughout the Dominion if the privilege so long enjoyed is withdrawn, and if a trade so important is thus shown to be liable at any moment to be ruined, notwithstanding that the country has complete immunity from the disease. There is no one in Canada who would not cheerfully submit to any measure demanded for the due protection of this country against disease, but if taken in opposition to the mass of accumulated evidence that no such disease exists in Canada, widespread dissatisfaction must be caused by the adoption of such severe measures, and at a period when the condition of the trade renders such a course absolutely unnecessary.

I have already said that, by the time these restrictions can be put into operation, the trade for this season will be practically at an end, and if it is necessary to prevent the country being scheduled, I will undertake that no further shipments of cattle shall be made this year, except to complete existing contracts, to which the stringent regulations now in force will apply. Some six months will thus elapse without in any case involving any danger to this country, and this will surely remove the impression from the minds of any person as to the existence of pleuro-pneumonia in Canada.

The Canadian government will readily discharge the expenditure required to satisfy the board of agriculture, by sending experts from this country, of the non-existence of pleuro-pneumonia.

It is only right to say that I was favoured with a long interview this morning with the president of the board of agriculture, who, I am sure, is giving the most careful attention to this important question, and in soliciting your lordship's earnest consideration of the matter involving such serious consequences to the dominion of Canada, I beg to thank you for the opportunity afforded me this morning of discussing the subject so fully with your lordship.

I am, &c.,

CHARLES TUPPER.

[Inclosure No. 5.]

COLONIAL OFFICE, 1st November, 1892.

MY DEAR SIR CHARLES,—There is to be a small committee of the cabinet tomorrow at the admiralty, at 11, about this cattle question. I am to ask you to be good enough to attend there, and to bring Sir John Abbott with you. It is very desirable he should be present to give assurances as to your suggestion that you would stop the trade.

I shall be here at 10.45, and if you like to call here on your way I would accompany you.

The meeting will be held at Lord Spencer's room at the admiralty.

Yours, &c.,

R. H. MEADE.

P.S.—I leave you to communicate with Sir J. Abbott. I have told the messenger to wait in case you desire to send a note to him.

[Inclosure No. 6.]

NEW VETERINARY COLLEGE, EDINBURGH, 2nd Nov., 1892.

SIR CHARLES TUPPER, High Commissioner for the Dominion of Canada.

SIR,—In addition to my telegram sent last night I have to state that broncho-pneumonia is a disease which I have met with in America and more rarely in Cana-

Scheduling of Canadian Cattle.

dian cattle newly landed in this country since 1879, specimens of which are still in my possession. I have also a specimen of the same disease sent to me by Dr. Billinger, pathologist of the state pathological laboratory, London, Nebraska, U.S.A., on the 16th March last, identical with the Deptford lung examined by me in April, 1891, and another in January, 1892, and with the lung of the animal slaughtered in Fife during last month, stated by Professor Brown and others to be pleuro-pneumonia contagiosa. I submitted a portion of the 1891 lung to M. Nocard, the professor of pathology at the Alfort veterinary college, Paris, whose letter I now inclose, which please return after perusal. I also inclose you some proof sheets of my work on veterinary medicine which I am now again preparing for the press.

I may state that the great characteristic differences between pleuro and the so-called corn stalk disease or broncho-pneumonia, are:—

In pleuro-pneumonia contagiosa: plugging of the air cells, smaller bronchi, and the blood vessels of the part with coagula of fibrine and blood, the disease commencing at the circumference of the lobules.

Whereas in broncho-pneumonia, it commences in the mucous membrane of the bronchial tubes and air sacs, the disease commencing in the centre of the lobules and extending from there to its circumference. The tubes of the inflamed lobules very often become occluded, and owing to the non-admission of air, collapse. These collapsed lobules assume a red and fleshy appearance, and finally are converted into fibrous tissue which has a consolidated appearance, much resembling that of pleuro. The unincised lobules, having to perform extra work, often become dilated—emphysematous—and have a paler appearance than natural; the contrast between these and the collapsed lobules give the lung a more or less marbled appearance, which, to those who have not deeply investigated the matter, seem identical with the appearance of pleuro.

I may state that if you further consult the book on pathology and morbid anatomy by Dr. Henry Green, you will find the difference between croupous and broncho-pneumonia very well described, and to some extent they correspond to pleuro and cornstalk disease.

I have, &c.,

W. WILLIAMS, F.R.S.E.

(Translation.)

MINISTRY OF AGRICULTURE, VETERINARY SCHOOL,
ALFORT, 2nd Dec., 1892.

MY DEAR COLLEAGUE,—You will excuse me for my delay in answering you; but I was unwilling to confine myself to an examination of the sections you sent me. I wanted also to make a thorough examination of the lung fragment you gave me, and I made it comparatively with pieces I had myself secured at the opening of this year, or the close of 1890, from American cattle, whose history I furnished to the central veterinary society, in the month of July last, under the heading “Infectious Broncho-pneumonia.”

I made a large number of sections of your lesion and of my own and treated them by the same methods of colouration, which I varied as much as I could; I have examined them most carefully, and I now feel warranted in concluding:—

1. That the lesion you submitted to me is certainly not of a peri-pneumonic nature;

2. That it is a bacterian broncho-pneumonia, which in all probability, is of the same nature as that previously described by me.

On the latter point I cannot be as positive as on the former. Notwithstanding that the distribution is markedly analogous, that the microbes are of like form and dimensions, and that they react alike under the several methods of colouration,—you know better than I do that we are not justified, on these grounds alone, in affirming the identity of two microbes; in order to do that I should have had at my disposal a culture of your bacteria; by examining it, comparatively, with my own, with reference as well to its comportment under the several culture media, as to its pathogenetic action on the various animals, I should, doubtless, have been enabled to affirm or deny that they are but one and the same organism.

Nevertheless, I repeat, it seems to me probable that you and I have been dealing with one and the same disease.

Accept, my dear colleague,
The assurance of my highest esteem,
E. NOCARD.

[Inclosure No. 7.]

BOARD OF AGRICULTURE, 4 WHITEHALL PLACE, S.W., 4th November, 1892.

DEAR SIR CHARLES TUPPER,—I much regret to say that in view of the opinion which has been expressed by the law officers of the crown this morning, the board have decided that they have no alternative but to withdraw the privilege of free importation hitherto allowed in the case of Canadian cattle. The order will come into force on the 21st instant.

I write this in pursuance of my personal promise to acquaint you with the decision at the earliest possible moment, but we shall, of course, address an official communication to you on the subject.

Yours very faithfully,
T. H. ELLIOTT.

[Inclosure No. 8.]

COLONIAL OFFICE, S.W., 4th November, 1892.

MY DEAR SIR CHARLES,—Lord Ripon desires me to write and tell you the decision of the cabinet on the matter in dispute between you and the board of agriculture.

As you know, he and his colleagues have given the very closest attention to the matter, and I think you will admit that they had every desire to meet the wishes of Canada, which were so ably expressed by yourself and Sir John Abbott.

After you left, it was decided to take the law officers' opinion on the question whether, if the board of agriculture were satisfied with the assurances of your government that no more cattle would be allowed to leave Canada this season, they would be relieved of the necessity imposed by the act of scheduling Canada.

I am sorry to say that the attorney-general and solicitor-general have this morning replied that however trustworthy the assurances offered by Canada, and though her majesty's government may be satisfied, as no doubt they are, of the ability of Canada to carry out such an engagement, the acceptance of the compromise suggested would not be consistent with the provisions of the act, which leave no option to them.

I am afraid you will be greatly disappointed, especially in view of your conviction that the diagnosis was erroneous, but the board would not go behind the opinion of their own experts.

Believe me, &c.,
R. H. MEADE.

[Inclosure No. 9.]

(Times.)

IMPORTATION OF CANADIAN CATTLE.

An influential deputation waited yesterday on the minister of agriculture at 3, St. James's square, to advocate the prohibition of the importation of live Canadian cattle. The deputation was introduced by the Duke of Westminster, as president of the royal agricultural society, and included Sir John Swinburne, Mr. Clare Sewell Read, Sir J. H. Thorold, Mr. S. P. Foster, Mr. Walter Gilbey, and other gentlemen. Prince Christian, Mr. Chaplin, M.P., and others wrote letters of regret at inability to attend.

The Duke of Westminster said he approached Mr. Gardner to represent the views not only of the royal agricultural society, of which he was this year president, but also of the central and associated chambers of agriculture and the shorthorn society. There had been an outbreak of contagious pleuro-pneumonia shortly after

Scheduling of Canadian Cattle.

the arrival of Canadian cattle at Dundee. Inspection was quite useless. The disease might be latent in the bodies of these animals long before any signs could be detected. The outward symptoms were rapidly seized upon; but, in consideration of the vast number of cattle imported, they could all see the impossibility of adequate inspection. The only exception to the rules required by the Contagious Diseases (Animals) Act, 1878, was in favour of countries as to which the board was satisfied of exemption from disease. But animals had been slaughtered at Dundee, and also other animals which had come in contact with them were sentenced to the same fate. He hoped the president would rescind the special regulation under which Canadian cattle were allowed to enter this country. They could not be too grateful for the action of the board of agriculture in the past, and they hoped there would be no breach in the continuity of its policy. The conduct of the board was in striking contrast with the laxity which prevailed some 25 years ago, when cattle disease broke out so violently. (Hear, hear.)

Sir John Thorold representing the veterinary committee of the royal agricultural society, said that the committee had viewed with satisfaction the action of the board in the past, and hoped the board would continue the policy which had been so successful.

Mr. Clare Sewell Read, of the central chamber of agriculture, expressed his regret that the president was not a cabinet minister. He also represented the farmers' club, the Norfolk chamber of agriculture, and other bodies. He appeared as a grazier—he hoped an honest grazier. He had found it difficult to believe, from his own experience, that the disease had really broken out among Canadian cattle, but on being convinced of the fact he was constrained to ask Mr. Gardner to schedule Canada. The department had exterminated pleuro pneumonia, which had been rampant for 40 years, and he hoped swine fever would also be dealt with in an equally efficient manner. (Hear, hear.)

Sir John Swinburne, president of the Smithfield club, said that £300,000 had been spent in stamping out the disease, which the department had so effectually done, and fully endorsed all that had been said by the Duke of Westminster and Mr. Read.

Mr. S. P. Foster, of the shorthorn society, said he could point to two herds of valuable shorthorns which had had to be exterminated. Imported cattle should be in the same category. In Cumberland £8,000 had been spent in putting down the disease.

Mr. Walter Gilbey quite agreed with all that had been said by the Duke of Westminster. The tenant farmers of Essex, of whom he was one, never had their store cattle so cheap, and so there was no fear that the restrictions for which they asked would raise the price of cattle.

Mr. Gardner said that he fully recognized the importance of the deputation, not only on account of the great agricultural interests which such societies as the royal agricultural society, the central chamber of agriculture, the Smithfield club, and the shorthorn society represented, but also on account of the many eminent agriculturists among the deputation. The opinion of these societies must carry great weight, and he was sure they would all regret that circumstances should have arisen to make it necessary to consider whether restrictions should be placed upon the importation of Canadian store stock, which had proved so advantageous and profitable. The importance of this store stock was shown by the fact that, whereas the number imported in 1887 was 65,125, the number had risen in 1891 to 107,524. The value of these imports had also increased from £1,135,000 to £1,771,000. It was true that even the last-mentioned amount did not amount to 2 per cent. of the aggregate supply to this country. It was also true that the restriction asked for would not be inconsistent with the importation of fat stock for slaughter at the ports. Although, however, these imports formed but a small item in our total of stock, they formed one of the largest items of Canadian imports into this country. But our Canadian friends, even if the restriction were imposed, might send more fat stock than ever, and this course had been advocated by some of the highest authorities. On the other hand, it had been urged that the requirement of slaughter at the ports prevented the realization of so high a price as if they were admitted free.

This, however, was not a conclusive argument against the proposed restriction. The convenience of localities had to be balanced against those of the agriculturists generally of Great Britain. But the fact that half the total imports of Canadian cattle had been brought to four ports—Aberdeen, Dundee, Glasgow and Leith—was a consideration which any government would have to weigh carefully in arriving at any decision. He mentioned this with no desire to minimize the obligation of the department to prevent the importation of disease. The safety of our flocks and herds would as much engage the present board as it had any of their predecessors. (Hear, hear.) The successful action of the board was shown in respect of pleuro-pneumonia by the diminishing figures of cases of that disease. In 1887 there were 618 cases; in 1888, 513; in 1889, 474; in 1890, 295; and last year only 60. In September, 1890, there were 46 outbreaks; in September, 1891, only 11; and in the same month of this year only two. These results were startling. Even the localities which had suffered would recognize these beneficial effects of the board's action. It was, therefore, after the most painful and anxious investigation that they had come to the conclusion that the board had absolutely no alternative but to withdraw the privilege which Canada had enjoyed. (Hear, hear.) The order had already been signed. They had taken this step with the greatest regret, and he was sure the Canadian government would co-operate loyally with the board. They had no other course than to revert to slaughter at the ports. He desired to remove the impression that the board had been supine. They had been most active ever since rumours of the outbreak reached their ears. On October 17th they heard that a diseased Canadian animal had arrived. The work involved in connection with the stricken animals and those which had been brought in contact with them was most laborious; 79 owners in all parts of the country had to be communicated with. Instructions were given on the 17th, and on the following day, when the order went, 1,043 out of 1,211 cases had been traced. The travelling staff had exerted themselves admirably. On October 26th satisfactory information was laid before the board. They had to ascertain the legal obligations under which they lay. Of course, they would have been glad to keep these Canadian cattle alive. Systematic examination was made, and they were assured that pleuro-pneumonia was absolutely unknown in Canada, and that the disease was not of that character; and also that there must have been some error of identification. All these conflicting statements had to be taken into account before they felt justified to take the course upon which the board had determined. He had also to take his colleagues in the government into consultation. But whilst he was anxious to assure the deputation that there had been no unnecessary delay, he also could not but express regret that regard for our agricultural interests had made it essential that the order should go in discharge of the duty which the board had to fulfil. (Hear, hear.)

The Duke of Westminster, in thanking the minister very cordially for the course which he had adopted, mentioned that the value of stock imported from the United States, notwithstanding the restrictions in force, was last year £314,838.

A supplement to last night's *London Gazette* contains an order by the board of agriculture revoking the Animals (Amendment) Order of 1892, No. 8, and giving the following new provisions:—

“ Cattle from Canada.

“ 2. Notwithstanding anything in the animals order of 1886, unless and until the board of agriculture otherwise order chapter 32 (foreign animals not subject to slaughter or quarantine) of the said order, shall not apply to cattle brought from her majesty's possessions in North America, and such cattle shall be subject to the provisions of part I. (slaughter at port of landing) of the fifth schedule to the Contagious Diseases (Animals) Act, 1878, and to the provisions of chapter 30 (foreign animals subject to slaughter) of the said animals order of 1886.

“ Amendment of Article 151 of the Animals Order of 1886.

“ 3. The following provisions of this article shall be read in the place of article 151 of the animals order of 1886, and shall be deemed to be article 151 of that order—namely:—

Scheduling of Canadian Cattle.

“Conditions of Landing.

“151.—(1) The landing of foreign animals at a landing-place for foreign animals under the provisions of this chapter is subject to the following conditions:—

“First. That the vessel in which they are imported has not, within 28 days before taking them on board, had on board any animal exported or carried coastwise from a port or place in any country other than her majesty’s possessions in North America (provision as to which country is made by the second condition of this article), or Iceland or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the third condition of this article), or the Isle of Man.

“Second. That in the case of the landing of cattle, the vessel in which they are imported has not, within 28 days before taking them on board, had on board any cattle exported or carried coastwise from a port or place in her majesty’s possessions in North America.

“Third. That in the case of the landing of cattle or swine, the vessel in which they are imported has not, within 21 days before taking them on board, had on board any cattle or swine exported or carried coastwise from a port or place in the United States of America.

“Fourth. That the vessel in which they are imported has not, within 21 days before taking them on board or at any time since taking on board the animals imported, entered any port or place in any country other than her majesty’s possessions in North America, or Iceland, or New Zealand, or the Channel Islands, or the United States of America, or the Isle of Man.

“Fifth. That the animals imported have not, while on board the vessel, been in contact with any animal exported or carried coastwise from any port or place in any country other than her majesty’s possessions in North America (provision as to which country is made by the sixth condition of this article), or Iceland, or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the seventh condition of this article), or the Isle of Man.

“Sixth. That none of the cattle imported have, while on board the vessel, been in contact with any cattle exported or carried coastwise from any port or place in her majesty’s possessions in North America.

“Seventh. That none of the cattle or swine imported have, while on board the vessel, been in contact with any cattle or swine exported or carried coastwise from any port or place in the United States of America.

“(2) And the animals imported shall not be landed at a landing-place for foreign animals unless and until—

“(a) The owner or charterer of the vessel in which they are imported, or his agent in England, or Wales, or Scotland, has entered into a bond to her majesty the Queen, in a sum not exceeding £1,000, with or without a surety or sureties, to the satisfaction of the commissioners of customs, conditioned for the observance of the foregoing conditions; and

“(b) The master of the vessel has on each occasion of importation of foreign animals therein satisfied the commissioners of customs, or their proper officer, by declaration made and signed, or otherwise, that all the animals then imported therein are properly imported according to the provisions of this article.

“The order will take effect from 21st November.”

[Inclosure No. 10.]

(*Edinburgh Scotsman*, 5th November, 1892.)

The urgent representations of the great bodies of English agriculturists have prevailed at the board of agriculture, and Canada is to be deprived of the privilege she has up till now enjoyed of free trade with this country in live cattle. Mr. Herbert Gardner has, at any rate, waited to hear both sides before coming to this decision. The Canadian authorities have, I believe, been most diligent in their efforts to rebut the suspicion cast upon the Dominion cattle. Sir Charles Tupper was absent in Paris at the beginning of the week on important business, but when

he learned how matters were going in Scotland, he returned from France on Tuesday in order personally to represent the interests of Canada at Whitehall. Mr. Herbert Gardner was, I believe, put in full possession of all the arguments and facts from the Canadian point of view, and until the last moment Sir Charles Tupper was, it is understood, hopeful that the extreme step would not be taken. The pressure on the other side was, however, very great. The cry for prohibition spread quickly among the English farmers, and every means was taken to impress on Mr. Herbert Gardner that nothing could be more unfortunate for the government than that they should show themselves less zealous in protecting English cattle than Mr. Chaplin was. The position was so difficult that it was treated not simply as a departmental, but as a government question. Mr. Gladstone was ill-advised enough to leave the minister for agriculture out of the cabinet, and the inconvenience of the arrangement he made has now been illustrated on the very first occasion when an important question has come before the department. Mr. Herbert Gardner had to apply to the cabinet for assistance in deciding whether Canada was to have her privilege abrogated, but he had to do so as an outsider, whose means of communication with his colleagues are hampered and restricted, and whose relations with the inner circle cannot but be of a remote kind.

CANADIAN CATTLE AND PLEURO-PNEUMONIA.

Deputation to the Minister of Agriculture.

LONDON, Friday.

This afternoon an influential deputation, consisting of representatives of the royal agricultural society of England, the central chamber of agriculture, the shorthorn society, and the Smithfield club, waited upon Mr. Herbert Gardner, president of the board of agriculture, at the offices of the department, St. James's Square, with reference to the outbreak of pleuro-pneumonia arising out of the importation of Canadian cattle at Dundee. Mr. Gardner was accompanied by Mr. Elliot, permanent secretary of the department; Mr. Dawson, assistant secretary; Mr. Anstruther, private secretary; and Mr. Cope, chief veterinary inspector of the board. The deputation was headed by the Duke of Westminster, president of the royal agricultural society, and included Mr. Walter Gilbey, vice-president; Sir John Swinburne, president of the Smithfield club; Mr. Clare Sewell Read, Sir J. H. Thorald, Mr. S. P. Foster, Mr. W. W. Glenn, Mr. Barfoot-Saunt, Mr. J. P. Terry, and Mr. C. S. Mainwaring. Apologies for inability to attend were received from Prince Christian, Mr. Chaplin, M.P.; Mr. James Lowther, M.P., and others.

The Duke of Westminster, in introducing the deputation, said Mr. Gardner would not have been surprised that they had requested to have this interview with him, on account of the very deep and well-founded alarm that had been spread all over the country from the fact of the importation of cattle from Canada into Scotland; from the fact of their distribution over the country; and from the fact of there having been an outbreak of contagious pleuro-pneumonia which occurred not very long after the landing and inspection of these animals, he believed, at Dundee. He would like to call special attention to the fact that the inspection of the cattle on landing had proved to be utterly futile and useless. He understood it was admitted by the profession that the disease might be latent in the bodies of the animals at certain times, longer or shorter, and that probably it might be a long time before the disease was recognized. Therefore the contention that an inspection of animals at the port had been established in the case of pleuro-pneumonia, was of no avail whatever. He understood that the outward symptoms of the disease were rapidly seized upon by the inspectors at the various ports, but owing to the large number of cattle imported from America and Canada, this inspection could only be of a very superficial nature. The outward symptoms were immediately observed, but it would be impossible for an inspector, in these circumstances, to detect the latent symptoms of pleuro-pneumonia. The 5th schedule of the Contagious Diseases Act, 1878, laid down distinctly that foreign animals were to be landed at a special wharf, and not to be moved until they were slaughtered. The exception to that

Scheduling of Canadian Cattle.

otherwise universal rule was the case of a foreign country as to which the board of agriculture were satisfied that its laws relating to importation and exportation of animals were such as to afford reasonable security against the importation of diseased animals. It was very evident from the action of the board that the board was not at all satisfied that these conditions existed in the case of Canada. The board had given orders under the act of 1890 for the slaughter not only of the animals that were landed at Dundee, but also the animals that were in contact with them. The deputation therefore asked the president of the board to do that which they believed he was only ready to do for the reasons which had been set before him, namely, they asked him to put in force at once, and without an hour's delay, the powers with which he was entrusted by the act of 1878, and rescind the special regulations under which the free importation of cattle from Canada was allowed to take place into this country. With regard to the operations of the board of agriculture of late, he (the Duke) thought the country in general could not be too grateful for the zeal, the energy, and the attention given to this question by the board of agriculture. (Hear, hear.) It had saved the country from an immensity of disease. It was very remarkable how rapidly the attack of foot-and-mouth disease was stamped out early in the year, and they could not but believe that as the zeal of the board had been directed so satisfactorily in that case there would be no break in the continuity of attention on the part of the board at the present time. It formed a remarkable contrast to the laxity of former years, especially in 1866, when the cattle plague invaded the country, and, in consequence of the laxity of the then authorities, obtained such a disastrous hold on it. (Hear, hear.)

Sir J. H. Thorold said he had only to add that the committee of the royal agricultural society had viewed with great satisfaction the action of the board of agriculture in regard to pleuro-pneumonia, and they feared that unless that action was continued, the losses which farmers had suffered would be losses suffered in vain. (Hear, hear.)

Mr. Clare Sewell Read regretted that he could not address Mr. Gardner as a cabinet minister. (Hear, hear.) He ventured to say that the high and important position that Mr. Gardner held justly entitled him to that rank and dignity. (Hear, hear.) He (Mr. Read) had during the last few winters grazed over 200 Canadian stores, and he was bound to say that with one exception, in which the unfortunate animal apparently swallowed a bit of reaper-wire, the whole of them had been remarkably healthy. Furthermore, they were very well bred on the whole, and paid as well as cattle did pay in these days of distressed agriculture. He could not bring himself, in the first place, to believe in the truth of the report that contagious pleuro-pneumonia had broken out amongst a cargo of these cattle from Canada; but, from the action taken by the board of agriculture, he had not the slightest doubt that that was the case. He was, therefore, constrained to ask the board to schedule Canada in the same way as the United States was scheduled at the present moment. Though it was very much to the detriment of the winter graziers in the county of Norfolk to stop importation of these Canadian stores, at the same time they recognized what the board of agriculture had done for them in entirely exterminating pleuro-pneumonia from their midst, and they therefore thought that further precautions should be taken against the importation of diseased animals from abroad. He hoped that when the president of the board had leisure he would consider the question of the swine fever, and that at no distant date he would deal with that in the admirable way in which his predecessor had dealt with pleuro-pneumonia. (Hear, hear.)

Sir John Swinburne said this question came home to him personally as a breeder of cattle for a quarter of a century, and also in his official capacity as president of the Smithfield club. Something like £300,000 had been spent in the last two or three years in stamping out this most insidious disease, and, having regard to the difficulty of always detecting the symptoms, it was of the utmost importance that extreme steps should be taken to keep the country free of the terrible scourge.

Mr. S. P. Foster, speaking on behalf of the shorthorn society, said the breeders of shorthorns represented both in value and quantity the very large bulk of the

cattle bred in England. In Cumberland, his own county, it cost the ratepayers £8,000 to stamp out the disease two years ago. They asked that other peoples should be treated as they were, and if their cattle were to be slaughtered, they thought it was only fair that imported cattle should be put in the same category.

Mr. Walter Gilbey, speaking as an Essex tenant farmer, strongly endorsed all that had been urged by previous speakers. Store cattle, he said, were never so cheap as at the present time, and he mentioned, as an illustration, that recently Hereford cattle between one and two years old, were sold for £4 10s. a head. Therefore there was no fear that the restriction of the importation of Canadian cattle would enhance the price of meat to the people of this country.

Mr. Gardner, in reply, said—My Lord Duke and gentlemen, I need not say that I recognize to the full the importance of the deputation that has done me the honour of being present this afternoon, not only on account of the great agricultural interests which such societies as the royal agricultural society and the central chamber of agriculture, which represent, undoubtedly, the opinion of a vast number of the agriculturists of this country, and such old-established institutions as the Smithfield club and the shorthorn society—I recognize not only the importance of these societies themselves, but also the composition of the deputation which is here to-day, containing as it does so many of the eminent agriculturists of this country. The opinion of these societies must of necessity carry great weight with the country, and with any government that might happen to be in office. With regard to the present matter upon which the deputation are engaged, I am sure that every one will agree that it is a matter of deep regret that the circumstances should have arisen which should oblige us even to consider the necessity of imposing restrictions on a trade, not only of importance to our fellow-subjects across the Atlantic in Canada, but also to many on this side who have found the importation of Canadian store stock both advantageous and profitable. (Hear, hear.) How important the Canadian trade has become in many parts of the country is shown by the fact that the number of cattle imported from the Dominion has risen from 65,125 in 1887 to 107,524 in 1891, and the value of these imports has also during the same period increased from £1,135,000 to £1,771,000. It is true, of course, that even the last-mentioned figure does not amount to so much as 2 per cent. of the aggregate meat supply of this country—(hear, hear)—and it is also true that the restriction on Canada which you come here to advocate would not be inconsistent with the importation of fat stock for slaughter at the ports from that country. (Hear, hear.) But although our importation of Canadian cattle forms a small item in our total trade, these same cattle form one of the largest items in the Canadian exports to this country. Again, we must remember that as long as unhappily it may be necessary to put any restrictions on, there will be nothing to prevent our Canadian friends from feeding their stores at home, and sending more fat stock than ever to this country, a course which I may remind the deputation has been lately advocated by high authorities in Canada as the best course for Canadian farmers themselves to adopt in their own interest. Yet, on the other hand, it has been urged—I am bound to say that it is impossible for us to deny—that the requirement of slaughter at the port often prevents so good a price being obtained for the animals as would otherwise be the case if they were let in free. Then there is another fact which we have to consider, and that is the loss arising to importers and graziers in this country from any restriction on Canadian trade which we might have to put on, and we must remember that this loss would not be equally distributed throughout the country. At the same time I cannot say that that fact affords conclusive argument against the imposition of the restriction which you advocate, because much of the work devolving on the board of agriculture under the Contagious Diseases (Animals) Act, consists of the balancing of individual and local disadvantages against the interests of the agriculturists of Great Britain as a whole. (Hear, hear.) At the same time, the fact that half of the total import of Canadian cattle in 1891 was brought into four Scottish ports—Aberdeen, Dundee, Glasgow, and Leith—is a consideration which the government is bound to weigh carefully in arriving at a decision in the matter. I mention this point without the slightest intention of minimizing the obligations of the board of agriculture with regard to the prevention of the intro-

Scheduling of Canadian Cattle.

duction of disease, and I am sure I need not say that the safety of our flocks and herds is as dear to the present board as to their predecessors, and we shall spare no pains to give the stock owners of this country as full a measure of security as it is in our power to give them. It is almost unnecessary for me to remind you, gentlemen, who are so interested and well versed in agricultural matters at present, of the admirable effects which have been alluded to by the Duke of Westminster, and which have resulted to this country in the stamping out of diseases, and consequently the saving of money from the working of the Contagious Diseases (Animals) Acts. I have referred on a previous occasion to what has been done in regard to foot-and-mouth disease in this country, and perhaps a few figures with regard to pleuropneumonia may be acceptable to the deputation. In 1887 there were 618 outbreaks, in 1888, 513; in 1889, 474; from the 1st September, 1890, to the 1st September, 1891, 295—you will see, gentlemen, the gradual diminution of the figures—and last year, from 1st September, 1891, to 1st September, 1892, there were only 60 outbreaks, and whereas in the month of September, 1890, there were 46 outbreaks, in the month of September, 1891, there were only 11, and I am happy to say that in the month of September, 1892, there were only 2 outbreaks. I think these results are startling. (Hear, hear.) The success of our efforts to protect the flocks and herds must be admitted as striking and most satisfactory. Every one, I am quite certain—even the localities who may be temporarily suffering from the restrictions put upon them—would regret that the sacrifices which we have made to obtain this almost absolute freedom from disease should be thrown away by reason of importation from abroad. And therefore it is, gentlemen, that, after the most elaborate—I may say, personally, the most anxious investigation of the facts—after a most lengthened and patient consideration of the matter in all its bearings, we have come to the conclusion that these facts are inconsistent with the reasonable security contemplated by the law, and that we absolutely have no alternative but to withdraw the privilege of the free importation which Canada has enjoyed in the past—(hear, hear)—and I may say that an order to that effect is already signed. We do this with the deepest regret that the necessity for it should have arisen—(hear, hear)—and we trust that the efforts of the Canadian government, which we know to be a most patriotic and efficiently administered government, will enable us to allow our trade with the colony to be continued once again under conditions which so many of our countrymen on both sides of the Atlantic have found most advantageous. But at the present time, and under the present circumstances, our duty is clear, and I regret to say no other course can be found open to us under the law than to revert to the condition of slaughter at ports. (Hear, hear.) I should like to refer for a few moments to certain criticisms which have been brought forward from certain quarters, that the board of agriculture, in regard to this Canadian outbreak, has been supine, and ought to have withdrawn the privilege enjoyed by Canada long ago. In the first place, I hope it is not necessary for me to assure the deputation that this matter has been constantly and anxiously engaging the thoughts and energies of the board and its principal officers. As soon as the first rumours on the subject reached our ears—on the very day—the 17th ultimo—when we definitely ascertained that the diseased animal was of Canadian origin, we took the necessary steps to trace the 1,211 head of cattle which had arrived, and to place these animals and the animals brought into contact with them under restriction. I need hardly point out that the work which this involved was of the most laborious character. The instruction was first given on the 17th. On the following day—the 18th—79 different owners, scattered all over Scotland and the north of England, were served with notices. In other words, 1,143 out of the 1,211 Canadian stock were traced on the very day after the order was given. I think you will admit that that was quick and excellent work—(hear, hear)—and it is, indeed, pleasant for me to bear testimony to the admirable manner in which the work was carried out by the travelling staff of the department. I am further most glad to see from the local newspapers in Scotland that they also confirm to the full my acknowledgment, and bear testimony to the tact and discretion with which these gentlemen carried out their difficult duties. On the 26th October the information before us satisfied us that, whatever might be our obligations under the law, we

were bound, in fairness to those whose cattle were kept under restrictions, to relieve them from the inconvenience and loss under which they were suffering; and accordingly I gave orders for the slaughter of the whole of the Canadian cattle. From more than one point of view we should have been very glad to have kept these Canadian cattle alive a little longer, but we could have done so only at the expense of the owners; and, as far as regards detection of the disease, we made arrangements for a systematic examination of the lungs of the animals. In the meantime, the most varied representations reached us from all quarters. We were assured by some correspondents that pleuro-pneumonia was absolutely unknown in Canada, and the law in the Dominion made the introduction of disease absolutely impossible, that if any disease had been found in the animals sent from Canada, it must have been brought on by exposure during the voyage; while other correspondents said that the disease is not pleuro-pneumonia at all, that there must be some error of identification with regard to the animals, and that if the animals really had pleuro-pneumonia it had been contracted in this country. With all these conflicting opinions before us, we felt it our bounden duty to examine thoroughly and exhaustively all the evidence brought before us in justice to ourselves and in justice to the great and important interests concerned on both sides of the Atlantic. It was obviously impossible for the board to withdraw the privilege which Canada had enjoyed for so many years without complete and exhaustive investigation of the question on both sides, and I felt it my duty to take my colleagues in the government into consultation, and also to ascertain on the highest authority our legal position with regard to the Contagious Diseases (Animals) Act. Whilst I am anxious to assure the deputation that there was no undue and no unnecessary delay in this matter, I am also anxious to assure those whose interests are affected by the restrictions to be put upon them that we have arrived at this decision only after the most careful and deliberate consideration that it is possible in the power of the department to make. I regret extremely the decision to which we have been forced to come, but we did feel that to provide for the security of our flocks and herds in the present position of agriculture was the paramount duty we had to fulfil. (Hear, hear.)

The Duke of Westminster thanked the president of the board for his reply, which he said would be received with great satisfaction throughout the country.

VIEWS OF CANADIAN OFFICIALS.

(*Reuter's Telegram.*)

OTTAWA, November 4.—The opinion is generally held here that the action of the imperial government in deciding to schedule Canadian cattle is based upon an incorrect diagnosis of the disease from which some of the animals were found to be suffering, and that it is, therefore, unjust to the Dominion.

THE ANIMALS (AMENDMENT) ORDER OF 1892.

A notification by the board of agriculture appears in a supplement to the last night's *London Gazette*, revoking as from the 21st inst. the "Animals (Amendment) Order of 1892, No. 8," and promulgating a new Order (No. 9) to take its place, in which there is the following provision relating to cattle from Canada:—"Notwithstanding anything in the Animals Order of 1886, unless and until the board of agriculture otherwise order, chapter 32 (foreign animals not subject to slaughter or quarantine) of the said order shall not apply to cattle brought from her majesty's possessions in North America, and such cattle shall be subject to the provisions of part 1 (slaughter at port of landing) of the fifth schedule of the Contagious Diseases (Animals) Act, 1888, and to the provisions of chapter 30 (foreign animals subject to slaughter) of the said Animals Order of 1886." Article 151 of the Animals Order, 1886, dealing with the conditions of landing is now to be read as follows:—

"First.—The landing of foreign animals at a landing place for foreign animals under the provisions of this chapter is subject to the following conditions:—First, that the vessel in which they are imported has not within twenty-eight days before taking

Scheduling of Canadian Cattle.

them on board had on board any animal exported or carried coastwise from a port or place in any country other than her majesty's possessions in North America (provision as to which country is made by the second condition of this article), or Iceland, or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the third condition of this article), or the Isle of Man.

"Second. That in the case of the landing of cattle, the vessel in which they are imported has not within twenty-eight days before taking them on board had on board any cattle exported or carried coastwise from a port or place in her majesty's possessions in North America.

"Third. That in the case of the landing of cattle or swine the vessel in which they are imported has not within twenty-one days before taking them on board had on board any cattle or swine exported or carried coastwise from a port or place in the United States of America.

"Fourth. That the vessel in which they are imported has not within twenty-one days before taking them on board, or at any time since taking on board the animals imported entered any port or place in any country other than her majesty's possessions in North America, or Iceland, or New Zealand, or the Channel Islands, or the United States of America, or the Isle of Man.

"Fifth. That the animals imported have not, while on board the vessel, been in contact with any animal exported or carried coastwise from any port or place in any country other than her majesty's possessions in North America (provision as to which country is made by the sixth condition of this article), or Iceland, or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the seventh condition of this article), or the Isle of Man.

"Sixth. That none of the cattle imported have, while on board the vessel, been in contact with any cattle exported or carried coastwise from any port or place in her majesty's possessions in North America.

"Seventh. That none of the cattle or swine imported have, while on board the vessel, been in contact with any cattle or swine exported or carried coastwise from any port or place in the United States of America.

"(2.) And the animals imported shall not be landed at a landing place for foreign cattle, unless and until—

"(a) The owner or charterer of the vessel in which they are imported, or his agent in England, or Wales, or Scotland, has entered into a bond to her majesty the Queen in a sum not exceeding one thousand pounds, with or without a surety or sureties, to the satisfaction of the commissioners of customs, conditional for the observance of the foregoing conditions; and

"(b) The master of the vessel has on each occasion of importation of foreign animals therein satisfied the commissioners of customs, or their proper officer, by declaration made and signed, or otherwise that all the animals then imported therein are properly imported according to the provisions of this article."

THE PLEURO OUTBREAK.

The return published in the *Gazette* of the number of cattle slaughtered in Great Britain by order of the board of agriculture under the Contagious Diseases (Animals) (Pleuro-Pneumonia) Act, 1890, during the week ended 29th October last, gives the following information regarding the disease in Scotland:—Number of cattle slaughtered as diseased, including those which were found after slaughter to be diseased—Fife, 1; Forfar, 1. Number of cattle slaughtered as having been in contact with cattle affected, or as having been otherwise exposed to infection—Fife, 103; Forfar, 93; Perth, 10. Number of cattle slaughtered as suspected, but found free from pleuro-pneumonia—Mid-Lothian, 1.

PERTHSHIRE.—The farms of Kinnonpark, Methven (Mr. William Allan's), Baledgarno, Inchtute (Mr. Patrick Constable's), and Ardgait, Glencarse (Mr. Morgan's), were yesterday visited by the government inspectors, and at each place the stock was brought under the eye of the valuator. The lots will be slaughtered in

the course of to-day and Monday. At Kinnonpark there are 15 head of Canadian cattle, at Ardgait eight, and at Baledgarno six.

DISEASES AMONG FARM STOCK IN SCOTLAND.—The return of diseases among farm stock published in the *Gazette* shows that during the week ended the 29th ultimo, one fresh outbreak of swine fever occurred in Mid-Lothian, and one fresh outbreak of anthrax was reported from Perthshire.

CANADIAN DAIRY PRODUCE.—A Reuter's telegram from Ottawa yesterday, says:—The shipment to England of 150,000 lbs. of best cheese and 15,000 lbs. of creamery butter, the produce of different experimental dairy sections in the Dominion, will be made this week. The butter and cheese will be sold in sample lots in Liverpool, Manchester, Leeds, Birmingham and London.

[Inclosure No. 11.]

(Supplement to the *London Gazette* of Friday, 4th November, 1892.)

THE ANIMALS (AMENDMENT) ORDER OF 1892, No. 9.

BY THE BOARD OF AGRICULTURE.

The board of agriculture, by virtue and in exercise of the powers in them vested under the Board of Agriculture Act, 1889, and the Contagious Diseases (Animals) Acts, 1878 to 1892, and of every other power enabling them in this behalf, do order, and it is hereby ordered, as follows:—

Revocation.

1. The order described in the schedule to this order is hereby, from and after the commencement of this order, revoked: provided that such revocation shall not revive the part of the order revoked by or otherwise affect the past operation of the order hereby revoked or invalidate or make unlawful anything done under the said order hereby revoked before the commencement of this order, or interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty incurred under, the said order hereby revoked before the commencement of this order.

Cattle from Canada.

2. Notwithstanding anything in the animals order of 1886, unless and until the board of agriculture otherwise order, chapter 32 (foreign animals not subject to slaughter or quarantine) of the said order shall not apply to cattle brought from her majesty's possessions in North America, and such cattle shall be subject to the provisions of part 1 (slaughter at port of landing) of the fifth schedule to the Contagious Diseases (Animals) Act, 1878, and to the provisions of chapter 30 (foreign animals subject to slaughter) of the said animals order of 1886.

Amendment of Article 151 of The Animals Order of 1886.

3. The following provisions of this article shall be read in the place of article 151 of the animals order of 1886, and shall be deemed to be article 151 of that order (namely):

Conditions of Landing.

151.—(1.) The landing of foreign animals at a landing place for foreign animals under the provisions of this chapter is subject to the following conditions:—

First. That the vessel in which they are imported has not within twenty-eight days before taking them on board had on board any animal exported or carried coastwise from a port or place in any country other than her majesty's possessions in North America (provision as to which country is made by the second condition of this article), or Iceland, or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the third condition of this article), or the Isle of Man.

Second. That, in the case of the landing of cattle, the vessel in which they are imported has not within twenty-eight days before taking them on board had on board any cattle exported or carried coastwise from any port or place in her majesty's possessions in North America.

Scheduling of Canadian Cattle.

Third. That, in the case of the landing of cattle or swine, the vessel in which they are imported has not within twenty-one days before taking them on board had on board any cattle or swine exported or carried coastwise from a port or place in the United States of America.

Fourth. That the vessel in which they are imported has not within twenty-one days before taking them on board, or at any time since taking on board the animals imported, entered any port or place in any country other than her majesty's possessions in North America, or Iceland, or New Zealand, or the Channel Islands, or the United States of America, or the Isle of Man.

Fifth. That the animals imported have not, while on board the vessel, been in contact with any animal exported or carried coastwise from any port or place in any country other than her majesty's possessions in North America (provision as to which country is made by the sixth condition of this article), or Iceland, or New Zealand, or the Channel Islands, or the United States of America (provision as to which country is made by the seventh condition of this article), or the Isle of Man.

Sixth. That none of the cattle imported have while on board the vessel been in contact with any cattle exported or carried coastwise from any port or place in her majesty's possessions in North America.

Seventh. That none of the cattle or swine imported have, while on board the vessel, been in contact with any cattle or swine exported or carried coastwise from any port or place in the United States of America.

(2.) And the animals imported shall not be landed at a landing place for foreign animals, unless and until—

(a.) The owner or charterer of the vessel in which they are imported, or his agent in England, Wales or Scotland, has entered into a bond to her majesty the Queen, in a sum not exceeding one thousand pounds, with or without surety or sureties, to the satisfaction of the commissioners of customs, conditional for the observance of the foregoing conditions; and

(b.) The master of the vessel has on each occasion of importation of foreign animals therein satisfied the commissioners of customs, or their proper officer, by declaration made and signed, or otherwise, that all the animals then imported therein are properly imported according to the provisions of this article.

Interpretation.

4. In this order terms have the same meaning as in the animals order of 1886.

Short Title.

5. This order may be cited as the Animals (Amendment) Order of 1892, No. 9.

Commencement.

6. This order shall commence and take effect from and immediately after the twenty-first day of November, one thousand eight hundred and ninety-two.

In witness whereof the board of agriculture have hereunto set their official seal this fourth day of November, one thousand eight hundred and ninety-two.

T. H. ELLIOTT,

Secretary.

SCHEDULE.

Order Revoked.

No.	Date.	Short Title.
	1892.	
5017	14th September.....	The Animals (Amendment) Order of 1892, No. 8.

56 Victoria.

Sessional Papers (No. 51 to 51c.)

A. 1893

AGREEMENT

BETWEEN

CANADA AND FRANCE

IN RESPECT OF

CUSTOMS TARIFFS

SESSION 1893

(REVISED AND ENLARGED)

PRINTED BY ORDER OF PARLIAMENT



OTTAWA

PRINTED BY S. E. DAWSON, PRINTER TO THE QUEEN'S MOST
EXCELLENT MAJESTY

1893

Canada and France.

CONTENTS.

	PAGE.
(A.) Copy of Agreement.....	1
(B.) Telegrams <i>re</i> Treaty.....	3
(C.) Order in Council authorizing negotiations.....	5
(D.) Correspondence (1).....	10
(2).....	11
(3).....	13
(4).....	15
(5).....	17
(6).....	19
(7).....	22
(8).....	24
(9).....	28
(10).....	34
(11).....	37
(12).....	39
(13).....	40
(14).....	42
(15).....	45
(16).....	46
(17).....	48
(E.) Customs information.....	50
(F.) Memoranda prepared by Minister of Trade and Commerce.....	52

Canada and France.

COPIES

(51, 51A, 51B, 51c)

Of an Agreement entered into between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the French Republic, regulating the commercial relations between Canada and France in respect of Customs tariffs, and the correspondence and other papers in relation thereto.

OTTAWA, March 6th, 15th, 20th and 25th, 1893.

(A.)

AGREEMENT.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the French Republic, being alike desirous of facilitating and extending commercial relations between Canada and France have resolved to conclude an agreement to this end, and have named as their plenipotentiaries, that is to say :—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland: His Excellency the Marquess of Dufferin and Ava, a Peer of the United Kingdom, a member of the Most Honourable Privy Council, Vice-Admiral of Ulster, Warden and Keeper of the Cinque Ports, Constable of the Castle Dover, etc., Her Ambassador Extraordinary and Plenipotentiary to the Government of the French Republic, and Sir Charles Tupper, Baronet, High Commissioner for Canada in London,

The President of the French Republic: Son Excellence M. Jules Develle, Deputy and Minister for Foreign Affairs, and Son Excellence M. Siegfried, Deputy, Minister for the Department of Commerce, Industry and of the Colonies.

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

ARTICLE I.

Wines, sparkling and non-sparkling, common soaps, savons de Marseille (Castile soaps) and nuts, almonds, prunes and

Sa Majesté la reine du Royaume-Uni de la Grande-Bretagne et d'Irlande, et le Président de la République Française, également animés du désir d'améliorer et étendre les relations commerciales entre le Canada et la France, ont résolu de conclure un arrangement à cet effet, et ont nommé pour leurs plénipotentiaires respectifs :—

Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande: Son Excellence M. le Marquis de Dufferin et Ava, pair du Royaume, membre du Conseil Privé, Vice-Amiral d'Ulster, protecteur et gardien des Cinque-Ports, et connétable du Château de Douvres, etc., etc., son ambassadeur extraordinaire et plénipotentiaire près le gouvernement de la République Française, et sir Charles Tupper, baronnet, haut-commissaire du Canada à Londres,

Et le Président de la République Française: Son Excellence M. Jules Develle, député et ministre des affaires étrangères, et Son Excellence M. Siegfried, député et ministre du commerce, de l'industrie et des colonies.

Lesquels, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonné et due forme, sont convenus des articles suivants :—

ARTICLE I.

A l'entrée en Canada les vins mousseux et non-mousseux, les savons communs; savons de Marseille (*Castille Soaps*), et

plums of French origin entering Canada, shall enjoy the following advantages :—

1. Non-sparkling wines gauging 15 degrees by the centesimal alcoholmeter or less, or according to the Canadian system of testing containing 26 per cent. or less of alcohol, and all sparkling wines shall be exempted from the surtaxe or *ad valorem* duty of 30 per cent.

2. The present duty charged on common soaps, savons de Marseille (Castile soaps) shall be reduced by one-half.

3. The present duty charged on nuts, almonds, prunes and plums shall be reduced by one-third.

ARTICLE 2.

Any commercial advantage granted by Canada to any third Power, especially in tariff matters, shall be enjoyed fully by France, Algeria and the French colonies.

ARTICLE 3.

The following articles of Canadian origin imported direct from that country accompanied by certificates of origin shall receive the advantage of the minimum tariff on entering France, Algeria or the French colonies :—

- Canned meats.
- Condensed milk, pure.
- Fresh water fish, eels.
- Fish preserved in their natural form.
- Lobsters and crayfish preserved in their natural form.
- Apples and pears, fresh, dried or pressed.
- Fruits preserved, others.
- Building timber in rough or sawn.
- Wood pavement.
- Staves.
- Wood pulp (cellulose).
- Extract of chestnut and other tanning extracts.
- Common paper, machine made.
- Prepared skins, others, whole.
- Boots and shoes.
- Furniture of common wood.
- Furniture other than chairs, of solid wood, common.
- Flooring in pine or soft wood.
- Wooden sea-going ships.

It is understood that the advantage of any reduction of duty granted to any other Power on any of the articles enumerated above shall be extended fully to Canada.

les noix, amandes, prunes et pruneaux d'origine française, bénéficieront des avantages suivants :—

1° Les vins non mousseux titrant 15 degrés de l'alcoolomètre centésimal ou moins (soit, d'après l'équivalent canadien, 26 pour 100 d'alcool ou moins), et tous les vins mousseux seront affranchis de la surtaxe, ou droit *ad valorem* de 30 pour 100.

2° Le droit actuellement applicable aux savons communs, savons de Marseille, (*Castille Soaps*), sera réduit de moitié.

3° Le droit actuellement applicable aux noix, amandes, prunes et pruneaux sera réduit d'un tiers.

ARTICLE 2.

Tout avantage commercial accordé par le Canada à un Etat tiers, notamment en matière de tarifs, sera, de plein droit, étendu à la France, à l'Algérie et à ses colonies.

ARTICLE 3.

A l'entrée en France, en Algérie et dans les colonies françaises, les articles suivants originaires du Canada importés directement de ce pays et accompagnés de certificats d'origine, seront admis au bénéfice du tarif minimum :—

- Conserves de viandes en boîtes.
 - Lait concentré, pur.
 - Poissons d'eau douce, anguilles.
 - Poissons conservés au naturel.
 - Homards et langoustes conservés au naturel.
 - Pommes et poires fraîches, sèches ou tapées.
 - Fruits de table conservés, autres.
 - Bois à construire, bruts ou sciés.
 - Pavés en bois.
 - Merrains.
 - Pâte de bois (cellulose).
 - Extrait de châtaignier et autres sucres tannins.
 - Papiers communs (à la mécanique).
 - Peaux préparées, autres, entières.
 - Bottes, bottines et souliers.
 - Meubles en bois communs.
 - Meubles autres que sièges, massifs et communs.
 - Lames de parquet en sapin ou autre bois tendre.
 - Bâtiments de mer en bois.
- Il est entendu que le bénéfice de toute réduction de droit accordée à un autre Etat quelconque sur l'un des articles énumérés ci-dessus sera étendu, de plein droit, au Canada.

Canada and France.

ARTICLE 4.

The present agreement having received the sanction of the Parliament of Canada and of the French Chambers shall be ratified and the ratifications shall be exchanged at Paris as soon as possible. It shall come into operation immediately after this formality has been accomplished, and shall continue in force until the expiration of twelve months after either of the contracting parties shall have given notice of their intention of terminating the same.

It is agreed likewise that if non-sparkling wines gauging fifteen degrees at the most, or sparkling wines, become subject later on to an increase of duty in Canada, the French Government by denouncing the present agreement could terminate its operation immediately without waiting until the expiration of the twelve months' delay provided for above.

In witness whereof, the respective plenipotentiaries have signed the present agreement and affixed thereto the seals of their arms.

Done in duplicate, at Paris, this 6th day of February, 1893.

ARTICLE 4.

Le présent arrangement, après avoir été adopté par le parlement du Canada et par les Chambres françaises, sera ratifié, et les ratifications en seront échangées à Paris aussitôt que faire se pourra. Il entrera en vigueur immédiatement après l'accomplissement de cette formalité et demeurera exécutoire jusqu'à l'expiration d'un délai de douze mois après que l'une ou l'autre des parties contractantes aura notifié son intention d'en faire cesser les effets.

Il est, d'ailleurs, convenu que si les vins non-mousseux titrant au plus 15° ou les vins mousseux étaient ultérieurement l'objet d'un relèvement de droit à l'entrée au Canada, le gouvernement français pourrait, en dénonçant le présent arrangement, en faire cesser immédiatement les effets, sans attendre l'expiration du délai de douze mois prévu ci-dessus.

En foi de quoi les plenipotentiaries respectifs ont signé le présent arrangement et y ont apposé leurs cachets.

Fait à Paris, en double expédition, le 6 février 1893.

DUFFERIN AND AVA.
JULES DEVELLE.
CHARLES TUPPER.
JULES SIEGFRIED.

— — —
(B.)

TELEGRAMS *re* TREATY.

PARIS, 11th January, 1893.

To Sir JOHN THOMPSON, Ottawa.

Lord Rosebery again asked when I would be ready return to Paris. I am afraid further delay will create unfavourable impression on French Government, Lord Dufferin and Foreign Office which may seriously affect us in future negotiations if I am not promptly advised wishes of Canadian Government.

TUPPER.

OTTAWA, 12th January, 1893.

The Honourable Sir Charles Tupper, Bart., K.C.M.G.,
High Commissioner for Canada, London, Eng.

DEAR SIR CHARLES TUPPER,—Mr. M. Bowell instructed me last night to send you the following cable:—

“ *Re* French negotiations, Government cannot accept conditions involved in clauses regarding steamship subvention and reduction duty French books, but agree to most-favoured-nation treatment so far as articles named in Treaty are concerned.

They agree to other conditions in return for minimum tariff on articles named as regards France and St. Pierre Miquelon. This subject to your views as to effect on proposed Spanish negotiations."

"BOWELL."

Which I now confirm, so as to avoid the chance of any mistake as to its exact words.
Believe me yours faithfully,

JOHN J. MCGEE, *Clerk of the Privy Council.*

Copies of Cablegrams.

OTTAWA, 4th February, 1893.

To TUPPER, London.

Letter twenty-first received this morning, impossible to decide until further information reaches us as to what proposals are specified in the drafts. Cable what proposition is as to cheese.

BOWELL.

LONDON, February, 1893.

BOWELL, Ottawa.

Your telegram received in Paris Sunday is fully answered by my letters 24th and 25th January, which should have reached you yesterday.

TUPPER.

PARIS, 6th February, 1893.

To Sir JOHN THOMPSON, Ottawa.

Treaty was duly signed at Foreign Office to-day at five; only alteration in draft already sent you is the addition of wood pavement in the piece. The letters were also exchanged. Am mailing full text in English and French both of Treaty and letters Wednesday.

TUPPER.

OTTAWA, 6th February, 1893.

TUPPER, London (and forward).

No draft received; no steps shall be taken towards ratification until we cable approval. At present cannot understand what terms proposed either side.

THOMPSON.

OTTAWA, 7th February, 1893.

TUPPER, London.

Letters of 24th and 25th not yet received. Letters of 18th and 21st only and your telegram were before Council, when Sir John's telegram was sent instructing delay in ratification of treaty. Effect of changes in original draft not fully understood.

BOWELL.

LONDON, 8th February, 1893.

BOWELL, Ottawa.

Had left Paris for London before your message arrived. Treaty was signed at five on Monday in accordance with instructions from your Government. No change in original draft except to give minimum tariff on wood for pavement in addition to all the other articles enumerated. The proposals in letters exchanged by plenipotentiaries are not binding but optional.

TUPPER.

Canada and France.

OTTAWA, 9th February, 1893.

To FABRE, Canadian Commissioner, Paris.

Send latest legislation *re* French shipping bounties.

BOWELL.

OTTAWA, 10th February, 1893.

TUPPER, London.

Cheese was included in proposition before us upon which telegram of twelfth January was based. Treaty being ratified by England for Canada alone. Would not France consider her a third power in case of preferential treatment?

BOWELL.

LONDON, 11th February, 1893.

BOWELL, Ottawa.

You will find by reference to French proposals, cheese was not included, but reserved for consideration French Government as reduction duty on books was reserved for consideration Canadian Government. Treaty being made by England, the term "third power" cannot include Great Britain or any British Colony or possession; this treaty, therefore, in no way interferes with preferential arrangements between Canada and Great Britain or any British Colony.

TUPPER.

LONDON, 11th February, 1893.

BOWELL, Ottawa.

Mailed to-day new law on French shipping bounties promulgated thirteenth January.

FABRE.

(C.)

ORDER IN COUNCIL AUTHORIZING NEGOTIATIONS.

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 16th April, 1892.

On a memorandum dated 13th April, 1892, from the Minister of Finance, stating that during the fiscal year ended the 30th June, 1891, there were entered for home consumption in Canada, dutiable and free goods imported from France to the value of \$2,312,143 consisting principally of fancy goods of various kinds, gloves, leathers, wool and manufactures of wool, manufactures of silk and cotton, ribbons, manufactures of brass, raw hides, brushes, tobacco pipes, musical instruments and spirits and wines, whilst on the other hand there were during the same fiscal year exported from Canada to France, goods the produce of Canada, to the value of \$248,854, of which over one-half was lumber, nearly one-quarter canned lobsters and the remainder consisting chiefly of asbestos, coal, pearl ashes, dried apples, canned fruits, clover seed, agricultural implements and woollens.

The Minister further states that under recent legislation in France, a maximum and minimum tariff has been established, the maximum applying to Canada, and thereby imposing (as will be seen by reference to Table A. hereto annexed) upon exports from Canada into France, higher duties than imposed upon similar exports to France from countries enjoying the benefit of the minimum tariff (as, for example, Sweden and Norway) and in consequence causing an unfair competition in relation to the lumber and other articles exported from Canada.

The Minister also states that an arrangement has recently been concluded between France and the United States, whereby the last named country, in conside-

ration of the continued free admission into the United States of raw materials from France and its Colonies, viz., hides, sugar and molasses, which under clause 3 of the McKinley tariff would be subject to import duty, France gives the benefit of the minimum tariff to certain goods from the United States, viz., canned meats, fresh and dried table fruits, except raisins, rough hewn or sawn timber, paving wood in blocks, stave wood for casks, hops, pears and compressed apples; by this arrangement, as will be seen from Table B. an advantage is given to United States goods, although a comparison of the tariffs will show that the Canadian tariff, in both free and dutiable goods, gives French products far better treatment than does that of the United States—a fact which will at once appear from an examination of Table C. appended to this Minute, in which the respective duties upon certain articles imported into Canada from France are set forth, especial attention being called to the fact that raw hides (of which there were imported from France during the last fiscal year \$50,655 in value) are now and have been admitted free. It is also to be borne in mind that Canada gives to French imported goods equal treatment with all other countries.

The Minister further states that it appears that in placing certain United States products imported into France upon a more favoured basis than is accorded to similar products when imported from Canada, France has unjustly discriminated against Canadian trade, and the Minister of Finance can see no good reason why in consideration of Canada's treatment of French products she should not be given the benefit of the minimum tariff in that country.

The Minister, therefore, recommends that Your Excellency be moved to cause a despatch to be sent to the Right Honourable the Secretary of State for the Colonies, setting forth the facts of the case, and asking the good offices of Her Majesty's Government in the matter, and further requesting that they be pleased to appoint the Honourable Sir Charles Tupper, Bart., High Commissioner for Canada in England, Joint Plenipotentiary with Her Majesty's Ambassador in Paris, with the same powers that were accorded to him in connection with the proposed negotiations with the Spanish Government, so that he may be in a position to approach the French Government in the matter on behalf of Canada.

The Committee submit the above recommendation for Your Excellency's approval.

JOHN J. MCGEE,

Clerk of the Privy Council.

TABLE "A."

PRINCIPAL articles of export from Canada into France for year ended 30th June, 1891, together with general and minimum French tariff thereon.

	Exports to France, 1891.	French Tariff.	
		General.	Minimum.
	\$		
Asbestos	29,679		
Canned lobsters	59,946	30 fr. per 100 kil.	25 fr. per 100 kil.
Lumber, all other	127,225	1 to 2'50 do	65 to 1'75 do
Agricultural implements	13,651	15 do	9 do
Apples, dried	3,125	15 do	10 do
Clover seed	2,687	30 do	25 do
Books	2,000	Free.	Free.
Canned fruits	1,014	10 or 36 fr. per 100 kil.	8 or 34 fr. per 100 kil.
Total	239,427		

Canada and France.

TABLE "B."

STATEMENT of articles placed upon minimum tariff by reciprocal arrangement between United States and France with general and minimum tariff thereon.

		French Tariff.	
		General.	Minimum.
		fr. cent.	fr. cent.
Canned meats	per 100 kilograms.	20	15
Table fruits, fresh—			
Lemons, oranges, cedrats, &c	do	8	5
Mandarin oranges	do	15	10
Carob beans	do	2	1·50
Hothouse grapes and fruits	per kilo.	2	1·50
Common table grapes	per 100 kilograms.	12	8
Ordinary wine grapes, residue of grapes and must in casks or otherwise	do	12	8
Table apples and pears	do	3	2
Apples and pears for the manufacture of cider and perry	do	2	1·50
Other fruits	do	5	3
Table fruits, dried—			
Figs	do	6	2
Table apples and pears	do	15	10
Apples and pears for the manufacture of cider and perry	do	6	4
Almonds and hazel nuts in shell	do	6	3
do do shelled	do	12	6
Nuts in the shell	do	6	Free.
do shelled	do	12	do
Prunes	do	15	10
Pistachio nuts	do	100	50
Other fruits	do	15	5
Wood—Logs, rough not squared with a circumference at thickest end of over 60 centimetres			
do	do	1	65
Sawn or squared 80 millimetres in thickness and over			
do	do	1·50	1
Squared or sawn exceeding 35 but less than 80 millimetres in thickness			
do	do	1·75	1·25
Sawn less than 35 millimetres in thickness			
do	do	2·50	1·75
Paving blocks			
do	do	2·50	1·75
Staves			
do	do	1·25	·75
Hops			
do	do	45	30.
Pomace			
do	do	2	1·50

TABLE "C."

STATEMENT of the principal items of Imports from France into Canada during the year ended 30th June, 1891, together with the Canadian and United States duty thereon.

	Imports from France, 1891.	Canadian Tariff.		United States Tariff.
		Specific.	Ad valorem	
Gloves and mitts of all kinds.....	\$ 91,784		35 p.c.	Lowest duty, 50 p.c.....
Calf, kid, lamb and sheep skin, dressed, waxed or glazed.	41,321		20 p.c.	20 p.c.
All other leather, N.E.S.....	23,907		20 p.c.	20 p.c.
Silk and manufactures of silk.....	110,364		30 p.c.	Velvet plushes and other pile fabrics containing exclusive of selvages less than 75 p.c. in weight of silk:—\$1.50 per lb. and 15 p.c. ad valorem. Velvet plushes and other pile fabrics containing exclusive of selvages more than 75 p.c. in weight of silk, \$3.50 per lb. and 15 p.c. ad valorem. Minimum duty 50 p.c.
Spirits—brandy, including artificial brandy and imitation brandy.	334,269	\$2.12½ per gall.		\$2.50 per pf. gall.
do Cordials and liqueurs of all kinds, N.E.S.	12,647	\$2.12½ per gall.		\$2.50 per. pf. gall.
do Alcoholic perfumes in flasks not over 4 oz.	16,858		50 p.c.	} \$2 per gall. and 50 p.c. ad valorem.
do Alcoholic perfumes in flasks over 4 oz.	10,777	\$2.12½ per gall.	40 p.c.	
do Wines of all kinds, except sparkling wines containing 26 per cent. or less of spirits.	93,942	25 cts. per Imp. gall.	30 p.c.	50 cts. per gall. if in bulk; if in bottles \$1.60 per doz. qts., and \$1.60 per case of 2 doz. pts., and 5 cents per pint for any excess of these quantities in bottles.
do Wines of all kinds, except sparkling wines, containing between 26 per cent. and 40 per cent. of spirits.	19,738	25 cts. per gall., and 3 cts. per gall. for each degree of spirits p.c.	30 p.c.	Any wine containing over 24 p.c. of spirits or alcohol to be forfeited.
do Champagne and all other sparkling wines.	153,784	Qts., \$3.30 per doz.; pts., \$1.65 per doz.; ½ pts., 82 cts. per doz. & \$1.65 per gall. for all over 1 qt. in bottle.	30 p.c.	\$8 per doz. qts.; \$4 per doz. pts.; \$2 per doz. ½ pts.; \$2.50 per gall. for all over 1 qt. in bottle.
Tobacco pipes of all kinds.....	31,375		35 p.c.	70 p.c. Fabrics composed wholly or in part of wool, worsted, the hair of the camel, goat, alpaca or other animals valued at not exceeding 15 cts. per sq. yd., 7 cts. per sq. yd. and 40 p.c. ad valorem. Fabrics composed wholly or in part of wool, worsted, the hair of the camel, goat, alpaca or other animals valued at above 15 cts. per sq. yd., 8 cts. per sq. yd. and 50 p.c. ad valorem.
Wools, fabrics composed wholly or in part of wool costing 10 cts. per yard or less.	18,147		22½ p.c.	
Wools, fabrics composed wholly or in part of wool costing over 10 cts. but less than 14 cts. per yard.	15,774		25 p.c.	
Wools, fabrics, composed wholly or in part of wool costing 14 cts. per yard or more.	215,992		27½ p.c.	
Wool, not further prepared than washed.	58,682		Free.	From 11 cents per lb. to 50 p.c. ad valorem.
Cream of tartar, in crystals.....	26,515		Free.	6 cents per lb.
Brushes.....	35,476		25 p.c.	40 p.c.

Canada and France.

TABLE "C"—Continued.

	Imports from France, 1891.	Canadian Tariff.		United States Tariff.
		Specific.	Ad valorem	
	\$			
Books, printed: periodicals, pamphlets, N.E.S.	49,904		15 p.c.	25 p.c. Books printed entirely in any other language than English—free.
Bibles, prayer books, psalm and hymn books.	18,045		5 p.c.	25 p.c.
Brass manufactures, N.E.S.	30,027		30 p.c.	45 p.c.
Buttons, N.E.S.	14,423		25 p.c.	Agate button 25 p.c.; pearl and shell buttons, 2½ cents per line button measure of ⅓ of one inch per gross, and 25 per cent. ad valorem; shoe buttons not valued over 3 cents per gross—1 cent per gross.
Glue, sheet, broken sheet or ground.	19,100	3 cents per lb.		Value not over 7 cents per lb.—1½ cents per lb.; valued at over 7 but not over 30 cents per lb.—25 p.c. ad valorem; valued at over 30 cents per lb.—30 p.c. ad valorem.
Glycerine.....	13,518		20 p.c.	Crude, 1½ cents per lb.; refined, 4½ cts. per lb.
Braids, bracelets, cords, fringes, tassels, &c.	20,186		30 p.c.	If of cotton, 35 cents per lb., but not less than 40 p.c. ad valorem; if of wool, worsted, camel hair, alpaca, &c., 60 cents per lb., and 60 p.c. ad valorem, and for silk 50 p.c. ad valorem.
Artificial flowers.....	14,864		25 p.c.	50 p.c.
Laces, lace collars, &c.	33,881		30 p.c.	If of cotton, 60 p.c. ad valorem; if of wool, 60 cents per lb. and 60 p.c. ad valorem; if of silk, 60 p.c. ad valorem.
Toys and dolls.....	15,836		35 p.c.	35 to 60 p.c. ad valorem.
Anchovies and sardines, in ¼ boxes..	21,896	2 cents per box		2½ cents per box.
Almonds, not shelled.....	10,307	3 cents per lb.		5 cents per lb.
Filberts and walnuts.....	30,893	3 cents per lb.		3 cts. per lb., not shelled; 6 cts. shelled.
Canned tomatoes 1-lb. cans.....	17,238	2 cents per can		45 p.c. ad valorem.
Hides, raw.....	50,665	Free.		1½ cents per lb. except when made free by reciprocity agreements under sec. 3 of McKinley Bill.
Total.....	1,672,136			

(D.)

CORRESPONDENCE.

(1.)

GRAND HOTEL, PARIS, 28th October, 1892.

The Honourable

Sir JOHN ABBOTT, K.C.M.G., &c.
3 Park Place, St. James', London, S. W.

DEAR SIR JOHN ABBOTT,—I left London yesterday morning and arrived in Paris the same evening and secured rooms at the Grand Hotel.

I despatched Mr. Just, my private Secretary, to the British Embassy this morning at ten o'clock to inform Lord Dufferin of my arrival and to ascertain when it would be convenient to His Lordship to receive me. His Excellency sent me a message that he would be glad to see me as soon as possible. I proceeded forthwith to the Embassy and during an interview which lasted over one hour I went fully with Lord Dufferin into Canada's trade relations with France, the treatment accorded to her under the new French tariff, and the reason which entitled the Dominion Government to seek better terms for Canadian exports to France.

I specially urged that the recent convention between France and the United States formed in itself the strongest possible ground for claiming the minimum tariff treatment on behalf of Canadian exports to France, pointing out that the benefit of this tariff had been given to the United States in consideration of hides, tea, coffee, sugar and molasses from France and the French Colonies being placed on the free list, and that this concession was practically one which France already enjoyed in Canada in a greater degree as the United States gave a large bounty to the home producers of sugar.

I also pointed out the important fact that the Canadian duties on the principal articles of import into Canada from France were in most cases very considerably lower than those levied by the United States on similar imports: Canada therefore had a very strong case for expecting similar treatment to that already extended to the United States and to Sweden and Norway.

I showed moreover that the balance of trade was altogether in favour of France, as we received nearly ten times as much from that country as we exported to it; and, that if sentiment were to be allowed some weight in determining the trade relations of one country with another, then, as His Excellency was aware, Canada had a very large French speaking population whose attachment to the home of their ancestors was very strong, and who would gladly welcome an arrangement which would give them closer commercial intercourse with France.

With regard to the surtaxes d'entrepot on Canadian exports to France through the United Kingdom, I suggested the propriety of asking for the removal of this impost in the case of such exports forwarded on a through bill of lading to France which were transhipped in England, instancing that this course was permitted at the present moment in the case of Canadian exports to France despatched through an American port. His Excellency agreed with me that it was a point upon which strong representations ought to be made, but I am by no means sanguine of accomplishing much in this particular matter as the object of the surtaxe d'entrepot is to promote direct trade with France.

Lord Dufferin in the course of our interview called my attention to an article in to-day's *Figaro*, a copy of which I attach, on the proposed Franco-Swiss convention and its probable reception at the hands of the Chambers. You will remember that in this measure the French Government have agreed to an arrangement involving reductions on their minimum tariff, and the trade relations with Switzerland are of such consequence as to have warranted this. But it now appears that there is a very strong feeling against any convention being concluded on such terms, and the article in question seems to indicate that the Government are seeking to detach themselves from the matter and to throw the responsibility on the shoulders of the

Canada and France.

Minister of Agriculture and of Commerce, upon whom the responsibility for defending the negotiations in the Chamber will devolve.

Another opinion is that the course adopted before the Commission des Douanes referred to in the article is to test the strength of opinion alleged to exist in the country against the stringency of the present tariff before the elections are held, as Parliament will dissolve this year.

I gave Lord Dufferin to understand that at present Canada would be content to obtain the minimum tariff, to which we consider we are entitled. I also drew His Lordship's attention to the power the Dominion House had taken to reimpose the duties on sugar and tobacco in the case of countries which did not give Canada most-favoured-nation treatment, and as this would apply to the French Colonies they would be placed at a disadvantage by such action. I stated further that I did not wish to approach the question of any reduction of the wine duties if it could be possibly avoided as it would involve a material loss of revenue, and added that Canada already gave French wines much more favourable terms than the United States, whose duties were in every case much higher and who in addition expressly excluded any importation of wine containing more than 24 per cent. of alcohol.

I may add that Lord Dufferin showed the greatest interest in and knowledge of the Canadian position in regard to this trade question, and he assured me of his best offices in the negotiations. He arranged that Sir Joseph Crowe should see me in the afternoon, but, as I was leaving, I met that gentleman, who showed me a letter he had just received from the Director of the Department of Commerce, expressing the readiness of the Government to meet me on my arrival. Sir Joseph Crowe subsequently called on me at the Grand Hotel, and I again went over the whole question fully with him. We are to have another meeting to-morrow morning.

In the meantime Lord Dufferin will notify my arrival to the French Government and ask that the negotiations may be entered upon. I expect therefore that we shall commence work early next week.

I will keep you fully advised and I hope you and the Honourable the Minister of Finance will favour me with any suggestions that may occur to you in relation to this important subject. I shall be glad if Mr. Foster is able to take a run over at an early date.

I have the honour to be, sir, your obedient servant,
CHARLES TUPPER.

(2.)

VICTORIA CHAMBERS,
17 VICTORIA STREET, LONDON, S.W.

November 2nd, 1892.

DEAR SIR JOHN ABBOTT,—In continuation of my letter of the 28th ultimo, I have to report that I dined on Sunday last at the British Embassy, when I had the opportunity of a long conversation with Mr. Austin Lee, the first Secretary of the Embassy, upon the subject of my mission. Mr. Lee, I may say, did not regard the present time as by any means propitious for the object of my visit, in view of the difficulties in which the French Government find themselves in connection with the Franco-Swiss Treaty now before the Chambers for ratification, and also with regard to other matters of moment which were being pressed upon their attention. Mr. Lee suggested, however, that it would undoubtedly strengthen our position if I could get one of the organs of the Government in noticing my arrival here to speak favourably of any arrangement which might be proposed for closer commercial intercourse between France and Canada. I accordingly called on Monday last on the Deputy, Mr. Joseph Reinach, one of the most influential supporters of the present Government—the acquaintance of whose wife I made some years ago at her father's, Baron Reinach—and whose paper, the *République Française*, is held to be one of the most authoritative official organs of the Government. I explained to Mr. Reinach the purport of my visit, with which he had every sympathy, and he was good enough

to say that his paper was at my disposal for my purpose. He suggested also that as I understood the question so much better than he did, he would be glad if I would write the article I wished to appear, and send it to him. I accordingly prepared some suitable matter, and despatched a French rendering of it, by Mr. Just, to him last night, and I expect that it will appear very shortly, when copies of the issue containing it shall be sent to you.

With reference to the arrangement concluded between France and the United States, and upon which Mr. Foster's report to Council has been based, I find considerably diversity of opinion in otherwise well informed quarters as to whether it has become law or not. Both Mr. Lee and Mr. Reinach seemed positive that it had taken effect, the Government having the power to put into operation arrangements of the kind which did not involve reductions in the minimum tariff without submitting them to Parliament for approval. Sir Joseph Crowe, however, writes me "that the arrangement between France and the United States has not taken effect on this side, though it has taken effect in the United States," and I have not been able as yet to satisfy myself as to the actual position of that measure.

In adopting the lines followed by the United States in the negotiation for their arrangement made with France, it must be remembered that Canada's imports of sugar, molasses, hides and skins, of French and French Colonial origin, are practically nil at the present time, and we are unable, strictly speaking, to claim any concession from France on this ground, although there is nothing, of course, to prevent her profiting in the future by Canada's free market for the articles in question. On the other hand, the general lower level of duties in Canada on articles imported from France, than those imported by the United States, constitute a set off which should have weight with the French Government in considering our demand for the minimum tariff treatment being extended to Canadian imports to France.

I have not as yet been favoured with any notification of the readiness of the Government to receive the Marquis of Dufferin and myself on any special day, but, as I explained in my last, M. Ribot can only have become acquainted on Saturday of my arrival here, and, yesterday being a public holiday, the public offices were closed.

Since writing the above I have received a telegram, in which you desire me to come to London in connection with the difficulty that has arisen with regard to Canadian cattle, and I leave to-night.

In view of the resumption of the negotiations, I beg to enclose a list of the articles of Canadian export to France, and shall be glad if Mr. Foster will add to it anything that occurs to him, numbering the articles in regard to their importance 1, 2, 3, 4 and so on, as indicating the kind of merchandise upon which I should press for concessions in view of the negotiations assuming a position which will enable this to be done.

I remain yours faithfully,

CHARLES TUPPER.

LIST OF CANADIAN ARTICLES OF EXPORT.

Asbestos.
Lumber of all kinds.
Pearl ashes.
Agricultural implements.
Lobsters.
Dried apples.
Clover seed.

Books.
Canned fruits.
Animals and their products.
Ships.
Woollens.
Agricultural products, including hay and bran.

Canada and France.

(3.)

GRAND HOTEL, PARIS, 7th November, 1892.

DEAR SIR JOHN ABBOTT,—As arranged with you, I left London by the club train at three o'clock on Thursday, and arrived here the same night. I had previously telegraphed to my private secretary, Mr. Just, to inform His Excellency the Marquis of Dufferin and Ava, when I would reach Paris.

Sir Joseph Crowe called on Friday morning to inform me that they had learnt that His Excellency would receive a communication that day from the French Government fixing the day and hour of the first meeting. He also told me that he had ascertained definitely from the United States Minister that no action had been taken up to the present time in regard to the arrangement made by his predecessor, Mr. Whitelaw Reid, respecting the concession of the minimum tariff to the United States on several articles, as the Chambers, so far, had not adopted it. It appears that having been made a "Projet de Loi" instead of a decree, the action of the Chambers is necessary to give it effect.

I called at the Embassy on Saturday and was shown a letter which had just been received by His Excellency Lord Dufferin from M. Ribot, the Minister of Foreign Affairs, a copy of which is inclosed, saying that he would be glad to receive us at the Foreign Office on the following Monday at 4 o'clock, and that he had designated M. Hanotaux, Director of Commerce, to represent the French Government in the pour-parlers, and that he had requested his colleague, the Minister of Commerce and Industry, to delegate for the same object one of the functionaries of his Department. Mr. Austin Lee, the Second Secretary of Legation, informed me that His Excellency would present me to the Minister of Foreign Affairs on the day and at the hour named. Sir Joseph Crowe very kindly called upon me at 11 o'clock this morning and we discussed fully the line to be taken in opening the negotiations, and a little before four we proceeded together to the Foreign Office, where we were shortly afterwards joined by the Marquis of Dufferin and Ava, who presented me to His Excellency the Minister for Foreign Affairs.

Lord Dufferin and I explained to His Excellency the object of our mission. We were received with great cordiality and were assured by him that it would receive the best attention of the French Government.

Sir Joseph Crowe and I were then placed in communication with M. Hanotaux, M. Pallain, the Chief of the Customs Department, and M. Roume, another high departmental official, and we discussed with them the questions at issue until after 6 o'clock.

I explained that the Dominion of Canada being desirous of obtaining more favourable trade relations with France, Her Britannic Majesty had conferred plenipotentiary powers upon His Excellency the Marquis of Dufferin and Ava and myself for the purpose of endeavouring to negotiate a Treaty relating to trade between France and Canada. I was informed at the outset that the Government of the Republic were not prepared to entertain the question of any interference with the minimum tariff, and I would therefore confine myself to the application to extend the benefit of the minimum tariff, at all events, to a number of the principal articles exported by Canada to France. I would particularly draw attention to the grounds upon which we based that application. A short time ago an arrangement was negotiated between Mr. Whitelaw Reid, the late Minister representing the United States in Paris, on the ground that the United States Government had remitted the duties on sugar, molasses and hides, and that the law providing for the remission of these duties authorized the Government by proclamation to withhold these advantages from any country that did not give in return a *quid pro quo* in equivalent tariff remissions.

I stated that in the Customs Act now in force in Canada, sugar, tea, coffee and hides were also admitted free of duty, and that the Act also contained a similar provision authorizing the re-imposition of certain duties upon sugar, molasses and tobacco. I drew attention to the fact that in the existing tariffs the principal articles of export from France were admitted into Canada upon a much lower scale

of duties than that exacted in the United States, and I instanced specially the cases of wines and spirits and tobacco. I also referred to the fact that Canada received at present nearly ten times as much of the products of France as she sent her. I stated that I did not propose to raise the question of the *surtaxes d'entrepôt*, as the Government of Canada were at present engaged in providing for an excellent fast service between France, Great Britain and Canada that would thus enable us to avoid transshipment of goods passing through Great Britain. I added that I could give no greater evidence of the great desire of Canada to obtain more intimate trade relations with France, and to promote intercourse between the two countries, than by calling their attention to the advertisement inviting tenders for this service, which I did, and to the condition that there should be direct communication between France and Canada, and *vice versa*, a French port being stipulated for as the point from which the steamers should start and to which they should return.

I mentioned that the Government of Canada stood pledged to the appropriation of £150,000 per annum for the proposed service, and that when it was organized and in operation, as I believed it would be at no distant date, the speed required would enable mail matters and passengers to reach not only Canada but all the Western States of America more than twenty-four hours sooner than they could be conveyed to the same points by the direct route now in existence by New York. The value to France as well as to Canada of this service would be at once apparent. I pointed out the value to France of the competition between Canada and the United States that would be created by the extension of the minimum tariff to certain articles of export to France. I also referred to the large French-speaking population in Canada who still preserve a lively affection for their mother country, and who in common with the rest of Canada were very desirous of freer trade relations than now existed.

In response, the gentlemen whom I have already named as taking part in the discussion pointed out that the arrangement agreed upon with the United States of America had not yet taken effect, and that it was based upon the amount of trade between France and her Colonies and the United States which was benefited by the reduction on articles above referred to which had been made free of duty. In this way, a suitable reciprocity was effected.

I was asked and gave them the relative amount of our imports from and exports to France, but accompanied it with the remark that more favourable trade relations would no doubt result in a great expansion of trade on both sides, as Canada was being rapidly developed and was making great progress.

I was asked if the clause which formerly existed in our Customs law in which the Governor in Council had power by proclamation to reduce or remove altogether the 30 per cent. *ad valorem* duty on wines was still retained; whether it would be practicable for us to extend the trade between the two countries upon the minimum tariff being given by France and as to the corresponding reduction of Canadian duties, at all events on the exports of France to Canada. I was reminded also that the Canadian tariff had been materially raised during the last ten or twelve years. I said that the Governor in Council still possessed the power under the law to make a remission of the *ad valorem* wine duties in whole or in part, and I pointed out that the increase in the duties had been as great in France as in Canada, so that the respective positions remained very much as before.

I inquired as to whether the minimum tariff as a whole could be extended to Canada, provided we were to remove some additional duties. It was replied that there would be great difficulty in that respect as products of the United States, to whom the minimum tariff had been given on a very few articles, could then have the benefit of the minimum rates by being shipped through Canada. I explained that I did not think that would be found to be at all practicable, as, notwithstanding the high duties imposed by the United States on all lumber, fish and several other articles, we sent a very large quantity to the United States. I was requested to send the gentlemen named above a copy of our tariff, and also of our Trade and Navigation Returns, and agreed to do so, in order that they might be better prepared to continue the discussion at the next meeting, which has been fixed to take place next Thursday at 4 o'clock.

Canada and France.

It is quite evident to me that having regard to the former negotiations carried on by my predecessor, Sir Alexander Galt, all of which are undoubtedly on record here, and to the position taken that they have only given the minimum tariff to the United States on an equivalent amount to that which has been freed from duty by the remission of duties on sugar, molasses and hides imported by the United States from France, there is very little hope that we can obtain any concessions except in return for corresponding remissions of duties on our part from the existing tariff.

I shall be very glad if the Honourable the Minister of Finance would give his immediate attention to this question and advise me how far it is possible to go in that direction, and on what articles it is desirable to obtain the minimum tariff from France, giving them in the relative order of importance. What would be more satisfactory, if it were possible, would be for Mr. Foster to join me here at as early a date as he might find possible.

I shall be happy to hear from you or the Minister of Finance before our meeting on Thursday next.

In conclusion, it is right I should say that Sir Joseph Crowe, who is thoroughly conversant with these commercial negotiations and is well known personally to M. Hanotaux, enters most warmly into the questions at issue, and renders me in every way invaluable service.

I am, &c.,

CHARLES TUPPER.

P. S.—I inclose a copy of the list of articles upon which it seems to me we should obtain minimum tariff treatment, which I left with the French representatives this afternoon.

C. T.

LIST OF CANADIAN ARTICLES.

Asbestos.
Pearl ashes.
Lumber of all kinds, including flooring, planed, tongued or grooved, and unfinished wood work.
Furniture.
Brooms.
Agricultural implements.
Sewing machines.
Woollens.
Ships (wooden).
Prepared hides.
Boots, gaiters and shoes.
Petroleum.

Books.
Agricultural products, including hay and bran.
Dried apples.
Canned fruits.
Clover seed.
Fish, canned, smoked or dried.
Lobsters.
Animals and their products.
Cheese and butter.
Eggs.
Condensed milk.
Game and poultry.
Preserved meats, canned or salted.

(4.)

GRAND HOTEL, PARIS, 10th November, 1892.

DEAR SIR JOHN ABBOTT,—I have to confirm my letter of the 7th instant. It was arranged at our meeting on Monday that I should furnish the French representatives with a memorandum of my remarks to them. I accordingly drew up a precis of my statement on Tuesday morning and submitted a French version of the same to Sir Joseph Crowe that day with the request that if he approved to send it on to M. Hanotaux, which he did the same day.

I obtained yesterday the copies of the Customs Tariffs, Year Books and Trade and Navigation Returns, for which I had telegraphed to London, and I instructed my private secretary, Mr. Just, to leave them personally on the three French Commis-

sioners. MM. Hanotaux and Roume were engaged at the time of Mr. Just's call, but he was received by Mr. Pallain and rendered that gentleman some little assistance by explaining to him the general plan of our trade returns and of the tariff classification. I am sorry not to have been able to supply these gentlemen with copies in French of all our documents. It was possible for me, however, to give each of them a copy of the French edition of the Year Book for 1890, which contains, fortunately, the Canadian tariff, with the amendments of 1891. Sir Joseph Crowe called for me to-day at 3.30 p.m., and we met the French representatives at the Foreign Office at 4 o'clock. I said at the outset that I had assumed, and that the French Customs law warranted me in believing, that the minimum tariff would be given to any country which gives France most-favoured-nation treatment, and I called attention to Article 1 of the Act in question, which reads as follows:—

“The general customs tariff and the minimum tariff of import and export duties are fixed in accordance with tables A and B appended to the present law. The minimum tariff shall be applied to goods the products of those countries which admit French products to similar advantages and which give them the benefit of the lowest rates.”

I submitted that although the tariffs of France and Canada had both been raised, the minimum tariff was relatively very much higher than any increase in the Canadian tariff, that Canada had, moreover, given the same remissions of duty which had been made by the United States and in respect of which France had given the latter the minimum tariff on a number of articles, that the fact that Canada received nearly ten times as much from France as she sent to it, and that the large subvention the Dominion was prepared to give for the purpose of establishing direct trade between the two countries and which could not fail to be of very great advantage to France appeared to me to warrant the extension of the minimum tariff as a whole to Canada. I asked them, therefore, to say whether they were prepared to consider the question of giving Canada, in view of all these facts, the benefit of the minimum tariff in its entirety, or, failing that, whether they were prepared to treat as to the application of the minimum to certain articles.

The French representatives stated in reply that they had carefully considered the question of giving the whole minimum tariff to Canada, but they had arrived at the conclusion that it would be impossible to do so, as they feared that goods from the United States would be exported to France through Canada. But they would be prepared, if I would indicate the articles for which Canada specially desired to obtain the advantage of the minimum tariff, to study the subject carefully with the view of arriving at the tariff remissions they would expect Canada to make on the other side.

The French representatives also added that any tariff remission given to France would be much more valuable if it were confined to France and not extended to any other country. I replied that it was as impossible for us to entertain any such proposition as it would be for them to confine the minimum tariff to any one country, and that Canada must remain entirely free in that respect. I stated that Canada would certainly not give any other country any concession she might make to France without obtaining a sufficient equivalent in return.

I reminded the French representatives that I had already given them a provisional list of articles, a copy of which I transmitted to you with my despatch of the 2nd instant, and added that I would be glad to know what they had to say with regard to it. We thereupon went over a number of articles in question.

I understood there would be very great difficulty with regard to lobsters. It had been originally included in the United States arrangement and though pressed for very much had been ultimately left out.

The Commissioners were prepared to entertain lumber in the same way they had done with the United States.

Apples, green and dried, were also regarded favourably, but I found there would be difficulty with regard to clover seed, as it was an agricultural product, and any proposal to depart from the maximum tariff in respect to such products excited great opposition in the Chambers. Animals and other products are objected to on

Canada and France.

the same grounds, and the Government find it very difficult to carry any measure that interferes with the agricultural interests. I need only remind you of the position of the Franco-Swiss convention at the present moment as an instance of the pressure that is being brought to bear upon the Government by this interest.

The question of canned fruits I found would depend very much as to whether they were prepared with sugar, in which case it would be difficult to secure the minimum tariff for them.

I was informed that they would concede ships, and the same also applies to furniture quoted under Nos. 591 and 592 of the tariff. This comprises practically all plain furniture other than of bent wood.

It is understood that the list I have furnished is still open to revision; in the meantime they are looking into the matter, and I have promised to submit a complete list at our next meeting, which has been fixed for Tuesday next.

I should say that I stated to the French representatives, when the question of ships came up, that we did not attach the same importance to this as we did some years ago, the wooden shipbuilding industry in Canada for obvious reasons having shrunk to smaller dimensions.

I also drew their attention to the fact that the minimum tariff is so high that, even if it were conceded to us in regard to the articles I had mentioned, we could not in the circumstances expect a large expansion of trade, while on the other hand if we make a reduction in the duties on wines, it would undoubtedly extend the trade of France very considerably, and that this was a matter for which due allowance must be made. I have been waiting with some anxiety to hear from Mr. Foster, especially with regard to the list of articles I sent you in my letter of the 2nd instant, and upon which I desired to have the benefit of his opinion as to their relative importance for my guidance in the negotiations.

In order to save time I would be glad if Mr. Foster could let Mr. Colmer telegraph in cipher in reply to the points I have raised and if he would also kindly let me have as early as possible a full statement upon the subject.

I send by this post a copy of the French Yellow Book, which was issued a few days ago. Reference to the record of the negotiations between Mr. Whitelaw Reid and M. Ribot, the Foreign Minister, will show how important it was to France and her colonies to enjoy the exemption from the duties on sugar, molasses and hides, and how insignificant the consideration which the United States received for that remission.

I would like to know if there is any probability of Mr. Foster being able to come here, as otherwise I think it would be better for me to run over before the meeting on Tuesday next, and have an opportunity of discussing the subject fully with him.

I am, &c.,

CHARLES TUPPER.

(5.)

PARIS, 15th November, 1892.

DEAR SIR JOHN ABBOTT,—Sir Joseph Crowe was good enough to call for me today at a quarter past three, and after discussing the questions at issue we proceeded to the Foreign Office to meet MM. Hanotaux, Pallain and Roume.

I reminded those gentlemen that the statistics which I had already supplied to them showed that Canada not only took ten times as much of the products of France as France received from the Dominion, but that that condition of things existed under a French tariff which was much more favourable to Canada than that now in force, and that it appeared to me quite evident that while as matters now stood, the exports of France to Canada would steadily and largely increase, Canada on her side would be unable to send anything to France under the maximum tariff to which her exports were at present exposed. I added that I thought this a consideration which should weigh seriously in favour of the extension by France of the

minimum tariff, for the reasons already fully stated, to the list of Canadian articles I had placed in their hands. The Commissioners replied that it was impossible for France to make the concessions which Canada demanded, unless we were prepared to give correlative advantages to their country, by reducing the duties now imposed by Canada upon French products. They stated that although we had removed the duty on sugar, Canada still offered a bounty upon beet-root sugar produced in the country, and further, that the Canadian duties on wines were higher than those of any country in the world except Russia. I rejoined that the bounty upon sugar which Canada had agreed to give might be regarded as merely nominal as it had long existed without any result whatever; that no beet-root sugar had been manufactured under it, and that this was not probable as it had only been extended for one year. I said that I felt quite sure they were seriously mistaken as to the character of the Canadian wine duties and they would find upon further examination of the subject that our duties upon wines and spirits were much lower than those imposed in the United States. I promised to look into this matter and submit the result for their consideration. I should add in this connection that the French representatives urged the great importance of our remitting not only the whole of the *ad valorem* duty upon wines but also of lowering the specific duties, and, further, the desirability of reducing, at all events to some extent, the duties on champagne and on genuine cognac. They also pressed for the reduction of the duties on French books, of the duties on brushes which they held to be excessive, as well as on fancy goods, gloves, porcelain and window glass.

I told them that no reduction of the specific duties on wines could be entertained, and that no reduction of duty could be made on champagne and cognac, which were in reality *articles de luxe*. I added that I feared I could not say anything encouraging as to fancy goods, gloves and porcelain, but I promised to consider the question of French books. I pointed out that the brush trade was an important industry in Canada and that I felt it improbable that any reduction could be made in the duties on this class of goods. As to window glass I thought that the subject might be considered.

In referring the Commissioners to the list of articles I had enumerated for their consideration, and of which they had agreed to entertain the following for the benefit of the minimum tariff:

1. Woods of all kinds, including *merrains* (staves), as arranged with the United States.
2. Canned fruits in so far as they are not prepared with sugar.
3. Apples and pears, for the table, fresh, dried or crushed.
4. Furniture, as indicated under Nos. 591 and 592 of the tariff, and
5. Wooden ships.

I informed them that I proposed to add to that list: canned meats, canned fish, canned lobsters, pails and buckets; wood pulp, paper, leather, tanned and curried, sole and upper leather, unprepared; inlaid floorings, agricultural implements, and sewing machines.

I stated that I would now, having fully given them my views upon the subject, be glad to have a counter proposition from themselves. After some hesitation they said they would offer the minimum tariff on woods of all kinds in exchange for the remission of the *ad valorem* duty on wines up to 26 degrees. I said at once that it was impossible to entertain any such proposal, as the whole of the margin between the duties of the maximum and minimum tariffs on the woods which we had exported to France under the old and more favourable tariff would not amount to one half the sum which Canada would surrender by the remission of that duty on wines. The Commissioners said here that while they accepted the Canadian official figures as regards the imports from France, they were satisfied the returns of the exports from Canada to France were quite inaccurate, as their own returns showed that the quantity of wood exported to France from the British North American Colonies was more than double the amount contained in our own returns. On my enquiring how that could possibly be, it was replied that at the instance of Canada, France some years ago removed the *surtaxe d'entrepôt* upon Canadian woods

Canada and France.

coming through Antwerp into the country in order to put Canada on the same footing as Norway and Sweden, and they supposed a large amount had come by that channel. I requested to be supplied with the French returns on that subject, and obtained them, and promised to investigate the matter. I cannot find that any material quantity of Canadian wood has been sent to France in the way referred to, and I can only suppose that Newfoundland being included in the French returns, a large amount of wood has come thence into France. I have telegraphed to Mr. Colmer to ascertain what amount of lumber Newfoundland exports to France annually.

We have arranged to meet for the continuation of these discussions on Friday next at 4 o'clock, and I hope to have the advantage of discussing the present position fully with the Hon. the Minister of Finance on his expected arrival here on Thursday night.

I do not despair of getting a fair arrangement. Several papers here have noticed my mission in very favourable terms as you will find in the *Paris-Canada*, which I will send you, in which these articles are reinserted.

I am, &c.,

CHARLES TUPPER.

P.S.—The French Commissioners stated to me that they would be quite prepared to make substantial remissions of duty, below the minimum tariff, on Canadian products sent to St. Pierre and Miquelon, and to the other French Colonies.

C. T.

(6.)

PARIS, 18th November, 1892.

DEAR SIR JOHN ABBOTT,—I again met, in company with Sir Joseph Crowe, the French Commissioners at the Quai d'Orsay, at 4 o'clock this afternoon.

I referred at the opening to the statement which had been put forward by them at the last meeting that the Canadian wine duties were heavier than those of any other country in the world except Russia. I said that I had investigated the subject in the interval, and had examined the wholesale price lists of a large number of well known French exporting houses of Bordeaux wines and Burgundies, and I had found that wine of this description *in bulk* quoted at two hundred francs (\$40) and below per barrique of 225 litres (49½ gallons) were able to enter Canada under the existing tariff at a rate of duty ranging from two to forty per cent. lower than that imposed by the United States on the same wines, and wine *in bottle* costing *fifteen francs* and below, per dozen quarts, at from three to forty per cent lower than the duty levied in the United States. I added that I had been advised by wine experts that the classes of wine embraced in this range of prices were thoroughly representative of the bulk of the wine industry of France, the trade in which it was desired to expand as much as possible. In reference to champagnes, I stated that the case for Canada was still stronger; that on the present exports of this class of wine from France to the Dominion the average duty paid on quarts was twenty per cent and on pints, sixteen per cent lower than the duties exacted in the United States; and further, that if the lighter champagnes of Epernay and Saumur were considered, the duty payable in Canada upon these was from twenty-five to thirty per cent. lower than that charged in the States. These statements were not questioned but the French Commissioners dwelt upon the duties upon the more expensive descriptions of clarets and burgundies in bottle.

I stated in regard to the inquiry which had been made at the previous meeting as to the possibility of reducing the duties on French books, fancy goods, gloves, porcelain and window glass, that I was afraid it would not be found practicable to make any reduction on these articles; that with reference to window glass, the duty had recently been reduced 50 per cent and stood now at 20 per cent *ad valorem*, the change having involved a loss to the revenue of about \$20,000. I presumed they were not aware of this item when they asked for the reduction of the duty upon this article.

I submitted to the French Commissioners an amended list, a copy of which is attached, and called their attention to the additional articles which this list embraced,

viz: boots and shoes, live eels, cheese and condensed milk, for which Canada desired to obtain the minimum tariff.

I was informed that it was impossible for them to entertain the question of boots and shoes and cheese; they enquired whether the Canadian condensed milk contained sugar. I said I was not prepared to speak positively as to this, but thought it did not.

They pressed again very strongly for a reconsideration of French books and also of prunes, plums and nuts and almonds, which I assured them would be carefully looked into with the view, if possible, to make some slight reduction.

The French Commissioners stated that the tariff between France and Canada on the articles of commerce exchanged by the two countries was very much in favour of the French tariff, as Canada charged \$932,032 on importations from France of \$2,312,143, or from thirty-eight to forty per cent., and that under the minimum duties the tariff on goods coming from Canada to France was only from eleven to fourteen per cent. I replied that, without admitting the accuracy of this calculation, it was only necessary to allude to the fact that no such comparison could properly be instituted, as the French products admitted into Canada were, without scarcely any exception, *articles de luxe* upon which a great amount of labour had been expended, whereas the bulk of the products exported by Canada to France was composed of raw materials which had involved but little labour in connection with their exportation. The French Commissioners showed me replies from the various outports of France as to the amount of wood imported from Canada, and submitted a statement in confirmation of the accuracy of their assertion as to the amount sent from Canada to France, and which I was obliged to admit furnished very strong evidence that our returns of the exports of woods had been under-estimated.

They also drew attention to the position of St. Pierre, which was now placed under the French tariff, and stated that they would be prepared to give to Canada a large reduction below the minimum on animals and their products, pigeons, oats, hay, and apples; fresh meat, firewood, staves, and eggs, it was stated, would be admitted free of duty, and building lumber would pay fifteen centimes instead of one franc and twenty-five centimes per 100 kilogrammes. In fact the concession they would make to Canada in regard to the Colony would amount to a remission of duty of about \$250,000 below the minimum tariff on the present Canadian exports to St. Pierre.

I said in reply that down to the present time St. Pierre had been a free port, and that I presumed that policy had been dictated by the necessities and interests of the people there, who undoubtedly derived as much advantage from the freedom of trade as those who supplied the goods essential to the colony.

I then reminded the French Commissioners that I understood they would be prepared at the present meeting to submit a proposal showing how far they were prepared to go in granting the minimum tariff to Canada, in return for the reduction of the thirty per cent *ad valorem* duty upon French wines of all kinds except sparkling, up to 26 degrees. They then handed me a memorandum, a translation of which I inclose, containing a précis of the French position, and Tuesday next, 22nd instant, was appointed for our next meeting.

I am, &c.,

CHARLES TUPPER.

Amended list of articles submitted to the French Commissioners at the meeting held on November 18th, 1892:—

Woods of all kinds, including staves,	Furniture,
Ships,	Wood pulp,
Canned meats,	Agricultural implements,
Canned fish,	Sewing machines,
Fish, smoked or otherwise,	Boots and shoes,
Lobsters,	Extract of bark,
Canned fruits,	Live eels,
Flooring,	Cheese,
Doors, window frames and sashes and wainscoting,	Condensed milk.

Canada and France.

Translation of the note handed to Sir Charles Tupper by the French Commissioners at the meeting held in Paris on November 18th, 1892.

RÉPUBLIQUE FRANÇAISE, PARIS, the November, 1892.

(Official.)

NOTE.

At the third meeting, the French Commissioners replied to the observations and proposals put forward by the Canadian Commissioner in the course of the first and second meetings. They stated in the first place that the returns representing the value of the importations into France from Canada and into Canada from France, upon which the arguments of the Canadian Commissioner were based, are so difficult to check, owing to the transshipment to which the greater part of the products exchanged are subject, and that these returns are throughout so incorrect that it is impossible for any conclusion one way or another to be drawn from them. If as is customary the returns at the point of arrival are taken, it is found that the imports of Canadian products into France exceed greatly the proportions given by Sir Charles Tupper. Thus, woods, in the returns of the exports of Canada stand at 640,000 francs, whereas the returns of the French Customs Department, based upon the rate of valuation adopted by the permanent commission of valuers, show that we have received from Canada wood of the value of 2,238,000 francs, representing upwards of 20,000,000 kilogrammes. The permanent commission of valuers for the Customs Department value Canadian woods, rough or sawn, as follows:—55 francs if in the rough, and 95 francs if sawn.

On the other hand, it is to be observed that the argument used by Sir Charles Tupper may be questioned when he stated that the treatment enjoyed by French products in Canada was an advantageous one, if it is remembered, first, that the average duty upon the whole of the French products is 40 per cent *ad valorem*, and that one of our principal articles, wines in bottle, are subject to duties and surtaxes which raise the impost to 90 per cent. on Bordeaux wines in bottle, a figure truly exorbitant, and which is not exceeded in any country except in Russia.

The French Commissioners cannot admit, therefore, this unique Canadian tariff to be equivalent to France as the minimum tariff would be to Canada. In our eyes it is rather of the nature of a maximum tariff, and we ask that reductions be made in this tariff proportionately to those which may be made by the concession of the minimum tariff in regard to certain Canadian products.

To the inquiry of Sir Charles Tupper, whether France would be disposed to grant Canada the minimum tariff as a whole, it is replied that this is not possible for several reasons: first, that a number of articles inscribed in the minimum tariff are of no interest to Canadian trade; second, that it is feared that certain neighbouring countries of Canada, which do not enjoy the whole of the minimum tariff, might make use of the Canadian route to send in their products with the advantage of that tariff, and finally, that the Commissioners do not desire to make a precedent, in view of the situation of Canada, a country with an unique tariff, in regard to the modification of which there cannot be any question, except by entering into negotiations for a veritable treaty of commerce.

The arrangement to be arrived at, therefore, must rest upon the basis of a *quid pro quo*, having as its object reductions in the general tariffs of Canada and of France on articles in which the trade of the two countries is specially interested.

The French representatives inquired of the British and Canadian delegates whether this point of departure is accepted by them, as failing that, there would be no reason for continuing the *pourparlers* which had been entered upon.

Upon the formal declaration of the commissioners referred to that this basis was accepted by them, questions of details, matters of detail were taken up. The French Commissioners went over the list furnished by the British and Canadian Commissioners, the latter requesting that the following articles be added to that list:—

Extract of bark	No. 238
Canned fish.....	No. 47
Lobsters.....	No. 49

Coopers' wares	No. 602
Wood pulp	No. 168
Paper, common.....	No. 461
Leather.....	No. 476
Flooring, spruce.....	No. 600
Sewing machines.....	No. 523
Agricultural implements.....	No. 522

Before examining these articles, the French Commissioners stated that they thought it would be well if they made known what they would want in return, for since the principle of a *quid pro quo* had been accepted, the advantages on both sides should be reciprocal. This proposal having obtained the support of the British and Canadian Commissioners, the French Commissioners asked in exchange for the concessions which they intended to make, that out of the whole of their products which received the benefit of the lowest Canadian duties certain of them should be subject to lower duties than those appearing in the tariff.

The French Commissioners request that these reductions should be made especially on wines (ordinary wines and sparkling wines), on cognacs, accompanied by certificates of origin, which at the present moment are subject to a duty of 121 per cent. A discussion hereupon ensued, the British and Canadian Commissioners stating that the latter of these articles could not be entertained on account of the opposition to be expected from the temperance associations. With regard to the former, that is to say wines, they stated that the Canadian Government could under 42 Vic., cap 15, clause 12, remove the surtaxe of 30 per cent *ad valorem* placed upon the said products. The French Commissioners replied that this proposal appeared to them to be insufficient, and that in view of the enormous duty, the reduction should be applied also to the specific or principal duty in the tariff.

They asked at the same time whether the Canadian Government could not grant to French wines, which were essentially hygienic beverages, advantages of a special character and applying to them alone, or at all events advantages which would not be given to any other nation except Spain, the power also referred to in the Act of 42 Victoria.

Proceeding with other articles, the French Commissioners asked for reductions on books and printed matter, and also on a certain number of fabrics: woollen, silk, calicoes, but on the Canadian plenipotentiary declining to entertain them they proposed reductions on porcelain, window glass, embroidery, gloves and, in addition, on *articles de Paris* (fancy goods, ribbons, perfumery, artificial flowers, buttons, morocco and leather goods).

Sir Charles Tupper promises to examine these matters, and the next meeting is fixed for Friday, the 18th instant, at 4 o'clock.

(7.)

GRAND HOTEL, PARIS, November 21st, 1892.

DEAR SIR JOHN ABBOTT,—Since acquainting you in my letter of the 18th inst. with the subject of the discussion with the French Commissioners on that day, I have given the question of the negotiations with France my most careful consideration, and I enclose for your information a communication which I propose to send to them this morning, with the view to bring our negotiations to a conclusion. I have endeavoured in its contents to place our position as strongly before the French Commissioners as I can.

I must, however, now invite your attention and that of the Hon. the Minister of Finance, who is fortunately here at the present moment, to the phase which this matter has assumed.

The ground upon which the Order in Council authorizing these negotiations was based was a claim on the part of Canada to the same consideration that had been extended by France to the United States; but upon examination of the matter two serious difficulties in adopting that line present themselves. The first is that

Canada and France.

the negotiations between the United States and France were based upon an application to receive the minimum tariff on the exports of the United States to France to the extent of an equal value to that of the sugar, molasses, coffee, tea and hides imported by the United States from France and the French colonies under the McKinley tariff. As the amount of these articles, likewise made free under our tariff, imported into Canada from France and her colonies is very little, if anything, it will be seen at once that our case on that basis falls to the ground.

The discussion has naturally, therefore, resolved itself into the question of a *quid pro quo*, and while I have endeavoured, as you will see by reference to my reports of our meetings, to present and urge Canada's claims as strongly as possible, I do not think we can hope to obtain, for a surrender of the 30 per cent. *ad valorem* duty on claret and burgundies imported from France, any material concession outside of the minimum tariff on woods, as described in the United States arrangement, and a large reduction below the minimum tariff in St. Pierre and Miquelon, which will amount to a remission of duty of some 250,000 francs per annum on Canadian exports thither under the maximum tariff which will become payable there after the 1st February next.

When it is remembered that under the national policy we have been unable practically to do anything to assist the lumber trade, I am afraid we shall be placed in a false position towards that interest if we refuse to accept such an offer, assuming that it can be obtained.

It will thus be seen that the remission of duty on the wood imported into France from Canada, as shown by the French trade returns, which I am satisfied are correct, and on the wood exported under the proposed remission of duty to St. Pierre and Miquelon, will exceed in amount the whole of the *ad valorem* duty which it is proposed to surrender on the wines, leaving a large balance in our favour, and, in addition, the reductions on other articles to St. Pierre, the trade in which the proximity of Canada will enable her largely to monopolise as at present.

I am afraid, therefore, that we will be open to serious attack if we are able to obtain these advantages and should not avail ourselves of the opportunity to promote a very important Canadian industry.

I do not anticipate any serious difficulty arising in connection with our negotiations with Spain from the adoption of the proposed arrangement with France, as the wines of Spain are to a large extent of an entirely different character.

Under these circumstances I am inclined to think that I should be authorized to conclude the arrangement I have outlined if it is in my power to accomplish it.

I am yours faithfully,
CHARLES TUPPER.

Sir Charles Tupper to MM. Hanotaux, Pallain and Roume.

GRAND HOTEL, PARIS, November 21st, 1892.

TO MM. HANOTAUX, PALLAIN and ROUME.

GENTLEMEN,—It has occurred to me that a brief résumé of our position, as I understand it, may facilitate our arriving at a conclusion at our next meeting.

I beg to say that I have been greatly disappointed to find that you are not disposed to attach any weight to the fact (1) that no duties are imposed by Canada upon sugar, tea, coffee and hides—the recent remission of the duties on sugar having involved a loss of revenue of nearly \$3,000,000 per annum, especially when it is remembered that France has given the minimum tariff to the United States on a number of articles in consideration of a similar remission of duty; (2) that French products enter Canada at much lower rates of duty than the United States, and (3) that, accepting the French trade statistics as to the Canadian exports of wood to France, Canada received under the existing tariff, previous to the adoption of the present high tariff in this country, nearly six times as much of the products of France as she was able to send to France.

It also appears that you are not disposed to recognize the value of direct communication between France and Canada by a fast line of steamers for which the Government of Canada stand pledged to grant an annual subvention of £150,000 sterling, although it must be perfectly evident that such a line of direct communication between the two countries will be of very great value to France.

Under these circumstances, rather than abandon all hope of negotiating freer trade relations between France and Canada, I have proposed that we should remit the whole of the *ad valorem* duty on French claret and Burgundy wines, up to twenty-six degrees of alcoholic strength, which, taking the importation of 1891, would amount to \$28,183.

When it is remembered that France, practically, has no competition in these wines, the trade must be recognized as one that will rapidly obtain much larger proportions.

Since our last interview I have had an opportunity of consulting the Prime Minister and the Minister of Finance of Canada, and they have authorized me to say that they will submit to their colleagues for their consideration, the question of the reduction of duties on French books and Castile soap, and that they will agree to the remission of one-third of the present duties on prunes, nuts and almonds, for which you pressed so strongly.

I trust, therefore, at our next meeting, you will be prepared to inform me of the extent to which you will be able to go in return, in granting the minimum tariff to the articles which I have named in the list already submitted to you.

I trust you will also bear in mind the relative nature of the products which Canada sends to France, and of those we receive from you; the former being, to a large extent, of a kind upon which little labour is expended, and the latter consisting principally of *articles de luxe*, which involve a large amount of labour in preparing them for export, and that you will recognize with corresponding liberality, the demands for the remission of duty upon as large a number as possible of the articles I have presented for your consideration.

In the hope that you will be able to give such a consideration to this question before our meeting on Tuesday as to enable us to decide whether any object will be gained by continuing the *pourparlers*,

I remain, gentlemen, yours faithfully,

CHARLES TUPPER.

(8.)

GRAND HOTEL, PARIS, 22nd November, 1892.

DEAR SIR JOHN ABBOTT,—Sir Joseph Crowe and I met the three French Commissioners at 4 o'clock to-day at the Foreign Office.

They expressed surprise at my letter of the previous day confining the reduction of the duties on wines to clarets and Burgundies.

I told them I had endeavoured to make clear from the outset that it was not proposed to reduce the duties on sparkling wines, although I was obliged to admit that Parliament had given power to the Government to reduce the 30 per cent. *ad valorem* duty on clarets, Burgundies and champagnes.

I informed them that the Finance Minister would sail for Canada on Thursday, and that I desired, after the discussion which had taken place, that they would give me the best offer they were prepared to make to Canada, and I would transmit it to overtake the Hon. Mr. Foster before he sailed, which would enable him to submit it to the Government, then he would advise me by cable of the result, or, at an early date, by mail, and that we could adjourn our negotiations until that information was received, upon which they could be resumed here as before.

After discussing the matter for two hours and a-half the following was agreed upon as the proposal to be submitted to the Government of Canada. The reductions which they are prepared to grant to the Dominion on our exports to St. Pierre and Miquelon, are shown in the table herewith enclosed, and, on that trade

Canada and France.

of last year, would amount to about 237,000 francs below the minimum tariff, which will be in force there on the 1st February next. I enclose also a statement taken from the French trade returns of the woods imported from Canada during the year 1891, at the different ports of France specified, and for the ten months—January to October—of the present year, from which it will be seen that our returns of the exports of wood to that country are altogether underestimated, and that under the operation of the present tariff they have fallen enormously. I may add that the lowest rate of duty conceded in the other French colonies will also be granted to Canada.

I attach further a memorandum of the propositions for the reductions of duties on the part of France and of Canada, respectively, for your consideration.

When it is remembered that a few years ago my predecessor, under instructions from the Government of Canada, formally proposed "that the commercial relations of Canada and of France should mutually be placed upon the most-favoured-nation footing, Canada in addition to this engagement on her part, agreeing to abolish entirely the *ad valorem* duty upon wines," and that on the same occasion the Government of Canada pledged itself at the ensuing session of Parliament to reduce the *ad valorem* duty of 30 per cent on all wines to 15 per cent unconditionally, we cannot be surprised, considering the great change that has taken place in the fiscal policy of this country in the meantime, that I have not been able to secure a more favourable proposition than that herewith enclosed.

So far as I am able to judge a more advantageous proposition could not be obtained, nor do I see any prospect at an early date of any political change in France that would be likely to improve our position.

The question is whether a treaty, if arranged, should be without any specific period, subject to abrogation on one year's notice on either side, or, whether it should be for a fixed period of ten years, is left open for further consideration.

I think the full reports which I have submitted for your consideration of the conferences as they have been held, will enable your Government to form a very accurate judgment of the position, and I shall be glad to be instructed by cable or otherwise, at as early a day as possible, what the views and wishes of the Dominion Government are in relation to these negotiations when we resume the now adjourned discussions, and I will govern myself accordingly.

As I have stated before, this treaty, if entered into, will not in any way affect our proposed negotiations with Spain, as no wines, except sparkling are admitted under 26 degrees of alcoholic strength, to which the term 15 degrees in the French tariff corresponds.

I transmit herewith for your information copy of a correspondence that has passed between His Excellency Lord Dufferin and myself, on the subject of a letter received by him from the Foreign Office in reference to these negotiations.

I am, etc.,

CHARLES TUPPER.

Proposal of French Commissioners.

22nd November, 1892.

Canada undertakes: 1st to abolish the surtaxe of 30 per cent on all non-sparkling wines of French origin gauging 15° alcohol and under.

It also undertakes to remove the surtaxe on all sparkling wines of French origin;

It undertakes to reduce by one-third the duty levied on nuts, almonds, prunes and plums imported from France into Canada.

Moreover, the Canadian Plenipotentiary undertakes to recommend that his Government make the reduction of 5 per cent on

(Propositions des commissaires français.)

22 novembre 1892.

Le Canada s'engage à supprimer la surtaxe de 3 pour 100 sur tous les vins d'origine française non mousseux, titrant 15° d'alcool et au-dessous; de même il s'engage à supprimer la surtaxe sur tous les vins mousseux d'origine française.

Il s'engage à réduire d'un tiers le droit qui frappe les noix, amandes, prunes et pruneaux importés de France au Canada.

En outre, le plénipotentiaire canadien prend l'engagement de recommander auprès de son gouvernement la réduction de 5

French books and printed matter. He undertakes to do the same as to the reduction of 50 per cent in the duty now levied on common soaps.

It is understood that all advantages granted to another power, on any article whatsoever of the Canadian Tariff, shall be extended to France.

The Canadian Government undertake to give a subsidy of £100,000 to a line of steamers having for terminus a French port.

France will admit to the benefit of the minimum tariff the following Canadian articles, having certificate of origin:—

No. 128. Building timber, rough or sawn.

No. 130. Staves.

“ 615. Wooden sea-going ships.

“ 19. Canned meats.

“ 47. In part,—Fish preserved in natural form.

No. 49. In part,—Lobsters and crayfish preserved in natural form.

No. 86. In part,—Fruits preserved, others.

No. 600. In part,—Flooring in pine or soft wood.

No. 591. In part,—Common furniture.

“ 592 *bis*. In part,—Furniture of common wood, others.

No. 168. Wood pulp.

“ 84–85.—In part,—Apples and pears, fresh, dried, or pressed.

No. 480–1–2. Boots and shoes.

“ 238 *bis*. Extract of chestnut and other tanning extracts.

No. 45. Fresh water fish, eels.

“ 35 *bis*. Milk, concentrated, pure.

“ 461. Common paper, machine made.

“ 476. In part,—Prepared skins, others, whole (general tariff, 50 frs.; minimum tariff, 25 francs).

The French Government reserves to itself the right to examine the proposal to grant the minimum tariff as to cheese.

It is understood that any reduction in the minimum tariff granted to any Power whatsoever, as to one of the hereinbefore enumerated articles, shall be applicable *de plano* to Canada.

pour 100 du droit sur tous les livres et imprimés en français. Il prend le même engagement en ce qui concerne la réduction de 50 pour 100 du droit frappant actuellement les savons communs.

Il est entendu que tous les avantages faits à une autre puissance, sur un article quelconque du tarif canadien, profiteront à la France.

Le gouvernement du Canada s'engage à donner une subvention de 100,000 livres à une ligne de paquebots ayant pour point terminus un port français.

La France admettra au bénéfice du tarif minimum les articles canadiens ci-dessous, munis de certificats d'origine.

N° 128. Bois à construire, bruts ou sciés.

“ 130. Merrains.

“ 615. Bâtiments de mer en bois.

“ 19. Conserves de viandes en boîtes.

“ 47. En partie,—Poissons conservés au naturel.

“ 49. En partie,—Homards et langoustes conservés au naturel.

N° 86. En partie,—Fruits de table conservés, autres.

N° 600. En partie,—Lames de parquet en sapin ou bois tendre.

N° 591. En partie,—Meubles communs.

“ 592 *bis*. En partie,—Meubles en bois communs, autres.

N° 168. Pâtes de bois.

“ 84–85. En partie,—Pommes et poires fraîches, sèches ou tupées.

N° 480–1–2. Bottes, bottines et souliers.

“ 238 *bis*. Extraits de châtaigniers et autres sucres tannins.

N° 45. Poissons d'eau douce, anguilles.

“ 35 *bis*. Lait concentré pur.

“ 461. Papiers communs (à la mécanique).

N° 476. En partie,—Peaux préparées, autres, entières (au tarif général, 50 francs, au tarif minimum, 25 francs).

Le gouvernement français se réserve d'examiner la demande de concession du tarif minimum en ce qui concerne les fromages.

Il est entendu que toute réduction du tarif minimum consenti à une puissance quelconque sur l'un des articles ci-dessus énumérés, sera applicable *de plano* au Canada.

Canada and France.

REDUCTIONS which would be enjoyed by Canadian Products imported into St. Pierre and Miquelon.

(Application of reduced tariff prepared by the Conseil d'Etat.)

Products.	Value in Francs.	QUANTITIES.		Duty under Minimum Tariff.	Reduced Duty.	Proportion of reduction.
		Units, English.	Units, French.			
				100 kil. fr. c.		fr. c.
Coal.....	80,000	7,300 ton.	746,909 kil.	0.12	Exempts..	0.12
Houille.....						
Salt.....	21,000	22,426 bus.	8,000 qtx.	2.40	Exempt ..	2.40
Sel.....						
Herring, salted.	18,000	2,514 brls.	37,709 kil.	15.00	Exempts..	15.00
Harengs, salés.						
Staves.....	12,000	300	3,600 qtx.	0.75	do ..	0.75
Douves.....						
Horned cattle	152,200	1,252 head	1,252 head	30.00	Exempt ..	30.00
Bêtes à corne.						
Swine..	4,300	210 "	1,250 kil.	8.00	Exempts..	8.00
Cochons.....						
Sheep.....	38,600	7,435 "	7,435 head	5.00	do ..	5.00
Moutons.....						
Poultry	11,400	11,400	11,400 kil.	20.00	Exemptes.	20.00
Volailles.....						
Eggs.....	5,500	7,164 doz.	3,532 "	6.00	Exempts..	6.00
Œufs.....						
Meat, fresh	12,000	25,000	25,000 "	23.00	do ..	23.00
Viandes abattues.						
				en moyenne.		en moyenne.
Lard.....	250	960 lbs.	480 "	14.50	3 65 f.	10.85
Saindoux.....						
Pork.....	7,500	27,510 "	12,000 "	12.00	Exemptes.	12.00
Viandes de porc.						
Oats.....	5,345	2,000 bus.	80,000 "	3.00	0 50 f.	2.50
Avoine.....						
Flour.....	35,990	1,400 brls.	21,000 "	10.00	0 35	9.65
Farine.....						
				en moyenne.		
Fodder (hay).....	39,000	600 ton.	61,009 "	0.50	0 30	0.20
Fourrages (foin).....						
Potatoes.....	32,000	16,600 bus.	600,000 "	0.40	Exempts..	0.40
Pommes de terre						
Ships, sea-going.....	82,600	6 nav.	500 tx.	2.00	do ..	2.00
Navires de mer.						
Tobacco (rolls or chopped)	22,000	26,000 lbs.	12,000 kil.	15.00	1 00 f.	14.00
Tabac (en rouleau ou haché).....						
Tea.....	3,800	3,827 "	1,600 "	208.00	9 00	199.00
Thé.....						

NOTE—The aggregate reduction on these returns would amount to about 237,000 francs below the minimum tariff.

Imports of Timber from Canada.

Ports.	Year 1891.	First 10 Month of 1892.
	K.	K.
Bordeaux.....	11,874,000	3,128,000
Brest.....	419,000	
Boulogne.....	735,000	
Cette.....	950,000	
LeHavre and Dieppe.....	2,007,000	937,000
Marseilles.....	8,031,000	1,550,000
Nantes.....		379,000
Total	24,016,000	5,994,000

(9.)

OFFICE OF THE HIGH COMMISSIONER FOR CANADA, VICTORIA CHAMBERS.

17 VICTORIA STREET, LONDON, S.W., 2nd December, 1892.

DEAR SIR JOHN THOMPSON,—The Honourable the Minister of Finance has taken with him copies of my reports to your predecessor, Sir John Abbott, on the negotiations which, under the instructions of the Canadian Government, I have been carrying on, in conjunction with His Excellency the Marquis of Dufferin and Ava, in Paris, in relation to the extension of trade between France and Canada. These papers include the proposal made by the French negotiators at our last meeting when we adjourned until we should receive an intimation of the decision of the Canadian Government upon that proposition.

I now inclose for your consideration a detailed statement (No. 1) of the remissions of duty that we should be called upon to make to France, and a statement (No. 2) on the other hand of the reduction of duty under the minimum tariff on the present exports to France, and one (No. 3) of the estimated value of the concessions which France proposes to make in relation to our trade with St. Pierre and Miquelon.

It must not be forgotten that so long ago as 1882, my predecessor, Sir Alexander Galt, made a formal proposal to the Government of France, based upon an Order in Council of the Canadian Government, declaring that at the next ensuing meeting of the Legislature the duty of 30 per cent *ad valorem* on all French wines would be reduced unconditionally to 15 per cent which, as you will at once perceive, only left a margin, provided that promise had been carried out, of 15 per cent *ad valorem*.

The present proposal does not involve the surrender of the duty on any wines containing 26 degrees of alcoholic strength, and, therefore, it is not as extensive as the pledge given by the Canadian Government to which I have referred.

The annexed memorandum upon the various articles on which it is proposed by France to give as the minimum tariff, will explain the grounds upon which, I think, we may hope to obtain a material extension of trade, probably in excess of the estimate (No. 4) herewith enclosed.

I trust that your Government will give the most prompt attention that it is possible to this important subject, and that you will inform me by cable of the decision at which the Council may arrive, and of any modification that you may find it necessary to adopt.

Looking to the great importance to Canada of obtaining new markets for the extension of her trade, I cannot but think these proposals worthy of the most favourable consideration of the Government.

I should add that the French negotiators were able to make a very strong case of the reduction to 5 per cent of the duty on books, as all books are admitted free by France, and in the United States there is no duty on French books or publications. They also attached great importance to the reduction of the duty on Castile soap, as strengthening their hands in carrying any proposal through the Chambers, which is strongly protective in its policy.

I do not anticipate that the change in the French Government which is now taking place will materially affect the negotiations which have been carried on by gentlemen holding permanent and very high official positions in the Department of Commerce.

I remain, etc.,

CHARLES TUPPER.

P.S.—It should be observed in regard to Canada's trade with St. Pierre, that in the absence of any arrangement our exports thither after the 1st February next would be subject to the maximum tariff, and the duty payable on the basis of the enclosed returns would be some 287,000 francs higher than that to be levied under the proposed reduced minimum tariff.

C. T.

Canada and France.

No. 1.—STATEMENT showing the import into Canada in 1891, of French articles included in list proposed by the French Commissioners, with the amount of the reduction of duty asked in each case.

Articles.	Value of Imports.	Duties in Canada.	Amount of Duty paid.		Proportion of Duty Remitted.	Amount of Duty remitted in Dollars.	Amount in Francs.
			Spec. \$	Ad Val. \$			
	\$					\$	
Clarets and Burgundies, under 26 degrees.....	93,942	25c. per gall. and 30 p. c. <i>ad val.</i>	24,224	28,183	30 p. c. <i>ad v.</i>	28,183	
Champagne and other sparkling wines:—							
Quarts.....	76,742	\$3.00 p. doz. and 30 p. c. <i>ad val.</i>	18,626	23,023	30 percent..	23,023	
Pints.....	76,692	\$1.50 p. doz. and 30 p. c. <i>ad val.</i>	17,745	23,008	30 do ..	23,008	
½ pints.....	327	\$0.75 p. doz. and 30 p. c. <i>ad val.</i>	229	98	30 do ..	98	
						74,312	371,560
Books and printed matter, in French.....	49,904	15 per cent.....	7,485		10 per cent..	4,990	24,950
Soap, Castile.....	10,412	2 cents per lb. ...	4,460		1 cent p. lb.	2,230	11,150
Nuts, filberts and walnuts.....	30,893	3 cents per lb. ...	12,854		1 do lb.	4,284	21,420
do all other.....	2,552	3 do ..	1,297		1 do lb.	432	2,160
Almonds, shelled.....	860	5 cents per lb. ...	206				
do not shelled.....	10,307	3 cents per lb. ...	4,304		1 cent p. lb.	1,434	7,170
Prunes and Plums.....	4,336	1 cent per lb.	706		½ do lb.	235	1,175
						87,917	439,585

No. 2—STATEMENT showing the Imports, 1891, into France, of Canadian products included in list proposed by the French Commissioners, with the Amount of Duty payable on same under the Maximum and Minimum Tariffs.

No. on French Tariff.	Articles.	Quantities.	Imported from Canada.	Maximum Tariff.	Amount payable.	Minimum Tariff.	Amount payable.	Difference.
			Francs.	Francs.	Francs.	Francs.	Francs.	Francs.
128	Timber and wood in the rough							
130	Timber and wood sawn	24,000,000 kil.	2,239,290		436,457		302,604	133,853
615	Staves							
19	Ships, wooden							
47	Canned meats	25,000 kil.		20	5,000	15	3,750	1,250
49	Canned fish							
86	Canned lobsters	{ 328,126 lbs. } { 164,063 kil }	299,730	30	47,199	25	39,332	7,867
600	Canned fruit		5,070		2,200		2,000	200
591	Flooring, tongued, grooved, and planed of hard and soft wood							
592b	Common furniture							
168	Furniture, wooden, plain, others							
84-5	Wood pulp							
480-2	Apples and pears, fresh and dried	{ 50,776 lbs. } { 25,238 kil }	15,725		†3,450		†2,300	1,150
238b	Boots, shoes and slippers							
45	Extract of bark							
35	Live eels							
461	Condensed milk							
476	Paper, common, machine made							
	Prepared skins							
					494,306		349,986	144,320

† Estimated.

Canada and France.

No. 3.—TRANSLATION of Statement of Reductions which Canadian products imported into St. Pierre and Miquelon (French Trade Returns) would enjoy under the application of Reduced Tariff proposed by the Conseil d'Etat.

Number.	Articles.	Value in Francs.	Quantities Canadian Units.	French Units.	Rate of Duty of Minimum Tariff.	Rate of Reduced Duty.	Proportion of Reduction.	Amount of Reduction on Exports below Minimum Tariff.	Amount payable under Reduced Minimum Tariff.
					Francs per 100 kil.	Francs per 100 kil.	Francs per 100 kil.	Francs	Francs.
1	Coal.....	80,000	7,300 tons	74,009	0·12	Free	0·12	876	Free
2	Salt.....	21,000	22,446 bus.	8,000 qt.	2·40	do	2·40	9,600	do
3	Herring-Salted	18,000	2,514 brls	37,709 kil.	15·00	do	15·00	5,656	do
4	Staves.....	12,000	300 tons	36,009 do	0·75	do	0·75	270	do
5	Horned cattle.	152,000	1,252 he'd	1,252 he'd	30·	do	30· p. h'd	37,560	do
6	Swine.....	4,300	210 do	1,250	8·	do	8·	1,096	do
7	Sheep.....	38,600	7,435 do	7,435	5·	do	5·	20,445	do
8	Poultry.....	11,400	11,400 kil.	11,400 kil.	20·	do	20·	2,280	do
9	Eggs.....	5,500	7,164 doz.	3,533 do	6·	do	6·	212	do
10	Meat—Fresh..	12,000	50,000 lbs.	25,000 do	23·	do	23·	5,750	do
					Average				
11	Lard.....	250	960 do	480 do	14·50	3·65	10·85	51	17
12	Pork.....	7,500	27,510	12,000 do	12·	Free	12·	1,440	Free
13	Oats.....	5,345	2,000 bus.	80,000 do	3·	0·50	2·50	2,400	400
14	Flour.....	35,900	1,400 brls	21,000 do	10·	0·35	9·65	2,026	73
15	Fodder (Hay).	39,000	600 tons	61,009 do	0·50	0·30	0·20	12	183
16	Potatoes.....	32,000	16,600 bus.	6009 do	0·40	Free	0·40	2,400	Free
17	Ships (wooden)	82,600	6 ships	500 tons	2·00 p ton	do	2· p. ton	1,000	do
18	Tobacco—Rolls or chopped..	22,000	22,000 lbs.	12,000 kil.	15·	1·	14·	1,680	120
19	Tea.....	3,800	3,827	1,600	208·	9·	199·	3,184	144
20	Lumber of all kinds.....	Estimated 1,200,000			1·25	0·15		Estimated 140,000	16,800
		1,783,395						237,936	17,737

No. 4.—TABLE showing the estimated increase of Canadian Exports to France under the Treaty, with the amount of duty payable on the same under the Maximum and Minimum Tariff.

French Tariff No.	Article.	Present Trade.	Estimated Additional Trade.	Rate of Maximum Duty.	Amount payable under Maximum Tariff.	Rate of Minimum Duty.	Amount payable under Minimum Tariff.	Difference.
				Francs per 100 kil.	Francs.	Francs per 100 kil.	Francs	Francs
128	Timber, rough and hewn	{ 24,000,000 kil. 2,239,290 francs \$447,858	{ 12,000,000 kil. 1,100,000 frs. \$220,000	{ 1.50 to 2.50	137,400	0.75 to 1.25	125,650	62,000
130	Staves	{ 10 mil. 52,320 kil. \$3,838	{ 100 mil. 523,200 kil.	1.25	6,500	0.75	3,934	2,576
				Average.				
168	Wood pulp	None	{ Mechanical, 1,000 tons. Chemical, 250 tons	1.20	12,000	0.75	7,500	4,500
600	Flooring	do	{ 400,000 kil. \$21,000	5.00	20,000	3.50	14,000	6,000
238	Extract of bark	do	{ 1,000 brls. \$17,000 100,000 kil.	5.00	5,000	3.00	3,000	2,000
615	Ships	do	500 tons	5.00 p. ton	2,500	2.00 p. ton	1,000	1,500
49	Lobsters, canned	{ 238,126 lbs. \$60,000	{ 800,000 kil. 1,600,000 lbs.	30.00	240,000	25.00	200,000	40,000
47	Fish, canned	None	{ 50,000 kil. 100,000 lbs.	30.00	15,000	25.00	12,500	2,500
19	Canned meats	50,000 lbs.	{ 50,000 lbs. 25,000 kil. \$5,000	20.00	5,000	15.00	3,750	1,250
85	Apples, dried	50,000 lbs.	{ 50,000 lbs. 25,000 kil.	15.00	3,750	10.00	2,500	1,250
84	do fresh	None	{ 1,000 brls. 75,000 kil.	3.00	2,250	2.00	1,500	750
86	Canned fruits	\$1,070						
480-2	Boots and shoes	None	1,000 pairs	Average. 1.75	1,750	Average. 1.20	1,200	550
591	Plain furniture	do	{ 20,000 kil. \$8,000	9.50	1,900	7.50	1,500	400
592	Furniture, other							
45	Live eels	None						
35	Condensed milk	do						
461	Paper, common	do						
476	Prepared skins, tanned, sole and upper leather	do	{ 30,000 kil. \$18,000	50.00	15,000	25.00	7,500	7,500
...	Whole skins							134,500

NOTES on items referred to in State No. IV (in despatch of December 1st, 1892) on the estimated additional trade with France under the minimum tariff

Timber.

The present proportion of Canada's export of wood to France is about 1 1/4 per cent of the total imports of squared and sawn timber.

The estimated increase is calculated at that rate on fifty per cent of the imports from countries now under the maximum tariff.

This would raise Canada's proportion to about 2 1/4 per cent of the total French import of timber as above.

Canada and France.

Staves.

Austria supplies nine-tenths of the oak staves imported into France (66½ million kilogr.):

Norway nine-tenths of the pine and other staves (13 million kilogs.):

Allowing for a decrease of exports from Austria, which is under the maximum tariff, and the substitution thereof of other hard wood and pine staves, a larger demand for the latter becomes probable, and Canada's present light contribution of 10 millions towards the imports might be largely increased.

Wood Pulp.

Present imports from countries under the maximum tariff amount to some 33,000 tons.

The estimated trade is about 10 per cent of Canada's present exports of that article.

The business is done on a small margin.

Wood pulp makes a good freight and could be shipped in sailing vessels with timber.

Flooring, Tongued and Grooved.

A French specialty imported in considerable quantities from Germany, Austria, Belgium.

The estimated trade is equal to 5 per cent of one-half the present imports from countries under the maximum tariff.

Extract of Bark.

Some years ago Canada supplied between 600 and 700 barrels annually to France. The use of this article and its manufacture in Canada has developed considerably since.

Ships.

During the last 20 years, France has occasionally bought wooden ships from Canada. In view of the present depressed condition of the industry, Canada should be able to supply a larger proportion of the present importation of sea-going wooden vessels.

Lobsters.

The estimated increase consists of the imports credited to the United States, and a small proportion of those received from England. The bulk of the lobsters imported into France from these sources must be Canadian, and the supply in future will no doubt be shipped in bond through the States or by direct sailings in order to enjoy the minimum tariff, and to escape the *surtaxe d'entrepôt*. The fact that France has refused to place lobsters from the States under the minimum tariff, should give Canada a great advantage in this trade. It is assumed that the condition of the Canadian lobster fisheries will permit of this trade being maintained.

The total Canadian exports to the United States of America in 1891, were 6,853,170 lbs. canned, and 37,000 barrels fresh lobsters.

Corned Canned Fish—(Salmon).

The estimated trade is equal to 2,000 cases.

There is a direct trade from the Pacific coast of the United States of America, of 184,000 lbs. (4,000 cases); from the United States America, Atlantic coast of 148,000 lbs., and through England of 352,000 lbs. This may include all other fish preserved in oil except sardines.

Canned Meats.

The estimated trade is double that of 1891.

The United States exported in 1891 to France 6,800,000 lbs., and England 1,900,000 lbs., the latter no doubt largely American and Colonial canned meats.

Apples—(Dried).

The estimated trade has been doubled.

Fresh—This is a new trade, but the price of good table fruit in France would seem to warrant a moderate importation, the duty being comparatively light.

Canned Fruits.

If these are put up with sugar to preserve the contents there is only a maximum duty; if not preserved in spirits or sugar, the duty is about less than one-third that on those preserved with sugar.

Boots and Shoes.

England supplies the bulk of these imports which, in the aggregate, reached some 6,000,000 francs in 1891. Canada would be placed upon the same footing as England in regard to this trade.

Furniture.

The estimated trade is one-half the exports of the United States to France.

Live Eels.

This article was included in the list in consequence of strong representations from a Nova Scotia shipper of live eels to the United States and to England.

Condensed Milk.

Canadian condensed milk contains a considerable percentage of sugar. France exports large quantities of this article.

Condensed milk pure (*lait concentré pur*) is imported in moderate quantities (\$400,000), but almost exclusively from Switzerland.

Prepared Skins—(Tanned Sole and Upper Leather)—Whole Skins.

The estimated trade is equal to two per cent of the present Canadian exports, which are almost entirely to England. France imports considerable quantities of leather.

(10.)

GRAND HOTEL, PARIS, 18th January, 1893.

DEAR MR. BOWELL,

I have to confirm my telegram of the 11th instant to Sir John Thompson with reference to the proposed commercial arrangement between Canada and France, as follows:—

“ Lord Rosebery asked when I would be ready to return to Paris. I am afraid further delay will create unfavourable impression in French government. Lord Dufferin and Foreign Office, which may seriously affect us in future negotiations if I am not promptly advised wishes Canadian Government.”

“ HON MACKENZIE BOWELL,

“ Minister of Trade and Commerce,
“ Ottawa.”

and to acknowledge the subjoined cable message from yourself in reply, of the 11th instant:—

“ *Re* French negotiations, government cannot accept conditions involved in clauses regarding steamship subvention and reduction duty French books, but agree to most-favoured-nation treatment so far as articles named in treaty are concerned; they agree to other conditions in return for minimum tariff on articles named as regards France and St. Pierre and Miquelon; this subject to your views as to effect on proposed Spanish negotiations.”

Canada and France.

A further cable message reached me from the Honourable Mr Foster on the 14th instant in relation to the foregoing in the following terms:—

“*Re* Bowell's cable 11th exports to St. Pierre, Miquelon to be on basis of French offer, not simply minimum tariff.”

To which I replied:—

“Thanks, I quite understand.”

I had already communicated the position of affairs to the Marquis of Ripon in a letter of the 13th inst., a copy of which is attached, and had asked that the Foreign Office might at once be notified of the matter. I telegraphed also the same day to Sir Joseph Crowe in Paris, as under:—

“Please ask Lord Dufferin to inform the French government that I will return to Paris next Monday to resume negotiations.”

I accordingly left London on Monday afternoon, the 16th inst., and arrived in Paris on Tuesday morning several hours behind time, a heavy fall of snow having completely disorganized the train service. Sir Joseph Crowe called upon me at 11 o'clock the same morning to discuss the position, and at noon I went to see Lord Dufferin, and arranged to meet His Excellency at the Quai d'Orsay, on the morrow, Wednesday, the 18th, at 5 p.m., for the purpose of being presented to M. Develle, the new French Minister for Foreign Affairs.

In the meantime, Mr. Austin Lee telegraphed to Sir Joseph Crowe to request him to arrange, if possible, with M. Hanotaux for a meeting at 4 o'clock on the same day. Sir Joseph called subsequently to say that M. Hanotaux was confined to his house by illness, but that he would receive us there as proposed.

In company with Sir Joseph Crowe I proceeded to M. Hanotaux's residence to-day at the appointed time. I explained to that gentleman that the delay in my return to Paris had been caused by changes in the Government of Canada, notably to the appointment of a Minister of Trade and Commerce to whom had been transferred all the papers connected with the negotiations, and also to the absence of a full cabinet in Ottawa owing to elections and changes in the administration.

M. Hanotaux said that he quite understood this, and was very glad to welcome me back to Paris.

I stated that after full consideration the Government of Canada had accepted the proposals of the French Government as embodied in the memoranda which he (M. Hanotaux) had handed to me at our last meeting on November 22nd, with the exception of the proposition to reduce the duty on French books and the clause relating to the direct steamship service between France and Canada; that I was not aware of any change in the policy of the Government in regard to the steamship service, but that it was not considered proper to make a question of this kind the subject of an engagement to another country; and that I would write a letter to him (see enclosure) explaining that fact, and furnish him with a copy of an extract of the speech I had recently addressed in London to a large deputation of gentlemen interested in the port of Milford Haven, from which he would see the importance that Canada attached to obtaining direct communication with France. I added that the fact that the minimum treatment which it was proposed that France should give to Canada on a number of articles would be practically of little value without direct communication between the two countries, affording a sufficient guarantee of the interest which Canada had in obtaining that direct steamship service.

M. Hanotaux recognized the force of my observations upon that question, but expressed regret at the Government of Canada declining to make any reduction on books. He inquired whether reviews, pamphlets and publications of that kind might still be included. I said that of course the Canadian Government would at any time consider the modification of the proposals in that respect, but that owing to the difficulty of communication at present I thought it would be necessary to base any reference to that subject outside of the proposed agreement.

M. Hanotaux stated that it would be necessary for him formally to submit the whole question to the new Minister of Commerce and wished to raise the question of the withdrawal of some of the concessions to be made by France, but I replied that it would be an awkward thing to do so at this stage, as my authority was

limited to the acceptance of the proposals as agreed to by Canada without modification.

M. Hanotaux explained that the question of giving Canada the minimum tariff on cheese had been left subject to the consideration of the French Government, and that it would be necessary at all events to take their opinion on that matter. It was then arranged that we should meet again on Saturday next at 4 o'clock, and that in the meantime M. Hanotaux would communicate with the Minister of Commerce.

It was also arranged that the treaty should be indefinite in point of time, but subject to one year's notice of denunciation on either side.

On leaving M. Hanotaux, I met Lord Dufferin, as arranged, at the Quai d'Orsay, but found that the Foreign Minister had been called away unexpectedly to the chamber to answer an interpellation. Lord Dufferin is therefore to call for me to-morrow morning at noon, for the purpose of taking me to the Foreign Office to be presented by him to M. Develle.

I remain yours faithfully.

CHARLES TUPPER.

17, VICTORIA STREET, S. W., 13th January, 1893.

The Under Secretary of State,
Colonial Office.

SIR,—With reference to previous correspondence respecting the negotiations for a Commercial Treaty between Canada and France, I beg to quote, for the information of the Secretary of State for the Colonies, the following telegram which has reached me from the Minister of Trade and Commerce of Canada:—

“*Re* French negotiations. Government cannot accept conditions involved in clauses regarding steamship subvention and reduction duty French books, but agree to most-favoured-nation treatment *so far as articles named in treaty are concerned*; they agree to other conditions in return for minimum tariff on articles named as regards France and St. Pierre and Miquelon. This subject to your views as to effect on proposed Spanish negotiations.”

I think the contents of this telegram may be regarded as satisfactory, and am arranging to return to Paris on Monday next for the purpose of resuming the negotiations. I shall be much obliged if a notification to this effect can be conveyed to the Foreign Office.

As explanation of the delay which has arisen in the consideration by the Canadian Government of the proposals in connection with the matter, I beg to also quote a telegram I received last evening from the Premier of Canada, as follows:—

“Minister of Trade and Commerce telegraphed you yesterday result deliberations French treaty. I much regret delay, but it was unavoidable on account of elections.”

As the Marquis of Ripon will be aware, recent alterations in the personnel of the Government of Canada have taken place, and it is to those changes, and the circumstances connected with them, that the delay which has occurred in conveying to me the decision of the Government in the matter is attributable.

I am, &c.

CHARLES TUPPER.

Sir Charles Tupper to M. G. Hanotaux.

GRAND HOTEL, PARIS, 18th January, 1893.

DEAR M. HANOTAUX.—As I informed you to-day the Government of Canada have agreed to the proposals in your memoranda which you handed to me at our meeting on 22nd November last, with the exception of the proposed reduction of duty on French books, and the clause relating to the steamship service between France and Canada. This does not arise from any change in the policy of the Government in the latter question, as I have placed it before you, but there does not seem to be any ground for embodying the intentions of the Government in a treaty to which there are obvious objections.

Canada and France.

Since our meeting on the date mentioned, I had occasion to refer to this subject in replying to a very influential deputation which waited upon me to advance the interests of Milford Haven as a point of communication between Canada and England. I inclose a copy of my speech in reply to the deputation in which you will see that I explained to them that Canada attached a great deal of importance to that feature of the project which provided for direct communication with France.

You will also readily perceive that the concession of the minimum tariff on a number of articles which it is proposed to give Canada will be practically of no value unless direct communication between the two countries be provided, as the surtaxe d'entrepôt would make it impossible for Canada to derive any advantage therefrom.

In the hope that this explanation will be satisfactory to the French Government, and that we may be able to conclude our negotiations upon the basis concurred in by the Government of Canada,

I remain yours faithfully,
CHARLES TUPPER.

EXTRACT from the speech made by Sir Charles Tupper on 29th November, 1892, in reply to the deputation from the county of Pembroke which waited upon him to represent the advantages offered by the port of Milford Haven in connection with a fast Atlantic service between Canada and Great Britain.

(As reported in the *South Wales Daily News* of November 30.)

“There was, however, one feature connected with the matter which had not been prominently adverted to. It was a feature to which Canada attached a deal of importance. That was they proposed to have not only a direct and rapid communication by going to an English port, but they proposed also to have a direct line of communication between Canada and the continent of Europe by requiring vessels to proceed on to a French port. Owing to the system adopted, and held with such tenacity by France the trade between Canada and France was greatly obstructed by the want of direct steam communication between the two countries. Now a vessel coming to an English port in the first instance would not at all affect the regulations in France, provided the vessel went on under through bills of lading and delivered her cargo, if intended for France or any port of the continent of Europe, without having landed it in England first. He drew their attention to that because, while listening to the very great attractions that undoubtedly the harbour in which they took so deep an interest was able to present, it occurred to him that they had not fully contemplated the effect of going to a French port.”

(11.)

GRAND HOTEL, PARIS, 21st January, 1893.

DEAR MR. BOWELL,—Sir Joseph Crowe and I met the French negotiators, M. Hanotaux, Pallain and Roume at M. Hanotaux's residence to-day at 4 o'clock, that gentleman being still too unwell to leave his room.

M. Hanotaux informed me that he had consulted M. Siegfried, the newly appointed Minister of Commerce, and M. Develle, the Minister of Foreign Affairs, and had placed the whole matter before them, and that it had been agreed to adopt the modifications demanded by the Canadian Government in the proposals which had been submitted.

As, however, the Government of Canada had declined to concede the proposed reduction on French books, the French Government, I was told, could not consent to place cheese on the list of articles selected for minimum tariff treatment, but that they would be prepared to do so if Canada would admit paintings and water colours free of duty.

The French Commissioners stated that they were also anxious to come to an arrangement with Canada with regard to the compulsory marking of merchandise

imported into France from Canada and *vice versa*, following I gathered somewhat the line of the Merchandise Marks Act of the United Kingdom, and while admitting that this matter need not be embodied in the treaty, they proposed that notes should be exchanged on the subject. I replied that I should be very glad to receive any communication from them upon that point, and would submit it for the favourable consideration of the Government, but I reminded them that in connection with this treaty I was necessarily confined to the instructions which had been given me by the Canadian Government.

M. Hanotaux informed me that my letter in reference to the steamship service was considered quite satisfactory.

It was then mutually arranged, after some discussion, that each side should prepare a draft treaty to be exchanged on Tuesday next, the 24th instant, and that we should meet at 4 o'clock on the day following, Wednesday, for the purpose of comparing the respective drafts and arranging for the precise terms of the treaty.

M. Hanotaux also informed me that, in conformity with the memorandum which he had given me on the subject of the reduced minimum tariff of St. Pierre and Miquelon, a decree had been duly passed and had been communicated by cable to the Colony, and that from the 1st February next duties would be collected there, as provided in the memorandum, a copy of which was attached to my despatch of the 22nd November to Sir John Abbott.

I am forwarding for your information, under a separate cover, six copies of the *Journal Officiel* of the 25th ultimo, containing the tariff in question.

It was proposed by M. Hanotaux and agreed to by me, that any increase in the specific duties on the wines covered by the proposed treaty should be regarded as a sufficient warrant for France to denounce the treaty.

I trust that the arrangement upon which we have mutually agreed, and which has been sanctioned by the Government will be found advantageous to Canada. You will see that if for any reason Canada should become dissatisfied with the operation of the proposed treaty, provision has been made for determining it at any time by one year's notice. The effect of that will be either to determine its operation if it should be so decided or to effect any modifications that may be found necessary to make it mutually acceptable.

I may say that I have given very careful thought to the intimation in your cable message to me that your instructions to me upon this matter were subject to my views as to their effect on the proposed Spanish negotiations, and I have come to the conclusion that no injury could possibly result to our position, while it is probable that the effect may be advantageous rather than otherwise.

The reduction of duty proposed in this treaty will give Spain no real advantage, as the alcoholic strength of Spanish wines is higher than 26 per cent. On the other hand, the inducement to Spain to effect an arrangement with the view of securing a similar reduction of the *ad valorem* duty for Spanish wines, will be increased, as in this way only can Spanish wine growers protect themselves from having their wines to some extent displaced by the lighter wines of France.

I will write to you at an early date further in regard to the proposed negotiations with Spain.

I am yours faithfully,
CHARLES TUPPER.

P. S.—You will observe that the proposed treaty provides for the enjoyment by Canada of the concessions in question in the French Colonies as well as in France.

C. T.

Canada and France.

(12.)

GRAND HOTEL, PARIS, 25th January, 1893.

DEAR MR. BOWELL,—I sent our draft of the treaty, after consulting Sir Joseph Crowe, to M. Hanotaux yesterday morning, and in the afternoon received the draft of the French negotiations, which contained the following article:—

ARTICLE II.

“Any advantage given to another country, especially to the United Kingdom of Great Britain and Ireland, concerning one or several of the articles of the Canadian tariff enumerated or not in the preceding disposition shall, by right, be extended to France and to its Colonies.”

On meeting in company with Sir Joseph Crowe, MM. Hanotaux, Pallain and Roume this afternoon at 4 o'clock at the Quai d'Orsay, I explained to them that I desired to substitute therefor the following reading:—

“Any commercial advantage granted to any third power shall, by right, be extended to France.”

This at first sight may appear to exceed in a slight degree the instructions that you gave me, but practically I think it will be found to be entirely unobjectionable.

In the first place it does not interfere with the adoption of a preferential tariff between Canada and Great Britain or with any of the British Colonies, and in the second place, pending the continuance of the treaties between Great Britain and Belgium and Germany, and in view of the opinion held by the British Government, we are unable to make a preferential arrangement with any foreign country.

The objectionable clauses in the Belgian and German treaties relating to the Colonies can only be removed by England giving the twelve months' notice that is required to denounce them. And in that case, if we had any desire at any time to make preferential arrangements with any third Power, the proposed Treaty with France could be terminated by a year's notice at the same time with the power which the treaty provides of being terminable at will by either party subject to twelve months' notice.

I do not think it possible that any inconvenience can arise from the engagement which I have agreed should be adopted.

The text of the Treaty will be fully settled, I expect, at 4 o'clock to-morrow, the 26th instant, and it will be signed as soon as authority is received from the Secretary of State for Foreign Affairs in London, to whom the draft will be sent by Lord Dufferin to-morrow.

The French Commissioners attributed importance to the exchange of a letter recommending Canada to agree to the reduction of the duty on paintings and pictures, in return for which they propose to give us the minimum tariff on cheese.

I am preparing for you a full report upon that subject which shall be forwarded for your consideration. But you will observe in the meantime that the matter is entirely optional and one for the Canadian Government to accept or not as they may desire.

Before forwarding this letter I hope to be able to add copies of the draft of the proposed Treaty and of the optional letter in question.

Trusting that this will meet with the approval of yourself and of your colleagues, and be found a useful measure for promoting and extending trade between Canada and France,

I am yours faithfully,
CHARLES TUPPER.

(13.)

GRAND HOTEL, PARIS, 26th January, 1893.

DEAR MR. BOWELL,—In continuation of my letter of yesterday I may say that Sir Joseph Crowe and I met the French negotiators at 4 o'clock this afternoon at the Quai d'Orsay. They informed me that owing to the question of procedure in respect of the exceptions to the general tariff of St. Pierre and Miquelon, which, they said, the Government had the power to put into force without consulting the Chambers, there was an objection to a reference to this matter appearing in the body of the Treaty. I pointed out to them that as this concession was one which had influenced the Canadian Government a good deal in their instructions to myself, it was desirable that some specific reference to the matter should appear on record. I suggested, therefore, as the best way of meeting the wishes of the Canadian Government in the circumstances, that it should form the subject of a letter to be attached to the Treaty.

This was agreed to, and the concession is mentioned in the draft of the optional letter I referred to in my last, a copy of which I attach together with the question of the exchange of a reduction of the duty on paintings, prints, drawings, &c., for the minimum tariff on cheese.

In the same letter mention is also made of the subsidy appropriated by Parliament towards a direct steamship service between Canada and France, in a manner which has satisfied the French negotiators, and in one, to which, I think, no exceptions can be taken by Canada.

Some further slight alterations were made in the text of the Treaty tending to simplify and to render its terms more precise, and the final drafts were then adopted and exchanged. I now inclose a copy of the text of the Treaty in French as it was approved at this meeting.

I saw Lord Dufferin afterwards, who has been unwell for some days past and unable to leave the Embassy, and on gathering from him that the Foreign Office would probably take a few days to consider the Treaty before authorizing us to sign, I decided to return to London to-morrow to offer any explanations that may be required, and to facilitate as much as possible early action being taken; at Lord Dufferin's request I am taking the Treaty with me to the Foreign Office, and I hope to be able to return next week again to Paris to sign the same with His Excellency.

In my judgment the terms of the arrangement I have been able to negotiate with France may be considered distinctly satisfactory, especially in view of the disadvantages under which Canada laboured, and which arose from the unfulfilled pledges given to France in the previous negotiations conducted by my predecessor, and the present small amount of trade interchanged. There can be no doubt that it compares most favourably with the recent United States arrangement with France, under which, as you will see on page 204 of the inclosed correspondence between Mr. Whitelaw Reid, the late American Minister in Paris, and M. Ribot, the United States gave free entry to \$11,000,000 of French products in return for the minimum tariff on woods, canned fruits, fresh and dried fruits, and hops.

I may remark in addition that this arrangement has not so far become law in France, having yet to pass the Senate; meanwhile, for the last nine months, France has enjoyed the advantage of her share of the bargain in the United States markets.

The present Canadian arrangement with France comprises a list of a number of articles upon which the minimum tariff will be conceded, and in which I believe a considerable trade may be developed with France.

I have placed the Hon. Hector Fabre, the Canadian Agent in Paris, in communication with the various gentlemen with whom I have been in contact in Paris and elsewhere in this matter, and he is preparing at my request an exhaustive report on the whole subject of trade in the list of articles in question. I hope shortly to have this ready for you.

With reference to the question of the proposed reduction of duty on paintings, prints, drawings, from 20 to 5 per cent in exchange for the minimum tariff asked for by the French Commissioners, I have reason to believe that a reduction to 10 per cent would be considered satisfactory. At the same time I may say that I shall

Canada and France.

most probably be able to have wood pavement in blocks (No. 129 in the French tariff) added to our list.

The question of obtaining the *minimum tariff on cheese* is, in my opinion, a matter of the utmost importance, and one that would far outweigh in solid advantages the small loss of revenue resulting from the concession asked in return.

It should lead to the Canadian cheese industry finding a large market in France, for a new product, Gruyere cheese, on most favourable and advantageous conditions. What Cheddar is in England, Gruyere is in France, namely, the most popular cheese, the consumption of which is enormous.

Switzerland, which sent France in 1891 over 36,000,000 lbs. of this cheese, is now under the maximum tariff, which imposes a duty of 25 francs per 100 kils, against 15 francs, the minimum tariff rate. Under such a rate the Swiss trade with France must largely cease. Gruyere cheese, as you may be aware, is made of skim-milk. A profitable utilization of this by-product, therefore, of our cheese factories becomes possible if the minimum tariff be conceded to Canada on cheese. If you are able, as I hope you will be, to arrange this matter, I would suggest sending to Switzerland, Mr. Robertson, the Dominion Dairy Commissioner, who is now in England, to study the question of the manufacture of this cheese, locally, for the guidance and instruction of the cheese-making industry in Canada.

In conclusion, may I urge upon you the importance of using every despatch in obtaining the sanction of Parliament to the proposed treaty at the earliest moment. Owing to the disturbed state of things here, no one knows what may happen. There would be without doubt a majority in the Chambers in favour of the treaty, and the Commissioners have also showed their desire that it should become law at the earliest moment possible, by the stipulation they proposed to insert in the treaty that the ratifications should be exchanged not later than March 31st next.

I am yours faithfully,

CHARLES TUPPER.

TRANSLATION OF PROJECT.

(*M. Develle, Minister of Foreign Affairs, to the Marquis of Dufferin and Ava and to Sir Charles Tupper.*)

January, 1893.

GENTLEMEN,—In a letter of this date, you have kindly informed me that you would recommend to your Government the proposition I had the honour to submit to you concerning the admission into Canada of paintings, pictures, drawings and building plans, of French origin. As pointed out by you, the Government of the Republic would desire that the agreement be made as follows: The Government of the Dominion would agree, on the first part, to maintain on the free list Item 764 of the Canadian Tariff, concerning the paintings in oil or water colours by artists of well known merit, and copies of the old masters by such artists, and, on the second part, to reduce from 20 to 5 per cent the duty imposed by Item 308 of the same Tariff on paintings, engravings, drawings and building plans.

Of course it is understood that if, as you hope, the Government of the Dominion gives satisfaction to the Government of the Republic on this point, the French Government will consent to add cheese to the list of articles of Canadian origin which, in accordance with the terms of article 3 of the agreement signed to-day, are to be admitted into France, Algeria and the Colonies under the minimum tariff.

You have also confirmed what you had made known to me during the conference, namely, that the Government of the Dominion wishing to encourage the development of the commercial relations between the two countries, has caused to be voted by the Parliament of Canada a subsidy of 100,000 pounds sterling to a line of steamers sailing from a Canadian to a French port.

You have also asked me to take into consideration the interests of Canadian importers concerning import duties at St. Pierre and Miquelon. I have the honour to inform you that these interests have received particular attention from the State Council and that the special decree issued by direction of that Assembly is actually in force.

I hasten to acknowledge receipt of your communication and thank you therefor.

(14.)

(Received 13th February, 1893.)

VICTORIA CHAMBERS,
17, VICTORIA STREET, LONDON, S.W.,
31st January, 1893.

HON. MACKENZIE BOWELL,
Minister of Trade and Commerce,
Ottawa.

DEAR MR. BOWELL,—I returned to London from Paris on the 27th instant, and on the following day I left the text of the treaty at the Foreign office as I had been requested to do by Lord Dufferin. I explained that it was of importance that Lord Dufferin and I should be authorized to sign at the earliest possible moment, as the Canadian Government were anxious to submit the treaty to the House, now in session, without delay. I am expecting at any moment to receive the necessary instructions.

I take the opportunity of transmitting a short memorandum I have drawn up on the subject of the opening in France for hard cheese, provided Canada obtained the minimum tariff on that article, which I commend to your perusal. I have also in this connection to make a correction in the statement I made in my last despatch, namely, that Switzerland exported 36,000,000 pounds of cheese to France. This amount, as you will see from the memorandum, represents the total importation of hard cheese into France.

I am yours faithfully,
CHARLES TUPPER.

(Received 13th Feb., 1893.)

MEMORANDUM ON THE FRENCH MARKET FOR CHEESE.

The imports of hard cheese (de pâte dure) into France are very considerable. The French official returns for the year 1891 give the total receipts of this class of cheese at 15,726,825 kilogrammes (36,000,000 pounds), valued at the average at from fr. 1.50 per kilogramme (15 cents per pound). Of this quantity 10,766,500 kilogrammes were entered for consumption, leaving a balance of 4,960,325 kilogs for re-exportation—the actual quantity of foreign hard cheese re-exported was 4,716,463 kilogrammes. England and Algeria took the bulk of this export, viz.: 4,386,370 kilogs, the remainder going to the French Colonial possessions.

The chief sources of the foreign cheese supply of France are Switzerland, 8,222,243 kilogs; Holland, 4,500,000 kilogs, and Italy, 2,087,474 kilogs. Switzerland and Italy therefore furnish two-thirds of the foreign supply.

Switzerland supplies almost exclusively Gruyere cheese. It is practically as much the national cheese of France as Cheddar is of England, and it is consumed in enormous quantities. Gruyere is made of skim milk, and arrives in France in three qualities. The first and finest generally goes to Paris, the second grade is consumed in the provincial centres, while the third grade, which forms the bulk of the importation, finds a market among French shipping and in the Mediterranean.

Italy supplies Gorgonzola. Both Switzerland and Italy are now under the general tariff of France, the duty levied is a high one, viz., 25 francs per 100 kilogs as against 15 francs the minimum tariff rate.

It follows that the cheese imports into France from the two countries in question must largely come to an end. In these circumstances an improvement in the price of cheese in France is not impossible. Local productions will be stimulated and other cheese producing countries enjoying the minimum tariff will find an opportunity for improving their position in the French market.

The cheese industry of Canada is so thoroughly organized that the control of the local and British markets is now practically assured. But with the continued expansion of that industry in the Dominion the need of other markets will inevitably arise. Provided Canada therefore could obtain the minimum tariff on cheese in France, that country would offer an alternative market capable of absorbing a large quantity of new varieties of cheese, a matter which could not fail to be of the utmost

Canada and France.

advantage to the cheese industry of Canada in so far as it would tend to broaden its basis, and strengthen its position in the world's market.

Experience in the manufacture of fancy cheese in general, and of Gruyere and Gorgonzola in particular, may not be very widespread at present in Canada, but that it exists is proved by the testimony of Mr. Jubal Webb, one of the largest cheese dealers in London, who stated to Sir Charles Tupper to the effect that some of the finest Gruyere cheese he had ever handled had come from Kingston, Ontario.

In any case the dissemination of the necessary information on the subject among the cheese-makers of Canada is not a matter of any great difficulty, and, given a possible market, Canadian enterprise, judging by the past, may be expected to do the rest.

It should be stated in this connection that there is also the British market for the cheese in question to be considered. Gorgonzola cheese has become a very favourite article of consumption in the large cities of the United Kingdom of recent years, so that in catering for France the not inconsiderable demands of the English market, where Canada occupies a dominant position in cheese, might receive attention at the same time.

FOREIGN OFFICE, 2nd February, 1893.

(Immediate.)

DEAR SIR CHARLES TUPPER,—I have pleasure in informing you that an instruction is now going to Lord Dufferin authorizing the signature of the proposed agreement relative to trade between Canada and France; and that Lord Rosebery has further stated that Her Majesty's Government do not object to the notes proposed to be exchanged.

I return herewith the English text which you communicated, in which you will perceive that certain verbal and technical corrections have been made.

Believe me, dear Sir Charles Tupper,

Yours very truly,

E. GREY.

The undermentioned Canadian articles, accompanied by certificates of origin, will be admitted into France under the minimum tariff.

No. 128. Woods, rough or sawn.

130. Staves.

615. Ships, sea-going, of wood.

19. Meat, preserved in tins.

47. Fish, preserved.

49. In part. Lobsters preserved.

86. do Fruits, table, preserved, other.

600. do Strips for parquetry, of soft wood.

591. do Furniture of common wood.

592. do —bis. Furniture of common wood, other.

168. Pulp.

84-85. In part. Apples and pears, fresh or dried.

480-1-2. Boots and shoes.

238—bis. Extract of chestnut wood, and other tannic vegetable saps.

45. Fish, fresh water, eels.

35—bis. Milk, condensed, pure.

461. Paper, common, machine made.

476. In part—Skins and hides, prepared, whole, other. General tariff, 50 francs; minimum tariff, 25 francs.

The French Government will take into consideration the request to include cheese in the list of articles to be admitted under the minimum tariff.

It is agreed that reduction made in the minimum tariff on any of the above-mentioned articles in favour of any country, shall also apply to Canada.

PARIS, 6th February, 1893.

The Right Honourable
The Earl of Rosebery, K.C.

MY LORD,—I have the honour to transmit to Your Lordship herewith, the English and French texts of the commercial arrangement between Great Britain and France, with regard to the trade between Canada and France, which in accordance with the instructions contained in Your Lordship's despatch No. 18, of the 2nd instant, Sir Charles Tupper and myself, Her Majesty's Plenipotentiaries, have signed this day with Monsieur Develle, the French Minister for Foreign Affairs, and Monsieur Siegfried the Minister of Commerce, the Plenipotentiaries of the Government of the French Republic.

I also inclose the text of the notes at the same time exchanged between Monsieur Develle and myself, in accordance with the authority conveyed in Your Lordship's above mentioned despatch.

I have the honour to be, with the highest respect, my Lord,

Your Lordship's most obedient humble servant,

DUFFERIN AND AVA.

PARIS, 6th February, 1893.

MONSIEUR LE MINISTRE,—In the course of the conferences which have just been concluded by the signature of an agreement between France and Canada, regulating the commercial relations of the two countries, in the matter of tariff, your Excellency expressed a wish that the understanding about to be come to between the two countries should also include the customs treatment of pictures, prints, engravings, drawings and architectural drawings entering Canada.

The Government of the Republic is of opinion that the treatment above alluded to should be as follows: The Government of the Dominion of Canada engages on the one hand, to maintain the freedom of duty assured in the article 764 of the Canadian tariff in respect of "pictures and water colours executed by artists of well known merit, and copies of great masters made by the same artists," and on the other hand, to reduce from 20 to 5 per cent the duty in Article 308 of the same tariff relative to "pictures, engravings, drawings and architectural drawings."

As verbally agreed, we have the honour to inform Your Excellency that these demands will be recommended by the undersigned to the Canadian Government. It is meanwhile understood that if, as we hope, the Government of the Dominion of Canada thinks it possible to give satisfaction to the Government of the French Republic on this point, the French Government will consent on its part to add cheese to the list of articles of Canadian origin which in terms of article 3 of the agreement signed this day will be admitted in France, Algeria and her Colonies, to the advantage of the minimum tariff.

We take this opportunity of confirming what we already made known to Your Excellency during the progress of the conferences, viz.: that the Canadian Parliament, desirous of favouring the development of commercial relations between the two countries, has voted a subvention of £100,000 for the purpose of establishing a line of steamers to run between a Canadian port on one side, and a French terminus port on the other.

We have the honour to be, with the highest consideration,

Monsieur le Ministre,

Your Excellency's most obedient and humble servants,

DUFFERIN AND AVA,
CHARLES TUPPER.

The proposed treaty which would in the sequence follow is printed at the beginning of this Return.

Canada and France.

(15.)

GRAND HOTEL, PARIS, 6th February, 1893.

HON. MACKENZIE BOWELL,
Minister of Trade and Commerce,
Ottawa.

DEAR MR. BOWELL,—In continuation of my letter of the 31st ultimo, I have to report that I called at the Colonial Office on Tuesday, the 1st instant, and saw Mr. Meade, the Permanent Under Secretary, who informed me that that department entirely approved of the draft treaty, and that it had gone back to the Foreign Office with the suggestion that it be referred to the Board of Trade.

I had an interview the following day with Sir E. Grey, the Under Secretary for Foreign Affairs, who stated that the Foreign Office quite approved of the draft, that they did not see any reason for referring it to the Board of Trade, and that no time should be lost in having the necessary authorization to sign sent forward.

A communication from Sir E. Grey, copy enclosed, intimating that this had been done, reached me late on Friday afternoon, the 3rd instant, and I telegraphed immediately to Sir Joseph Crowe, in these terms:—

“Please inform Lord Dufferin, instructions go forward to-night, authorizing signature of treaty and letter. Leaving for Paris to-morrow morning at eight. Would be greatly obliged if arrangements were made so that signature could take place Monday.”

I arrived in Paris on Saturday evening, and learnt from Mr. Austin Lee, at the Embassy, that M. Develle, the Foreign Minister, in order to meet my wishes, had kindly arranged a meeting at the Quai d'Orsay, for the signature of the treaty to day at half-past four.

I also supplied M. Hanotaux the same night with the English text of the treaty as revised by the Foreign Office in London, as it was desirable that it should be in both languages, and the papers will be drawn up accordingly.

Mr. Colmer repeated to me yesterday your cable message of Saturday, the 4th instant, which reads as follows:—

“Letter twenty-first received this morning; impossible to decide until further information reaches us as to what proposals are specified in the drafts. Cable what position is as to cheese.”

My despatches which have already been sent to you will fully explain the point upon which you appear to be in doubt, and I expect that the draft of the treaty and the proposed letters accompanying it will also be received by you to-day.

The questions of the reduction by Canada of the duty on French books, and of the concession by France of the minimum tariff on cheese, were both left in the French propositions for the consideration of the Government of Canada and of France, and as the Dominion refused to make the reduction on French books, France declined to extend minimum tariff treatment to Canadian cheese.

The draft letters in connection with the treaty will show you that it is proposed by France, in addition to the present treaty, to grant the minimum tariff on cheese, provided Canada will reduce the duty on paintings, prints, engravings, drawings, and building plans from 20 to 5 per cent. But I have every reason to believe that the reduction from 20 to 10 per cent on these articles will obtain for Canada the minimum tariff on cheese.

The memorandum which I have sent to you on the question of cheese (see my despatch of January 31st) will, I think, convince you that it would be greatly to the advantage of Canada to meet that proposition on the part of France and to adopt promptly the arrangement by a simple exchange of notes by the plenipotentiaries of the Governments of Great Britain and France.

I am so glad to be able to tell you also that I have succeeded at the last moment, and after some difficulty, in inducing the French Commissioners to add wood pavement in the piece (No. 129 in the French tariff) to the list of articles of Canadian origin to which minimum tariff treatment will be conceded.

The use of wood pavement is spreading very rapidly in Paris and other great centres of France, and there should be, I think, a good opening for an export trade in this article from Canada to France.

I will forward immediately a copy of the Treaty, when signed, to Sir John Thompson, with a despatch upon the subject, which you may desire to lay upon the table of the House when asking Parliament for its approval.

I am engaged with Mr. Fabre in obtaining all possible information in regard to the trade in the articles upon which the minimum tariff has been conceded, which I will forward to you with as little delay as possible.

I am yours faithfully,
CHARLES TUPPER.

P.S. I open this despatch to add that the Treaty was signed this afternoon at the Foreign Office, upon which I immediately addressed the following telegram to Sir John Thompson:—

“Treaty was duly signed at Foreign Office to-day at five. Only alteration in draft already sent you is addition of wood pavement in the piece. The letters were also exchanged. Am mailing full text in English and French, both of Treaty and letters, Wednesday.”

I have arranged to leave for London to-morrow morning.

C.T.

(16.)

GRAND HOTEL, PARIS, 6th February, 1893.

The Hon. Sir JOHN THOMPSON,
Prime Minister of Canada,
Ottawa.

DEAR SIR JOHN THOMPSON,—I have much pleasure in sending herewith a copy of the Treaty, which has been duly executed to-day at five o'clock at the Foreign Office, Paris.

It is, as you will observe, in accordance with the instructions which were communicated to me by your Government, and it is identical with the draft already forwarded to the Hon. Mr. Bowell, the Minister of Trade and Commerce, with the exception of the addition of “Wood pavement in the piece” to the list of Canadian articles to which the minimum tariff has been accorded by France, which I presume you will receive to-day.

It is quite obvious that in the absence of the arrangement which has now been made, the exports from Canada to France would have been completely cut off, as no country under the maximum tariff could send any article in competition with countries having the minimum tariff. Thus as Russia and Norway and Sweden enjoy the minimum tariff, all competition with these countries in the woods which we send to France would have been rendered impossible.

The rupture in trade relations between France and Switzerland, owing to the rejection by the French Chambers of the Franco-Swiss Treaty, will cut off a very large export trade in wood from Switzerland to France, which entered into competition with the Canadian product, and there is every reason, therefore, to suppose that under the present arrangement a great impetus will be given to the export of wood of all kinds from Canada to France. It is also well known that it is becoming more difficult and expensive every year to export wood from Norway and Sweden, who will be our main competitors in that market.

Although not embodied in a treaty, as it is dealt with in another way by French administrative procedure, a great reduction below the minimum tariff has been made to Canada in St. Pierre and Miquelon, in connection with these negotiations. This concession will preserve a valuable and important trade which, otherwise, must have been destroyed under the application of the minimum tariff.

It must not be forgotten also that the Government of Canada long since pledged itself to the Government of France to reduce unconditionally the *ad valorem* duty on wines from 30 to 15 per cent.

Canada and France.

You will observe by examination of the record of negotiations between the United States and France contained in the French Yellow Book enclosed, the latter country agreed to give the minimum tariff on common woods (Article 128); Wood pavement in the piece (Article 129); Staves (Article 130); Canned Meats (Article 19); Fresh Fruits (Article 84); Fruits, dried and pressed, with the exception of raisins (Article 85); Apples and pears, crushed or cut and dried (Article 174); Hops (Article 160), in return for the free importation into the United States of sugar, molasses and hides amounting to not less than some nine to ten millions of francs per annum; and, consequently, the arrangement which Canada has been able to effect under this present Treaty will compare most favourably with the concessions made to the United States.

The letters exchanged between the Plenipotentiaries of the two countries, while containing nothing that is binding upon either, provided for a further extension of free trade relations, and I believe that the reduction by one-half of the present duty on paintings, prints, engravings, drawings and building-plans, will obtain the minimum tariff on cheese and open up to Canada a very large market in France. By reference to the memorandum I have already furnished to the Honourable Mr. Bowell upon that subject you will see that the heavy export of cheese to France from Switzerland—and the same to a certain extent applies to Italy—must, in the present condition of things, be brought to an end, and I do not see any reason why Canada should not obtain a very large proportion of the trade thus cut off.

Under the proposed steamship line with France, which will enable us to have much more rapid communication and relieve our trade from the *surtaxe d'entrepôt*, I see no reason to doubt that the exports from Canada to France will be very rapidly and greatly increased.

The friendly relations that will be established under this treaty will render it easy for us, by a simple exchange of notes between the plenipotentiaries of the two countries, to obtain an extension of mutually advantageous concessions on any articles which it may be found profitable to deal with in that manner.

While I feel assured that the trade relations between Canada and France will be greatly extended by the treaty made, you will observe that if at any time it is desired by Canada for any reason to terminate it, provision is made for that contingency by giving twelve months' notice.

The question of most-favoured-nation treatment to France does not in any way prevent a differential duty being established at any time between Canada and Great Britain or any British possession. You will also notice that all concessions made to Canada in this treaty are extended to Algeria and all the French colonies.

I cannot conclude this communication without saying that while the negotiations have been carried on entirely by myself on the part of Canada, and by M. Gabriel Hanotaux, Minister Plenipotentiary and Director of Consulates and of Commercial Affairs in the Foreign Office, M. G. Pallin, Councillor of State, Director General of Customs, and M. E. Roume, Director of Foreign Commerce, in the Department of Commerce and Industry, on the Part of France, I have received the most cordial support and assistance from the Colonial and Foreign Offices in London and from His Excellency the Marquis of Dufferin and Ava. My obligations are especially great to Sir Joseph Crowe, First Secretary and Special Commercial Attaché of the Embassy, who has given me the benefit of his valuable advice and wide experience in such questions, and who has constantly associated with me in my intercourse with the French negotiators. I am likewise indebted to Mr. Austin Lee, of the Embassy, for his ready counsel and good offices which smoothed away the difficulties which arose in the course of this negotiation.

In addition to the courtesy and consideration shown to me by Lord Rosebery, and Sir E. Grey, the Under Secretary of Foreign Affairs, I should mention that I have received the most valuable advice and assistance from Mr. C. M. Kennedy, C.B., who is at the head of the Commercial Department of the Foreign Office.

I am yours faithfully.

CHARLES TUPPER.

(17.)

VICTORIA CHAMBERS,
17, VICTORIA ST., LONDON, S.W., 8th February, 1893.

Hon. MACKENZIE BOWELL,
Minister of Trade and Commerce,
Ottawa.

DEAR MR. BOWELL,—I left Paris yesterday morning taking with me the French Canadian Treaty and the letters exchanged for the Foreign Office, copies of which and of Lord Dufferin's covering despatch I am mailing to-day to Sir John Thompson.

I transmit in addition herewith copies of these papers for your information.

I have also to confirm my cable of yesterday in reply to your message of the 4th instant:—

"Your telegram received in Paris Sunday is fully answered by my letters 24th and 25th January which should have reached you yesterday".

I trust the points upon which you seem to have been in doubt are now clear to you.

I should mention that, after signing the treaty, I took the opportunity of saying to M. Siegfried that it would greatly strengthen the hands of the Dominion Government in getting Parliament's approval if the arrangements were adopted by the French Chambers at an early date, as this would effectually silence any criticism which the opposition might make, arguing from the delay which had taken place in connection with the passing of the arrangement between France and the United States, that France should be in no hurry to ratify the provisions of the treaty.

I explained also that another cogent reason for early action was to be found in the fact that the present moment was the time of the year when the annual contracts for timber were generally made, and I added that Canadian timber merchants were in the country now for that purpose, who were getting apprehensive as to their missing this season's trade if any delay on the part of France should arise.

M. Siegfried assured me that the matter should receive their best attention; that he hoped to have the *projet de loi* embodying the treaty laid upon the table within the next three or four days, and that he had no doubt it would pass both Chambers by March 1st, next.

I will take care that you are supplied with copies of the Bill submitted and with the report of any discussion that takes place upon the subject.

On my arrival yesterday evening I found Sir John Thompson's telegram of the 6th which reads as follows:—

"No draft received; no step should be taken towards ratification until we cable approval; at present cannot understand what terms proposed either side." and I have received this morning your cable under:—

"Letters of twenty-fourth and twenty-fifth not yet received; letters of eighteenth and twenty-first only and your telegram were before council when Sir John's telegram was sent instructing delay in ratification of treaty; effect of changes in original draft not fully understood."

I thereupon sent the following message to Sir John Thompson:—

"Had left Paris for London before your message arrived; Treaty was signed at five on Monday, in accordance with instructions from your Government; no change in original draft, except in addition to all the other articles enumerated. The proposals in letters exchanged by Plenipotentiaries are not binding but optional."

I am unable to understand the delay in the arrival of the despatches in question, as I took care to have them mailed on the 25th instant, by the White Star mail steamer. I trust, however, that they have reached you now.

I am yours faithfully,

CHARLES TUPPER.

Canada and France.

The Marquis of Ripon to Lord Stanley of Preston.

DOWNING STREET, 16th February, 1893.

Governor-General, &c., &c., &c.

MY LORD,—I have the honour to transmit to you, for the information of Your Lordship's Government, a copy of a letter from the Foreign Office enclosing a despatch from the Marquis of Dufferin and Ava, reporting the successful termination of the negotiations with France in regard to Canadian trade and expressing his sense of the able manner in which these negotiations were conducted by Sir Charles Tupper and Sir Joseph Crowe.

I have, &c., &c.,
RIPON.

FOREIGN OFFICE, 10th February, 1893.

The Under Secretary of State,
Colonial Office.

SIR,—With reference to the previous correspondence on the subject of negotiations with France in regard to Canadian trade, I am directed by the Earl of Rosebery to request that you will inform the Marquis of Ripon that those negotiations have been brought to a successful conclusion, copies in print of the agreement signed and the notes exchanged, on the 6th instant, will shortly be forwarded to you. In the meantime I transmit a copy of a despatch from Lord Dufferin expressing his sense of the able manner in which the negotiations were conducted by Sir Charles Tupper and Sir Joseph Crowe.

I am to add that Lord Rosebery proposes to present to Parliament the correspondence on this subject.

I have, &c., &c.,
E. GREY.

P.S.—A proof of the proposed Parliamentary Paper will in due course be communicated to Lord Ripon.

E. G.

PARIS, 6th February, 1893.

The Earl of Rosebery, K.G.,
&c., &c., &c.

MY LORD.—The commercial negotiations with France in reference to its trade with the Dominion of Canada having been successfully terminated by the signature of the arrangement which I have had the honour to transmit to Your Lordship in my Despatch No. 45 Commercial of this day, I think it is incumbent upon me to call Your Lordship's attention to the skill displayed by Sir Charles Tupper and Sir Joseph Crowe in the long and difficult negotiations which they have carried on with the delegates of the French Government.

Owing to the objections existing in this country to any kind of commercial arrangements which may interfere with the liberty of the French Parliament to impose at any moment such duties as they may think necessary for the protection of its industries, it appeared at the outset very doubtful if these negotiations would come to a successful termination. The conciliatory spirit, however, shown on both sides has, I am happy to say, falsified these expectations, and I have no hesitation in saying that the conclusion of the arrangement is largely owing to the ability displayed by our negotiators.

Sir Charles Tupper has expressed to me how greatly he is indebted to Sir Joseph Crowe for the kind and considerate attention he has devoted to the matter, and for the very able and judicious manner in which Sir Joseph has aided the negotiations with the French representatives,

I have, &c., &c.,
DUFFERIN AND AVA.

(E.)

(Circular.)

DEPARTMENT OF TRADE AND COMMERCE.

OTTAWA, 20th February, 1893.

For the information of Customs Officers and others interested I have, by order of the Honourable the Minister of Trade and Commerce, the honour to advise you of the issue under date of 21st December, 1892, of a Decree of the President of the French Republic respecting the Customs Tariff of St. Pierre and Miquelon, copy whereof is hereto appended.

It may be observed that the equivalent of the French kilogram is for all practical purposes $2\frac{1}{8}$ pounds avoirdupois, (actually 2.2046 pounds). The hectolitre is equal to 22 Imperial gallons (actually 22.009). The intrinsic value of the franc is $19\frac{3}{10}$ cents.

W. G. PARMELEE, *Deputy Minister.*

Official Journal, 25th December, 1892.

MARINE AND COLONIAL OFFICE.

The President of the French Republic,
On the report of the Minister of Marine and the Colonies;
Considering the law of 11th January, 1892, relating to the establishment of the General Customs Tariff;

Considering the opinion expressed by the General Council of St. Pierre et Miquelon, in the sitting of the 9th May, 1892;

Considering the advice of the Minister of Commerce and Industry;
The State Council being heard,

Decrees—

Art. 1. The exceptions to the General Customs Tariff, in so far as foreign products imported into St. Pierre et Miquelon are concerned, are established, conformably to the table annexed to this decree.

Art. 2. The taxes mentioned in the said table constitute a single tariff which is to replace the duties of the general tariff and of the minimum tariff.

Art. 3. The additional duties for warehousing in bond, established by article 2 of the law of the 11th January, 1892, and the tables C and D annexed to the aforesaid law, are not collected in the colony of Saint-Pierre et Miquelon.

Art. 4. The Minister of Marine and the Colonies is charged with the enforcement of this decree,

Done at Paris, the 21st December, 1892.

CARNOT.

By the President of the Republic :—

The Minister of Marine and the Colonies,
BURDEAU.

Canada and France.

TABLE annexed to the decree applying to Saint-Pierre et Miquelon the Metropolitan Customs Tariff.

<i>I. Live Stock.</i>	<i>XI. Wood.</i>
<p>Oxen and cows, exempted. Calves, exempted. Rams, ewes and sheep, exempted. Pigs, exempted. Fowls, exempted. Pigeons, exempted.</p> <p style="text-align: center;"><i>II. Products of Animals.</i></p> <p>Fresh meats, exempted. Game, killed, exempted. Salt pork, 3 frs, per 100 kilog. Corned beef and other salt meats, 5 frs. per 100 kilog. Lard, 3 frs. 65c. per 100 kilog. Eggs, exempted.</p> <p style="text-align: center;"><i>III. Fisheries.</i></p> <p>Fresh fish, exempted. Salt fish, other than cod, klippfish, stockfish and herring, exempted. Fresh oysters, exempted.</p> <p style="text-align: center;"><i>VI. Breadstuffs.</i></p> <p>Wheat flour, 35 centimes per 100 kilog. Oats, 50 centimes per 10 kilog. Indian corn, 50 centimes per 100 kilog. Indian corn meal, 15 centimes per 100 kilog. Rice, 15 centimes per 100 kilog. Potatoes, exempted.</p> <p style="text-align: center;"><i>VII. Fruits and Seeds.</i></p> <p>Fresh fruits, exempted.</p> <p style="text-align: center;"><i>VIII. Colonial produce for consumption.</i></p> <p>Tea, 9 frs. per 100 kilog. Coffee, 7 frs. 30c. per 100 kilog. Molasses, 1 fr. 60c. per 100 kilog. Biscuits, 5 frs. 50c. per 100 kilog. Chocolate, not sweetened, 9 frs. per 100 kilog. Pepper, 7 frs. per 100 kilog. Leaf tobacco, 50 frs. per 100 kilog. Smoking and chewing tobacco, and snuff, 150 frs. per 100 kilog. Cigars and cigarettes, 250 frs. per 100 kilog.</p>	<p>Firewood, exempted. Hoops and staves, exempted. Fence rails, exempted. Timber and lumber, all kinds, 15 centimes per 100 kilog.</p> <p style="text-align: center;"><i>XIV. Miscellaneous Products.</i></p> <p>Fresh vegetables, exempted. Hay, pressed, 30 centimes per 100 kilog.</p> <p style="text-align: center;"><i>XV. Liquors.</i></p> <p>Alcohol, 31 frs. 60c. per hectolitre, at 89°. Brandy, 31 frs. 60c. per hectolitre, at 89°. Rum and tafia, 31 frs. 60c. per hectolitre, at 89°. Gin, 31 frs. 60c. per hectolitre, at 89°.</p> <p style="text-align: center;"><i>XVI. Marble, stone, earths and combustible minerals.</i></p> <p>Coal, exempted. Anthracite, 10 centimes per 100 kilog. Mineral oil and petroleum, 13 frs. 25c. per 100 kilog.</p> <p style="text-align: center;"><i>XVIII. Chemicals.</i></p> <p>Salt, free.</p> <p style="text-align: center;"><i>XXIV. Yarns.</i></p> <p>Cotton threads, 8 frs. per 100 kilog.</p> <p style="text-align: center;"><i>XXV. Textile fabrics.</i></p> <p>Sail cloth, cotton, 11 frs. per 100 kilog. Unbleached cotton in the piece, single or twilled, 11 frs. per 100 kilog.</p> <p style="text-align: center;"><i>XXIX. Arms, Powder and Ammunition.</i></p> <p>Gunpowder, 12 frs. 60c. per 100 kilog.</p> <p style="text-align: center;"><i>XXX. Manufactured wood.</i></p> <p>Lumber planed, tongued and grooved, 20 centimes per 100 kilog.</p> <p style="text-align: center;"><i>XXXIV. Articles of diverse materials.</i></p> <p>Schooners, exempted. Dories, 25 frs. per unit.</p>

The above to be annexed to the decree of the 21st December, 1892.

The Minister of Marine and the Colonies,

BURDEAU.

(F.)

Memoranda prepared by Minister of Trade and Commerce.

(1.)

MEMORANDUM *re* FRENCH TARIFFS.

	Unit.	Tariff in force prior to Jan., 1892.	Tariff in force since January, 1892.	
			Maximum.	Minimum.
		Francs	Francs.	Francs.
Building timber in the rough or sawn.....	Per 100 kilos.	Free.....	1 50	1 00
Staves.....		Free.....	1 25	0 75
Ships.....	Per ton.	2.....	5 00	2 00
Meats in boxes (cans).....	Per 100 kilos.	8.....	20 00	15 00
Fish—preserved.....	do	10.....	30 00	25 00
do —fresh (eels).....	do	5.....	10 00	5 00
Lobsters—preserved.....	do	10.....	30 00	25 00
Table fruits other than preserved in spirits, sugar or honey.....	do	8.....	10 00	8 00
Apples and pears—fresh.....	do	Free.....	3 00	2 00
do —dried.....	do	6.....	15 00	10 00
Wood veneers for parquetry.....	do	1.....	5 00	3 50
Cellulose pulp.....	do	} Not in tariff {	1 50	1 00
do —mechanical moist.....	do		0 75	0 50
do —chemical.....	do		2 50	2 00
Extract of chestnut, &c., tannin.....	do	Free.....	5 00	3 00
Condensed milk.....	do	6.....	10 00	5 00
Paper—common machine-made.....	do	11.....	13 00	10 00
Hides.....	do	50.....	50 00	25 00
Boots and shoes—top boots.....	Per pair.....	2.....	2 50	2 00
do —for men and women.....	do	1 25.....	2 50	1 50
do —shoes.....	do	0 75.....	1 00	0 75
Common furniture—chairs.....	Per 100 kilos.	7 50.....	11 00	9 00
do —other than chairs.....	do	5 00.....	6 00	5 00

(2.)

MEMO. *re* Exports for the fiscal year ended June 30th, 1892, showing the reduction which would have accrued under the French Minimum Tariff from the Maximum Tariff of 1892 had it been in force.

Articles and Quantity Exported.	Value.	Proposed reduction from present Maximum Tariff.
	\$	Francs.
Building timber in the rough or sawn, 7,276 standard, 812 M. feet.....	186,939	136,493
Preserved meats, 9,024 lbs.....	913	205
Preserved lobsters, 776,520 lbs.....	134,934	17,650
		154,348
Equal to.....	\$ 29,778	

NOTE.—There were no exports of other articles named in proposed Treaty.

Canada and France.

(3.)

MEMO. re Exports to France, for the fiscal year ended June 30th, 1891, Showing also the reduction which would accrue under the Minimum Tariff from Maximum Tariff of 1892, had it been then in force, as well as increased revenue to France under Minimum Tariff as compared with the Tariff actually in force in 1891.

Article and Quantity Exported.	Value.	Proposed reduction from present Maximum Tariff.	Actual increase over Tariff in force in 1891.
	\$	Franca.	Franca.
Building timber in the rough or sawn, 4,632 standard 5 M. feet.....	124,935	75,645	75,645
Staves, 10 M.....	810	96	144
Preserved meats, 144 pounds.....	10	4	7
Preserved lobsters, 328,126 pounds.....	50,946	7,457	22,371
Apples, dried, 50,776 pounds.....	3,125	1,155	924
Equal to.....		84,357	99,091
		\$16,282	\$19,126

NOTE.—There were no exports of other articles named in proposed treaty.

(4.)

IMPORTATIONS from France for the Fiscal Year ended 30th June, 1891.

Articles.	Value.	Duty Collected.	Proposed per cent.	Reduction Amount.
	\$	\$		\$
Wines not sparkling and not over 26 per cent. proof spirits.....	93,942	52,407	30 p.c. <i>ad val</i>	28,183
Champagne and other sparkling wines.....	153,761	72,729	do	46,129
Almonds.....	11,167	4,510	33½ p.c. off	1,434
Nuts, other.....	33,445	14,151	do	4,716
Plums and prunes.....	4,366	707	do	236
Soap, common and Castile.....	10,416	4,461	50 p.c. off	2,231
Total.....				82,929

(5.)

ARTICLES imported from France for the Fiscal Year ended 30th June, 1892.

Articles.	Quantity.	Value.	Duty Collected.	Percentage of Proposed Reduction.	Amount of Proposed Reduction.
		\$ cts.	\$ cts.	Per Cent.	\$ cts.
Wines, not sparkling.....	106,289	101,665 00	57,081 00	30	30,499 50
Champagne and other sparkling wines..	16,393	138,850 00	77,239 70	30	23,161 91
Almonds.....	174,203	13,291 00	5,354 09	33½	1,784 67
Nuts, other.....	327,932	22,484 00	9,938 00	33½	3,313 00
Plums and prunes.....	24,343	1,272 00	243 43	33½	81 14
Soaps, common.....	1,043	48 00	15 64	50	7 82
do Castile.....	230,818	10,599 00	4,616 37	.....	2,308 18
Total reduction on importations from France.....					61,156 00

(6.)

IMPORTATIONS from countries other than France, Fiscal Year ended 30th June, 1891.

Articles.	Value.	Duty Collected.	Proposed per cent.	Reduction Amount.
	\$	\$	Per Cent.	\$
Wines, not sparkling and not over 26 per cent. of proof spirits.....	108,194	80,634	30 p.c. <i>ad val.</i>	32,448
Champagne and other sparkling wines.....	31,323	82,585	30 p.c. <i>ad val.</i>	9,397
Almonds.....	49,044	14,248	$\frac{1}{2}$ of duty.....	4,750
Nuts, other.....	123,796	62,460	$\frac{1}{2}$ ".....	20,753
Plums and prunes.....	102,030	17,865	$\frac{1}{2}$ ".....	5,955
Soap, common and Castile.....	30,300	8,458	$\frac{1}{2}$ ".....	4,229
Total.....				77,532

(7.)

ARTICLES imported from Countries other than France, Fiscal Year ended 30th June, 1892.

Articles.	Quantity.	Value.	Duty Collected.	Percentage of Reduction.	Amount of Reduction.
		\$	\$ cts.	Per cent.	\$ cts.
Wines, not sparkling.....	128,761	76,948 00	55,283 00	30	23,084 00
Champagne and other sparkling wines.....	3,783	36,650 00	19,652 11	30	10,995 00
Almonds.....	448,573	50,680 00	16,134 18	$\frac{1}{2}$ duty	5,378 00
Nuts, other.....	1,965,183	100,526 00	58,865 00	$\frac{1}{2}$ "	19,655 00
Plums and prunes.....	1,871,405	68,267 00	17,714 05	$\frac{1}{2}$ "	5,905 00
Soaps, common.....	870,655	46,644 00	13,236 42	50	5,162 00
do Castile.....					1,532 00
Total.....					71,711 00

Canada and France.

(8.)

MEMORANDUM of articles exported to St. Pierre and Miquelon during the Fiscal Year ended 30th June, 1892, and showing reduction under new Tariff applicable to those Islands in force since 1st February, 1893.

Articles.	Quantity.	Value.	Amount of Reduction.
		\$	Francs.
Coal	Tons. 14,035	30,413	15,312
Salt	Bush. 384	85	336
Herrings (salted).....	Brls. 1,202	1,260	16,395
Staves.....	M. 58	484	522
Cattle.....	Head. 1,088	24,116	3,264
Pigs.....	" 169	835	1,322
Sheep.....	" 2,850	7,422	14,250
Poultry	"	1,740	2,720
Eggs.....	Doz. 14,743	1,582	430
Meat	Lbs. 67,758	2,979	7,084
Lard.....	" 300	33	15
Pork.....	" 24,909	1,419	1,356
Oats	Bush. 7,221	2,611	3,280
Flour	Brls. 2,597	12,832	22,775
Fodder (hay).....	Tons. 677	8,266	1,365
Potatoes.....	Bush. 22,186	6,978	2,420
Ships (sea-going).....	Tons. 814	25,930	1,628
Tobacco.....	Lbs. 28,281	3,437	1,800
Tea.....	" 5,777	1,143	5,226
Total		113,566	121,500
Equal to.....			\$23,439

NOTE.—The foregoing Tables Nos. 1 to 7 are made up from Trade and Navigation returns, whereas those given on pages 29 to 32 are from memoranda furnished by the High Commissioner, and so far as the latter are derived from French statistical tables there can be no correspondence with the former, for the reason that the French fiscal year ends December 31st., instead of June 30th, as in Canada. As regards values the French method is for appraisers to fix them annually, such fixed values holding good throughout the year, without regard to those actually current at time of entry, and as regards imports they are supposed to approximate to the values at the Port of Entry and not at the place from whence the goods are imported.

SUMMARY OF RESULTS OF TABLES 1 TO 8.

Loss to Canada on basis of Importations for year ended 30th June, 1892 :—	
Direct.....	\$61,156
Indirect....	71,711
Loss to France on basis of Exportations and Tariff 1892.....	\$29,778
Loss to Canada on basis of Importations for year ended 30th June, 1891 :—	
Direct.....	\$82,929
Indirect.....	77,532
Gain to France on the basis of Exportations and Tariff in force, 1891.....	\$19,126
Loss to France on basis of Exportation to St. Pierre and Miquelon for year 1892 and reduction from maximum Tariff, to Tariff now in force.....	\$23,439

PAPERS

(52)

Relating to the Conference held at Washington in February, 1892, between the delegates of the Canadian Government and the Secretary of State of the United States upon the several subjects therein mentioned.

OTTAWA, 7th March, 1893.

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 25th of February, 1892.

On a report dated 24th February, 1892, from the members of the government who proceeded to Washington submitting the accompanying precis and exhibits which will inform your excellency of the proceedings which took place at Washington during the conference which they held (in company with Sir Julian Pauncefote) with the secretary of state of the United States, pursuant to the intimation given by the government of the United States that that government was ready to confer with delegates from your excellency's government on the 10th February instant. It will be seen from these appendices that an understanding was arrived at between the delegates from your excellency's government and Mr. Blaine on the subject of the boundary of Alaska, the adoption of joint regulations for the protection of the fisheries, reciprocity in wrecking, salvage and towing in conterminous waters, and the marking of the boundary line in Passamaquoddy bay.

The committee of the privy council, concurring in the above, respectfully recommend that your excellency be moved to report the conclusions arrived at to her majesty's principal secretary of state for the colonies, with the request that her majesty's government will authorize her majesty's minister at Washington to conclude, formally, the arrangements above mentioned.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE, *Clerk of the Privy Council.*

WASHINGTON, 10th February, 1892.

To-day at 11.30 a.m. the undersigned members of the Canadian government accompanied Sir Julian Pauncefote to the office of the Honourable James G. Blaine, secretary of state of the United States, and were received by Mr. Blaine.

Sir Julian reminded Mr. Blaine that we had come to Washington in accordance with his intimation that it would be convenient for him now to enter on a discussion of the various subjects which were put forward in December, 1890, by the Canadian government, with the approval of her majesty's government, as subjects for consideration, affecting the relations of the United States and Canada with each other.

Mr. Blaine observed that he understood the object of our visit, and was prepared to enter upon a discussion at once, but said he had not given the matter any special study recently, and would like the different subjects mentioned on the programme of 1890 to be stated. He introduced General Foster, who was present as his assistant in the conference.

Sir John Thompson stated what the subjects were, and, being asked by Mr. Blaine to mention the points which are involved in the Alaska boundary question, stated what seemed to be the various points involved, namely: (1st) As to the

Washington Conference.

interpretation of the treaty between Great Britain and Russia, and (2nd) As to the delimitation of the boundary.

Mr. Blaine replied that there seemed to be no reason why a commission should not be at once appointed to dispose of these questions, especially as the summer is the only season when explorations in that region are practicable. He would be glad if the Canadian delegates would hand in a proposition to-morrow on that subject.

The question of the enlargement of the trade relations between the United States and Canada was then taken up and discussed for about an hour between Mr. Blaine and General Foster on the side of the United States, and principally by Mr. Foster on the side of Canada.

Mr. Foster opened the discussion by stating that the suggestion made by Canada in December, 1890, was for a renewal of the reciprocity treaty of 1854 with such modifications and extensions as the changed conditions might make necessary.

Mr. Blaine, with the treaty of 1854 before him, said that the article of the treaty relating to fishing might be left for separate consideration, and, taking up the list of free goods established by that treaty, remarked that all these goods are produced by the United States.

Mr. Foster reminded Mr. Blaine of the several natural products of the United States which now obtain a Canadian market in large quantities, and which would be received in far greater quantities if admitted free.

After considerable discussion on this point, Mr. Blaine stated that a proposal for a treaty, based on natural products alone, could not be discussed, as it would lack the essential element of an arrangement for reciprocity, as far as the United States is concerned. If a proposition could be made "for taking down the bars," it would be quite another question.

General Foster said that Mr. Blaine had replied to us that a treaty for natural products only could not be discussed. He wished to know from us whether we were prepared to discuss a treaty which would include American manufactures generally.

Mr. Blaine added that American manufactures must be included, in order to give the United States any benefit from the treaty. He would like to receive a proposition from the Canadian ministers on this basis.

Mr. Foster, while combatting the proposition that the United States would only receive benefit from a treaty with Canada which would include manufactured articles, proceeded to say that before considering what proposition might be made on the part of Canada for including such articles, the Canadian government would require to know whether the United States would insist on differential treatment, or whether Canada would be free to accord the same terms to other countries.

Mr. Blaine replied that the treaty would be of no benefit to the United States if the like treatment were given to other countries, especially as Great Britain was in active competition with the United States in almost every line of manufacture. He added: "We should expect to have the Canadians to compete with in manufacturing, but no one else."

He admitted that such a proposition affects Canada differently from the way in which it would affect an independent country. He said: "We experienced the peculiar difficulty a short time ago of negotiating a treaty with a country which has a sovereign arm extended over her."

Mr. Foster repeated, and commented on, the proposition which had been advanced by Mr. Blaine, and it was then agreed that the discussion should be resumed to-morrow at 11 a.m., and that the other points put forward in December, 1890, should be spoken to.

M. BOWELL,
JOHN S. D. THOMPSON.
GEORGE E. FOSTER.

I concur in the above minute of proceedings.

15th February, 1892.

JULIAN PAUNCEFOTE.

WASHINGTON, 11th February, 1892.

The Canadian delegates, accompanied by Sir Julian Pauncefote, met Mr. Blaine and General Foster in the state department shortly after 11 o'clock this morning, and resumed the conference.

Mr. Blaine intimated that he was prepared to hear a Canadian proposition in reference to the settlement of the Alaskan boundary, but was informed by Sir John Thompson that, if it would be agreeable to him, the Canadian delegation would prefer to postpone the consideration of that subject until another sitting. To this, Mr. Blaine readily assented, and, on suggestion, discussion was resumed upon the trade question.

Mr. Foster said that in view of Mr. Blaine's positive declaration of yesterday that it would not be possible to negotiate a reciprocity treaty between the United States and Canada upon the basis of natural products alone, he would not further press that question except to reiterate his opinion that a treaty framed upon such a basis would not be disadvantageous to the United States, but would be found to result quite as favourably to their interests as to those of Canada.

As to Mr. Blaine's declaration of yesterday, that the United States would not be inclined to accept a treaty upon any other basis than that of a free entry of both their natural and manufactured products into Canada coupled with discrimination against all other countries, Mr. Foster desired to state frankly and shortly the difficulties which stood in the way of the acceptance of such a basis by Canada.

In the first place, Canada would thereby be obliged to give a preference to United States goods as against those of Great Britain, with which country she stood in the close and valued relation of a colony to the motherland.

Aside from sentimental considerations, it was well known that the only material return which Great Britain received from the privileges and protection she gave us was the right to enter our markets on even terms with all other countries, and any arrangement which denied that right brought us face to face with considerations of the most weighty and serious character. In the second place, the question of revenue was largely involved. Canada's revenue was derived from customs, excise, and public works, very largely from the first. Under an arrangement upon the basis indicated by Mr. Blaine, Canada would lose at once about eight million dollars now derived from United States imports. She would also stand to lose a considerable proportion of present customs collections upon importations from other countries which would be largely reduced by the unequal competition of free United States goods with the more or less highly taxed goods of other countries.

Mr. Blaine inquired if Canada had any other modes of taxation, such as income, land or other direct tax.

Mr. Foster replied that the federal government had not had recourse to any of these forms of taxation, which were not popular with the Canadian people, but had relied entirely upon the customs and excise for tax revenue. In relation to internal revenue, Mr. Blaine enquired as to what articles were included under that head, and on being informed that liquors and tobaccos were the only articles included, he remarked that those duties would necessarily have to be equalized between the two countries. Whereupon Mr. Foster observed that such would be necessary, and that, in doing this, unless the United States consented to raise its rate of impost, Canada would lose a very considerable portion of her present excise revenue: inasmuch, as her excise tax upon spirituous liquors was \$1.50 per gallon as compared with the United States excise tax of \$1.20 per gallon; upon malt or beer, the Canadian tax was about double that of the United States impost, and upon tobaccos the Canadian excise tax was 25 cents per pound, as compared with a tax of six and eight cents in the United States.

Mr. Blaine agreed that under the conditions that would then exist, the manufacture of the spirits would naturally be transferred to the corn-producing centres.

Mr. Foster went on to say that a third question arose at this point, which was in its way not less important than the two already discussed, namely: Granted that discrimination in favour of United States manufactures in the Canadian market was necessary, how should the standard of discrimination be fixed, and what should be

Washington Conference.

its degree? Would the Canadian tariff have to be raised to an equality with that of the United States tariff upon these articles or would the present Canadian tariff be accepted as sufficient, or would Canada be at liberty to fix the rate as and when she pleased, provided that the principle of discrimination were always maintained? He took the item of woollen and wools, and illustrated the above point by a comparison of tariffs on these in the two countries.

Mr. Blaine said that this was a vital point: that, under the existing tariffs on wools and woollens in the two countries, a reciprocity such as he, Mr. Foster, contemplated would result in manifest disadvantage to the United States, whose policy was one of large protection on wools as well as woollens. Unless such points were guarded there would be no security on the one hand from smuggling along a border line of over three thousand miles in length, or on the other of maintaining the present policy of the United States. This could, in his opinion, only be done by making the tariff uniform for both countries, and equalizing the Canadian tariff with that of the United States.

Some conversation then ensued as to what would be the effect of such a wide reciprocity upon Canada.

Mr. Foster assumed that the trade of Canada would be directed largely towards the United States, as the discriminating tariff upon goods from other countries would practically prevent her from purchasing therefrom manufactured goods of the kinds made in the United States, that her younger and smaller industries would be exposed to the strong competition of older and well established industries in the United States with their accumulations of skill and immense capacity for output, and that in the matter of animal and agricultural products she would only gain access to a market which, in nearly all lines of these products, was supplied to overflowing with like products raised in the United States.

Mr. Blaine intimated that Canada would then be in much the same position in trade and industrial matters as a state of the union, one which was a non-manufacturing and mainly an agricultural state, as the tendency of manufacturing was to go farther and farther west and south to the newer centres of population.

Mr. Foster continued that he had thought it well to lay thus frankly and briefly before Mr. Blaine the difficulties that met Canada when asked to accept as a basis for reciprocity an interchange of all manufactured articles as well as natural products, and he hoped that Mr. Blaine who had had a large experience in negotiating reciprocity arrangements, and who had studied the subject so thoroughly, might be prepared to propose a modified basis for the consideration of the Canadian delegation which would tend to diminish the revenue difficulties and avoid the disturbance of Canada's present relations with the mother country. He pointed out the generous treatment now accorded by Canada to United States trade, and that at the present time, although Canada collects upon all imported goods dutiable and free a revenue of 20½ per cent, yet upon all goods imported from the United States the percentage of duty is only 14½ per cent. The free list given by the United States to Canada last year amounted to only \$11,600,000, while Canada gave the United States a free list of nearly \$24,000,000.

Mr. Blaine, after mentioning that this, he supposed, was largely due to geographical distribution, said he could easily understand why Canada was reluctant to enter into a treaty of unlimited reciprocity, but that it was clear to his mind that no other arrangement would suit the United States, and that it must be accompanied by discrimination in favour of the United States, especially against Great Britain, who was their great competitor, and that it must likewise be accompanied by the adoption of a uniform tariff for the United States and Canada equal to that of the United States. He then remarked that, without absolutely ending the discussion on this subject, the delegation might proceed to consider the other points which had been mentioned.

Mr. Bowell then drew the attention of Mr. Blaine to the negotiations which had taken place between the Canadian and United States governments relating to the laws regulating coasting, wrecking and towing in the waters dividing the two countries, pointing out the advisability of a better understanding between the two

countries upon this important subject; that while Canada was at present, and had for years past been ready and anxious to accept a policy of reciprocity in coasting, wrecking and towing combined, the United States had steadily declined to consider the question further than it related to vessels wrecked or in distress in the waters conterminous to the United States and the dominion of Canada.

Mr. Blaine asked if coasting and wrecking upon the sea-coast was included in these propositions.

Mr. Bowell replied that the propositions in the past had not included coasting on the sea-coast, but had been confined to the inland waters, though Canada would be quite willing to negotiate upon that basis, as there was a provision in the laws of Canada enabling the governor in council to grant the privilege of coasting to the subjects of any foreign country whenever that privilege was conceded to her people. If, however, the United States declined to treat upon the broader basis of a repeal of the coasting laws so far as they affect Canada, it might be advisable to consider the question in the more limited form proposed, of coasting and wrecking and towing in the inland waters.

Mr. Blaine intimated that he could not consider the question of a reciprocity in coasting, as Great Britain had at present the control of the foreign trade of most of the world, and he could not consent to give her the balance; but was ready to consider the question so far as it related to wrecking and towing in the great lakes and inland waters dividing the two countries.

Mr. Bowell pointed out that the proposition now before them would only affect Canada directly, as there were very few vessels of English register plying upon the lakes, and that, therefore, the competition in coasting would be confined in a great measure to the marine of the Dominion with which he supposed the United States, with her large tonnage on the lakes, was able to cope.

Mr. Blaine expressed the opinion that the advantage would be with Canada, owing to the fact that there were large cities and towns which were shipping ports on the south shore, while the north shore was principally a lumbering country.

Mr. Bowell admitted that that was correct, to a certain extent, but contended that there were large shipping interests on the north shore of the lakes; but that as Mr. Blaine had declined to consider the broader and greater question of repealing the coasting laws, he desired to call the attention of the secretary of state to the past legislation of the United States congress upon the subject of wrecking. In the laws which had been passed there was no direct provision made for the towing and coasting necessary in the saving of wrecks, or vessels in distress, which would be absolutely necessary if the law was to be at all effective.

Mr. Blaine replied that he could see the necessity for such a provision in the law, and he had no doubt congress would remove that objection if a proposition were made with that end in view.

Mr. Bowell intimated that a proposition in the limited sense indicated was one of policy, and that it might be necessary to submit the question, as now before them, to the cabinet of Canada before making a final proposition, but that the subject would be considered by himself and colleagues before leaving Washington.

To this Mr. Blaine assented, adding that any proposition coming from the Canadian government would receive the fullest consideration.

Mr. Bowell next called attention to what he considered an unnecessary annoyance to the transit trade of the country, in compelling the issue of triplicate manifests upon the arrival of goods at the frontier custom-houses on either side of the line, and the placing of additional seals upon the cars passing with bonded goods through either Canada or the United States when destined from one port in Canada to another port in the same country *via* the United States, and *vice versa*. This, he considered, might be obviated by each country recognizing the manifests and seals of the other, when such manifests were correctly made out and the regulation seals properly attached by regularly appointed collectors of customs, and intimated that if Mr. Blaine thought well of the proposition, he would place the assistant commissioner of customs for Canada, who was now in the city, in communication with the assistant secretary of the treasury, to discuss the question and

Washington Conference.

report upon some scheme by which the present system could be simplified, and at the same time protect the revenue of both countries.

To this Mr. Blaine readily assented, pointing out, incidentally, that owing to their interstate law the Canadian Pacific Railway had had great advantages over their railways, as they could charge what they pleased while running through Canada, thereby evading the interstate law.

Mr. Bowell replied that, while not strictly pertinent to the point under discussion, the same could be done by the Michigan Central on that portion of its line which runs through Canada, known as the Canadian Southern Railway. Though a short road, the principle is the same. He added that he could see no possible way of preventing it unless by declaring non-intercourse between the two countries.

Mr. Blaine at once said that no such unfriendly action would be taken by the United States, but that the end could be obtained by repealing their interstate commerce law, which he thought might be done.

A discussion then took place on the subject of restricting or prohibiting purse-seining both in and outside of territorial waters; also as to prohibiting, or restricting, by action of both countries, of destructive modes of fishing in international waters, the prevention of the pollution of these waters and the observance of close seasons therein.

Mr. Blaine said the government were in unison on these points and asked that a *project* be handed in to-morrow.

The next subject taken up was the "Reconsideration of the treaty of 1888 with a view to commercial privileges for American fishing vessels being accepted as an equivalent for free fish, &c." Mr. Blaine said that he was not prepared, at the moment, to discuss the subject, and preferred that a proposal should be handed in for discussion to-morrow.

M. BOWELL.
JNO. S. D. THOMPSON.
GEORGE E. FOSTER.

I concur in the above minute of proceedings.

15th Feb., 1892.

JULIAN PAUNCEFOTE.

WASHINGTON, 12th February, 1892.

The conference was resumed this morning at 11 o'clock at the state department.

The Canadian delegates handed in the accompanying proposal ("A") referring to the settlement of the boundary of Alaska, stating that it was quite informally made and was put forward merely as a basis of discussion.

The various contentions relating to the boundary were then explained.

The Canadian delegates then put in the proposition ("B") relating to the prevention of purse-seining and to the preservation of the fisheries. Mr. Blaine said he thought no difficulty would be experienced in coming to an agreement on the points which it set forth.

The accompanying proposal ("C") as to wrecking and towing was then submitted. Finally, the Canadian delegates handed in their proposal ("D") for a "reconsideration of the treaty of 1888 with a view to the exchange of free fish for commercial privileges for American fishing vessels."

Mr. Blaine objected to the feature of the proposal which provided for licenses to be given to American fishing vessels to enable them to enjoy commercial privileges.

Sir John Thompson explained that licenses are not given to United States fishing vessels and charged for. Under the arrangement proposed they would be given free. The object of a license was to protect the vessel from disturbance by the cruisers engaged in protecting the fisheries, to identify her, &c.

After some discussion of the familiar questions arising out of the treaty of 1818 (which Mr. Blaine described as "the mystery of American diplomacy"), Mr. Blaine inquired whether the delegates would not give free fishing within the "three-mile limit" as an exchange for free fish.

The Canadian delegates replied that they were not in a position to make such an offer; they referred to the great value of the inshore fishing, and reminded Mr. Blaine that the American negotiators in 1888 declared that free fishing was not desired on the part of the United States.

Mr. Blaine admitted the great value of the inshore fishing, and said that the American negotiators of 1888 must have supposed that the people of the United States did not want to catch fish. He inquired why Canada was not satisfied with the proposed convention of 1890 with Newfoundland, as that included several kinds of fish to be made free in exchange for the commercial privileges now offered.

Sir John Thompson reminded Mr. Blaine that Canada was not included in the proposed convention, and wanted to know whether the list of the kinds of fish proposed to be made free could not be extended, so far as Canada was concerned, in exchange for the commercial privileges.

Sir Julian Pauncefote said that perhaps the present discussion would afford an opportunity to renew a consideration of the proposed Newfoundland convention.

Mr. Blaine promised to consider the subject, and remarked that Mr. Bond had pressed the convention on him—not he on Mr. Bond; and that Mr. Bond had disclaimed any wish to have green codfish included.

Mr. Blaine and General Foster then opened up a discussion as to alleged discrimination against United States vessels and merchandise on the Canadian canals and the restrictions said to be applied to Canadian vessels on canals in the United States. This lasted for a considerable time, and ended in a promise that the Canadian government would take up the whole subject, in the most friendly spirit, and communicate their views by way of reply to an outstanding despatch from the secretary of state of the United States bearing on that question.

M. BOWELL,
JNO. S. D. THOMPSON,
GEORGE E. FOSTER.

I concur in the above minute of proceedings.

15th February, 1892.

JULIAN PAUNCEFOTE.

On February 15th the conference was resumed at 11 o'clock.

On the part of the United States, the proposal contained in the memorandum marked "E," referring to the boundary of Alaska, was handed in and assented to by the Canadian delegates, after some explanation and discussion.

Also the proposal marked "F" relating to the preservation of the fisheries, &c., it being understood that the subject of purse seining, both in territorial waters and beyond, was to be included in the matters to be investigated by the commission, although not mentioned specifically.

It was agreed that the subject of reciprocity in wrecking, &c., should be dealt with by legislation on the part of Canada and by instructions from the treasury department of the United States, to give the act of congress on this subject such a liberal construction as to include permission for all towing necessary and incidental to wrecking and salvage, and the relaxation of customs laws in so far as may be necessary to make the reciprocal arrangement effective. See exhibit "G" hereto annexed.

On the subject of canal traffic, Mr. Bowell called attention to the want of liberality in administering the canals of the United States, as compared with the treatment of United States vessels in Canada, more especially as to Canadian vessels being prevented from entering and navigating the Hudson river to go to New York, while United States vessels were permitted to enter and navigate the Ottawa river.

Mr. Blaine said that the restriction complained of appeared to be illiberal and would receive attention.

Mr. Bowell also discussed with the secretary of state the subject of exactions of customs duties on sails and outfits required to repair vessels, his contention being

Washington Conference.

that the action of customs officials in the United States was less liberal than that of the department of customs in Canada.

Mr. Blaine thought that the most liberal treatment should be accorded on both sides as regards this subject, and it was understood that attention would be called to the matter, formally, by the Canadian government, if it were found that there was not (as Mr. Bowell thought there was) an outstanding and unanswered despatch on the subject.

The proposal handed in on the 12th instant, as to the reconsideration of the treaty of 1888, was again spoken to and urged by the Canadian delegates. Mr. Blaine objected strongly to licenses being given, and was told that that feature of the proposal might be waived, and some other plan for supervision and identification provided, such as the numbering of the fishing vessels. He was also asked to name a list of the fish which he would be willing to admit free of duty in return for the commercial privileges for fishing vessels, but he intimated that he was not prepared to do so.

The accompanying proposal marked "H," referring to the marking of the boundary line in the waters of Passamaquoddy bay, was handed in on the part of the United States and agreed to by the Canadian ministers.

M. BOWELL,
JNO. S. D. THOMPSON,
GEORGE E. FOSTER.

I concur in the above minute of proceedings.

JULIAN PAUNCEFOTE.

15th February, 1892.

RETURN

(63)

To an ADDRESS of the HOUSE OF COMMONS dated the 1st March, 1893, for all correspondence, petitions and papers that are in the possession of the Government relating to the disallowance of Chapter 1 of the Acts of Nova Scotia dated 1892, "An Act to amend and consolidate the Acts relating to Mines and Minerals," including any petition of David McKeen, Esquire, M.P., and others in respect of the said Act.

By order.

JOHN COSTIGAN,

Secretary of State.

To His Excellency the Right Honourable Sir Frederick Arthur Stanley, Baron Stanley of Preston, &c., &c., &c., Governor-General of the Dominion of Canada in Council.

The petition of the undersigned lessees of coal mines in the province of Nova Scotia, humbly sheweth:

That a statute has been enacted by the legislature of the province of Nova Scotia, entitled: "An Act to amend and consolidate the Acts relating to Mines and Minerals," being 55 Victoria (1892), chapter 1. The said act received assent on the 30th April, 1892.

The 117th and 118th sections of the said act are respectively as follows:—

"117. All ores and minerals (other than gold or gold and silver) mined, wrought or gotten under authority of licenses or leases granted under the provisions of said chapter 7 of the Revised Statutes, fifth series, or of any act heretofore passed by the legislature of this province, shall be subject to the following royalties to the crown for the use of the province, that is to say:—

"(a.) Coal. Ten cents on every ton of two thousand two hundred and forty pounds of coal sold or removed from the mine, or used in the manufacture of coke, or other form of manufactured fuel.

"118. All leases of coal mines issued after the passing of this act shall contain a provision that the royalties may be increased, diminished or otherwise changed by the legislature."

A statute has also been enacted by the same legislature, entitled: "An Act respecting the Royalties on Coal," being 55 Victoria (1892), chapter 3. This act also received assent on the 30th April, 1892.

The first section of the last mentioned act refers to section 117 hereinbefore quoted, and is as follows:—

"1. The royalty of ten cents per ton on coal as fixed by the said section, shall be held to have taken effect on the 23rd day of February, 1892."

The first mentioned act provides, in the said 117th section, for an increase of thirty-three and one-third per cent in the royalty to be paid by your petitioners and by all corporations or persons operating coal mines in Nova Scotia under existing leases.

Your petitioners are advised and submit that the said sections hereinbefore set forth are contrary to the fundamental principles which should control the exercise

Mines and Minerals.

of legislative power, and that they constitute a gross and unjustifiable invasion of the vested rights and interests of your petitioners; that said sections unwarrantably and inequitably violate and disregard the obligation of contracts solemnly entered into between her majesty the queen, represented by the commissioner of public works and mines for the said province, of the one part, and your petitioners of the other part, and if allowed to stand their effect will be to seriously impair, if not destroy the confidence which should prevail in the continuance of rights granted by the said province; and further, that not only do the said sections have the effect of so infringing vested rights and impairing the obligation of contracts, but by the last mentioned section such effect is declared to be retroactive.

The foregoing grounds of complaint against the said legislation are, it is submitted, upheld and justified by the following facts and reasons:

Your petitioners, previously to 1866, held valuable coal properties in Nova Scotia under original leases thereof granted by her majesty. The rate of royalty reserved by such leases was sixpence per ton of 2,240 pounds of round coal sold, slack coal being exempt from royalty.

By 29 Victoria, (1866) chapter 9, section 1, of the acts of Nova Scotia, it is provided as follows:

"1. Lessees of coal mines in this province, their executors, administrators and assigns, holding leases from the crown, or from the chief commissioner of mines, made since the first day of January, A.D. 1858, or hereafter to be made, shall, upon giving notice in writing to the chief commissioner of mines, at least six months previous to the expiration of such leases, respectively, of their intention to renew such leases respectively for a further period of twenty years from the expiration thereof, be entitled to a renewal thereof for such extended term upon the same terms, conditions and covenants as contained in the original lease, and in like manner upon giving a like notice before the expiration of such renewed term, to a second renewal and extension of term of twenty years, from and after the expiration of such renewal term, and in like manner upon giving like notice before the expiration of such second renewal term to a third renewal, and extension of twenty years from and after the expiration of such second renewed term, provided that at the time of giving such notices, and the expiration of such terms respectively, the said lessees, their executors, administrators and assigns, are and shall continue to be *bonâ fide* working the areas comprised within their respective leases, and complying with the terms, covenants and stipulations in their respective leases contained, within the true intent and meaning of section 104 of the act hereby amended, and provided that in no case shall such renewal or renewals extend or be construed to extend to a period beyond 60 years from the 25th day of August, A.D. 1886, and provided also that the legislature shall be at liberty to revise and alter the royalty imposed under such lease in or after the year 1886."

In pursuance of the last mentioned statute your petitioners, together with other coal lessees in the said province, procured renewals of their said leases. The rate of royalty reserved by such renewals was the same as in the said original leases, and such renewal leases also contained provisions for further renewals in the terms of the section last hereinbefore quoted.

All leases renewed under the provisions of the said last mentioned section, as well as all other coal leases issued in the said province previously to 25th August, 1886, expired on that day and according to the terms of the said section and the provisions of the said leases were renewable on that day, and on the corresponding dates in 1906, and 1926.

Your petitioners are advised, and they submit, that according to the true construction of the said last mentioned section, and of the said renewal leases, which contained provisions in accordance therewith, the rate of royalty thereby reserved could be revised only once, and that such revision could be made only at one of the renewal periods, namely, either in 1886, 1906 or 1926.

If such construction is not to prevail, then, adopting the construction most unfavourable to your petitioners, and assuming that several revisions of royalty are contemplated, it is obvious that such revisions could be had only at the renewal periods in 1886, 1906 and 1926, and at no other time or times.

The fourth revision and consolidation of the public statutes of the said province took place in 1873. Section 102, chapter 9, of the Revised Statutes of Nova Scotia, fourth series, is identical with the above section of the act, 29 Victoria, chapter 9, (1866) except that it does not contain the concluding proviso, that is to say, the words "and provided also that the legislature shall be at liberty to revise and alter the royalty imposed under such lease, in or after the year 1886." No such provision as this is contained in any part of the said consolidation of 1873.

The following section (103) of said chapter 9, Revised Statutes, fourth series, is as follows:—

"103. New leases in accordance with the provisions of this chapter may be executed to all parties now holding leases which will expire in the year 1886."

Your petitioners are advised, and they submit, having regard to the fact that the aforesaid section 1 of the act 29 Victoria, chapter 9, (1866) was re-enacted in the said revision of 1873, without the proviso under which the legislature was to be at liberty "to revise and alter the royalty in or after the year 1886," that your petitioners and all other holders of then existing coal leases, as well as all subsequent holders of coal leases up to the year 1885, when the Revised Statutes of Nova Scotia, fifth series, were promulgated, acquired the absolute legal right to renewals of their leases without any increase of rent or royalty, or provision for revising or altering the previous rent or royalty.

Section 105 of chapter 7 of the Revised Statutes of Nova Scotia, fifth series, which came into effect on 23rd April, 1885, is as follows:—

"105. The General Mining Association, limited, and other lessees of mines other than gold or silver mines in this province, their executors, administrators and assigns shall, upon giving notice in writing, to the commissioner of mines, at least six months previous to the expiration of their leases, respectively, of their intention to renew such leases respectively for a further period of twenty years from the expiration thereof, be entitled to a renewal thereof for such extended term upon the same terms, conditions and covenants as contained in the original lease or as prescribed by this chapter or by any act that may be passed by the legislature of this province, and in like manner, upon giving a like notice before the expiration of such renewal term, to a second renewal and extension of term of twenty years, from and after the expiration of such renewal term, and in like manner upon giving like notice, before the expiration of such second renewal term to a third renewal and extension of twenty years, from and after the expiration of such second renewal term, provided that at the time of giving such notices, and the expirations of such terms, respectively, the said lessees, their executors, administrators and assigns are, and shall continue to be *bonâ fide* working the areas comprised within their respective leases and complying with the terms, covenants and stipulations in their respective leases contained within the true intent and meaning of section 107 of this chapter, and provided that in no case shall such renewal or renewals extend, or be construed to extend to a period beyond eighty years from the date of the original lease, but the renewed lease shall not include in respect of each mine worked a larger area than five square miles.

"(e.) In the case of leases that are eligible for renewal, in which the conditions of renewal embodied therein are different from those prescribed by this chapter, and the lessees thereof are unwilling to have such conditions altered, the commissioner shall have power to renew said leases on the terms contained therein and as prescribed by chapter 9, Revised Statutes, fourth series, and no other."

As to the said last mentioned section your petitioners are advised, and they submit that in construing that portion thereof, which provides that lessees "shall be entitled to a renewal upon the same terms, conditions and covenants as are contained in the original lease or as prescribed by this chapter, or by any act that may be passed by the legislature of this province," it must be assumed that it was not the intention of the legislature to provide for future legislative action in the shape of a measure purporting to legalize the imposition of an increased royalty in violation of a lease defining what the rent should be. On the other hand, if the language used as to the terms of renewal be considered broad enough to cover the matter of an increase of royalty, then the act itself was improper, and does not afford any justification for

Mines and Minerals.

the subsequent action of the legislature in increasing the royalty in violation of existing contract rights.

Until 1885 the said royalty of sixpence per ton of 2,240 pounds of round coal continued to prevail as to all coal leases in the said province.

Sections 1, 3 and 4 of chapter 4 of the acts of Nova Scotia, 48 Victoria, (1885) entitled "An Act to amend chapter 7 of the Revised Statutes, fifth series, 'Of Mines and Minerals,'" are as follows:—

"1. Section 104 of the chapter hereby amended is repealed and the following substituted therefor:

"All ores and minerals (other than gold, or gold and silver) mined, wrought or gotten under authority of licenses or leases granted under the provisions of said chapter 7 of the Revised Statutes, fifth series, or of any act heretofore passed by the legislature of this province, shall be subject to the following royalties to the crown for the use of the province, that is to say:

"Coal. Seven cents and one-half of a cent on every ton of two thousand two hundred and forty pounds of coal sold or removed from the mine, or used in the manufacture of coke or other form of manufactured fuel.

"3. Nothing in this act shall compel lessees of coal mines in this province to pay royalties on coal other than on the terms prescribed in the leases now outstanding, until said leases expire; but any such lessee may take advantage of the provisions of this act, from the date of its passage, if so disposed.

"4. All leases of coal mines issued after the passing of this act shall contain a provision that the royalties may be increased, diminished or otherwise changed by the legislature."

Your petitioners are advised, and they submit, that in and by said sections 1 and 3 of 48 Victoria, (1885) chapter 4, a revision of the coal royalties was made by the legislature, inasmuch as slack coal, which was previously exempt from any royalty, was thereby made subject to a royalty of seven and one-half cents per ton, and the royalty per ton upon round coal was thereby reduced from nine and seven-tenths (equal to sixpence old currency) to seven and one-half cents. The average output of slack coal is from thirty to forty per cent of the whole. The said revision was, however, declared by said section 3 to be optional with the lessees in respect of all unexpired leases.

When the time arrived in 1886, for the renewal of coal leases, a number of the outstanding leases were renewed in accordance with the option afforded by the last mentioned statute. Your petitioners, deeming it in their interest to maintain the previous rate of royalty, procured renewal leases reserving the royalty on round coal only at the said previous rate of nine and seven-tenths cents per ton.

Further, as to the terms and conditions of such renewals, your petitioners invoked the provisions of subsection (e), section 105, chapter 7 of the Revised Statutes, fifth series, hereinbefore set out, and obtained renewals of their said leases upon the terms in the said leases prescribed, and as authorized by said chapter 9, Revised Statutes, fourth series, and not upon the terms or conditions otherwise prescribed by said chapter 7 of the Revised Statutes, fifth series.

The renewals so obtained by your petitioners in 1886 did not contain any provision for increasing or diminishing the royalty based upon 48 Victoria, (1885), chapter 4, section 4, above set out, and it is submitted that that section is quite immaterial in respect to such leases.

Your petitioners further submit that during the debate in the house of assembly, in the year 1885, upon the said act, 48 Victoria, chapter 4, and previously to the passing thereof, it was distinctly declared by the member of the government who introduced the said bill, and by the premier of the province, that the said bill was not intended to increase, but only to equalize the rate of royalty. The commissioner of mines who introduced the bill said:

"Now, sir, the object of the government has been to get as nearly as possible an equivalent rate to the present rate of $9\frac{7}{10}$ cents per ton—a uniform rate that will yield an equivalent revenue to the present rate."

It was disputed that the rate of $7\frac{1}{2}$ cents per ton on all coal would yield the same revenue as $9\frac{7}{10}$ cents per ton on round coal only. An amendment having been introduced exempting slack coal, the debate was thereupon continued as follows, by the premier and by Mr. Bell, the leader of the opposition.

Hon. Mr. Fielding said:

"He did not think it reasonable to ask that slack coal should be exempted after the government had based a figure on all coal. The bill in the main was satisfactory to mine owners; the real difficulty that he saw suggested was, that the government might be making a mistake, and that they had not the necessary information. He was going to suggest that the bill might be passed with the provision that all leases issued should contain a stipulation that the royalties might be increased or diminished, which would leave the house free to make a change next year; unless some such provision was made, parties taking leases might complain."

Mr. Bell said:

"With the consent of the honourable member for Cumberland, and on the understanding that such a clause would be added to the bill, he would withdraw his amendment."

Your petitioners submit that in view of these declarations, and other statements made by members of the government of Nova Scotia, during said debate (which are set forth in the extract therefrom hereto annexed), it is inequitable and against good faith for the government of said province to claim or pretend that the said section 4 was introduced or passed, save for the purpose of making such an increase or decrease in the rate of $7\frac{1}{2}$ cents per ton on all coal, as would produce an equivalent rate to the old rate of $9\frac{7}{10}$ cents per ton on round coal only. Your petitioners are advised that representations made by members of the government during debate may not control the legal effect of a statute, but they submit that if such representations relating to the provisions of statutes affecting contracts with the crown are to be lightly made, and as lightly repudiated or disregarded, the credit of the province and of the government thereof will be most seriously impaired.

Your petitioners are further advised, and they submit that the fourth section of said act, 48 Victoria, chapter 4, according to the legal construction thereof, relates only to original leases to be issued subsequently to its enactment, and that it does not relate to renewals which are agreements merely expressing the rights of the parties by virtue of leases previously issued. There is, it is submitted, no legal ground for giving to the language of the section in question retroactive effect, seeing that there is ample office for the words to perform as applied to original leases to be thereafter issued. Moreover, section 3 of the same statute provides that "nothing in this act shall compel lessees of coal mines in this province to pay royalties on coal other than in the terms prescribed in the leases now outstanding until said leases expire."

The leases to which this petition refers were then in existence and have been renewed, but have not yet expired. It is therefore submitted that those sections cannot be in any wise invoked for the purpose of justifying the present legislative increase of royalty.

It follows, therefore, that a revision of the coal royalties having been made in 1885, which could, and in many cases did take effect in 1886, the power of the legislature, as a matter of contract, to further revise or alter the royalties was exhausted. But whether the statute of 1885 is to be considered as effecting a revision of the royalties or not, the provisions of the statutes and leases are such as to exclude the right of the legislature to make a further revision of the royalties previously, at least, to 1906. Both of these positions have been disregarded in the enactments complained of, notwithstanding the fact that your petitioners and other holders of coal leases in the province, many of whom reside outside the province, have invested very large sums as capital in the various coal mining districts in the province, upon the faith of the contracts so entered into by them, and upon the assurance thereby vouchsafed to them of a certain holding for a fixed rent.

Your petitioners are further advised, and they submit that the imposition of such increased royalty upon coal under the circumstances hereinbefore set forth is contrary to the general policy of the dominion of Canada, the intention of which

Mines and Minerals.

has been to foster and promote the coal and iron industries of the Dominion by imposing a protective duty upon coal, by removing the duty on machinery imported for the use of mining operations, and by imposing a duty upon pig iron imported, and granting a bounty upon pig iron manufactured in Canada. In the manufacture of such pig iron in this province two tons of coke are used for each ton of manufactured iron. The coke so used is made in this province out of the slack coal produced in the mines of your petitioners and others. The increased royalty of ten cents per ton upon that grade of coal, therefore, falls largely upon the producers of pig iron in the said province, and thus increases materially the cost of its production.

Your petitioners are also advised, and they submit that the legislation complained of is *ultra vires* of the provincial legislature, in that it affects trade and commerce by narrowing and controlling the scope of the coal trade of Nova Scotia with other provinces, and also by seriously impairing the general trade relations of this province so far as they depend upon honesty and fair dealing on the part of its legislature.

Your petitioners therefore humbly pray that the said section 117 of 55 Victoria (1892) chapter 1, in so far as it relates to coal, the said section 118 of said chapter 1, and the said section 1 of 55 Victoria (1892), chapter 3, may be disallowed, or in the alternative that the whole of the said acts may be disallowed; and your petitioners, as in duty bound, will ever pray, etc.

INTERCOLONIAL COAL MINING CO. (LTD.)

HENRY A. BUDDEN, *Vice-President.*

Extracts from the official reports of the speeches of the Hon. Mr. Church and others, on a bill to amend chapter 7 of the Revised Statutes, fifth series, "Mines and Minerals," April 17th, 1885.

Hon. Commissioner of Mines.—“As I understand the matter, Mr. Speaker, in the year 1826 his majesty King George the fourth granted to the Duke of York and Albany the mines and minerals of this province for the term of sixty years. This had the effect of preventing all other parties from leasing and working the mines of Nova Scotia. In 1857 the late Judge Johnston and Hon. A. G. Archibald, representing both political parties of the day, were sent to England to make arrangements with regard to this matter that might be more beneficial to the interests of the province. Their mission was successful, and as a result of their efforts, chapter 1 of the acts of 1858 was passed, entitled ‘An act for giving effect to the surrender to her majesty by the legal personal representatives of the late Duke of York and Albany, and by the general mining association and their trustees, of the mines of Nova Scotia, and to the lease of part of such mines to the said association.’ The effect of this legislation was that certain mining property in the counties of Pictou and Cumberland, and on the island of Cape Breton, were reserved to the representatives above mentioned, now known as the ‘General Mining Association,’ and the remainder of the mines of the province were thrown open to general public competition. The General Mining Association received a lease which expires on the 25th August, 1886, and other parties coming in received leases, all of which expire on the 25th August, 1886. The royalty on coal in that chapter was fixed at the rate of sixpence, or ten cents old Nova Scotia currency, per ton, on what is known as round coal, that is, coal passed over a screen the bars of which are three-quarters of an inch apart. No royalty was charged on what is known as slack coal. As I understand, at that time slack coal was not of much value in this province, and hence the greater bulk of the sales was of round coal. The leases given to other parties were of the same character as that given to the General Mining Association, with a few exceptions, the royalty being payable on the same quality of coal and at the same rate; but the General Mining Association had the privilege of paying its royalties yearly in the month of March, whereas the others were liable to pay theirs quarterly. Now, the difficulties in the way of fixing upon a rate arises from various causes. During the last few years a great deal of slack coal has been sold, principally during the last five years. This increase in the sale of slack coal has arisen from various causes. One is that a great deal appears to

be used in the province for various industries, and a good deal is put into the manufacture of coke. Hence it has become an article of value. Also, within the past few years, the system has grown up in some mines, notably the Springhill mine in Cumberland, of selling what is known as 'run of mine coal,' that is, the coal as it arrives at the mouth of the pit without screening it at all. Of course, in selling coal in this way it is very difficult to get a proper return under the present system, which obliges the mine owners to pay royalty of $9\frac{7}{10}$ cents a ton, equal to 10 cents old currency on screened coal. As the owners of the Springhill mine sell so much 'run of mine coal' they do not want to pay the same royalty that they might by law be obliged to pay, that is $9\frac{7}{10}$ cents per ton on their total sales.

"A difficulty in fixing the royalty also arises from the fact that the relative amounts of slack and round coal differ in Nova Scotia and Cape Breton. The percentage of slack coal is much greater in Nova Scotia proper than it is in the island of Cape Breton. From careful statements made by officials in my department for a period of five years back, we find that the sales of round coal liable to pay royalty were, for Nova Scotia proper, 2,250,940 tons, and the sales of slack coal during the same period, 914,017 tons. In Cape Breton, during the same period the sale of round coal amounted to 2,317,704 tons, which shows nearly a hundred thousand tons more than Nova Scotia proper during the five years, while Cape Breton only sold during those five years 317,251 tons of slack coal, or nearly 600,000 tons less of slack than Nova Scotia proper sold. Now it will be very clearly seen that, on the coal sold during those five years, Cape Breton has paid more royalty than Nova Scotia proper, because she sold a much larger proportion of round coal, which alone paid royalty, than Nova Scotia proper. From 1880 to the end of 1884 inclusive, Cape Breton sold of round and slack a total of 2,634,755 tons, and paid a total royalty during the five years of \$224,827.27. I have made a calculation which I vouch for as being correct, that this would give an average of $8\frac{3}{10}$ cents per ton royalty on the coal sold from the total output of Cape Breton during the five years. Nova Scotia sold during the same period 3,164,958 tons of round and slack coal, on which she paid a total royalty of \$218,341.27, or $6\frac{9}{10}$ cents and a fraction, say 7 cents per ton, while Cape Breton paid $8\frac{1}{2}$ cents per ton as I have stated.

* * * * *

"Now, sir, the object of the government has been to get as nearly as possible an equivalent rate to the present rate of $9\frac{7}{10}$ cents per ton—a uniform rate that will yield an equivalent revenue to the present rate.

"Our rate was 10 cents a ton in former years, but by the Canada Currency Act, passed in 1868 or 1869, Nova Scotia currency was depreciated; so that $9\frac{7}{10}$ cents present currency became the equivalent of 10 cents old currency. Hence in the fourth series of the Revised Statutes, instead of having the rate of royalty named at 10 cents, as in the previous series, it was put down at $9\frac{7}{10}$ cents. It might be argued that the province has been losing $\frac{3}{10}$ of a cent on every ton sold since that time, and the government might have based their calculation on a royalty of 10 cents instead of $9\frac{7}{10}$. But this matter was very fully considered, and we thought that as this rate of $9\frac{7}{10}$ per ton has obtained since the Currency Act came into operation, and that now a somewhat depressed condition of the coal trade exists, and as the outlook is not very promising at the present time, while the government might fairly have adjusted the royalty on the basis of 10 cents, yet it would be said that we were placing burdens on the trade, tending to cripple its success, and therefore we based our calculations on the rate of $9\frac{7}{10}$ cents per ton.

"The third subsection says:—

"Nothing in this act shall compel lessees of coal mines in this province to pay royalties other than on the terms prescribed in the leases now outstanding until said leases expire, but any such lessee may take advantage of the provisions of this act from the date of its passage, if so disposed."

"As I stated a few moments ago, the present outstanding leases lapse on the 25th of August, 1886. We provide by this section that the lessees of mines holding under leases now outstanding can take advantage of this act, as soon as it becomes law, if they see fit; if they do not they will con-

Mines and Minerals.

tinue to pay royalty under the existing law until their leases expire; then, of course they will come under the provisions of this act. There might have been no necessity for introducing this act this session, were it not for the fact that there may be some new leases applied for between this date and next session, because, when the Revised Statutes, fifth series, become law, as they soon will, parties may come in for new leases. Another reason why it was deemed necessary to deal with the subject this session was, that under the provisions of the law, parties who wish to renew these outstanding leases are entitled to give six months' notice to the department of their intention. That would give the department ample time to have all these leases renewed after next April, were it not for this fact, that there may be questions of forfeiture raised, questions involving the title to these areas and there may be long and tedious investigations taking weeks to settle. Consequently it was not deemed wise to defer this legislation till next session, but it was thought better to bring it down this year. I may say, Mr. Speaker, that I hope in regard to any disputes that may arise, that the present holders may be able to renew their leases, and to carry on their works, but of course the government will be obliged to carry out the law."

Hon. Mr. Fielding—"I have not had much to do with the preparation of this bill which belongs to the department of my honourable colleague (Hon. Mr. Church), who has had the principal share in its preparation. I believe that if it is not the wisest solution, it is a solution of the question singularly happy to the mine managers. I received a note, and the hon. attorney-general and a member of the other branches as well, from a mine manager of Cape Breton, stating that seven cents on a ton of coal sold would be a fair rate. When we put on $7\frac{1}{2}$ cents I do not think it is objectionable. I am sure the mine managers of Cape Breton do not think this bill unfair. I am informed that the manager of the Cumberland mines has telegraphed that it is satisfactory to him. The government say 7 cents would suit these gentlemen, but it would not give us so much royalty as we now get; we say we will put on $7\frac{1}{2}$ cents, which will give us the same revenue as before. Now when we have put on only half a cent more than the miners name, I think it must be satisfactory. There are three interests to consider: First, the province, we get the same revenue; second, the interest of the mainland collieries, and we have shown that they are satisfied; at least the Cumberland collieries; from conversations I have had with Mr. Leekie, I am warranted in saying that; third, the Cape Breton collieries; the associations say 7 cents, but the agent has said that $7\frac{1}{2}$ cents is not objectionable to them. It seems to me, therefore, that the bill protects the interests of all concerned: the province gets the same revenue, and the coal trade gets fair-play."

Hon. Mr. Church—"I wish to correct the honourable member for Iverness on one point. Seven and a half cents per ton, I said, would give us a little more royalty than we received last year on the same output. I consider it fair to judge on the basis of an average of 25 per cent of stock. Now, there is no other convenient figure than $7\frac{1}{2}$ cents unless we go down to 7 cents. A million tons would give, say, 750,000 tons of round and 250,000 tons of slack. Multiply 750,000 by $9\frac{1}{10}$ and you have \$72,750 as the royalty that we would get from a million tons under the present system. Then take a million tons at $7\frac{1}{2}$ cents and you have a product of \$75,000, the gain being simply \$2,250 on a million tons. That is very little. Now the object the department had was simply to get a uniform rate that would give the same revenue we are now receiving."

Hon. Mr. Longley—"All were united in the opinion that there should be no tax on coal, but in our present financial circumstances it was not a policy which this government could adopt to make any substantial reduction."

Hon. Mr. Fielding said—"That if the effect of this amendment was going to reduce the revenue, then his honourable friend should move not only to reduce the tax on culm coal, but to raise it on other coal half a cent or a cent on a ton. The honourable commissioner of works and mines, in moving the second reading of the bill, had stated that it would give about the same revenue as the old rate. If there was any doubt, he presumed the honourable commissioner had given himself the benefit of the doubt. He would strongly urge that no amendment be made

which would reduce the amount the province would receive. He thought it was generally admitted in the house that, however much we would like to see the royalty done away with, we could not now do it."

Hon. Mr. Church—"He (commissioner of works and mines) thought this bill must either be passed in its present form, or else withdrawn and another introduced next year. The outstanding leases did not expire until 25th August, 1886; but there might be applications for new leases before that date, and the government wanted to know what rate to put in new leases."

Hon. Mr. Fielding said—"He did not think it reasonable to ask that slack coal should be exempted after the government had based a figure on all coal. The bill in the main was satisfactory to mine owners. The real difficulty that he saw suggested was that the government might be making a mistake and that they had not the necessary information. He was going to suggest that the bill might be passed with the provision that all leases issued should contain a stipulation that the royalties might be increased or diminished, which would leave the house free to make a change next year; unless some such provision was made, parties taking leases might complain."

Mr. Bell said—"That with the consent of the honourable member for Cumberland and on the understanding that such a clause would be added to the bill, he would withdraw his amendment."

Hon. Mr. Church said—"That all the information that the government or the department had was included in the returns. The government had no power to enforce any of the returns as regards the cutting of the coal, and he believed that it was no part of the duty of the inspector to pry into the accuracy of such returns. That was the difficulty in regard to an *ad valorem* tax. The only object the department had was to fix a rate that would be fair all around, and would give an equal amount of revenue to that now received from this source."

GOVERNMENT HOUSE, HALIFAX, N.S., 5th August, 1892.

The Honourable the Secretary of State for Canada, Ottawa.

SIR,—Referring to my despatch no. 45, dated the 2nd instant, I have the honour to inclose for your information a copy of a petition of certain lessees of coal mines in this province, addressed to me, against the passage of the act relating to mines and minerals and the act respecting the royalties on coal, together with a copy of my reply thereto.

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

M. B. DALY, *Lieutenant-Governor*.

GOVERNMENT HOUSE, HALIFAX, N.S., 29th April, 1892.

H. McD. HENRY, Esq., Q.C., Halifax.

SIR,—I am directed by his honour the lieutenant-governor, to inform you, in reply to the petition presented by you to him, on behalf of and signed by certain lessees of coal mines in the province of Nova Scotia, praying that the royal assent may be withheld from certain acts which have recently been passed by both branches of the legislature, namely "An Act relating to Mines and Minerals," and "An Act respecting the Royalties on Coal," that his honour is advised that the acts referred to are not open to the objection of the petitioners, and there being nothing unconstitutional in the proposed legislation, he does not consider that the case calls for such action on his part as the petitioners desire.

I have, &c.,

C. J. STEWART, *Acting Private Secretary*.

To the Honourable Malachy Bowes Daly, Lieutenant-Governor of the province of Nova Scotia.

The petition of the undersigned lessees of coal mines in the province of Nova Scotia, humbly sheweth:—

That there has passed the house of assembly and the legislative council during the present session of the legislature of the province of Nova Scotia, an act entitled "An Act to amend and consolidate the Acts relating to Mines and Minerals."

Mines and Minerals.

The 116th, 117th and 122nd sections of the said act are respectively as follows:—

“116. All ores and minerals, (other than gold or silver) mined, wrought or gotten under authority of licenses or leases granted under the provision of said chapter 7 of the Revised Statutes, fifth series, or of any act heretofore passed by the legislature of this province, shall be subject to the following royalties to the crown for the use of the province, that is to say:—

“117. Coal. Ten cents on every ton of two thousand two hundred and forty pounds of coal sold or removed from the mine, or used in the manufacture of coke or other form of manufactured fuel.

“122. All leases of coal mines issued after the passing of this act shall contain a provision that the royalties may be increased, diminished, or otherwise changed by the legislature.”

There has also passed the house of assembly and the legislative council during the said present session, an act intituled “An Act respecting the Royalties on Coal.”

The first section of the last mentioned act is as follows:—

“1. The royalty of ten cents per ton on coal as fixed by the said section shall be held to have taken effect on the 23rd day of February, 1892.”

The present rate of royalty on coal is seven and one-half cents per ton on all coal, including so-called slack coal, or in some cases nine and seven-tenths on round coal, such rates being optional on the part of the lessees and mutually regarded and treated as equivalent.

The first mentioned proposed act provides in the said 116th section for an increase in the royalty to be paid by your petitioners and all corporations or persons operating coal mines under existing leases, amounting to thirty-three and one-third per cent.

The other proposed act provides for the increased royalty being exacted retroactively, and, it is submitted, is therefore specially objectionable, independently of the grounds of objection to the main act.

The previous legislation bearing on the said proposed acts is as follows:—

Section 1, chapter 9 of the acts of 1866 is as follows:—

“1. Lessees of coal mines in this province, their executors, administrators and assigns, holding leases from the crown, or from the chief commissioner of mines, made since the first day of January, A.D. 1858 or hereafter to be made, shall, upon giving notice in writing to the chief commissioner of mines, at least six months previous to the expiration of such leases respectively, of their intention to renew such leases respectively for a further period of twenty years from the expiration thereof, be entitled to a renewal thereof for such extended term upon the same terms, conditions and covenants as contained in the original lease, and in like manner upon giving a like notice before the expiration of such renewed term to a second renewal and extension of term of twenty years from and after the expiration of such renewal term, and in like manner upon giving like notice before the expiration of such second renewal term to a third renewal and extension of twenty years from and after the expiration of such second renewed term; provided that at the time of giving such notices, and the expiration of such terms, respectively, the said lessees, their executors, administrators and assigns, are and shall continue to be *bonâ fide* working the areas comprised within their respective leases, and complying with the terms, covenants and stipulations in their respective leases contained, within the true intent and meaning of section 104 of the act hereby amended, and provided that in no case shall such renewal or renewals extend, or be construed to extend, to a period beyond sixty years from the 25th day of August, A.D. 1886, and provided also that the legislature shall be at liberty to revise and alter the royalty imposed under such lease in or after the year 1886.”

Section 102, chapter 9 of the Revised Statutes, fourth series, (1873) is identical with the above section of the act of 1866, except that it does not contain the concluding proviso, that is to say, the words: “And provided also that the legislature shall be at liberty to revise and alter the royalty imposed under such lease in or after the year 1866.”

No such provision as this latter is contained in any part of the consolidated acts of 1873.

Section 105 of chapter 7 of the Revised Statutes, fifth series, is as follows:—

"105. The General Mining Association (Limited) and other lessees of mines other than gold or gold and silver mines in this province, their executors, administrators and assigns shall, upon giving notice in writing to the commissioner of mines at least six months previous to the expiration of their leases respectively, of their intention to renew such leases respectively for a further period of twenty years from the expiration thereof, be entitled to a renewal thereof for such extended term upon the same terms, conditions and covenants as contained in the original lease or as prescribed by this chapter or by any act that may be passed by the legislature of this province, and in like manner upon giving a like notice before the expiration of such renewal term, to a second renewal and extension of term of twenty years from and after the expiration of such renewal term, and in like manner upon giving like notice before the expiration of such second renewal term, to a third renewal and extension of twenty years from and after the expiration of such second renewed term; provided that at the time of giving such notices, and the expiration of such terms, respectively, the said lessees, their executors, administrators and assigns are and shall continue to be *bonâ fide* working the areas comprised within their respective leases and complying with the terms, covenants and stipulations in their respective leases contained within the true intent and meaning of section 107 of this chapter, and provided that in no case shall such renewal or renewals extend, or be construed to extend, to a period beyond eighty years from the date of the original lease, but the renewed lease shall not include in respect of each mine worked a larger area than five square miles.

"(e.) In the case of leases that are eligible for renewal in which the conditions of renewal embodied therein are different from those prescribed by this chapter, and the lessees thereof are unwilling to have such conditions altered, the commissioner shall have power to renew said leases on the terms contained therein and as prescribed by chapter 9, Revised Statutes, fourth series, and no other."

Section 4 of chapter 4 of the acts of 1885, is as follows:—

"4. All leases of coal mines issued after the passing of this act shall contain a provision that the royalties may be increased, diminished, or otherwise changed by the legislature."

All leases in existence previous to the 26th day of August, 1886, expired on that date and were, with leases afterwards, issued from time to time, renewable according to the terms of the acts above set out, and the terms of the leases themselves on the corresponding dates in the years 1906, 1926 and 1946.

Your petitioners submit that the re-enactment in 1873 of section 1 of the act of 1866, without the proviso under which the legislature was to "be at liberty to revise and alter the royalty in or after the year 1886," conferred upon all the holders of then existing coal leases, and upon all subsequent holders of coal leases up to the year 1884, when the Revised Statutes, fifth series, were promulgated, an absolute legal right to renewals of their leases up to the year 1946 without any increase in rent or royalty.

As to section 105, of chapter 7, of the Revised Statutes, fifth series, above set out, your petitioners are advised, and they submit, that in construing the portion of this section which provides that lessees "shall be entitled to a renewal upon the same terms, conditions and covenants as are contained in the original lease, or as prescribed by this chapter or by any act that may be passed by the legislature of this province," it must be assumed either that it was not the intention of the legislature to provide for future legislative action in the shape of a measure purporting to legalize the imposition of an increased rent in violation of a lease defining what that rent should be, or, on the other hand, if the language used as to the terms of renewal be considered broad enough to cover the matter of an increase of rent, then it was submitted that the act itself was improper, and that the present act which proposes to legalize a specific increase of royalty in violation of existing contract rights should not receive your honour's assent.

Mines and Minerals.

Further, as to this last mentioned section, your petitioners submit that even upon its proper construction it would include a right on the part of the legislature to increase the royalty payable under then existing leases. Such increase could be stipulated for only at the time of the renewal in the year 1886 of the leases respectively, all of which were to expire, and did expire in that year, so that the renewal being once made, the royalty could not legally be increased until the next following renewal date.

As to section 9 of chapter 4 of the acts of 1885, above set out, your petitioners are advised, and they submit, that upon its true construction it relates only to leases to be issued subsequently to its passing, and that it does not relate to agreements merely expressing the rights of the parties by virtue of leases previously issued.

Your petitioners submit that there is clearly no legal ground for giving to the language here used an *ex post facto* operation, seeing that there is ample office for the words to perform in connection with original leases to be issued after the passing of the act.

For the reasons above indicated, your petitioners submit that the proposed legislation, in a most substantial and serious manner, invades the vested rights of your petitioners secured to them by contracts solemnly entered into, on the faith of which they have invested very large sums as capital in the various coal mining districts of the province.

By far the greater portion of such capital has been invested by persons residing outside of this province, and they, as well as others residing in Nova Scotia, would direct your attention to the breach of their contract rights, which the proposed acts involve as above set forth, and your petitioners therefore humbly pray your honour to withhold your consent to the said acts. And your petitioners as in duty bound will ever pray, &c.

The Mining Society of Nova Scotia,
HENRY S. POOLE, *President*.
The General Mining Association (Ltd.),
CUNARD & MORROW, *Agents*.
The Acadia Coal Co. (Ltd.),
HENRY S. POOLE, *Agent*.
The International Coal Co. (Ltd.),
By HUGH McD. HENRY, *their attorney*.
The Cumberland Railway and Coal Co. (Ltd.)
By HECTOR McINNIS, *their attorney*.
The Caledonia Coal and Railway Co.,
per H. S. POOLE.
The Gowrie Coal Mining Co. (Ltd.),
By HUGH McD. HENRY, *their attorney*.
J. R. COWANS,
By HECTOR McINNIS, *his solicitor*.
Glace Bay Mining Co. (Ltd.),
J. R. LITHGOW, *Treasurer and Manager*.
Intercolonial Coal Mining Co.,
HENRY A. BUDDEN, *Vice-President*.
Lingan, Low Point & Barachois Coal Co. (Ltd.),
W. J. STAIRS, *President*.

DEPARTMENT OF THE SECRETARY OF STATE,
OTTAWA, 8th August, 1892.

To His Honour the Lieutenant-Governor of Nova Scotia, Halifax, N.S.

SIR,—I have the honour, in continuation of prior correspondence on the subject, to acknowledge the receipt of your dispatch, no. 46, of the 5th instant, transmitting a copy of a petition of certain lessees of coal mines in the province of Nova Scotia, addressed to your honour against the passage of the act relating to mines and

minerals and the act respecting the royalties on coal, together with a copy of the reply made by you in the premises, and to state that these documents will receive attention.

I have, &c.,

L. A. CATELLIER, *Under Secretary of State.*

HALIFAX, 31st October, 1892.

The Hon. the Secretary of State, Ottawa.

SIR,—On behalf of the Acadia Coal Company, the Cumberland Railway and Coal Company, and the Caledonia Coal and Railway Company, we beg to enclose a petition for the disallowance of two statutes passed at the last session of the legislature of this province, intitled: "An Act to amend and consolidate the Acts 'relating to Mines and Minerals,'" and "An Act respecting the Royalties on Coal." The said companies have signed the petition on the 8th page of the document enclosed. We are instructed to request that it be referred to the governor-general in council.

We have, &c.,

DRYSDALE, NEWCOMBE & McINNES.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 3rd November, 1892.

To Messrs. DRYSDALE, NEWCOMBE & McINNES, Barristers, Halifax, N.S.

GENTLEMEN,—I have the honour to acknowledge the receipt of your letter of the 31st ultimo, transmitting for submission to his excellency the governor-general in council a petition signed by the Acadia Coal Company, the Cumberland Railway and Coal Company and the Caledonia Coal and Railway Company, praying for the disallowance of two statutes passed at the last session of the legislature of the province of Nova Scotia, as therein set forth, and to state that the said petition will receive attention.

I have, &c.,

L. A. CATELLIER, *Under Secretary of State.*

HALIFAX, N.S., 24th November, 1892.

The Honourable the Secretary of State for Canada, Ottawa.

SIR,—We have the honour to enclose herewith for the consideration of his excellency the governor-general in council, two petitions of the Intercolonial Coal Mining Company, Limited, having reference to chapters one and three, respectively, of the acts of the Nova Scotia legislature passed in the year 1892.

We have, &c.,

BORDEN, RITCHIE, PARKER & CHISHOLM,
Solicitors for the Intercolonial Mining Company, Limited.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA,
OTTAWA, 28th November, 1892.

Messrs. BORDEN, RITCHIE, PARKER & CHISHOLM, Halifax, N.S.

GENTLEMEN,—I have the honour to acknowledge the receipt of your letter of the 24th instant, enclosing for submission to his excellency the governor-general in council a petition in duplicate from the Intercolonial Coal Mining Co., Limited, praying for the disallowance of certain sections of chapters one and three of the acts of the Nova Scotia legislature, passed in the year 1892, and to state that the matter will receive consideration.

I have, &c.,

L. A. CATELLIER, *Under Secretary of State.*

Mines and Minerals.

HALIFAX, N.S., 1st December, 1892.

Hon. J. C. PATTERSON, Secretary of State, Ottawa, Ont.

SIR,—As solicitors for the parties interested, we are forwarding to you, by this mail, a petition to his excellency the governor-general praying for the disallowance of an act of the legislature of Nova Scotia entitled "An Act to amend and consolidate the Acts relating to Mines and Minerals," being 55 Vic. (1892) cap. 1.

We have, &c.,

HENRY, HARRIS & HENRY.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 5th December, 1892.

Messrs. HENRY, HARRIS & HENRY, Barristers, Halifax, N. S.

GENTLEMEN,—I have the honour to acknowledge the receipt of your letter of the 1st instant transmitting on behalf of lessees of coal mines in Nova Scotia, a petition praying for the disallowance of an act passed by the legislature of Nova Scotia, entitled "An Act to amend and consolidate the Acts relating to Mines and Minerals," and to state that the matter will receive consideration.

I have &c.,

L. A. CATELLIER, *Under Secretary of State..*

HALIFAX, N.S., 11th January, 1893.

Hon. JOHN COSTIGAN, Secretary of State, Ottawa, Ont.

SIR,—We have the honour to inform you that the International Coal Company, Limited, the Caledonia Coal and Railway Company, Limited, and Messrs. Archibald & Co., proprietors of the Gowrie Colliery, desire to be considered as having withdrawn from the petitions for the disallowance of an act of the legislature of Nova Scotia entitled "An Act to amend and consolidate the Acts relating to Mines and Minerals," being 55 Victoria (1892), chapter 1.

These petitions were forwarded to your department by us on the 1st of December, 1892.

We have, &c.,

HENRY, HARRIS & HENRY.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA,

OTTAWA, 16th January, 1893.

To Messrs. HENRY, HARRIS & HENRY, Solicitors, Halifax, N.S.

GENTLEMEN,—I have the honour to acknowledge the receipt of your communication, dated the 11th instant, notifying the secretary of state that the International Coal Company, Limited, the Caledonia Coal and Railway Company, Limited, and Messrs. Archibald & Co., proprietors of the Gowrie Colliery, desire to be considered as having withdrawn from the petitions forwarded to this department by you on the 1st ultimo, for the disallowance of an act of the legislature of Nova Scotia entitled "An Act to amend and consolidate the Acts relating to Mines and Minerals," being 55 Vic. (1892), cap. 1, as therein set forth, and to state that the notice in question will receive attention.

I have, &c.,

L. A. CATELLIER, *Under Secretary of State.*

RETURN

[69]

To an ADDRESS of the SENATE, dated the 7th March, 1893, for a copy of the Royal Instructions from Her Most Gracious Majesty the Queen, to His Excellency on his appointment to his present office.

By order.

JOHN COSTIGAN,

Secretary of State.

CANADA.

DRAFT OF INSTRUCTIONS *passed under the Royal Sign-Manual and Signet to the Governor-General of the Dominion of Canada.*

VICTORIA R.

Instructions to our governor-general in and over our dominion of Canada, or, in his absence, to our lieutenant-governor or the officer for the time being administering the government of our said Dominion. Dated 5th October, 1878.

Given at our court at Balmoral, this fifth day of October, 1878, in the forty-second year of our reign.

WHEREAS by certain letters-patent bearing even date herewith, we have constituted, ordered, and declared that there shall be a governor-general (hereinafter called our said governor-general) in and over our dominion of Canada (hereinafter called our said Dominion), and we have thereby authorized and commanded our said governor-general to do and execute in due manner all things that shall belong to his said command, and to the trust we have reposed in him, according to the several powers and authorities granted or appointed him by virtue of the said letters-patent and of such commission as may be issued to him under our sign-manual and signet, and according to such instructions as may from time to time be given to him, under our sign-manual and signet, or by our order in our privy council, or by us through one of our principal secretaries of state, and to such laws as are or shall hereafter be in force in our said Dominion. Now, therefore, we do, by these our instructions under our sign-manual and signet, declare our pleasure to be that our said governor-general for the time being shall, with all due solemnity, cause our commission, under our sign-manual and signet, appointing our said governor-general for the time being, to be read and published in the presence of the chief justice for the time being, or other judge of the supreme court of our said Dominion, and of the members of the privy council in our said Dominion: And we do further declare our pleasure to be that our said governor-general, and every other officer appointed to administer the government of our said Dominion, shall take the oath of allegiance in the form provided by an act passed in the session holden in the thirty-first and thirty-second years of our reign, intituled "An Act to Amend the Law relating to Promissory Oaths," and likewise that he or they shall take the usual oath for the due execution of the office of our governor-general in and over our said Dominion, and for the due and impartial administration of justice;

Preamble.

Recites letters patent, dated 5th October, 1878, constituting the office of governor-general.

Publication of governor-general's commission.

Oaths to be taken by governor-general, &c. Imperial act 31 and 32 Victoria, cap. 72.

Royal Instructions to Governor-General.

which oaths the said chief justice for the time being of our said Dominion, or, in his absence, or in the event of his being otherwise incapacitated, any judge of the supreme court of our said Dominion shall, and he is hereby required to tender and administer unto him or them.

Oaths to be administered by the governor-general.

II. And we do authorize and require our said governor-general from time to time, by himself or by any other person to be authorized by him in that behalf, to administer to all and to every person or persons, as he shall think fit, who shall hold any office or place of trust or profit in our said Dominion, the said oath of allegiance, together with such other oath or oaths as may from time to time be prescribed by any laws or statutes in that behalf made and provided.

Governor-general to communicate instructions to the privy council of the Dominion. Laws sent home to have marginal abstracts.

III. And we do require our said governor-general to communicate forthwith to the privy council for our said Dominion these our instructions, and likewise all such others, from time to time, as he shall find convenient for our service to be imparted to them.

Journals and minutes.

IV. Our said governor-general is to take care that all laws assented to by him in our name, or reserved for the signification of our pleasure thereon, shall, when transmitted by him, be fairly abstracted in the margins, and be accompanied, in such cases as may seem to him necessary, with such explanatory observations as may be required to exhibit the reasons and occasions for proposing such laws; and he shall also transmit fair copies of the journals and minutes of the proceedings of the parliament of our said Dominion, which he is to require from the clerks, or other proper officers in that behalf, of the said parliament.

Grant of pardons.

V. And we do further authorize and empower our said governor-general, as he shall see occasion, in our name and on our behalf, when any crime has been committed for which the offender may be tried within our said Dominion, to grant a pardon to any accomplice, not being the actual perpetrator of such crime, who shall give such information as shall lead to the conviction of the principal offender; and, further, to grant to any offender convicted of any crime in any court, or before any judge, justice or magistrate, within our said Dominion a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to our said governor-general may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to us. Provided always, that our said governor-general shall not in any case, except where the offence has been of a political nature, make it a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself from our said Dominion. And we do hereby direct and enjoin that our said governor-general shall not pardon or reprieve any such offender without first receiving in capital cases the advice of the privy council for our said Dominion, and in other cases the advice of one, at least, of his ministers; and in any case in which such pardon or reprieve might directly affect the interests of our empire, or of any country or place beyond the jurisdiction of the government of our said Dominion, our said governor-general shall, before deciding as to either pardon or reprieve, take those interests specially into his own personal consideration in conjunction with such advice as aforesaid.

Remission of fines.

Proviso—banishment from the Dominion prohibited. Exception—political offences. Regulation of power of pardon.

Governor-general's absence.

VI. And whereas great prejudice may happen to our service and to the security of our said Dominion by the absence of our said governor-general, he shall not, upon any pretense whatever, quit our said Dominion without having first obtained leave from us for so doing under our sign-manual and signet, or through one of our principal secretaries of state.

V. R.