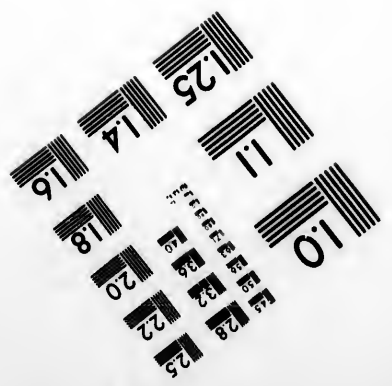
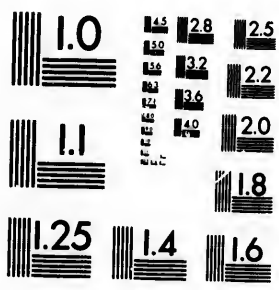


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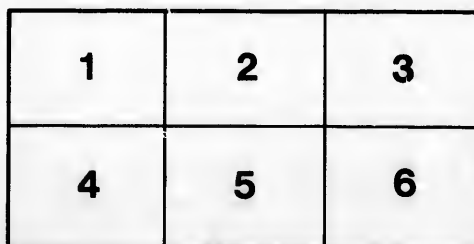
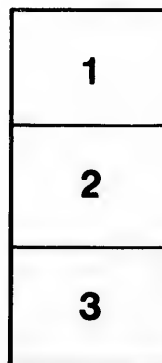
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REPORT
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GEORGE BURDEN, ESQ.,
COMMISSIONER,
ON THE
WESTERN PART
OF
THE DISPUTED TERRITORY
BELONGING TO THE
PROVINCE OF ONTARIO,
WHEREIN THE DOMINION OR MANITOBA GOVERNMENTS HAVE,
SINCE 1879, CLAIMED TO EXERCISE JURISDICTION.

Printed by Order of the Legislative Assembly.



Toronto:
PRINTED BY C. BLACKETT ROBINSON, 5 JORDAN STREET.
1883.

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J. N. Pattullo Esq.

*written for Burden's Commission
July 1883*

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TORONTO, 10th February, 1883.

To the Honourable the Provincial Secretary of Ontario, Toronto :

SIR,—In obedience to instructions, I have prepared and herewith submit a record of occurrences within that part of the disputed territory in which, notwithstanding the Award of the Arbitrators, the Dominion and Manitoba Governments have, since 1879, pretended to exercise civil and criminal jurisdiction ; also a statement of such other incidental facts and circumstances as have come under my own observation or in respect of which I have obtained information since, in August last, I proceeded to Rat Portage.

With the exception of a few persons connected with the Hudson Bay Post, Rat Portage, originally called Keewatin, had no population until, in 1879, it was made the headquarters of the contractors for Section B of the Canada Pacific Railway. But three miles farther west, on Section A of that road, was springing up, at Rat Portage proper, now called Keewatin, a flourishing village in connection with large saw mills established by the owners of timber limits on the Lake of the Woods, leased under the provisional boundary agreement of 1874.

Rat Portage on becoming the distributing point for the firm of Manning, Macdonald, McLaren & Co., railway contractors, speedily acquired importance. Gradually, population flowed in, general stores and taverns were established, lumbering and mining parties made it their point of departure for locations on the lake, a large hotel was erected, and, generally, the place assumed a character for enterprise and activity.

In 1879, the Dominion Government proclaimed the Public Works Act in force from English River to Cross Lake. Under this Act an illicit liquor seller was liable to a fine of \$20 for a first offence ; \$40 for a second offence ; and for a third offence, \$40 and *six months' imprisonment*—the informer getting no portion of the fines. A Commissioner

of Police was appointed by the Dominion Government to carry out the provisions of the Act. Several constables were also appointed, who were paid, jointly, by the contractors and the Government. In addition to providing penalties for the illicit sale of liquor, the Act contemplates the suppression of the practice of carrying arms.

The "North-West Territories Act" (otherwise called the "Keewatin Prohibitory Act,") which became law in 1874, was also assumed by the Dominion officials to be in force in the territory. Under this Act the illicit liquor seller incurs a penalty of \$50 for a first offence; \$100 for a second offence; and \$200 for a third offence. Imprisonment is not provided for, except in case of non-payment of fine, and one-half the fine when paid goes to the informer. The original intention of this Act was, undoubtedly, to make unprofitable the introduction of liquor into the Indian country by white traders; and the absence of imprisonment as one of the penalties, is accounted for by the fact that, in the then unorganized territories brought within the scope of the Act, there were no jails or lock-ups for the detention of offenders. Further, under this Act, the Lieutenant-Governor of the North-West Territories is empowered to issue permits to individuals for the introduction of quantities not exceeding five gallons of liquor.

The Public Works Act was enforced at Rat Portage in two or three instances, by the first Commissioner of Police appointed by the Dominion Government (Captain Bent) in 1879. After that period, the then occupant of the office invariably carried out the Keewatin Act instead of the Public Works Act, and the same course was followed by his successors, Messrs. Brereton and McCabe, down to December last when, in compliance with instructions from the Minister of Justice at Ottawa, Mr. McCabe caused his constables to discontinue laying informations under the Keewatin Act in places contiguous to the line of railway.

Among the buildings raised by the contractors of Section B, Canada Pacific Railway, in 1879, was a log-house intended to serve as a lock-up for prisoners. This lock-up was recognised in a proclamation, issued by the Dominion Government in 1880, as a common jail for Keewatin. (See Dominion Statutes of that year, page 82.)

In the middle of December, 1879, Mr. W. D. Lyon, who had been acting under the Ontario Government as a Stipendiary Magistrate at Alberton, on the Rainy River, was ordered to Rat Portage, representations having been made that there had been recently erected at Keewatin extensive mills and other works; that there was a considerable number of men there, or in the neighbourhood, attracted by the Canada Pacific works and by the recent discoveries of gold and silver on the islands of the Lake of the Woods, and that a good deal of disturbance had arisen. Mr. Lyon was instructed that, as the territory was within Ontario, he had no authority to enforce laws which were passed for the District of Keewatin.

Mr. Lyon arrived at Rat Portage on the 7th of January, 1880, having found the steamer frozen-up at the mouth of the Rainy River, and having had to wait until the ice formation on the Lake enabled him to perform the journey on foot, which he did in eight days. In the course of his journey he learned that a considerable amount of whiskey was concealed on some of the islands in the lake, and also that several complaints had been lodged with the Dominion Magistrate against parties for the illicit sale of liquor.

On the 5th March, 1880, it was represented to the Ontario Government that the

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people of Rat Portage and Fort Frances were anxious for the establishment of Division Courts at those places as early as practicable; that the people were being robbed every day for the want of some process to facilitate the collection of small debts, and that the Dominion Government had declined taking any initiative in this direction. A petition to the Ontario Government from the leading citizens of Rat Portage set forth that, owing to the fact of there being no Court of Civil Jurisdiction as yet established, they were put to great inconvenience and loss for want of the necessary facilities to enforce payment of their outstanding debts. The loss and inconvenience complained of would, they said, be very much increased as portions of the works on the railway were finished, and the sub-contractors, traders and labourers began to move from place to place—many of them leaving the district and carrying their effects with them. The petitioners further complained that they had no power to detain the goods of defaulting creditors, or to enforce payment of lawful claims. They concluded by saying that a great number of business transactions took place at Rat Portage, and that a majority of such cases came within the jurisdiction of a Division Court, and they impressed upon the Ontario Government the urgent necessity of establishing such a Court there at as early a date as possible.

On the 28th May, 1880, an Order-in-Council was approved by His Honour the Lieut.-Governor of Ontario, establishing Division Courts, with head quarters at Rat Portage and Fort Frances.

In the meantime, an Act, passed by the Ontario Legislature in its preceding session, making additional provision for the Administration of Justice in the disputed territory, had been disallowed by the Dominion Government.

On 7th May, 1880, a Dominion Act respecting the Administration of Criminal Justice in the territory in dispute between the Province of Ontario and Dominion of Canada, received the assent of His Excellency the Governor-General.

Under the provisions of this Act, crimes and offences committed within the disputed territory might be enquired into, tried and punished within any county or district of the Provinces of Ontario or Manitoba, or the District of Keewatin, as though such crimes or offences had been committed within the county or district where such trial was had. It was also enacted that such crimes or offences would be sufficiently laid and charged, whether they were laid and charged to have been committed in Ontario or the District of Keewatin, and any sentences which might have been imposed upon offenders had the offences been committed either in an undisputed part of Ontario or an undisputed part of Keewatin, might be imposed upon offenders convicted under the Act. The Act also provided for the withdrawal of prisoners from the jails of the Province of Manitoba to the jails of Ontario or *vice versa* for trial, and for commitments to the jails at Winnipeg or Prince Arthur's Landing in the event of there being no proper place of confinement for or within the locality in which the conviction was had or the offence was committed.

No provision was made for carrying out civil law within the territory, and the dispute as to title paralyzed, to a large extent, the efforts of the Ontario Magistrate for the prevention of disorder and the administration of justice. Nevertheless, he was enabled to render effectual service for some time in checking the liquor traffic, and in breaking up the most notorious of the dens of prostitution which existed in the locality, owing to his having received the cordial co-operation of the railway contractors,

who had ceased to have confidence in the Dominion Police Commissioner, and who now offered Mr. Lyon the aid of their constables and the use of the lock-up they had erected at Rat Portage for the temporary confinement of prisoners.

As evidence of the lawlessness which prevailed in the neighbourhood at this period, it may be stated that bands of whiskey peddlers on McDougall's Island and at Eagle Lake had armed themselves with knives and revolvers and openly set the constables at defiance. The latter body succeeded in arresting three of the criminals at Eagle Lake. When the fact of the arrests became known, the remainder of the band forcibly rescued their comrades by overpowering the constables, subsequently firing into the telegraph office in which the latter had taken refuge.

Early in 1880, the Ontario Stipendiary was granted the assistance of a paid constable, but the usefulness of the Magistrate became speedily circumscribed from the fact that prisoners committed by him to the lock-up heretofore placed at his disposal, were not received, on the ground that that edifice had been proclaimed by the Dominion Government a Jail for the District of Keewatin. As, from the class of offences common at Rat Portage, few persons were disposed to lodge complaints which might involve a journey to Winnipeg or Prince Arthur's Landing to prosecute, Mr. Lyon remained more or less inactive until the first sitting of the Ontario Division Court, on 16th May, 1881. Up to this time, the Manitoba Government had made no movement whatever towards interference in the disputed territory, but the Legislature of that Province had passed an Act on the 4th March, 1881, consenting to an increase of boundaries easterly and westerly. This Act, passed on the invitation of the Dominion Government, was confirmed by an Act of the Federal Parliament, on the 21st March, 1881. The following were the terms and conditions on which such increase was made:—

"(a) All the enactments and provisions of all the Acts of Parliament of Canada which have, since the creation of the Province of Manitoba, been extended into and made to apply to the said Province, shall extend and apply to the territory by this Act added thereto as fully and effectually as if the same had originally formed part of the Province and the boundaries thereof had in the first instance been fixed and defined as is done by this Act, subject, however, to the provisions of Section three of this Act.

"(b) The said increased limit and the territory hereby added to the Province of Manitoba shall be subject to all such provisions as may have been, or shall hereafter be enacted, respecting the Canadian Pacific Railway, and the lands to be granted in aid thereof.

"3. All laws and ordinances in force in the territory hereby added to the Province of Manitoba at the time of the coming into force of this Act, and all Courts of Civil and Criminal Jurisdiction, and all legal commissions, powers and authorities, and all officers, judicial, administrative and ministerial, existing therein at the time of the coming into force of this Act shall continue therein as if such territory had not been added to the said Province; subject nevertheless, with respect to matters within the legislative authority of the Legislature of the Province of Manitoba, to be repealed, abolished or altered by the said Legislature."

Although this Act was assented to by the Governor-General on the 21st March, 1881, no step had been taken by the Manitoba Government towards the civil, criminal or municipal organization of any portion of the disputed territory up to the time of the sitting of the Ontario Division Court on the 16th May. A Bill was, however, introduced into the Provincial Legislature and assented to on 21st May, 1881, intended to pave the

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way for such action, by proclaiming a large portion of that territory as within the limits of Manitoba. This territory was erected into a County, and called the Municipality of Varennes.

The following are the provisions of the Act to extend the laws of Manitoba to the Government of those parts of the Territory to be added to the Province by the extension of its boundaries. (Assented to 25th May, 1881.)

"1. When and so soon as the Act of Parliament of Canada, mentioned and recited in the preamble of this Act, shall come into force and operation by the terms of a proclamation to be issued in pursuance of the said Act by the Governor-General of Canada, as in that Act is provided, the territorial boundaries and limits of the Province of Manitoba shall be extended and increased as in that Act is mentioned and expressed, subject to the terms and conditions therein contained, and the said Act and all the enactments and provisions thereof shall have the force and effect of law in this Province so enlarged and increased as aforesaid, and immediately thereafter the said additional territory and the inhabitants thereof and all officers therein within the executive authority or legislative jurisdiction of the Province of Manitoba shall, as an integral part or portion of this Province, and as officers of the Government of Manitoba, be respectively subject to all the laws and executive regulations of the Province of Manitoba."

"Provided always, and it is hereby declared and enacted, that all laws and ordinances in force in the said Territory so to be added to and to form part of the Province of Manitoba as aforesaid at the time of the coming into force of the said Act of the Parliament of Canada as aforesaid, and all courts of civil and criminal jurisdiction, all registration offices for the registration of titles to lands and all legal commissions, powers and authorities, and all officers, judicial, administrative and ministerial, existing therein at the time of the coming into force of the said Act of the Parliament of Canada shall continue therein until the same and every of them which are or is within the executive and legislative authority and jurisdiction of the Province of Manitoba, are or is from time to time as may seem expedient, by Order in Council to be published in the *Manitoba Gazette*, altered or changed and brought under and subject to the laws of the Province of Manitoba; and the Lieutenant-Governor in Council is hereby declared to have and possess full power and authority to pass all Orders in Council and revoke and substitute others therefor requisite or necessary in the premises."

By a subsequent Act of the Province of Manitoba, also assented to on the 25th May, 1881, it was provided that—

"The New Territory lying to the east shall comprise one Electoral Division, to be known as No. 30 or Rat Portage, and shall consist of all the territory lying to the east of Lake Winnipeg and eastward of Range 10, east of the principal meridian."

The same Act provided that—

"The Lieutenant-Governor in Council shall, within three months after the date of the proclamation of the Governor-General declaring 44 Vic., cap. 14, intitled: 'An Act to provide for the extension of the boundaries of the Province of Manitoba,' to be in force, issue his proclamation and cause writs to be issued for the holding of elections," etc., "provided, however, that the election of a member for Rat Portage or No. 30, shall not take place until the eastern boundary of the Province of Manitoba shall be fully known and decided."

Another Act, assented to on 25th May, 1881, provided for the division of the Province into Counties, and the County of Varennes was made to comprise—

"All the remaining portion of territory within the Province east of Range 13 East, not included in any other County."

In another Act, assented to on 25th May, 1881, the Eastern Judicial District of Manitoba was made to comprise—

“All the remaining portion of the Province not comprised in the Western and Central Districts,” the Counties composing which were named.

When it became known that Ontario assumed to have civil jurisdiction, and had given notice of holding a Division Court at Rat Portage, the newspaper conducted in the interest of the Dominion and Manitoba Governments at Winnipeg fiercely assailed the Government of Ontario, and demanded the withdrawal of Ontario from the Rat Portage and Fort Frances districts; and a small sheet published at Rat Portage went so far as to counsel resistance to a jurisdiction which all the leading men of the village and neighbourhood had so recently invoked. But the feeling of hostility was by no means widespread; and after the sitting of the Court, which passed off in an orderly manner, it became evident that no serious intention existed to question Ontario's right.

Among the cases disposed of at the sitting were two garnishee claims against the firm of Manning, McDonald, McLaren & Co., Railway Contractors. Towards the end of May, it was openly stated that this firm would have the Ontario bailiff arrested if he attempted to seize their goods under process of Court. On the 13th June, a barrister from Winnipeg named Kennedy, employed by the contractors, appeared at Rat Portage and announced to the Ontario Stipendiary that the bailiff would be obstructed should he attempt to make execution. In pursuance of his threat, Kennedy subsequently laid hands upon the officer in the contractor's store, and prevented his proceeding. Thereupon the bailiff arrested Kennedy, but the latter declined accompanying him unless he procured a warrant. Before that document could be prepared the bailiff was himself arrested by a Dominion constable for assault, and summarily placed in the lock-up, without being brought before the Dominion Police Commissioner. He was subsequently fined by the latter one dollar, or one day's imprisonment, while Kennedy was fined ten dollars and costs by the Ontario Stipendiary, for obstructing the bailiff in the execution of his office. A subsequent attempt of the bailiff to seize was similarly and successfully resisted, he being unaccompanied by the requisite force. Kennedy announced his intention of testing the question of jurisdiction in the Manitoba Courts; but as nothing was done in this direction, then or subsequently, he was probably advised to let the case drop, pending action by the Manitoba Government. It was no secret at this time that had the Ontario Magistrate a strong force at his back the contractors were prepared to organize a still stronger, and that a collision would have been inevitable.

On the 1st of July a proclamation was issued, adding to the Province of Manitoba the territory described in the Extension Act passed by the Dominion Parliament. The officials of the Dominion Government received (as they stated) instructions to confer with the Attorney-General of Manitoba in all matters regarding the administration of justice within the territory, from the date of the proclamation; but no forward movement was made by that officer or his Government within the territory until the end of September, when notice was given that a County Court for the trial of Civil causes would be held at Rat Portage in the following month under Manitoba jurisdiction. A Clerk was appointed and gazetted, and writs were issued by the Court of Queen's Bench at Winnipeg, directed against parties within the disputed territory. Meantime, no suits

were entered in the Ontario Division Court; the people who had petitioned for that Court, seeing its jurisdiction disputed, had appealed to Ottawa for redress, and been informed that, as Rat Portage would shortly be included within the Province of Manitoba when the Act extending the Boundaries of that Province should be brought into force, (unless it were already within the limits of Ontario), and as the administration of justice and the establishment of Provincial Courts devolved upon the Provincial authorities, it would not be proper for the Dominion Government to take action upon their petition.

The first sitting of the "County Court of Varennes" was unmarked by any particular incident, except that the presiding Judge deferred giving judgment on defended cases until the next Court, to be held in June, 1882. In the undefended cases, the Clerk issued judgment and execution. The authority of the Court was disputed in the case of *Higgins et al. v. Davidson*. The defendant refused to obey an order to appear at the Judge's Chambers at Winnipeg, and no order was issued to arrest him for contempt. The presiding Judge (Mr. Justice Miller) had made no secret of his having demanded and obtained an instrument in the shape of a guarantee or bond of indemnity from the Manitoba Government, holding him harmless in the event of trouble arising through his holding a Court in the disputed territory.

About this period extraordinary activity was manifested by declared supporters of the Dominion Government in prospecting for water privileges, timber limits, tie berths, etc., in the territory. Notwithstanding the fact that the Department of the Interior disclaimed having granted permits to cut ties, posts, and telegraph poles, and notified its intention to refuse applications "until the dispute with Ontario was settled," many gangs of men were employed at various points on the lake in cutting for the Syndicate, which would shortly have possession of the completed portion of the road from Rat Portage to Winnipeg, and thus have the means of transporting supplies to the contractors building the western sections of the road.

The contractors of Section B. were also credited with having secured a valuable privilege. Instead of procuring (as was contemplated at the time they entered upon their contract) timber from Minneropolis, suitable for bridges and culverts, at a cost of about \$60 per thousand laid down, they obtained permission from the Dominion Government to cut logs in the vicinity of Eagle Lake, where they erected a saw-mill, and manufactured, it was reported, over and above their own requirements, a large quantity of lumber for shipping to the Winnipeg market in the ensuing spring.

A Mr. R. J. Short was also particularly active at this period in sending out parties on the lake to cut railway ties for the Syndicate. He was stated to have a permit from the Dominion Government to cut one million feet. Over one hundred men, directly or indirectly in his employ, were cutting ties at Whitefish Bay in the month of November, 1881.

A person named Lewis was also actively employed in lumbering. He had a permit from Ottawa to cut two million feet.

The Dominion Regulations regarding Timber Limits and Dues in the North-West Territories, issued about this period, enabled the Syndicate, or its agents, to cut all the timber required in the vicinity of the Lake of the Woods at merely nominal figures. It was stated they had also a lease of twenty miles of country on each side of the railway

track from Rat Portage to Prince Arthur's Landing, in anticipation of that portion of the road passing into their possession.

In October, 1881, a Mr. McCarthy, an engineer in the employ of the contractors, who had been appointed Crown Timber Agent at Rat Portage, notified parties cutting ties on the lake to desist. It does not appear that his notice received any attention from the parties employed by Short or Lewis, or that any other parties so engaged ceased cutting for more than a brief period.

During the fall and winter of 1881-2 a large quantity of timber was cut at various places on the lake and on the line of railway east of Rat Portage, and there is reason to believe no dues whatever were paid on a considerable portion of this timber, and that some of it was shipped west and disposed of in the Winnipeg market.

In December, 1881, a new development of the liquor troubles occurred. A Dominion Magistrate named Brereton caused the arrest of a constable named O'Keefe for treating his (O'Keefe's) friends with seized liquor, held in his possession while awaiting an order for its destruction. O'Keefe was convicted, and fined \$100 and costs, which he paid. Immediately afterwards he lodged a complaint with McCarthy, the contractor's engineer, who, in addition to being Crown Timber Agent and Postmaster, was an acting Stipendiary Magistrate of Manitoba, that Magistrate Brereton had done precisely as he (O'Keefe) had done, viz.: treated his friends with seized liquor; and O'Keefe applied to have the conviction quashed on the ground that he (O'Keefe) held the liquor by virtue of his office, and that the giving away of a portion of it was simply an act of indiscretion, to be dealt with by his employers. Brereton also claimed that he had lawful possession of the liquor, and stated that he saw no harm in "giving the boys a drop." Both parties went to Winnipeg to seek redress, and the *Winnipeg Times*, of the 6th January thus alluded to the cause of trouble:—

"The arrival of a number of persons from Rat Portage last night enables us to throw some light on the reported maladministration of justice in Keewatin a short time ago. It would appear that Mr. Rideout, of the Rideout House, Rat Portage, had four barrels of beer *en route* to his place on Christmas eve, in bottles, which were packed in barrels, in direct violation of the liquor law of the territory. The host, fearing trouble, thought the best plan was to acquaint Chief of Police O'Keefe, and trust to his clemency in the matter. He, however, made a miscalculation, for the moment the officer of the law was made aware of the fact he had no alternative but to seize the liquor, which he did, and had it removed to his office. He notified Mr. Rideout of the seizure, supposing that person would come to claim it, whereupon he would lay an information against him for importing the liquor. Mr. R. prudently refrained from claiming it. Then Mr. O'Keefe notified the contractors, Manning, Macdonald & Co., and Stipendiary Magistrate McCarthy, of the seizure, and, pending developments, held on to the beer till the following Thursday, when he received orders to destroy it. In the meantime two or three bottles of beer had been taken from the barrels, and abstracted by two or three visitors in Mr. O'Keefe's office on Christmas day. This having transpired, it was made the ground for an action against O'Keefe for having liquor in his possession, upon which he was arraigned and fined \$100 and costs. The officer claims that it was a piece of sharp-practice upon the part of the magistrate to gratify the wish of his friend Rideout, and he still holds that he had a right to have the liquor while under seizure in his custody. The chief thought to himself that it was a long lane that had no turn, and he remembered that on the 14th day of December last he had seized a quantity of whiskey that was passing over the C. P. R. east, and it was placed for safety in the express office at Rat Portage. In the interim Stipendiary Brereton dropped around, made free with the

liquor, and treated his friends to some of the contents of the casks there stored. The officer therefore concluded to have his revenge, and arraigned the magistrate before Acting Stipendiary McCarthy, who fined Capt. Brereton \$100 and costs for dispensing liquor in violation of the Keewatin liquor law. The money was paid over under protest. All the parties are now in the city, and each seeking redress against the other, the upshot of which will be made known in a very few days."

Cases quite as flagrant as that adverted to have been of common occurrence. The *modus operandi* by which a prohibitory liquor law is made to serve other purposes is reported to be as follows:—

A person in Rat Portage keeps a saloon, and on the other side of the street he has a billiard room where liquor is dispensed at a bar. The keeper of the billiard room gets a quantity of whiskey and sells it openly. The constables frequent and drink at both places. When they think the proper time has arrived, they lay an information against the keeper of the billiard room. The offender is brought up and, for the first offence, is fined \$50 and \$7 costs. As he pleads guilty there is no trial. Then the owner of the saloon, who is, *de facto*, the owner of the billiard room, becomes the keeper of the latter, begins to sell and, when the proper time comes he is, in turn, fined \$50 and costs: again no trial. When both the saloon keeper and billiard room keeper have been fined, it becomes necessary to avoid their being again informed against and fined in heavier amounts. A stranger is then employed in each place and he becomes the nominal proprietor, recognized as such by the Dominion constables, who decide when another information is to be laid, when, again, the minimum fine under the Keewatin Act is inflicted. It would never do, apparently, to go on to second and third convictions; such a course might have the effect of stopping the traffic. Liquor selling is so profitable that, it is stated, and I believe, with perfect truth, that the proprietor of the saloon and billiard room adverted to, has been by himself and servants—*i.e.*, the temporary nominal proprietors—fined over \$1,200 in one year, and, moreover, that he has been quite content to pay it, and also a large weekly allowance to the constables, for the impunity he has been permitted to enjoy.

The traffic openly flourished and the liquor interest was the most powerful in the community. Informations were nearly always laid verbally by the constables, and, not infrequently, convictions were unrecorded. Levying a periodical fine on transient bar-keepers had come to be regarded as another way of exacting a license fee; the illicit dealers, as a general thing, were satisfied, because the system secured them immunity from imprisonment, and did not stop the traffic. It was quite common to find the informing constables carousing in taverns immediately after the proprietors had been fined for selling liquor.

At this time, the Manitoba acting Stipendiary,—McCarthy, the engineer of the contractors,—attempted unsuccessfully to put a stop to the whiskey traffic on the line of railway. The reason alleged for his failure was, that the constables at Rat Portage were in collusion with whiskey peddlers on the road, who had a monopoly of the business. Informations were invariably laid against strangers who attempted to sell whiskey in the camps, but recognized offenders enjoyed impunity.

Of all the evils that attended the traffic, perhaps the worst was the facility with which the Indians procured liquor. It was quite common to see them excited by drink

in the daytime. An Indian pilot of a steam tug carrying passengers, went out in charge of the craft while in a state of intoxication. One of the passengers objected, with the result that the captain threatened to put him off the boat for interfering with his (the captain's) duty. Complaints were rife among the lumber mill owners, whose operations were suspended sometimes for weeks together, through there being no check on whiskey selling. The mills of the Keewatin Company were shut down from no other cause, and similar trouble occurred at the mills of the Rainy Lake Lumber Co., at Fort Frances. At the latter point, an outlaw named Connors, had established a whiskey shop on the American side of Rainy River, procuring his supplies overland from Hallock in Minnesota. Afterwards he procured his supplies direct from Winnipeg, and no attempt was made by the Dominion officers to intercept them at any point or to arrest him, though he frequently appeared on Canadian territory. The Company, therefore, employed a constable of their own, and he was sworn in by the Police Commissioner. Shortly afterwards, Connors was arrested on a charge of breaking jail at Rat Portage, brought over the Lake and confined in the lock-up while his case was being enquired into. Later, he was released on bail by order of Judge Dubuc of the Manitoba Court of Queen's Bench, himself in \$2,000 and two sureties of \$500 each. It was reported at the time that the Police Commissioner accepted verbal bail, and that no documents whatever passed; it is certain that Connors promptly made his way into Minnesota, and that neither of his bondsmen has paid, nor intends to pay, one cent on account of his escape.

While this system was carried on, and the whole time of the Commissioner and constables was engrossed with the liquor traffic, robberies and other offences committed in the shanties on the line of railway, were of frequent occurrence, and hardly an effort was made to arrest and punish the perpetrators. If, by any chance, an arrest was made and the offender was brought in, he was sometimes permitted to remain in the lock-up for days without examination.

In April, 1882, it became known that large quantities of firewood, telegraph poles, piles, saw-logs and ties had been drawn out to the shores of the Lake of the Woods and to the north bank of Rainy River, for floating to Rat Portage in the spring and shipment by the C. P. R. westward. Some of the parties cutting claimed to have had permits from the Dominion Government, or from individual Cabinet Ministers; others from the Syndicate; while others had, apparently, been cutting without any show of right whatever.

This timber was brought in during spring and summer, and the process of shipment continued until late in the fall. The new Crown Timber Agent at Winnipeg, whose appointment relieved McCarthy from acting in that capacity, was reported to be active and vigilant in ordering the seizure of all cord-wood and small timber cut in or near Rat Portage without licenses, but the same activity and vigilance was not extended to the wholesale appropriators on the Lake, nor did it seem possible, with the machinery and aid at his disposal, for him to exact dues on all the timber cut within the territory.

Towards the middle of June, 1882, the Premier and Attorney-General of Manitoba paid a visit to Rat Portage, ostensibly on a pleasure trip. Opportunity was had on this occasion for interviewing and inducing leading citizens to petition the Manitoba Government for a charter of incorporation as a municipality. It was known, beforehand, that the people of the village would gladly avail themselves of any assistance in this direction,

as they had been only too glad to avail themselves of the Civil Court, established by the Manitoba Government when, at the instance of the Dominion Government, Ontario's jurisdiction was resisted. A petition was immediately got up, and after it had received the requisite number of signatures—including those of nearly all who had, on a former occasion, sought a similar charter from the Ontario Government—the Manitoba Government issued a charter, and an election of Mayor and Councillors took place on the 14th August. Before proceeding, however, with the work of organization, the Corporation deemed it necessary, especially as many citizens doubted its authority to act, to apply to the Manitoba Government for a "guarantee" that they should receive protection in the event of their action being resisted. This "guarantee" was received on the 25th August, and was in the following terms:—

"WINNIPEG, 24th Aug., 1882.

"To the Mayor and Council of Rat Portage:

"GENTLEMEN,—Your communication to the Lieut.-Governor in Council received the 21st inst., in reference to opposition to be anticipated from a number of your citizens to taxation, etc., etc., as being in direct opposition to the North-West Territories' Act applied to Keewatin, has been considered, and I am directed to say in reply that the Government will be prepared to defend its authority to issue Letters Patent of Incorporation to your town whenever it shall be questioned by any proceeding which the Government, as such, can properly take cognizance of.

"I have, etc.,

"(Signed) A. A. C. LARIVIERE,
"Prov. Secretary."

Next to having power to levy assessments on real estate, the Corporation laid great stress on the importance of their participating in the fees to be derived from Liquor Licenses which the Manitoba Government pledged itself to issue on application, and on the fines to be levied by the Mayor, as Chief Magistrate, on unlicensed dealers. They also hoped to obtain a revenue by a tax on the numerous train dogs which, during the summer months especially, roam at large in the village.

Considerable delay occurred before the Government partially fulfilled its pledge by issuing a license to the principal hotel and, in the interim, the following article from the *Winnipeg Times* seemed to point to the perplexity of their position. The *Times* said:

"Manitoba's relation to Rat Portage in the matter of granting the charter is peculiar, inasmuch as, should the claim of Manitoba be confirmed to the territory, actual possession will revert to the Dominion, because Manitoba is only a legislative figment, and not a territorial reality. This legal peculiarity is still further muddled by the conflict of jurisdiction. Ontario maintains a Court in this Manitoban town, while the Dominion is represented by a Magistrate. By incorporation under the Manitoba Act the Council has a right to expect that the Provincial authorities will issue liquor licenses. But the Dominion Magistrate may step in and punish those who sell under a Manitoba license, for the Dominion has extended the North-West Territories' Act to this district, and that Act is prohibitory. As if this were not enough, the town of Rat Portage is still further protected by the Public Works Act—the construction of the Canadian Pacific Railway not being completed in that district.

"In the event of the liquor seller eluding all these avengers on his heels, he is liable to be pounced upon by the Ontario authorities and sued for selling without a license. There are two laws to say that the dispenser of liquids may obtain a license, and there are two laws which prohibit him from selling. The result is a confusion of authority, * * * while the startling fact remains that the illicit liquor traffic flourishes with vigour unprecedented. * * * The best thing for the various magis-

terial luminaries in the district to do will be to accept the licenses to be issued by the Manitoban Government as authority for sale, and let prosecutions take place under any or all of the other acts against those selling without a license."

Shortly before the above article appeared in the *Times*, the following account of an interview with the Hon. Mr. Norquay was printed in the *Winnipeg Sun* :—

"Is it true that the Government has decided to issue licenses at Rat Portage?"

"It is not—not yet, anyhow."

"How is that?" was the next query.

"Well, I'll tell you. We have the matter under consideration, but the truth is, that we are not quite sure as to our right to issue licenses there. You see that part of the world is disputed territory, and we want to consider the matter well before doing anything."

"Do you suppose it will be brought into effect there?" persisted the *Sun* representative.

"Well, I suppose it would be much better if the law was extended to Rat Portage. According to all accounts there is a great deal of illicit liquor traffic going on there. However, it is just as I say, we are in a quandary how to act for the present."

Nevertheless, the Manitoba Government had previously established a Court, granted a Charter of Incorporation for a Municipal Council, and decided upon appointing a Registrar in the disputed territory.

The immediate result of the issue of a license was a diminution of one-half in the price of liquor in the licensed, and the closing of one or two of the unlicensed houses. The Police Commissioner who had, as before stated, been carrying out the Keewatin Prohibitory Act, was not advised by the Department of Justice at Ottawa of the intended action of Manitoba regarding the issue of licenses, and proceeded as though no such license existed. On the information of his constables, he convicted the bartender of the licensed hotel for selling and having liquor in his possession, inflicted a heavy fine under the Prohibitory Act, and ordered the destruction of the liquor, notwithstanding the Manitoba license. The hotel-keeper, being desirous of testing the Magistrate's authority, declined to pay the bartender's fine, and the latter was committed to Winnipeg jail. On the evening of his arrival, however, he was brought before the City Police Magistrate and released on bail, at the instance of Attorney-General Sutherland, with the understanding that a motion to quash the conviction would be made before Judge Miller in the following week. No such motion has yet been made, however, and it is doubtful whether one will be made.

As illustrative of the opinion largely prevailing in Winnipeg regarding the position assumed by the Manitoba Government in the disputed territory, the following further extract from the *Winnipeg Times* may be regarded as suggestive, considering the relations of that journal to both the Federal and Manitoba Governments :—

"It is by no means certain that the position of the Provincial Government with reference to the Rat Portage liquor question is an impregnable one.

"In the first place, did they not act *ultra vires* in granting licenses in Rat Portage? The Ontario Government claims that Rat Portage is in that Province; in other words, the town is in the disputed territory. It is true, Rat Portage sought and obtained an Act of Incorporation from the Manitoba Legislature, and that incorporation carries with it the Provincial license system. But it is not clear that this Legislature has the right to incorporate a town within the disputed territory on the strength of the town's asking for it.

"Secondly, has the North-west Territories' Act actually been repealed at Rat Portage? The Local Government assumes to repeal it by Order-in-Council, under the

authority of an Act of the Legislature empowering the Lieut.-Governor-in-Council in a general way to deal with such matters. But many lawyers think that this Act is so loosely drawn and so ambiguous that it gives the Lieut.-Governor-in-Council no specific authority in the premises. For, by the Dominion Act extending the boundaries of Manitoba, it was provided that the rules and regulations with regard to the prohibition of the liquor traffic in the North-west Territories, should continue in force in the new territory (to which Rat Portage, if it be not in Ontario, belongs) until repealed by an Act of the Legislature. But the Legislature has not repealed them by a specific Act, and lawyers hold that it has no power to delegate its authority to the Lieut.-Governor-in-Council; hence, that the North-West Territories' Act is still in force at Rat Portage.

"Thirdly, and this to a layman at least appears to be a fatal objection to the issuing of Provincial licenses at Rat Portage, the Dominion Public Works Act, prohibiting the sale of liquor within a distance of ten miles on each side of the railroad, was proclaimed in September, 1879, and is still in force. Whether Rat Portage be in the disputed territory or not, there can be no question that it is within ten miles of the construction works. The heaviest piece of work on Section B., the filling in of the 1,900 feet of gorge now spanned by trestles, is only two and a-half miles from Rat Portage. How can a Provincial Government issue licenses within the area covered by the Queen's proclamation prohibiting the sale of liquor?

"This, so far as we understand it, is the legal aspect of the question. The case of Mr. Rideout turned on a flaw, and its decision in his favour does not clear up the matter. The moral aspect of the question is of no little interest. Even if the Provincial Government were thoroughly persuaded that they had the constitutional right to issue licenses, we are not sure—in view of the number of Indians inhabiting the district in which Rat Portage may be said to be the only distributing point, and of the presence of hundreds of railroad navvies in the immediate neighbourhood—that they acted wisely in issuing them. Once admit liquor into such a region, and it is impossible to restrain its illicit sale. * * * In a region where the Queen's writ hardly runs, free trade in whiskey is far from desirable; more especially when, as in this case, there are Indians to be maddened by it, navvies to be made fighting-drunk, and railroad men, with the lives of scores and the property of hundreds in their hands, to be demoralized."

The release of the hotel-keeper, though only on bail, was regarded at Rat Portage as a triumph over the Dominion Magistrate and constables, and on the fact becoming known by telegraph, a bonfire was kindled opposite the hotel and a good deal of jubilation indulged in over what was considered the vigorous action of the Manitoba Government in thwarting the Dominion officials. Meantime, the Dominion constables, no doubt incensed at these proceedings, laid another information (this time under the Public Works Act) against both the nominal and actual proprietors of the hotel, at the same time seizing and destroying upwards of \$400 worth of liquor. Both were convicted, and in default of paying the fines, one of them, the actual proprietor, was committed to Winnipeg jail. On arrival there, he was immediately released by Judge Miller on the ground, it was stated, that the committing Magistrate had no right to call himself in the commitment a Commissioner of Police of Manitoba. It should be added that, on the arrest of the hotel men, indications were observable of an intention to resist the Dominion Police Commissioner and constables, should the former carry out his expressed intention of committing the defendants to the jail at Prince Arthur's Landing. It was publicly stated that the hotel men not only appeared at the Police office armed, but that they had otherwise prepared to resist the constables by placing missiles of a dangerous character on the road to and from the office and the hotel. On the release and return from Winnipeg of the hotel proprietor, an "indignation meeting" was held in the school-house, and resolu-

tions were passed condemning the conduct of the Dominion officials, calling upon the Dominion Government to order an investigation into the acts of Mr. McCabe, from the date of his appointment as Magistrate, and to furnish and publish a statement of all fines collected by him during his tenure of office, and further calling upon the Mayor to swear in such a number of special constables "to protect the rights, liberties and interests of the citizens as he might think necessary and proper." Several incendiary speeches were made on this occasion, notably one in which the people were incited to revolt if Manitoba's authority were further interfered with by the Dominion officials.

The Mayor declined to swear in special constables, knowing that the intention was to call upon them to perform illegal acts. The consequence was the formation of a society called the Protective Association, whose objects were stated to be the forcible prevention of committals to Prince Arthur's Landing jail for infractions of the Dominion liquor laws and the forcible possession of all liquor seized and held by the Police Commissioner or his constables. This Association held meetings in secret, and the fifteen or more members composing it were said to be bound together by an oath. Rightly or otherwise, some of the members were credited with having burglarized the Police Commissioner's office during his absence in Winnipeg, and with having abstracted not only all he seized liquor they could find, but also the books of record connected with his official position. Since that period, no informations have been laid under the North-West Territories' Act, the Police Commissioner having, as he said, received instructions from the Minister of Justice to cease acting—as he had hitherto done—under the Prohibitory Act, on the line of railway or adjacent thereto, and to confine his operations wholly to the Public Works Act, which may remain in force until July, 1883, or later, if the road be not then handed over to the Syndicate. Meantime, the Manitoba Government discovered that it had no power to issue a liquor license in the disputed territory.

The Dominion Commissioner has left his post, and the only magistrates now acting under the Manitoba claim of jurisdiction are the Mayor and the Manitoba acting Stipendiary, who, as before stated, is an engineer in the employ of the railway contractors. The illicit whiskey traffic is increasing in volume; no attempt has been made for some weeks to convict any of the offenders; lumbermen, railway labourers and Indians are to be seen rolling about the streets even in the daytime, and the nights are made hideous by the demoniacal screeching and yelling of drunken savages.

On the night preceding the departure of the Dominion Police Commissioner, a demonstration was got up in front of the so-called "licensed" hotel, another bonfire was lighted, and the Commissioner and two of the railway contractors burnt in effigy. The object of this orgie was, mainly, to express satisfaction at the non-conviction of a man who had been on trial before Magistrate Brereton for stealing the seized liquor from Commissioner McCabe's office. It is satisfactory to be able to report that respectable people held aloof, and condemned this exhibition of sympathy with successful crime—the outcome, it was believed, of the society called the Protective Association. There can be no question that a considerable section of the population, however, is largely demoralized by the whiskey traffic, and that many are ready to resort to acts of violence to secure a perpetuation of their alleged "privileges."

In a former part of this report I have pointed out how the provisions of the

Keewatin Act were systematically evaded by the informing constables. It now becomes my duty to state that serious complaints have been made against the Dominion Police Commissioner McCabe, and that similar complaints were made against his predecessors who held office in 1879-80. On 18th June, 1882, charges were made to the Minister of Justice at Ottawa against Mr. McCabe by a discharged official, named O'Keefe. O'Keefe had occupied the position of Chief Constable; was in the confidence of, and was partly paid by, the contractors, but had been dismissed by the Police Commissioner, ostensibly for disobedience of orders. O'Keefe's charges against Mr. McCabe were of a very grave character but, so far as is known, without any inquiry having been instituted into their truth or otherwise, and without any opportunity having been afforded the accused to rebut them, O'Keefe was, at the end of August ordered, at the instance of the Minister of Justice, to return to his duty as Chief Constable—a position he has since continued to hold. Some of the accusations against the Commissioner were openly advanced by private citizens and by the local newspaper, and quite recently, at the indignation meeting before adverted to, a series of resolutions impugning Mr. McCabe's conduct passed without a dissenting voice. A draft of those resolutions was forwarded to the Minister of Justice with a view to the institution of an enquiry, but nothing appears as yet to have been done to satisfy the alleged grievances of the complainants.

I may add, as some of the results of the recent excitement at Rat Portage, that the Messrs. Rideout, the keepers of the licensed hotel, have brought actions against the Police Commissioner for illegal arrest and imprisonment, and claim damages in \$10,000 and \$5,000 respectively. They also brought an action against Chief Constable O'Keefe at the sitting of the County Court of Varennes in December, for illegally holding a quantity of liquor for which a writ of replevin had issued. The plaintiffs argued that any writ issued from the County Court of Varennes should be respected, that it was the duty of the Constable to give up the goods, and that they (the plaintiffs) were entitled to damages for the loss they had sustained. It was also contended that O'Keefe had no right to seize the ale, as the Keewatin Act was not in force in Rat Portage. The Judge stated that this was an important case; he would agree to consider the matter fully, and would reserve judgment. No decision on this case has yet been rendered.

The non-ratification of the Boundary Award is not only demoralizing the population and seriously prejudicing law and order in the territory, but settlement is being retarded and legitimate development discouraged. Not a street in the town is yet graded; huge boulders protrude on the roadways; there is no pretence at drainage or any other sanitary improvement, though the natural facilities therefor are excellent. No public buildings exist unless a log school-house built in 1879 by subscription, can be so called. There has been no attempt at roadmaking in the neighbourhood of the town; the only amelioration in this direction has been the building of a bridge over the railway track connecting the Hudson Bay town lots separated by the cutting. This work, done at the cost of the Hudson Bay Company, has not yet been practically utilized. The corporation organised under a Manitoba charter has been unable to accomplish any town improvements for lack of the necessary funds. Its six months of existence has had no other results than the passing of by-laws which have not been enforced, the making of an assessment which it

has not attempted to levy, and the incurring of expenditures which it has had no means of defraying.

The latest phase of the liquor question has developed within the last fortnight. The Council and the so-called Protective Association seem to have made common cause, and, finding the Manitoba Government unable or unwilling to take further action, the Mayor has undertaken the responsibility of controlling the liquor traffic, the issue of licenses, and the protection of the licensees from prosecution either under the Keewatin, Public Works, or Ontario Acts. A sum of \$250 has been paid by one tavern-keeper into the Municipal Treasury on the express understanding that he will be protected in his "rights."

As evidence of the feeling which now obtains in the village, the following reference to one of the contractors of Section B of the C.P.R. is taken from the local paper of February 3rd. After alluding to the statement that the contractor in question had recently visited Ottawa in connection with the application of the Public Works Act for the purpose of suppressing liquor selling, and assuming that his mission had been a failure, the paper says:—

"It is safe to suppose that the Dominion authorities will allow the Manitoba Government undisputed sway. If not, the people have the remedy in their own hands, and if they allow last summer's oppression and interference to be repeated, then they are a different class of people than what we take them for. The next time a bonfire is started let the substance be burned instead of the shadow!"

Mr. Shields, the contractor in question, had, with one of his colleagues and the Dominion Police Commissioner, been burned in effigy in December at the instance of members of the Protective Association.

The contractors are now reported to have withdrawn their special police force, detailed to maintain order in the territory, and instructed them to devote their time to protecting the contractors' property, "arresting no man except for murder."

In October, 1882, the Manitoba Government appointed a Registrar for the municipality of Varennes. This official was provided with the necessary appliances for his office by the Government, which exacts a percentage on all the fees received. It is understood that a large number of deeds, more or less of a provisional or temporary character and arising, mainly, from the transfer of squatters' rights, have been deposited with this functionary, at once for safe keeping and to prevent fraudulent duplication.

One, and that not the least injurious, of the results attending the non-ratification of the boundary award, is the facility afforded adventurers for pretending to acquire mining locations in the disputed territory. Hitherto it has been no uncommon occurrence for such persons to go out prospecting on the lake, returning in a week or ten days with the announcement that they have discovered a bonanza. They then proceed to engage a surveyor who, under instructions, maps out a location of twenty-five, fifty or a hundred acres, as the case may be. When this is completed, a notification of the "claim" is sent by the "owners" to Ottawa, where it is duly noted, and registration is had with the Registrar of the "County of Varennes." Under cover of these *quasi* official sanctions, it becomes possible, though the process is not without difficulties, to organize a joint stock company for working the "claim," and to place the shares on the Winnipeg or

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Toronto Mining Bourses. In this way, doubtless, many wild-cat schemes will be launched, resulting in the discomfiture of all but the promoters.

There are now six mining companies, more or less legitimate, either actually organized and working, or in course of organization for working in the Lake of the Woods. Of the practical results attained, it is, perhaps, to soon to speak, as stamping mills are not yet in operation. Mining experts claim that free gold exists in quartz and decomposed rock in some localities, that will yield from \$30 to \$250 per ton. In one instance a mixture of quartz and mud, taken at a depth of 60 feet, was found to assay at the rate of \$1,000 per ton. Should the veins prove half as rich as they are declared to be, the region will prove a veritable Eldorado. Capitalists, however, have hitherto been disposed to be cautious, and mining stock has been a drug upon the markets. But the dullness which has followed the real estate boom in Winnipeg, is already inducing speculators to turn their attention to this new field of operations, and the daily trains from that city to Rat Portage, are crowded with passengers intent on prospecting or investing. Next spring and summer will probably witness the influx of thousands of miners from all parts of the continent, attracted by the fabulous stories now being sent abroad by the holders of "registered claims." A year of experiment will probably enable all interested parties to judge whether this portion of the disputed territory is likely to become more famous for gold production than Ballarat or the Sacramento, as is confidently claimed by those whose operations have not, as yet, extended beyond excavating and assaying.

Specimens of coal have been found at the foot of the Rainy River, Buffalo Bay and other places, but no trace of coal formations has yet been discovered.

Mining is being extensively prosecuted in the Pigeon River district and at other points on the West shore of Lake Superior. A New York company is operating a gold mine said to yield good returns at the Height of Land, forty-five miles from Prince Arthur's Landing.

Three lumber mills and a paper mill are now in course of erection in and near Rat Portage, another lumber mill is shortly to be commenced, and one or two flouring mills are projected.

The prospects of the legitimate lumber companies having mills at Keewatin and Fort Frances, and those now engaged in building mills at Rat Portage, are encouraging, but it is likely that, in the near future, they may cease to obtain the high prices for sawn lumber that have hitherto ruled in the Winnipeg and other western markets. Large shipments of this commodity destined for those markets will, it is reported, be made from the Georgian Bay next spring at rates of freight through to Winnipeg that will enable the shippers to secure good profits and considerably undersell those who have hitherto controlled the market at rates ranging from \$26 to \$40 per thousand. A permanent reduction, must, however depend on rates of freight and sufficiency of carrying accommodation. Last year the Keewatin mill-owners could not supply the demand owing to lack of railway facilities, and they are anticipating a similar and even less satisfactory experience this year. The road from Prince Arthur's Landing to Rat Portage is still in the hands of the contractors, who are themselves, largely interested in lumbering on the line of route, while the product of the additional mills being erected at Rat Portage must add greatly to the strain on the carrying capacity of the road. Those mills are to be furnished with power for turning

out 450,000 feet of sawn lumber every twenty-four hours, all of which must find its way over the road to Winnipeg and further west.

The pine grown in the vicinity of the Lake of the Woods is principally of the red Norway species which is equal if not superior to the Georgian Bay or Ottawa pine for dimension lumber, but inferior for finishing purposes. It is besides comparatively of smaller growth and much more knotted.

On the whole, the disputed territory is estimated to contain 20,000 square miles of limits, equal to 12,800,000 acres. Lumbermen generally calculate that an acre will cut about 2,000 feet, which would give for this territory 25,600,000,000 feet, or say twenty-five billions, worth to this Province, at six dollars per thousand stumpage, one hundred and fifty millions of dollars. According to a well-known and recognized authority this sum, is rather an under than an over-estimate. In addition to red and white pine, there is found all over the territory, oak, tamarac, birch, spruce, hemlock and poplar, all of exceptional value owing to the proximity of the western prairies in process of settlement, where no timber is grown. Poplar will be especially valuable for paper-making, and the supply is practically inexhaustible. It will shortly be utilized for that purpose in a water-power mill now being built near Keewatin. It may be added in this connection that an excellent grass not unlike the esparto grass, largely exported from Spain to England and other parts of Europe for paper making, is found in abundance in the Rainy River region.

On the Big and Little Forks Rivers, which flow into the Rainy River near Fort Frances on the American side, some magnificent pine limits have lately been secured by St. Paul and Minneapolis lumberers. The timber on those limits cannot be utilized for the American markets owing to lack of railway communication. It must be rafted on the Rainy River and towed to Rat Portage, where it will probably be converted into sawn lumber and despatched over the Canada Pacific to Western Markets.

The Section B. contractors were granted possession by the Dominion Government of a mill privilege at Eagle River on the 15th May, 1881, "on the understanding that in case of the property remaining in the ownership of the Dominion on the settlement of the Western Boundary of Ontario, they would be confirmed in possession of the said privilege, with a reasonable portion of land in connection therewith, on such terms and at such price as might be fixed by the Governor in Council." This firm has not only been furnishing timber for railroad construction, but has been supplying sawn lumber to the Winnipeg market, the proceeds accruing therefrom going into the pockets of Manning, McDonald, McLaren & Co. Last fall they offered to sell a lumbering firm in Winnipeg one million feet of logs and one million feet of sawn lumber approximating in value to thirty thousand dollars. The offer was declined but a sale was subsequently effected to other parties. As the firm only had permission to cut for purposes of railroad construction, it must be assumed that the Crown Timber Agent was not in a position to exact dues on behalf of the Government for timber otherwise appropriated; so that no record is likely to exist by which any portion of those dues can be placed to the credit of Ontario.

It is, besides, a well-known fact, that since the award, a well-known lumber firm who had been cutting for years on limits properly assigned to them had procured from the First Minister more productive limits in various parts of the Lake of the Woods other

than the said assigned limits on which, up to 1880, they had paid no dues to the Government.

I have been informed that Mr. R. J. Short, who has been largely engaged in cutting ties for the Syndicate for the last two seasons, recently secured from the Dominion Government a fifty-mile timber limit at Turtle Portage in the Lake of the Woods, outside the twenty-mile limit claimed by the Canada Pacific Railway on each side of the track, and that several parties are now engaged in cutting ties and saw-logs thereon. I am also credibly informed that while Short's right to cut at Turtle Portage is recognized by the Crown Timber Agent at Winnipeg, it is denied by the Deputy Minister of the Interior at Ottawa, who declares that no limit has been granted to any person. According to information recently furnished by Short to the *Winnipeg Sun* newspaper, he had 160 men in the woods in January, and was constantly adding to the number. In gangs of forty they operate in much the same manner as Ontario lumber gangs. Choppers get \$30 per month and board, and hewers \$50. Up to the twenty-third December, 125,000 ties were taken out, besides a large number of telegraph poles. The ties were principally red and white pine and tamarac, which are much harder than similar woods growing in Ontario, and are said to be as durable as cedar. Of logs 5,000,000 feet have been dressed already, and Short expects to have 10,000,000 before the season is over.

I am also informed that Messrs. Macdonald & Shields, of the Section B contract, have engaged a number of parties to cut timber this season in various directions, chiefly, however, on the line of railway and within easy access to their saw mill at Eagle River, and that they calculate on an out-put of about 6,000,000 feet this spring.

One of the large lumber companies, having limits on the lake, found a difficulty in procuring the requisite number of men to work in their shanties during the present winter, and was approached by a party who holds a permit from the Dominion Government for cutting two million feet, and asked whether the Company would buy from him several million feet of logs which he expects to have ready for shipment in the spring. I do not know whether the offer was entertained, but there is no doubt about its having been made. This party is now operating on the lake, and while his alleged permit only allows him to cut two million feet, there is reason to believe that he had far exceeded this quantity before he went to the woods in December, though the Crown Timber Agent at Winnipeg professed to think otherwise.

Another firm having limits or a permit to cut timber on the lake is that of Bailey, Bulmer & Co., who have large parties operating this winter, at or near the Big Traverse, some forty miles south of the railway track. Bailey claims to be a relative of the Hon. J. H. Pope, Minister of Agriculture. His partners are sons of Mr. Henry Bulmer, of Montreal, who was a candidate for Montreal West at the last Dominion election. I cannot learn whether this firm has a permit or a limit. The general opinion is—and it is borne out by collateral facts—that Bailey, Bulmer & Co. have a sort of roving commission to cut timber where they can find it, and that this commission is contained in a letter from the Hon. Mr. Pope. But whatever the nature of their authority, it is sufficient to satisfy the Crown Timber Agent at Winnipeg, who recognizes their right to cut. This Company have several parties now on the lake, and it is expected they will float in logs early in the spring calculated to produce from nine to twelve million feet of sawn lumber.

In accordance with instructions, tenders were invited in the public press last August for the construction of a Jail and Court House at Rat Portage according to plans and specifications furnished by the Ontario Public Works Department. Only one tender was received—that of Oliver and Sutherland, for \$8,950. Under the circumstances of there being only one tender, and the amount being in excess of the appropriation, it was thought proper to solicit further instructions in the premises. At the Attorney-General's request, Stipendiary Magistrate Lyon prepared a memorandum of the cost of labour and material at Rat Portage, with the result that it was deemed advisable to send up from Toronto a foreman of works and the required number of men, together with a supply of dressed lumber for the erection of the building. The party arrived on the 30th November. Fair progress has been made with the work, and the building will be completed and ready for occupation by the middle or towards the end of May. I may add that the Hudson Bay Company claim 640 acres of land at Rat Portage under an Order in Council dated Windsor, Eng., 24th June, 1870. This Reservation, according to a letter received by their Agent from the head office in Winnipeg, was the result of a "special arrangement with the Dominion Government." It was staked out by Mr. Gore, P.L.S., under "special instructions" from the Department of the Interior. It is on lots acquired from the Hudson Bay Company that the Jail and Court House are being erected.

With regard to the appropriations made by the Ontario Government for roads and schools within the disputed territory, I have to report that a school was organized last fall by Stipendiary Lyon at Keewatin Mills, and it is now in full operation under an experienced teacher holding an Ontario certificate. The people of the village are greatly gratified in that the Government has given so practical a proof of its solicitude for their interests, in granting a sum of \$200 to assist in supporting their school.

A sum of \$300 was granted by the Ontario Government towards aiding in the establishment of a school at Rat Portage. A meeting of the inhabitants was called for the purpose of naming trustees and organizing. Trustees were appointed and a sum of \$226 was promptly subscribed. But the promoters of the municipal organization under Manitoba also called a meeting for the nomination and election of trustees under the Manitoba Act. They did not succeed, however, in obtaining the required funds wherewith to start a school and, eventually, a school was organized with the assistance of the Ontario grant and it is now in active operation under a teacher who holds a Nova Scotia certificate.

It is understood that the additional sum to make up the \$350 required has been promised by gentlemen of Winnipeg interested in Rat Portage.

Mr. Lyon, who is now at Fort Frances, is employed in establishing a school at that place, the Ontario Government having, in response to an appeal, granted \$200 in aid. Here, as at Keewatin, the people are unanimous in their appreciation of the Government's liberality.

Recently, information was conveyed to the Ontario Government to the effect that small-pox had broken out in some of the lumber camps near Rat Portage, that one case had developed at a hotel in the village; that the Manitoba Government had been appealed to for help, and that an answer had been received stating that, while that Government would defray all necessary expenses incurred in suppressing the disease outside of Rat Portage, the municipality must depend upon its own resources. Recognising the fact

that the latter had no corporate funds at its disposal, the Ontario Government placed a sum of \$300 in the Supplementary Estimates submitted at the close of last Session, for the purpose of aiding the local Board of Health in stamping out the epidemic. This sum has been accepted and appropriated. The Board of Health passed a vote of thanks to and the inhabitants generally acknowledge the generosity evinced by the Government and Legislature of Ontario in making the grant.

The road allowance of \$400 for improving the streets of Rat Portage has not been appropriated for the reason that the requisite labour has not been, up to the present time, available.

With reference to the grant of \$6,000 for the construction of a road from Fort Frances to the Long Sault on Rainy River, I am advised that little has yet been done by way of survey, but Stipendiary Lyon has explored a portion of the route during the present winter. The road is much required by settlers and lumberers. Owing to the strong current in the river between the two points, the ice is seldom sufficiently strong to bear up teams—a serious matter particularly for lumberers who have to move their winter supplies after the ice has formed on the lake. Several teams have recently gone through, with the result that horses have been drowned and supplies damaged or destroyed. The opening of a road at an early date will, besides being an advantage to the lumberers and squatters, tend greatly to promote settlement in one of the most fertile and beautiful sections of country to be found in the whole of the great North-West.

In this connection it may be noted that application is to be made to the Parliament of Canada, and to the Legislatures of Ontario and Manitoba, for an Act to incorporate a Company for the purpose of acquiring, constructing and maintaining booms, dams, slides, piers and other works in the rivers, lakes, streams and creeks, and banks thereof, for the transmission of saw-logs and all kinds of timber down the course of the river flowing westward from Hunter's Island, through Rainy Lake, down the course of the Rainy River to the Lake of the Woods, and the streams, rivers and creeks flowing into the said rivers, Rainy Lake and Rainy River, in the Province of Ontario or Province of Manitoba or District of Keewatin, and for the further purpose of, in any other manner, improving the navigation of the said streams, rivers and lakes for the purposes aforesaid.

This company is composed of leading lumbermen operating in the disputed territory. A deputation waited upon the Attorney-General of Manitoba in September with a view to ascertaining whether such a charter would be approved by the Government of that Province, and received an affirmative answer.

The boundary dispute greatly retards the improvement and organization of the Rainy River region. Those who squat on agricultural lands are ignorant of the terms on which they may ultimately be allowed to retain possession; besides which, those who have made a clearing on the margin of the river and cut the timber thereon into cord-wood, have been compelled to pay dues to the Dominion Government at the rate of 25 cents per cord. Even the owners of the steamboats, who were located on lands by the Dominion agent previous to the dispute, who have made the required improvements thereon, and have held possession for a longer period than necessary under ordinary circumstances to entitle them to their patents, are compelled to pay dues on cord-wood. Persons who have been settled on the river bank for six and seven years,

and who may be supposed to have vested interests, are not allowed to cut telegraph poles, ties or piles, without paying double dues, unless they procure a license from the Crown Timber Office at Winnipeg—a treatment of *bona fide* settlers in marked contrast to that accorded to the timber marauders before referred to.

On the other hand, persons who have surveyed timber limits and gone to considerable expense in preliminary explorations and surveys, find those limits entered upon and in course of being stripped by adventurers armed with permits from Ottawa, while all the satisfaction they can obtain in answer to representations made to the Minister of the Interior, is found in the stereotyped reply that their communications will receive attention.

For the past three or four seasons settlers have been occupying locations on the Canadian side of the Rainy River. The population of this district is likely to increase with the expansion of the lumbering and mining industries. But hardly any settlement has taken place in other parts of the disputed territory, excepting in and near Rat Portage, Keewatin and Prince Arthur's Landing. One half of the entire district is estimated to have a water surface. Agricultural land exists in patches in nearly every section of the country, but it is not likely ever to be made available, owing to insuperable difficulties in the way of opening roads, even supposing—a most improbable contingency—that it would pay to construct them. In the Rainy River region, and generally where it is found in the neighbourhood of the Lake of the Woods, the land is exceedingly productive. Cereals—particularly wheat, barley, oats and corn—of excellent quality and colour, yield abundantly; also every kind of garden produce and roots. Melons and tomatoes are always sure crops, and onions raised from black seed attain great size, even when sown so late as the 1st of June. The yield of potatoes in 1881, in a clearing where the seed had been lightly covered with broken sod, was 400 bushels to the acre. A portion of the crop was shipped by steamer from the Rainy River to Rat Portage, where the people were eager to purchase at \$1.25 per bushel. The hay crop is also abundant, and oats have been known to thresh out 80 bushels to the acre with, as is the case with all other cereals, very heavy straw. Here, as all over the territory, is a luxuriant growth of wild hops, black and red currants, raspberries, cranberries, grapes, blue berries, plums and cherries. The land is peculiarly well adapted for hops and barley.

Communication is had with all points on the Lake of the Woods in summer by steamboats and canoes, in winter by teams and dogtrains. A railway is projected to run between Duluth and Winnipeg, which will pass near the Rainy River and help greatly to open up a large stretch of country now wholly dependent on the water outlet afforded by the Lake of the Woods. A railway is also projected to connect Duluth with Prince Arthur's Landing, striking the Pigeon River mining and lumbering regions.

There is little or no communication with the interior of the territory, except with the Hudson Bay posts, and this is made by means of Indians in the employ of the Company. The Indian population are quiet and docile, but they have a great aversion to all manual labour, save fetching and carrying. They know nothing and do not care to know anything of agriculture; cannot be persuaded to use a spade or a hoe, and live almost wholly by trapping and fishing. All efforts to Christianise them have hitherto proved futile. The Dominion Government grant, under the treaty, of \$5 per head, has had the effect of

increasing polygamy, which has always been an institution among the Saulteaux. The ambition of every male Indian now is to multiply his offspring in order to draw the largest possible sum at the Treaty payments. The effect will, ultimately, be a large amount of destitution, for the head man of the family will spend all he can get on whiskey and gambling—a common Saulteaux vice—and leave his squaws and papooses to their own resources.

Nearly all the lakes in the territory abound with fish—principally sturgeon, pickerel, and whitefish. The former in some localities—as on Shoal Lake—are of enormous size, so that the Indians fear to hook or spear them from their canoes. The smaller sturgeon are in great request and are much more delicate in flesh than those found in the lower lakes or the St. Lawrence. The whitefish are also highly esteemed, and large quantities find their way during the season to the Winnipeg markets. Trout are found in some localities, but a great obstacle to their multiplication is the voracious Jack which abounds in these waters and grows to a large size. As the great West opens up there will be a prospect of indefinite extension for the fisheries within the territory, and, under proper regulations, they will be a productive source of wealth.

Everything points to the head waters of the Lake of the Woods as the future watering place of the American and Canadian North-West. Already some of the islands in the neighbourhood of Rat Portage have been surveyed by wealthy Winnipegers, anxious to construct summer residences thereon, and a project is now on foot for the building of a large marine hotel, for the accommodation of visitors during the summer season. With pure water, bracing air, gorgeous scenery and unequalled opportunities for bathing, boating, fishing and other amusements, there seems no reason to doubt that the success of Rat Portage as a watering place is assured. The surrounding eminences overlooking the lake form natural amphitheatres, specially adapted for villa residences; and a carriage drive could be easily made by bridging a narrow strait, across the neighbouring Coney Island, where there is a long stretch of sandy beach unequalled for bathing purposes. At present, the principal drawbacks are the cost of labour and the high price of all the necessaries of life, which have retarded in a great measure the erection of all but temporary buildings. The want of recognized municipal and judicial organizations, and the uncertainty of land tenure, have also proved prejudicial; yet large prices have been and are being paid for lots in and around the village in anticipation of a rise when the boundary question shall have been settled. The illicit liquor traffic, so long as it lasts, must also injuriously affect legitimate building enterprise and permanent settlement. The application of a stringent liquor license law like that of Ontario, would do much to inspire confidence in the minds of investors and to promote the well-being of the whole community.

The position of Manitoba in the territory is, at once, anomalous and unsatisfactory to all the well disposed inhabitants, inasmuch as it has been marked from the first by the timidity and vacillation always attendant upon insecurity. It has been made clear that the Manitoba Government doubted its authority to act, even after it had obtained a petition from the inhabitants asking for its interposition. It has studiously refrained from attempting to exercise jurisdiction at every point except Rat Portage;—even at Keewatin, three miles nearer to its own undeveloped territory, east of Selkirk. It has not yet attempted to include the "County of Varennes" as a Manitoba constituency for

legislative purposes. Its Courts hold in abeyance all legal decisions on disputed points that have arisen since it assumed to control the liquor traffic. It has not attempted to uphold the Municipal Council of its own creation, in enforcing its assessments or in carrying out its by-laws. It has witnessed, apparently without protest, an arbitrary and quixotic administration of Dominion laws, which has had the effect of exasperating the people it claimed to protect, and of bringing law and order generally into discredit. Notwithstanding that the territory is represented in the Dominion Parliament as an integral part of Ontario, the Manitoba Government allowed, if it did not incite, the residents of Rat Portage to vote at the general election of 1882 in the Manitoba constituency of Selkirk. It established a Court of Civil Jurisdiction, but its judges, though armed with its authority, refrained from punishing a recalcitrant defendant for contempt. It established a Registry Office for deeds, well knowing that, pending the settlement of the boundary dispute, there can be no sure titles to land, and that if the dispute were settled in favour of the Dominion, Manitoba would not own a rood of land, a timber limit or a mining location in the territory. A conflict between the Provinces of Ontario and Manitoba has been avoided, but with the result that the confusion of authority is greater than ever.

All of which is respectfully submitted.

GEORGE BURDEN,
Commissioner.

TORONTO, 10th February, 1883.

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