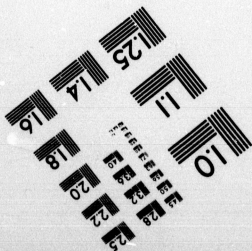
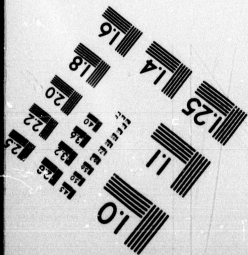
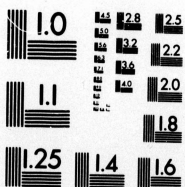


**IMAGE EVALUATION
TEST TARGET (MT-3)**



14
15
16
17
18
19
20
21
22
23
24
25

**CIHM/ICMH
Microfiche
Series.**

**CIHM/ICMH
Collection de
microfiches.**

10
11
12
13



Canadian Institute for Historical Microreproductions

Institut canadien de microreproductions historiques

1980

Technical Notes / Notes techniques

The Institute has attempted to obtain the best original copy available for filming. Physical features of this copy which may alter any of the images in the reproduction are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Certains défauts susceptibles de nuire à la qualité de la reproduction sont notés ci-dessous.

Coloured covers/
Couvertures de couleur

Coloured pages/
Pages de couleur

Coloured maps/
Cartes géographiques en couleur

Coloured plates/
Planches en couleur

Pages discoloured, stained or foxed/
Pages décolorées, tachetées ou piquées

Show through/
Transparence

Tight binding (may cause shadows or distortion along interior margin)/
Reliure serré (peut causer de l'ombre ou de la distortion le long de la marge intérieure)

Pages damaged/
Pages endommagées

Additional comments/
Commentaires supplémentaires

Bibliographic Notes / Notes bibliographiques

Only edition available/
Seule édition disponible

Pagination incorrect/
Erreurs de pagination

Bound with other material/
Relié avec d'autres documents

Pages missing/
Des pages manquent

Cover title missing/
Le titre de couverture manque

Maps missing/
Des cartes géographiques manquent

Plates missing/
Des planches manquent

Additional comments/
Commentaires supplémentaires

The
pos
of 1
film

The
con
or t
app

The
film
inst

Ma
in o
upp
bot
foll

laire
rtains
de la

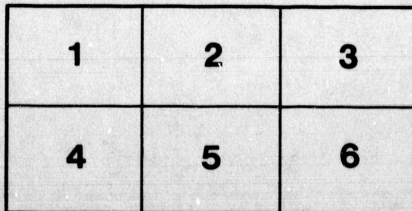
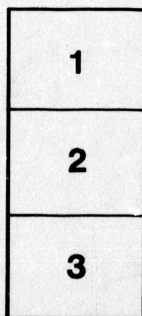
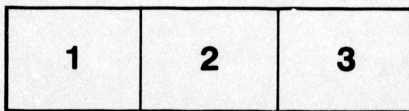
The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

The last recorded frame on each microfiche shall contain the symbol → (meaning "CONTINUED"), or the symbol ▼ (meaning "END"), whichever applies.

The original copy was borrowed from, and filmed with, the kind consent of the following institution:

National Library of Canada

Maps or plates too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole → signifie "A SUIVRE", le symbole ▼ signifie "FIN".

L'exemplaire filmé fut reproduit grâce à la générosité de l'établissement prêteur suivant :

Bibliothèque nationale du Canada

Les cartes ou les planches trop grandes pour être reproduites en un seul cliché sont filmées à partir de l'angle supérieure gauche, de gauche à droite et de haut en bas, en prenant le nombre d'images nécessaire. Le diagramme suivant illustre la méthode :

int

RI

THE ATLANTIC CABLES.
A REVIEW
OF
RECENT TELEGRAPHIC LEGISLATION
IN
CANADA.

BY
F. W. CHESSON.

LONDON:
EFFINGHAM WILSON, ROYAL EXCHANGE.

1875.

Price One Shilling.

R

THE ATLANTIC CABLES.

A REVIEW

OF

RECENT TELEGRAPHIC LEGISLATION

IN

CANADA.

BY

F. W. CHESSON.

LONDON :

EFFINGHAM WILSON, ROYAL EXCHANGE.

1875.

HE7811

C5

301290

LONDON :
GILBERT AND RIVINGTON, PRINTERS,
ST. JOHN'S SQUARE.

J
t
s
t
F
F
s
c
a
T
s
e
n
it
lc
a

A REVIEW
OF
RECENT TELEGRAPHIC LEGISLATION
IN
CANADA.

THE extraordinary and exceptional legislation which the Parliament of the Dominion of Canada, in the session lately brought to a close, has levelled against the rights of the Anglo-American Telegraph Company, and consequently against the interests of a proprietary which has subscribed in hard cash a sum of nearly five millions sterling, demands more careful consideration on the part both of the English and of the Canadian public than it has yet received. The more the nature of that legislation is understood the more is it certain to be condemned by every man who respects fair dealing and desires the maintenance of the public faith, and especially will it be condemned by those who, like the writer, have long taken a personal interest in the good government and prosperity of Canada, and who, to the extent

of their ability, assisted to promote the Confederation of the North American provinces because they believed that measure would be calculated to advance both those desirable objects.

Before presenting a narrative of the Marine Telegraphs Act, which was the sinister achievement of the last session of the Canadian Parliament, it is hardly necessary that I should make good the claim of the Anglo-American Telegraph Company to be dealt with in Canada or elsewhere on terms of justice and equity, for in this country the commercial community, as well as the nation generally, is to the last degree sensitive to any act of the Government or Legislature which might tend to impair the public credit. Like Cæsar's wife, our rulers must always be even above the suspicion of any evil intention. Therefore, in order to ensure public reprobation of the policy pursued by the Dominion Government, it would be quite sufficient to show that the rights of the Atlantic Telegraph proprietors have been gravely compromised by recent legislation, and that the attack of which they are the victims was made without the slightest provocation. But, in addressing English readers on the subject, it is impossible to forget who the people are against whom, under the guise of providing for the construction and maintenance of marine telegraphs, a measure of confiscation has been passed. They are the pioneers and chief pro-

moters of deep sea telegraphy—the men to whom the whole civilized world has expressed itself under a perpetual debt of obligation. The romantic story of that great undertaking which, in spite of colossal failures and superhuman difficulties, was brought to a successful issue in 1866, is still fresh in the public recollection. The dogged persistence with which the early promoters of the project stuck to it during thirteen years of abortive effort stirred the sympathies of this and other countries, including Canada herself. To throw millions into the depths of the Atlantic for the sake of an idea, without any apparent prospect of the recovery of sixpence, and yet with steady faith to insist that that idea was not only splendid in theory but capable of an absolutely practical solution, was to introduce into a commercial speculation an almost heroic element, and to lift it into a higher atmosphere than that of either 'change or the market-place. That the men upon whom rested the responsibility of carrying forward the undertaking were sustained by a nobler purpose than the belief that they were going to discover an El Dorado at the bottom of the Atlantic admits of no sort of doubt; and it is equally certain that many of those who were sceptical as to the practicability of laying the cable were forced to admit that the international objects at stake were important enough to justify even a succession of failures, and that if the attempt at last

proved successful, substantial profit ought to be reaped by those who had borne the heat and burden of the day, and had embarked their fortunes in so hazardous and, in what appeared to some, so Quixotic an enterprise. Meanwhile, the English and American Governments assisted with their ships; more than one of the North American Colonies granted special and other privileges for the landing of the telegraphic wires; the most public-spirited capitalists of England and America freely contributed their money; and scientific men of the greatest eminence successfully applied themselves to the work of effecting improvements in telegraphy and in the construction of sea-cables. It was therefore not surprising that when the "Great Eastern" steam-ship successfully laid the Atlantic cable of 1866 and recovered the cable of 1865, the popular enthusiasm, although sobered by the remembrance of the sudden collapse of the 1858 cable, gave a species of national sanction to the honours which Lord Derby conferred upon the English leaders of the expedition, and subsequently to the splendid banquet at which a just tribute was paid to them and to Mr. Cyrus Field by the foremost men of the time.

Before proceeding to discuss the provisions of the Marine Telegraphs Act, or to narrate the history of that measure, it may be convenient to remind the reader that the Anglo-American Company, which was established in March, 1866, under the Com-

panies Act of 1862, was formed with ample powers for the construction, laying down, maintenance, and working of submarine and electric telegraphs between Great Britain and America, but that its more immediate object was, on behalf of the Atlantic Telegraph Company, to recover and complete the broken cable of 1865 and to lay down another cable between Ireland and Newfoundland. In both of these objects it was entirely successful, and to it, therefore, is due the credit of having, in 1866, succeeded in establishing permanent telegraphic communication between the British isles and America. In this Company are now merged three others:—

1. The Atlantic Telegraph Company.
2. The Société du Cable Transatlantique Français, Limited.
3. The New York, Newfoundland, and London Telegraph Company.

The first-named Company was incorporated by Act of Parliament in the year 1857. It spent 1,359,647*l.* in the effort to lay a submarine cable across the Atlantic, and then gave place to the more fortunate Anglo-American Company, in which its own rights were vested by Act of the Imperial Parliament in 1870.

The French Cable Company was formed in 1868 to lay a cable between Brest and St. Pierre, and from the latter island to Duxbury, Massachusetts. By arrangement with the Anglo-American Company, it laid down a second cable between Ireland and

Newfoundland in 1873, the year of its amalgamation with that Company.

The New York, London and Newfoundland Company was incorporated in 1854 by charter of the Legislature of Newfoundland, expressly sanctioned by the Imperial Government; and in addition to obtaining exclusive rights of landing and working submarine cables in that colony, and of constructing and working the local land lines, it also acquired rights of an important character from the Legislatures of Canada, Maine, and Prince Edward Island, and from the Nova Scotia Electric Telegraph Company, with the knowledge and consent of the local Government. The most important of these privileges, and the one which Canada is endeavouring by crooked legislation to destroy, is the exclusive right of landing cables on the shores of Newfoundland, which in 1854 the Legislature of that island granted to the Company for fifty years, determinable, however, on certain conditions, after the expiration of twenty years.

In May, 1873, the French Cable Company and the Newfoundland Company amalgamated with the Anglo-American Company, which now stands before the world as the owner of five Atlantic cables (without reckoning the one which failed in 1858), of six cables across the Gulf of St. Lawrence, of one between St. Pierre and Duxbury, of one between Prince Edward Island and New Brunswick, and of

one between England and France; together with a large amount of other telegraphic property. No less than twelve thousand miles of cable between the coasts of Ireland and France and those of America belong to the Anglo-American Company, the product not of Canadian but of British and American enterprise. In what spirit the vast undertaking which these figures make so palpable to the imagination has been conducted is hardly germane to the controversy with Canada, because where legal rights exist the law is bound to maintain them; but these pages will show that those rights have been exercised with a just sense of what was due to the public as well as to the shareholders, and that the profits declared would not have been excessive, even if the Atlantic Cable had been as stable as houses or land, instead of being what it is, property so precarious that at any moment, from some invisible cause, it may sustain grievous injury or be rendered absolutely worthless.

The amalgamation was barely a year old when a mine was sprung upon the Company in Canada. No intimation was given to it of the danger with which it was threatened; it received no notice to put its house in order; on the contrary, the reckless legislation by which its rights were menaced was apparently planned in an equally reckless spirit. Yet the Bill, within the four

corners of which all this mischief lurked, was in other respects one of acknowledged public utility; and if existing rights had been protected, no one could justly have blamed the Dominion Government for declaring upon what conditions it would permit companies or associations of persons "to construct or maintain telegraphic wires or cables, in, upon, under or across any gulf, bay or branch of any sea or tidal water within the jurisdiction of Canada."

But the Bill went far beyond this. If it had been a general measure, no objection could have been urged to the form in which it was drawn up. But being a Bill which gravely affected the interests of a private company, its real nature and intention ought to have appeared on the face of it, whereas its language was so obscure that when I first read it in the autumn of last year I entirely failed—as many others did also—to discover the full significance of its provisions. The only thing in it that was made absolutely clear was that while professing to prohibit all cable monopolies, it made an exception in favour of the exclusive privileges of a Canadian company, a curious example of zeal tempered with discretion. A brief examination of the principal sections of the Bill will show with what justice the representatives of the Anglo-American Company complained of the disingenuous nature of the measure.

The two first sections of the Bill read thus:—

"1. This Act shall apply (1) to every company or

association of persons hereafter authorized by any special or general Act of the Parliament of Canada, or under the provisions of this Act, to construct or maintain telegraphic wires or cables, in, upon, under, or across any gulf, bay, or branch of any sea or any tidal water within the jurisdiction of Canada, or the shore or bed thereof respectively, so as to connect any province with any other province of the Dominion, or to extend beyond the limits of any province. (2) To every company authorized to construct or maintain such telegraphs before the passing of this Act by any such special or general Act of the Parliament of Canada, or by any other special Act or Charter of any of the provinces constituting the Dominion, and at the time of the passing of this Act in force in Canada."

Next follow a dozen sections which determine in what manner and on what conditions companies may acquire the right to land and construct works in or near the shore for Submarine Cables, and also provides for the transmission of newspaper telegrams and Government messages, &c.

Then comes the 14th section, to which the careful attention of the reader is invited:—

"No company or association of persons other than those mentioned in the first section of this Act, or which becomes incorporated in Canada under the next following section shall maintain, construct or use any telegraph wire or cable con-

necting two or more provinces of the Dominion, or extending beyond the limits of any province, in, upon, under or across any gulf, bay or branch of any sea or any tidal water within the jurisdiction of Canada or the shore or bed thereof respectively; provided that nothing in this section contained shall be construed to prohibit any existing telegraph company or association from continuing to receive and transmit messages over its line of marine telegraph, until such time as another company, under the authority and within the provisions of this Act, has constructed and is operating a line of marine telegraph which has been determined by the Governor in Council to afford reasonable facilities for the transmission of marine telegraph messages in lieu of the line or lines of such existing telegraph company or association, or to be a line for doing a business of a competitive nature."

The plain English of all this verbiage is that the section prohibits the Anglo-American Company unless it be hereafter authorized by an Act of the Parliament of Canada, or becomes incorporated under the next section, not only from constructing any new telegraphic wires or cables within the jurisdiction of the Dominion, but also from continuing to use its own cables between Newfoundland and the Dominion territory, one of which has been in operation for nearly twenty years. A more palpable or more deliberate act of confiscation was

never brought forward. At the same time, in order to prevent the Canadians from suffering the inconvenience which would necessarily be occasioned by the sudden stoppage of telegraphic intercourse between the two continents, the Bill magnanimously permits the company to continue to receive and transmit messages through its own cables until forsooth a competing line has been established. Surely a show of moderation and forbearance was never exhibited in a form more grotesque or more intolerably unjust. Although four millions of words per annum pass through the cables of the company, a number which will probably be increased 50 or 100 per cent by the lower rates that have lately been declared, the promoters of the Bill appear to have considered that when a single cable had been laid down by a competing company, it might be possible to dispense altogether with the use of the Anglo-American cables.

But the reader will have perceived that the Bill submitted to the Company another alternative besides that of undergoing ignominious extinction at the hands of Canada. In fact, a loophole of escape was provided under section 15, the whole of which it is necessary to reproduce:—

“In case any company is now or shall hereafter be authorized by any special Act of the Parliament of Great Britain, or incorporated under the Imperial Joint Stock Companies Act or any other general

Act of the Imperial Parliament or by Royal Charter, for establishing or maintaining telegraphic communication, in, upon, under or across any gulf, bay or branch of any sea or tidal water within the jurisdiction of Canada, the Governor in Council may by letters patent under the Great Seal of Canada, and upon the terms and conditions to be contained therein, grant a charter to the persons forming such company, upon the company petitioning therefor, and such persons and others who may become shareholders in the company shall be constituted a body corporate and politic by the same name, and with the same power and constitution in Canada, for the said purpose and object of establishing and maintaining their said telegraph and works, within the jurisdiction of Canada, but any such grant shall be expressly subject to this Act, and conditional upon the company doing, observing, and performing the several provisions thereof, and such letters patent being published in *The Canada Gazette* with any Order or Orders in Council relating to the said letters patent, shall have the like force and effect, as if the company had been incorporated by special Act of Parliament, *but no such letters patent or grant of corporate powers to be exercised within the jurisdiction of Canada shall be made to or conferred upon any company or association which possesses any exclusive privilege of landing wire or cable for a marine telegraph in or upon the coast of any state, province, or country*

in America, Europe, or elsewhere, unless an equal or reciprocal right or privilege of landing wire or cable, and establishing a marine telegraph upon the same coast is conceded to any and each of the companies in the first section of this Act mentioned, or which may become incorporated in Canada under the provisions of this section of this Act, so that any company incorporated or to be incorporated in Canada, may enjoy the same advantages in maintaining its marine telegraph line in and upon the same coast as the said company which may possess such exclusive privileges."

At a time when only a few inspired "fanatics" and an equally small number of enterprising capitalists and prescient men of science exercised faith in the practicability of bridging the stormy Atlantic with a telegraphic wire, the legislature of Newfoundland conceded the exclusive right to lay down submarine cables on its shores. Having regard to the magnitude of the risks which the early promoters of the Atlantic telegraph had to encounter, and to the gigantic sacrifices which they were compelled to make, no one can pretend that a monopoly which had been absolutely secured to them only for the limited period of twenty years was one of an improper or unreasonable character. Moreover, it was an element in the undertaking which encouraged the pioneers of Atlantic telegraphy to persevere with their efforts. Indeed, it is more than doubtful whether anybody would have invested

a shilling in what appeared to most people a hopeless speculation, if these exceptional privileges had not been granted. It is also worthy of remark that from 1854, the date of the Charter of the Newfoundland Company, to the year 1866, when the first working Atlantic cable was brought into operation, the monopoly had been practically valueless. For only nine years past has it had any substantial value; and it must be remembered that it is of value now not because it secures to the Anglo-American Company anything in the nature of a monopoly of telegraphic communication between Great Britain and the American continent, but only because it gives to the Company the exclusive right to lay its cables between the shores of Ireland and the nearest point of land on the American coast. In fact the experience of the French Company showed that, although the distance is greater, a cable may as readily be laid down between Europe and Nova Scotia or the Island of St. Pierre as between Europe and Newfoundland. It is therefore absurd to allege that the Company's rights in Newfoundland prevent competition. This explanation is necessary to enable the reader to comprehend the full bearing of section 15 of the Bill. That section specifically declares that no Telegraph Company now existing or hereafter to be formed shall be allowed to enjoy submarine rights of any kind within the limits of the Dominion so long as it retains any exclusive privileges elsewhere; or, in

other words, the Anglo-American Company is coolly told that, unless it will consent to abandon certain valuable privileges which it possesses in a colony not within the jurisdiction of Canada, it shall be driven off the inhospitable shores of the Dominion. This, without any of that circumlocution which is one peculiarity of the Bill, is the simple meaning of sections 14 and 15. In addressing a Committee of the Dominion House of Commons on the provisions of the Bill, Lord William Hay compared the conduct of Canada to that of a footpad, who bade his victim choose between giving up his purse or suffering the inconvenience of being knocked down. Mr. Mackenzie, on the other hand, thought it was more reasonable to compare the situation with that of a squatter who was about to be deprived of rights of which he had unlawfully possessed himself. It will, I think, not be difficult for the reader to decide whether the figure of the Prime Minister or that of the Anglo-American Director is the most reconcilable with the facts which I have brought forward.

The Bill to which reference has just been made, and which in its major provisions was identical with the measure lately passed by the Dominion Parliament, had a singular history. It was introduced into the Canadian House of Commons in the Session of 1874 by Mr. Blake, then a private member, with the support of the Government of which he is now

a member. Neither the Directors of the Anglo-American Company nor their representatives in New York or Canada knew even that such a Bill existed until after it had been passed—without a word of discussion—by the second branch of the Legislature. The earliest intimation of this portentous measure was received by the Company in London on May 13, 1874, the very day on which the second reading was moved in the Senate. The Directors of the Company, with an imperfect knowledge of the extent to which their rights were invaded by the Bill, telegraphed to a private friend an urgent request that he would get a clause inserted for the protection of those rights; but although that gentleman did everything that could be done under the circumstances, and even retained counsel to appear on the Company's behalf before the Committee of the Senate to which the Bill was referred, it was impossible counsel could be properly instructed or that justice could be done to the facts of the case.

In the Senate, on May 13, 1874, Mr. Letellier de St. Just, in moving the second reading, made the following remarkable statement:—"There were," he said, "some monopolies acquired in laying down some of the lines that came to our shores, and the Bill was intended to protect us from any further monopolies for the future. . . . *It did not however interfere with existing rights.*" This hon. gentleman ought

to have known perfectly well that the Bill for which he stood sponsor in the Senate did interfere—and that too in the most audacious manner—with existing rights, but whether he knew or did not know, it was monstrous that such a statement should have been made. It is true that subsequently the promoters of the Bill did not affect to conceal the ulterior purpose which they intended to accomplish; but it was not till May 15th, 1874, that the Company obtained such details as disclosed the real object of the legislation. Upon receiving this information there passed between Lord Monck, the Chairman of the Company, and Mr. Dorion, the Attorney-General for Canada, who has since been raised to the Bench, a correspondence which deserves to become memorable among the curiosities of cable literature.

“From Lord Monck, Chairman Anglo-American Telegraph Company, Limited, to Hon. A. Dorion, Ottawa.

“I am informed that a Bill is now before Parliament called a Bill to Regulate the Construction and Maintenance of Marine Electric Telegraphs, the provisions of which appear to affect injuriously the vested rights of the Company. We can scarcely think that the Parliament of Canada designs to injure us by *ex post facto* legislation. Please answer by cable. Message paid.”

On May 16th Mr. Dorion replied as follows:—

“From Dorion, Ottawa, to Lord Monck :—

“Bill before Legislature provides no Telegraph Company incorporated in Britain having exclusive privileges to land cable in any country in America or Europe or elsewhere shall obtain corporate rights in Canada unless equal privilege is granted to companies incorporated here. Companies already authorized to land in dominion not affected.”

No doubt there is a verbal sense in which this telegram may be accepted as not absolutely untrue, but I appeal to every fair-minded person whether its terms were not calculated to prove most misleading and to produce the impression in England that the Company's rights were not affected by the Bill. If Mr. Dorion had acted frankly by Lord Monck, he would have informed his lordship what was the simple fact, that the Bill had been framed for the express purpose of destroying the Company's existence in Canada, unless it consented to abandon the valuable privileges it possessed in another colony. It would really appear that after all there is some truth in Sam Slick's remark that politics make some men as crooked as a pack does a pedlar.

In judging of the harshness with which the Anglo-American Company was treated at this stage of the affair it is impossible to overlook the fact that if the erection of a bridge, the making of a turnpike road, or the improvement of a canal had been the question at issue, ample notice would have been

given to all the parties concerned by public advertisement in the official *Gazette* and in the local newspapers. The rules of the Dominion Parliament as to private Bills are well calculated to secure the rights of private individuals; and it certainly appears to me that having regard to the peculiar provisions of the Marine Telegraph Bill, it should have been brought under the operation of these rules. It was suggested that notice of the Bill had been given to Mr. Field, who resides in New York, but this was an error. No such notice was received by Mr. Field, and indeed that gentleman was, at the time, absent with the lamented Canon Kingsley, on his way to California. It appears to me extremely unfortunate that in consequence of the Bill having been put forward as a public measure no timely note of warning should have been allowed to reach the ears of the distant and unsuspecting directors or shareholders of the Anglo-American Company.

I have already explained that the directors did not receive information which enabled them to judge of the exact scope of the proposed legislation until May 15th, and yet on May 19th, only six days after the first meagre intelligence on the subject reached London, the Bill was read a third time in the Senate, without discussion. On June 4th Lord Dufferin forwarded a copy of the Bill to Lord Carnarvon, together with an Order in Council explaining its

provisions. His Lordship said :—" My Government attach the very greatest importance to the measure, and have requested me to urge their views upon your lordship in the strongest possible language." Now it may be argued that Canada, in reserving the Bill for the royal assent, a step which I believe was taken on the advice of the Minister of Justice, showed a disposition to act fairly towards the Company. I certainly have no desire to withhold from the Government any portion of the credit which may be due to it for not indecently pushing this legislation to extremities. But, at the same time, it must be remembered that on Mr. Mackenzie and his colleagues calmly reviewing the precipitate nature of their own proceedings, they would, as honourable men, naturally shrink from the scandal of at once placing upon the statute-book a measure which gravely attacked the property of more than six thousand persons living on another continent. But the wrong which the Government had inflicted on the Anglo-American shareholders, by withholding from them all notice of those provisions of the Bill which touched their interests, was not compensated for by the act of reserving the Bill for the royal pleasure. It is true that this act transferred to Lord Carnarvon the responsibility of determining whether the Bill should immediately become law, or whether it should be referred back again to Canada. But, on the other hand, it must be remembered that

the blow which had previously been struck in the dark necessarily had a most injurious effect on the position of the Company in Canada, because the great majority of the Dominion Parliament were thereby committed to the principle of the Bill, and every one knows how difficult it is for any man, or body of men, to retrace a false step after it has once been taken. If when the Government first made up its mind to embark in this ill-starred legislation it had, in a straightforward manner, given notice to the Company of the exact nature of the issue it proposed to raise, the Canadian Parliament would never have had an opportunity of making a leap in the dark; the leap, if made at all, would have been made in the broad light of day. The Company, from motives of self-interest, would unquestionably have been careful to provide the Legislature with the materials necessary to form a judgment on its own side of the case. It is of course idle to speculate upon what would have been the probable result of this kind of action, but I for one am disposed to think that if it had been taken, sections 14 and 15 would have been quietly dropped out of the Bill and heard of no more.

On October 2nd Lord Dufferin forwarded another despatch, together with a second Order in Council, to the Secretary of State for the Colonies; and on October 29th Lord Carnarvon addressed a reply to the Governor-General, in which he expressed his

opinion that the subject of the Bill was "one of those with which the Dominion Legislature has been, under the 91st and 92nd sections of the Imperial 'British North America Act, 1867,' expressly empowered to deal." He gave cogent reasons for deciding that he ought not to interfere with the internal legislation of the Dominion; and, in conclusion, he stated that being of opinion "that any further consideration of the subject should be given by that body (i. e. the Dominion Parliament), whose province it was to deal with such questions," he had "decided to leave the present Bill in abeyance, and to tender no advice to her Majesty respecting it." Consequently, his lordship declined to assume the responsibility of advising her Majesty to give her royal assent to the Bill, but returned it to Canada for the further consideration of the local government.

On November 17th Lord Carnarvon addressed a despatch to Sir Stephen Hill, Governor of Newfoundland, in reply to a minute of the Executive Council of the island, in which her Majesty's Government was asked whether it would, upon terms to be hereafter agreed upon with the local government, undertake to terminate the monopoly of the Anglo-American Company. His lordship expressed his inability to ask the Imperial Parliament to vote a sum of money for such a purpose, but proposed that the island Legislature should exercise its right of pre-emption against the Company, and pointed

out the course which the charter itself laid down as the proper one to be taken. He further suggested that, as a preliminary step, the Government of Newfoundland should confer with the Dominion Government as to whether the payment which it would be necessary to make to the Company, in accordance with the terms of its charter, might not be apportioned between Canada and the colony. Without for one moment assuming that his lordship was correct in the view he expressed as to the value of the property which, if the right of pre-emption were exercised, the Company would be required to relinquish, assuredly no reasonable person will deny that the Colonial minister pointed out the only honourable manner in which either Canada or Newfoundland could extinguish the Company's monopoly in the latter island.

The course actually taken by the Dominion Government was not the one recommended by Lord Carnarvon. Although on November 19th, 1874, his lordship sent to Lord Dufferin a copy of his despatch to Sir Stephen Hill, the Dominion Government does not appear to have profited by his suggestion; for, on looking over the debates in the Newfoundland House of Assembly, I find that the Solicitor-General, on February 24th last, stated that the only proposal on the subject of pre-emption which had been made to his Government had proceeded from an opposition Telegraph Company. Indeed, before the Solici-

tor-General made his speech, it was known that the Dominion Government had decided to proceed on the old lines, and to take its stand on the Bill of the previous Session.

On February 8th, 1875, Mr. Mackenzie introduced the new Bill in the House of Commons as a Government measure. Lord Carnarvon had asked, in a cable telegram, whether in the Marine Telegraphs Act the effect of the concession of exclusive rights to the Anglo-American Company by Prince Edward Island, confirmed as those rights were by the Legislature in 1869, had been duly considered; and apparently in order to meet the difficulty raised by this question, the following new section was inserted in the Bill:—"This Act shall not affect any franchise, right, or privilege, which the New York, Newfoundland, and London Telegraph Company, or any other Company, or person lawfully entitled thereto, may have actually acquired and exercised or operated in Prince Edward Island, prior and up to the first day of July, eighteen hundred and seventy-three, under any Act or Acts of the Legislature of the Colony of Prince Edward Island, made and passed prior to the said first of July, eighteen hundred and seventy-three, and subject to the provisions thereof respectively."

Mr. Blake, in framing the original Bill, had actually not taken the precaution to make himself acquainted with the Company's exclusive rights in Prince Edward Island—a question which certainly

had as important a bearing on the main object of the measure as the Company's legal position in Nova Scotia. The minds of the responsible Ministers of the Crown in Canada were apparently a blank on the subject, until they had had an opportunity of digesting Lord Carnarvon's telegram. The mere statement of this fact is in itself sufficient to discredit legislation carried out in so reckless a spirit.¹

In introducing the Bill, Mr. Mackenzie made a very meagre statement. It is true that he reserved his remarks for the debate on the second reading; but even on that occasion his speech was marked by a narrowness of view and a baldness of style, which assuredly cannot be characteristic of a man who, by force of genius and political capacity, and by the exhibition of qualities very different from those which are displayed in this Bill, has raised himself to one

¹ It was alleged by the Committee of the Privy Council, as well as by the speakers in the subsequent debates, that the Newfoundland Company, on its amalgamation with the Anglo-American Company, could not transfer its rights in Prince Edward Island without the sanction of the local Legislature, and therefore that those rights had ceased to exist. As the Government inserted in the Bill the protecting clause above quoted, it is at present unnecessary to discuss either the legal or the moral bearing of this question. Since the amalgamation of the two Companies, Prince Edward Island has become a province of Canada, and I may remark that the Dominion Government has, by various official acts, recognized the Anglo-American as standing in the place of the Newfoundland Company.

of the most honourable positions on the American continent. Why he should have consented to become the champion of this uncalled-for and mischievous legislation ; why, too, he should have placed so formidable a weapon in the hands of the Opposition, and that Opposition led by so accomplished a Parliamentary tactician as Sir John A. Macdonald, are questions more easily put than answered. There was no popular demand for the Bill. Not a solitary petition in favour of it had been presented to either branch of the Legislature. No private American or Canadian citizen, in his wildest moments, had ever dreamed of proposing that a raid should be made on the Anglo-American Company. It was admitted that the real author of the Bill was Mr. Laurence Oliphant, the representative of a competing line and a gentleman of acknowledged literary ability as well as of considerable political experience, who is said to have devoted the short days and long nights of a Canadian winter to the onerous task of educating the wise men of Ottawa on the merits of a question which, before his advent, they regarded with profound indifference. Previously he had made urgent appeals to the Government of Newfoundland to extinguish the monopoly, but without success. The House of Assembly naturally shrank from the responsibility of making the poor fishermen of the island liable for obligations of unknown amount. Mr. Oliphant thereupon migrated from St. John's

to Ottawa, where in a few months he achieved a success which must have exceeded his most brilliant anticipations.

Mr. Mackenzie, in his speech on the second reading, said that, "in order that there should be no possible reason for complaint that the rights of parties living out of the Dominion of Canada had been sacrificed or injured by this legislation, it had been left to her Majesty's Government whether it was a subject upon which we had a right to legislate, and whether that legislation was of such a character as should receive the sanction of her Majesty's Government. . . . The Government took the ground that there was no reason for disallowing the Bill. Her Majesty's Government had assented to that proposition, but deemed it proper, instead of giving the formal assent, to leave it to the Parliament to act afresh, after tendering the advice that they had perfect confidence in leaving the matter to be dealt with by the Canadian Parliament." Now, with all respect for Mr. Mackenzie, I think that his version of Lord Carnarvon's despatch is not a strictly accurate one. The Premier used words calculated to create the impression that Lord Carnarvon did something more than merely return the Bill with an intimation that it was a subject upon which Canada had a right to legislate without Imperial interference; that, in fact, his lordship wrote in the language of implied approval, whereas he was careful

to express no opinion whatever either on the policy of the proposed legislation, or on the wisdom of the Canadian Parliament.

The line taken by Mr. Mackenzie, Mr. Scott, Mr. Miller, and the chief supporters of the Bill of the present year, was that the Company had no rights at all in Canada; that they were mere interlopers who had presumed upon the good nature of the colonists to exercise privileges upon the shores of the Dominion which had never received the sanction of any legal authority, and of which therefore they might at any moment be justly deprived. The Committee of the Privy Council of the Dominion, in their Report of June 4th, 1874 (not published till the opening of the present Session), declared that "as regards any supposed rights or franchises of the Anglo-American Company, or of any other Company with which the Bill can be alleged to interfere, the Committee are quite at a loss to know in what they can be said or supposed to exist, or what peculiar rights of any kind that Company or any other can at present claim in Canada." Mr. Mackenzie went beyond this, and actually stated that the Anglo-American Company did not assert any legal right to lay their cables on the shores of Canada. Lord William Hay, who, with Mr. Field, went to Ottawa to watch over the Company's interests during the progress of the Bill, in addressing the Committee of the House of Commons on 24th

February last, gave an emphatic denial to this statement, and delivered a masterly argument in support of the legal, as well as of the moral and equitable, rights of the Company; and on March 13th additional arguments and illustrations bearing on the same subject were presented by both Mr. Field and his lordship before the Banking and Commerce Committee of the Senate. If, as was alleged, the Company had "no legal rights of any kind" in Canada, or if it were true that it did not assert any legal right to lay or maintain its cables in the Dominion, what necessity was there for legislation? Why not, without further ado, give the Company notice to quit? Sir John A. Macdonald showed that the policy of the Government was a *reductio ad absurdum*. "If," he remarked, "there was not the least shadow of right, it was absurd to take away any rights of which there was no shadow." It is idle to allege that a Telegraph Company could have been allowed to pursue its calling in a country for twenty years, or that the Government of that country could by a thousand acts have recognized its existence as a lawful one, without legal rights of some kind having become established. Mr. Mackenzie may compare these rights to those of a squatter, but he forgets that long ago squatters, both American and Australian, have made good their claim to the protection of the law. It is however necessary that we should examine more closely the legal and equitable position

of the Company in Canada, and it will then be seen that its rights have a very tangible and definite basis.

In the first place, long before the establishment of the Dominion was even thought of, the Legislature of the Province of Canada passed an Act, dated May 19th, 1855, in which, expressly on the ground that it was expedient to encourage the Newfoundland Company (the latter being at the time in possession of the very monopoly which Canada now makes a bone of contention), power was given to it to establish, construct, or purchase lines of telegraphic communication "in any part of the Province of Canada or places under its jurisdiction, or between any point or points therein and any island, province, county, or place in or near the continent of Europe, or in the Atlantic ocean." It is quite true that the Newfoundland Company did not avail itself of the rights conferred upon it by this Act, the reason being that it was found more convenient to connect Nova Scotia with Newfoundland, the former being then, what the latter is still, a separate colony. But the Act is important as showing that in 1855 the Legislature of Canada gave to the Newfoundland Company on its own territory the very rights of which the Dominion Parliament is now endeavouring to deprive it in Nova Scotia. The fact that the Province of Canada placed upon its Statute Book the Act in question, was surely a reason why the successors in the Dominion Parliament of the old

representatives of Upper and Lower Canada should have been studiously careful to act with good faith towards the Company.

The argument upon which the advocates of Mr. Mackenzie's Bill almost exclusively rely is that the Company has no legal right to land its cables on the shores of Nova Scotia, because authority for such landing was never obtained from the local legislature. Now the facts as respects Nova Scotia were so lucidly explained by Lord William Hay in the speech he delivered before the House of Commons Committee that I cannot do better than subjoin his statement, and I do so the more readily because no attempt was made to challenge or refute any portion of it. His lordship said,—

“The land lines in the Province of Nova Scotia were originally constructed by the Government. In 1851 they were transferred to the Nova Scotia Telegraph Company, incorporated under a charter passed on the 31st March, 1851, and allowed on 7th August of the same year.

“Under the fourth clause of this Act the Nova Scotia Company ‘may build lines of electric telegraph from any part or place to any town, village, hamlet or place in the province, and through, across, or under any stream, gulf, strait or body of water.’”

“The Act does not confer any exclusive rights to construct lines, &c., but as a matter of fact when the Newfoundland Company contemplated establish-

ing submarine communication between Canada and England, no other telegraph lines existed on the territory of Nova Scotia other than those owned and worked by the Nova Scotia Telegraph Company.

“When, therefore, the Newfoundland Company selected Nova Scotia as the place most suitable for the transmission of submarine messages from Europe to Canada and the States, it had no other course open to it than to apply to the Nova Scotia Telegraph Company for permission to connect its cables with the land lines belonging to the Company.

“The permission was, I need hardly say, cordially granted, and an agreement entered into between the two companies which bears date the 21st of July, 1855, and of the existence of which every honourable gentleman present was up to this day, I believe, entirely ignorant.

“On the strength of this agreement, which was known and sanctioned by the Government of Nova Scotia, the Newfoundland Telegraph Company proceeded to connect by cable Newfoundland with the land wires in Nova Scotia. The first was laid in 1856 from Cape Race to Cape North, and since then no less than five cables have been laid between Newfoundland and various points of the shores of Nova Scotia.

“In 1857 the Legislature of Nova Scotia passed an Act, granting to the Newfoundland Telegraph Company the exclusive right of landing for twenty

years. This Act, it is true, was disallowed on account of the exclusive privilege contained in it; but the fact that it was passed affords the most complete proof that the Legislature of Nova Scotia were fully cognizant of the landing of the cables on its shores, and that their presence there had their entire approval and sanction."

It thus appears that the Government of Nova Scotia transferred to a local Telegraph Company the lines which it had built, and that it also gave that Company power to lay down submarine cables. The Newfoundland Company entered into an agreement with the Nova Scotia Company to connect its cables with the local lines, and that agreement has been acted upon from the year 1855 down to the present time.² In 1857 the Legislature of Nova Scotia endeavoured to give the Newfoundland Company exclusive rights for a period of twenty years, but was prevented from doing so by the Imperial Government on grounds of public policy. Surely these

² The point was very concisely put in a letter which Mr. H. Weaver, General Manager of the Anglo-American Company, addressed to the *Times* on March 6th last. "As may be supposed," wrote Mr. Weaver, "there was no law against the landing of telegraph-cables on the wild and stormy shores of Cape Breton except the Act of the Nova Scotia Telegraph Company; and the Newfoundland Telegraph Company, in perfect good faith, expended some hundreds of thousands of pounds, and laid their lines to the great advantage of all the Provinces, and I think I may add, to the benefit of the world at large."

facts effectually dispose of Mr. Mackenzie's allegation that the Company's position was that of a mere squatter. The Sub-Committee appointed by the House of Commons during the last session reported that, in their opinion, the Nova Scotia Company had no power to authorize the Newfoundland Company to land and maintain its cables on the shores of Nova Scotia, and that there had been no such action on the part of the local Government as to disentitle Canada to prevent the Newfoundland Company from continuing to use the Nova Scotia line. Nevertheless the Committee—in spite of its hostility to the Anglo-American Company—introduced into its report a third section which goes far to neutralize the other two. It is as follows:—"The Committee with some doubt report that there may be by reason of the acquiescence or action of the Nova Scotia Government a colour of right capable of assertion in a court in the Newfoundland Company, or its successors, to compensation in case the fourteenth clause³ is put in force against them, and they recommend that a clause should be inserted providing that nothing in the Act contained shall have the effect of depriving the Company of any right they may have to such compensation." Accordingly the Act, as ultimately passed, contains the following amended clause:—"Nothing in this Act contained

³ For explanation of the 14th clause, see p. 12.

shall have the effect of depriving the Anglo-American Company (Limited) of any right, if any, which the said Company may have to proceed against the Dominion of Canada for damages or compensation for any loss by it sustained by reason of its being prevented under the operation of this Act from maintaining or using its telegraphic wires or cables on the shores of Nova Scotia, the question of such right and the amount of such damages or compensation, if any, to be determined on Petition of Right."⁴ I feel bound to say that, in the judgment of competent authorities, whatever moral significance this clause may possess, its legal value is probably infinitesimal, and that in fact, under it, the Company would hardly be likely to recover a shilling of damages from the Government of Canada. Be this as it may, I wish to point out that the Dominion Parliament, while denying the existence of the Company's rights in Nova Scotia, has been constrained to open wide the door for the determination of those rights by what could not fail to prove both a costly and an unsatisfactory process of litigation.

I should be sorry to appear to undervalue the importance of a purely legal issue, but I do not hesitate to say that to raise such a question in the present instance is an attempt to get rid of the Anglo-

⁴ In consequence of this clause the Canadian Parliament found it necessary to pass a special Bill defining the rules of procedure on Petitions of Right.

American Company's rights by means of a quibble. The Dominion Government is perfectly entitled to do what Sir John A. Macdonald did in 1872, when Captain Mayne, the Managing Director of the French Cable Company, applied for permission to lay its cable on the shores of Nova Scotia—to reply that the power to grant such a privilege belongs to Parliament, but it is simply monstrous that by the device of retro-active legislation, that power should be exercised against a Company whose right to connect its cables with the Nova Scotia lines was recognized by the authorities of that province for many years before the establishment of Confederation. How strong this part of the case is was made very clear in the admirable protest^s against the Bill, signed by Messrs. Hamilton, Wark, Dickey, and fourteen other members of the Senate, who voted in opposition to the measure, and several of whom made excellent speeches on the same side. These gentlemen, whose public spirit is entitled to cordial recognition, protest against the Bill, not only because under the agreement between the Newfoundland and Nova Scotia Companies several cables were laid and hundreds of miles of land lines built, but also because in 1857 a Committee of the Nova Scotia Assembly, of which the Attorney and the Solicitor General were members, expressly

^s *Vide* Appendix.

approved of the first cable being laid. It further appears that an Act confirming the Agreements between the two Companies was disallowed by the Imperial Government "on the sole ground" that it granted for twenty-five years the exclusive privilege of laying cables. Nor is this all. The dissenting Senators protested against the Bill on the very reasonable ground that it is unnecessary, "inasmuch as the shores of Nova Scotia are open to free competition, and cables may be landed direct from Ireland or *via* St. Pierre;" whilst Mr. Cyrus Field informed the Committee of the Senate that all "the telegraphic cables were landed in 1857, 1858, 1865, 1866, and 1874 on the shores of Ireland under precisely the same agreement with the Telegraph land lines as we (the Newfoundland Company) had with the Nova Scotia Company with regard to the landing of our cables at Cape Breton."

But I am reminded that "the expression of assent to and approval of the landing of the Anglo-American cables on the shores of Nova Scotia was not confined to the Legislature and Government of that Province. One of the first messages sent across the Atlantic through the cable laid in 1866 was one from the Secretary of State for the Colonies, sent by command of the Queen, to congratulate the Governor-General of Canada on the completion of telegraphic communication between her Majesty's dominions in Great Britain and those in America. The Legisla-

ture of Canada was sitting when the Governor-General received her Majesty's message, and thought it his duty to convey officially to the Houses the congratulations of the Queen on the success of the enterprise which had just been completed. The result was that, in reply to her Majesty's gracious message, addresses were unanimously adopted by both Houses, reciprocating her Majesty's congratulations, and expressing the complete satisfaction of the Canadian Parliament at the occurrence referred to, and these addresses were sent to England through the cable. Mr. Mackenzie was a member of this Parliament. It would therefore appear that 'the squatter' of 1875 was hailed by him as a most welcome addition to the population of Canada in 1866, and it is submitted that this vote, if not a technical and formal recognition by the Parliament of Canada of the Anglo-American Company, possessed at any rate such efficacy, in a moral sense, as ought to have prevented the Government and Legislature from treating it as an unauthorized intruder on the soil of the Dominion." If to these facts we add the consideration that there had been twenty years of unbroken usage—against which no human being ever raised a protest or started an objection until Mr. Oliphant appeared on the scene, surely no impartial person can hesitate to acknowledge that there was "an obligation both legal and equitable of the strongest kind which bound the Nova Scotia

Government not to molest the cables of the Anglo-American Company in the manner proposed, and which is equally binding upon the Government of the Dominion.”⁶

One question arises out of these transactions which very closely touches Canada herself, although I venture to think that sufficient attention to it has not been given by the authorities at Ottawa—I refer to the injurious effect which the Marine Telegraphs Act is likely to have upon the credit of the Dominion in this country. When Lord William Hay, in his speech before the House of Commons Committee, was about to touch upon this branch of the question, Mr. Mackenzie at once interposed and declared that “such remarks were out of order.” . . . Whether they were out of order or not, it is clearly the duty of a responsible minister, before committing himself irrevocably to a measure which has been condemned on the gravest public grounds, to endeavour to anticipate all the consequences which are likely to flow from such legislation. No country is more in need of capital for its railways and public works than Canada. The Dominion Government therefore ought to have been most careful to avoid a policy which was manifestly calculated to excite the fears of English capitalists. It was especially the duty of the First Minister to reflect upon the

⁶ Vide Speech of Lord William Hay delivered before the House of Commons’ Committee.

danger he ran of weakening confidence in the good faith of Canada. And his own subsequent experience on this very question surely must have made him feel how sensitive capital is to every breath of distrust. It would be easy to extend these remarks, but every reader will, I feel sure, apply them to the subject under consideration.

There is also another question which, it appears to me, touches to the quick the honour of Canada. I refer to the injury which this legislation must inflict on the interests of the Colony of Newfoundland. Suppose the Canadian Government were to exercise the power which it claims to derive from the Act, and thus incurred the unparalleled odium of cutting the Anglo-American Cables, what would be the position of the Newfoundlanders? Cut off from telegraphic intercourse with Canada, their interests, no less than those of the Company, would be subjected to cruel and wanton injury. Such a proceeding must have been contemplated by the framers of the Act, although the terms of the 14th section justify the impression, that to interrupt or destroy telegraphic communication between the Dominion and Newfoundland, would be to perpetrate a flagrant illegality. The above section requires that "reasonable facilities for the transmission of marine telegraph messages," in lieu of the existing lines, should be established before the Act is enforced against the Anglo-American Company. But if the Cables be-

tween Canada and Newfoundland were cut, it would manifestly be impossible for the Governor in Council to determine that "reasonable facilities" for the transmission of submarine messages had been afforded. No new cable could be laid between the shores of the island and those of the Dominion without a direct violation of the rights of the Company; and therefore, paradoxical as it may appear, it is impossible to carry out the chief object of the Act, without also doing violence to one of the least objectionable of its provisions. At the same time, it is only too apparent that the Canadian Government, in drawing up the Bill, was quite willing to incur the responsibility of depriving Newfoundland of the advantages of telegraphic connexion with Nova Scotia, and consequently of subjecting the island, in this particular, to the same treatment as if it were in the occupation of a foreign enemy.

We have now reached a point in this discussion when it is desirable that we should look a little more narrowly into the nature of those exclusive rights in the colony of Newfoundland which the Parliament of Canada is endeavouring to extinguish in the manner I have described. I have previously remarked that, at the time those rights were acquired, few people believed in the practicability of laying a cable across the Atlantic, and in fact the value of the concession had to be created by the labours and

sacrifices, in the first instance, of the Newfoundland Telegraph Company, and subsequently by those of the Atlantic and Anglo-American Companies. The people of Newfoundland felt that the expenditure of foreign capital in their island for such a purpose as the establishment of telegraphic communication between Europe and America would naturally be highly beneficial to them. They therefore received the New York capitalists with the greatest cordiality, and granted to them without hesitation that Charter which is the foundation of the existing rights. The island Legislature and people have uniformly acted with perfect loyalty and good faith, and have always frankly acknowledged—what indeed no one can dispute—that the Newfoundland Company strictly carried out all its engagements with respect to the construction in the island of land lines, roads, and bridges, and that indeed it spent hundreds of thousands of pounds before it met with any return. After the collapse of the 1858 cable, the Company's stock was so depreciated in value that, on one occasion, two thousand dollars' worth was sold by public auction for a ten dollar greenback. It is therefore to the last degree absurd to describe the Company as a species of cormorant, which, having preyed on the public so long, is entitled to scant consideration.

Section 14 of the Newfoundland Act, passed on April 15th, 1854, (17 Vic. c. 2), provides that the

corporation shall have the exclusive right to construct and work telegraph lines in the island "for the full period of fifty years from the passing of this Act; subject nevertheless to the right of pre-emption by the Government of this colony, as hereinafter provided; and during the said period of fifty years, no other person or persons, body or bodies, politic or corporate, shall be permitted to construct, purchase, take or operate any line or lines of telegraph in this island, or to extend to, enter upon, or touch any part of this island, or the coast thereof, or of the islands or places within the jurisdiction of the Government of this colony, with any telegraphic cable, wire, or other means of telegraphic communication from any other island, country, or place whatsoever."

The 15th section declares that at any time after twenty years from the passing of the Act, the Governor in Council may exercise the right of pre-emption; and "thereupon the Governor and company shall each choose an arbitrator, and the arbitrators so chosen shall appraise the telegraph lines, wires, cables, apparatus, vessels, and all other property connected therewith, and if they cannot agree, they shall choose a third as umpire, and if they do not make such choice, the Supreme Court shall appoint an umpire, and the appraisement of any two of them shall be taken as the true and just value of the said property."

An amendatory Act was passed in the year 1857 (20 Vict. c. 1), which authorized the Atlantic Telegraph Company to lay a cable for the Newfoundland Company, and continued to the latter its rights under the charter, just as if it had itself laid the cable. Other sections authorized the Newfoundland and Atlantic Companies to amalgamate, and provided that the former Company might enter into a similar agreement hereafter with any other corporation or company, which in that event should be considered as standing in the place of the Atlantic Company.

The exact legal meaning and scope of these Acts is a question upon which lawyers are divided in opinion, although there can be no doubt whatever as to the side upon which the greater preponderance of authority lies. Whether if the Newfoundland Government pre-empt, the value of the good-will as well as of the plant or that of the latter considered only as telegraph property is to be estimated; whether the Atlantic and Gulf cables must or must not be included with the land lines; whether the right of pre-emption is limited to these land-lines, or whether it also embraces the exclusive right to lay submarine cables; these are among the important and interesting points upon which the opinion of eminent lawyers has been obtained, on the one side or the other. How does Mr. Mackenzie dispose of a complex question which has taxed the astutest

legal brains upon two continents? "We now know," he said, "from the opinions of the highest legal authorities in England, that it (the monopoly) only affected the property that was comprised within the terms of the Act of 1854, meaning the shore privileges of the minor cables across the straits. They had the opinions of Sir R. Baggallay and Sir Henry James to this effect, and they had even more than that in the recent despatch of Lord Carnarvon to the Governor of Newfoundland of November 17th, 1874. This clearly established the fact that in the opinion of the law officers of the Crown of England, if the Government of Newfoundland gave notice to terminate the monopoly, they would be responsible only for the amount provided for in the Act of 1854, and that they had nothing to do with the value of the cable across the Atlantic." Mr. Mackenzie fortifies himself behind the opinions of what he calls "the highest legal authorities in England," whereas he should have said that "the highest legal authorities in England" entertain the gravest differences of opinion upon the very subject on which he assumes that they are agreed. It is also worthy of remark that Mr. Mackenzie refers to the opinion of Sir R. Baggallay as having been confirmed by Lord Carnarvon's despatch.⁷ Would it not have been more

⁷ Addressed to the Governor of Newfoundland on November 17th, 1874.

ingenuous on his part if he had informed the House that the same eminent lawyer appeared in both connections; that in fact the opinion Sir R. Baggallay gave to the United States Direct Cable Company he repeated in the capacity of Attorney-General?

It is quite true that when consulted by the United States Direct Cable Company Sir Richard Baggallay and Mr. (now Sir) Henry James gave it as their opinion that, in the event of Newfoundland exercising its rights of pre-emption, "the amount to be paid by the Government will be the value of the property of the Company, such as poles, wires, cables, apparatus, &c., to be valued not as mere materials, but as erected for the purpose of telegraphy;" and further that "the Company will not be entitled to receive any sum for the value of its business, nor any compensation for good-will, or in relation of the future earnings of the Company." It is also equally true that the present law officers of the Crown, of whom Sir R. Baggallay is the chief, gave a similiar opinion. But Mr. Mackenzie should have known that Sir John Karlake, one of the most eminent members of the common-law bar, and who preceded Sir R. Baggallay as Attorney-General, has given two opinions of a very different character. In the first he says,—

"I am of opinion that if the Government of Newfoundland were to exercise the right of purchase

reserved by the Act of 17th Victoria, the appraisal of the telegraph lines, wires, cables, apparatus, vessels, and other property connected therewith, should include not merely poles, wires, &c., as chattels, but should be made as of a going concern, capable of earning revenue."

His second opinion was as follows:—

"1. I think that if the right of purchase were exercised, the revenue earned would have to be taken into account.

"2. I think that the Government of Newfoundland cannot practically exercise the right of purchase over lines and property within other provinces or states.

"3. If the right of property still continues at all after consolidation and merger of the Newfoundland Company into the Anglo-American Company (which I think very doubtful), it appears to me that it could not practically be exercised, under the terms of the statute, over all or any part of the consolidated company's lines."

Sir John (now Lord) Coleridge, when Attorney-General, and Mr. J. H. Lloyd, arrived at substantially the same conclusions:—

"We are of opinion that if the Government of Newfoundland exercised the reversion conferred upon it by 17th Victoria, c. 2, sec. 15, it would have to pay the existing value of the line and property in the hands of the Company, of which

value the power of earning revenue is a material item.

“This seems to us to be provided by the terms of the Act itself, which distinguishes lines from wire, cable, apparatus, vessels, and all other property connected therewith, and enacts that not only the physical component parts of the lines, but the lines themselves as a concern are to be appraised and paid for.

“It is difficult to define with any further precision the mode of arriving at this result.”

Sir John Coleridge was of opinion that “the right of purchase reserved to the Government of Newfoundland would continue to exist after, and notwithstanding the absorption of the Newfoundland Company into the Anglo-American Company, and that by some means or other effect might be given to the right as against the amalgamated Company,” although the learned gentleman considered that “there would be practical difficulties in the exercise by the Government of the right which would be found embarrassing and might frustrate the attempt.” On the other hand, Mr. J. H. Lloyd was of opinion that “in conferring upon the Newfoundland Company the power so to unite and consolidate their undertaking with the Atlantic Telegraph Company, or any company standing in its place, the Legislature of Newfoundland virtually and practically renounced the Government’s right of purchase in

the event of that power being exercised." This also was the view taken by Judge Little, who ought to be a better authority on the subject than Mr. Mackenzie or even than Sir R. Baggallay, seeing that he was Prime Minister and Attorney-General of Newfoundland at the time the Act authorizing the amalgamation of the Newfoundland and Atlantic Telegraph Companies was passed. In a letter which Mr. Little addressed to the *Times*, on April 5th, 1873, he says:—"It was my understanding in supporting the Act and advising its approval, and I believe the understanding of my colleagues also, that upon such an amalgamation taking place, the right of pre-emption would cease, and, in my opinion, this is clearly the effect of the Act."

I think that Mr. Mackenzie will find in the above facts ample reason to modify his conclusions as to the nature and extent of the Company's exclusive rights in Newfoundland. But whether he does or not, the vital question at issue between Canada and the Company remains wholly untouched by any interpretation of the Acts to which reference has been made. The Dominion Parliament has no right to make a narrow construction of those Acts a reason for dealing with them in a confiscating spirit. The question of exclusive rights is one which must be settled between the Newfoundland Government and the Company, and, as Lord Carnarvon plainly intimated, there is only one equitable mode of abolish-

ing the monopoly, and that is by paying for its extinction in the manner provided by the Charter.⁸

In the course of the debates in Canada several collateral subjects were discussed, to some of which brief allusion may be made. For example, most extravagant ideas as to the profits of the cables appeared to be entertained. Lord William Hay effectually exploded this delusion by communicating to the Committee the fact that the average dividend paid upon the cash capital of 4,751,000*l.* has been only 7.40 per cent., and on the nominal amount of the stock not more than five per cent. It is true that the Company, out of its reserve and renewal fund, has mainly defrayed the expense of laying down a new cable between Ireland and Newfoundland, but this judicious application of the fund is as advantageous to the public as it is to the Company. The value of the telegraph to the former depends upon the existence of regularity and promptitude in the transmission of messages, and these elements can only be effectually secured between Europe and America by a company having the control of several cables. Few things in this world are more

⁸ The reader will have observed that, in the opinion of more than one eminent counsel, when the amalgamation between the Companies took place, the Newfoundland Government practically renounced the right of purchase. The above remark is therefore subject to an authoritative determination of that legal question.

uncertain than the existence, at the bottom of the ocean, of a fragile line of telegraphic wire, 2000 miles in length. In 1873 the Company spent nearly 80,000*l.* in an unsuccessful attempt to raise and repair a fractured cable, and it is manifest that the same amount of money may be spent again with an equally unsatisfactory result. It should also be remembered that, as Sir James Anderson has luminously shown in his "Statistics of Telegraphy," international messages are not capable of the same indefinite extension as interior messages, and that consequently a reduction of rates below a certain point, instead of being followed by a proportionate increase of business, may involve a disastrous or even ruinous loss of revenue. Moreover, it is stated that "the greater portion of the traffic over the Atlantic lines is conducted by means of codes and ciphers, and as each individual word is made to represent complete sentences, the public have practically the enjoyment of the luxury of rapid communication between London and New York,⁹ at a cost which it is estimated does not exceed 6*d.* per word, and by skilful manipulation of these codes, the cost of transmission is positively reduced to even less." These facts clearly have a more important bearing upon the question of a reduction of tariff than Canadian legislators, in the intensity

⁹ The average time of transmission is now under twenty minutes.

of their economic and anti-monopolist zeal, are willing to admit. Nevertheless, the Anglo-American Company has reduced its rates from 1*l.* per word in 1866 to 2*s.* per word in 1875. The principle upon which the Company has acted was thus explained by Lord William Hay:—"We have reduced our rates slowly, taking care not to do so until we had ample means for carrying the additional traffic certain to be created by a lower rate." It follows that in proportion to the ability of a company to lay down new cables will be its power to carry messages at low rates, and at the same time to keep pace with the increase of its business consequent upon a reduced tariff.

I think it has been made perfectly clear to the apprehension of the reader that a majority of the Canadian Parliament regard the exercise by the Anglo-American Company of exclusive rights in Newfoundland as a capital offence, which justifies the employment against it of the most penal legislation. Mr. Mackenzie and his colleagues spoke and acted in this spirit, but it was reserved for Mr. Miller to entertain a decorous Senate with extravagancies worthy of his celebrated namesake. In a speech delivered on March 10th he characterized the Anglo-American Company as "a huge monopoly, a monopoly whose selfish pretensions were opposed to the interests of the country as well as to the progress and civilization of the age." It is true that he was

inaccurate in his facts, and all at sea in his dates, but a gentleman who soared into the lofty regions of "buncombe" could not be expected to attend to such trifles as facts or dates. "Canada," he said, "had an interest in common with the people of both continents in abolishing the monopoly. Canada had a higher interest, because a greater duty devolved on its people than on any others, for with Canada alone rested the power of destroying this monopoly by wise legislation and promoting the great amelioration sought." Mr. Miller spoke with an imposing air of authority, but he would do well to remember that although a man exhibits a rare faculty of invective in attacking monopolies, it does not follow that the world will be led to attach to him the credit that is due to a Ricardo or a Cobden.

"A daw's not reckon'd a religious bird
Because it keeps a cawing from the steeple."

And a man is not reckoned a political economist because he falls foul of vested interests. Of course there is nothing easier than to denounce a monopoly, and to raise a cheer at its expense on the part of the ignorant or the thoughtless. But nevertheless there is not a civilized country on the face of the globe which has not, at one time or another, granted exclusive rights or equivalent subsidies for the landing or the working of cables, the reason being that many telegraph lines would never have been constructed

at all, or the construction of them would have been indefinitely postponed, if capitalists had not been secured some special advantages as a set-off against the risks they ran of losing their money. Great Britain, France, Germany, Russia, Austria, Holland, Italy, Portugal, the United States, Brazil, Australasia, and other countries are all wrong if Mr. Miller is right.¹⁰ Moreover, the privileges granted to these cables logically rest upon the same basis and admit of the same justification as the granting of patents to inventors. Mr. Edward

¹⁰ The *Times* of June 29th contains the latest example of the truth of this remark. On that day Sir Julius Vogel and Sir Daniel Cooper published a statement respecting the contract they have made with the Eastern Extension, Australasia, and China Telegraph Company (Limited), for the laying of a submarine cable between Sydney and the middle island of New Zealand. In consideration of a subsidy of 5000*l.* from New Zealand and of 2500*l.* from New South Wales, to be paid yearly for ten years, the Company undertakes to lay the cable; and further engages "that the tariff shall not exceed 7*s.* 6*d.* for ten words, and 9*d.* for each additional word; and that on the messages averaging 200 a day during any six months the charges shall be reduced to 5*s.* for ten words, and 6*d.* per word additional." Provision is also made for a reduction of the through rates between Port Darwin and England to 3*l.* for ten words, and 6*s.* for every additional word, on payment of a subsidy of 20,000*l.* per annum. Sir Julius Vogel and Sir Daniel Cooper admit that the arrangement they have made strengthens the monopoly which the Company now practically enjoys; but they also show conclusively that they have acted with due regard for the public interest. I may add that Sir James Anderson, in his "Statistics of Telegraphy," has disposed of this whole subject with exhaustive and unanswerable logic.

Jenkins, the Agent-General for Canada, a man for whose original genius and chivalric temper I entertain genuine respect, has spoken of the exclusive privileges of the Anglo-American Company in Newfoundland as "an unrighteous monopoly." Mr. Jenkins is a great master of phrases, but I think that on reflection he will see the injustice of applying an epithet of this kind to rights which are founded upon the same principle as a copyright or a patent. Mr. Field, in addressing the Senate Committee, said:—"We could not have obtained the capital for this cable without exclusive rights, and we had the greatest difficulty in procuring the necessary money even with them." There is not a grain of exaggeration in this statement, and yet, although the British public subscribed its money on these conditions, the Canadian Parliament gravely proposes to spirit away the Company's rights in Newfoundland by a measure which in substance, if not in form, is one of confiscation.

I have now completed my task. I have sketched the history of the Atlantic Telegraph Legislation, and especially shown that the blow dealt at the property of the Anglo-American Company was first struck by the Canadian Legislature without a word of notice or warning to the six thousand persons whose interests were so gravely compromised.¹¹ I

¹¹ One argument employed during the controversies at Ottawa was that the present proprietors of the Anglo-American cables

have set forth the unprecedented and dangerous character of the Bill which has now become law. I have established the fact that, although ostensibly an Act for the regulation of marine telegraphs, its essential principle is one of confiscation; that in fact it deliberately extinguishes the Company's rights in Canada unless the Company itself will consent to sacrifice the important privileges it enjoys in another North American colony. I have exposed the absurdity of the pretence that the Anglo-American cables were laid on Canadian territory without authority, and I have, I think, made it clear that the legal rights of the Company in the Dominion are of a definite and substantial character, and that in addition it has moral and equitable rights which no country in the position of Canada could afford to ignore. I have explained the nature of the Company's exclusive privileges in Newfoundland, and shown that the exercise of such privileges accords

were not the same people as those to whom the Newfoundland concession was originally granted, and that therefore they were not entitled to an equal degree of consideration at the hands of Canada. This is a new version of the rights of property in the region of the share market. No doubt time and circumstances have wrought great changes in the *personnel* of the Companies to which reference is made in these pages; but I am glad to be able to say that among the existing proprietary there will be found the honoured names of many of the original promoters of Atlantic Telegraphy—men, for example, like Sir Daniel Gooch, Sir George Elliot, Sir James Anderson, Captain A. T. Hamilton, Mr. Cyrus W. Field, and Mr. F. A. Bevan.

with public policy and with the practice of the principal nations of the world; and finally I have pointed out that an honourable mode of abolishing the monopoly is provided for by the charter, and that to adopt the alternative embodied in the Marine Telegraphs Act would be to violate every principle of justice. I am persuaded that the more the subject is studied the more it will appear impossible that Canada can so deal with the rights of English shareholders without inflicting even greater injury upon herself than upon them.

In conclusion I would remark that the motives and the conduct of the promoters of Atlantic telegraphy need no justification. The desire to make profit naturally entered into their calculations, but, as I have already said, they were at the same time largely influenced by a still worthier motive. The Duke of Argyll, in a speech which he delivered on the subject of the Atlantic Telegraph in 1868, remarked that "every man who has devoted himself to a great profession, or to a great enterprise of any kind, knows that though the getting of gain is one of the elements, and ought to be one of the elements, in all successful enterprise, yet that the spirit of enterprise itself—a desire that ennobles that pursuit—the desire of adding to the comforts of man is among the stimulants which urge him on his course." This is the spirit in which the grandest commercial undertaking of modern times has hitherto been conducted, and I

sincerely hope that the Dominion of Canada is not destined to make the exercise of a similar spirit in connexion with great public objects more difficult for the future.

N.

not
it in
t for

APPENDIX.

I.

MR. BLAKE'S ORIGINAL BILL.

OTTAWA; 27th May, 1874.

An Act to regulate the construction and maintenance of
Marine Electric Telegraphs.

Her Majesty, by and with the advice and consent of
the Senaté and House of Commons of Canada, enacts as
follows:—

1. This Act shall apply—

(1.) To every Company or Association of persons hereafter
authorized by any special or general Act of the Parliament of
Canada or under the provisions of this Act to construct or
maintain telegraphic wires or cables, in, upon, under or across
any gulf, bay or branch of any sea or any tidal water within the
jurisdiction of Canada or the shore or bed thereof, respectively,
so as to connect any province with any other province of
the Dominion, or to extend beyond the limits of any
province.

(2.) To every Company authorized to construct or maintain
such telegraphs before the passing of this Act, by any such
special or general Act of the Parliament of Canada, or by any
other special Act or charter of any of the provinces consti-
tuting the Dominion, and at the time of the passing of this
Act in force in Canada.

2. The term "The Company" in this Act shall mean any
Company or Association of persons in the preceding section
mentioned.

3. The Company shall not place any telegraphic wire, cable,

or work connected therewith, in, under, upon, over, along or across any gulf, bay or branch of the sea, or any tidal water, or the shore or bed thereof, respectively, except with the consent of all persons and bodies having any right of property, or other right or any power, jurisdiction or authority in, over, or relating to the same which may be affected, or be liable to be affected by the exercise of the powers of the Company.

4. Before commencing the construction of any such telegraph or work as last aforesaid, or of any buoy or sea-mark connected therewith, except in cases of emergency for repairs to any work previously constructed or laid, and then as speedily after the commencement of such work as may be, the Company shall deposit in the office of the Department of Marine and Fisheries, a plan thereof, for the approval of such Department. The work shall not be constructed otherwise than in accordance with such approval. If any work is constructed contrary to this provision, the Department of Marine and Fisheries may, at the expense of the Company, abate and remove it, or any part of it, and restore the site thereof to its former condition.

5. The Company may, in or about the construction, maintenance or repairs of any such work, use on board ships or elsewhere, any light or signal allowed by any regulation to be made in that behalf by the said Department.

6. If any such work, buoy or sea-mark is abandoned or suffered to fall into decay, the said Department may, if and as it thinks fit, at the expense of the Company, abate and remove it, and restore the site thereof to its former condition, and the said Department may at any time, at the expense of the Company, cause to be made a survey and examination of any such work, buoy or sea-mark, or of the site thereof.

7. Whenever the said Department, under the authority of this Act, does in relation to any such work, any act or thing which the said Department is, by this Act, authorized to do at the expense of the Company, the amount of such expense shall be a debt due to the Crown from the Company, and shall be recoverable as such with costs, or the same may be recovered with costs, as a penalty is or may be recoverable from the Company.

8. The Company may, with the consent of the Governor in Council, take and appropriate for the use of the Company for its stations, offices and works, but not alienate, so much

of the land held by the Crown for the Dominion, and the shore or bed adjacent to or covered by any gulf, bay or branch of the sea, or by any tidal water as is necessary for constructing, completing and using the telegraph and works of the Company.

9. The Company may also acquire from any province of the Dominion, any land or other property necessary for the construction, maintenance, accommodation and use of the telegraph and works of the Company, and also alienate, sell and dispose of the same when no longer required for the purpose of the Company.

10. The Company may also acquire from any person or corporation any land necessary for the construction, maintenance and use of the telegraphic cable and works of the Company adjacent to or near the shore end or place of landing of the telegraph. And in case the Company and such person or corporation should fail to agree upon the possession or price of such land, the Company is hereby empowered to enter upon and take such land, limited to an area of five acres, under the powers, authorities and provisions of the Railway Act, 1868, the sections of which, in respect to compulsory powers for the acquisition of lands, are hereby declared to be applicable to any Company within this Act, and the powers, authorities and provisions contained in the said sections of the Railway Act, 1868, are hereby declared to be vested in and exercisable by any such Company for the purpose aforesaid.

11. The Company shall not be entitled to exercise any of the powers of this Act until the Company shall have submitted to the Governor in Council a plan and survey of the proposed site and location of such telegraph, and its approaches at the shore, and of its stations, offices and accommodations on land, and of all the intended works thereunto appertaining; nor until such plan, site and location have been approved by the Governor in Council, and such conditions as he shall have thought fit for the public good to impose touching the said telegraph and works, shall have been complied with.

12. The Company shall transmit all messages in the order in which they are received, and at equal and corresponding tariff rates, under the penalty of not less than fifty nor exceeding two hundred dollars, to be recovered with costs of suit by the person aggrieved; and the Company shall have full power to charge for the transmission of such messages,

and to demand and collect in advance such rates of payment therefor as shall be fixed from time to time as the tariff of rates by the by-laws of the Company; Provided, however, that arrangements may be made with the proprietors or publishers of newspapers for the transmission, for the purpose of publication, of intelligence of general and public interest, out of its regular order, and at less rates of charge than the general tariff rates.

13. Any message in relation to the administration of justice, the arrest of criminals, the discovery or prevention of crime, and Government messages or despatches, shall always be transmitted in preference to any other message or despatch, if required by any person officially charged with the administration of justice, or any person thereunto authorized by the Secretary of State of Canada, or by the Secretary of State for the Colonies on behalf of the Imperial Government.

14. No Company or association of persons other than those mentioned in the first section of this Act, or which become incorporated in Canada under the next following section shall maintain, construct or use any telegraphic wire or cable connecting two or more Provinces of the Dominion, or extending beyond the limits of any province in, upon, under or across any gulf, bay or branch of any sea or any tidal water within the jurisdiction of Canada, or the shore or bed thereof, respectively: Provided, that nothing in this section contained shall be construed to prohibit any existing Telegraph Company or Association from continuing to receive and transmit messages over its line of marine telegraph, until such time as another Company, under the authority and within the provisions of this Act, has constructed and is operating a line of marine telegraph which has been determined by the Governor in Council to afford reasonable facilities for the transmission of marine telegraphic messages, in lieu of the line or lines of such existing Telegraph Company or Association, or to be a line for doing business over a route of a competitive nature.

15. In case any Company is now or shall hereafter be authorized by any special Act of the Parliament of Great Britain, or incorporated under the Imperial Joint Stock Companies' Act, or any other General Act of the Imperial Parliament or by Royal Charter, for establishing or maintaining telegraph communication in, upon, under or across any gulf, bay or branch of any sea or tidal water within the

jurisdiction of Canada, the Governor in Council may by letters patent under the Great Seal of Canada, and upon the terms and conditions to be contained therein, grant a charter to the persons forming such Company, upon the Company petitioning therefor, and such persons and others who may become shareholders in the Company shall be constituted a body corporate and politic by the same name, and with the same power and constitution in Canada, for the said purpose and object of establishing and maintaining their said telegraph and works, within the jurisdiction of Canada; but any such grant shall be expressly subject to this Act, and conditional upon the Company doing, observing and performing the several provisions thereof, and such letters patent being published in the *Canada Gazette* with any Order or Orders in Council relating to the said letters patent, shall have the like force and effect, as if the Company had been incorporated by special Act of Parliament, but no such letters patent or grant of corporate powers to be exercised within the jurisdiction of Canada shall be made to or conferred upon any Company or Association which possesses any exclusive privilege of landing wire or cable for a marine telegraph in or upon the coast of any State, Province or country in America, Europe or elsewhere, unless an equal or reciprocal right or privilege of landing wire or cable, and establishing a marine telegraph upon the same coast is conceded to any and each of the Companies in the first section of this Act mentioned, or which may become incorporate in Canada under the provisions of this section of this Act, so that any Company incorporated or to be incorporated in Canada, may enjoy the same advantages in maintaining its marine telegraph line in and upon the same coast as the said Company which may possess such exclusive privilege.

16. In case any Company heretofore incorporated by any special Act of the Parliament of Canada, has acquired any exclusive privileges of landing wire or cable for a marine telegraph upon the coast of any other country, such Company shall be entitled to exercise and enjoy any such existing privilege unimpaired by this Act; but no Company heretofore incorporated by any such special Act, shall acquire any further or additional exclusive privileges of landing wire or cable as aforesaid.

17. The Parliament of Canada may at any time amend, vary or repeal any of the provisions of this Act.

(Signed) R. LEMOINE.

II.

THE GOVERNMENT BILL OF 1875 AS PASSED.¹

An Act to regulate the construction and maintenance of
Marine Electric Telegraphs.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. This Act shall apply—

(1.) To every Company or association of persons hereafter authorized by any special or general Act of the Parliament of Canada, or under the provisions of this Act, to construct or maintain telegraphic wires or cables in, upon, under or across any gulf, bay or branch of any sea or any tidal water within the jurisdiction of Canada, or the shore or bed thereof respectively, so as to connect any province with any other province of the Dominion, or to extend beyond the limits of any province.

(2.) To every Company authorized to construct or maintain such telegraphs before the passing of this Act by any such special or general Act of the Parliament of Canada, or by any other special Act or Charter of any of the provinces constituting the Dominion, and at the time of the passing of this Act in force in Canada.

2. The term "The Company" in this Act shall mean any Company or association of persons in the preceding section mentioned.

3. The Company shall not place any telegraphic wire, cable or work connected therewith, in, under, upon, over, along or across any gulf, bay or branch of the sea, or any tidal water, or the shore or bed thereof respectively, except with the consent of all persons and bodies having any right of property, or other right, or any power, jurisdiction or authority in, over or relating to the same, which may be affected, or be liable to be affected, by the exercise of the powers of the Company.

4. Before commencing the construction of any such telegraph or work as last aforesaid, or of any buoy or sea-mark

¹ The passages included in brackets [] did not form part of the original Bill of 1874, but were inserted by the Government in the Bill as submitted by them to the Dominion Parliament in 1875. The Amendments introduced into the Bill in its passage through the Legislature are indicated by italics. Section 16 of the original Bill was omitted.

connected therewith, except in cases of emergency for repairs to any work previously constructed or laid, and then as speedily after the commencement of such work as may be, the Company shall deposit in the office of the Department of Marine and Fisheries a plan thereof, for the approval of such Department. The work shall not be constructed otherwise than in accordance with such approval. If any work is constructed contrary to this provision, the Department of Marine and Fisheries may, at the expense of the Company, abate and remove it, or any part of it, and restore the site thereof to its former condition.

5. The Company may, in or about the construction, maintenance or repairs of any such work, use on board ship or elsewhere any light or signal allowed by any regulation to be made in that behalf by the said Department.

6. If any such work, buoy or sea-mark is abandoned or suffered to fall into decay, the said Department may, if and as it thinks fit, at the expense of the Company, abate and remove it, and restore the site thereof to its former condition, and the said Department may at any time, at the expense of the Company, cause to be made a survey and examination of any such work, buoy or sea-mark, or of the site thereof.

7. Whenever the said Department under the authority of this Act does, in relation to any such work, any act or thing which the said Department is, by this Act, authorized to do at the expense of the Company, the amount of such expense shall be a debt due to the Crown from the Company, and shall be recoverable as such with costs, or the same may be recovered with costs, as a penalty is or may be recoverable from the Company.

8. The Company may, with the consent of the Governor in Council, take and appropriate for the use of the Company for its stations, offices and works, but not alienate, so much of the land held by the Crown for the Dominion, and the shore or bed adjacent to or covered by any gulf, bay or branch of the sea, or by any tidal water, as is necessary for constructing, completing and using the telegraph and works of the Company.

9. The Company may also acquire from any province of the Dominion any land or other property necessary for the construction, maintenance, accommodation and use of the telegraph and works of the Company, and also alienate, sell

and dispose of the same when no longer required for the purpose of the Company.

10. The Company may also acquire from any person or corporation any land necessary for the construction, maintenance and use of the telegraphic cable and works of the Company, adjacent to or near the shore end or place of landing of the telegraph. And in case the Company and such person or corporation should fail to agree upon the possession or price of such land, the Company is hereby empowered to enter upon and take such land, limited to an area of five acres, under the powers, authorities and provisions of "*The Railway Act, 1868*," the sections of which, in respect to compulsory powers for the acquisition of lands, are hereby declared to be applicable to any company within this Act, and the powers, authorities and provisions contained in the said sections of "*The Railway Act, 1868*," are hereby declared to be vested in and exercisable by any such Company for the purpose aforesaid.

11. The Company shall not be entitled to exercise any of the powers by this Act conferred until the Company shall have submitted to the Governor in Council a plan and survey of the proposed site and location of such telegraph, and its approaches at the shore, and of its stations, offices, and accommodations on land, and of all the intended works thereunto appertaining, nor until such plan, site, and location have been approved by the Governor in Council, and such conditions as he shall have thought fit for the public good to impose touching the said telegraph and works shall have been complied with.

12. The Company shall transmit all messages in the order in which they are received, and at equal and corresponding tariff rates, under the penalty of not less than fifty nor exceeding two hundred dollars, to be recovered, with costs of suit, by the person aggrieved; and the Company shall have full power to charge for the transmission of such messages, and to demand and collect in advance such rates of payment therefor as shall be fixed from time to time as the tariff of rates by the by-laws of the Company: Provided, however, that arrangements may be made with the proprietors or publishers of newspapers for the transmission, for the purpose of publication, of intelligence of general and public interest, out of its regular order and at less rates of charge than the general tariff rates.

13. Any message in relation to the administration of justice, the arrest of criminals, the discovery or prevention of crime, and Government messages or despatches shall always be transmitted in preference to any other message or despatch, if required by any person officially charged with the administration of justice, or any person thereunto authorized by the Secretary of State of Canada, or by the Secretary of State for the Colonies on behalf of the Imperial Government.

14. No company or association of persons other than those mentioned in the first section of this Act, or which becomes incorporated in Canada under the next following section, shall maintain, construct, or use any telegraphic wire or cable connecting two or more provinces of the Dominion, or extending beyond the limits of any province, in, upon, under, or across any gulf, bay, or branch of any sea or any tidal water within the jurisdiction of Canada or the shore or bed thereof respectively: Provided that nothing in this section contained shall be construed to prohibit any existing telegraph company or association from continuing to receive and transmit messages over its line of marine telegraph until such time as another company, under the authority and within the provisions of this Act, has constructed and is operating a line or lines of marine telegraph which shall have been determined by the Governor in Council to afford reasonable facilities for the transmission of marine telegraphic messages in lieu of the line or lines of such existing telegraph company or association, or to be a line or lines for doing business over a route of a competitive nature, [*and until the Order in Council declaring such determination shall have been published for three months in the Canada Gazette*].

15. In case any company is now or shall hereafter be authorized by any special Act of the Parliament of Great Britain, or incorporated under the Imperial Joint Stock Companies' Act or any other general Act of the Imperial Parliament or by Royal Charter, for establishing or maintaining telegraphic communication in, upon, under, or across any gulf, bay, or branch of any sea or tidal water within the jurisdiction of Canada, the Governor in Council may by letters patent under the Great Seal of Canada, and upon the terms and conditions to be contained therein, grant a charter to the persons forming such company, upon the company petitioning therefor, and such persons and others who may become share-

holders in the company shall be constituted a body corporate and politic by the same name, and with the same power and constitution in Canada, for the said purpose and object of establishing and maintaining their said telegraph and works, within the jurisdiction of Canada, but any such grant shall be expressly subject to this Act, and conditional upon the company doing, observing, and performing the several provisions thereof; and such letters patent being published in the *Canada Gazette* with any Order or Orders in Council relating to the said letters patent, shall have the like force and effect as if the company had been incorporated by special Act of Parliament, but no such letters patent or grant of corporate powers to be exercised within the jurisdiction of Canada shall be made to or conferred upon any company or association which possesses any exclusive privilege of landing wire or cable for a marine telegraph in or upon the coast of any state, province, or country in America, Europe, or elsewhere, unless an equal or reciprocal right or privilege of landing wire or cable and establishing a marine telegraph upon the same coast is conceded to any and each of the companies in the first section of this Act mentioned, or which may become incorporated in Canada under the provisions of this section of this Act, so that any company incorporated or to be incorporated in Canada may enjoy the same advantages in maintaining its marine telegraph line in and upon the same coast as the said company which may possess such exclusive privilege:

[Provided that any grant of corporate and other powers made to or conferred upon any company or association under this section may be revoked and declared forfeited by any Act of the Parliament of Canada for non-user for three consecutive years at any one time, or if the Company do not go into actual operation within three years after the issue of the Letters Patent granting such powers, or in case the Company shall at any time possess or acquire any exclusive privilege of landing wire or cable for a marine telegraph in or upon the coast of any state, province, or country in America, Europe, or elsewhere, and an equal or reciprocal right or privilege of landing wire or cable and establishing a marine telegraph on the same coast is not conceded to any and each of the Companies mentioned in the first section of this Act, or coming within the provisions thereof.]

[16. Each of the Companies mentioned in the first section of this Act, or which may become incorporated in Canada under the next preceding section, is prohibited from entering into any agreement for the transmission or interchange of messages, or for participation in profits, or for the union or consolidation of capital stock, with any company or association of persons, which at any time may possess or acquire any such exclusive privilege of landing wire or cable for a marine telegraph *in Newfoundland or the Danish Possessions*, and where an equal or reciprocal right is not conceded as in the proviso to the 'said next preceding section mentioned; and every such attempted agreement shall be illegal and void.]²

[17. This Act shall not affect any franchise, right or privilege which the New York, Newfoundland and London Telegraph Company, or any other Company, or person lawfully entitled thereto, may have actually acquired and exercised or operated in Prince Edward Island prior and up to the first day of July, eighteen hundred and seventy-three, under any Act or Acts of the Legislature of the Colony of Prince Edward Island made and passed prior to the said first of July, eighteen hundred and seventy-three, and subject to the provisions thereof respectively.]

[18. Nothing in this Act contained shall have the effect of depriving the Anglo-American Company (Limited) of any right, if any, which the said Company may have to proceed *against the Dominion of Canada*, for damages or compensation for any loss by it sustained by reason of its being prevented under the operation of this Act from maintaining or using its telegraphic wires or cables on the shores of Nova Scotia, *the question of such right and the amount of such damages, or compensation, if any, to be determined on Petition of Right.*]

² I have been compelled to resist the temptation to expose the absurdity, as well as the injustice, of this section. In effect it not only declares that a Company which has landed its cables in Canada must surrender without compensation all the exclusive privileges it may have acquired, but it actually prohibits such Company from holding even business relations with any other Telegraph Company which, not being within the reach of Canadian authority, is fortunate enough to be able to retain similar privileges. It is not difficult to imagine a case in which the operation of this section would prove highly injurious to the commercial interests of the Dominion.

19. The Parliament of Canada may at any time amend vary or repeal any of the provisions of this Act.

Certified to have been examined and found correct, by the original Act in custody of the Clerk of the Parliaments, and examined with him by

G. W. WICKSTEED, Law Clerk,
House of Commons of Canada.

Ottawa, 12th May, 1875.

III.

EARLY HISTORY OF THE CABLES.

IN addressing the Banking and Commerce Committee of the Senate on March 18th, 1875, Mr. Cyrus Field gave the following account of the early vicissitudes of Atlantic Telegraphy:—

During the months of January and February, 1854, I was occupied in investigating the practicability of laying a submarine cable across the Atlantic. Having become convinced it was practicable, and, if successfully carried out, would be beneficial to England and America, I invited several wealthy and enterprising friends of mine to meet at my house, and for the four successive evenings of March 7th, 8th, 9th, and 10th, 1854, we discussed the subject, and on the latter evening we decided that we would undertake the enterprise, provided that we could obtain a suitable charter, and on the 14th of the same month, myself and two of my associates left for Newfoundland. On the 15th of April, the Legislature of that colony unanimously passed the Act incorporating the New York, Newfoundland and London Telegraph Company. The first lines of the Act are as follows:—"Whereas it is deemed advisable to establish a line of telegraphic communication between America and Europe by way of Newfoundland." This charter granted us exclusive privileges for fifty years of landing cables on the shores of Newfoundland, subject to the right of pre-emption by the Government at any time after twenty years. At this time there had never been a deep ocean cable laid; the longest cable in the world was that between England and Holland, about 140 miles, and no cable had ever been submerged in water over thirty fathoms in depth. The idea of laying a cable across the

Atlantic was considered by most persons as *Quixotic*. There were many conditions in our charter, one of which was, that we should build a road across the island, about 400 miles long, with bridges, &c. The Government guaranteed interest on 50,000*l.* sterling, of the bonds of the Company for twenty years, at five per cent. The interest on these bonds was always promptly paid by the Company, and the principal at maturity, the Government of Newfoundland never paying one farthing of the principal or interest. We had several hundred men at work in Newfoundland, building the land line and roads and bridges in the years 1854, 1855, and 1856. In the fall of 1854 I went to England and ordered a cable, and during the summer of 1855 we attempted to lay it across the Gulf of St. Lawrence, to connect Newfoundland with Cape Breton. It was unfortunately lost in a gale of wind, and in the fall of 1855 I again went to England and ordered another cable, and during the summer of 1856 it was successfully laid, and also one in Prince Edward Island and New Brunswick, and a telegraph line constructed between Prince Edward Island and New Brunswick in 1855 and 1856. We also, under our agreement with the Nova Scotia Telegraph Company, to land our cable in Cape Breton, built a road about 100 miles in that island, and completed a telegraph line from Cape North to Port Hood, Cape Breton. The telegraph communication between St. John's, Newfoundland, and Nova Scotia, and the other British North American colonies and the United States having been completed, I proceeded to Washington and induced the United States Government to send a steamer to sound across the Atlantic. I returned to New York and sailed for London, and after my arrival there obtained from the English Government a steamer to verify the soundings of the American vessel between Ireland and Newfoundland, and made the arrangement with the Imperial Government for ships to assist in laying the cable and for a guarantee of four per cent. on 350,000*l.*, the amount then considered necessary to lay an experimental cable from Ireland to Newfoundland. This guarantee being conditional upon the successful laying of the cable, and only during the working of the same, was of little or no value, and the Government never paid one farthing on it; for if the cable was successfully laid and working, it would certainly earn more than four per cent. At this period (the fall of 1856), it was proposed to

me, in London, that instead of the New York, Newfoundland, and London Telegraph Company laying the cable from Newfoundland to Ireland, that we should form in London a company to be composed of English and Americans, called the Atlantic Telegraph Company, which would work in connexion with the Newfoundland Company, and that the receipts for telegraph messages passing over both lines, between Valencia, Ireland, and Port Hood, Nova Scotia, the terminus of the two lines, should be divided, two-thirds to the Atlantic Company, and one-third to the Newfoundland Company. This arrangement was finally consented to; the Company was formed, and I, individually, subscribed and paid for, in hard cash, 88,000*l.* sterling, being a fraction more than one quarter of the capital of this Company. The Atlantic Telegraph Company was formed under the Joint Stock Act, but in the year 1857 was incorporated by Special Act of the British Parliament. I returned to New York, arriving there on Christmas Day, 1856, and within a week left for Newfoundland, and obtained an Act of the Legislature ratifying the arrangement with the Atlantic Telegraph Company, and authorizing a consolidation of the two Companies. Returning to the United States, I proceeded at once to Washington, and we obtained an Act of Congress, approved by the President, on the 3rd of March, 1857. We attempted to lay the cable across the Atlantic in the summer of 1857, and after a few hundred miles had been laid, it was lost. The confidence of the public in the enterprise was much shaken, and it was with great difficulty that we obtained the additional means necessary for another attempt. On the fifth day of August, 1858, the cable was landed on the shores of Ireland and Newfoundland, and there were sent through the cable 400 messages, the last one being to me, and dated September 1st, 1858, and received on the very day of the great rejoicing in New York over the successful completion of the Atlantic cable. No words can describe the change in the public mind after the cable ceased to work. The great majority on both sides of the Atlantic believed the enterprise never could be a success, and considered those who had been engaged in it as lunatics. Stock of the New York, Newfoundland, and London and Atlantic Telegraph Companies declined in London and New York to the merest fraction of what they had cost; in fact, ten thousand dollars of the stock of the New York, Newfound-

land, and London Telegraph Company was sold at public auction during my absence in Europe, in the city of New York, for a ten dollar greenback, and a thousand pounds sterling of the Atlantic Telegraph stock was sold in London for thirty guineas. From the time of the failure of the Atlantic Cable in the fall of 1858, until the spring of 1865, I was constantly crossing and recrossing the Atlantic and endeavouring in every way to raise the money necessary for another cable. I addressed public meetings in New York, Boston, Providence, Philadelphia, Baltimore, Washington, Albany, Buffalo, and in London, Liverpool, Manchester, Glasgow, and other places, almost literally going from door to door, asking for subscriptions. Many were made with almost the same feeling as if they had been given to a charity. To encourage the public to subscribe to the new stock, the New York, Newfoundland, and London Telegraph Companies agreed to contribute out of their share of the receipts for messages, 25,000*l.* a year. At last the necessary capital was raised; a new and better cable was made and loaded on board the "Great Eastern," and we steamed away from the coast of England with buoyant hopes that we were on the eve of triumph; but these brilliant expectations were doomed to disappointment. After we had successfully payed out 1200 and odd miles of cable, it was lost in water more than two miles in depth. For weeks we struggled faithfully to recover our lost treasure from the bottom of the Atlantic, but in vain, and we steamed back to England with sad hearts. On our arrival in London, we exerted ourselves, for weeks, to raise the money necessary for another cable, and to recover and complete the one that was lost; as a last resort, we were obliged to issue 600,000*l.* of stock, having a first preference of twenty-five per cent., on all our receipts. On these terms we, with great difficulty, obtained the necessary amount. I subscribed and paid for 10,000*l.* of this stock. In the summer of 1866 we again commenced laying the cable, and, on the 27th of July, successfully completed it, and then returned to mid-ocean where we had lost the cable the year previously, and, after great difficulty, recovered and completed it, and the people of two continents, on opposite sides of the Atlantic, rejoiced over our success.

IV.

TARIFFS AND MONOPOLIES.

LORD WILLIAM HAY, in addressing the Senate Committee also on March 13th last, made the following remarks on this branch of the subject :—

There are two doctrines which have been enunciated by various parties, which seem to have the sanction of the hon. Secretary of State, viz., that our company is not entitled to consideration, inasmuch as our enterprise has been a very successful one. I cannot believe that this was seriously meant, nor the argument that inasmuch as the present holders of stock are not the same gentlemen who first embarked in the enterprise, they are not entitled to the same consideration as if they were the same! These seem to me the most extraordinary doctrines ever held by a responsible Minister. Could the hon. gentleman seek to deprive the Hudson's Bay Company of any of its rights, because the gentlemen who compose that company are not the same individuals to whom the cession was originally granted, or because its affairs had prospered? It has been urged against us that there have been rings formed for stock-jobbing purposes. All I can say is that the board has never in any way encouraged or aided persons operating in its stock. The affairs of the company have been conducted on the soundest principles of commercial integrity, and the directors have never lent themselves to anything like stock operations. I do not know any legislation more calculated to assist stock operators than this very legislation now proposed to this House. Take, for instance, the 14th clause; it would be a fortune to a man to know beforehand that this clause was to be put into operation. As to the question of immense profits, the whole cash capital that this company has earned is 7·40 per cent., while the dividend on the watered stock will be 5 per cent. for last year. It is perfectly true that a considerable amount of the money earned was spent in a new cable, but

that was to enable us to do the large amount of business which follows the reduction of rates. I have facts before me which bear out the statement that we have regularly reduced the rates whenever we were able to do so.

The duration of the different tariffs, beginning July 23th, 1866, was as follows:—

For ten words—

£	s.	d.				
20	0	0	.	.	.	3 months, 4 days.
10	0	0	.	.	.	1 year, 1 month.
5	5	0	.	.	.	9 months.
3	7	0	.	.	.	9 months.
2	0	0	.	.	.	2 months, 9 days.
1	10	0	.	.	.	1 year, 4 months.
3	0	0	.	.	.	6 months, 19 days.
2	0	0	.	.	.	7 months.

The reason of the rise from 1*l.* 10*s.* to 3*l.* is interesting. It happened that for a time two out of the three cables were interrupted, and the press of business was so immense that in deference to the wishes of commercial men, who found that their messages could not get through, the rate was raised in order to check business. Very soon after, when the cables were repaired again, it was reduced to 2*l.*, which was 10*s.* higher than it had been before the interruption referred to. This rate lasted seven months. *On the 1st of May, 1872, the word rate was adopted*, a change which involved a considerable sacrifice of revenue, amounting to 30,000*l.* during last year. In short, we have reduced our rates slowly, taking care not to do so until we had ample means for carrying the additional traffic certain to be created by a lower rate.

Hon. Mr. SCOTT—What was the tariff of the French cable?

Lord W. HAY—The tariff of the French cable was exactly the same as ours. The Hon. Mr. Scott is perhaps correct in saying that public competition is the best way; I only hope that it may prove to be so. But foreign Governments have not arrived at this conclusion, and I shall show in a moment that the policy of most countries is rather opposed than otherwise to competition in respect to cable business.

Hon. Mr. SCOTT—Did not the French cable send messages for less?

Lord W. HAY—I have mentioned the reductions that were made. It is often alleged that free trade in cables is the policy of the Governments of Great Britain, Canada, and the United States. But I have papers here which entirely contradict that notion, and I know from my experience that there are few or no cables landing on British shores which have not their exclusive privileges, either from Great Britain, or from the country where the cables are landed, or from both; and so far from this principle of protection to cables being opposed to British policy, only recently very important concessions are reported to have been sanctioned by the Colonial Office, which were granted by British Colonial Governments. The Cape Government, for example, has agreed to give a subsidy of 9500*l.* a year for ten years, for a cable from the Cape to Aden, to send all Government messages thereby, and not to give landing rights to any other company for three years, or subsidy or guarantee to any other company for ten years. Mauritius is to give 6000*l.* subsidy for ten years, and three years' exclusive right. Natal will give 2500*l.* for twenty years, all Government messages, and engages not to give any other subsidy or guarantee for twenty years, or landing rights for three years. Again, the Submarine Telegraph Company possesses exclusive rights for long terms, in France, Belgium, and Germany, and there is not now a single place on the Continent of Europe to which competing cables can be laid. It has been said that the United States Congress has adopted a policy opposed to granting exclusive privileges, but Mr. Field has shown that one company in that country enjoys such privileges, and that no Act prohibiting their being granted is in existence. Take Canada itself. If you are to judge from what Canada has done, there is no ground for the statement that you are opposed to monopolies. Up to this time Canada has passed an Act (1855) to which I have referred, which distinctly acknowledged the concession of exclusive rights in Newfoundland, and the only other Act I am aware of that was ever passed, is one which sanctions an exclusive right to land on the shores of Denmark. But it is urged that the concession in Newfoundland is a most odious and mischievous monopoly. But let me observe that it cannot be fairly described as a monopoly in the ordinary sense of the word. It is in reality a privilege or patent of a very limited kind—a privilege given to certain gentlemen to encourage them in incurring a very great risk,

and in carrying out an enterprise which they thought could not be otherwise brought to a successful issue; and I venture to say that hon. gentlemen who are acquainted with writers upon the subject of monopolies, Mr. Mill, and other such authorities, will remember that they make an exception in favour of cases where individuals have by their ingenuity and enterprise conferred great benefits on mankind. Let me read a short extract from Mr. Mill's "Political Economy," and you will see what he says on the subject, exactly expressing my views in regard to the so-called monopoly. Referring to the different ways in which persons who undertake great enterprises of public utility may be rewarded, he says, "But, in general, an exclusive privilege of temporary duration is preferable, because it leaves nothing to any one's discretion. The reward conferred by it depends upon the invention being found useful, and it is paid by the very persons to whom the service is rendered, that is, the consumers of the commodity." Now that exactly describes the concession made by the Newfoundland Government; and I think Mr. Mill's opinion, that a limited monopoly is a suitable mode of rewarding an enterprise, such as the laying of the Anglo-American cable, will commend itself to every one here. It was for fifty years, terminable at the end of twenty, and the obvious intention of the parties who gave it, and of those who approved of its being given was, that we should enjoy this privilege for twenty years, whereas in fact we have only enjoyed it about seven or eight. Now if this were the case of a patent, a patentee would be able to go to a court of Chancery, and after exposing all the circumstances and the obstacles which prevented the patent from being enjoyed for a period contemplated, would have a claim for its prolongation. In the present instance, the company to whom the privilege was granted were prevented by insuperable obstacles from using it until thirteen years had passed away; and I understand there are gentlemen present who think that there are some grounds for asking that the original intention of the parties who gave the monopoly should be carried into effect, and, that the company should be entitled to enjoy their concession for ten years more. But admitting that this monopoly must be got rid of, let me observe that there are two ways of doing it—one a fair and equitable way, and the other the reverse, and I am quite confident that hon. gentlemen would rather adopt the former than the latter—or in other

words, the one proposed by this Bill. What is the fair way? Why, the one suggested by a gentleman whom every one will hear with respect, I mean Lord Carnarvon, the present Secretary of State for the Colonies. Addressing the Newfoundland Government, he says this:—"Looking to all the circumstances, your Ministers will probably now be of opinion, that it is not likely that any excessive sum would become payable; but on this subject it might be of advantage for the Government of Newfoundland to confer with the Dominion Government, and consider whether some terms could be laid down on which any payment found to be necessary might be apportioned between Canada and Newfoundland." Now it is evidently the opinion of the noble lord who wrote these words, that the fair way of abolishing this monopoly is not to legislate in the way proposed, which is simple coercion, if not confiscation, but to consider the feasibility of buying it up in a legitimate and legal manner, as provided by the concession itself.

Hon. Mr. LETELLIER DE ST. JUST—Why should Canada do more than Great Britain?

Lord W. HAY—Great Britain is not forcing us to give it up; but I do not quote this as showing that Canada ought to pay for the Newfoundland concession; I quote it merely to draw the attention of the Committee to the fact, that there is a way of getting rid of this monopoly that is legitimate and equitable, and in accordance with the terms of the concession which was granted, as I have repeatedly stated, with the knowledge and sanction of the Governments interested in the success of the Atlantic cables, and I can't help thinking that when such a course is open to you, one liable to grave objections, such as is now proposed, will not have the sanction of this country.

V.

PROTEST OF THE DISSENTING SENATORS.

THE following protest against the third reading of the Marine Telegraphs Bill appeared on the Journals of the Canadian Senate of Saturday, 20th March last:—

(DISSENTIENT.)

First,—Because the Act of the Nova Scotia Legislature incorporating the Nova Scotia Electric Telegraph Company in 1851, authorized them to build Telegraph Lines to any part of the Province, “and through, across and under any stream, gulf, strait or body of water.” They accordingly laid a Cable across the navigable strait of Canso, and on the 5th August, 1855, entered into a written agreement with the New York, Newfoundland and London Company granting them the privilege of landing a Submarine Cable in Cape Breton, and making a land line to connect with the Nova Scotia wires at Port Hood, “in the name and under the authority of the Nova Scotia Company, and under this agreement the Cable was laid in 1856, land lines built, and several Cables between the two islands, with hundreds of miles of land wire over Cape Breton, were subsequently built under similar agreements, and have continued ever since to be used without molestation.

Second,—Because it appears from a Report of a Committee of the Nova Scotia Assembly in 1857, including the Attorney and Solicitor General, that they were not only aware of the first Cable being laid, but approved of it, and the three branches of the Legislature in 1857 passed an Act validating these agreements, which was disallowed in 1858, on the sole ground that it gave exclusive privilege of landing Cables for twenty-five years.

Third,—Because after this long and uninterrupted acquiescence, it is not desirable nor proper to legislate so as to compel the Anglo-American Company to remove their wires at three months' notice, unless they yield up a privilege acquired twenty-one years ago by an Act of the Newfoundland Legislature, approved by the Queen and since recognized by the Prince Edward Island Legislature, by the Legislature of

United Canada in 1855, by the Imperial Parliament in the Act incorporating the Atlantic Telegraph Company in 1857, and subsequently in the General Telegraph Act of 1868; all these Acts being still in force, and agreements having been made under them with the Imperial Government and the United States' Government for transmission of messages over the existing lines, and it would be a great wrong to override rights thus acquired.

Fourth,—Because it is not in the public interest thus to deprive the Dominion of the benefits of Telegraphic communication with Newfoundland, and of open competition through the existing Cables with any future Company, and thereby prevent cheap telegraphy, and probably place the public at the mercy of a single Company with a single wire from the Dominion, with unlimited powers of tariff charges.

Fifth,—Because the Bill is unnecessary, inasmuch as the shores of Nova Scotia are open to free competition, and Cables may be landed direct from Ireland or *viâ* Saint Pierre, where a much longer Cable than from Ireland to Newfoundland has been laid and worked, and where there is no exclusive privilege, the route from Scotland *viâ* the St. Lawrence being also available.

Sixth,—Because the effect of the Bill being carried out would be to depreciate the Nova Scotia Company's lines and imperil the keeping up of the local and non-paying lines by taking the remunerative Cable business from the paying portion of the lines.

Seventh,—Because the policy of withdrawing the exclusive privilege, without which the Atlantic Cable would not have been undertaken is a question to be settled between the Newfoundland Government and Legislature and the Anglo-American Company, and it is unwise to coerce the people of Newfoundland by a threat of non-intercourse into the alternative of pre-emption at enormous cost of which we pay no part, or telegraphic disconnexion from their fellow-colonists.

Eighth,—Because this legislation is partial in prohibiting any interchange of messages between existing Canadian Companies and a Company enjoying a monopoly in Newfoundland while permitting it to a favoured Company with all the world where monopolies exist except Newfoundland and Denmark.

Ninth.—Because the legislation is *ex post facto*, contains no reservation of existing rights, and is calculated to affect injuriously our credit abroad.

(Signed) JOHN HAMILTON, Kingston.
 DAVID WARK.
 R. B. DICKEY.
 H. A. N. KAULBACH.
 J. C. CHAPAIS.
 D. REESOR.
 ROBERT READ.
 GEORGE W. HOWLAN.
 CLEMENT F. CORNWALL.
 W. O. TRUDEL.
 JOS. H. BELLEROSE.
 J. C. AIKINS.*
 ALEXANDER VIDAL.
 A. E. BOTSFORD.
 J. SKEAD.
 G. W. ALLAN. †
 T. RYAN. †

The Senate,
 Saturday, 20th March, 1875.

* Dissents for the 5th, 7th and subsequent reasons.

† Dissentients for the 5th, 7th and subsequent reasons, and also for the further reason, that the Bill does not appear to be a *bonâ-fide* public measure, but introduced mainly at the instance and in the interests of a particular Company, and directed in a great measure against the rights and interests of another Company.

