

# Technical and Bibliographic Notes / Notes techniques et bibliographiques

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

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires:

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

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /  
Ce document est filmé au taux de réduction indiqué ci-dessous.

10x	12x	14x	16x	18x	20x	22x	24x	26x	28x	30x	32x
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

---

**APPENDIX, No. 3,**

TO THE

**EIGHTH VOLUME.**

---

# APPENDIX TO THE EIGHTH VOLUME

OF THE

## JOURNALS

OF THE

## LEGISLATIVE ASSEMBLY

OF THE

## PROVINCE OF CANADA.

---

FROM THE 18th DAY OF JANUARY TO THE 30th DAY OF MAY,

BOTH DAYS INCLUSIVE,

AND IN THE TWELFTH YEAR OF THE REIGN OF OUR SOVEREIGN LADY

QUEEN VICTORIA.

---

BEING THE SECOND SESSION OF THE THIRD PROVINCIAL PARLIAMENT OF CANADA.

---

SESSION, 1849.

---



---

*Printed by the Order of the Legislative Assembly.*

---

---

ROLLO CAMPBELL, PRINTER—PLACE D'ARMES HILL—MONTREAL.

---

# M'GILL COLLEGE.

RETURN TO AN ADDRESS OF THE HONOURABLE THE LEGISLATIVE ASSEMBLY, dated 8th March, 1849, for Copies of all Papers or Correspondence relative to M'GILL COLLEGE, between the Authorities in Canada and the Home Government, since 1840; of the Charter and Statutes as now amended or proposed to be amended; also, a List of the Officers, Teachers or Professors, (exclusive of the Medical Faculty,) with the pay of each, together with a Statement of the College Property and Income, the Course of Study pursued in the Faculty and Arts, and the present number of Pupils in the same.

By Command.

J. LESLIE,  
Secretary.

SECRETARY'S OFFICE,  
Montreal, 10th April, 1849.

## SCHEDULE.

- |   |   |
|---|---|
| No. 1.—Lord John Russell to Mr. Thomson, 17th March, 1840.—Desires the Governor General to Report on the proposed New Charter, and encloses Copies of Papers received from Lord Seaton. | No. 7.—Lord Stanley, 13th October, 1843.—Her Majesty's decision on the Statutes and Appointments suspended.   |
| No. 2.—Lord Sydenham, 18th June, 1840.—Applies for a Copy of the proposed Amended Charter.  | No. 8.—Lord Metcalfe, 17th January, 1844.—Transmitting Correspondence with the Governors of M'Gill College.   |
| No. 3.—Lord John Russell, 18th July, 1840.—Transmitting a Copy of the proposed Amended Charter, and Report thereon of the Law Officers.   | No. 9.—Lord Stanley, 15th March, 1844.—Acknowledges the above. His views respecting the Statutes and Appointments remain unchanged.   |
| No. 4.—Sir C. Bagot, 2nd October, 1842.—Transmitting Revised Statutes of the Medical Faculty of M'Gill College for Her Majesty's approval.  | No. 10.—Private. Lord Stanley, 15th March, 1844.—Recommends that the College should be put in operation on a smaller scale. If necessary the Appointments will be disallowed. |
| No. 5.—Lord Stanley, 11th November, 1842.—Signifying Her Majesty's allowance of these Statutes.   | No. 11.—Lord Metcalfe, 7th March, 1844.—Relative to the appointment of Messrs. Wicks and Chapman to certain Offices in the College.   |
| No. 6.—Lord Metcalfe to Lord Stanley, 6th September, 1843.—Transmitting Statutes and Appointments, by the Governors, for the Secretary of State's decision, and other Documents.        | No. 12.—Lord Metcalfe, 12th September, 1844.—Enclosing Communications from the Governors requesting decision on Statutes.   |

Appendix  
(G.G.G.G.)  
10th April.

- No. 13.—Lord Metcalfe, 23rd November, 1844.—Enclosing a Memorial from the Bishop, President of the Royal Institution, praying for the confirmation of the Statutes.
- No. 14.—Lord Stanley, 29th October, 1844.—In reply to the Governors, states that Her Majesty's decision shall be announced as soon as the Provincial Legislature shall have expressed its views on the subject.
- No. 15.—Lord Metcalfe, 18th January, 1845.—Transmits various Documents relative to the College, and recommends that the confirmation of the Statutes be suspended.
- No. 16.—Lord Stanley, 24th February, 1845 (No. 350).—Acknowledges the above, and states that no steps will be taken.
- No. 17.—Lord Metcalfe, 24th February, 1845 (No. 225).—Transmitting further Papers relative to the differences between the Governors and the Royal Institution.
- No. 18.—Lord Metcalfe, 8th March, 1845 (No. 228).—With Copies of further Documents relative to the differences between the Governors and the Board of the Royal Institution.
- No. 19.—Lord Stanley, 4th April, 1845.—States in reply to Lord Metcalfe's Despatch, No. 225, that if Her Majesty has any authority to interfere at all it must be exercised by the Governor.
- No. 20.—Lord Stanley (No. 370), 15th April, 1845.—Acknowledges Lord Metcalfe's Despatch, No. 228, and in reply refers to his Despatch of the 4th April.
- No. 21.—Mr. Gladstone (No. 49), 3rd April, 1846.—Dr. Bethune's appointment disallowed.—Decision respecting Statutes deferred till the close of the Session of the Provincial Parliament.
- No. 22.—Lord Cathcart (No. 77), 25th June, 1846.—Transmitting Memorial from Dr. Bethune respecting the disallowance of his appointment.
- No. 23.—Earl Grey (No. 6), 27th July, 1846.—In reply to Dr. Bethune's Memorial, directs the objections raised therein to be referred to the Law Officers.

- No. 24.—Lord Cathcart (No. 92), 13th July 1846.—Transmitting Minutes of the proceedings of the Governors, and recommends the confirmation of the Statutes transmitted by Lord Metcalfe on the 6th September, 1843.
- No. 25.—Earl Grey (No. 21), 18th August, 1846.—Confirming portions of the Statutes of September, 1843, and requiring a Report from the Executive Council and the Law Officers on the Sections that have been withheld from Her Majesty's confirmation.
- No. 26.—Lord Elgin (No. 19), 26th March, 1847.—Reporting the appointment by the Governors of the Rev. W. T. Leach, to be Professor of Classical Literature.
- No. 27.—Earl Grey (No. 66), 8th May, 1847.—Appointment of Mr. Leach confirmed.
- No. 28.—Lord Elgin (No. 103), 19th August, 1848.—Transmitting for Her Majesty's approval, Statutes passed by the Governors relative to Studies in Law and in Medicine in M'Gill College.
- No. 29.—Lord Grey (No. 279), 27th September, 1848.—The above Statutes confirmed.—Requires an answer to the Despatch to Lord Cathcart, No. 21, of the 18th August, 1846.
- No. 30.—Charter of M'Gill College.
- No. 31.—Statutes of M'Gill College.
- No. 32.—Statutes of the Medical Faculty of M'Gill College.
- No. 33.—List of Officers, Professors and Lecturers, in the University of M'Gill College.
- No. 34.—Statement of the M'Gill College Property and Income.
- No. 35.—The Course of Study pursued in the Faculty of Arts of M'Gill College.
- No. 36.—Statement of the number of Students in the Faculty of Arts of M'Gill College, and of the amount of Income derivable from their Tuition Fees.

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)  
10th April.

No. 1.—Despatch from Lord JOHN RUSSELL to the  
Right Honourable C. P. THOMSON—with en-  
losures.

(Copy.)  
No. 87.

DOWNING STREET,  
March 17, 1840.

SIR,

Mr. Gillespie, acting as Agent for the Governors of M'Gill College, has recently brought under my consideration, the application which has been made to the Crown, for the alteration and extension of the Charter of that Establishment.

You will find from the correspondence which passed previously to your assuming the Government of Lower Canada, that the consideration of this question has been deferred, in order that the Royal Institution at Quebec might have the opportunity of exercising the right which appeared to be vested in them as Trustees under Mr. M'Gill's Will, of expressing their wishes in regard to the provisions of the proposed amended Charter. Your predecessor in the Government was accordingly instructed to call on the Royal Institution for a statement of their objections to the Draft submitted by the Directors of the College. That Statement not having been received, I applied, at the request of Mr. Gillespie, to Lord Seaton, for any explanation which he might be enabled to furnish on the subject, in the hope that I might be enabled finally to dispose of the question.

I enclose a copy of Lord Seaton's answer to this reference, with its accompanying communications from the Principal of the College, and the Secretary to the Royal Institution. These papers throw some light on the nature of the differences existing between the latter body and the Governors of the College. They are, however, insufficient to enable me to form a decision on the subject, in the absence of the Statement which the Institution were required to furnish. Lord Seaton states that such a Statement was furnished by them on the 17th August, and was either left in the office of the Civil Secretary at Montreal, or was transmitted home. I understand that there is no trace of any such paper in this office.

Under these circumstances, it has appeared to me to be the most fit course to refer the whole question to you, and thereby to avoid the delay and inconvenience of attempting to reconcile the differences of the two bodies, by means of written Statements from the Colony, and through the medium of an Agent in this country. The case has accidentally assumed this irregular course, in consequence of the omission of the Governors of the College to obtain the assent of the Royal Institution to the proposed amended Charter; but it would have been more regular if these points had been discussed and settled before the application was sent home to be submitted to the Crown. The latter is the course which I should now wish to be taken. As one of the Governors of the College "ex officio," you can exercise the right of interference in these discussions, and by your influence can reconcile the existing differences and arrange the terms of a new Charter, which may be acceptable to all parties.

When you have succeeded in this object, I should be glad to receive the Draft of the Charter to be submitted for Her Majesty's pleasure.

I have, &c.

(Signed,) J. RUSSELL.

The Right Honourable  
C. P. THOMSON,  
&c. &c. &c.

(Copy.)

LYNEHAM,

31st January, 1840.

MY LORD,

With reference to your letter of the 3rd instant, transmitting the correspondence of Mr. Gillespie, upon the subject of the amended Charter for the M'Gill College, I have the honor to acquaint Your Lordship, that on receiving the opinions of the Royal Institution of Quebec, in regard to the alterations solicited in the Charter by the Governors of the College, I directed the communication of the Board, of the 17th August, to be laid before Dr. Bethune, the Principal of M'Gill College; whose remarks of the 4th September, and also his letter of the 14th August, in which he complains of the conduct of the Board, I beg leave to transmit to Your Lordship, with the explanations of the Royal Institution, dated the 3rd October.

From these documents, it appears that the misunderstanding and existing differences of opinion between the Principal of the College and the Board of the Royal Institution, must prove most injurious to the interests of the Colonists who have already suffered from their dissention, and the delay which has taken place in opening the College.

I entertain no doubt that the alterations proposed in the Charter, are necessary, and that they ought to be sanctioned.

The Royal Institution however, contend, that as Trustees of the Will of the Testator, and in virtue of the power and control granted to their Corporation, they are warranted in objecting to the views of the Governors of the College, and in disapproving of the alterations in the Charter proposed by them.

The Governors petitioned for a new Charter, chiefly on account of the limited number of Professors allowed by the present Charter, and the disadvantage which may result from the appointments to Professorships being subject to the approval of Her Majesty's Government.

I had made arrangements for opening the College in October last, but my return home being determined on, they were suspended.

The communication of the Board of the Royal Institution, of the 17th August, adverted to by Dr. Bethune, was either left in the office of the Civil Secretary at Montreal, or has been transmitted to the Secretary of State for the Colonies.

There are now only two Governors of the College in Lower Canada, in consequence of the demise of the Bishop of Quebec, and of the Chief Justice of Montreal, and of the discontinuance of the offices of Speaker of the Legislative Council, and of the House of Assembly.

I have, &c.

(Signed,) SEATON,  
Lt. General,

Lord JOHN RUSSELL,  
&c. &c. &c.

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)  
10th April.

MONTREAL, 14th August, 1839.

SIR,

As I can see no other reason for the opposition of the Board of the Royal Institution, to the amended Charter of M'Gill College, and for their otherwise unaccountable delay in stating the grounds of that opposition, than a desire to prevent the establishment of a sufficient Board of Governors in this City, I beg leave to communicate to His Excellency the Governor General, the decided part which I feel myself, in duty bound, for the interests of the College, to take in this vexatious matter.

When I agreed to the appointment of another Principal, in my room, it was in the confident expectation that the amended Charter would have been in our possession before this period. By that Charter, I should retain my office of Governor of the College, even if vacated by my resignation of the office of Principal. But as obstacles are thrown in the way of the speedy accomplishment of the wishes of the Governors, in respect of the amended Charter, I feel myself constrained to retain the office of Principal until that Charter shall have been procured.

I also withdrew my opposition to the views of His Excellency, and of the Board of the Royal Institution, with regard to the opening of the College *ad interim*, in the house of Burnside, in the expectation that no obstacle would intervene to prevent the establishment of a sufficient Board of Governors in this City, at an early period, and I feel it to be of so much importance to the interests of the College, that the establishment of such a Board should be speedily effected, that I have come to the determination (however reluctantly,) to renew my opposition to the appointment of any Professor, and to the opening of the College (with the exception of the Medical Department) until the amended Charter shall have been obtained.

I have, &c.

(Signed,) JOHN BETHUNE,  
Principal, M'G.C.

Major GOLDIE,  
Civil Secretary.

To His Excellency Sir JOHN COLBORNE, K.G.C.B.,  
Governor General of British North America,  
&c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY :

Having carefully considered the communication of the Board of the Royal Institution of the 17th August last, submitted to me by Your Excellency, for my information, I beg leave to make the following observations thereon.

With regard to the alleged cause of delay, on the part of the Board, in submitting "their suggestions with respect to the alterations fit to be made in the Charter of the M'Gill College," viz., the expectation of receiving a copy from the Governors, I have to remark that the Board was informed in the month of February last, that the Governors had no copy in their possession; and with respect to the Board "wanting certainty" on the subject of the contents of the amended Charter transmitted by the Governors, to Her Majesty's Government, I must respectfully but firmly maintain, that the Governors had every reason to believe that the Board was fully

aware of the proposed amendments. In proof of this, I beg to cite the following evidence:—When the Bishop of Montreal (then Archdeacon of Quebec) was in England in the latter part of the year 1835, and in the year 1836, the Governors of M'Gill College were anxious that the amended Charter which had been long under the consideration of all the parties concerned, should be sent to England in sufficient time to secure the advantage of the Archdeacon's presence and exertions in getting it completed. I consequently corresponded with the Honorable A. W. Cochran (then Principal of the Board of the Royal Institution) on the subject; and in reply, he says, under date of the 8th March, 1836:—"The Charter of M'Gill College, as amended, remains still under the Attorney General's consideration. I hope, however, it may be put into a state to send home, before he (the Archdeacon of Quebec) leaves on his return to this country." This same Charter, as amended, was subsequently transmitted to me by the same Principal of the Board of the Royal Institution, for transmission to England; but on looking over it, it occurred to me that the provision for the appointment of Governors of the College, was such as might have thrown the control of the Institution, at no very distant period, into the hands of the Roman Catholics; and on stating this objection, I was requested to suggest a clause in substitution of the one to which I had objected. I therefore submitted the clause on the subject of the nomination of the Governors, which now constitutes a part of the amended Charter. On the subject of this clause, the Principal of the Royal Institution (Mr. Cochran) wrote to me under date of the 25th June, 1836, as follows:—"I should think some other and better remedy or preventative might be found, than making the governing body self-elective, to which I see very great objections, and I do not think the Government would ever sanction such a change. The only other way that now occurs to me, however, is to go straight to the point, and make it essential that the Governors, or a majority of them, should be Protestants. Perhaps, however, this would be unacceptable to the present Government as a self-elective Corporation. In that case, there would be nothing for it but the plan you propose." In the month of November following, I had conversation with the Bishop of Montreal, and Mr. Cochran, on the subject of the clause in question, previous to its being submitted to a meeting of the Governors of M'Gill College, to take place two days afterwards, and they both agreed that it was the best plan and the least likely of the two to be objected to by the Government. The only cause of objection was the apprehension that it might be rejected at the Colonial Office. The meeting of Governors took place, the clause was passed and officially communicated to the Board, who never made any observation upon it until now. The Board then was fully aware of the alteration proposed to be made in the Charter, and should have been satisfied that none other had been proposed since that period, because, if such had been the case, communication thereof, would, of course, have been made to them—circumstances, with which Your Excellency, prevented any further steps from being taken, in respect to the transmission of the amended Charter to England, until the month of December last, when the intentions of the Governors to do so, was officially communicated to the Board, and yet they expressed no desire to see the Charter until the month of February following, when they knew it had been despatched to the Colonial Office.

From all these facts it is abundantly evident, not only that the Governors of M'Gill College could not

Appendix  
(G.G.G.G.)  
10th April.



Appendix  
(G.G.G.G.)

10th April.

have supposed that the Board of the Royal Institution were unacquainted with the contents of the amended Charter, but also that the Board were actually in possession of the fullest information on the subject. How then are we to account for their assertion of "wanting certainty on this point?" It appears evident to me that they apprehend, that further alterations may have been made by the Governors which have not been communicated to them. In this opinion I am confirmed by what fell from the Bishop of Montreal in a recent conversation in the presence of Your Excellency, when his Lordship observed, that the Governors had not said that they had not made any other alteration than the one communicated to the Board, and that consequently the Board could not feel certain that none other had been made. I submit to Your Excellency's decision how far the Board could be justified in acting upon such a conclusion.

With respect to the alterations in the existing Charter suggested by the Board, I shall first state those to which I think the Governors should agree; and secondly, those to which I think they cannot agree.

First.—I think the Governors should agree to the suggestion, that not only "the Principal, Vice-Principal and Professors, and all others engaged in the Instruction of Youth in the University, but also the Governors themselves, before being admitted to Office, should make and subscribe a declaration of their belief in the Holy Scriptures as the Word of God, and in the doctrine of the Trinity of persons in the Godhead, as held by Orthodox Protestant Churches."

Secondly.—The amended Charter contains the first part of the second suggestion of the Board, leaving the number of the Professors at the discretion of the Governors.

Thirdly.—The amended Charter contains the provision suggested thirdly by the Board.

Fourthly.—The amended Charter provides for the appointment, absolutely, of Professors, &c., without reference to the Queen or any other person or body; but provides that the Statutes, &c., made by the Governors shall be subject to the approval of the Crown.

Fifthly.—The amended Charter provides that all appointments of the Council, as well as their rules and regulations, shall be subject to the approval of the Governors.

Sixthly.—The Governors should, I think, agree to the suggestion of the Board, "that a power of granting honorary degrees should be granted to the Collegiate authorities."

The suggestions of the Board to which I think the Governors should not, indeed cannot agree, are the following:—

First.—The Governors, in my opinion, should not agree to the suggestion of the Board, that the Governors should not have the power of electing as vacancies occur; for the reasons already assigned in my remarks upon the history of the Clause making provision for such elections. The Government have offered no objection to that Clause, although the amended Charter has actually passed through the hands of the Crown Officers; and it would be strange indeed if the Board should persist in bringing under the particular notice of the Government,

for the purpose of defeating it, a Clause securing a Protestant controul over the Institution, and to which the only ground of objection was the apprehensions that it would be rejected by the Government.

Secondly.—The Governors, in my opinion, should not agree to the suggestion, that the number of Professors should be left to the discretion of the "Visitation body," as well as to that of the Governors—thereby giving that body a controul over the proceedings of the Governors in this respect—because no such controul is recognized in the existing Charter; because such a controul would either reduce the Governors to the degrading situation of mere cyphers, or would establish two equally independent powers between whom a difference of opinion would paralyze the proceedings of the Institution. And because the whole possession, management and controul of the funds of the Institution will, after the College is built, be vested in the Governors.

Thirdly.—The Governors, in my opinion, should not agree to the suggestion of the Board, that a power should be reserved to Her Majesty to annul the appointments made by the Governors, within a limited time; because the inconvenience apprehended to result from this very reservation in the existing Charter was a principal cause of the application for an amended Charter, and because it might be difficult, if not impossible, to find persons willing to accept of Professorships whose appointment was liable to be cancelled on the representations of any body which might fancy it had a right to controul the proceedings of the Governors.

Fourthly.—The Governors should not, in my opinion, agree to the suggestion, that "the Statutes which the Charter authorises the Governors to make, should be subject to the consent of the Board, before they are put in force"—for the reasons mentioned in the section before the last—and because the Governors differ in opinion from the Board in respect of their controul over the University, under the Act of 1801; and because the Members of the Board not being required "to make and subscribe a declaration of their belief in the Holy Scriptures as the Word of God, and in the Godhead, as held by Orthodox Protestant Churches," may be so selected, at some future day, that it will be conformable with the principles of the Board to thwart the proceedings of Orthodox Governors.

These are all the suggestions made by the Board of the Royal Institution in respect of alterations in the Charter of M'Gill College; and, on the whole, I would beg leave respectfully to submit, that inasmuch as the Charter, as amended, came from the hands of the Principal of the Royal Institution to the Principal of M'Gill College "in a state to be sent home"—as the only alteration afterwards made therein was officially communicated to the Board in November, 1836, and at least tacitly acquiesced in by them—as the original draft of the Petition to the Crown, accompanying the amended Charter, and praying for the very alterations and amendments therein contained is in the hand writing of the Principal of the Royal Institution—as the Board was officially notified, in the month of December last, of the intention of the Governors to transmit the amended Charter in question to England without delay, and as the Board did not, until the month of February following, when they knew the amended Charter was on its way to England, ask for a copy of it, nor indeed have they ever officially

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)  
10th April.

asked for a copy or signified that they were not acquainted with its contents. The suggestions to which the Governors cannot consent are not entitled to any consideration. I would, therefore, respectfully and humbly pray Your Excellency to report accordingly to the Secretary of State for the Colonies.

As far as I am myself individually concerned, as a Governor of M'Gill College, I beg leave respectfully to repeat what I said on a former occasion, that I cannot consent to the appointment of a Principal in my room (thereby dissolving entirely my connexion with the Institution,) until the amended Charter shall have been obtained, under which I shall be continued as a Governor by virtue of my office of Rector of Christ's Church in this city,—nor can I consent to the opening of the College, *ad interim*, or to the adoption of Bye-laws or Statutes for its government, until, under the sanction of the amended Charter, a sufficient Board of Governors shall have been constituted in this city for these purposes.

MONTREAL, 4th September, 1839.

ROYAL INSTITUTION OFFICE,  
Quebec, 3rd October, 1839.

SIR,

In answer to your letter of the 9th ultimo, referring to a communication from the Rev. Dr. Bethune of the 4th ultimo, for such observations as the Members of the Board of Royal Institution may desire to offer on it, I am directed by the Board to make to you the following for the information of His Excellency the Governor General:—

The Board do not consider it necessary to occupy His Excellency's time with any detailed answer to that part of Dr. Bethune's letter, in which he endeavours to show, by means of statements in which the Board are prepared to prove that he labours under great error in point of fact, as well as of inferences which they cannot admit to be legitimate, that the Board must have been aware, before the amended draft of the Charter of M'Gill College was transmitted by His Excellency to Her Majesty's Government, last January, at the request of the Governors; of the nature of the proposed alterations. They think it sufficient to state, that neither by the Register of the proceedings of the Board, nor by the recollection of any Member of the Board, does it appear that either any amended draft of a Charter, or any communication shewing that any amendment of the Charter was about to be proposed; was ever before the Board, until the Board in January last, in consequence of information accidentally obtained, instructed one of their Members, who was then at Montreal, to ascertain, if possible, the nature of the proposed alterations, and obtain a communication of them for the Board.

From the letter of that Member to the Board, it appears that on applying to Dr. Bethune he could not obtain any exact information from him as to the precise nature of the proposed alterations, but was informed by him that the amended Charter was then in course of being copied for the purpose of being transmitted on a particular day to His Excellency, and by His Excellency to Her Majesty's Government; and that the Member of the Board, having left Montreal the day after that so mentioned by Dr. Bethune, and without having an opportunity of

obtaining communication from you of the amended draft, he found, on his return to Montreal a few days afterwards, that the draft had in the interval been transmitted by His Excellency to Her Majesty's Government. The Member of the Board, having then again endeavoured to obtain from Dr. Bethune a copy of the amended draft, could only procure a rough copy of a draft of an amended Charter prepared under the direction of the Governors four or five years ago; Dr. Bethune at the same time stating, that he could not give any assurance that it agreed with that lately transmitted by His Excellency to Her Majesty's Government. But on examining this imperfect document, when transmitted to them in March last, the Board were still more clearly convinced of the necessity of getting more particular information as to the provisions of the amended Charter transmitted to Her Majesty's Government.

With respect to the statement in Dr. Bethune's letter, that in 1835 or 1836 the amended Charter then proposed was transmitted to him from Quebec by the then Principal of the Board, the Board have to observe, that it appears by a letter from Dr. Bethune himself, dated 4th March last, that this was not the case; but that Dr. Bethune himself found that document, after long search, in one of the Public Offices at Quebec.

With respect to the various points on which the Board, by their communication of the 17th August last, submitted their views to His Excellency as to the alterations proper to be made in the Charter, the Board see nothing in Dr. Bethune's observations to induce them to alter the opinions before expressed by them, which they now beg leave to reiterate; and they request that His Excellency will, before his departure, bring those suggestions formally before Her Majesty's Government.

The Board will only shortly advert to the reasons urged by Dr. Bethune in answer to some of the suggestions which the Board offered to His Excellency.

First.—As to the alteration of the existing Charter, by which the Board of Governors would become a self-electing body, as vacancies occur, to which this Board have objected. Dr. Bethune states that the only ground of objection originally was, that this provision would be rejected by Government. The Board having never before had an opportunity of making any objection to this provision, think it sufficient to state, that they disapprove of it as inexpedient of itself, and leading to abuses in the management of the Institution, which it would afterwards be difficult to correct.

Secondly.—As to the suggestion of the Board, that the Board of the Royal Institution should have some share or voice in the determination of the number of Professors, Dr. Bethune objects, that no such power is recognised by the existing Charter, that it would make the Governors mere cyphers, or lead to difficulties by the establishment of two independent powers, and that the Governors, after the College is built, will be vested by the whole possession, management and controul of the funds of the Institution. But the Board are legally advised that the Governors will have no such absolute controul as is set up by Dr. Bethune, but on the contrary, that the Testator's Will, having made the Corporation of the Royal Institution the Trustees of the Legacy, not only for the erection of the College, but for the establishment and maintenance of the Institution, and the Provincial Law of 1801, having given them a direct power over it as to the making of Statutes,

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)

10th April.

they are bound to exercise these powers by taking care that the funds are in the first instance properly applied and distributed, and their Visitatorial powers are granted to them by the existing Charter, in aid of their trust and superintendence, intended to be left with them by the Testator.

Thirdly.—To the suggestion of the Board, that a power should be reserved to Her Majesty's Government to annul, within a certain time, the appointments made by the Governors, to the Principal Offices of the College, Dr. Bethune's answers:—1st. That the inconvenience of reserving such a power to Her Majesty's Government, was a principal cause of the application for an amended Charter. In reply to which, the Board have only to say that this reason has no force, as it respects the Royal Institution, who had no knowledge of the amendments applied for, and now object to this particular alteration because they believe that no inconvenience can result from it: and that the reservation will afford a just and necessary protection to the Officers of the College, against oppression and cabal, and so far from such a reservation enhancing (as Dr. Bethune suggests in the second place) the difficulty of finding persons willing to accept of the Collegiate offices; the Board see in it, on the contrary, a security and inducement for such acceptance.

Fourthly.—With reference to the suggestion of the Board, that the Statutes which the Governors may make under the Charter, should be subject to the consent of the Board, before being put in force, the Board think it a sufficient reply to all objections, that, by the express terms of the Provincial Statutes of 1801, they have a right to a voice in the making of the Statutes of the College as being an Institution of Royal foundation, and so held to be by the judgment of the Court, under which the Estate and Legacy left to them by the Testator, were recovered; and they further conceive that they have a right to such participation in virtue of their Visitatorial capacity.

The Board further particularly insist upon the necessity of some provision being made in the amended Charter for defining more particularly than in the existing Charter, the Visitatorial powers of the Royal Institution; for although the Board have obtained the opinion of eminent counsel as to the extent of those powers, they perceive that they are questioned by the Principal, but they also see that in the amended draft of a Charter proposed in 1835, some provision was intended to be made, though imperfectly on this head.

The Board cannot conclude their observations without adverting to that part of Dr. Bethune's letter, in which he expresses his determination not to give up possession of the premises of Burnside, until the amended Charter shall have been adopted by Her Majesty's Government. The Board regret to be under the necessity of calling His Excellency's attention to the fact, that Dr. Bethune formally promised by letter, that he would surrender possession of those premises in November next, at farthest, in consequence of the Board having insisted upon such surrender, as a condition of their paying him a sum of money which he claimed from them, but which they did not consider themselves bound to pay him. The Board regret that Dr. Bethune, after having received the money upon that condition, should not have felt himself under the obligations of good faith and integrity to keep his promise; but, having no power to enforce his performance of it, except by a legal proceeding, which would make the matter pub-

lic, they can only hope that His Excellency may see cause to use his interposition to induce Dr. Bethune to fulfil his engagement.

I have, &amp;c.

(Signed,) R. R. BURRAGE,  
Secy. R. I.Major GOLDIE,  
Civil Secretary,  
Montreal.

MONTREAL, 6th July, 1839.

MY DEAR LORD BISHOP,

Mr. Cochran having informed me, in February last, that the Board would then pay me the full amount of my account, if I would engage to vacate Burnside on 1st May; I concluded that the Board would now be willing to pay me at once, on my engaging to vacate the premises positively on the 1st November next, or sooner, if required by His Excellency, for the purpose of commencing a course of teaching in the house. This I engage to do, and I have to add what I omitted to mention before, that a few days after the meeting at the Government House in June, I waited on His Excellency, offered him the premises at once, and requested him to name a day for my leaving them, to which he replied that he wished me to remain in the house until he should be ready to put a course of teaching into operation therein—so that virtually, I have surrendered the premises. Under these circumstances, I hope the Board will not delay the payment of my account. I want the money, and will feel particularly obliged by receiving it at once.

I am, &amp;c.

(Signed,) JOHN BETHUNE.

The Right Reverend  
The Lord Bishop of Montreal.

No. 2.—Despatch from Lord SYDENHAM to Lord JOHN RUSSELL,—applying for a copy of the proposed amended Charter, and accompanied by a Report from the Royal Institution.

(Copy.)

No. 122.

MONTREAL, 18th June, 1840.

MY LORD,

I have the honour to acknowledge the receipt of Your Lordship's Despatch of the 17th March last, No. 87, transmitting the Copies of a Correspondence with Lord Seaton relative to the affairs of McGill College, and desiring that as the Correspondence in Your Lordship's Office, in regard to the proposed new Charter, was imperfect, I should take the necessary steps for arranging the terms of that Charter between the Royal Institution and the Governors of the College.

I regret to inform Your Lordship, that I am prevented from executing Your Lordship's instructions, in this matter, by the want of a copy of the proposed amended Charter. Lord Seaton, it appears, forwarded to England the original Draft which he received from the Principal of the College

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)  
10th April.

without retaining a copy of it in this Office; and on application to Dr. Bethune and to the members of the Royal Institution, I am informed that neither of them possess a copy. I am, therefore, compelled to request that Your Lordship will direct a copy to be forwarded to me from the Colonial Office, as until I am made acquainted with the alterations which were proposed, it is impossible for me to decide between the views of Dr. Bethune and those of the Royal Institution, respecting them.

I take this opportunity of forwarding a copy of the Report from the Royal Institution of the 17th August last, to complete the correspondence on this subject in Your Lordship's Office.

I have, &c.,

(Signed,) C. POULETT THOMSON.

The Right Honourable  
Lord JOHN RUSSELL,  
&c. &c. &c.

(Copy.)

To His Excellency Sir JOHN COLBORNE, Governor  
General of British North America, &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY :

The Royal Institution have abstained from laying before Your Excellency, at an earlier period, their suggestions with respect to the alterations fit to be made in the Charter of M'Gill College, in the expectation of receiving a copy from the Governors, of the amended Draught of a Charter, which the Governors have caused to be submitted to the Queen's Government, and of which the Board requested in February last, that communication should be given to them. But though a rough draft has been inofficially laid before them, of the amended Charter, as at one time proposed, they have no reason to believe that it agrees with that which has been transmitted to Her Majesty's Government, and wanting certainty on this point, they have awaited more accurate information of the changes proposed, before they would submit their views upon the subject. They request that Your Excellency will be pleased to bear in mind, that in offering any suggestions now with respect to the alteration of the Charter, they still labour under the disadvantage of not knowing what the Governors have proposed, and can only speak hypothetically on that point, but they think it better to state their sentiments, even at such a disadvantage, than to incur further delay for the purpose of obtaining a correct copy of the amended Draught of a Charter sent to England.

The Board deem it right, in the first place, to point attention to the grounds upon which they have thought it their duty to interfere in this matter. By the Will of the late Mr. M'Gill, the real property and money left by him for the establishment of a University or College, were given in Trust to the Royal Institution for the advancement of learning, when the same should be thereafter established and incorporated under the provisions of the Provincial School Act of 1801. The Royal Institution accordingly, when called into existence, obtained the Royal Charter, which it is now proposed to alter for the College now called M'Gill College, which was established thereby, in the buildings then being on the estate devised by the Testator, or in such buildings as should be thereafter erected thereon,

and the Board in execution of the Testator's intentions, are now about to erect a new College on the estate. By the existing Charter, the Royal Institution are constituted the visitors of the College, and by the Provincial Act of 1801, a power is given to them to make Statutes, Rules, and Ordinances, for all Institutions of Royal foundation in this Province, for the advancement of learning, under which description it has been held by the Courts in this Province that M'Gill College is brought by the grant of a Royal Charter in furtherance of the intentions of the private benefactor.

Upon all these grounds, but particularly with reference to their capacity of Visitors under the Charter, and Trustees under the Will, they deem it their duty to ascertain the nature of the proposed alterations in the Charter originally granted on their application, and to object to any new provisions which they may conceive open to objection.

The Board are quite of opinion that the existing Charter requires alteration in the following points:—

First.—As to the constitution of the body of Governors—all of whom the Board conceive should be resident within the Province, and a sufficient number resident at Montreal to transact any business relating to the College requiring immediate attention, with a power, however, to those not residing there to give their opinions or votes by proxy. The Board do not, however, consider it desirable that the Governors should have the power of electing, as vacancies occur, to the extent of a majority of the whole body, which they believe to be one of the proposed alterations in the Charter. The Board also think it important, seeing that the Testator was a strict Protestant, and that one of the declared objects of the Royal Charter was promotion of true religion, that the body of Governors should be Protestants; and they beg leave also to call the particular attention of Your Excellency to the necessity of introducing some provision into the amended Charter for requiring not only the Principal, Vice-Principal and Professors, and all others engaged in the instruction of youth in the University, but also the Governors themselves, before being admitted to office, to make and subscribe a declaration of their belief in the Holy Scriptures as the Word of God, and in the doctrine of the Trinity of persons in the Godhead, as held by orthodox Protestant Churches.

Secondly.—With respect to the number of Professorships, which the Board are of opinion should be left unlimited, and at the discretion of the Governors, and of the Visitation body having the trust of the funds for the maintenance of the Establishment.

Thirdly.—That provision should be made in the amended Charter for the appointment of a Vice-Principal and such other Officers as the Governors may think necessary—if such power is not already sufficiently given by the existing Charter.

Fourthly.—That the Governors might with advantage, be authorized to appoint absolutely the various Officers of the Institution, but that provision should be made for such appointments being forthwith reported to the head of the Executive Government, and by him to the Secretary of State for the Colonies, with a power in Her Majesty to annul such appointments within a limited time.

The Board are further of opinion, that it would be advisable to define more particularly, in the amended Charter, the Visitation powers which belong to them under that now in force; with respect

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)

10th April.

to which the Board, having taken the advice of eminent counsel, have received an opinion of which they annex extracts. Adverting particularly to the 4th Section of the Provincial Act of 1801, which gives to the Royal Institution the authority to make Bye-laws and Rules for Institutions of Royal Foundation, the Board conceive, that on this ground as well as by reason of their character as Trustees for the due execution of the private Founder's Will, which expressly gives the bequest for the erection and establishment of a College "under such Regulations as the Royal Institution shall prescribe," the Statutes which the Charter authorizes the Governors to make should be subject to the consent of the Board before they are put in force; and that they should in all cases be subject also to the Royal sanction.

The Board do not think the establishment of a College Council necessary, considering that it is proposed, that a majority of the Governors should reside at Montreal. But if a Council be established, the Board conceive that they should not have power to nominate to the principal offices of the College except in case of vacancies, and then only expressly *ad interim*, leaving the ultimate nominations entirely at the discretion of the Governors; and they are also of opinion, that even with respect to the inferior offices of the College, (Registrar, Secretary, &c.), the nominations of the Council should be subject to the confirmation of the Governors.

The Board are of opinion, that a power of granting Honorary Degrees, if not already held under the present Charter, with respect to which doubts have been entertained, should be granted to the Collegiate authorities.

Signed in the name and on the behalf of the  
Royal Institution for the advancement of  
Learning.

(Signed,) G. J. MONTREAL,  
Principal.

MARCHMOUNT, near  
QUEBEC, 17th August, 1839.

## EXTRACTS FROM OPINION OF COUNSEL.

The perficient foundation is looked at principally, if not solely, with reference to the right of visitation in the donor or his heirs, which right is not reserved to the donor and his heirs, by this Will, and respecting which, it is not presumed that any question can be made.

Even as to the perficient foundation, it is to be observed that the devise is made to a body created in the expectation of an endowment for Schools and other Institutions from the Crown, as, "His Majesty," it is said, in the preamble to this Statute, "had been most graciously pleased to signify his Royal intentions, that a suitable proportion of the lands of the Crown, should be set apart, and the Revenues thereof appropriated to the purposes for which the Corporation was created." And when the King and a Subject both contribute to the endowment of a charity, the charity shall be considered as of Royal foundation.

The gift of the Testator is made in aid of this general fund, and must be understood to have been intended to derive its character from that general fund.

Thus far as to the perficient foundation:—Then as to the incipient foundation, this, as has already been observed, is solely with the Crown, and being made by the Crown, in fulfilment of the Will of the Testator, the foundation may be considered both in letter and spirit, as a Royal foundation.

And lastly.—The Royal Institution could take only under the provisions, and for the purposes of the Statute.

Upon the second question, we are of opinion that the Royal Institution has power to expend the Legacy, or such portion thereof, as they shall in their discretion, think sufficient, in the erection of new buildings for a College, without reference to, or dependence upon the Governors of the College.

The Royal Institution as Visitor, besides the power of repealing or amending the By-Laws passed by the Governors, &c., has the power to enquire from time to time, into the execution of the Statutes or the compliance of the College government with the Charter, and may remove the Officers of the College, correct abuses, and generally superintend the management of the Trusts.

As to the management of the property, by which the charity is to be supported, it is under the will of the donor, incorporating as it were, the provisions of the Statute, vested in the Royal Institution.

(True Extracts.)

(Signed,) R. R. BURRAGE,  
Secy. R. I.

QUEBEC, 17th August, 1839.

No. 3.—Despatch from Lord JOHN RUSSELL to the Right Honourable C. P. THOMSON—with enclosures.

No. 185.

DOWNING STREET,  
18th July, 1840.

SIR,

In compliance with the request contained in your Despatch, No. 122, of the 18th June, I enclose a copy of the amended Charter proposed by Lord Seaton, to be granted to M'Gill College.

I have, &c.,

(Signed,) J. RUSSELL.

The Right Honorable  
C. POULETT THOMPSON,  
&c. &c. &c.

TEMPLE, 4th April, 1839.

MY LORD,

We have to acknowledge the receipt of Your Lordship's letter of the 30th ultimo, transmitting copies of the Petition to the Queen, from the Governors of M'Gill College, accompanied by the Draft of a proposed new Charter for that body, and also copies of certain correspondence on this subject, which passed in the years 1834 and 1835. Your Lordship requests us to take these documents into

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)  
10th April.

our consideration, and to report our opinion, whether the proposed Charter is open to any objection in point of law, and whether it will effect the object for which it is intended. We have now the honor of reporting to Your Lordship, that we have considered these papers, and we beg leave to suggest that the new corporate name of "The University of M'Gill College," appears to us very anomalous. The present name, as conferred by the original Charter, viz., "M'Gill College," with the declaration contained in the Charter, that the College shall have the privileges of a University, appears to us much more correct. The proposed new Charter contains a clause that the Principal and other Officers may be removed from their offices by the Governors, by ballot, and in a subsequent passage near the end, declares them to be immovable during their respective lives, unless for misconduct or incapacity. These two provisions seem irreconcilable with each other, and the power of removal by ballot appears to us to be very objectionable. Whether the proposed mode of election by ballot, be desirable, is a point which we submit to Your Lordship.

Subject to these observations, the proposed Charter does not appear to us to be open to any objections in point of law, and will effect the object for which it is intended, namely, the establishment of a Vice Principal, and the removal of the necessity of obtaining the sanction of the authorities at home, to the appointment of the various College Officers.

We have, &c.

(Signed,) J. CAMPBELL.  
R. M. ROLFE.

The Marquis of NORMANBY,  
&c. &c. &c.

(Copy.)

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To all whom these presents shall come,

Greeting :

WHEREAS his late Majesty George the Fourth was graciously pleased, by Letters Patent bearing date at Westminster, on the Thirty-first day of March, in the Second year of his Reign, to establish at Burnside, near the City of Montreal in the Province of Lower Canada, an University, the first College of which, by the said Charter, is called "M'Gill College," which Charter is in the following words :—

"GEORGE the FOURTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.

"To all to whom these presents shall come,

Greeting :

"WHEREAS the Honourable James M'Gill, late of the City of Montreal in the Province of Lower Canada, now deceased, by his last Will and Testament, bearing date at Montreal the Eighth day of January, in the year of Our Lord One thousand eight hundred and eleven, did give and bequeath a certain tract of Land near the said City of Montreal, with the dwelling house

"and other buildings thereon erected, to Trustees, in trust, to convey and assure the same to the Royal Institution for the advancement of Learning, established by virtue of an Act of the Provincial Parliament of Lower Canada, made and passed in the Forty-first year of the Reign of his late Majesty, intituled 'An Act for the establishment of Free Schools and the advancement of Learning in the said Province,' upon condition that the said Institution should, within ten years from the decease of the said James M'Gill, erect and establish or cause to be erected and established upon the said land, an University or College for the purposes of Education and the advancement of Learning in the said Province, with a competent number of Professors and Teachers to render such Establishment effectual and beneficial for the purposes intended; and also, upon condition that one of the Colleges, to be comprised in the said University, should be called M'Gill College. And whereas, the said James M'Gill, Esquire, by his said last Will, did further give and bequeath to the said Trustees the sum of Ten thousand pounds, in trust, to pay the same with interest, to accrue thereon from and after the expiration of three years from his decease, to the said Royal Institution for the advancement of Learning, to be applied as soon as the said Institution should have erected an University or College on the said land towards defraying the expenses thereby incurred, and towards maintaining the said University or College so erected and established. And whereas, we have been humbly petitioned by the said Royal Institution for the advancement of Learning, that we should be pleased to grant Our Royal Charter for the more perfect erection and establishment of the said College, and for Incorporating the Members thereof for the purposes aforesaid, and for such further endowment thereof as to us should seem meet. We having taken the premises into Our Royal consideration, and being desirous that the Education of Youth in the principles of true Religion and for their Instruction in the different Branches of Science and Literature, are willing to comply with the prayer of the said Petition, and to afford every assistance towards carrying the intentions of the said James M'Gill into execution. Therefore, know ye that we of our especial grace, certain knowledge and mere motion, have willed, ordained and granted, and do by these presents for Us, Our Heirs and Successors, will, ordain and grant, that upon the said land and in the said buildings thereon erected or to be erected, there shall be established, from this time, one College at the least for the Education of Youth and Students in the Arts and Faculties, to continue forever, and that the first College to be erected thereon shall be called M'Gill College; and that Our Trusty and Well-beloved the Governor of Lower Canada, Lieutenant Governor of Lower Canada, Lieutenant Governor of Upper Canada, the Bishop of Quebec, the Chief Justice of Montreal, and the Chief Justice of Upper Canada, for the time being, shall be Governors of the said M'Gill College; and that the said College shall consist of one Principal, to be elected in manner hereinafter mentioned; and who shall be, during his continuance in the said Office, a Governor of the said College; of four Professors, to be also elected in manner hereinafter mentioned; and of Fellows, Tutors and Scholars, in such numbers; and at such salaries, and subject to such provisions, rules and regulations, as shall hereafter be appointed by the Statutes, Rules, and Ordinances of the said College; and we do by these presents for Us, Our Heirs, and Successors,

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)

10th April.

“ will, ordain and grant, that the Principal and Professors of the said College shall be, from time to time, elected by the said Governors or the major part of them, as shall be present at any meeting to be holden for such election, and in case of an equality of votes, the officer present at such meeting, whose office is first described in order in these presents, shall have a double or casting vote: provided always, that the persons by whom such elections shall be made shall notify the same respectfully to Us, Our Heirs or Successors, through one of our or their principal Secretaries of State, by the first opportunity. And in case that We, Our Heirs or Successors, shall disapprove of persons so elected, and shall cause such disapprobation to be notified to him, under the Royal Signet and Sign Manual, or through one of the principal Secretaries of State, the persons so elected as aforesaid shall immediately, upon such notification, cease to hold the office of Principal or Professor to which he shall have been elected as aforesaid; and the said Governors shall thereupon proceed to the election of another person to fill the office of such Principal or Professor respectively; and so, from time to time, as often as the case shall happen. And we do by these presents for Us, Our Heirs and Successors, will, ordain and grant, that the said Governors, Principal and Fellows, and their Successors, forever, shall be one distinct and separate body Politic and Corporate in deed and in word, by the name and style of the Governors, the Principal and Fellows of McGill College, at Montreal, in the said Province of Lower Canada, and that by the same name they shall have perpetual succession, and a Common Seal, and that they and their successors shall, from time to time, have full power to break, alter, make new, or change such Common Seal at their will and pleasure, and as shall be found expedient; and that by the same name the said Governors, Principal and Fellows, and their successors, from time to time and at all times hereafter, shall be a body Politic and Corporate in deed and in law, and be able and capable to have, take, receive, purchase, acquire, hold, possess, enjoy and retain, and we do hereby for Us, Our Heirs and Successors, give and grant full authority and free license to them and their successors, by the name aforesaid, to have, take, receive, purchase, acquire, hold, possess, enjoy and retain, to and for the use of the said College, notwithstanding any Statutes or Statute of Mortmain, any Manors, Rectories, Advowsons, Messuages, Lands, Tenements, Rents, Hereditaments of what kind, nature, or quality soever, so as that the same do not exceed, in yearly value, the sum of Six thousand pounds above all charges; and moreover, to take, purchase, acquire, have, hold, enjoy, receive, possess and retain, notwithstanding any such Statutes or Statute to the contrary, all or any goods, chattels, charitable and other contributions, gifts, and benefactions whatsoever; and that the said Governors, Principal and Fellows, and their successors, by the same name, shall and may be able and capable in law, to sue and be sued, impleaded and be impleaded, answer and be answered, in all or any Court or Courts of Record, or places of Judicature within our United Kingdom of Great Britain and Ireland, and our said Province of Lower Canada and other our Dominions, and in all and singular actions, causes, pleas, suits, matters, and demands whatsoever, of what kind and nature or sort soever, in as large, ample, and beneficial a manner and form as any other body Politic or Corporate, or any other our liege subjects, persons able and capable in law, may or can have, take, purchase, receive, hold, possess, enjoy, retain, sue,

“ implead or answer, or be sued, impleaded or answered, in any manner whatsoever; and we do by these presents for Us, Our Heirs and Successors, will, ordain and grant, that the Governors of the said College or the major part of them, shall have power and authority to frame and make Statutes, Rules and Ordinances, touching and concerning the good Government of the said College, the performance of Divine Service, Studies, Lectures, Exercises, and Degrees in Arts and Faculties, and all matters regarding the same; the Election, Qualification, and Residence of the Principal, Professors, Fellows, and Scholars; the Salaries, Stipend and Provisions for the Principal, Professors, Fellows, Scholars, and Officers of the said College; and touching and concerning any other matter or thing which to them shall seem good, fit, useful, and agreeable to this our Charter: provided that no such Statutes, Rules and Ordinances, shall have any force or effect until allowed and confirmed by Us, Our Heirs or Successors, and also, from time to time, to revoke, augment or alter the same, as to them or the major part of them shall seem expedient, subject always to our allowance and confirmation as aforesaid: provided that the said Statutes, Rules and Ordinances, or any of them, shall not be repugnant to the Laws and Statutes of this Our Realm, and of Our said Province of Lower Canada; and we do hereby for Us, Our Heirs and Successors, charge and command that the Statutes, Rules and Ordinances aforesaid, subject to the said Provisions, shall be strictly and invariably observed, kept and performed, so long as they shall respectively remain in force and effect, under the penalties to be thereby or therein inflicted or contained. And we do by these presents for Us, Our Heirs and Successors, will, ordain and appoint, that the Members of the Royal Institution aforesaid, for the time being, shall be Visitors of the said College. And we do further will, ordain, and grant, that the said College shall be deemed and taken to be an University, and that the Students in the said College shall have liberty and faculty of taking the Degrees of Bachelor, Master and Doctor, in the several Arts and Faculties, at the appointed times, and shall have liberty within themselves, of performing Scholastic Exercises, for the conferring such Degrees in such manner as shall be directed by the Statutes, Rules and Ordinances of the aforesaid College; and we do, by these presents for Us, Our Heirs and Successors, grant and declare that these are Letters Patent, or the enrolments or exemplifications thereof, shall and may be good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning of the same, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said Governors, Principal, and Fellows, and Scholars of the said College of Montreal, aforesaid, as well in all our Courts of Record as elsewhere, and by all and Singular Judges, Justices, Officers, Ministers, and other subjects whatsoever, of Us, Our Heirs and Successors, any misrecital, non-recital, omission, imperfection, defect, matter, cause, or thing whatsoever, to the contrary thereof, in anywise notwithstanding, without fine or fee, great or small, to be for the same in any manner rendered, done, or paid to Us, Our Heirs, or elsewhere, to our use. In witness whereof, we have caused these our letters to be made Patent. Witness Ourselves at Westminster, the thirty-first day of March, in the second year of Our Reign.

By Writ of Privy Seal,  
“(Signed), BATHURST.”

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)  
10th April.

And whereas by Petition humbly presented to us by the Governors named and appointed, in and for the said University of M'Gill College, by virtue of the aforesaid Charter, it hath been represented unto us as fit and expedient, that the powers and provisions made and granted in and by the aforesaid Charter, should be further enlarged and extended, the better to carry into effect our Royal intention of educating the youth of the said Province of Lower Canada, in the principles of true religion, and instructing them in the different branches of Science and Literature, which are taught in our Universities in this kingdom. Now know ye, that having taken the premises into our Royal consideration, and being willing to comply with the prayer of the said Petition, and to afford every assistance towards carrying into execution in a more free and efficient manner, the benevolent intentions of the said James M'Gill; We, of our especial grace, certain knowledge, and mere motion, have willed, ordained, and granted, and do, by these presents, for Us, Our Heirs and Successors, will, ordain and grant, that the aforesaid Charter so made and granted for establishing and erecting the said University of M'Gill College, be confirmed and maintained, except in so far as the same is, or shall be, by these presents altered, amended, or enlarged, and that the University shall continue and remain for ever for the purposes in the said Charter, or by these presents granted. And it is our further will and pleasure, and we do hereby direct, ordain, and grant, that the duties, powers, and privileges to be performed, held, used, and exercised by the said University, for the better government thereof, be further enlarged, extended, modified, and changed, in the manner and for the purposes hereinafter mentioned.

We do by these presents, for Us, Our Heirs and Successors, will, ordain and grant, that our trusty and well-beloved, the Governor-in-Chief of Lower Canada, or the Lieutenant Governor or person administering the Government thereof, for the time being; The Protestant Lord Bishop of Quebec, the Right Reverend George Jehoshaphat Mountain, Lord Bishop of Montreal, and his successors, Bishops of Montreal; The Rector of Christ's Church, Montreal, and his successors, Rectors of the said Church; a Minister of the Church of Scotland, resident in Montreal, to be selected for that purpose, by the Presbytery of Montreal, to be perpetually succeeded by a Minister of the Church of Scotland, chosen in like manner; The Principal of the College, the Honorable James Reid, the Honorable George Moffatt, the Honorable Peter M'Gill, William Robinson, M.D., Wm. Plenderleath Christie, Esquire, Samuel Gerrard, Esquire, and John Samuel M'Cord, Esquire, shall be Governors of the said College and University, with authority to fill up all vacancies as they may occur, by the demise, incapacity to act, or removal from the District of Montreal, of any of the Governors who are not such ex-officio by a majority of the votes of Governors, present at a meeting convened for that purpose, provided that not less than five Governors (which number of Governors is, by this our Charter, constituted a Quorum) be present at such meeting; and provided further, that no person shall be qualified to be so elected, unless he reside within the District of Montreal. That the said College and University shall consist of one Principal, one Vice Principal, a Council, and as many Fellows, Professors, Teachers, Lecturers, Tutors, and Scholars as may by the said Governors, or the major part of them constituting a Quorum, as provided by this our Charter, be from time to time deemed necessary to the well-being of the said College and University. That the Princi-

pal, the Vice Principal, the Council, the Fellows, the Professors, Teachers, Lecturers, Tutors, and Scholars, shall be nominated and appointed in manner hereinafter mentioned, and subject to such provisions, rules, and regulations, as shall hereafter be appointed by the Statutes, Rules, and Ordinances already made and established, and to be made and established in the manner hereinafter provided. That the Council of the said College and University shall consist of the Governors thereof, resident at Montreal; the Principal, the Vice Principal, and of as many of the Professors to be taken in the order of their seniority of nomination, as shall make with the said Governors, Principal and Vice Principal, the number of Thirteen.

That the Principal, the Vice Principal, the Fellows, the Professors, Teachers, Lecturers, Tutors, and Scholars, shall be from time to time elected or removed from their respective offices, by ballot, by the Governors of said College and University, or the major part of them, constituting a Quorum as required by this our Charter, convened and assembled for that purpose; previous notice of such meeting having been given during, at least, one month, in one or more of the newspapers of Quebec and Montreal; and in case of an equality of votes, the Officer presiding at such meeting, shall have a double or casting vote.

That each and every of the elections or removals aforesaid, made in due form by the Governors of the said College and University, shall take immediate effect and be valid, without any notification of the same to Us, in any way whatsoever. And our Royal will and pleasure is, and we do, by these presents, for Us, Our Heirs and Successors, will, ordain and grant, that the aforesaid Governors, Council, Principal, Vice Principal, and Professors, shall be one distinct and separate body, Politic and Corporate, in deed and in word, by the name and style of the Governors, Principal and Fellows of the University of M'Gill College at Montreal, in the said Province of Lower Canada; and that by the same name and style, they shall have perpetual succession and a Common Seal, and that they and their successors shall, from time to time, have full power to break, alter, make new, or change such Common Seal, at their will, as shall be found expedient, and by the same name, the said Governors, Principal, Vice Principal, and Fellows, and their successors, from time to time, and at all times hereafter, shall be a body Politic and Corporate, in deed and in law, and to be able and capable to have, take, receive, and purchase, acquire, hold, possess, enjoy, and retain, and we do hereby, for Us, Our Heirs and Successors, give and grant full authority and free licence to them, the said Governors, Principal, Vice Principal, and Fellows, and their successors, by the name aforesaid, to have, take, receive, and purchase, acquire, hold, possess, enjoy, and retain to and for the use of the said College and University, notwithstanding any Statutes or Statute of Mortmain, any Manors, Rectories, Advowsons, Messuages, Lands, Tenements, Rents, Hereditaments, of what kind, nature, or quality soever, so as that the same do not exceed, in yearly value, the sum of six thousand pounds, above all charges, outgoings, and reprise, for salaries to the Officers of the Corporation, Principal, Vice Principal, Professors, and other Teachers and Servants, the purchase of books, apparatus, and all other expenses; and moreover to take, purchase, acquire, have, hold, enjoy, receive, possess, and retain, notwithstanding any such Statutes or Statute to the contrary, all and every goods, chattels, charitable and other contributions, gifts, benefactions, and donations whatsoever, and

Appendix  
(G.G.G.G.)  
10th April.



Appendix  
(G.G.G.G.)  
10th April.

that the Governors, Principal, Vice Principal, Fellows, and their successors, by the same name, shall and may be able and capable in law, to sue and be sued, implead and be impleaded, answer and be answered, in all and any Court or Courts of Record, or places of Judicature within Our United Kingdom of Great Britain and Ireland, and Our said Province of Lower Canada, and other of our Dominions, and in all and singular actions, causes, pleas, suits, matters, and demands whatsoever, of what kind and nature or sort soever, in as large, ample, and beneficial a manner and form as any other body Politic, or Corporate, or any other of Our liege subjects being personable and capable in law, may or can have, take, purchase, receive, hold, possess, enjoy, retain, sue, implead, or answer, or be sued, impleaded, or answered, in any manner whatsoever.

And We do, by these presents for Us, Our Heirs and Successors, will, ordain and grant, that the Governors, Principal, Vice Principal, and Fellows, of our said College and University, or the major part of them constituting a Quorum, as required by this Charter, shall have power and authority to frame and make Statutes, Rules, and Ordinances, touching and concerning the good government of the said College and University, the performance of Divine Service therein, the Studies, Lectures, Exercises, and Degrees, in Arts and Faculties, and all matters regarding the same, the Election, Qualifications, Salaries, Stipend, and Provisions, residence and conduct of the Principal, Vice Principal, Professors, Teachers, Lecturers, Tutors, and Scholars, and touching and concerning any other matter or thing which to them shall seem good, fit, useful, and agreeable to this, our Charter. And also, from time to time, to revoke, augment and alter the same, as to them or the major part of them constituting a Quorum, as provided by this Our Charter, shall soon meet. And all and singular, the said Statutes, Rules, and Ordinances, and the Revocations, Amendments and Alterations thereof, shall take effect and be valid, immediately after having been passed by the said Corporation, without being presented for confirmation or approval to Us, Our Heirs and Successors. It being understood that We, Our Heirs or Successors, may, at any time, and at all times, annul and cancel any or all such Statutes, Rules and Ordinances, by an order under Our or their signet and sign Manual, if to Us, Our Heirs or Successors, it shall seem expedient so to do.

And provided further, that the said Statutes, Rules and Ordinances, or any of them, shall not be repugnant to the Laws and Statutes of this Our Realm, and of Our said Province of Lower Canada. And We do hereby, for Us, Our Heirs and Successors, charge and command, that the Statutes, Rules and Ordinances aforesaid, shall be strictly and inviolably observed, kept, and performed, so long as they shall respectively remain in full force and effect, under the penalties to be thereby or therein inflicted or contained; and we do, by these presents, for Us, Our Heirs and Successors, will, ordain and appoint, that the Members of the Royal Institution aforesaid, for the time being, shall be Visitors of the said College and University. And We do further will, ordain and grant, that the Students in the said College and University, shall have liberty and Faculty of taking the Degrees of Bachelor, Master, and Doctor in the several Arts and Faculties, after the manner and at the times appointed by the Statutes, Rules and Ordinances of the said College and University. And they shall have liberty within themselves, of performing Scholastic Exercises, for the conferring of such Degrees, in such manner as shall be directed by the aforesaid Statutes, Rules and

Ordinances. And We do hereby, for Us, Our Heirs and Successors, will, ordain and grant, that the Council, as constituted in virtue of this Charter, shall have power and authority, when, and so often, as any of the said offices or employments of Fellow, Professor, Teacher, Lecturer, Tutor, or Scholar, shall become vacant by the death, resignation, or absence from the Province, without leave of the person theretofore holding the same, or from any other cause to nominate a person to perform the duty of the office or employment, which shall so become vacant until the Governors of our said College and University shall have duly elected a person to fill the same, in the manner hereinbefore provided; and We do hereby direct, that the said Council shall give notice to the aforesaid Governors of Our said College and University of each and every such temporary appointment, within one week after the same shall have been made.

And We do hereby further declare and direct, that the persons who shall, from time to time, be duly appointed by the Governors of the said College and University to fill any or either of the said offices of Principal, Vice-Principal, Fellows, Professor, Lecturer or Tutor, shall not, nor shall any or either of them, be subject or liable to be removed by the said Governors, or by any other person or persons, from their said respective offices or employments during their several natural lives, unless for cause of misconduct, or incapacity duly proved, or inability to discharge their respective duties, or disobedience of the Statutes of the said College and University.

We do further, by these presents, for Us, Our Heirs and Successors, will and ordain, that the Council of the said College and University shall have power and authority, and it shall be their duty, to make Statutes, Rules and Ordinances, touching and concerning the meetings to be held by the Council (the number of which meetings shall be at least four in each year), and the time and place of such meetings; to deliberate and determine touching and concerning the nomination and appointment of Secretaries, Registrars and other Officers, and such Servants as they shall deem necessary to the proper management of the College and University; touching and concerning the duties, term of service, residence, salaries, stipend and provisions, of the aforesaid Secretaries, Registrars and other Officers, and such Servants as they may deem expedient to appoint. The said Statutes, Rules and Ordinances, made and established by the said Council of the College and University, to be presented to the Governors of the College and University, at their next meeting, for their approval and confirmation, at which meeting there must be present, at the least, a majority of the whole Governors of the College and University present in the Province.

And We do by these presents for Us, Our Heirs and Successors, grant and declare, that these Our Letters Patent, or the Enrollments, or the Exemptions thereof, shall and may be good, firm, valid, sufficient, and effectual in law, according to the true intent and meaning of the same; and shall be taken, construed and adjudged, in the most favourable and beneficial sense, for the best advantage of the said Governors, Council, Principal and Professors, of the said College and University of Montreal aforesaid, as well in all our Courts of Record as elsewhere, and by all and singular Justices, Judges, Officers, Ministers, and other subjects whatsoever, of Us, Our Heirs and Successors, any misrecital, omission, imperfection, defect, matter, cause or thing whatsoever, to the contrary notwithstanding, without fine or fee, great or small, to be for the same in

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)

10th April.

any manner rendered, done or paid, to Us in Our Hanaper, or elsewhere, to Our use.

In witness whereof we have caused these Our Letters to be made Patent: Witness Ourselves at Westminster, the \_\_\_\_\_ day of \_\_\_\_\_, in the \_\_\_\_\_ year of Our Reign.

No. 4.—Despatch from Sir C. BAGOT to Lord STANLEY,—transmitting revised Statutes of the Medical Faculty of M'Gill College for Her Majesty's approval.

GOVERNMENT HOUSE,  
Kingston, 2nd October, 1842.

MY LORD,

Vide Copy of  
Charter, No.  
30.

Under a Clause of the Charter of M'Gill College at Montreal, from which I enclose an extract, it is enacted that no Statutes or Regulations affecting the Studies, Lectures, Exercises and Degrees, in Arts and Faculties, shall have any force until ratified by Her Majesty.

Vide Copy of  
Statutes here-  
with, No. 32.

I have, therefore, occasion to trouble your Lordship with a copy of certain revised Statutes of the Medical Faculty of this College which have been recently adopted, and to request that your Lordship will obtain Her Majesty's sanction for the same with the least possible delay, as it is desirable that they should come into operation in the ensuing Session of the College, which will commence in November.

I have, &amp;c.,

(Signed,) CHARLES BAGOT.

The Right Honourable  
Lord STANLEY,  
&c. &c. &c.

No. 5.—Despatch from Lord STANLEY to Sir C. BAGOT,—signifying Her Majesty's allowance of the revised Statutes of the Medical Faculty of M'Gill College.

No. 273.

DOWNING STREET,  
11th November, 1842.

SIR,

I have received your Despatch, No. 199, of the 2nd of October last, enclosing a copy of certain revised Statutes of the Medical Faculty of M'Gill College, and requesting that, in compliance with the provisions of the College Charter, these Statutes may be laid before the Queen for Her Majesty's sanction.

I have accordingly had the honour to lay the Statutes in question before the Queen, and have received Her Majesty's commands to signify to you Her Majesty's allowance of them.

I have, &amp;c.,

(Signed,) STANLEY.

The Right Honourable  
Sir CHARLES BAGOT,  
&c. &c. &c.

No. 6.—Despatch from Lord METCALFE to Lord STANLEY,—transmitting Statutes and Appointments, by the Governors, for the Secretary of State's decision, and other Documents.

Appendix

(G.G.G.G.)

10th April.

(Copy.)

No. 80.

GOVERNMENT HOUSE,  
Kingston, 6th September, 1843.

MY LORD,

I have the honour to submit several Documents relating to M'Gill College at Montreal, an Educational Institution, of which the character and object, I presume, are not unknown to Your Lordship.

(A.)—A letter from the Governors of that Institution to me, with an enclosure containing copies of the proceedings of the Governors in 1842.

(B.)—The Statutes of the College, prepared by the Governors, which are of no effect until confirmed by Her Majesty.

Vide Statutes  
herewith, No.  
31.

(C.)—Appointments made by the Governors, which, if not disallowed by Her Majesty, will be valid.

(D.)—A Minute of proceedings of the Governors of the 15th July, 1843; and a copy of Correspondence between the Governors of M'Gill College and the Royal Institution at Quebec.

(E.)—A copy of the Charter, to facilitate reference.

Vide No. 30,  
herewith.

2. Your Lordship will have to determine, whether to confirm the Statutes, and whether to allow or disallow the Appointments.

3. The main point involved in these questions is, whether the Religious Instruction to be given at M'Gill College shall be exclusively that of the Church of England.

4. The grounds on which the Governors have adopted the affirmative of that proposition, and appointed a Divinity Professor of the Church of England, are ably stated in their letter to me. On the other hand, there are strenuous remonstrances against this arrangement, on the part of the Ministers of the other Protestant persuasions in the Province; and a strong feeling against it in the community; and the design manifested to connect the Institution, in that respect, exclusively with the Church of England, will most probably deprive it of that support from the Provincial Legislature, without which it will necessarily be crippled. The opinions, on this subject, understood to be prevalent in the Province, are likely to lead to discussions in the Legislature; and it may become necessary to modify the Institution so as to make it more suitable to public expectation and general utility. If, therefore, it rested with me, to determine on this reference, I should be disposed, either to disallow the Professorship of Divinity, or to suspend the decision until it could be seen that the Institution can stand on the footing on which the Governors have placed it.

5. I am, by the Charter, a Governor of the Institution, but have not acted in that capacity; at first, simply because more urgent business prevented my going to Montreal to take a part in the proceedings of the Governors; but subsequently, on reflection, for the following reasons:—I doubt the expediency of the Governor General's taking a part as one of the Governors of an Institution in which he may be

Appendix  
(G.G.G.G.)

10th April.

overruled by a majority, and apparently sanction measures which he disapproves.—The perusal of the Correspondence between the Governors of the College and the Royal Institution of Quebec, satisfied me that I ought not to place myself in a position which would render me liable to become a party concerned in such a correspondence, and subject to the assumed authority and controul of another Institution. The Income of the Institution having become a bone of contention between the Church of England and the other Protestant Churches, it appears to me to be right, that I should perform my part as Governor General without being embarrassed by proceedings to which I might be a party as a Governor of the College.

I have, &amp;c.

(Signed,) C. T. METCALFE.

The Right Honourable  
Lord STANLEY,  
&c. &c. &c.

A.

(Copy.)

MONTREAL, 31st May, 1843.

MAY IT PLEASE YOUR EXCELLENCY :

The undersigned beg leave respectfully to state, for Your Excellency's information, that Your Excellency, together with the Chief Justice of Canada West, and the undersigned, are the Governors of the University of M'Gill College. That at a meeting of the Governors of M'Gill College, held at Montreal on the Seventeenth day of June last, at which His Excellency, the late Sir Charles Bagot, was present; it was resolved, "That it is highly desirable to put M'Gill College into immediate operation to the extent which can be warranted by the present resources of the College."

That at a subsequent meeting held at the same place, on the Eighth day of August last, at which His Excellency the late Sir Charles Bagot was also present; it was resolved, "That the Chief Justice and the Principal, be a Committee to decide upon and submit to His Excellency for his approval, the following subjects connected with the opening of the College," viz:—

First.—With respect to the Professorships, Lectureships, and other Officers of the College.

Second.—With respect to the General Statutes of the University.

Third.—With respect to the precise period at which the College can be opened.

That, in accordance with this Resolution, the undersigned prepared a Code of Statutes for the College, and obtained applications from different persons, for the Office of Professors, Lecturers and Tutors, and a day was fixed for a meeting of the Governors at Kingston, for passing the Statutes and deciding upon the merits of these applications; but it unfortunately happened that unforeseen circumstances prevented that meeting from taking place.

That in the meantime the Chief Justice of Canada West, and the undersigned, had decided upon giving their votes to the Rev. F. G. Lundy, S.C.L., of the University of Oxford, as Professor of Classical Literature in the College. The knowledge of

which circumstance induced Mr. Lundy to remove to this City, from Quebec, in the expectation that his appointment to that Professorship would speedily be made.

That owing to the long protracted and much lamented illness of the late Governor General, it has not been in the power of the other Governors to take any action in the matters in question. That deeply impressed with the urgent necessity of bringing the College into as full operation as possible, with the least possible delay, the undersigned beg respectfully to request Your Excellency's sanction to the appointment of the Rev. F. J. Lundy, to the Professorship of Classical Literature, as well as your sanction to the Statutes; which will enable the undersigned to proceed, without further delay, to the adoption of such other measures as will be effectual for the purposes so earnestly desired.

The undersigned have the honor to be,

Your Excellency's  
Most obedient humble Servants,

(Signed,) VALLIERES DE ST. REAL,  
Chief Justice of Montreal.JOHN BETHUNE,  
Principal, M'G. C.

To His Excellency,  
Sir C. T. METCALFE, G.C.B.  
Governor General,  
&c. &c. &c.

(Copy.)

At a meeting of the Governors of M'Gill College, held at the Government House, Montreal, on the 17th day of June, 1842.

PRESENT :

His Excellency the Governor General.  
The Honourable the Chief Justice of Montreal.  
The Principal of the College.

It was Resolved,—

First.—That Oliver Theophile Bruneau, Esquire, be appointed to the Chair of Anatomy and Physiology, vacant by the death of Dr. Stephenson, with the Title of Lecturer on Anatomy, &c., in the University of M'Gill College.

Second.—That M. M'ulloch, Esq., be appointed to the Chair of Midwifery, and the Diseases of Women and Children, with the Title of Lecturer on Midwifery, &c., in the University of M'Gill College.

Third.—That in case of Dr. Robertson not being able to resume his duties in the University, in the course of the ensuing winter, it is agreed that Dr. Holmes shall be promoted to his Chair, and Dr. Hall to the one now occupied by Dr. Holmes, and that the Medical Faculty do recommend a competent person to fill the Chair which will thus become vacant.

Fourth.—That the proposed alterations in the By-Laws of the Medical Faculty, be adopted.

Fifth.—That Commissions be issued for those Lecturers who have not hitherto obtained them.

Sixth.—That it is highly desirable to put M'Gill College into immediate operation, to the extent

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)  
10th April.

which can be warranted by the present resources of the College.

(Signed,) CHARLES BAGOT,  
VALLIERES DE ST. REAL,  
Chief Justice of Montreal.  
JOHN BETHUNE,  
Principal, M'Gill College.

At a meeting of the Governors of M'Gill College, held at the Government House, Montreal, on the 8th day of August, 1842.

PRESENT :

His Excellency the Governor General.  
The Honourable the Chief Justice of Montreal.  
The Principal of M'Gill College.

It was Resolved,—

First.—That the Chief Justice and the Principal, be a Committee to decide upon and submit to His Excellency for his approval, the following subjects connected with the opening of the College, viz :—

With respect to the Professorships, Lectureships, and other Officers of the College.

With respect to the General Statutes of the University.

With respect to the precise period at which the College can be opened.

Second.—That His Excellency the Governor General be respectfully requested to recommend to the Provincial Legislature at the next Session, to grant £1,500 per annum, in aid of the current expenditure of the College; and further, to grant £5,000 for Philosophical Apparatus, the rudiments of a Library, and Furniture for the College.

Third.—That it is expedient for the interests of the College, that measures be taken to procure the passing of an Act at the next Session of the Provincial Legislature, repealing the Act 41st, Geo. III., cap. 17, and vesting the bequest of the late Mr. M'Gill, in the Corporation of the Governors of M'Gill College, and that the Chief Justice and the Principal, be authorized to communicate with the Board of the Royal Institution, on the subject, and to take the necessary steps for carrying this Resolution into effect.

CHARLES BAGOT.  
VALLIERES DE ST. REAL,  
Chief Justice of Montreal.  
JOHN BETHUNE,  
Principal, M'Gill College.

At a meeting of the Governors of M'Gill College, held at the Government House, Montreal, on the 8th of August, 1842.

PRESENT :

His Excellency the Governor General.  
The Honourable the Chief Justice of Montreal.  
The Principal of the College.

It was Resolved,—

That His Excellency the Governor General be respectfully requested to recommend to the Provin-

Appendix  
(G.G.G.G.)  
10th April.

cial Legislature, at the next Session, to grant £1500 per annum in aid of the current expenditure of the College, and further to grant £5,000 for Philosophical Apparatus, the rudiments of a Library, and Furniture for the College.

That it is expedient for the interests of the College, that measures be taken to procure the passing of an Act, at the next Session of the Provincial Legislature, repealing the Act 41 Geo. III., Cap. 17, and vesting the bequest of the late Mr. M'Gill in the Corporation of the Governors of M'Gill College; and that the Chief Justice and the Principal be authorised to communicate with the Board of the Royal Institution on the subject, and to take the necessary steps for carrying this Resolution into effect.

A true copy.

J. ABBOTT,  
Secretary, M'Gill College.

C.

M'GILL COLLEGE,  
July 14th, 1843.

SIR,

I am directed by the Governors of M'Gill College to transmit to you, for the information of His Excellency the Governor General, a copy of the Minutes of proceedings regarding certain appointments made by the Governors of the College, and it is respectfully requested that this announcement of the said appointments may be forwarded to Her Majesty's Principal Secretary of State for the Colonies, in compliance with the terms of the Charter.

I have the honour to be, &c.

(Signed,) F. J. LUNDY,  
Secretary to the Governors.

J. M. HIGGINSON, Esquire,  
Private Secretary.

At a meeting of the Governors of M'Gill College held on the 12th day of July, 1843.

PRESENT :

The Chief Justice of Montreal,  
The Chief Justice of Upper Canada, and  
The Principal of the College.

Resolved,—That the Reverend John Bethune, D.D., having been elected Principal of M'Gill College, at a meeting of the Governors held at Quebec on the 8th day of November, 1835, a Commission or Warrant of Appointment be now issued.

At a meeting of the Governors held on the 13th day of July, 1843.

PRESENT :

The Chief Justice of Montreal,  
The Chief Justice of Upper Canada, and  
The Principal of the College.

Resolved,—

1.—That the Reverend John Bethune, D.D., who has been elected Principal of M'Gill College, is now also elected and appointed Professor of Divinity in M'Gill College.

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)

10th April.

2.—That the Reverend Francis James Lundy, S.C.L. of the University of Oxford, and D.C.L. of this University, is now elected and appointed Professor of Classical Literature in M'Gill College.

D

MONTREAL, 15th July, 1843.

MAY IT PLEASE YOUR EXCELLENCY :

As Governors of the University of M'Gill College, we beg to lay before Your Excellency, for the purpose of their being transmitted to England, certain Statutes for the Organization and Government of the College, which have been passed at a Meeting of the Governors, held on the 12th July instant, and the two following days. We do this in compliance with the provision of the Royal Charter erecting the University, which requires that the appointments of the Principal and Professors shall be immediately notified to Her Majesty, through one of Her Principal Secretaries of State, in order that the power which the Charter reserves to the Crown of disapproving of any such appointment may, if necessary, be exercised; and in observance, also, of that other provision of the Charter, which declares that no Statutes, Rules or Ordinances, made by the Governors of the College, shall have any force or effect, until allowed and confirmed by Her Majesty, Her Heirs and Successors.

Your Excellency is aware, that by the Charter granted in 1821, it was provided that the affairs of the College should be directed by seven Governors, of whom the Governor of Lower Canada, the Lieutenant Governor of Lower Canada, the Lieutenant Governor of Upper Canada, the Bishop of Quebec, the Chief Justice of Montreal, and the Chief Justice of Upper Canada, were to be six, and the Principal of the College was to be the seventh. In consequence of changes which have been made of late years, there is now no longer a Lieutenant Governor of Lower Canada or of Upper Canada, nor a Bishop of Quebec.

There remains, therefore, but four Governors of the seven provided by the Charter.

The election of Principal and Professors, it is declared, shall be made by the major part of such of the Governors as shall be present at any Meeting to be holden for that purpose; and the Charter provides that the Governors, or the major part of them, shall have power to make Statutes, Rules and Ordinances.

What we now lay before Your Excellency, to be transmitted to Her Majesty, are the proceedings of a Meeting, at which three of the four remaining Governors of the Institution were present. As there is no Statute, Rule or Ordinance, among those now laid before Your Excellency, in which we have not all concurred, and to which we have not all concurred, and to which we are not all fully consenting, nor any appointment in which the Governors have not been unanimous, with the exception of the appointment of Dr. Bethune, to which, of course, he was not a party, it will be seen that the requisitions of the Charter have been complied with, the Statutes having been passed by a majority of the Governors of the College, and the appointments having been made by a majority of those present at the Meeting.

The deficiency in the number of Governors cannot be supplied under any power given by the Charter, and considering how few there are, it has been much

regretted by us, that in consequence of the pressure of public business, Your Excellency, as one of the Governors, could not be present at this Meeting, and could not conveniently name a day on which you could engage to attend at Montreal, in order to promote the progress of an Institution in which, we are convinced, Your Excellency cannot but feel a strong interest.

We have the honor to send Your Excellency a copy of the Minutes of Proceedings at a Meeting of the Governors of M'Gill College, held at Montreal on the 8th day of August, at which Your Excellency's predecessor, the late Sir Charles Bagot, attended as a Member of the Board.

The subsequent illness of His Excellency, and his lamented death, have rendered unavoidable the delay which has occurred in carrying into effect the measures which were then determined upon. Of the causes which had occasioned a suspension of proceeding through the long period elapsed since the granting of the Charter, it is not necessary for us now to speak, for they are well known to the Government of this country and to the Colonial Department. So soon as the termination of a protracted contest with the residuary Devisee of Mr. M'Gill, the Founder, enabled the Royal Institution and the Governors of the College to take measures for erecting suitable buildings, the design was proceeded with, and the Resolutions of the Governors at the Meeting held on the 8th of August, 1842, to which we have referred, commenced the series of measures for bringing the University into actual operation, which we have now endeavoured to mature.

In this letter, which Your Excellency may perhaps think proper to transmit to Her Majesty's Secretary of State at the same time with the Copy of the Statutes, we shall not trouble Your Excellency with unnecessary explanations of matters which may be sufficiently understood without them, though it will afford us pleasure to comply with any call for information which may be conveyed to us. There are a few points, however, on which it may be useful that we should now make some observations.

It will be but too obvious that the College is proposed to be established, in the first instance, upon a scale by no means such as can be said to embrace a perfect system of instruction. This is inevitable, for two reasons:—1st. The Charter, in directing that there shall be four Professors, leaves it doubtful whether more can be appointed consistently with that provision.

We have not that fixed opinion on this question which would lead us to decline appointing an additional number if, in the opinion of the Law Advisers of Her Majesty, there should seem to be no objection; but considering that all the Professors are to have certain privileges and powers in the management of the affairs of the College, and that the question of their legal standing is therefore connected with other matters besides the mere dispensing of instruction, we are unwilling to make appointments where the ground would be in the least questionable. We beg, therefore, respectfully to request that Her Majesty's Secretary of State will have the goodness to inform us whether, in the opinion of the Law Officers of the Crown, the Governors can appoint more Professors than four, consistently with the Charter, of which we enclose a copy.

The other reason which compels us to commence on a scale so limited, is the scantiness of our means. At present, the resources of the College, arising from

Appendix  
(G.G.G.G.)  
10th April.

the property bequeathed by the Founder, supply only an annual income of £560 Provincial currency, and that not clear of deductions.

The Legislature has occasionally appropriated £500 annually, in aid of these funds, and though we trust there can be no danger of this assistance being withdrawn, after the College shall have begun to be more extensively useful to the Province; yet, it is incumbent on us, to consider that even this small aid is not permanently assured to the University, and that to enable us to go beyond what we have now proposed, it will be necessary that the funds should be very considerably increased.

Under judicious measures which may be enacted by the Legislature, the Corporation of M'Gill College may receive power to grant beneficial leases of some of the land devised by the Founder, and may add very considerably to their revenue, by such means; but those requisite powers are not yet given, and time will be required for carrying them into execution.

To meet the exigency of the present moment, we earnestly hope that the liberal suggestion in which the late Governor General concurred, will be acted upon with effect, by Your Excellency and the Legislature, and with as little delay as may be consistent with the unspeakable importance of the object to be obtained. In Lower Canada, which is supposed to contain a population of not less than 800,000 souls, there is at present, (except in regard to the Medical Faculty which has been established for some years, under the same Charter,) no seat of Learning, either Catholic or Protestant, in which a Degree can be conferred in any Art or Science. This is a defect which, we believe, has not existed since the era of civilization, among so large a community of British subjects, and we very anxiously hope, that from this moment, no time may be lost in establishing M'Gill College upon such a footing as may command the confidence of the country, and enable the Institution, though indeed too tardily, to answer the purposes contemplated by its munificent Founder.

There is one point (and it is the last) upon which, from the interest naturally and properly attached to it, we are aware much discussion may arise, and upon which, from its paramount importance, we desire, above all things, to be open and explicit.

It will be found, on examination of the Statutes now submitted, that no test of a religious character is requisite, either from the Teachers or Scholars. Persons of any religious creed, may, therefore, dispense Instruction or receive it, except as regards religion itself, the College being equally open to all. But it will be found also, that it is proposed to be distinctly made a Statute of the College, that no Professor, Lecturer, or Tutor, shall teach within it any principles contrary to the doctrines of the United Church of England and Ireland.

We have not been able to bring ourselves to take part in the establishment of an Institution for the Education of Youth, without making provisions for their Religious Instruction, and for inculcating as a duty, the worship of their Creator. We have therefore made certain Statutes respecting the performance of, and attendance at, Divine Service, and we have established, so far as our power extends, a Professorship of Divinity in our College.

Taking these provisions in connection with the Statutes which enjoins that nothing contrary to the doctrines of the United Church of England and Ireland shall be taught within the College, it follows

obviously (and this we wish to be plainly understood) that the Divine Service to be performed and the Professorship of Divinity to be established, will be of the Church of England, and of no other. But we have been careful at the same time to exempt from any necessity of attending Divine Service, or of being present at the Lectures on Divinity, all such Scholars, being members of other Religious Communities, as may desire a dispensation.

Knowing the diversity of opinions entertained respecting the footing on which religious instruction should be placed in Seats of Learning, and how futile have been the efforts made to reconcile them, we came to the consideration of this subject with a dire sense of its difficulty, and with much anxiety that we should ourselves arrive at the soundest and best conclusion, and that our conclusion may, for the sake of the Institution and of the Province, be sanctioned by that authority to which under the Statute it must be submitted. We offer no further arguments for the propriety of not leaving religious instruction and public worship unattended to, or inadequately provided for, in a College which is destined to conduct in a Christian country the education of Youth at a period of life when they are most exposed to temptations, and when, if ever, the attempt should be made to furnish them with the highest and most sacred motives to the discharge of their religious and moral duties.

We do not believe that there is, rationally speaking, a choice between the two alternatives, of omitting wholly to establish any system of religious instruction and public worship in the College, or of providing for it by placing the Institution in strict and acknowledged connection with some one recognized Church or form of Doctrine. Not assenting to the former course, we have unanimously agreed on the latter, and we have in favour of the course we have adopted the examples of the Universities of the Mother Country, which have been for ages looked up to with undiminished confidence and respect. We have also in its support the acknowledged favour of an experiment made in England under many advantages to recommend it to public favour, an University established on other principles; and we have, in addition to this, the very strong arguments to be derived from the well supported and most useful Institutions of learning established in Lower Canada in strict connection with the Roman Catholic Church, and from the efforts made by the Roman Catholics, the Church of Scotland, and the Methodist Society to found Colleges in Upper Canada as closely connected with their respective religious bodies—Colleges in which there is not only nothing taught contrary to their respective Creeds, but in which the whole government and business of the Institution is carefully confined to those who profess the one form of Doctrine.

We have considered, too, that while these Religious Bodies, comprising together the great bulk of the population, have given this strong and plain evidence of their conviction that this system is the soundest, they have not thought it unreasonable to solicit the aid and countenance of the Government and the Legislature towards the establishment of such Colleges, and have not found their solicitations hopeless. So far as regards our Roman Catholic fellow-subjects, who form a great majority of the population in this portion of Canada, we do not apprehend that we shall be offending any prejudices of theirs, for we believe they would be as unwilling to throw impediments in the way of Institutions of Learning not intended to belong exclusively to their Church, as they would be reluctant to admit the interference of

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)  
10th April

others in the management of their own valuable Seminaries, where the exclusive maintenance of one form of Doctrine and Worship tends to secure in all respects the advantages of unity and peace.

It then only remains, in the view which we have taken of the subject, that we should state shortly the reasons which have led us, where we thought a connection with some one Church should be established and acknowledged, to make that Church the Church of England.

They are these:—1st. The Founder, Mr. M<sup>c</sup>Gill, is silent in his Will upon the subject of religion, and gave no direction to which these Statutes will be repugnant. He was himself a Member of the Church of England, in communion with that Church. We do not feel at liberty to imagine that he desired religious instruction to be excluded, and we think it reasonable to believe that in selecting some Church whose ministrations should be recognized in the College which he intended to found, he would naturally have desired the choice to fall on that Church of which he was a member.

2nd. The Charter which appoints us to be Governors, declares that His Majesty desired the erection of this University in order to the instruction of youth in the principles of true Religion, as well as in the different branches of Science and Literature; and whatever may be the honest convictions of opposing Churches and Sects, we think it right to assume, that when the Sovereign speaks of the principles of true religion, he means that which is the prevailing National Religion of the British Empire, and which he must himself have solemnly professed. We consider, therefore, that in placing M<sup>c</sup>Gill College on the footing proposed, we have taken the only course which we could satisfactorily account for, whatever may be the opinions or acts of others, whom it does not rest with us to controul.

3rd. While other Religious Communities have their separate Colleges closely connected with their form of Doctrine and Worship, and partaking of Public support, there is none in the Province of Canada which is bound by plain and acknowledged ties to the Church of England. We have felt it not to be unjust or illiberal to allow to the members of that Church this advantage so desirable to themselves, in an Institution founded by the munificence of one of their communion, while the youth of all other Religious bodies may, in the discretion of themselves and their parents, resort to it for instruction in the several branches of Science, with the assurance that no attempt will be suffered to be made to bias their religious belief; and with the satisfaction at the same time of knowing, that whenever instruction in Religion may be desired, it cannot be uncertain in what form it will be conveyed.

We hope that our fellow-subjects of all persuasions will view, without jealousy or alarm, the provisions which we have proposed to make on this subject, and that they will carry their liberality so far as to give efficient aid to an Institution, founded, as we believe, on the only principles of which reason and religion can approve—namely, the principle of giving it a known and acknowledged religious character. At all events, we have not refrained from adopting that course which our judgment has led us to prefer; we have had no difficulty in resting in the conclusion which we have come to, and no difference of opinion among ourselves. It now rests with Her Majesty to dispose of these measures, which we humbly submit to the Royal consideration.

Your Excellency having been unable to take any part, as a Governor, in our proceedings, you will be

in a situation to express your sentiments upon them unfettered by any previous connection with the subject. We are sensible of the influence which Your Excellency's opinion cannot fail to have; in deciding the future fortunes of the University, and though we can neither expect nor desire that those opinions should not be wholly formed, as our own have been upon a deliberate consideration of the questions involved, we shall be most happy to find that the course we have taken is supported by Your Excellency's judgment. We shall, in that case, hope to see M<sup>c</sup>Gill College speedily raised by Your Excellency's earnest promotion of its interests, to be an important seat of Learning, doing honour to the memory of its Founder, and supplying a want in Lower Canada, too striking not to have been very generally felt and lamented.

We have the honour to be,  
Your Excellency's obedient and  
Faithful Servants,

(Signed,) VALLIERES DE ST. REAL,  
Chief Justice of Montreal.

J. B. ROBINSON,  
Chief Justice of Upper Canada.

JOHN BETHUNE,  
Principal M<sup>c</sup>Gill College.

M<sup>c</sup>GILL COLLEGE, June 22, 1843.

REVEREND SIR,

I am desired by the Governors of M<sup>c</sup>Gill College, to inform the Board of the Royal Institution, that they have decided upon opening the College for the reception of Students, about the first week in September next.

I am further desired by the Governors, to request that the Board will inform them what sum it is in the power of the Board to place at their disposal, in order to enable them to provide, as far as possible, the necessary furniture and other indispensable preparations for the due opening of the College, without diminution of the annual income of £559 odd, formerly stated to be realized from the bequest of the late Mr. M<sup>c</sup>Gill.

I have the honour to be,  
Reverend Sir,  
Your obedient Servant,

(Signed,) F. J. LUNDY,  
Secretary to the Govrs. of M<sup>c</sup>G. C.

The Reverend R. R. BURRAGE,  
Secretary Royal Institution.

ROYAL INSTITUTION OFFICE,  
Quebec, 28th June, 1843.

REVEREND SIR,

In answer to your letter to me, of 22nd instant, I am directed by the Board of the Royal Institution, to request you to furnish the Board with a detailed statement of the articles of Furniture, &c., proposed to be obtained for the M<sup>c</sup>Gill College, and of the other indispensable preparations for the opening of the College, with an estimate of their cost, to enable the Board to decide on the reference made thereupon.

Appendix  
(G.G.G.G.)  
10th April

Appendix  
(G.G.G.G.)

10th April.

In answer to your letter of the same date, addressed to the Honourable A. W. Cochran, and read this day to the Board, I am directed to inform you that the Board of the Royal Institution are quite willing to take into consideration, the propriety of an advance for the purpose specified, so soon as they receive a statement of the sums received by the Governors of the M'Gill College from the Burnside Estate and from Government, and the application thereof, without which, the Board feel themselves precluded from entering upon the consideration of your request.

I have the honour to be,  
Reverend Sir,  
Your most obedient Servant,

(Signed,) R. R. BURRAGE,  
Secretary R. I.

The Reverend  
F. J. LUNDY, S.C.L.  
M'Gill College, Montreal.

MONTREAL, 1st July, 1843.

REVEREND SIR,

In reply to the first part of your letter of the 28th ultimo, I am directed by the Governors of M'Gill College to say, that it is impossible for them to form any precise estimate of the expenditure which may be required in making the necessary preparations for the opening of the College. It may be generally stated, that besides Furniture and fittings for the College Hall and Class Rooms, some Out-buildings are required, as well as some ameliorations of the College grounds. But, if the Board inform the Governors what amount can be spared for that purpose, without prejudice to the annual income before stated, they will restrict the expenditure to that amount, as nearly as possible. I am also directed to say, on this subject, that £500 was placed at the disposal of the Vice-President of King's College, for a similar purpose; and that the Governors of M'Gill College are of opinion that an equal sum at least will be required here, without including the expense of a Philosophical Apparatus, Mathematical Instruments and Books.

In reply to the second part of your letter, I am directed to state that the Governors of M'Gill College cannot recognize the right of the Board of the Royal Institution to demand from them any account of monies which they have not received from the Board; nor can they acknowledge the principle of making the payment of the Salaries of the Officers of the University contingent upon any such demand; but in mere courtesy to the Board, they refer them to the Minutes of a meeting of the Governors, held at Québec, 14th November, 1836, (copy of which is in your possession) by which the Burnside property was placed in the occupation and charge of the Principal, until the College should be brought into actual operation, and to say that the Governors consider the nett proceeds of that property, during the above stated period, to belong to the Principal, as a small remuneration for his services in that capacity.

I am directed to add, that they have received no money from Government, at any time.

I have the honour, &c.,

(Signed,) F. J. LUNDY,  
Secy. to the Govrs. of M'G. C.

The Rev. R. R. BURRAGE,  
Secretary R. I.,  
Quebec.

ROYAL INSTITUTION OFFICE,

Quebec, 4th July, 1843.

REVEREND SIR,

The Board of the Royal Institution having this morning taken into consideration your letter of the 1st instant, adjourned to Friday next, when any communication resolved on will be made to you without delay.

I have the honour, &c.,

(Signed,) R. R. BURRAGE,  
Secretary R. I.

The Rev. F. J. LUNDY, S.C.L.  
Secy. to the Govrs. M'Gill College,  
Montreal.

ROYAL INSTITUTION OFFICE,

Quebec, 7th July, 1843.

REV. SIR,

Having laid before the Board of the Royal Institution your letter of the 1st instant, I am directed by them to acquaint you in answer thereto, for the information of the Governors,—

1st.—That they do not imagine it can be difficult for the Governors to state what furniture and fittings, or other preparations, are required for the College Hall or Class Rooms, or to procure from a carpenter or other mechanic or tradesman an estimate of the probable expense, which is all the Board require; and that, until this is done, the Board can come to no determination on the subject.

2ndly.—That the Board do not feel themselves justified, in the present state of the funds of the Trust, in expending any part of them in improving the College Grounds, or in erecting out-buildings, unless such as are indispensably required, in order that the Building may be opened for the reception of Students.

3rdly.—That the sum of £559, heretofore stated by the Board as the annual income of the unexpended funds of the Trust, is only the gross income, subject, as the Governors must be aware, to various deductions for insurance, repairs, agency, and other contingencies.

4thly.—That the Board do not intend that the payment of the salaries of the Officers of the University, regularly appointed and employed in their duties, should be contingent on an account being rendered by the Governors to the Board, of monies received by the Principal for the rent or use of the Burnside Estate; but the Board, claiming as Visitors a right to inquire into the expenditure of monies received by one of the Governors from the Estate of the Testator, have declined, and will decline until such account is rendered, to accede to the demand made by the Governors resident at Montreal, for payment out of the other funds of the Trust, of a sum of money for a back period to a Professor who has never been regularly appointed, and has done no duty as such.

5thly.—That the Board still insist upon, and will by all lawful means enforce their right as Visitors, to enquire into the expenditure by the Governors of all monies that pass into their hands, arising in any way from the Estate and funds given in trust to the Board by the Testator.

Appendix  
(G.G.G.G.)

10th April.



Appendix

(G.G.G.G.)

10th April.

6thly.—That the Minute of the Board of 14th November, 1836, did not place the Burnside Property in the occupation and charge of the Principal.

7thly.—That by that Minute it appears, that the Governors then recognised and admitted the controul of the Board over the rents of Burnside, by applying to the Board for a grant of monies from that source which they received.

8thly.—That the Board deny the right of the Principal to divert to his own use the net proceeds of that property during his occupation of it, and to cover that misapplication by alleging now that the Governors consider it a small remuneration for his services in that capacity. First, because the Principal never advanced any claim, or intimated any claim for remuneration, until he was called upon to account for the sums he had received; and that before Dr. Bethune vacated the premises, the Board were induced, in order to get possession of them, to pay him a considerable sum, by way of compromise, for the improvements he had made while in occupation, but that he then made no claim on account of personal remuneration. Secondly, because if he really considered himself entitled to such remuneration, the proper way to obtain it was not by paying himself. Thirdly, because the ground on which he was allowed to go into possession of Burnside, was to take care of the house and estate, and the benefit he derived from the farm and house was more than a remuneration for his services as Principal. Fourthly, because the claim of the Principal, now first advanced, to retain the rents as a personal remuneration, is inconsistent with the statement before made by him, in his letter of 26th July, 1841, when the Board called for an account of the rents.

9thly.—That whatever may have been the amount of those proceeds, and however they may have been applied, the Board only ask an account of them when called upon to advance monies from another fund; and claim that account as a matter both of right and of just dealing.

I have the honour, &c.,

(Signed,) R. R. BURRAGE,  
Secretary, R. I.

The Reverend

F. J. LUNDY, S.C.L.,  
M'Gill College, Montreal.

No. 7.—Despatch from Lord STANLEY to the Right Honourable Sir CHARLES T. METCALFE, Bart., G.C.B.—Her Majesty's decision on the Statutes and Appointments suspended.

(Copy.)

No. 105.

DOWNING STREET, 13th October, 1843.

SIR,

I have received your Despatch of the 6th September, 1843, No. 80, with its enclosures, on the subject of M'Gill College. The perusal of those Documents has satisfied me of the correctness of your judgment in declining to participate, in your capacity as a member of the Corporate Body, with the question in debate between them and the Royal Institution of Quebec. It is evident that those questions cannot be decided without the intervention

of the Legislature of Canada, and that it must rest with the Provincial Parliament to determine whether pecuniary aid shall or shall not be afforded to the College. In this state of affairs you judged wisely in reserving to yourself a discretion perfectly free and unfettered, to be exercised after, and not before, the deliberation of the Legislature.

The same motives which dissuaded your interference in anticipation of the views of the Canadian Parliament, must prevent my tendering any advice to the Queen regarding the Statutes and the Official appointments mentioned in your Despatch, until those views shall first have been ascertained. It could answer no useful purpose, but may lead to a most embarrassing controversy if, by the confirmation of those Statutes, and by a deliberate acquiescence in those appointments, Her Majesty should hazard a collision on such topics as these, between the Royal Authority irrevocably exercised, and the future recommendation of both or either of the Houses of local Legislature. Consequently, until I shall be apprized of the results of their deliberations, the decision of the Queen regarding the Statutes and the appointments will be suspended.

With reference to the proposal of the Governor of the College, that Her Majesty's legal advisers should be consulted as to the extent of the powers of appointing Professors conferred by the Charter, I would observe, that I can perceive no reason why the Governors should not decide that question on their own judgment and responsibility, aided by such legal advisers as they may themselves see fit to consult. It is not usual, and it would be obviously inconvenient, that the Executive Government should interpose to aid by advice or direction the proceedings of any corporate body, whether of a Royal or a private foundation.

I have, &c.,

(Signed,) STANLEY.

Governor

The Right Honourable  
Sir CHARLES METCALFE, G.C.B.  
&c. &c. &c.

No. 8.—Despatch from Lord METCALFE to the Right Honourable Lord STANLEY,—transmitting Correspondence with the Governors of M'Gill College.

(Copy.)

No. 12.

GOVERNMENT HOUSE,

Kingston, 17th January, 1844.

MY LORD,

I submit herewith copies of Correspondence with the Governors of M'Gill College;\* which I do in compliance with their expressed desire that I should bring the subject thereof under your Lordship's notice.

2. I avail myself of the opportunity to state, that no attack was made on M'Gill College, in the shape

\* Reverend J. Abbott to Mr. Secretary Higginson, 20th December, 1843.

Mr. Higginson to Mr. Abbott, 23d December, 1843.

Mr. Abbott to Mr. Higginson, 29th December, 1843.

Mr. Higginson to Mr. Abbott, 3d January, 1844.

NOTE.—The letters of Captain Higginson are not on record in the Department of the Governor General's Secretary, no copies appearing to have been kept.

Appendix

(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)

10th April.

of a Bill, during the late Session. The Institution perhaps owes its escape to the prudence of the French Canadian party, who having several Roman Catholic Colleges that are exclusive, are not disposed generally to join in attacking other Institutions on account of their exclusiveness, lest the same weapons should be turned against their own.

3. Under those circumstances, M'Gill College being in Lower Canada, appears to be in a safer position than it seemingly occupied before the late Session; and I do not consider the expediency of withholding confirmation of their Statutes and allowance of their Appointments to be so urgent as I then conceived it to be. Nevertheless, it is not certain that the Institution may not be attacked in any future Session, for the Presbyterians and Dissenters of all classes are bent on destroying the exclusive character which it has acquired in the hands of the Church of England.

I have, &amp;c.

(Signed,) C. T. METCALFE.

The Right Honorable  
Lord STANLEY,  
&c. &c. &c.

(Copy.)

M'GILL COLLEGE,

20th December, 1843.

SIR,

I am directed by the Governors of M'Gill College to inform His Excellency the Governor General, that they have good reasons for believing that secret communications adverse to the approval by Her Majesty of the Statutes and Appointments made by them at their Meeting in July last, have been made to the Secretary of State for the Colonies, through some irregular channel.

The Governors therefore beg leave most respectfully and earnestly to solicit His Excellency to have the kindness to request from the Secretary of State for the Colonies copies of any such communications, in order that they may have an opportunity of remarking upon them, and perhaps of removing any impressions which may have thus been made to prejudice the mind of Her Most Gracious Majesty in her decision with regard to those Statutes and Appointments.

I have, &amp;c.,

(Signed,) J. J. C. ABBOTT,  
Acting Secy. M'Gill College.

J. M. HIGGINSON, Esquire,  
Private Secretary,  
&c. &c. &c.

(Copy.)

M'GILL COLLEGE,

December 29th, 1843.

SIR,

I am directed by the Governors of M'Gill College to express their thanks to His Excellency the Governor General, for his communication conveyed to them in your letter of the 23d instant, and to beg to be permitted to substitute the following for my letter to you of the 20th instant.

Appendix  
(G.G.G.G.)

10th April.

The Governors of M'Gill College beg leave to inform His Excellency the Governor General, that in consequence of a recent Correspondence had by them with the Board of the Royal Institution and with the Bishop of Montreal, they feel no doubt that His Lordship has made secret communications to Her Majesty's Principal Secretary of State for the Colonies, through some irregular channel, adverse to the approval by Her Majesty of the Statutes and Appointments made by them at their Meeting in the month of July last.

The Governors therefore most respectfully and earnestly request, that His Excellency will have the kindness to convey to Her Majesty's Principal Secretary of State for the Colonies, his confident hope that no communications except such as pass through His Excellency's hands, thereby affording the Governors an opportunity of remarking on them, will be allowed to influence Her Majesty's decision with reference to those Statutes and Appointments.

I have, &amp;c.,

(Signed,) JOS. ABBOTT, A.M., Sec.

Per F. J. LUNDY, V. P.

M'Gill College.

J. M. HIGGINSON, Esquire,  
Private Secretary,  
&c. &c. &c.

No. 9.—Despatch from Lord STANLEY to the Right Honourable Sir CARLES METCALFE, Bart.,—acknowledging the receipt of the Correspondence with the Governors of M'Gill College; his views respecting the Statutes and Appointments remaining unchanged.

(Copy.)

No. 178.

DOWNING STREET,

15th March, 1844.

SIR,

I have had the honour to receive your Despatch of the 17th of January, No. 12, with copies of your correspondence with the Governors of M'Gill College, in reference to certain communications which are supposed to have been made to me, with the view of influencing the decision of the Queen, upon the Statutes and Appointments of the College, which are now under consideration.

I do not think it necessary to affirm or deny the accuracy of the information of the Governors of the College, with respect to the existence of any correspondence between the Bishop of Montreal, or any other person and myself, on this question. I am content to leave these gentlemen to draw their own conclusions from the very appropriate replies which you returned to their letters.

With respect to the more important subject noticed in your Despatch, viz., the present condition of the College, I have only to remark, that the question does not appear to have made any advance since I last wrote to you on the 13th of October, and that it is still absolutely necessary that the aid of the Legislature should be obtained to enable the College to go into operation. I cannot but regret that the circumstances of this Institution should have hitherto prevented the Province from deriving the benefit which

Appendix  
(G.G.G.G.)

10th April.

its Founder contemplated; and as the chief obstacle at present consists in the want of funds, I am of opinion that measures should be taken next Session, to procure the requisite assistance from the Legislature.

It is clear, that until it be ascertained that the College has the means of carrying out the objects for which it was established, it would be premature for Her Majesty to allow or confirm the Statutes.

I have, &amp;c.,

(Signed,) STANLEY.

The Right Honourable  
Sir CHARLES METCALFE, Bart.,  
&c. &c. &c.

No. 10.—Private Despatch from Lord STANLEY to the Right Honourable Sir CHARLES METCALFE, Bart.,—recommending that the College should be put in operation on a smaller scale; and, if necessary, the Appointments will be disallowed.

(Copy.)

Private.

DOWNING STREET,  
15th March, 1844.

SIR,

In my public Despatch of this day's date, I have informed you that the Queen would not be advised to confirm the Statutes passed for the Government of M'Gill College, until sufficient funds should have been realized to enable the College to commence proceedings on the scale contemplated by the Governors of that Institution.

As I understand the state of the case, this assistance can be hoped for only from the Provincial Legislature, and, if refused in that quarter, the effect of this decision will be to prevent the College going into operation at all on its present plan; while its Officers will be left in the receipt of salaries, without rendering any efficient service in return. Such a state of things ought not, of course, to be allowed to continue. Without the assistance of any opinion from you on the mode in which a remedy can be applied, I am able only to suggest what occurs to myself on the subject; and, judging from the information before me, it appears to me that the best course would be to point out, privately, to the Governors, the great obloquy to which they would be justly exposed in permitting the funds of the Institution to be expended in maintaining sinecure Offices, as, in the case I suppose, would necessarily be the result, and to point out to them, that, if funds cannot be obtained for carrying out the present scheme, arrangements should be made for opening the College on a smaller scale, and with reduced salaries to the Instructors. In the event of your adopting these views, however, I am sensible that it may be necessary, in the very possible case of their not being also adopted by the Trustees, that you should have it in your power, at least to prevent the useless expenditure of the funds of the Institution, and, as this could only be done by disallowing the appointments which have been made to Offices in the College, you have my authority to intimate to the holders of them, that it will be my duty, should you advise it, to recommend that the

appointments should be disallowed, as well as that the Statutes should not be confirmed.

I have, &amp;c.,

(Signed,) STANLEY.

The Right Honourable  
Sir CHARLES METCALFE, Bart.  
&c. &c. &c.

Appendix  
(G.G.G.G.)

10th April.

No. 11.—Despatch from Lord METCALFE to the Right Honourable Lord STANLEY,—relative to the appointment of Messrs. Wickes and Chapman to certain Offices in the College.

(Copy.)

No. 43.

GOVERNMENT HOUSE,  
Kingston, 7th March, 1844.

MY LORD,

I have the honour to submit the accompanying copy of a letter from the Acting Secretary of M'Gill College, forwarding Minutes of proceedings by the Governors, relative to the appointment of Mr. Wickes and Mr. Chapman to certain Offices in the College.

I have, &amp;c.,

(Signed,) C. T. METCALFE

M'GILL COLLEGE,  
February 29th, 1844.

SIR,

I am directed by the Governors of M'Gill College to transmit to you, for the information of His Excellency the Governor General, a copy of the Minutes of proceedings regarding certain appointments made by the Governors of the College; and it is respectfully requested that this communication of the said appointments may be forwarded to Her Majesty's Principal Secretary of State for the Colonies, in compliance with the terms of the Charter.

I have the honour to be, &amp;c.,

(Signed,) J. J. ABBOTT,  
Acting Secretary, M'G. C.

J. M. HIGGINSON, Esq.,  
Private Secretary.

At a Special Meeting of the Governors of M'Gill College, held in Montreal the 20th day of February, 1844.

PRESENT:

The Chief Justice of Montreal.  
The Principal of the College.

Resolved.—That William Wickes, Master of Arts of Trinity College, Cambridge, be now elected and

Appendix  
(G.G.G.G.)

10th April.

appointed Professor of Mathematics and Natural Philosophy in M'Gill College.

A true extract.

(Signed,) J. J. ABBOTT,  
Acting Secretary, M'G. C.

NOTE.—The appointment of Mr. Chapman, whose name appears in Lord Metcalfe's Despatch of the 7th March, 1844, being to an office which did not require Her Majesty's confirmation, was subsequently withdrawn by the Governors.

No. 12.—Despatch from Lord METCALFE to the Right Honourable Lord STANLEY,—enclosing Communications from the Governors requesting decision on Statutes.

(Copy.)

No. 146.

GOVERNMENT HOUSE,

Montreal, 12th Sept., 1844.

MY LORD,

At the request of the Governors of M'Gill College, I have the honour to transmit the enclosed letter addressed to Your Lordship.

2. This was brought to me yesterday, by the Governors then present at Montreal—namely, the Bishop of Montreal, the Chief Justice of Upper Canada, and the Principal of the College. They also delivered a letter to myself, of which a copy is enclosed.

3. The financial prospects of the Institution appear to be more promising than was formerly anticipated, and other circumstances have, for the present, allayed the fervour of attack on its supposed exclusiveness that was at one time working. I am not, therefore, aware of any peculiar local objections to the confirmation of the Statutes, if they have Your Lordship's approval; and it is desirable for the successful operation of the Institution. Its extension so as to render it less exclusively one of the Church of England, will most probably become a subject for deliberation. With regard to the Medical Branch, this exclusiveness does not exist.

I have, &c.,

(Signed,) C. T. METCALFE.

The Right Honourable  
Lord STANLEY,  
&c. &c. &c.

(Copy.)

MONTREAL, 11th Sept. 1844.

MY LORD,

The Governors of M'Gill College, at a meeting held this day, have resolved to address Your Lordship through me, as the presiding Governor, earnestly requesting that the Statutes framed in July, 1843, for the Government of the College, or such of them as may be approved by Her Majesty, may, as speedily as circumstances will admit, be returned through His Excellency the Governor General, with Her Majesty's gracious allowance.

Appendix  
(G.G.G.G.)

10th April.

These proposed Statutes were without delay, laid before His Excellency the Governor General, in order to their being transmitted to Your Lordship, and the Governors have been informed that they have not yet been returned. They have been further informed, that no intimation has been received by His Excellency the Governor General, of an intention on the part of Her Majesty, to reject any of the proposed Statutes, or of any doubt being entertained, regarding the propriety of confirming them; but, that the reason assigned for delaying to act upon the reference made in conformity to the Charter, is, that it does not appear to Her Majesty, that the College has the means of sustaining itself on a reasonable scale of efficiency.

Upon that point, the Governors respectfully beg leave to state to Your Lordship, that besides the Medical Faculty which has been for some years established, Professors have been appointed, of Divinity, of Classical Literature, and of Mathematics and Natural Philosophy, and a Lecturer in Divinity and in Civil Law.

It is, no doubt, to be wished that the Governors had it in their power to provide for instruction in other departments of Science, as well as to assign more liberal Salaries to those who are engaged in the service of the Institution. But after the great delay which had been already suffered, they were anxious to withhold no longer from the Province, the advantages, which, on however confined a scale, might be made to flow from the benevolent intentions of the late Mr. M'Gill, the Founder of the College; and the Governors are persuaded that Her Majesty will deem it very important that the College should be enabled to proceed regularly and efficiently, even in their present limited system of instruction, when it is considered that in a territory probably containing as many as 800,000 inhabitants, there is no other Institution authorised to confer Degrees in the Arts and Sciences, nor any other Protestant Institution partaking of the character of a College.

To maintain M'Gill College, according to its present establishment, (leaving out of view the Medical Faculty) requires an annual expenditure of rather less than £1000.

The Legislature has been, for several years, in the habit of conferring upon the Institution, an annual grant of £500; and the Governors have ventured to hope for the continuance of this aid. The other resources of the Corporation supply at present an income of about £800. If, therefore, the Legislature should continue their grant, there would be an excess of means above the present charge. If this resource should fail at the moment when the Governors have succeeded in bringing the College into actual operation, which it seems not reasonable to anticipate, there would be a deficiency of £200 to be supplied. But, in truth, the prospects of the College are not limited to these resources. In addition to a pecuniary bequest of £10,000, the Founder devised to Trustees, for the maintenance of the College, about forty-six acres of land, in the City of Montreal. From the great increase of this City, in population and wealth, and from the circumstance of its having recently been made the Seat of the Provincial Government, there is no doubt that the time has arrived when this land can be advantageously leased in small lots; and it is confidently expected, that from this source an addition can be readily made to the College Revenues, of £1000 per annum, and probably of more than double that amount.

Large stone buildings have been erected for the purposes of the College, at an expense of about

Appendix  
(G.G.G.G.)  
10th April.

£12,000, and as soon as these were in a condition to receive scholars, the Governors hastened the opening of the Institution, believing that they would be rendering an acceptable and important service to the country, by placing the advantages of a Collegiate education at once within the reach of its inhabitants. There are now twelve matriculated scholars, and three Terms have been kept since the Institution was opened on the 6th September in the last year.

The Governors proceeded, in the full assurance that the Statutes which they had framed and transmitted, would without delay be considered, and returned assented to, wholly or in part; and they now earnestly request Your Lordship that they may, as early as circumstances will permit, receive the decision of Her Majesty upon them, in order that they may be enabled to maintain the College in operation, and may not be under the painful necessity of closing its doors for the want of a regularly authorized system of government and discipline, for that might, in its effects, be extremely detrimental to the future fortunes of the Institution, as it would certainly be injurious to the youth who have entered upon the Collegiate Course.

I have, &c.,

(Signed,) G. J. MONTREAL,  
Presiding Governor.

The Right Honourable  
The Lord STANLEY,  
Secretary of State,  
&c. &c. &c.

(Copy.)

M'GILL COLLEGE,  
September 11, 1844.

SIR,

The Governors of M'Gill College beg leave to request that Your Excellency will have the goodness to transmit their enclosed letter to Her Majesty's Secretary of State for the Colonies, respecting the Statutes for the government of the College, which were forwarded last year for Her Majesty's confirmation.

Your Excellency being one of the Governors appointed by the Charter, though not an acting Governor, it has been thought better on that account to address the enclosed letter directly to Lord Stanley; but it is the earnest wish of the Governors, that Your Excellency, for the sake of the Institution, and of the public interests involved in it, would have the kindness to press upon His Lordship the urgent necessity of the Statutes in question receiving as early attention as circumstances will permit. In the meantime the discipline of the College is without that regular sanction which the Statutes only can give.

Your Excellency's knowledge of the facts stated in the letter of the Governors, will enable you to confirm the statements which it contains, and if any further information shall be required by Your Excellency, the Governors will be ready to furnish it.

I have, &c.,

(Signed,) G. J. MONTREAL,  
Presiding Governor.

The Right Honourable  
Sir T. C. METCALFE, K.C.B.,  
&c. &c. &c.

No. 13.—Despatch from Lord METCALFE to the Right Honourable Lord STANLEY,—enclosing a Memorial from the Bishop, President of the Royal Institution, praying for the confirmation of the Statutes.

Appendix  
(G.G.G.G.)  
10th April.

(Copy.)

No. 170.

GOVERNMENT HOUSE,

Montreal, 23rd November, 1844.

MY LORD,

I have the honour, with reference to my Despatch No. 146, of the 12th September last, to transmit herewith the copy of a Memorial, praying that the Statutes for the government of M'Gill College may be allowed and confirmed by Her Majesty, which I have received from the Lord Bishop of Montreal, in his capacity of Principal of the Royal Institution for the advancement of Learning.

I have, &c.,

(Signed,) C. T. METCALFE.

The Right Honourable  
Lord STANLEY,  
&c. &c. &c.

(Copy.)

To His Excellency the Right Honourable Sir  
CHARLES THEOPHILUS METCALFE, Baronet,  
G.C.B., Governor General of British North  
America, &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY:

The Board of the Royal Institution for the advancement of Learning, in its capacity of Visitor of M'Gill College, recently held a meeting in the City of Montreal, for the purpose of making enquiry into certain complaints preferred by the Vice-Principal, the state of the discipline of the College, and the condition of its pecuniary affairs; and I am directed to state, for Your Excellency's information, that the Board was obstructed in its investigation by the circumstance of the Statutes for the government of the College not having yet been allowed and confirmed by Her Majesty; and to pray that Your Excellency will be pleased to take the earliest opportunity of bringing this state of things, so prejudicial to the efficient working of the Institution, under the notice of the Secretary of State for the Colonies, in order that Her Majesty's Government may be apprised of the pressing urgency for action in the premises.

I have, &c.,

(Signed,) G. J. MONTREAL,  
Principal, Royal Institution.

QUEBEC, 21st November, 1844.

Appendix  
(G.G.G.G.)

10th April.

No. 14.—Despatch from Lord STANLEY to the Right Honourable Sir CHARLES METCALFE, Bart.,—in reply to the Governors, states that Her Majesty's decision shall be announced as soon as the Provincial Legislature shall have expressed its views on the subject.

(Copy.)

No. 301.

DOWNING STREET,

29th October, 1844.

SIR,

I have received your Despatch No. 146, of the 12th of September, with the letters therein enclosed from certain of the Governors of M'Gill College, requesting that the Statutes of the College may immediately receive the decision of the Queen.

I admit the cogency of the reasons which induce the Governors to press this matter upon my attention, and I am fully sensible of the importance to the Institution and to the youth of the Province, that the Statutes framed for the governance of the College should receive the early sanction of the Queen; but I am of opinion that the very short delay which must now take place before the meeting of the Legislature, renders it desirable that the decision of the Queen should be postponed until the views of the Canadian Parliament on the subject shall have been ascertained. I beg however to assure you, that so soon as I shall have been apprized of the views of the Legislature regarding the College, there shall be no unnecessary delay in announcing to you the pleasure of the Queen upon the Statutes.

I have, &amp;c.,

(Signed,) STANLEY.

The Right Honourable  
SIR CHARLES METCALFE, Bart.,  
&c. &c. &c.

No. 15.—Despatch from Lord METCALFE to the Right Honourable Lord STANLEY,—transmitting various Documents relative to the College, and recommending that the confirmation of the Statutes be suspended.

(Copy.)

No. 206.

GOVERNMENT HOUSE,

Montreal, 18th January, 1845.

MY LORD,

I submit, for Your Lordship's consideration, the Documents noted in the margin,\* relating to the existing condition of M'Gill College; and, in conse-

\* 1. Memorial from the Royal Institution and Minutes, 11th December, 1844.

2. Bishop of Montreal, 13th December, 1844.

3. Secretary of the Royal Institution, 23d December, 1844.

4. Bishop of Montreal, 13th January, 1845.

5. Secretary M'Gill College, 6th February, 1845.

6. Rev. Mr. Lundy's remonstrance.

7. Mr. Moffatt, enclosing correspondence between the Governors and the Royal Institution, respecting payment of the suits brought against the College.

Appendix  
(G.G.G.G.)

10th April.

quence of the representation from the Board of the Royal Institution, I beg leave to recommend that the confirmation of the Statutes forwarded with my Despatch, No. 80, of the 6th September, 1843, should be suspended; and that the possible expediency of hereafter disallowing the appointments should be kept in view.

In the absence of the information which these papers supply, I expressed a different opinion in my last Despatch upon this subject. If I should receive notice of the confirmation, by Her Majesty, of the Statutes previous to Your Lordship receiving this communication, I propose, under the peculiar circumstances of the case, to defer promulgating it until I may be furnished with further instructions; which course I hope will meet with Your Lordship's approval.

I have, &amp;c.,

(Signed,) METCALFE.

The Right Honourable  
Lord STANLEY,  
&c. &c. &c.

Enclosure No. 1 in Lord Metcalfe's Despatch of 18th January, 1845.

To His Excellency the Right Honourable Sir CHARLES THEOPHILUS METCALFE, Baronet, Knight Grand Cross of the Most Honourable Order of the Bath, one of Her Majesty's Most Honourable Privy Council, Governor General of British North America, and Captain General and Governor in Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, and Vice-Admiral of the same, &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,—

The Board of the Royal Institution, at the request of Professor Lundy, Vice-Principal of M'Gill College, and in consequence of a variety of circumstances leading them to believe such a step expedient and necessary, met at Montreal on the 14th November, and, as Visitors of M'Gill College under the Royal Charter, entered into an examination of the whole affairs of that Institution.

The general result of their investigation they are now desirous to lay before Your Excellency, both because it is of importance to the Province, and because it is to Your Excellency's interposition that the Board look for obtaining certain important measures, which appear to them indispensable to the prosperity of the College of which they are Visitors and Trustees.

When the visitation of M'Gill College took place, the Visitors found in it nine Students (fewer by half than at the same period last year, and these, with one or two exceptions, boys) under the tuition of a Principal, who is also Professor of Divinity—a Lecturer on Divinity—a Vice-Principal, who is also Professor of Classical Literature—a Professor of Mathematics—and a Classical Tutor; the establishment having also the services of a Bursar, Beadle and others. The regular expenditure for the College Establishment in salaries and contingent charges is two-fold of the income applicable to it; and the

Appendix  
(G.G.G.G.)

10th April.

Governors have contracted a debt of £1,550 in opening the College,—the various items of which expenditure appeared to the Board to be on a scale of extravagance and wastefulness entirely unsuitable to the pecuniary resources of the Institution. There is a great want of cordiality and harmony among the Professors and Officers of the College; some not even speaking to others. There are no Statutes in operation which are binding in Law.

The Principal refused to acknowledge the authority of the Visitors, or to furnish them with any information. The united testimony of the College Officers induces the Board to believe, that one main reason of the College having received so little support, is, that the acting Principal does not enjoy that confidence on the part of the public, of which an individual, standing in his position, ought to be possessed. He appears, moreover, to be in debt to the Institution, to have collected monies belonging to the College Estate, for doing which, no authority appears as given to him in the College Books; and to have entered no account of such intrusions in the Books of the Bursar.

The Board also had the testimony of the College Officers, that the inefficiency and unpopularity of the College are also, in part, owing to the general want of confidence, rightly or wrongly entertained, in the Vice-Principal, Professor Lundy.

The Bursar is the Rev. Mr. Abbott, who has a Salary of £100 a-year, and is permitted to do his duty by Deputy. He does not, he says, understand accounts; nor do those of his Deputy appear to be regularly and correctly kept.

There are only two Governors resident in Montreal,—the Chief Justice of the District, and Dr. Bethune, who is a Governor in consequence of his holding the interim appointment of Principal. The other Governors, who occasionally act, are the Chief Justice of Upper Canada, and the Bishop of Montreal—both too distant from the College to take much part in the management of its affairs, and the latter having only very recently a title to do so. The Chief Justice of Montreal is unwilling, as a Roman Catholic, to interfere more than he can avoid, in the government of a Protestant Institution; and the practical result of this state of things in the governing body is to throw almost the whole management of the Institution into the hands of Dr. Bethune, the acting Principal. Both the resident Governors resisted the authority of the Visitors, and refused to co-operate with them.

Between the Governors and the Board of the Royal Institution, certain differences do also exist in respect of the possession of the Funds of the College, now held in trust by the Board. The Governors are of opinion that such funds should be unreservedly handed over to them. The Royal Institution, acting on the opinion of eminent Counsel, and holding, that in this course they are supported by manifest expediency, as well as Law, decline to make such transfer. The knowledge of the Public that such differences exist, is also stated as one ground of the want of public confidence in the Institution.

A more full and accurate account of the whole investigation, contained in the Minutes of the Board, is herewith respectfully submitted for Your Excellency's information; but such, we have to state to Your Excellency, is generally the disorderly and inefficient state of an Institution from which the public looked, and were justly entitled to look for great benefits.

The remedy for existing evils, is, it appears to the Board of Visitors, to be sought in various quarters. In part, it rests with the Board itself to apply a remedy; and, in so far, they are prepared to act without delay.

The differences between the Board and the Governors may be settled by an amicable suit in a Court of Law; or by the opinion of the Law Officers of the Crown. The Board have repeatedly expressed to the Governors, their desire to have the matter so decided.

And the debts of the Institution, the Board are also prepared to liquidate, though in doing so, they must of necessity trench deeply on the capital in their possession.

The changes in the Institution itself, which the Board consider necessary, and which it is more immediately the province of the Governors to effect, are these:—

1st. To obtain the services of an able and efficient Principal, possessing the Public confidence, who should reside in the College, and take an active part in the Education of the Students.

2ndly. To dispense with the Office of Vice-Principal altogether, which, in that case, would be unnecessary, and to confine Professor Lundy's duties entirely to the work of Classical Instruction.

3rdly. To dispense with the Office of Bursar, and require the nowise onerous duties thereof to be performed by some of the Resident Officers of the College.

4thly. To dispense with the services of a Classical Tutor, till the attendance of Students render them necessary, which, at present, is manifestly not the case.

Preparatory, however, to these changes, and without which, indeed, they cannot be carried into effect; there needs, the Board would humbly represent, an interposition of Her Majesty's Government, for the removal of the present Principal, and for an addition to the number of Governors resident in Montreal.

The Board of Visitors believe they are by Law entitled to remove the Principal from his Office, on the sole ground of his contumacy in refusing to appear before them; and they have restrained from depriving him of his Office, by their own authority, simply by a consideration of the still greater disorder which must have been the result in the College.

The Board of Visitors would, however, represent to Your Excellency, that, in their judgment, such removal is indispensable to the well-being of the College; and that as Dr. Bethune was never appointed, except temporarily, and his appointment has never received the necessary sanction of Her Majesty's Government; if that sanction were refused, the office would be forthwith vacant, and it would be competent for the Governors to appoint an able and efficient Principal in his stead.

Even such removal, however, would serve but little purpose, greatly as the Board believe it would contribute to restore public confidence, unless an addition were made to the number of Governors resident in Montreal. If three or four enlightened and intelligent men were united in the government of this Institution, who, from their residence in Mon-

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)

10th April.

treas, could give a fair share of their attention to its interests, the most beneficial consequences might be expected; and the public confidence would be greater, if, in the selection of these Governors, regard should be had to different Protestant bodies in the Provinces, none of which (except by such limitation as may be conceived to be included in the words "sound religion") are, by any Clause, either of Mr. McGill's Will, or of the Royal Charter, excluded from the Offices, Honours, or Benefits of the College.

May it therefore please Your Excellency to use your influence with Her Majesty's Government, to refuse to sanction Dr. Bethune's appointment, and to give, as speedily as possible, a Supplementary Charter, making an addition to the number of Resident Governors in Montreal. The Board are persuaded, that the result of such action on the part of Her Majesty's Government would be to rescue the College from its present disorderly and inefficient state, and to render it, according to the intentions of the benevolent Founder, a public benefit.

In closing this communication, the Board of the Royal Institution would respectfully state to Your Excellency, that it has come to the knowledge of the Board, that a motion has been made in the Legislative Assembly for leave to introduce a Bill to repeal the Act under which the Board exists.

The Members of this Board have no personal interest in its continued existence. Its duties are, and always have been, performed by them without fee or reward; and the Board have already recommended the re-construction of the Board, to give greater facility to the discharge of its duties. But they would humbly submit to Your Excellency, before Your Excellency's Government countenance the proposed Bill, or Your Excellency give it the Royal sanction, it would be expedient to enquire:—

1st. How far the bequest of the late Mr. McGill may not be affected by the extinction of this Board. And 2ndly, whether either general principles or the special experience of this trust, would warrant the extinction of this Board, without vesting the authority which it now exercises in some other body equally or better qualified to use it for the public good.

In the name and the behalf of the Royal Institution for the advancement of Learning.

(Signed,) G. J. MONTREAL,  
Principal.

Quebec, 11th December, 1844.

NOTE:—For copy of Minute of Board of the Royal Institution, dated 10th December, 1844, which accompanied the preceding Memorial, *vide* Appendix No. 4, in Appendix (V.V.) to the Journals of the House of Assembly, of the Session of 1844-5.

Enclosure No. 2 in Lord METCALFE'S Despatch of 18th January, 1845.

QUEBEC, 13th December, 1844.

SIR,

I had the honor, two days ago, to forward to Your Excellency an Address from the Board of the Royal

Institution for the Advancement of Learning, signed by myself as Principal, and relating to the affairs of McGill College.

In that Address there is one passage susceptible of a meaning in which I do not concur. Without intending, upon the present occasion, to press my individual sentiments, in the most distant manner, upon the attention of Your Excellency, or to do more than simply to save myself from any appearance of saying what I do not think and feel, I wish to be permitted to state that if the Address is to be understood as conveying a recommendation of the indiscriminating appointment of persons belonging to different religious sects, properly so called, to offices in the College, there is nothing which can be more alien from my private convictions than the expediency of such a measure.

I am desirous, however, of adding that, as a matter of right, I have never contended for the exclusive occupation of these offices by members of the Church of England. More than this, I have long ago had my part in the nomination of members of the National Church of Scotland to Professorships in the University. (With the existing appointments, all held by members of the former Church, Your Excellency is perhaps aware that I have had no concern whatever.) I conceive, at the same time, that the University having been founded by a member of the Anglican Church, it would be but fair that the office of Principal should be reserved for a person of the same communion, and that in the case of a Professorship of Divinity, the like reservation should be made. In fact, the idea of a provision for teaching two systems of Theology, jointly or alternately, in one College, or even in one University, would be something, in my judgment, very full of objection.

Having taken the liberty of discharging my own mind on these points, I have only to add, that the Hon. A. W. Cochran, without having been prompted as a member of the Board, to address Your Excellency himself upon the subject, desires to take the opportunity of my writing, respectfully to convey to Your Excellency the expression of his accordance with the views which I have here stated.

I have the honor to be,  
Sir,  
Your Excellency's  
Most obedient humble Servant,

(Signed,) G. J. MONTREAL.

To His Excellency  
The Right Honourable  
Sir CHAS. T. METCALFE, Bart., G.C.B.,  
&c. &c. &c.

QUEBEC, 13th December, 1844.

SIR,

I must entreat the pardon of Your Excellency for troubling you with the correction of a slight inadvertency committed in the letter which I had the honor of sending to you this day. In the course of my observations I spoke of all the appointments in McGill College as being in the hands of members of the Church of England. This is only true in its application to the Principal and to the Officers resi-

Appendix  
(G.G.G.G.)

10th April.



Appendix  
(G.G.G.G.)  
10th April.

dent within the walls. In the Medical Faculty of the College there are gentlemen holding office who are of different religious persuasions.

I have the honor to be,  
Sir,  
Your Excellency's  
Most obedient humble Servant,

(Signed,) G. J. MONTREAL.

To His Excellency  
The Right Honourable  
Sir CHAS. T. METCALFE, Bart., G.C.B.,  
&c. &c. &c.

Enclosure No. 3 in Lord METCALFE's Despatch of  
18th January, 1845.

ROYAL INSTITUTION OFFICE,  
Quebec, 23d December, 1844.

SIR,

I have the honour, by desire of the members of the Board of the Royal Institution who are in Quebec, to enclose for the consideration of His Excellency the Governor General a communication from the two Governors of M'Gill College residing in Montreal, in answer to the offer of the Board to pay £1,550, being the amount of all the debts due by the College, of which any information was officially given to the Board by the Bursar, upon their application to him for the purpose.

This offer was made, as the documents before His Excellency will show, with extreme reluctance, but *bona fide*, and in the hope that thereby one cause of embarrassment might immediately be removed.

The tenor and spirit of the enclosed communication will, I am persuaded, go far to shew the necessity of some of the most important suggestions recently made by the Board to His Excellency, and for this reason no time has been lost in submitting it.

I have the honour to be,  
Sir,  
Your most obedient Servant,  
(Signed,) R. R. BURRAGE,  
Secy. R. I.

M'GILL COLLEGE,  
Montreal, December 18, 1844.

REVD. SIR,

In reply to your letter of the 12th instant, I am desired by the Governors of M'Gill College resident in Montreal to say, that they can see no other reason for the proposal made in that letter, than a desire on the part of the Board of the Royal Institution to select, either by their own choice, or by that of the Vice-Principal, as they infer from your letter of the 10th to Professor Wickes, the debts which shall and which shall not be paid:—but as the Governors on the spot must be the best judges in this respect, they cannot become parties to any arrangement by which the debts which they have incurred, and for which they are responsible, are to be liquidated through any other medium than themselves.

Appendix  
(G.G.G.G.)  
10th April.

Seeing that the Board of the Royal Institution can appropriate £1,550 towards the object in question, the Governors resident in Montreal have to request that this sum may be placed at their disposal with as little delay as possible.

With reference to the diminution of the annual income of the College by £90, the Governors have no apprehensions on that score, if they can only have the sole management of the property of the College, with sufficient authority to dispose of it to the best advantage.

I have the honour to be,  
Revd. Sir,  
Your obedient Servant,

(Signed,) J. ABBOTT,  
Secretary M'Gill College.

(A true Copy,)

(Signed,) R. R. BURRAGE,  
Secretary Royal Institution.

Quebec, 23d December, 1844.

ENCLOSURE No. 4.

(Copy.)

QUEBEC, 13th January, 1845.

SIR,

It is with extreme unwillingness that I obtrude upon Your Excellency, with the purpose of their being submitted if you should so see fit, to Her Majesty's Principal Secretary of State for the Colonies, any representations relating to the affairs of M'Gill College, in addition to those which are already before you from other quarters; and it is with feelings of a nature more seriously painful, that I find myself compelled to state to Your Excellency the conviction at which I have arrived, of its being inexpedient for me to take my seat at the Board of Governors of that Institution, so long as the Rev. Dr. Bethune, in virtue of his acting as Principal of the College, is also a member of the Board.

Your Excellency will readily believe, that unless I had strong, and what I conceive to be imperative grounds for my proceeding, one of the last things which I could possibly be prompted to do, would be to bring under the notice of Her Majesty's Government any disadvantageous exhibition of the management of important public interests in the hands of one of my own Clergy, and one who occupies so prominent a position in the Canadian Church as the Rector of Montreal.

I have, however, long felt that the College could never prosper while presided over by Dr. Bethune. And I should have been impelled before this day officially to submit my views upon the subject to Your Excellency, had it not been that I had no seat among the Governors till after the passing of the Act of last Session, which confers upon me, as Bishop of Montreal, all the legal powers vested in the Bishop of Quebec; and moreover, that having all along regarded the appointment of Dr. Bethune simply as an *ad interim* arrangement, (in which I believe there are abundant means of showing that I was perfectly correct,) I anticipated that his retirement would have taken place in time to save me from the necessity of making official statements, from which it is sufficiently obvious that I must desire to be spared.

Appendix  
(G.G.G.G.)

10th April.

When, however, I consider the general character of Dr. Bethune's proceedings in those matters connected with M'Gill College which it has devolved upon him to conduct, or in which he has taken a leading part, and more especially in the intercourse of business with the Royal Institution for the advancement of Learning. When I consider again his too evident deficiency in very important points of qualification for his office, such as academical experience, (for he never studied at any University,) actual classical attainments of the nature and extent which the case requires, and I am constrained to add, such temper, such discretion, and such weight of personal influence and possession of public confidence, as must be necessary on the part of the Principal, to preside with effect over an infant University in a country like this, or to execute his part in recovering it from the utterly inefficient and discreditable condition in which it now lies, I am brought to the unavoidable conclusion, not only that his appointment ought not to be confirmed, but that every delay in the disallowance of it opens a door to some new mischief within the Institution; more particularly as the powers committed to the body of Governors, in something more than their mere ordinary exercise, are, from peculiarity of circumstances, in a manner left in his hands. The long continued ill health and infirmity of the Chief Justice of Montreal, the consequent seclusion in which he lives, and the fact of his not having either the sort of interest in the Institution or the opportunities of familiarly knowing the relations subsisting between Dr. Bethune and other parties concerned, which he would naturally have if he were of the Protestant religion, appear, I may venture to say it, to justify the conclusion, that the proceedings of the Governors resident at Montreal are to be regarded as little or nothing more than the decisions and acts of the individual filling the office of Principal, at the same time that they have in several instances involved a result of which I can hardly be persuaded that two Governors were sufficient to dispose. These proceedings having been recently crowned by the summary dismissal, without a hearing, of the Vice Principal and Professor of Classical Literature, under circumstances with which Your Excellency as I am informed has recently been made acquainted, I feel that I am now called upon to state to Your Excellency, both as the Head of the Body of Governors whenever you may see fit to take a part in their proceedings, and also as the Head of the Government, that till Dr. Bethune shall cease to occupy a place at the Board of Governors, I must abstain from attending it, persuaded as I am that I cannot do so either with the hope of advantage to the public, or with comfort to myself.

With reference to the question intimated above, respecting the competency of two Governors to dispose of some matters such as have actually been disposed of by that number only, Your Excellency is aware that the number to whom the wisdom of Government had originally within their particular province confided the interests of the College was seven, and comprised the highest functionaries of Upper and Lower Canada: and I conceive it to be necessary for those interests, not to say for the very existence of M'Gill College, that an efficient Body of Governors should as soon as possible be given to the Institution.

I have only to add, although it is not within the more immediate scope of the representations here submitted, that the observations which I have made with reference to the inexpediency of Dr. Bethune's retention of the office of Principal, will manifestly suggest reasons of at least equal force against the

confirmation of his appointment to the Professorship of Divinity.

I have, &c.,  
(Signed,) G. J. MONTREAL.

His Excellency  
the Right Honourable  
Sir CHARLES T. METCALFE, Bart., G.C.B.  
&c. &c. &c.

ENCLOSURE No. 5.

(Copy.)

M'GILL COLLEGE,  
6th January, 1845.

SIR,

I am directed by the Governors of this College to transmit to you for the information of His Excellency the Governor General, the enclosed copy of a Resolution passed by them at a Special Meeting held on the 4th instant, and to request that His Excellency will be graciously pleased to forward a copy of the said Resolution to Her Majesty's Principal Secretary of State for the Colonies.

I have, &c.,  
(Signed,) J. J. C. ABBOTT,  
Acting Secretary M'Gill College

J. M. HIGGINSON, Esquire,  
Chief Secretary,  
&c. &c. &c.

(Copy.)

At a Special Meeting of the Governors of M'Gill College, held 4th January, 1844, it was resolved—

That whereas, the Reverend Francis James Lundy, D.C.L., was heretofore elected Professor of Classical Literature in this College during pleasure, and Vice Principal thereof, also during pleasure; and whereas, the pleasure of the Governors now present in this behalf hath ceased, and determined—the said Reverend F. J. Lundy be removed from the said two Offices from and after this day, and that he be notified thereof.

(Signed,) J. J. C. ABBOTT,  
Acting Secretary M'Gill College.

J. M. HIGGINSON, Esquire,  
Chief Secretary,  
&c. &c. &c.

ENCLOSURE No. 6.

(Copy.)

To the GOVERNORS of M'GILL COLLEGE:

The humble Petition of Francis James Lundy, Clerk, Doctor of the Civil Law, Vice Principal of M'Gill College, and Professor of Classical Literature in the same,

Humbly Sheweth:—

That at a Meeting of the major part of the Governors of M'Gill College, held in the College on the

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)  
10th April.

13th day of July, 1843, your Petitioner was appointed Vice Principal of M'Gill College and Professor of Classical Literature in the same.

That from the period of his election to the offices above mentioned to the present time, your Petitioner has continued to discharge punctually, faithfully and conscientiously, the duties appertaining to those offices.

That on Saturday last, the 4th instant, the Honourable the Chief Justice of Montreal, and the Reverend John Bethune, Doctor of Divinity, two of the Governors of M'Gill College, did proceed to hold a Special Meeting in the Parlor of the residence of the said Honourable Chief Justice of Montreal, and not at the College.

That on the day above mentioned, without previous summons or notification, your Petitioner was informed by the said Honourable Chief Justice of Montreal, in presence of the said Reverend John Bethune, that his further services were not required in the said M'Gill College, and that he was accordingly dismissed from his Offices of Vice Principal and Professor in the said College, without any semblance of a trial or investigation having been afforded to your Petitioner.

That on asking for an explanation, your Petitioner was informed that no explanation would be rendered to him, and that he would not be allowed a hearing in the matter.

Wherefore, your Petitioner humbly prays, that your Honourable Board will take the premises into your consideration, and afford your Petitioner such relief as shall to your Honourable Board seem most expedient.

And your Petitioner, as in duty bound, will ever pray.

(Signed,) F. J. LUNDY, D.C.L.,  
V. P. and Prof. C. L.,  
Coll. M'Gill.

M'Gill College,  
January 8, 1845.

Enclosure No. 7 in Lord METCALFE'S Despatch of  
18th January, 1845.

MONTREAL, 17th January, 1845.

SIR,

I beg leave to enclose a communication which I have just received from the Secretary of the Royal Institution, and in reference to which I have merely to call your attention.

I have, &c.,  
(Signed,) G. MOFFATT.

The Honourable  
D. DALY, Esq.  
&c. &c. &c.

ROYAL INSTITUTION OFFICE,  
Quebec, 15th January, 1845.

SIR,

By direction of the Members of the Royal Institution who are in Quebec, I enclose to you the accompanying copies of two letters, the gentlemen being of opinion that they should be sent to the Secretary of His Excellency the Governor General, through the same channel as the former communication on the subject.

I have, &c.,  
(Signed,) R. R. BURRAGE,  
Secretary Royal Institution.

The Honourable  
GEORGE MOFFATT, M. P. P.  
Montreal.

(Copy.)

MONTREAL M'GILL COLLEGE,  
8th January, 1845.

REVEREND SIR,

I am directed by the Governors of M'Gill College, resident in Montreal, to inform you, that one action has been instituted against them on account of the furniture of the College; that they have received notice that another for the account of the out-buildings will be taken out for the coming term; and that three other lawyer's letters for similar accounts have also been received, thus creating a very great expense to the Institution, unless they be immediately put into possession of the funds which the Royal Institution have agreed to appropriate towards the liquidation of the debts of the College; for, although the sum of £1,550 will not cover the debts by something more than £500, yet a judicious application of that amount to the purpose intended will prevent further expense, and will satisfy creditors until means can be obtained from other sources to discharge the whole.

I have, &c.  
(Signed,) J. W. ABBOTT,  
Acting Secretary.

The Reverend R. R. BURRAGE,  
Secretary Royal Institution,  
&c. &c. &c.

(Copy.)

ROYAL INSTITUTION OFFICE,  
Quebec, 15th January, 1845.

SIR,

I am directed by the Members of the Royal Institution, who are in Quebec, to acquaint you, in reply to your letter of 8th instant, for the information of the Governors of M'Gill College, that the Board cannot enter upon the consideration of it until they are furnished with a list of the debts of the College, certified by the Principal and Bursar, to contain the whole, in conformity with my letter to you of the 12th of last month.

I have, &c.  
(Signed,) R. R. BURRAGE,  
Secretary Royal Institution.

The Reverend J. ABBOTT, A. M.,  
Secretary M'Gill College,  
Montreal.

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)  
10th April.

No. 16.—Despatch from Lord STANLEY to the Right Honourable the Lord METCALFE, Bart, G.C.B.,—acknowledging various Documents relative to the College, and stating that no steps will be taken.

(Copy.)

No. 350.

DOWNING STREET,  
24th February, 1845.

MY LORD,

I have the honour to acknowledge the receipt of Your Lordship's Despatch, of the 18th January, No. 206, with its several enclosures relating to M'Gill College.

It is satisfactory to me, to find from this Despatch, that I have anticipated Your Lordship's wishes, in regard to the postponement of the Queen's decision on the Statutes of the College.

Presuming that Your Lordship will communicate further with me on this subject, I shall, in the meanwhile, abstain from the adoption of any measures which can complicate the existing embarrassments of the Institution.

I have, &c.,

(Signed,) STANLEY.

The Right Honourable  
The Lord METCALFE, Bart., G.C.B.,  
&c. &c. &c.

No. 17.—Despatch from Lord METCALFE to the Right Honourable Lord STANLEY,—transmitting further Papers relative to the differences between the Governors and the Royal Institution.

(Copy.)

No. 225.

GOVERNMENT HOUSE,  
Montreal, 24th February, 1845.

MY LORD,

I submit for your Lordship's information the Enclosures noted in the margin\* relating to M'Gill College, which I have received subsequently to the date of my Despatch of the 18th ultimo upon that subject.

I have, &c.,  
(Signed,) METCALFE.

The Right Honourable  
Lord STANLEY.

\* 1. Acting Secretary M'Gill College, 18th January, 1845.  
2. Ditto. 29th ditto.  
3. Dr. Bethune, 5th February, 1845.  
4. Resident Governors, M'Gill College, 14th February, 1845.

ENCLOSURE No. 1.

(Copy.)

M'GILL COLLEGE,  
January 18, 1845.

SIR,

I am directed by the Governors of M'Gill College resident in Montreal, to say that they have been incidentally informed that the Board of the Royal Institution for the Advancement of Learning have made a Report to His Excellency the Governor General of a Visitation which the Members of that Board took upon themselves to make in the month of November last, of M'Gill College.

I am further directed by the same Governors, to request the favour of being informed whether such a Report has actually been made, and if so, to beg the favour of a Copy thereof.

I have the honor to be,  
Sir,  
Your most obedient Servant,

(Signed,) J. J. C. ABBOTT,  
Acting Secretary M'Gill College.

Honourable D. DALY,  
Provincial Secretary,  
&c. &c. &c.

NOTE.—A Copy of the Report of the Visitation of the Board of the Royal Institution was furnished to the resident Governors of the College, on the foregoing application.

ENCLOSURE No. 2.

(Copy.)

M'GILL COLLEGE,  
January 29, 1845.

SIR,

I am directed by the Governors of M'Gill College to express to you their thanks for the Copies of the Documents laid before His Excellency by the Board of the Royal Institution.

I am further directed by the aforesaid Governors, earnestly to entreat His Excellency the Governor General, that he will be pleased to allow the Governors to be heard before taking any steps founded upon the said Documents.

I have the honor to be,  
Sir,  
Your most obedient humble Servant,

(Signed,) J. J. C. ABBOTT,  
Acting Secretary M'Gill College.

Honourable D. DALY,  
Provincial Secretary,  
&c. &c. &c.

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)  
10th April.

## ENCLOSURE No. 3.

(Copy.)

M'GILL COLLEGE,  
5th February, 1845.

SIR,

I beg you will do me the favour to submit the enclosed Address and Documents to His Excellency the Governor General, and oblige

Your most obedient humble Servant,

(Signed,) JOHN BETHUNE,  
Principal M'G. C.

The Honourable D. DALY,  
Provincial Secretary,  
&c. &c. &c.

NOTE.—Vide Appendix No. 7 in Appendix (V.V.) to Journals of House of Assembly of the Session of 1844-5, for printed Copy of the Address and Documents transmitted with the foregoing letter from Dr. Bethune.

## ENCLOSURE No. 4.

NOTE.—For printed Copy of the Address to His Excellency the Governor General from the Governors of M'Gill College, in answer to the Report of a Visitation of the Board of the Royal Institution in November 1844, vide Appendix No. 13 in Appendix (V.V.) to the Journals of the House of Assembly for 1844-5.

No. 18.—Despatch from Lord METCALFE to the Right Honourable the Lord STANLEY,—with Copies of further Documents relative to the differences between the Governors and the Board of the Royal Institution.

(Copy.)

No. 228.

MONTREAL, 8th March, 1845.

MY LORD,

In continuation of my former Despatches relating to the difference existing between the Board of the Royal Institution, and certain of the Governors of M'Gill College, I beg leave to transmit herewith, the copies of further Documents\* which I have received from the Reverend Dr. Bethune, upon that subject.

I have, &c.,  
(Signed,) METCALFE.

The Right Honourable  
The Lord STANLEY,  
&c. &c. &c.

\* Dr. Bethune, 25th February.  
Dr. Bethune, 25th February.

MONTREAL, 25th February, 1845.

SIR,

I beg to request the favour of your communicating to His Excellency the Governor General, the enclosed Testimonials which are in refutation of the misrepresentations made to His Excellency by the Board of the Royal Institution, relative to my appointment to the Office of Principal of M'Gill College.

I have, &amp;c.,

(Signed,) JOHN BETHUNE,  
Principal M'G. C.

The Honourable  
D. DALY,  
Provincial Secretary,  
&c. &c. &c.

TORONTO, 19th February, 1845.

SIR,

In reply to your letter I have to state, that I considered your appointment to be Principal of M'Gill College to be permanent, in the same degree as the other appointments made at the same time. I have no copy of the Minutes of our proceedings in July, 1843, but I think I recollect them clearly, and I have no impression on my mind, that your appointment was intended to be otherwise than permanent. It appeared to the Chief Justice of Montreal, and myself, that you had been appointed, in fact, some years before, by the late Bishop of Quebec, Dr. Stewart, and Chief Justice Reid, and the correspondence respecting that appointment was before us. If it were clear that that had been meant as a merely temporary appointment, still you had under it been for seven years exerting yourself strenuously, to bring the College into operation; and considering that the resources of the Institution did not enable us to offer any remuneration that would induce a stranger to come from Europe to accept the charge, it appeared to us to be fortunate that we could avail ourselves of the services of a person of your position in society, as the nominal head of the College, making such an arrangement for the practical conduct of the Institution, under the superintendence of a Vice-Principal, as had been made in the College here.

I am, dear Sir, &amp;c.,

(Signed,) JOHN B. ROBINSON.

Rev. Dr. BETHUNE,  
Principal M'Gill College,  
Montreal.

MONTREAL, 14th February, 1845.

I do hereby certify that, at a meeting of the Governors of M'Gill College, on the 12th July, 1843, the appointment of the Reverend John Bethune, D.D., to the Office of Principal of said College, was intended to be made, and was made, as permanent as it is in the power of the Governors to make that, or any other appointment.

(Signed,) VALLIERES DE ST. REAL.  
Chf. Jus. Montreal, and Gov. M'G. C.

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)  
10th April.

MONTREAL, 28th February, 1845.

SIR,

I beg to request the favour of your submitting the enclosed to His Excellency the Governor General, as an additional testimony of the incorrectness of the statement made by the Board of the Royal Institution, relative to the Sale by Lease, of a portion of the Burnside property, in the year 1842.

I have, &c.,

(Signed,) JOHN BETHUNE.

The Honourable  
D. DALY,  
Provincial Secretary,  
&c. &c. &c.

ROYAL INSTITUTION OFFICE,  
Quebec, 19th April, 1842.

SIR,

Your letter of the 15th instant has been duly laid before a Special Meeting of the Board of the Royal Institution, held this day. I am directed to inform you in reply, that the Board concur in the arrangement and valuation proposed in your letter, with respect to the disposal of 25½ acres of the Burnside Estate. The Board suggest that it should be ascertained previously to the Sale, what terms can be made with the Seminary, for the adjustment of any claim that they may have in respect to the property to be so disposed of. The Board propose to communicate further with you in regard to the other property, in time for the Sale of the 28th instant.

I have, &c.,

(Signed,) D. P. BURRAGE,  
Secretary R. I.

The Reverend  
J. BETHUNE, D.D.,  
Principal of M'Gill College,  
Montreal.

No. 19.—Despatch from Lord STANLEY to the Right Honourable Lord METCALFE,—stating in reply to his Despatch No. 225, that if Her Majesty has any authority to interfere at all, it must be exercised by the Governor.

No. 366.

DOWNING STREET,  
4th April, 1845.

MY LORD,

I have to acknowledge the receipt of Your Lordship's Despatch No. 225, of the 24th February, transmitting for my information copies of further communications which have been addressed to you relative to M'Gill College.

I have only to observe upon these papers, that if Her Majesty has any authority to interfere at all in the controversy between this College and the Royal Institution of Quebec, (of which however I am not aware,) it must be in the exercise of Her Majesty's power as visitor of a Royal Foundation; and that if any such visitatorial power really rests in the Crown,

it must be exercised by the Governor, aided by the advice of some competent Legal Assessor, probably by the advice of the Chief Justice, Sir James Stuart. But both the existence of such a power, and the mode of carrying it into exercise supposing it to exist, must be determined within the Province itself by the proper Legal and Judicial Authorities, and cannot be determined in this country by the authority of the Executive Government.

I have, &c.,

(Signed,) STANLEY.

The Right Honourable  
Lord METCALFE,  
&c. &c. &c.

No. 20.—Despatch from Lord STANLEY to the Right Honourable Lord METCALFE, Baronet, G.C.B.,—acknowledging Despatch No. 228, and in reply refers to his of the 4th April.

(Copy.)

No. 370.

DOWNING STREET,  
15th April, 1845.

MY LORD,

I have to acknowledge the receipt of Your Lordship's Despatch No. 228, of the 8th March, with copies of certain Documents from the Reverend Dr. Bethune, on the question of his permanent appointment to the Office of Principal of M'Gill College in Canada.

I have no further observations to make on this subject, and would therefore refer Your Lordship to my Despatch of the 4th instant, as containing my view of the manner in which the discussion between the Governors of the College and the Board of Royal Institution may be most satisfactorily closed.

I have, &c.,

(Signed,) STANLEY.

The Right Honourable  
Lord METCALFE, G. C. B.,  
&c. &c. &c.

No. 21.—Despatch from Mr. GLADSTONE to Lieut. General the Earl CATHCART,—disallowing Dr. Bethune's appointment; and decision respecting Statutes deferred till the close of the Session of Provincial Parliament.

(Copy.)

No. 49.

DOWNING STREET,  
3rd April, 1846.

MY LORD,

I have had under my serious consideration your Lordship's confidential Despatch of the 19th of February, on the subject of M'Gill College at Montreal, and in connection with it, I have reviewed the copi-

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)

10th April.

ous correspondence which passed between your Lordship's predecessor and Lord Stanley on this question. I have observed with great regret, the state of disorder and inefficiency in which the Institution appears to be.

The question which has appeared to me to call for my immediate decision is, that of the continuance in the office of Principal of the College, and in the Professorship of Divinity, of the present holder, the Reverend Dr. Bethune, whose appointment it is still competent for the Crown according to the Charter of the College to disallow.

It is with regret that I have come to the conclusion, that it is my duty to recommend to Her Majesty to disallow this appointment.

Into the various and somewhat complicated charges which have been brought against Dr. Bethune, in his capacity of Principal of the College, I do not find it necessary to enter; nor do I wish to state at the present moment any decided opinion as to the extent to which the present condition of the Institution is owing to the character and position of its Principal. My decision is founded upon reasons which are not open to dispute; the first, the weight of the Bishop's authority, together with your own, independently of any reference to that of the Board of Visitors, which may be considered to be to some extent, at this moment in dispute: next, the fact that Dr. Bethune did not himself receive an University education, which I must hold to be, unless under circumstances of the rarest occurrence, an indispensable requisite for such a position as he occupies. To these I am disposed to add, although I express the opinion without having had the advantage of learning what may be the view of the Lord Bishop in this particular, that I cannot think it expedient that the offices of Principal and Professor of Divinity in M'Gill College should be combined with that of Rector of Montreal. This latter circumstance is not much adverted to in the papers before me; but I am strongly impressed with the incongruity of this junction of important collegiate appointments with a no less important pastoral charge in the same person; either the former or the latter of which, especially considering the large population of the Town of Montreal, I must, as at present advised, hold to be enough to occupy his individual attention.

I have, therefore, felt bound to advise Her Majesty to disallow this appointment in both respects, in pursuance of the power vested in her; and have only to add the expression of my hope, that the Governors will forthwith proceed to replace Dr. Bethune, and that in so doing they will anxiously endeavour to secure the services of a man in all respects qualified for such important posts.

With regard to the general position of the College, there are indeed many points as to its Constitution, its Laws, its Revenues, and its Administration, which obviously require a careful consideration, and an early and definitive settlement; among which perhaps the most prominent is, the confirmation, or otherwise, of the Statutes which have for some time been awaiting the decision of the Crown. But, advertent to the course adopted by Lord Stanley, and to the information received from your Lordship's predecessor, with particular reference to the Despatches noted in the margin,\* I have resolved to sus-

\* Sir C. Metcalfe, 6th September, 1843.  
Lord Stanley, 13th October, 1843.  
Sir C. Metcalfe, 17th January, 1844.  
Lord Stanley, 15th March, 1844.

pend any active measure on my part, at least till the conclusion of the present Session of the Canadian Legislature; thinking it not improbable that the proceedings of that body may tend to throw some light on the questions connected with the College, by which I may be guided in the consideration of my own course in this important matter.

I have, &c.

(Signed,) W. E. GLADSTONE.

Lieutenant General  
The Earl CATHCART,  
&c. &c. &c.

No. 22.—Despatch from Lord CATHCART to the Right Honourable W. E. GLADSTONE,—transmitting Memorial from Dr. Bethune respecting the disallowance of his appointment.

No. 77.

GOVERNMENT HOUSE,  
Montreal, 25th June, 1846.

SIR,

At the request of the Reverend Dr. Bethune, I have the honor to transmit herewith a Memorial which he has addressed to you on the subject of the disallowance of his appointment as Principal and Professor of Divinity in M'Gill College.

I have, &c.,

(Signed,) CATHCART.

The Right Honourable  
W. E. GLADSTONE,  
&c. &c. &c.

Enclosure in Lord CATHCART'S Despatch, No. 77,  
25th June, 1846.

(Copy.)

To the Right Honourable Her Majesty's Principal Secretary of State for the Colonies, &c. &c. &c.

The Memorial of the undersigned  
Humbly sheweth—

That your Memorialist having received communication of a Despatch intimating that you had come to the conclusion that it is your duty to recommend to Her Majesty to disallow his appointment to the offices of Principal and Professor of Divinity in M'Gill College; humbly prays permission, in a matter of such deep importance to your Memorialist, to submit, with all due deference and respect to all concerned, the following facts and circumstances for your consideration:—

1. At a meeting of the Governors of M'Gill College, held 1st April, 1845, it was resolved, on the legal authority of the Chief Justice of Montreal, "that, in the opinion of this meeting, the aforesaid provision of the Charter, by which the right of the Crown is reserved, to disallow appointments made by the Governors, is an assumption of power inconsistent with the very nature of this foundation, and is absolutely null and void in law."

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)  
10th April.

2. The Petition of the Royal Institution for the Charter of the College prays, among other things, for such farther endowment thereof, in addition to that of the Testator, as to His Majesty should seem meet; and the Royal intention to grant such further endowment is virtually expressed in the preamble of the Charter, and, more particularly, in a Despatch from Lord Bathurst to the Duke of Richmond, dated 9th March, 1819, directing his Grace to adopt, with as little delay as possible, the necessary "measures for erecting upon the lands left for that purpose by Mr. M'Gill, an adequate building for the instruction of youth," and authorizing him "to defray the expense which it may be necessary, in the first instance, to incur, from the funds which may be in the hands of the Receiver of the Jesuits' Estates." And, evidently with a view to such endowment, the clauses were inserted in the Charter which reserves to the Crown certain rights which can be legally reserved only with reference to Institutions of Royal foundation. But as such farther endowment has not been granted by the Crown, M'Gill College cannot be considered in any other light than a College of private foundation, and consequently not legally subject to the reservations in the Charter in favour of the Crown, of disallowing appointments to certain offices, and of confirming the Statutes thereof.

3. In reply to a Petition from the Governors of the College, praying for certain alterations in the Charter, and, among others, the abrogation of the above said reservations, the following communication was made to Lord Aylmer by the Earl of Aberdeen, (dated 12th February, 1835, No. 18:)—"I am anxious to accede to the wishes expressed in this application, with which it was evidently the intention of my predecessor to comply, on receiving such information as is supplied by the present Despatch, (dated 5th December, 1834, No. 86;) but I find, in order to effect the object in view, it is indispensable that the Governors of the College shall address a Petition to His Majesty, formally professing their desire for an alteration of the Charter, and that they should furnish a draft of the amended Charter which they are willing to accept. Your Lordship will therefore have the goodness to recommend those gentlemen to furnish the proper documents of this description, and also to designate an Agent in this country who should be authorized to pay the fees, and to agree to any verbal alterations which may be found requisite in their draft Charter. Upon the fulfilment of these necessary preliminaries, I will lose no time in advising His Majesty's gracious compliance with the object of the application, which I am sorry to find delayed by the want of proceedings apparently not foreseen when the last Despatch was written to your Lordship on the subject."

In accordance with the above recommendations, the undersigned, in behalf of the Governors of M'Gill College, transmitted a Petition and draft of an amended Charter, through Sir J. Colborne, on the 27th January, 1839, and designated Robert Gillespie, Esquire, of London, as their Agent; and, some months afterwards, it was intimated to the Governors that the amended Charter, after having been approved by the Law Officers of the Crown, and prepared for the Royal Signet, was arrested in that stage of its progress by the intervention of the Royal Institution. In this draft Charter, which had been agreed to by the Imperial authorities, was the following clause:—"That each and every of the elections and removals aforesaid, made in due form, by the Governors of the said College and University, shall take immediate effect, and be valid, without any notification of the same to us in any way whatsoever."

From the above facts it is evident, that the Crown had virtually surrendered any right which it might have been supposed to possess of disallowing any of the appointments made by the Governors of the College.

4. Because, even on the supposition that the clause in the Charter which reserves to the Crown the right of disallowing appointments to office by the Governors be good and valid in law, the appointment of the undersigned to the office of Principal received a virtual confirmation from the Crown when it recognized him, in the matter of the above-mentioned Charter, as the Principal of the College; and a farther confirmation by the official communication of the Civil Secretary of this Province, of which a copy is annexed—(Vide No. 1 appended).

5. Because, on the supposition stated in the last reason, it cannot justly be inferred from the Charter that it was intended to reserve to the Crown the right of disallowing appointments made by the Governors, at any period, but in a reasonable time after receiving communication of such appointment. The provision in the Charter is as follows:—"Provided always, that the persons by whom such elections shall be made, shall notify the same respectively to Us, Our Heirs and Successors, through one of Our or their Principal Secretaries of State, by the first opportunity; and in case that We, Our Heirs and Successors, shall disapprove of any one so elected, &c. &c." If it could be inferred from this Clause, that it is in the power of the Crown to disallow appointments at any time, the exercise of such a power, after an appointment had been twice virtually confirmed, and after the lapse of so long a period of time, would not only be unusual, but must have the effect of preventing any one from accepting an Office from which he may, at any time, be dismissed, (as in the present case) on the exparte and secret representations "of a private and confidential character" of the Bishop of the Diocese, influencing the head of the Provincial Government, and without any reference to those who made the appointment, or to the party chiefly concerned.

6. Because it is stated in the Despatch of the Secretary of State, that his opinion is founded "first, on the weight of the Bishop's authority, together with that of the Governor General," whereas it is manifest that neither of these functionaries have any authority in the matter, other than in their capacity of Governors of the College, which could not be duly exercised in any other way, than at a meeting of the Governors.

7. Because, whatever representations have been made to the Secretary of State, by the head of the Government and the Bishop, they have been made without the knowledge of your Memorialist, and without the knowledge of the Governors of the College, or their consent expressed at a meeting; and have moreover been declared by the Governor General, in a communication addressed to your Memorialist, to be "of a private and confidential character."

8. Because, the second reason assigned by the Secretary of State—viz, "the fact that Dr. Bethune did not himself receive a University education," should have operated against the appointment of your Memorialist at all, (an appointment originally conferred by Lord Gosford, the Bishop of Quebec, and the Chief Justice of Montreal,) as powerfully as at a period when he had held one of the Offices more than ten years, and the other nearly three years. And moreover, the Bishop of Toronto has not recog-

Appendix  
(G.G.G.G.)  
10th April.



Appendix  
(G.G.G.G.)

10th April.

nized such an objection in his selection of a Professor of Theology in his Diocese.

9. Because the third reason assigned by the Secretary of State—viz.: that the appointments of your Memorialist in the College, are, in his opinion, incompatible with the situation of Rector of Montreal, especially considering the large population of that City, must apply with equal force in all similar cases—such as the Office of President of King's College, at Toronto, which is held by the Bishop of that Diocese; and the same Office in King's College at Fredericton, which is held (officially by the Charter) by the Archdeacon, who is also Rector of a large Parish. The same exception may be made to the Bishop of Montreal, himself, (although the case is not precisely similar) who holds the Offices of Bishop, Archdeacon, and Rector, of Quebec, with a large emolument for each. Moreover, the Bishop of Montreal had offered to the Rector of Three-Rivers, the Office of Principal of Bishop's College at Lennoxville, at a distance of 100 miles from his Rectory, with permission to retain his living. And moreover, "the large population of the Town of Montreal" is so far from being under the sole Pastoral charge of your Memorialist, as the Despatch seems to imply, that the Church of England population (amounting to perhaps 9,000) is regularly ministered to, by seven Clergymen (provision for three of whom has been made through the exertions of your Memorialist), and occasionally by three others; and there are besides, two acting Chaplains to the Garrison. There are, in the Parish of Montreal, one Parish Church served by the Rector and one Assistant, with provision for another to be shortly appointed, and five Chapelries served by as many Clergymen. There are five other Clergymen resident in the City, three of whom are always ready to assist the Rector with special reference to M'Gill College.

10. Because the Professorship of Divinity, which, alone, of the two appointments, can occupy any considerable portion of the time of your Memorialist, was accepted by him merely for the sake of filling up that Professorship, without which, the College could not be legally established in the terms of the Charter, with the intention, often declared to the Bishop, of resigning it whenever the Funds of the College should be sufficient to make a more efficient provision for that Office.

11. Because it seems to be an unusual measure of justice, to remove from his Offices (for reasons which were always as good as they are now), after the lapse of so many years, the Officer who, with an almost nominal emolument, has been always most actively engaged in bringing the College into operation, and thus preventing the bequest, in the opinion of high legal authorities, from reverting to the heirs of the Testator; and who, when the Funds of the College were withheld from the Governors, provided for carrying on the Institution by his own individual means and credit, and who, moreover, is still individually liable for his share of £500, with nearly three year's interest thereon, borrowed on the private responsibility, for the purpose of enabling them to open the College by three of the Governors, for an equal share with another Governor, of about £100, to pay for the Out-buildings of the College, during the current year.

12. Because, that whereas it has been the declared object of your Memorialist to secure M'Gill College to the Church of England, as an Institution belonging to her, according, as your Memorialist verily believes, to the true intent and meaning of the Foun-

Appendix  
(G.G.G.G.)

10th April.

der and of the Charter, the desire of the Provincial Executive, and of the Bishop of Montreal, to remove him from the Office of a Governor, appears to be created by the wish of both to deprive M'Gill College of this distinctive character, in the same way as it is proposed to deal with King's College at Toronto; for the evidence of which, the undersigned quotes the following:—In an Address of the Royal Institution to Lord Metcalfe, (dated December, 1844) on the subject of M'Gill College, and signed by the Bishop of Montreal, it is recommended, among other things, that an addition should be made to the number of Governors resident in Montreal, and that, "in the selection of these Governors, regard should be had to the different Protestant bodies in the Province."

13. Because, in the year 1826, the late Bishop of Quebec recommended to the Secretary of State for the Colonies, an increase of £200 sterling, to the Salary of your Memorialist, as Rector of Christ's Church, on the ground of the inadequacy of the provision for such a situation in so large and expensive a City as Montreal, while the Stipend of the Rector of Quebec, from the Government, was £190 sterling more than that of the Rector of Montreal, from the same source, although the Rector of the former place held also the Archdeaconry, with a farther Salary of £500 sterling, making in all £990 sterling, while the Rector of the latter place had a Salary of only £500 from all sources. The recommendation of the late Bishop of Quebec was graciously and favourably received—declared reasonable; the additional Stipend of £200 sterling was granted and made chargeable upon the Jesuit's Estates Fund; but, from the circumstance of the subsequent alienation of those Estates from the disposal of the Government, your Memorialist never received one farthing of the promised increase to his Stipend, although the emoluments of his Rectory have been considerably diminished by his voluntary surrender of a portion of his surplice Fees, since Chapelries have been erected within his Parish, for the purpose of assisting, by so much, in making provision for the different incumbents of such Chapelries. Under these circumstances, your Memorialist humbly conceives it might have been thought reasonable, that neither the Government nor Bishop of Montreal would have sought to remove him from Offices which might justly be considered as a tardy compensation after the elapse of seventeen years, for so cruel a disappointment, unless indeed it could be proved, not by representations "of a private and confidential character," made by those who took no part in the affairs of the College, but, by the testimony openly given, of those who could speak from personal experience, that your Memorialist is wholly disqualified for the discharge of the duties of either of those Offices.

14. Because your Memorialist denies that there has been any mismanagement, on his part, of the affairs of the College; and, on this point, challenges a fair, open, and thorough investigation.

Your Memorialist humbly trusts, that, for the above reasons and considerations, together with the facts, that by his Office of Principal he is not required to be resident in the College, nor to take any part in the Teaching in the College, but merely, according to the Statutes, "to preside at all convocations for conferring Degrees, and to have the general inspection and direction of the internal affairs of the College, under such regulations as may be in force for the time being;" and, by the same Statutes, the Vice-Principal, who shall be one of the Professors, is required to be resident in the College, and is made

See Nos. 2, 3,  
4, and 5 appended.

Appendix  
(G.G.G.G.)  
10th April.

"the Parent and Guardian of the College household," is required "to examine Students for matriculation—maintain the observance of the Statutes by the Professors, &c."—to "direct the Students in their Studies," and to "preside over the College exercises," the Secretary of State will reconsider the decision to which he had come under a less full knowledge of the whole subject.

Your Memorialist, in the meantime, abstains from the exercise of the functions of Principal and Professor of Divinity in M'Gill College, and humbly prays your favourable consideration of the premises.

(Signed,) JOHN BETHUNE.

Montreal, 11th May, 1846.

—  
No. 1.

(Copy.)

CIVIL SECRETARY'S OFFICE,  
Montreal, 15th May, 1845.

REVEREND SIR,

The Governor General having transmitted to Her Majesty's Secretary of State, copies of certain Documents received from you, on the question of your permanent appointment to the Office of Principal of M'Gill College, I am directed to inform you that a Despatch in reply has been received from Her Majesty's Secretary of State, and that His Lordship declines to interfere in the controversy which has unhappily arisen between the Governors of the College and the Board of the Royal Institution.

I have the honour to be,  
Reverend Sir,  
Your most obedient humble Servant,

(Signed,) J. M. HIGGINSON.

The Reverend Dr. BETHUNE.

—  
No. 2.

(Copy.)

Extract from a Letter from the late Chief Justice Reid, (who had been one of the Governors of the College) to the Reverend Dr. Bethune, dated 13th February, 1845.

"I am enabled to say, that after your appointment as Principal, the interests of the College which had previously been much obstructed and delayed, were more closely pursued and attended to, principally by your exertions, your declared object being to bring the College into operation as soon as possible, and to render all the means belonging to it available for this purpose."

—  
No. 3.

(Copy.)

"We, the undersigned Officers of the University of M'Gill College, from our personal knowledge, as far as we have been respectively connected with it, do hereby certify that the Reverend John Bethune, D. D., has performed the duties of his Of-

Appendix  
(G.G.G.G.)  
10th April.

"fice of Principal of this Institution, with a zeal, ability, and moderation, only equalled by his patient and enduring perseverance, under circumstances of great and harassing difficulty; and that the opening and establishing of the College, and consequently its very existence, are mainly to be ascribed, as we verily believe, to his active and indefatigable exertions."

(Signed,) "JOHN ABBOTT, A.M.  
"Vice-Principal and Secy."

(Signed,) "E. CHAPMAN,  
"Late Prof. of Class. Lit."

"M'GILL COLLEGE,  
"11th May, 1846."

—  
"My connection with M'Gill College has been of very recent date, and I have no objection to add my testimony to the above."

(Signed,) "WM. T. LEACH, A. M.  
"Prof. of Class. Lit."

—  
No. 4.

(Copy.)

"This is to certify, that the Chief Justice of Upper Canada, the Chief Justice of Montreal, and the Principal of the College, borrowed £500 for the purpose of procuring the necessary furniture for opening the College, for the re-payment of which, together with nearly three year's interest thereon, they are still individually liable. That the Chief Justice of Montreal, and the Principal of the College, are personally responsible also for the farther sum of nearly £100 for the Out-buildings of the College, and that the Principal, by his own individual means and credit, obtained and provided fuel for the College, while the Funds belonging to it were withheld during a considerable period."

(Signed) "JOHN ABBOTT,  
"Bursar M'Gill College."

"M'GILL COLLEGE,  
"May 27th, 1846."

—  
No. 5.

(Copy.)

"I hereby certify that the Reverend John Bethune, D.D., is personally liable to the payment of a debt amounting to upwards of £120 for fuel for M'Gill College, during this current Collegiate year—viz., from the beginning of September, 1845, to this date."

(Signed,) "JOHN ABBOTT,  
"Bursar, &c. M'Gill College."

"M'GILL COLLEGE,  
"May 11th, 1846."

Appendix  
(G.G.G.G.)

10th April.

No 23.—Despatch from Earl GREY to Governor General Earl CATHCART,—in reply to Dr. Bethune's Memorial, directing the objections raised therein to be referred to the Law Officers.

No. 6.

DOWNING STREET,  
27th July, 1846.

MY LORD,

I have received Your Lordship's Despatch dated the 25th of June last, and numbered 77, with the accompanying Memorial from Dr. Bethune, on the subject of the disallowance of his appointment as Principal and Professor of Divinity in M'Gill College.

That Memorial raises two questions which do not appear to have been brought under the notice of my immediate predecessor in this Office—the questions, namely, whether Her Majesty is entitled in point of Law, to disallow any appointments made by the Governors of the College, and whether, if so entitled in other cases, that right has not expired by the lapse of time in Dr. Bethune's case, and by the tacit acquiescence of the Crown in his appointment.

Your Lordship will have the goodness to propose those questions to your Legal advisers, laying before them Copies of all the Documents connected with this subject, and you will transmit to me their Report as soon as it shall have been made. When I shall be in possession of it, (but not till then,) it will be in my power to answer the Memorial which Dr. Bethune has addressed to me. He should be apprized of the cause of the delay, and should have every proper facility afforded him of attending the Law Officers of the Crown in Canada, and of laying before them any proofs or arguments he may wish to adduce in support of the legal propositions which he has maintained in that Memorial.

I have, &c.,  
(Signed,) GREY.

Governor General  
Earl CATHCART,  
&c. &c. &c.

No. 24.—Despatch from Lord CATHCART to the Right Honourable W. E. GLADSTONE,—transmitting Minutes of the proceedings of the Governors, and recommending the confirmation of the Statutes transmitted by Lord Metcalfe on the 6th September, 1843.

GOVERNMENT HOUSE,  
Montreal, 13th July, 1846.

SIR,

I have the honour to submit a copy of a letter from the Secretary of M'Gill College, enclosing Minutes of the proceedings of the Governors of that Institution on the 6th, 7th, 8th, and 10th instant, and Documents relating thereto: also, a copy of a further letter from the Secretary, enclosing a Memorandum of that portion of the proceedings of the Governors, to which it is especially desired that your immediate

13th July,  
1846.

attention should be requested. These papers will fully inform you of the present condition of the affairs of M'Gill College, and of the grounds on which I now beg to recommend that Her Majesty should be advised to confirm the Statutes transmitted in Lord Metcalfe's Despatch No. 80, of the 6th September, 1843, as well as the additional Statute passed by the Governors on the 7th instant, in such time as may ensure their being received by me before the commencement of the College Term in September next.

I have, &c.,  
(Signed,) CATHCART.

The Right Honourable  
W. E. GLADSTONE,  
&c. &c. &c.

ENCLOSURE No. 1.

M'GILL COLLEGE, 13th July, 1846.

SIR,

I am directed by the Governors of the College to submit to you, for the information of His Excellency the Governor General, certain Minutes of the proceedings at their several Meetings held at the Government House on the 6th, 7th, 8th, and 10th instant.

I have the honour to be,  
Sir,  
Your obedient humble Servant,  
J. ABBOTT,  
Secretary M'Gill College.

To the Honourable  
D. DALY,  
Provincial Secretary,  
&c. &c. &c.

(Copy.)

## MEMORANDUM.

Substance of a portion of the Proceedings of the Governors of M'Gill College at Meetings held at the Government House, Montreal, on the 6th, 7th, 8th, and 10th days of July, 1846.

His Excellency the Governor General presided at all the above Meetings, in his capacity of one of the Governors of the College. The Chief Justice of Upper Canada was present at all the Meetings. The Lord Bishop of Montreal was present at those of the 6th and 7th instant, and the Principal of the College, Mr. Meredith, at that of the 7th, and at all after that date.

6th July.—A Memorial of the Reverend Dr. Bethune, dated the 3d July instant, was read at the Board. In the above Memorial Dr. Bethune contends against the legality of the Act of Her Majesty's Government disallowing his appointment to the office of Principal of M'Gill College. Chief Justice Robinson expressed a desire to give in a written statement of his views with reference to the disallowance of the Reverend Dr. Bethune's appointment,

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)  
10th April.

The necessity of filling, temporarily, the office of Principal of the College, vacant by the disallowance of Dr. Bethune's appointment, was also discussed.

July 7.—The matter of the Rev. Dr. Bethune's Memorial, and the necessity of making provision for filling temporarily the office of Principal of the College being again considered, the Chief Justice of Upper Canada submitted a written statement of his views with reference to the disallowance of Dr. Bethune's appointment, which was read. And it was resolved that a Principal should be elected to hold the office temporarily, pending the consideration of the Reverend Dr. Bethune's Memorial by Her Majesty in Council.

It was further resolved, that Edmund Allen Meredith, Esquire, A.B. and L.L.B., of Trinity College, Dublin, be elected Principal of M'Gill College, and that in transmitting this Resolution to Mr. Meredith, he be informed that it is not contemplated or intended by the Governors that his election to that office should stand in the way of any course which it may appear desirable to the Governors to pursue in reference to the office, in consequence of any view which Her Majesty's Council may take of the matters contained in Dr. Bethune's Memorial, or whenever the question of a permanent appointment to the office should come to be considered.

Mr. Meredith having accepted the office of Principal, and his Commission as Principal being handed to him duly signed and sealed, he took his seat at the Board as one of the Governors of the College.

July 8.—At the request of the Board of Governors, a Statement of the financial affairs of the College was laid before them. The paper marked A, hereunto annexed, briefly exhibits the present state of the College Funds.

From the above paper, taken in connection with the other Documents submitted to the Board at the same time, it appeared satisfactorily to the Governors that the College would in a short time (if proper measures were adopted) be in a condition to apply the whole of its current income to its current expenditure; and that so soon as that could be done, and with the additional funds which might by judicious management be derived from the Real Estate of the College, the Governors would have no difficulty in maintaining the College on a scale large enough to be extremely useful, especially when it is recollected that the Province, containing nearly one million of inhabitants, is at present wholly without any means of affording to its youth the advantage of University education.

It further appeared that the whole of the available funds of the College, amounting to about £ , had been paid over to the Receiver General of the Province by the Royal Institution, and that the Executive Council of the Province had been advised that no payments could properly be made to the Governors of the College out of the College funds for any purpose whatever, because the College Statutes have not been assented to by Her Majesty. That since this view of the case has been taken, that is to say, since 11th July, 1845, not one shilling has been placed at the disposal of the Governors of the College to meet any disbursements of any kind; and that the current expenses of the Establishment since the last mentioned date, have been mainly defrayed out of the private resources of the Governors and Officers of the Institution.

Appendix  
(G.G.G.G.)  
10th April.

It further appeared that some of the Creditors of the College are threatening to levy Executions upon the property of the College, and that others of the Creditors had already adopted that course. That in consequence of these proceedings, and of the law expenses attending them, the debts of the College were being daily augmented.

The Board of Governors were unanimously of opinion, that it is most important to adopt the most strenuous measures to rescue M'Gill College from the degrading position in which it is now placed, in consequence of its financial difficulties; difficulties which must not merely impair the efficiency of the Institution and lower it in public estimation, but which threatens even its very existence.

These financial difficulties, in the opinion of the Board, are, in common with almost all the other evils which have obstructed the success of the M'Gill College, traceable to the fault that the Statutes of the College have not as yet received the sanction of Her Majesty.

The Statutes in question were framed in July 1843, and immediately after were, in accordance with the provisions of the College Charter, sent home to be confirmed by Her Majesty.

Unhappily for the Institution, (notwithstanding the repeated and earnest efforts of the Governors of the College to obtain Her Majesty's confirmation of the said Statutes) they have not up to the present been assented to, either in whole or in part, by Her Majesty, with the exception merely of the Statutes referring to the Medical Faculty.

The Board of Governors, in consideration of the foregoing facts, were unanimously of opinion that the interests of the College would be most materially promoted by securing, if possible, for the College the confirmation of the above Statutes; and it was accordingly resolved by the Board of Governors,—

“That the Secretary of the College be instructed to address His Excellency the Governor General, for the purpose of earnestly requesting, on behalf of the Governors of the College, that His Excellency would be graciously pleased once more to call the attention of Her Majesty's Principal Secretary of State for the Colonies to the urgent necessity for the confirmation as speedily as possible by Her Majesty, of the Statutes framed in July, 1843, for the government of the College, or of such of the above Statutes as may be approved of by Her Majesty.”

A communication from Dr. Holmes on the part of the Medical Faculty of M'Gill College was read.

In the above communication Dr. Holmes represented the very great inconvenience which had been occasioned from the fact, that by a clause in one of the Statutes of the Medical Faculty of the College, which portion of the Statutes, as already observed, have been sanctioned by Her Majesty, a particular day (the 25th of May) is appointed for conferring the Medical Degrees.

In consequence of the disallowance of the Rev. Dr. Bethune's appointment as Principal having taken place before the 25th day of May last, and no successor having been appointed, there was no Principal *in esse* on that day, and consequently no degrees in Medicine could be conferred, although many Students had passed all the necessary examinations, and were entitled to receive their degrees.

Appendix  
(G.G.G.G.)  
10th April.

The obstacle to conferring the degrees in question, so far as it arose from the want of a Principal, having been since removed by the appointment of Mr. Meredith as Principal of the College, it was resolved by the Board, that in order to relieve the Medical Faculty from the embarrassing position in which they have been placed by the disallowance of Dr. Bethune's appointment before the 25th day of May last, and to enable them as soon as possible to confer degrees upon the persons entitled to have received them on that day, and to prevent the recurrence of a like inconvenience at any future time, that the following Statute be passed:—

(Vide Statutes of Medical Faculty, 2d paragraph, Section 11, herewith.)

And it was further resolved, that the Secretary of the College should address His Excellency the Governor General, for the purpose of respectfully requesting His Excellency to call the attention of Her Majesty's Principal Secretary of State to the necessity of confirming the above special Statute as speedily as possible.

A.

Statement of the Income of M'Gill College, extracted from the Report of the Board of the Royal Institution, dated 17th November, 1845.

Rente Constituée payable by Cuvillier.	£	96	0	0
Do. do. due by Mr. Gillespie.		33	6	8
Rentes Foncieres on 18 lots sold in September last.....		272	8	0
Rentes Foncieres on 14 lots sold on 30th October, 1845.....		210	0	0
Rent of a House in the New Market...		250	0	0
	£	861	14	8

DEDUCT

The amount of Premiums on Insurance of the College and the other buildings, with a small allowance for incidental charges.....		61	14	8
	£	800	0	0
To which add the Rent of Burnside.....		100	0	0
	£	900	0	0

ENCLOSURE No. 2.

M'GILL COLLEGE,  
13th July, 1846.

SIR,

I have herewith to enclose to you a Memorandum of that portion of the proceedings of the Governors of the College at their Meeting, on the 7th instant, intituled a "Special Statute;" and I am directed respectfully to request, that His Excellency the Governor General would be pleased to call the attention of Her Majesty's Principal Secretary of State to the necessity of confirming the same as speedily as possible.

I have the honour to be,

Sir,

Your obedient Servant,

J. ABBOTT,

Secretary.

To the Honourable

D. DALY,

Provincial Secretary,

&c. &c. &c.

Appendix  
(G.G.G.G.)  
10th April.

At an Adjourned Meeting of the Governors held at the Government House July 7, 1846, it was resolved,

That to remedy the present inconvenience, and to guard against its recurring in future, a Statute be passed as follows, and submitted for Her Majesty's confirmation:—

"The Degree in Medicine and Surgery may be conferred upon successful Candidates in the Hall of the University, either on the day appointed by the existing Statutes, or on such other days as shall be appointed by the Governors on the application of the Medical Faculty."

A true copy.

J. ABBOTT,

Secretary M'Gill College.

M'GILL COLLEGE,

13th July, 1846.

No. 25.—Despatch from Earl GREY to His Excellency Earl CATHCART,—confirming portions of the Statutes of September, 1843, and requiring a Report from the Executive Council and the Law Officers on the Sections that have been withheld from Her Majesty's confirmation.

[Extracts.]

(Copy.)

No. 21.

DOWNING STREET,

18th August, 1846.

MY LORD,

I have received Your Lordship's Despatch, dated 13th of July last, and numbered 92, reporting the recent proceedings of the Governors of M'Gill College, and conveying to me Your Lordship's recommendation, that Her Majesty should be advised to confirm the Statutes transmitted in Lord Metcalfe's Despatch, No. 80, of the 6th September, 1843, as well as the additional Statute passed by the Governors, on the 7th of July last, and that they should be so confirmed in such time as may ensure their being received by Your Lordship, before the commencement of the College Term, in September next.

In the absence of any express statement of the grounds on which Your Lordship's advice is founded, I conclude that your views of the whole subject are to be understood as coinciding with those of the Governors of the College, as explained in their proceedings of the 6th, 7th, 8th, and 10th of July last. But as I do not find in the record of those proceedings, any reference to the reasons which appeared to Lord Metcalfe, and to Lord Stanley, to render the confirmation of the Statutes inexpedient, I am still without sufficient means of judging whether those objections have, by altered circumstances, lost their original force; or whether the weight of them was formerly exaggerated and misapprehended.

It is, however, due to Lords Metcalfe and Stanley, to record distinctly, that they are not justly liable to the charge of delay, or inattention to this important subject; a charge which, if not preferred in terms, is at least obviously suggested in the recent deliberations of the Governors. Lord Stanley postponed the confirmation of the Statutes, in defe-

Appendix  
(G.G.G.G.)  
10th April.

rence to the advice of Lord Metcalfe, and Lord Metcalfe recommended that postponement, because he thought that, without pecuniary aid from the local Legislature, the College could not be effectually brought into operation, and because he was of opinion that such aid would not be granted if the Royal Confirmation of the Statutes should first have impressed indelibly on that Institution a character of exclusiveness, in whatever relates to Theological Degrees and Studies, and to the public worship of the place. If indeed the Will by which the College was endowed, or the Charter by which it was incorporated, had by express words affirmed that such was the design, either of the Founder or of the Sovereign, or if that design had in either of those instruments been indicted in any distinct and unequivocal manner, the difficulty to which I refer would of course never have arisen. Lords Metcalfe and Stanley would, in that case, have felt and acknowledged that, if a departure from the Will of the Founders on a subject so momentous, was a sacrifice really necessary, in order to propitiate the favour of the Legislative Council and Assembly, to the College, it was a sacrifice which not even that motive would vindicate.

But their Lordships did not, and could not, impute to those Houses any such disregard of reason and of justice. The Will and Charter are both silent on the subject of the peculiar religious tenets or ecclesiastical principles to be inculcated at the College; a silence very significant in the case of a Testator, who was himself the member of a Christian Church, which at the date of his Will, formed a small minority of the whole population of Lower Canada; a silence not less significant in the case of a Sovereign, whose official advisers were in common with himself, members of the same Church; a silence not to be explained by any supposed forgetfulness, or intentional omission of the subject, since the inculcation of "the principles of true religion" is expressly provided for by the Charter; a silence, therefore, apparently indicating a design that Christianity should be taught, not in any single or exclusive form, but in any and in every form in which its great fundamental truths and precepts could be imparted to the students.

It would be entirely superfluous for me to defend, or to express any opinion respecting this supposed latitudinarianism of purpose on such a subject. It is not requisite for me even to maintain that the Will or the Charter require such a wide construction. I advance no further than to assert that it is at least a plausible and an admissible construction that the local Legislature might, without injustice or unreasonableness, have maintained that it was the true and right construction; and that Lords Metcalfe and Stanley had, therefore, (as it should seem,) good cause to hesitate in negating irremediably any such meaning of the instruments before the local Legislature could have time and opportunity to record their judgment on the question. In a case so very far from clear in favour of the narrower interpretation, no compromise of principle was involved in the avowed desire to await the decision of the bodies the most deeply concerned in the subject, and on whose favour the success of the College appeared to Lord Metcalfe so entirely to depend.

Except as far as the silence of the Assembly during the last three Sessions may now justify the supposition of their indifference to the affairs of this College, the case thus far remains at this moment exactly in the same state as when it was postponed by Lord Stanley. I am still without any proof or assertion that the College can be maintained without

aid from the Assembly, or that such aid would be given if the Statutes of 1843 should be confirmed in their present form. The opposite opinions may, of course, have been erroneous. But the knowledge that they were the opinions of Lord Metcalfe, is amply sufficient to render me very cautious in assuming that they were adopted on light or insufficient grounds.

These considerations would seem to prescribe a perseverance in that policy of temporary inaction which Lord Metcalfe advised, and which Lord Stanley adopted. But the recent deliberations of the Governors of the College render that course practically impossible. I cannot, in opposition to their unanimous judgment, and to Your Lordship's advice, recommend Her Majesty to adhere to maxims of caution which I am distinctly informed, on such authority, must, if further acted on, issue in the ruin of the College itself. The time for action has evidently, therefore, arrived. It remains only to inquire how, and to what extent it may be right to act.

I do not find that the Charter of the College obliges the Sovereign to confirm or to reject the whole body of Statutes of the same date. That is an obligation not usually incident to powers of the kind which that Charter has reserved to Her Majesty. To select from the collection, and to confirm separately such Statutes as seem unobjectionable, reserving the rest for further and more mature deliberation, is, I apprehend, within the compass of the authority vested in Her Majesty, by the Act of Her Royal Predecessor.

I have therefore advised the Queen to confirm the several Statutes, of which, for the prevention of any uncertainty, I annex copies, and Her Majesty has commanded me to signify to the Governors of the College, through Your Lordship, Her Majesty's confirmation of them accordingly.

Among the confirmed Statutes, Your Lordship and the Governors will not find the 4th Section of the 7th chapter, nor either of the two Sections of the 15th chapter, nor the 4th, 8th, or 11th Sections of the 17th chapter of the Statutes of 1843. The questions respecting the religious and ecclesiastical principles to be inculcated in the College, will therefore, for the present, rest in the same state of indecision as that in which the Will of the Founder and the Royal Charter have left them.

I do not commit myself to any opinion, as to the course which Her Majesty ought to be advised hereafter to take, respecting the omitted sections. On that subject I should wish to be assisted, not only by the further deliberations of the Governors of the College, but by the advice of the Crown Lawyers of Canada, and of Your Lordship and of the Executive Council of the Province.

I especially desire to be informed, first, what is the judgment of the Law Officers of Canada, as to the legal effect of the Will and the Charter, as far as respects the Religious and Ecclesiastical character of the College, and whether it is consistent with these Instruments to impart to it, by Statutes of the Governors, a character so exclusive (in those respects) as the omitted sections would convey.

Secondly. I wish to be apprised by the Governors, by Your Lordship, and by the Executive Council, whether the College can be effectually maintained, without the aid, pecuniary or otherwise, of the Local Legislature. Thirdly. It should be stated by Your Lordship, and by the Council, whether the confir-

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)

10th April

mation by the Queen, of the omitted sections, would probably prevent that aid being afforded.

When I shall be in possession of the answers to these inquiries, I shall resume the consideration of the subject, but I do not think it right to conceal my present opinion, that the omitted sections have been unadvisedly introduced into these Statutes, and that they detract from the spirit and apparent design, both of the Will and of the Charter.

For the present, enough will, I trust, have been done, to enable the College to commence its operations by the September Term.

I have, &c.,

(Signed,) GREY.

Governor General,  
Lieutenant General,  
Earl CATHCART, K.C.B.,  
&c. &c. &c.

No. 26.—Despatch from Lord ELGIN to the Right Honourable Earl GREY,—reporting the appointment by the Governors, of the Rev. W. T. Leach, to be Professor of Classical Literature.

(Copy.)

No. 19.

GOVERNMENT HOUSE,  
Montreal, 26th March, 1847.

My LORD,

I have the honour to transmit herewith, a copy of a letter from the Secretary of M'Gill College, reporting for the purpose of having the same submitted for the sanction of Her Majesty, the appointment by the Governors on the 4th of April, 1846, of the Rev. W. T. Leach, A.M., to the Office of Professor of Classical Literature in that Institution.

The delay which has occurred in making this communication to Your Lordship, was occasioned by a reference made on the 2nd of May, 1846, for an opinion of the Law Officers of the Crown, whose report, in consequence of some oversight, was not received until to-day.

I have, &c.,

(Signed,) ELGIN & KINCARDINE.

The Right Honourable  
Earl GREY,  
&c. &c. &c.

M'GILL COLLEGE,  
April 28th, 1846.

SIR,

I have the honour to state to you for the information of Her Majesty's Secretary of State for the Colonies, that at a meeting of the Governors of M'Gill College, held on the 4th of April instant, the Rev. W. T. Leach, A.M. of the University of Edinburgh, was appointed Professor of Classical Literature in this College, and that at another meeting of the Go-

vernors, held on the 15th instant, his Salary was fixed at £250 currency a-year.

I have the honour to be,  
Sir,  
Your obedient Servant,

JOHN ABBOTT,  
Secretary M'Gill College.

To the Honourable  
Captain HIGGINSON,  
Civil Secretary,  
&c. &c. &c.

No. 27.—Despatch from Earl GREY to the Right Honourable Earl of ELGIN,—confirming Mr. Leach's appointment.

(Copy.)

No. 66.

DOWNING STREET,  
8th May, 1847.

My LORD,

I have received and laid before the Queen Your Lordship's Despatch No. 19, of the 26th March, reporting the appointment by the Governors of M'Gill College of the Reverend W. T. Leach, A.M., to the office of Professor of Classical Literature in that Institution; and I have to acquaint you in answer, for the information of the Governors of the College, that Her Majesty has been graciously pleased to confirm that appointment.

I am, &c.,

(Signed,) GREY.

The Right Honourable  
Earl of ELGIN,  
&c. &c. &c.

No. 28.—Despatch from Lord ELGIN to the Right Honourable the Earl GREY,—transmitting for Her Majesty's approval, Statutes passed by the Governors, relative to Studies in Law and in Medicine in M'Gill College.

(Copy.)

No. 103.

GOVERNMENT HOUSE,  
Montreal, 19th August, 1848.

My LORD,

I have the honour to transmit to you herewith, copies of certain Statutes passed at a recent meeting of the Governors of M'Gill College, Montreal, with a view to their being submitted for Her Majesty's approval, in accordance with the provisions of the Royal Charter of the Colleges.

In my capacity as a Governor, "ex-officio" of the College, I presided at the meeting referred to, and concurred in the adoption of the Statutes in question.

The Statutes have reference to the course of Studies to be pursued in the University by the Students, in Law and in Medicine, who are desirous to obtain a University Degree.

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)

10th April.

In order to afford Her Majesty the means of judging of the nature of the alterations proposed, by comparing the Statutes herewith submitted for her approval, with those at present in force, certified copies of all the Statutes of the College as they stand at present, (including those still under Her Majesty's consideration) accompany this communication.

The new Statutes with reference to Students in Law, contemplate, you will perceive, a very material reduction in both the period of Study and the extent of the "Curriculum" prescribed for Candidates for the Degree of Bachelor of Laws. After mature consideration, the Governors of the College came to the conclusion, that a very decided alteration in the Statutes affecting the Students in Law was desirable, in order to encourage the formation of a Law Class in the College, as up to the present time no Law Class has been formed; nor did it appear likely that any Students in Law would enter the University, unless greater facilities for obtaining a Degree in Law were afforded to them.

The Governors of the College have reason to believe, that in the event of the proposed Statutes being confirmed by Her Majesty, a very large Law Class would at once be formed in the College.

And the Governors have no doubt that the effect of this will be not only to advance materially the interests of the College, but also to raise the standard of general acquirements (now unfortunately very low) among the Members of the Legal Profession in this section of Canada.

As regards that portion of the proposed Statutes herewith submitted, affecting Students in Medicine, I have to observe, that the alterations proposed will have the effect of extending the course of Studies required of Candidates for the Degree of Medicine conferred in the College. These alterations (made at the request of the Members of the Medical Faculty in the College) have appeared to the Governors to be rendered necessary in consequence of a recent Act of the Provincial Parliament, which extends the course of Studies required from all other Candidates, for a Provincial License to practise Medicine.

By the proposed alterations, the course of Studies required of the Candidates for the College Degree of M.D., has been extended and assimilated to that prescribed by the Act referred to for other Candidates for the Provincial Medical License.

I may observe, that the Governors of the College are most desirous that these Statutes should be brought under Her Majesty's notice as soon as practicable, in order that if possible they may come into operation during the ensuing College term, which will commence about the middle of next month.

I have, &amp;c.,

(Signed,) ELGIN &amp; KINCARDINE.

NOTE:—The Statutes transmitted with the preceding Despatch were confirmed by Lord Grey's Despatch of the 27th September following, (See No. 29,) and will be found among the Statutes of the College herewith. Vide Nos. 31 and 32.

No. 29.—Despatch from Lord GREY to the Right Honourable the Earl of ELGIN,—confirming the Statutes passed by the Governors relative to Studies in Law and in Medicine in M'Gill College, and requiring an answer to the Despatch to Lord Cathcart, No. 21, of the 18th August, 1846.

Appendix  
(G.G.G.G.)

10th April.

(Copy.)

No. 279.

DOWNING STREET,

27th September, 1848.

MY LORD,

I have to acknowledge the receipt of Your Lordship's Despatch of the 19th ultimo, No. 103, in which you submit for Her Majesty's confirmation certain Statutes recently passed by the Governors of M'Gill College at a Meeting held at Montreal, and presided over by Your Lordship, for the government of that Institution.

In deference to Your Lordship's recommendation, I have advised the Queen to allow and confirm these Statutes; and I have received Her Majesty's command to signify to the Governors of the College, through Your Lordship, Her Majesty's confirmation of these Statutes accordingly.

I avail myself of this opportunity to direct Your Lordship's attention to my Despatch to Earl Cathcart of the 18th of August, 1846, No. 21, on the subject of the Statutes passed in 1843 for the government of this College. I shall be glad to be favoured, at as early a period as may be practicable, with an answer to that Despatch.

I have, &amp;c.,

(Signed,) GREY.

The Right Honourable  
the Earl of ELGIN,  
&c. &c. &c.

## No. 30.—CHARTER OF M'GILL COLLEGE.

GEORGE the FOURTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.

To all to whom these presents shall come,

GREETING:

WHEREAS the Honourable James M'Gill, late of the City of Montreal, in the Province of Lower Canada, now deceased, by his last Will and Testament, bearing date at Montreal, the eighth day of January, in the year of our Lord one thousand eight hundred and eleven, did give and bequeath a certain tract of land near the said City of Montreal, with the dwelling-house and other buildings thereon erected, to Trustees in trust to convey and assure the same to the Royal Institution for the Advancement of Learning, established by virtue of an Act of the Provincial Parliament of Lower Canada, made and passed in the 41st year of the Reign of His late Majesty, intituled, "An Act for the establishment of "Free Schools and the Advancement of Learning in "this Province," upon condition that the said Institution should, within ten years from the decease of the said James M'Gill, erect and establish, or cause to be erected and established upon the said land, an

FIAT.  
Recorded in the  
Office of Enrolments at Que-  
bec, the 3d day  
of October,  
1821, in the  
first Register of  
Commissions  
from His Ma-  
jesty, Folio  
279.  
J. READY,  
A'g. Prov. Reg.



Appendix  
(G.G.G.G.)

10th April.

University or College, for the purposes of education and the advancement of learning in the said Province, with a competent number of Professors and Teachers to render such establishment effectual and beneficial for the purposes intended, and also upon condition that one of the Colleges to be comprised in the said University should be called "M'Gill College." And whereas the said James M'Gill, Esquire, — his said last will, did further give and bequeath to the said Trustees the sum of £10,000 in trust, to pay the same with interest to accrue thereon from and after the expiration of three years from his decease to the said Royal Institution for the Advancement of Learning, to be applied as soon as the said Institution should have erected an University or College on the said land, towards defraying the expenses thereby incurred, and towards maintaining the said University or College so erected and established. And whereas we have been humbly petitioned by the said Royal Institution for the Advancement of Learning, that we would be pleased to grant Our Royal Charter for the more perfect erection and establishment of the said College, and for incorporating the members thereof for the purposes aforesaid, and for such further endowment thereof as to Us should seem meet, We, having taken the premises into Our Royal consideration, and being desirous that an University or College should be established for the education of youth in the principles of true Religion, and for their instruction in the different branches of Science and Literature, are willing to comply with the prayer of the said Petition, and to afford every assistance towards carrying the intentions of the said James M'Gill into execution.

Therefore, know ye, that We, of Our especial grace, certain knowledge, and mere motion, have willed, ordained, and granted, and do by these presents for Us, Our Heirs, and Successors, will, ordain, and grant, that upon the said land and in the said buildings thereon erected, or to be erected, there shall be established from this time one College at the least for the education of youth and students in the Arts and Faculties, to continue for ever; and that the first College to be erected thereon shall be called "M'Gill College;" and that Our trusty and well beloved the Governor of Lower Canada, Lieutenant Governor of Lower Canada, Lieutenant Governor of Upper Canada, the Bishop of Quebec, the Chief Justice of Montreal, and the Chief Justice of Upper Canada, for the time being, shall be Governors of the said M'Gill College; and that the College shall consist of one Principal, to be elected in manner hereinafter mentioned, and who shall be, during his continuance in the said office, a Governor of the said College, of four Professors, to be also elected in manner hereinafter mentioned, and of Fellows, Tutors, and Scholars, in such numbers, and at such salaries, and subject to such provisions, rules, and regulations as shall hereafter be appointed by the Statutes, Rules, and Ordinances of the said College. And We do, by these presents, for Us, Our Heirs, and Successors, will, ordain, and grant, that the Principal and Professors of the said College shall be from time to time elected by the said Governors, or the major part of such of them as shall be present at any Meeting to be holden for such election. And in case of any equality of votes, the officer present at such Meeting whose office is first described in order in these presents, shall have a double or casting vote; provided always, that the persons by whom such election shall be made, shall notify the same respectively to Us, Our Heirs, or Successors, through one of Our or their Principal Secretaries of State by the first opportunity; and in case that We, Our Heirs, or Successors, shall disapprove of any person so elected, and shall cause such disapprobation to be notified to him under the Royal

Signet and Sign Manual, or through one of the Principal Secretaries of State, the person so elected as aforesaid shall, immediately upon such notification, cease to hold the office of Principal or Professor to which he shall have been elected as aforesaid; and the said Governors shall thereupon proceed to the election of another person to fill the office of such Principal or Professor respectively, and so from time to time, as often as the case shall happen.

And We do by these presents, for Us, Our Heirs, and Successors, will, ordain, and grant, that the said Governors, Principal, and Fellows, and their successors for ever, shall be one distinct and separate body politic and corporate in deed and in word, by the name and style of "The Governors, Principal, and Fellows of M'Gill College, at Montreal, in the said Province of Lower Canada," and that by the same name they shall have perpetual succession and a common seal, and that they and their successors shall, from time to time, have full power to break, alter, make new, or change such common seal at their will and pleasure, and as shall be found expedient, and that by the said name the said Governors, Principal and Fellows, and their successors, from time to time, and at all times hereafter, shall be a body politic and corporate in deed and in law, and be able and capable to have, take, receive, purchase, acquire, hold, possess, enjoy, and retain.

And We do hereby, for Us, Our Heirs, and Successors, give and grant full authority and free license to them and their successors, by the name aforesaid, to have, take, receive, and purchase, acquire, hold, possess, enjoy, and retain to and for the use of the said College, notwithstanding any Statutes or Statute of Mortmain, any manors, rectories, advowsons, messuages, lands, tenements, rents, hereditaments of what kind, nature, or quality soever, so as that the same do not exceed in yearly value the sum of £6,000 above all charges; and, moreover, to take, purchase, acquire, have, hold, enjoy, receive, possess, and retain, notwithstanding any such Statutes or Statute to the contrary, all or any goods, chattels, charitable and other contributions, gifts, and benefactions whatsoever; and that the said Governors, Principal, and Fellows, and their successors by the same name, shall and may be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered in all any Court or Courts of Record, or places of judicature within Our United Kingdom of Great Britain and Ireland and Our said Province of Lower Canada, and other Our dominions, and in all and singular actions, causes, pleas, suits, matters, and demands whatsoever, of what kind and nature or sort soever, in as large, ample, and beneficial manner and form as any other body politic or corporate, or any other Our liege subjects being persons able and capable in law, may or can have, take, purchase, receive, hold, possess, enjoy, retain, sue, implead or answer, or be sued, impleaded, or answered in any manner whatsoever.

And We do by these presents, for Us, Our Heirs, and Successors, will, ordain, and grant, that the Governors of the said College, or the major part of them, shall have power and authority to frame and make Statutes, Rules, and Ordinances, touching and concerning the good government of the said College, the performance of Divine Service therein, the Studies, Lectures, Exercises, and Degrees in Arts and Faculties, and all matters regarding the same, the election, qualification, and residence of the Principal, Professors, Fellows, and Scholars; the salaries, stipends, and provisions for the Principal, Professors, Fellows, Scholars, and Officers of the said College, and touching and concerning any other

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)  
10th April.

matter or thing which to them shall seem good, fit, useful and agreeable to this Our Charter, provided that in such Statutes, Rules, and Ordinances shall have any force or effect until allowed and confirmed by Us, Our Heirs, or Successors; and also from time to time to revoke, augment, or alter the same, as to them, or the major part of them, shall seem expedient, subject always to Our allowance and confirmation as aforesaid—provided that the said Statutes, Rules, and Ordinances, or any of them, shall not be repugnant to the Laws and Statutes of this Our Realm, and of Our said Province of Lower Canada. And We do hereby, for Us, Our Heirs, and Successors, charge and command that the Statutes, Rules, and Ordinances aforesaid, subject to the said provisions, shall be strictly and inviolably observed, kept, and performed, so long as they shall respectively remain in force and effect, under the penalties to be thereby or therein inflicted or contained. And We do by these presents, for Us, Our Heirs, and Successors, will, ordain, direct, and appoint, that the members of the Royal Institution aforesaid, for the time being, shall be visitors of the said College. And We do further will, ordain, and grant, that the said College shall be deemed and taken to be an University, and that the Students in the said College shall have liberty and faculty of taking the degrees of Bachelor, Master, and Doctor in the several Arts and Faculties at the appointed times, and shall have liberty within themselves of performing scholastic exercises, for the conferring of such degrees in such manner as shall be directed by the Statutes, Rules, and Ordinances of the said College. And We do by these presents, for Us, Our Heirs, and Successors, grant and declare, that these Our Letters Patent, or the enrolments or exemplifications thereof, shall and may be good, firm, valid, sufficient, and effectual in the Law, according to the true intent and meaning of the same, and shall be taken, construed, and adjudged in the most favourable and beneficial sense for the best advantage of the said Governors, Principal, Fellows, and Scholars of the said College at Montreal aforesaid, as well in all our Courts of Record as elsewhere, and by all and singular Judges, Justices, Officers, Ministers, and other subjects whatsoever, of Us, Our Heirs, and Successors, any mis-recital, non-recital, omission, imperfection, defect, matter, cause, or thing whatsoever to the contrary thereof in anywise notwithstanding, without fine or fee, great or small, to be for the same in any manner rendered, done, or paid to Us in Our hanaper or elsewhere, to Our use.

In witness thereof, We have caused these Our Letters to be made Patent. Witness, Ourselves, at Westminster, the thirty-first day of March, in the second year of Our Reign.

By Writ of Privy Seal.

(Signed,) BATHURST.

PROVINCIAL REGISTRAR'S OFFICE,  
Montreal, 26th March, 1849.

I do hereby certify the foregoing to be a true and faithful copy of the Record of the Original Letters Patent, with which it has been carefully examined by me.

R. A. TUCKER,  
Registrar.

No. 31.—STATUTES OF M'GILL COLLEGE.

Cap. 1.—OF THE CORPORATION.

1. The Corporation shall meet annually on the day after commencement day, and shall, at such meetings, inspect the Books and Accounts of the Registrar, Bursar, and Secretary, and transact all such business relative to the property of the University as may be necessary.

2. Special Meetings of the Corporation may be summoned at any time by the Governor General, the Chief Justice of Montreal, or the Principal, not less than seven days notice of such meeting being given through the Secretary. At all such meetings, the Governor present, whose Office is first described in order in the Charter, shall preside and have a double or casting vote.

Cap. 2.—OF THE GOVERNORS.

1. The Governors shall meet quarterly in the College, on the fourth Wednesday in the months of March, June, September, and December—provided, that if any such fourth Wednesday shall fall upon a Holy Day, the meeting shall be deferred to the day following.

2. Special Meetings may be convened at any time, by any Governor; not less than seven days notice being given through the Secretary. At all such meetings, the Governor present, whose Office is first described in order in the Charter, shall preside and have a double or casting vote.

3. At all meetings of the Governors, two shall make and constitute a Quorum for the transaction of such business as does not require, under the Charter, the presence of a majority of the Governors for the time being.

Cap. 3.—OF THE CAPUT.

1. There shall be a weekly Board, to consist of the Principal, Vice-Principal, and Professors, to be called the "Caput," of whom three shall form a Quorum for the transaction of business.

2. It shall be the duty of the Caput to frame Rules and Regulations, as occasion may require, for the Discipline, Lectures, Studies, and internal Government of the Lecturers, Scholars, Students, Inferior Officers and other Members of the College, to make regulations regarding the expenses and system of living within the College, to hear and determine all complaints for breaches of such Rules and Regulations, provided always that no person shall be suspended or expelled without the consent of the Governors, and that nothing herein contained shall have reference to the Lecturers in the Faculty of Medicine.

3. The Secretary of the College shall act as Secretary to the Caput, and Minutes of all their proceedings shall be preserved.

4. Supplications for Degrees, shall be addressed to the Caput, and with the exception of Honorary Degrees, no Degree or Incorporation shall be allowed without their consent.

5. Special Meetings of the Caput may be called at any time by the Principal or Vice-Principal, or on

Appendix  
(G.G.G.G.)  
10th April.

Appendix  
(G.G.G.G.)  
10th April.

the requisition of any two of its Members, not less than six hours notice of such Meeting being given through the Secretary.

Cap. 4.—OF THE CONVOCATION.

The Convocation shall consist of:—1. The Governors. 2. The Principal. 3. The Vice Principal. 4. The Professors. 5. The Lecturers of and above the rank of Bachelors of Civil Law. 6. Doctors of Divinity. 7. Doctors of Civil Law. 8. Doctors of Medicine, of five years standing from their Degree. 9. Bachelors of Divinity. 10. Masters of Arts. Provided always, that no graduate shall be a Member of the Convocation, whose name shall not be standing on the Books of the University.

2. The Convocation shall meet four times in every Term, for the purpose of conferring Degrees, such Meetings being regulated by the Caput, at their first Meeting in each Term; notice of these Meetings shall be given by the Secretary, to all Members of the Convocation resident within five miles of Montreal, and also by advertisement in some one of the Newspapers published in Montreal.

Cap. 5.—OF THE PRINCIPAL.

The Principal shall preside at all Convocations for conferring Degrees, and shall have the general inspection and direction of the internal affairs of the College, under such regulations as may be in force for the time being.

Cap. 6.—OF THE VICE-PRINCIPAL.

The Governors shall appoint one of the Professors to be Vice-Principal of the College, who shall retain his appointment during their pleasure.

2. The Vice-Principal shall be resident in the College, and during the non-residence of the Principal, shall be the Parent and Guardian of the College household. In the absence of the Principal, he shall preside at all Meetings of the Caput, and of the Convocation. He shall examine Students for Matriculation, maintain the observance of the Statutes by the Professors, Lecturers, Scholars, Students, Inferior Officers, and all other resident Members of the College, enforce such observance by admonitions and punishments, in graver cases convening the Caput. He shall direct the Students in their Studies, promoting by all the means in his power, their progress in Religion and Learning. He shall preside over the Collegiate exercises and regulate the Inferior Officers and Servants of the College.

3. The Salary and Fees of the Vice-Principal, shall be regulated and appointed by the Governors.

Cap. 7.—OF THE PROFESSORS, LECTURERS, AND TUTORS.

1. The following Professorships shall be established:—

- Professor of Divinity.
- do Classical Literature.
- do Mathematics and Natural Philosophy.
- do Medicine.

Appendix  
(G.G.G.G.)  
10th April.

2. It shall be competent for the Caput to appoint such Lecturers and Tutors as shall be from time to time required, such appointments being subject to the approval of the Governors, and to continue during their pleasure. The Principal shall appoint the Registrar, Bursar, and Secretary of the College, such appointment being likewise subject to the approval of the Governors, and to be also held during pleasure.

3. Every Professor, Lecturer, and Tutor, shall take the Oath of allegiance and of Office.

4. Vide Reserved Statutes at the end.

5. Every Professor, Lecturer, and Tutor, shall have power to punish by confinement and fine; the fine not to exceed five shillings, the confinement not to exceed twelve hours.

6. The Salaries, Fees, and Perquisites of the Professors, Lecturers, and Tutors, shall be determined and appointed by the Governors.

Cap. 8.—OF THE REGISTRAR, BURSAR, AND SECRETARY.

1. The Offices of Registrar, Bursar, and Secretary, shall be united in one person, who shall be appointed as hereinbefore mentioned.

2. He must give security to the extent of one thousand pounds current money of this Province, and must enter into Bonds with the Corporation, for the due fulfilment of his Offices, and shall receive and account for all monies and revenues of the University and College, from all sources derivable. He shall have custody of the Charters, Records, and all other muniments of the College, and the Matricula or Registry of the names of all the Members of the University and College. He shall be Secretary to the Corporation, Governors, and Caput, and enregister their respective proceedings. He shall apply the funds in his charge, to the payment of Salaries and other purposes, according to the Statutes and orders of the Governors.

3. He shall inspect the lands, buildings, and other property of the Corporation, report the necessary repairs, or any extraordinary expenditure to the Governors, and superintend under their directions, the execution of such repairs and expenditure.

4. He shall submit a full statement of his accounts to the Corporation at their Annual Meeting, to the Governors at their Quarterly Meetings, and to either at such other times as they shall specially require it. He shall receive an annual Salary to be fixed by the Governors.

Cap. 9.—OF THE STEWARD, BEADLE AND GARDENER.

The Steward, Beadle, and Gardener shall be nominated by the Principal, subject to the approval of the Governors, and removable at their pleasure, and shall be subject to such rules and regulations as shall be from time to time agreed upon by the Principal and Vice Principal.

Cap. 10.—OF THE REFECTORY.

1. The meals shall be in such apartments of the College as shall be determined by the Principal.

Appendix  
(G.G.G.G.)

10th April.

2. At meals, there shall be a high table for the Members of Convocation and Bachelors of Civil Law, Lecturers, Fellows, and Tutors. A second table for Bachelors of Arts and Students in Law and Medicine, who have passed the examination for the Degree of Bachelor of Arts, or the "previous examination," and others for under graduates.

Cap. 11.—OF COLLEGE DUES AND FEES.

1. The Principal and Vice-Principal shall, as often as they see occasion, regulate the payments to be made to the University and College, and several Officers thereof, by Students and all other Members, save and except the Students in the Faculty of Medicine; such regulations being always subject to the approval of the Governors.

2. A table of these regulations shall be kept fixed in the College Hall, by the Registrar.

3. No payment shall be claimed by any Officer, on any account or pretence whatever, except such as shall be stated in the said table.

Cap. 12.—OF MATRICULATION.

1. No Person shall be Matriculated as a Student in the Faculty of Arts, without previous examination by the Vice-Principal.

2. If a person be Matriculated in vacation, the following term shall be accounted as his first.

3. A Matricula shall be kept by the Registrar, in which all those who are Matriculated, save and except Students in the Faculty of Medicine, shall subscribe their names to the declaration that they will faithfully observe the Statutes, Rules, and Ordinances of the University; also a Register in which the Registrar shall insert the Christian and Surnames of all persons admitted, with their ages, places of birth, and education, and the name and places of residence, and rank of their parents or guardians.

Cap. 13.—OF TERMS, VACATIONS, AND HOLY-DAYS.

1. The Academical year shall begin on the first Wednesday in September, and shall contain three Terms, in which, all Scholastic exercises shall be performed.

2. The first, or Michaelmas Term, begins on the first Wednesday in September, and ends on the twentieth of December.

The second, or Lent Term, begins on the Wednesday nearest to the seventh of January, and ends on the Saturday before Palm Sunday.

The third, or Easter Term, begins on the Wednesday after Easter Sunday, and ends on the day after Commencement day, which is always the third Wednesday in June.

3. On the first and last days of every Term, after Divine Service in the College Chapel, or in the Protestant Episcopal Parish Church of Montreal, the Principal, or one of the Professors, Lecturers, or Tutors, whom the Principal may appoint, shall preach a Sermon; all the Members of the University, who have not obtained a dispensation to the contrary, attending in the full dress Academical habits.

4. The Holy-days and other public Festivals and Fasts appointed by competent authority, shall be duly observed.

Cap. 14.—OF THE CHAPEL.

Until that portion of the College designed for a Chapel be erected, Divine Service shall be performed in some convenient room in the College, to be selected by the Principal.

Cap. 15.—Vide Reserved Statutes at the end.

Cap. 16.—OF LECTURES AND EXERCISES.

The Lectures and Exercises, and the attendance of the under-graduates thereon, shall be determined from time to time by the Caput.

Cap. 17.—OF DEGREES.

1. No Student shall be admitted to the Degree of Bachelor of Arts until he shall have kept by Academical residence Nine Terms, and have passed the previous and final examinations.

2. Candidates for the Degree of Bachelor of Arts may present themselves for the previous examination in their Fourth, and for their final examination in their Tenth Term.

3. No person shall be admitted to the Degree of Master of Arts, until he shall have completed six years from the day of his matriculation. He must produce certificates from the Registrar, of having taken the Degree of Bachelor of Arts, and of having passed such examination as shall be prescribed by the Caput.

4. A reserved Statute since withdrawn.

5. No person shall be admitted to the Degree of B. C. L. unless he shall have attended Lectures in Law during two years, or six College Terms, and unless he shall have matriculated in the College, and attended Lectures in the Faculty of Arts for three Terms at the least, and unless he shall have passed such examinations in Law, and in the Arts and Sciences, as may be in that behalf prescribed.

6. No person shall be admitted to the Degree of D. C. L. unless he be of twelve years standing from the date of his matriculation, and unless he shall have previously obtained the Degrees of B. C. L. and of A. M.

7. Repealed. For copy vide end.

8. Vide Reserved Statutes at the end.

9. The Degree of Bachelor of Divinity may be conferred on Clergymen of the above mentioned Churches in full orders, provided that such Clergymen shall be persons of learning and discretion, and shall have been ten years in Holy Orders, and shall have satisfactorily undergone such examination as the Caput may appoint.

10. No person shall be allowed to take the Degree of Doctor in Divinity, until he shall have completed sixteen years from the day of his matriculation, and have previously taken the degree of Bache-

Appendix  
(G.G.G.G.)

10th April.

Appendix  
(G.G.G.G.)  
10th April.

lor of Divinity. Bachelors of Divinity of four years standing may be admitted to this Degree, and all Candidates shall perform such exercises as the Caput may appoint.

11. Vide Reserved Statutes at the end.

12. Graduates of foreign Universities may be incorporated and admitted at the discretion of the Caput.

13. The Caput may permit the incorporation of Alumni from any University in Her Majesty's dominions, to whom shall be granted and allowed the same standing as that which they held in such University, a satisfactory certificate of such standing being produced.

14. Honorary Degrees may be conferred on eminent persons, whether British subjects or Foreigners, and, in certain cases, on Officers of the College, but such honorary Degrees shall not confer the ordinary privileges of regular Graduates.

15. All Degrees shall be conferred by the Convocation.

16. The Fees on all Degrees must be paid to the Registrar before the Degree is conferred.

#### Cap. 18.—OF MORAL CONDUCT AND DISCIPLINE.

1. Every exertion shall be made by all Members of the University and College to the maintaining of good morals.

2. No under Graduates shall resort to any Inn or Tavern, or place of public amusement, without special permission from the Vice Principal.

3. No Member of the University shall promulgate any principles contrary to Christian morals.

4. No resident under Graduate shall remain out of College, nor any visitor in an under Graduate's room after ten o'clock at night, without the special permission of the Vice Principal.

5. No Member of the College shall break, deface, or otherwise injure the buildings, walls, doors, windows, fences, or any other property belonging to the College.

6. The Vice Principal, Professors, Lecturers and Tutors shall have power and authority to enter the apartments, at all hours, of all Members of the College under the degree of B. C. L.

7. Juniors shall pay the respect due to their Seniors, both in public and in private, by taking off their caps, giving place to them, and by other usual modes of attention and civility.

8. Inferior Officers and Members of the University and College are required to pay respectful deference to the admonitions of the Principal, Vice-Principal, Professors, Lecturers, and Tutors.

9. A printed copy of the Rules under this chapter shall be affixed by the Registrar in every gallery of the Institution.

#### Cap. 19.—OF ACADEMICAL DRESS.

1. The dress of all Members of the University shall be plain, decent, and comely, without superfluous ornament.

2. The Academical habits shall be the same as those which are worn in the University of Oxford, as they are appropriated to each degree, rank, station and standing respectively, save and except that the under Graduate commoner's gown shall be the same as that worn by the Oxford Scholars, and the under Graduate Scholar's gown shall be the same as that worn by the under Graduate Commoners of King's College, Toronto; and the resident Students in Law and Medicine, who have passed the "previous examination," shall wear the same gown as that which is worn by Bachelors of Arts in the University of Cambridge; the Students in Medicine wearing a plain rose colored silk hood.

3. No Member of the University shall appear at Church, Chapel, Lecture, or Refectory, without his Academical habits, nor without the College grounds except by dispensation from the Vice Principal.

#### Cap. 20.—OF RESIDENCE AND KEEPING TERM.

1. With reference to resident Members, no Term shall be kept or reckoned towards a Degree, without Academical residence during the whole Term, or at least three fourths of it, and such Academical residence shall consist in boarding and lodging in the College, in wearing the proper habit, in attending Divine Service, Lectures, and Classes, (unless a dispensation be granted to the contrary,) in performing exercises, and in complying with all the Academical regulations according to the Statutes.

2. With reference to non-resident Members keeping Term, Academical residence shall consist of the same, as prescribed in the last rule, with the exception of Boarding and Lodging in the College.

3. The keeping of a Term may be disallowed by the Caput to any resident Members for neglect of duty, for not paying the College dues, or for contracting debts elsewhere.

#### Cap. 21.—OF RANK AND PRECEDENCE.

1. The Visitors.
2. The Governors as their Offices are described in order in the Charter.
3. The Principal.
4. The Vice-Principal.
5. The Professor of Divinity.
6. The Professor of Classical Literature.
7. The Professor of Mathematics.
8. The Professor of Civil Law.
9. The Professor of Medicine.
10. The Lecturers according to the dates of their appointments.
11. The Tutors do do
12. Doctors of Divinity.
13. Doctors of Civil Law.
14. Doctors of Medicine.
15. Bachelors of Divinity.
16. Masters of Arts.

Appendix  
(G.G.G.G.)  
10th April.

17. Bachelors of Civil Law.
18. Bachelors of Arts.
19. Students of Civil Law.
20. Students of Medicine.
21. Scholars.
22. Students.

(A true Copy.)

J. ABBOTT,  
Secretary M'Gill College.

M'GILL COLLEGE,  
March 17th, 1849.

## RESERVED STATUTES.

Among the Statutes submitted to Her Majesty in the year One thousand eight hundred and forty-three, the following have not been confirmed, but were reserved for further consideration.

## Cap. 7.—OF THE PROFESSORS, LECTURERS, AND TUTORS.

4. No Professor, Lecturer, or Tutor shall teach in the College any principles contrary to the doctrines of the United Church of England and Ireland, or to the British Constitution.

## Cap. 15.—OF DIVINE SERVICE.

1. On every Sunday during Term, all the resident members of the University under the degree of B. C. L. who have not obtained a dispensation to the contrary, shall attend the morning service in the Protestant Episcopal Parish Church of Montreal. On every day during Term they shall attend morning and evening prayer in the College Chapel, or apartment allotted for that purpose.

2. Dispensations for non-attendance at Chapel and Church will be granted, on application to the Principal, to such members as shall not be of the United Church of England and Ireland.

3. The prayers in the College Chapel shall be said in rotation, by such of the Officers of the College as shall be in Holy Orders of the United Church of England and Ireland.

## Cap. 17.—OF DEGREES.

8. No person shall be admitted to the degree of Bachelor of Divinity unless he be in full Orders of the United Church of England and Ireland, or of the Protestant Episcopal Church of Scotland. All Candidates for this degree must produce certificates from the Registrar of having completed twelve years from the day of their matriculation. They shall perform such exercises as shall be appointed by the Caput.

11. The Caput may allow the incorporation and admission to the same, or a similar degree in this University, of Graduates of any University in Her Majesty's dominions who may desire such incorporation and admission, due enquiry being made as to their moral character and sound learning; and provided always, that Clergymen only of the United

Church of England and Ireland, and of the Protestant Episcopal Church of Scotland, can be incorporated as Graduates in Divinity, and admitted to the same degree in this University.

A true copy.

J. ABBOTT,  
Sec'y. M'G. Coll.

M'GILL COLLEGE,  
March 17, 1849.

The following is a copy of the 4th Section of chapter 17, withdrawn:—

No person shall be admitted to the degree of Bachelor of Civil Law until he shall have completed five years from the day of his matriculation. Candidates for this degree, without proceeding through Arts, must produce certificates from the Registrar of their having kept twelve Terms by Academical residence, of having passed the previous examination, which they may not do until they shall have entered upon their seventh Term of Academical residence, and of having attended regularly the Lectures in Civil Law.

A true copy.

J. ABBOTT,  
Sec'y. M'G. Coll.

## REPEALED STATUTES.

1. That clause 4 of cap. 17 of the Statutes of the College which has not been sanctioned by Her Majesty be withdrawn, and that clauses 5, 6, and 7 of the same chapter be, and are hereby repealed.

2. That no person be admitted to the degree of Bachelor of Civil Law unless he shall have attended Lectures in Law during two years or six College Terms, and unless he shall have matriculated in the College and attended Lectures in the Faculty of Arts for three Terms at the least, and unless he shall have passed such examinations in Law and in the Arts and Sciences as may be in that behalf prescribed.

3. That no person shall be admitted to the degree of Doctor of Civil Law unless he be of twelve years standing from the date of his matriculation, and unless he shall have previously obtained the degree of B. C. L. and of A. M.

## No. 32.—STATUTES of the MEDICAL FACULTY of the University of M'GILL COLLEGE.

## CHAPTER I.

Of the Duties of the Teachers of the Medical Department.

1st. The Teachers of the Medical Department shall consist of Professors and Lecturers.

2nd. Each Teacher shall deliver at least five Lectures during the week, except in the Class of Clinical Medicine and Surgery. Vide Note at end.

3rd. Each Lecture shall be of one hour's duration.

Appendix  
(G.G.G.G.)

10th April.

4th. Each Teacher shall give to the Pupils attending his Class an examination at least once a week, and each examination shall be considered a Lecture.

5th. A roll of the names of the Students attending each Class shall, from time to time, be called by each Teacher, and those who do not answer to their names shall not be entitled to a certificate of attendance at the termination of the course, except in cases where a satisfactory reason can be given for such absence.

6th. All tickets which have not a certificate of regular attendance attached to them shall be rejected by the Secretary, when presented as Testimonials, preparatory to the examination for the Degree.

Vide Note at end.

7th. The fee for each Class shall be Three pounds, Halifax currency, except for the Anatomical and Chemical Classes, for each of which the fee shall be Three pounds fifteen shillings, of the same currency, except for the Class of Clinical Medicine and Surgery, of Forensic Medicine and of Botany, for each of which the fee shall be Two pounds ten shillings.

8th. Any Student, after having paid the fees and attended two courses of any branch, shall be entitled to a perpetual ticket for that Class.

Vide Note at end.

9th. The Winter Course shall be of six months duration, except that of Forensic Medicine.

10th. The Summer Courses shall be of three months duration.

11th. Each Teacher shall, within one month after the closing of the Classes, deliver to the Secretary of the Faculty a list of the names of the Students who have attended his Class.

12th. The Winter Courses shall commence on the first Monday of November, and the Summer Classes on the second Monday of May.

## CHAPTER II.

Of the Studies and Qualifications of Students and Candidates for the Medical Degree conferred by this University.

1st. The Medical Degree granted by this University shall be that of Doctor of Medicine and Surgery.

2nd. All Students desirous of attending the Medical Lectures at this University shall enrol their names and residences in a book kept by the Registrar for that purpose, and procure from him, at the same time, a ticket of Matriculation, for which each Student shall pay a fee of Ten shillings.

3rd. The Book for enrolling the Matriculations for each Session shall be closed on the 23rd of December of each year, after which date no tickets can be obtained from any of the Teachers.

Vide Note at end.

4th. No one shall be admitted to the Degree of Doctor of Medicine and Surgery who shall not have studied Medicine and Surgery for the period of at least Four years, either in this University or some other University, Collège, or School of Medicine approved of by this University.

Vide Note at end.

5th. No one shall be admitted to the examination for this Degree who shall not have furnished Testi-

monials of attendance on the following branches of Medical Education, and in the manner following, viz.: Anatomy and Physiology; Chemistry; Theory and Practice of Medicine; Principles and Practice of Surgery; Midwifery, and Diseases of Women and Children; Materia Medica and Pharmacy; Clinical Medicine; Clinical Surgery; Practical Anatomy; of each of which two courses will be required; Institutes of Medicine; Forensic Medicine; Botany; of each of which one course will be required.

Appendix  
(G.G.G.G.)

10th April.

6th. The person presenting himself must also give proof, by Ticket, of having attended during one year the practise of the Montreal General Hospital, or some other Hospital having beds for at least forty patients.

7th. Moreover, no one shall receive the Medical Degree conferred by this University, who shall not have pursued his Studies in it during at least one Session.

8th. Every Candidate for the Degree must, before his examination be entered into, give proof of competent classical attainments.

9th. Every Candidate for the Degree must, on or before the 24th day of March, present to the Secretary of the Medical Faculty, Testimonials of his qualifications entitling him to an examination, and also, an inaugural Dissertation, written by himself, on some subject connected with Medical or Surgical Science, either in the Latin, English or French language. He must, at the same time, deliver to the Secretary of the Faculty the following Certificate:—

MONTREAL, March, 18—.

I, the undersigned, being desirous of obtaining the Degree of Doctor of Medicine and Surgery, do hereby declare that I have attained the age of twenty-one years, (or, if the case be otherwise, that I shall have attained the age of twenty-one years before the next Graduation day,) and that I am not (or shall not be at that time) under Articles as a Pupil or Apprentice to any Physician, Surgeon, or Apothecary.

(Signed,) A. B.

10th. The trials to be undergone by the Candidate to be:—

1. An examination into his classical qualifications; and if these be found satisfactory—

2. A general examination on all the branches of Medical and Surgical Science, which examination shall not be of less duration than one hour, unless it be ascertained that the Candidate is quite unprepared, in which case the examination may be closed.

3. The public defence of his inaugural Dissertation at or within seven days before the Graduation.

11th. All trials of Candidates shall take place between the 24th day of March and the 25th day of May, of each year, which latter day shall be the day for conferring Degrees, a ceremony which shall be conducted publicly: Provided always, that if the latter should fall upon a Sunday or Holiday, (Fete d'Obligation,) the ceremony shall be deferred to the day following.

“The Degree in Medicine and Surgery may be conferred upon successful Candidates in the Hall of the University, either on the day appointed by the existing Statutes, or on such other day as shall be appointed by the Governors, on the application of the Medical Faculty.”

This was passed as a separate Statute July 7th, 1846, and subsequently confirmed by Her Majesty.

Appendix (G.G.G.G.) 10th April.

12th. The Fee for the Degree of Doctor in Medicine and Surgery shall be Five pounds, Halifax currency, to be paid by the successful Candidate, before the day of Graduation, to the Registrar, together with a Fee of Five shillings for entering the same into a Register, kept by him for that purpose.

13th. The money arising from the Fees of Graduation shall be appropriated to the augmentation of the Library and defraying its expenses.

CHAPTER III.

Of the Duties of the Secretary of the Medical Faculty.

1st. The Secretary of the Medical Faculty shall have charge of all the Papers and Documents belonging to the said Faculty.

2nd. He shall insert in a Book kept for the purpose, Minutes of the Proceedings and Correspondence of the Faculty.

3rd. He shall insert in a Book kept for the purpose, the list of Matriculations sent by the Registrar to him.

4th. He shall transmit a copy of each year's List to the Principal of the College, before the first day of May of the ensuing year.

5th. He shall transcribe into another Book kept for the purpose, the names of those attending the Classes of the different Teachers.

6th. He shall act as Treasurer and Purveyor to the Faculty, until other arrangements be made by the Governors of the College.

7th. He shall conduct all the Correspondence of the Medical Faculty.

CHAPTER IV.

Of the Duties of the Registrar of the Medical Faculty.

1st. The Registrar shall have charge of and keep in good order all the printed Books belonging to the Faculty.

2nd. He shall keep a Book of Matriculations, in which the Students shall, at the time of receiving the Matriculation Ticket, enter their names in their own hand-writing.

3rd. He shall exact One pound as a deposit for each volume taken from the Library, for which he shall give a Receipt, on presentation of which, together with the volume, the money will be returned.

4th. He shall keep a Register, which shall contain the names of those who take Books from the Library, the Titles of the Books taken out, and the dates at which they are taken out and returned.

5th. No Student who has not Matriculated shall be permitted the use of the Library.

6th. He shall transmit to the Secretary of the Faculty, on or before the 31st of December of each year, the list of Matriculations for that Session.

Appendix (G.G.G.G.) 10th April.

7th. He shall enter into a Register kept for that purpose, the names of the successful Candidates who have received the Diploma of the University.

A true Copy.

J. ABBOTT,

Secretary M'G. C.

M'GILL COLLEGE,

17th March, 1849.

MEMORANDUM.

In the Statutes previously confirmed by Her Majesty, the 2d, 7th, and 9th Clauses of Chapter I, and the 4th and 5th Clauses of Chapter II, stood thus:—

CAP. I.

2nd Clause.—Each Teacher shall deliver at least five Lectures during the week.

7th Clause.—The Fee for each Class shall be Three Pounds, Halifax currency; except for the Anatomical and Chemical Classes, for each of which the Fee shall be Three Pounds Fifteen Shillings, of the same currency.

9th Clause.—The Winter Courses shall be of six months' duration.

CAP. II.

4th Clause.—No one shall be admitted to the degree of Doctor of Medicine and Surgery, who shall not have studied Medicine and Surgery for the period of at least three years, either in this University or some other University, College, or School of Medicine, in which Lectures on the various branches of Medical and Surgical Science are delivered, in courses of at least four month's duration, and in which at least five Lectures on each branch, are given during the week.

5th Clause.—No one shall be admitted to the examination for the degree who shall not have furnished testimonials of attendance on the following branches of Medical Education, in the manner following, viz:—

Anatomy and Physiology,—Chemistry and Pharmacy,—Theory and Practice of Medicine,—Midwifery and Diseases of Women and Children,—Principles and Practice of Surgery,—Materia Medica, and Therapeutics.

Of each of which two courses will be required.

Institutes of Medicine,—Practical Anatomy.

Of each of which one course will be required.

These Clauses were repealed by the Governors of the College, and the Clauses in the foregoing Draft adopted in their stead.

No. 33.—LIST OF OFFICERS, PROFESSORS, and LECTURERS in the University of M'GILL COLLEGE, &c. &c.

Table listing officers and lecturers: E. A. Meredith, L.L.B., Principal, no salary; Rev. W. T. Leach, A.M., Vice Principal, and Professor of Classical Literature, amount per annum £100 0 0; T. Guerin, Lecturer in Mathematics and Natural Philosophy, 50 0 0; Hon. W. Badgley, Q.C., Lecturer in Law, no salary, but a fee from each Student attending his Lectures, of £2 per Term.

Carried forward..... £150 0 0



Appendix  
(G.G.G.G.)

10th April.

	Brought forward.....	£150	0	0
Rev. J. Abbott, A.M., Registrar, Bursar, and Secretary, and Lec- turer in Ancient and Modern His- tory and Geography.....		100	0	0
(This Officer receives, besides his sa- lary, certain small fees from the students, which amounted during the last collegiate year, ending June 20, to £4 5s. He also fills the office of Lecturer in Logic, but has not received a formal appoint- ment)				
L. D. Montier, Lecturer on the French Language and French Li- terature.....		30	0	0
Rev. A. De Sola, Lecturer in He- brew, no salary.				
F. Hewitt, Acting Bedell of the Col- lege, Wages.....		12	0	0
		-----		
Total amount of Salaries.....		£292	0	0

JOS. ABBOTT, A.M.,  
Bursar, M'Gill College.

M'GILL COLLEGE,  
March 17, 1849.

No. 34.—Statement of the M'GILL COLLEGE PRO-  
PERTY and INCOME.

ROYAL INSTITUTION OFFICE,

Montreal, 15th March, 1849.

SIR,

I have the honour, by direction of the President,  
to transmit to you, in terms of the request conveyed  
in your communication of the 13th instant, Schedule  
of the Property held by the Board of the Royal In-  
stitution for the Advancement of Learning, as  
Trustees under the Will of the late the Honourable  
James M'Gill, and—appended to it—Statement of  
the Annual Revenue of the Trust.

I have the honour to be,

Sir,

Your most obedient and humble Servant,

W. S. BURRAGE,  
Act'g. as Sec. R. I.

The Honourable  
JAMES LESLIE,  
Provincial Secretary,  
&c. &c. &c.

SCHEDULE of Property held by the Royal Institution  
for the Advancement of Learning, as Trustees  
under the Will of the late the Honourable  
JAMES M'GILL, and Statement of the Income  
of the Trust.

Appendix  
(G.G.G.G.)

10th April.

REAL ESTATE.

- 1st. A tract of Land lying within the limits of the  
City of Montreal, which consisted originally of  
about 46 acres, known as the "Burnside pro-  
perty." That part of it to the South of Sher-  
brooke Street has been laid out, and a small  
portion of it sold in Building Lots. The re-  
mainder constitutes the "Grounds of M'Gill  
College."
- 2dly. A Stone Dwelling, &c., situate on said pro-  
perty, known as "Burnside House."
- 3dly. Two large Stone Buildings also situate on said  
property, consisting, according to the original  
plan of the structure, of the "Centre" and "East  
Wing" of M'Gill College. A range of Wooden  
Outbuildings belongs to these.
- 4thly. A large Stone Dwelling and Appurtenances  
situate in Jacques Cartier Square, (formerly  
"Nelson's Market") and known as the King's  
Arms, or Mack's Hotel.

ANNUAL INCOME OF THE TRUST.

Rent of Burnside House, &c.....	£ 70	0	0
Rent of Mack's Hotel—last lease was £250, but from depreciation in va- lue consequent upon the removal of the Market, &c. &c., the present value is about.....	150	0	0
Rente Constituée on property at <i>Pointe à Callieres</i> .....	33	6	8
Rente Constituée on Old Distillery pro- perty.....	96	0	0
Rent of Building Lots sold à <i>rente fon- cière</i> .....	145	4	0
	-----		
	£494	10	8

From which is to be taken—

Amount of Insurances on the Buildings.....	£45	3	6
And for small Incidental Repairs, say.....	10	0	0
	-----		
	55	3	6

Available to the College, about .....£439 7 2

J. FERRIER,  
President.

W. S. BURRAGE,  
Act'g. as Sec. R. I.

No. 35.—The Course of Study pursued in the FACULTY of ARTS of M'GILL COLLEGE.

## M'GILL COLLEGE.

## PROGRAMME of UNDERGRADUATES' Course in MATHEMATICS, LOGIC, and ETHICS.

Year.	First, or Michaelmas Term.	Second, or Lent Term.	Third, or Easter Term.
First year.....	Simpson's Euclid, Books I. II.....	Euclid, Books I, II, III. Definitions of Book V. and Book VI.	Euclid, as for last Term. Woods' Algebra to the end of Quadratic Equation; and Simpson's Trigonometry to the end of the solution of Plain Triangles.
Second year.....	Mathematics.—All the Mathematics read during the first year, with Analytic Geometry to the end of the properties of the Circle. Logic.—Whately's Logic (Analytical Outline) with Book III, (or Fallacies,) and Book IV. c. 1. (of Induction).	Mathematics, as for last Term, with Analytic Geometry to the end of Equations of the Second Degree. Logic, as for last Term, with Brown's "Sketch of a system of Philosophy of the Human Mind."	Mathematics, as for last Term, with Thompson's Differential and Integral Calculus, viz.:—Differential Calculus, Chapters 1, 2, 3, 5, 7, 10. Integral Calculus, Chapters 14, 15, 16, 17, 18, 19, 20, with the Calculus of Variations, to Section 393.
Third year.....	Physics.—Hart's Mechanics. Logic.—All the Logic read during the preceding year.	Physics.—Hart's Mechanics, as in last Term, with Helsham's Lectures. Brinkley's Astronomy, Chapters 1, 8, 14, 16, 18. Logic as for last Term.	Physics as for last Term. Ethics.—Butler's Analogy.

A true Copy.

J. ABBOTT,  
Secretary M'Gill College.

## PROGRAMME of the UNDERGRADUATES' Course in CLASSICS.

Year.	First, or Michaelmas Term.	Second, or Lent Term.	Third, or Easter Term.
First year.....	Homer—Iliad, Books IX., X., XI., XII. Virgil—Æneid, Books VII., VIII., IX., X.	Homer—Iliad, Books XXI., XXII., XXIII., XXIV. Virgil—Georgics.	Euripides.—Phœnissa, or the Nubes of Aristophanes. Horace's Odes, Books I., II., III.
Second year.....	Sophocles—Œdipus Tyrannus. Cicero—Lex Manilia, Archius, and Ligarius: or instead of Cicero, Quinctilian, Book I.	Demosthenes—1st Phillipic, three Olynthic Orations. Juvenal—Satires 3, 4, 10, 14.	Demosthenes—De Corona. Horace's Satires and Epistles.
Third year.....	Herodotus, Books I., II. Cicero in Catilinam, 1, 2, 3, 4.	Æschylus—Prometheus. Euripides—Alcestes. Livy, Books XXI., XXII., XXIII.	Thucydides, Book I. Tacitus—Annals, Books I., II., III.

In the first and second years the Students are exercised in Greek and Latin Composition, and go through a course of Ancient History and Geography.

In the third year they are exercised in English Composition.

A true Copy.

J. ABBOTT,  
Secretary M'Gill College.

No. 36.—STATEMENT of the number of STUDENTS now Matriculated in the FACULTY of ARTS of M'GILL COLLEGE, and of the amount of INCOME deriveable from their TUITION FEES.

The number of Students in Arts is 13. Two of these have obtained Scholarships, and are admitted free.

The Fee per annum being £10, the Income now deriveable from Fees is £110 per annum.

M'GILL COLLEGE, 17th March, 1849.

J. ABBOTT,  
Bursar M'Gill College.

## R E T U R N

TO AN ADDRESS FROM THE LEGISLATIVE ASSEMBLY TO HIS EXCELLENCY THE GOVERNOR GENERAL, dated the 22d ultimo, praying His Excellency would be pleased to cause the proper officer to lay before them, a Report of all the Surveys performed on the Ottawa and its tributaries, by whom such Surveys have been made, the Cost of each, and by whom ordered, since the 1st January, 1844, up to the present period; and, if there are any Surveys now in progress, where, and the names of the Surveyors employed since the above period, and the total Cost up to this date.

By Command,

J. LESLIE,

Secretary.

PROVINCIAL SECRETARY'S OFFICE,  
Montreal, 9th April, 1849.

(DUPLICATE.)

## U P P E R C A N A D A .

TABULAR STATEMENT of all the SURVEYS performed on the OTTAWA and its Tributaries, by whom such Surveys have been made, the Cost of each, and by whom ordered, since the 1st January, 1844, up to the present period.

SURVEYS.	SURVEYORS.	BY WHOM ORDERED.	COST OF THE SURVEY.		
			£	s.	d.
Outlines of Lot letter O, Bytown.....	Michael M'Dermott.....	Order in Council, 9th June, 1845.....	105	5	9
Subdivision of Lot letter O, Bytown, into Town Lots.....	Robert Bell.....	do do 20th January, 1846..	69	1	0
Subdivision of Lot 29, Bytown, into Town Lots.....	do do .....	do do 22d June, 1846.....	47	16	0
The York River.....	Thomas Divine .....	do do 8th January, 1847 ...	228	8	6
The River Mattawin .....	Duncan Sinclair.....	do do do do ...	801	3	3½
The Indian and Chalk Rivers.....	Robert Bell.....	do do do do ...	214	17	0
Bissett's and Bennett's Creeks.....	Hugh Falls.....	do do do do ...	114	17	3
River Petewawé River.....	John R. M'Donnell....	do do do do ...	528	0	6
Bonne Chéré River.....	John M'Naughton.....	do do do do ...	337	3	10
River Mississippi.....	John S. Harper.....	do do do do ...	504	6	0
River Madawaska.....	Duncan M'Donnell....	do do do do ...	554	10	6
Water Lots, Bytown.....	Robert Bell.....	do do 14th June, 1848.....	2	10	0
Easterly part of an Exploring and Road Line from the Bathurst to the Home District	John J. Haslett.....	do do 19th April, 1847.....	703	7	1
Westerly part of an Exploring and Road Line from the Bathurst to the Home District	Robert Bell.....	do do do do .....	1639	9	6
Exploring and Road Line from the Victoria District to the River Madawaska.....	P. V. Elmore .....	do do do do .....	952	14	2
			£6803	10	4½

No farther Surveys on the Ottawa authorized under instructions from this Department.

T. BOUTHILLIER,

Crown Lands, 27th June, 1849.

CROWN LAND DEPARTMENT,  
Montreal, 26th March, 1849.



Appendix  
(I. I. I. I.)

10th April.

Appendix  
(I. I. I. I.)

10th April.

**\* R E T U R N**

To so much of an Address of the Honourable the Legislative Assembly, dated 29th January, 1849, praying that His Excellency the Governor General would be pleased to cause to be laid before that House a Return of all the Expenditure of the Clergy Reserves money, giving the particulars of each outlay since the passing of the Imperial Act relating to the said Reserves,—Also, Copies of all the correspondence or documents received by Government relative to the surplus fund now accruing from the Reserves, and the aggregate amount of such surplus fund.

By Command,

J. LESLIE,  
Secretary.SECRETARY'S OFFICE,  
Montreal, 10th April, 1849. }INSPECTOR GENERAL'S OFFICE,  
Montreal, 28th March, 1849.

SIR,—I do myself the honour to enclose a Return of all the Expenditure of the Clergy Reserves Money, &c., with ten accompanying Statements, as required by the Address of the Honourable the Legislative Assembly of 29th January last.

I have the honour to be,

Sir,

Your most obedient servant,

JOS. CARY,  
Deputy Inspector General.Hon. James Leslie,  
Provincial Secretary.

Appendix  
(I. I. I. I.)  
10th April.

Appendix  
(I. I. I. I.)  
10th April.

RECAPITULATION.

	1841.			1842.			1843.			1844.			1845.			1846.			1847.			1848.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Church of England, Canada West.....	8941	1	0	8189	5	1	7912	9	11	7724	14	3	8728	17	8	12066	11	10	17940	14	6	9765	10	6
Do. do. Canada East .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	7197	16	0	2079	13	7	2016	10	8
Church of Scotland, Canada West.....	1711	2	2	1599	14	5	1345	16	8	1063	8	1	6008	3	2	1268	6	8	9276	1	6	8050	18	11
Presbyterian Minister at Perth, Canada West ...	111	2	2	111	2	2	111	2	2	111	2	2	111	2	2	111	2	2	111	2	2	111	2	2
United Synod Presbytery, Canada West .....	777	15	2	707	1	4	777	15	2	656	14	10	636	7	0	636	7	0	565	13	0	565	13	0
Synod Presbyterian Church, Canada West .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	50	0	0	.....	.....	.....
Roman Catholic Church, Canada West.....	1666	13	2	1666	13	2	1666	13	2	1666	13	2	1666	13	2	1666	13	2	1666	13	2	1666	13	2
Wesleyan Methodist, Canada West .....	777	15	6	719	8	10	662	2	2	662	2	2	607	15	6	607	15	6	607	15	6	607	15	6
Church of Scotland, Canada East .....	555	11	0	555	11	0	555	11	0	452	0	0	330	13	7	317	9	2	522	4	6	1008	5	4
Total Currency.....£	14541	0	2	13548	16	0	13031	10	3	12336	14	8	18089	12	3	23872	1	6	32819	17	11	23792	9	3

Note.—All the above sums are defrayed out of the Revenues derived from Investments of Proceeds of Sales of Clergy Reserve Lands in Public Securities in England, and within the Province; from Interest on Sales of Lands made on credit, and from Rents of Leased Lots.

Old Sales are those made prior to the passing of the Imperial Act 3 & 4 Vic. cap. 78.

New Sales are made subsequent to that Act coming into operation.

The apportionment of the surplus revenues for 1848 is not yet made.

JOSEPH CARY,  
Deputy Inspector General.

INSPECTOR GENERAL'S OFFICE,  
Montreal, 26th March, 1849.

Appendix  
(I. I. I. I.)  
10th April.

RETURN of all the Expenditure of the Clergy Reserve Money, with the particulars of each outlay, since the passing of the Imperial Act relating to the said Reserves, from the year 1841 to 1848, both inclusive, as required by the Address of the Honourable Legislative Assembly, of 29th January, 1849.

	1841.		1842.		1843.		1844.		1845.		1846.		1847.		1848.	
	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.
Salary of the Arch-Deacon of York .....	333	6 8	333	6 8	333	6 8	333	6 8	333	6 8	333	6 8	333	6 8	333	6 8
Salary of the Arch-Deacon of Kingston .....	333	6 8	333	6 8	333	6 8	333	6 8	333	6 8	333	6 8	333	6 8	333	6 8
Salary of Venerable G. O. Stuart as Minister of the Church of England .....	111	2 2	111	2 2	111	2 2	111	2 2	111	2 2	111	2 2	111	2 2	111	2 2
Salaries and Pensions of Missionaries and Widows .....	7830	8 6	7411	9 7	7134	14 5	6946	18 9	6839	19 11	6668	1 0	6358	5 10	6321	1 8
Salary of the Secretary to the Clergy Corporation .....	300	0 0	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Contingencies of the Office of do. ....	24	17 0	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Salaries of the Revs. Messrs. Bartlett, Hobson, Ker, Taylor, and Ritchie, from 1st July, 1843 to 30th June, 1845 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Surplus Revenue. { L. P. Sherwood, and J. B. Robinson, Attorneys to the Society for propagating the Gospel in Foreign parts ... }	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Totals for Church of England Currency £	8941	1 0	8189	5 17	7912	9 11	7724	14 3	8728	17 8	12066	11 10	17940	14 6	9765	10 6
Surplus Revenue. { Thos. Triggs and J. B. Anderson, Attorneys to the Society for propagating the Gospel in Foreign parts ... }	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Salaries of Ministers of the Presbyterian Synod in Canada, in connexion with the Church of Scotland .....	1711	2 2	21599	14 5	1345	16 8	1063	8 1	677	4 11	601	13 4	585	16 8	538	6 8
Surplus Revenues. { William Edmonstone, Esq., Treasurer of the Board of Commissioners appointed by the Synod .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total Currency .....	£ 1711	2 2	21599	14 5	1345	16 8	1063	8 1	6008	3 2	1268	6 8	9276	1 6	8050	18 11

Church of England in Upper Canada.....

Church of England, Lower Canada.....

Church of Scotland in Upper Canada.....

\* In part of £8199  
0s. 7d., and of £1163  
9s. 4d. (New Sales)  
for the year 1847.

Old Sales under Act  
8 Geo. 4.  
New Sales under Act  
4 & 5 Vic.

Appendix  
(I. I. I. I.)  
10th April.

Appendix  
(I. I. I. I.)  
10th April.

Appendix  
(I. I. I. I.)  
10th April.

RETURN of all the Expenditure of the Clergy Reserve Money, &c.—(Continued.)

	1841.		1842.		1843.		1844.		1845.		1846.		1847.		1848.	
	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.
Salary of the Rev. W. Bell, Presbyterian Minister at Perth.....	111	2	111	2	111	2	111	2	111	2	111	2	111	2	111	2
Salaries of Ministers .....	777	15	707	1	777	15	656	14	636	7	636	7	565	13	565	13
II. D. Jessup for the Ruling Elders of Joint Congregations of South Gower, Oxford, and Mountain .....																
Salary of the Bishop .....	555	11	555	11	555	11	555	11	555	11	555	11	555	11	555	11
Salaries of the Priests .....	1111	2	1111	2	1111	2	1111	2	1111	2	1111	2	1111	2	1111	2
Total Currency.....	1666	13	1666	13	1666	13	1666	13	1666	13	1666	13	1666	13	1666	13
Salaries of the Missionaries.....	777	15	719	8	662	2	666	2	607	15	607	15	607	15	607	15
Salaries of the Ministers.....	555	11	555	11	555	11	452	0	330	13	317	9	317	9	317	9
Surplus Revenues. { William Edmonstone, Esq., Treasurer of the Board of Commissioners appointed by the Synod .....													204	15	690	16
Totals Currency .....	555	11	555	11	555	11	452	0	330	13	317	9	522	4	1008	5

Out of New Sales.

{ Paid to the Roman Catholic Bishops for the Priests.

{ £3880 was invested in 1845 in Government Debentures, on Account of these allowances from 1840. £369 2s. 0d. for Interest was paid to the Agent in 1847.

Remark. The Surplus Moneys stated to be paid above, in any one year, is the proportion of the Surplus of the preceding year.

United Synod Presbyterian Church, Canada West .....

Synod of the Presbyterian Church of Canada.....

Roman Catholic Church, Canada West .....

Wesleyan Methodist, Canada West .....

Church of Scotland in Lower Canada.....



Appendix  
(I. I. I. I.)  
10th April.

Appendix  
(I. I. I. I.)  
10th April.

A.

RETURN of Salaries and Pensions paid to Missionaries of the Church of England, in Canada West, and their Widows, from the year 1843, to 31st December, 1848, inclusive, as guaranteed by Imperial Clergy Reserve Act, 3 and 4 Victoria, chapter 78.

NAMES.	1843.		1844.		1845.		1846.		1847.		1848.		REMARKS.
	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	
Anderson, Johu .....	170	0	170	0	170	0	170	0	170	0	170	0	
Armour, Samuel .....	170	0	170	0	170	0	170	0	170	0	170	0	
Atkinson, A. F. ....	100	0	100	0	100	0	100	0	100	0	100	0	
Bethune, A. N. ....	170	0	170	0	170	0	170	0	170	0	170	0	
Betteridge, William .....	100	0	100	0	100	0	100	0	100	0	100	0	
Blake, Dominic .....	100	0	100	0	100	0	100	0	100	0	100	0	
Blakely, Robert .....	170	0	170	0	170	0	170	0	170	0	170	0	
Boswell, Edward .....	170	0	170	0	170	0	170	0	170	0	170	0	Removed to Thornhill in 1844.
Burnham, Mark .....	170	0	170	0	170	0	170	0	170	0	170	0	Removed to Williamsburg in 1844.
Crean, Thomas .....	170	0	170	0	170	0	170	0	170	0	170	0	
Crolynn, Benjamin .....	170	0	170	0	170	0	170	0	170	0	170	0	
Deacon, Job .....	170	0	170	0	170	0	170	0	170	0	170	0	
Denroche, Edward .....	100	0	100	0	100	0	100	0	100	0	100	0	
Evans, Francis .....	170	0	170	0	170	0	170	0	170	0	170	0	
Flood, Richard .....	100	0	100	0	100	0	100	0	100	0	100	0	
Flood, John .....	100	0	100	0	100	0	100	0	100	0	100	0	
Geddes, T. G. ....	170	0	170	0	170	0	170	0	170	0	170	0	
Givins, Salter .....	100	0	100	0	100	0	100	0	100	0	100	0	
Gracy, John .....	170	0	170	0	170	0	170	0	170	0	170	0	
Grant, G. R. F. ....	170	0	170	0	170	0	170	0	170	0	170	0	
Gunning, H. H. ....	170	0	170	0	170	0	170	0	170	0	170	0	
Harper, H. F. S. ....	100	0	100	0	100	0	100	0	100	0	100	0	
Harris, Michael .....	170	0	170	0	170	0	170	0	170	0	170	0	
Leemings, William .....	170	0	170	0	170	0	170	0	170	0	170	0	
Lindsay, T. G. B. ....	170	0	170	0	170	0	170	0	170	0	170	0	
Mack, Frederick .....	100	0	100	0	100	0	100	0	100	0	100	0	
Magrath, James .....	127	10	127	10	127	10	127	10	127	10	127	10	
Mayrhofer, V. P. ....	100	0	100	0	100	0	100	0	100	0	100	0	
McMurray, William .....	100	0	100	0	100	0	100	0	100	0	100	0	
Mortimer, George .....	100	0	45	16	8	.....	.....	.....	.....	.....	.....	.....	Died 15th June, 1844.
Morriner, Arthur .....	100	0	100	0	100	0	100	0	100	0	100	0	Removed to Adelaide in 1844.
Padfield James .....	100	0	100	0	100	0	100	0	100	0	100	0	
Palmer, Arthur .....	170	0	170	0	170	0	170	0	170	0	170	0	
Fatton, Henry .....	170	0	170	0	170	0	170	0	170	0	170	0	
Phillips, Thomas .....	140	0	140	0	140	0	140	0	140	0	140	0	Removed to Cornwall in 1846.
Rolph, Romaine .....	170	0	170	0	170	0	170	0	170	0	170	0	
Osenbruck .....	100	0	100	0	100	0	100	0	100	0	100	0	
Short, Jonathan .....	233	15	233	15	233	15	233	15	233	15	233	15	Salary discontinued 1st January, 1847.
Strachan, John .....	170	0	170	0	170	0	170	0	170	0	170	0	
Stuart, Geo. O Kill .....	170	0	170	0	170	0	170	0	170	0	170	0	
Totals Sterling .....	£5741	5	£5687	1	£5626	0	£5471	5	£5237	10	£5237	10	

Removed to Cornwall in 1844. Died 28th November, 1845.

Died 15th June, 1844.  
Removed to Adelaide in 1844.

Removed to Cornwall in 1846.

Salary discontinued 1st January, 1847.

Appendix  
(I. I. I. I.)  
10th April.

Appendix  
(I. I. I. I.)  
10th April.

NAMES.	RESIDENCE	1843.		1844.		1845.		1846.		1847.		1848.		REMARKS.		
		£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.			
<i>Retired Missionaries.</i>																
Leeming, Ralph.....	Ancaster.....	100	0	100	0	100	0	100	0	100	0	100	0			
Paterson, John.....	Markham.....	30	0	30	0	30	0	30	0	30	0	30	0	Died 18th January, 1848.		
Thompson, Joseph.....	Cavan.....	100	0	23	1	.....	.....	.....	.....	.....	.....	.....	.....	Died 24th March, 1844.		
	Totals Sterling.....	230	0	153	1	6	0	130	0	130	0	101	9			
<i>Widows receiving Pensions.</i>																
Mrs. Addison.....	Niagara.....	50	0	50	0	50	0	50	0	50	0	50	0			
" Archbold.....	Cornwall.....	50	0	50	0	50	0	50	0	50	0	50	0			
" Clarke.....	St. Catharines.....	50	0	12	1	9	.....	.....	.....	.....	.....	.....	.....	Died 28th March, 1844.		
" Johnston.....	Sandwich.....	50	0	50	0	50	0	50	0	50	0	50	0	Mrs. Campbell was re-married in April, 1842.		
" Menzies, late Mrs. Campbell.....	Belleville.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....			
" Morely.....	Bay of Quinte.....	50	0	50	0	50	0	50	0	50	0	50	0			
" Mountain.....	Cornwall.....	50	0	50	0	50	0	50	0	50	0	50	0			
" Sampson.....	Grimsby.....	50	0	50	0	50	0	50	0	50	0	50	0			
" Stoughton.....	Bath.....	50	0	50	0	50	0	50	0	50	0	50	0			
" Weagant.....	Williamsburgh.....	50	0	50	0	50	0	50	0	50	0	4	19	5	Died 4th February, 1847.	
	Totals Sterling.....	450	0	412	1	9	400	0	400	0	354	19	5	350	0	
<i>Recapitulation.</i>																
Salaries of Missionaries.....		574	5	568	1	8	562	0	1547	5	652	10	0	5237	10	0
Pensions of retired do. ....		230	0	153	1	6	130	0	130	0	130	0	0	101	9	7
Pensions of Widows.....		450	0	412	1	9	400	0	400	0	354	19	5	350	0	0
	Totals Sterling.....	1254	5	1133	1	15	1092	0	1601	5	1136	9	5	5588	19	7
	Totals in Currency.....	7134	14	5694	6	18	9383	19	1166	8	510	632	1	8		

N. R.—The salaries, &c., for the half year ended 31st December, 1842, were the same as those for the following period, but prior to 1842, there are no nominal lists recorded in the Inspector General's Office.

JOS. CARY,  
Deputy Inspector General.

INSPECTOR GENERAL'S OFFICE,  
Montreal, March, 1849.

Appendix  
(I. I. I. I.)  
10th April.

Appendix  
(I. I. I. I.)  
10th April.

B.

RETURN of allowances paid to Ministers belonging to the Synod of the Church of Scotland, in Canada West, having a claim under the Clergy Reserve Act, 3 and 4 Victoria, cap. 78, from the year 1843, up to 31st December, 1848, inclusive.

NAMES.	RESIDENCE.	1843.		1844.		1845.		1846.		1847.		1848.		REMARKS.
		£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	
John Machar.....	Kingston.....	63	6 8	63	6 8	63	6 8	63	6 8	63	6 8	63	6 8	Resigned and went to Scotland.
James Kechan.....	Belleville.....	63	6 8	31 13 4										Seceded 10th July, 1844.
John McRoger.....	Peterborough.....	63	6 8	31 13 4										Resigned.
Peter McNaughton.....	Vaughan.....	63	6 8	31 13 4										
John McKenzie.....	Williamstown.....	63	6 8	63	6 8	63	6 8	63	6 8	63	6 8	63	6 8	
Hugh Urquhart.....	Cornwall.....	63	6 8	63	6 8	63	6 8	63	6 8	63	6 8	63	6 8	
Robert McGill.....	Niagara.....	63	6 8	63	6 8	63	6 8	63	6 8	63	6 8	63	6 8	
George Cheyne.....	Amherstburg.....	63	6 8	31 13 4										Seceded 10th July, 1844.
James Smith.....	Guelph.....	63	6 8	1 14 5										Do. 6th August, 1844.
Matthew U. Stark.....	Dundas.....	63	6 8	31 13 4										Do. 10th July, 1844.
Alex. Gale.....	Hamilton.....	63	6 8	6 7 4										Do. do.
John Bayne.....	Galt.....	63	6 8	31 13 4										Do. do.
John Crookshank.....	Bytown.....	63	6 8	1 14 5										Resigned 11th March, 1845.
Thomas C. Wilson.....	Perth.....	63	6 8	63 6 8										Seceded 10th July, 1844.
Wm. McAlister.....		63	6 8	31 13 4										
John Smith.....	Beckwith.....	63	6 8	63 6 8										Appointed a Professor, Queen's College, paid up to 30th September, 1847.
George Romanes.....	Smith's Falls.....	63	6 8	63 6 8										
Peter Ferguson.....	Esquesing.....	63	6 8	63 6 8										Seceded 10th July, 1844.
Wm. Rintoul.....	Streetsville.....	63	6 8	63 6 8										Seceded 10th July, 1844.
John McIsaac.....	Lochiel.....	63	6 8	63 6 8										Absent since June, 1845.
Wm. McKillican.....	St. Thomas.....	31 13 4		31 13 4										Allowance discontinued 1st July, 1843.
John Tayae.....	Ring.....	31 13 4		31 13 4										
John McLaurin.....	Martintown.....	31 13 4		63 6 8										
	From 1st July, 1848.	1361	13 4											
	Less unpaid for the Rev. Wm. Ritchie in 1842.....	15	16 8											
	Totals Currency.....	1345	16 8	1063	8 3	677	4 11	601	13 4	585	16 8	538	6 8	

N. B.—There are no lists prior to 1842 recorded in the Inspector General's Office, but the salaries for the half year ended 31st December, 1842, were the same as those for the following half year, with the addition of Messrs. Leach and Ritchie, who were paid up to 31st December, 1842.

INSPECTOR GENERAL'S OFFICE,  
Montreal, March, 1849.  
JOS. CARY,  
Deputy Inspector General.

Appendix  
(I. I. I. I.)  
10th April.

Appendix  
(I. I. I. I.)  
10th April.

C.

RETURN of allowances paid to Ministers of the late United Synod of the Presbyterian Church of Upper Canada from the year 1843, to 31st December, 1848, inclusive, as guaranteed by the Imperial Clergy Reserve Act, 3 and 4 Victoria chapter 78.

NAMES.	RESIDENCE.	1843.		1844.		1845.		1846.		1847.		1848.		REMARKS.
		£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	
William Smart,.....	Brockville.....	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	
Robert Boyd,.....	Prescott.....	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	Died 14th April, 1844.
John Gemmill,.....	Lanark.....	63	12 8½	18	7 1½	.....	.....	.....	.....	.....	.....	.....	.....	
William King,.....	Nelson.....	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	
Andrew Bell,.....	Toronto Township.....	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	
Duncan McMillan,.....	Caledon.....	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	Ceased to receive the allowance.
John Bryning,.....	Mount Pleasant.....	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	
George McClatchey,.....	Clinton.....	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	
James Roger,.....	Demorestville.....	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	
Thomas Johnson,.....	Chingacousey.....	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	63	12 8½	
Rev. J. M'Laurin, 1st July, 1842, to 30th June, 1843.....		63	12 8	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	As a Minister, Synod Church of Scotland, from 1st July, 1843.
Totals Sterling.....£		699	19 9	591	1 6	572	14 4½	572	14 4½	509	1 8	509	1 8	
The same in Currency...£		777	15 2	656	14 10	636	7 0	636	7 0	565	13 0	565	13 0	

N.B.—There are no nominal Returns recorded in the Inspector General's Office prior to 1842.

JOS. CARY,  
Deputy Inspector General.

INSPECTOR GENERAL'S OFFICE,  
Montreal, March, 1849.

Appendix  
(I. I. I. I.)  
10th April.

Appendix  
(I. I. I. I.)  
10th April.

D.

CANADA WEST.

RETURN of Salaries of the Wesleyan Methodist Missionaries, from the year 1841 to 31st December, 1848, as guaranteed by the Imperial Act 3 and 4 Victoria, chapter 78, furnished pursuant to an Address from the Honourable the Legislative Assembly of 29th January, 1849.

NAMES.	1841.		1842.		1843.		1844.		1845.		1846.		1847.		1848.		REMARKS.
	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	
William Case,.....	166	8 0	166	8 0	166	8 0	166	8 0	166	8 0	166	8 0	166	8 0	166	8 0	
William Scott,.....	83	4 0	83	4 0	83	4 0	83	4 0	83	4 0	83	4 0	83	4 0	83	4 0	
William Ryerson,.....	100	0 0	100	0 0	100	0 0	100	0 0	100	0 0	100	0 0	100	0 0	100	0 0	
John Sunday,.....	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	
Sylvester Hurlburt,.....	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	
Thomas McMullen,.....	26	13 4	26	13 4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	Removed.
Alexander McNab,.....	41	13 4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	Removed.
Peter Jones,.....	91	10 2	91	10 2	91	10 2	91	10 2	91	10 2	91	10 2	91	10 2	91	10 2	
Chs. B. Goderich,.....	26	13 4	26	13 4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	Removed.
David Hardie,.....	25	0 0	25	0 0	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	Removed.
Benjamin Slight,.....	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	
William Price,.....	16	13 4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	Removed.
John Douse,.....	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	
William Herkimer,.....	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	
Thomas Hurlburt,.....	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	33	6 8	Removed.
Total Currency,.....	777	15 6	719	8 10	662	2 2	662	2 2	607	15 6	607	15 6	607	15 6	607	15 6	Paid to Rev. G. Wood.

Together £4662 15s. 2d., of which £3880 was invested in Government Debentures, and the balance £772 15s. 2d. was placed in the hands of Rev. Enoch Wood, in the year 1848.

N. B.—The sum of £369 2s. 0d. being interest on investments, was paid to James Ferrier, Assets, &c., in 1847, not included in foregoing Return.

JOS. CARY,  
Deputy Inspector General.

INSPECTOR GENERAL'S OFFICE,  
Montreal, 26th March, 1849.

Appendix  
(I. I. I. I.)  
10th April

Appendix  
(I. I. I. I.)  
10th April

E.

RETURN of the Presbyterian Clergy in Eastern Canada, in receipt of the Government allowance guaranteed by the Imperial Act 3 and 4 Victoria, chapter 78, furnished pursuant to an Address from the Honorable the Legislative Assembly of 29th January, 1849.

NAMES.	1841.		1842.		1843.		1844.		1845.		1846.		1847.		1848.		REMARKS.		
	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.			
Henry Esso, .....							18	14	8										
Alexander Mathieson, D.D., .....							35	14	3	39	13	7	39	13	7	39	13	7	Succeeded 10th July, 1844.
Edward Black, D.D., .....							35	14	3	13	4	6	39	13	7	39	13	7	Died May, 1845.
Duncan Moody, .....							35	14	3	39	13	7	39	13	7	39	13	7	
Walter Roach, .....							35	14	3	39	13	7	39	13	7	39	13	7	
W. Montgomery Walker, .....							22	4	11										Inducted to a Church in Scotland, 15th August, 1844.
John Taylor, .....																			Do
James Anderson, .....							35	14	3	39	13	7	39	13	7	39	13	7	do
James C. Muir, .....							35	14	3	39	13	7	39	13	7	39	13	7	
Thomas McPherson, .....							35	14	3	39	13	7	39	13	7	39	13	7	
David Black, .....							18	14	3										
John Clugston, .....							25	13	3										Succeeded 10th July, 1844.
John Cook, D.D., .....							35	14	3										Succeeded 19th September, 1844.
William Muir, .....							35	14	3	39	13	7	39	13	7	39	13	7	
Total, Sterling, .....	£	500	0	0	500	0	0	406	16	0									
Total in Currency, .....	£	555	11	0	555	11	0	452	0	0	330	13	7	317	9	2	317	9	2

N.B.—There are no nominal Returns recorded in the Inspector General's Office.

JOS. CARY,  
Deputy Inspector General.

INSPECTOR GENERAL'S OFFICE,  
Montreal, March, 1849.

Appendix  
(I. I. I. I.)  
10th April

Appendix  
(I. I. I. I.)  
10th April

THE CLERGY RESERVE FUND appropriated to the United Church of England and Ireland, in Upper Canada, and administered under the directions of the Venerable Society for the Propagation of the Gospel in Foreign Parts; in account with their Treasurer, the Hon. John B. Robinson, Chief Justice, and the Hon. Levis P. Sherwood, between the 1st July, 1846, and 13th March, 1848, inclusive.

Date.	No.	D <sup>a</sup> .	Currency.		C <sup>r</sup> .	Currency.	
			£	s. d.		£	s. d.
1846. November 18	1	To paid the Rev. D. Blake for two years arrears of an increase of salary, granted to him under authority of a letter from the Secretary of the Society, dated 3rd August, 1846, being for the period ending 30th June, 1846, at £70 Sterling, per annum, at the Par of 109½ per cent.....	170	6 8	By Cash, amount of warrant received from the Receiver General of the Province.....	4620	15 4
1847. January 14	2	To paid the do do for increased salary, as above, from 1st July to 31st December, 1846, £35 Sterling, at the Par of 109½ per cent, under the same authority.....	42	11 8	By do do .....	11137	19 10
1847. January 23	3	To paid the Right Rev. the Lord Bishop of Toronto, under authority of the Secretary's letter of 3rd July, 1846, being for two years' salary, as Bishop, from 4th August, 1844, to 3rd August, 1846, at £1250 Sterling, per annum, deducting his net annual income of £796 as Rector of Toronto, less £400 currency, per amount paid by him to his Curate for the same period, the balance being £1628 sterling, at the par of 109½.....	1980	14 8	By Cash received from the Honourable and Right Reverend the Lord Bishop of Toronto.....	354	19 8
1848. February 6	4	To paid the Lord Bishop of Toronto under the same authority, for his salary from 4th August, 1846, to 3rd February, 1847, £625 sterling, at the par of 109½ per cent.....	760	8 4	By Cash refunded by the Venerable Archdeacon Bethune, being the difference overpaid to him on the 10th January, 1848, between £300 sterling, at the par of 109½, and £300 sterling, dollars at 4s. 6d. each, the latter being the true sum due.....	31	13 4
1847. June 30	5	To paid the Rev. D. Blake, being his increased allowance of salary from 1st January to 30th June, 1847, at £70 per annum, under authority of the Secretary's letter of 3rd August, 1846, at the par of 109½ per cent.....	42	11 8			
1847. August 6	6	To paid the Lord Bishop of Toronto, under the authority of the Secretary's letter of 3rd July, 1846, for his salary from 4th February to 3rd August, 1847, £625 sterling, at the par of 109½ per cent.....	760	8 4			
1847. August 7	7	To paid the Lord Bishop of Toronto for arrears of salary, at £1250 sterling per annum, from 4th August, 1839, the time of his consecration, to the 3rd August, 1844, from which latter day his salary took date, under the Society's Resolution of the 19th June, 1846, these arrears being directed to be paid by a Resolution of the Society passed 16th July, 1847, deducting the Bishop's net annual income as Rector of Toronto; and also, a temporary advance which the Society had made in the absence of any provision for the Bishop of the Diocese, the balance being the sum of £2870 sterling, at the par of 109½ per cent.....	3125	16 8			
1847. January 10	8	To paid the Venerable Archdeacon Bethune, for salary as Archdeacon of York, from 1st January to 31st December, 1847, under authority of the Secretary's Letter, dated 3rd December, 1847, at £300 sterling, per annum, at the par of 109½ per cent.....	365	0 0			
1847. January 12	9	To paid the Rev. D. Blake, being his increased allowance of salary from 1st July to 31st December, 1847, under the authority before mentioned, £35 sterling, at the par of 109½ per cent.....	42	11 8			
		Carried over.....	7291	9 8	Carried over.....	16145	8 2

Appendix (I. I. I. I.)  
10th April

Appendix (I. I. I. I.)  
10th April

THE Clergy Reserve Fund appropriated to the United Church of England and Ireland in Account with their Treasurer, &c.—Continued.

Date.	No.	Dr.	Currency.	Date.	Currency.	Ca.	Currency.
			£ s. d.		£ s. d.		£ s. d.
1848.		Brought over,.....	7291 9 8			Brought over.....	16145 8 2
February 10.	10	To paid Lord Bishop of Toronto for his salary from 4th August, 1847, to 3rd February, 1848, as per Secretary's letter of 3rd July, 1846, £625 sterling, at the par of 109}.....					
March 2.....	11	To paid the Bank of Upper Canada for a Bill, No. 9280, at 60 days on Messrs. Glynn & Co., in favor of E. Hawkins, for £1258 6s. 8d. sterling, at 16 per cent. premium, dollars at 4s. 6d. each, remitted to the Society to repay that sum advanced by them out of their proper funds to certain Missionaries in Upper Canada, in the years 1843, '44, '45, '46 and '47, and to be charged on the Clergy Reserve Fund, as directed by the Secretary's letter, dated 3rd December, 1847.....	760 8 4				
March 2.....	12	To paid the Bank of Upper Canada for a Bill, No. 9281, at 60 days on Messrs. Glynn & Co., London, in favor of E. Hawkins, for £1500 sterling, at 16 per cent. premium, dollars at 4s. 6d. each, remitted to the Society to pay that amount advanced by them to the Lord Bishop of Toronto, for his salary from 4th August, 1839, to 3rd August, 1844, five years at the rate of £300 per annum, and chargeable on the Clergy Reserve Fund, as directed by the Secretary's letter, dated 3rd December, 1847.....	1621 17 0				
March 4.....	13	To paid the Bank of Upper Canada for moneys advanced to sundry Clergymen in the Diocese of Toronto, at the written request of the Lord Bishop of Toronto, between 1st July, 1846, and 23rd October, 1847, viz:—  <i>For half-year ending 30th June, 1846.</i> 2.—Rev. P. G. Bartlett, Carrying Place.....£50 0 0 3.—Rev. W. Ritchie, Sandwich.....50 0 0 4.—Rev. W. H. Hobson, Chatham.....50 0 0 6.—Rev. J. Mockridge, Warwick.....50 0 0 11.—Rev. M. Kerr, March.....50 0 0 16.—Rev. R. T. Taylor, Peterborough.....50 0 0 Aug. 12.—Rev. T. Tremayne.....50 0 0  <i>For half-year ending 31st December, 1846.</i> 12.—Rev. J. Mockridge, Warwick.....50 0 0 15.—Rev. P. G. Bartlett, Carrying Place.....50 0 0 19.—Rev. W. H. Hobson, Chatham.....50 0 0 21.—Rev. H. McAlpine, Kemptville.....50 0 0 23.—Rev. W. Ritchie, Sandwich.....50 0 0 30.—Rev. M. Kerr, March.....50 0 0 Feb. 16.—Rev. R. J. C. Taylor, Peterborough.....50 0 0 March 29.—Rev. John Malloch, Carlton Place.....25 0 0	1933 6 8				

1847.		<i>For the half-year ending 30th June, 1847.</i> 1.—Rev. R. J. C. Taylor, Peterborough.....50 0 0 12.—Rev. W. H. Hobson, Chatham.....50 0 0 12.—Rev. W. M. Alpine, Kemptville.....50 0 0 12.—Rev. W. Ritchie, Sandwich.....50 0 0 13.—Rev. J. Mockridge, Warwick.....50 0 0 24.—Rev. P. G. Bartlett, Carrying Place.....66 13 4 Aug. 28.—Rev. John Malloch, Carlton Place.....66 13 4 Sept. 3.—Rev. Matthew Kerr, March.....50 0 0  Dollars at 4s 6d. each, Sterling.....£1141 13 4	1268 10 4				
1848.		To paid the undermentioned Clergymen in the Diocese of Toronto, under authority of the Secretary's letter, dated 3rd December, 1847, being for their respective salaries for the half-year ending 31st December, 1847, viz:—  Dollars 4s. 6d. January.—The Rev. P. G. Bartlett, Carrying Place,.....£50 0 0 " W. Ritchie, Sandwich.....50 0 0 " H. McAlpine, Kemptville.....50 0 0 " R. J. C. Taylor, Peterborough.....50 0 0 " W. H. Hobson, Chatham.....50 0 0 " James Mockridge, Warwick.....50 0 0 " John Malloch, Carlton Place.....50 0 0 " Matthew Kerr, March.....50 0 0  To Balance carried down.....£	13920 0 8 2825 7 6 16145 8 2				

By Balance brought down.....£2825 7 6

Certified,

JOS. CARY,  
Deputy Inspector General.



Appendix  
(I. I. I. I.)

## CHURCH OF ENGLAND, CANADA EAST.

Appendix  
(I. I. I. I.)

10th April.

STATEMENT of Moneys received out of the Revenue Fund, derived from the Lands reserved for the Clergy in Lower Canada, and of the Expenditure thereof.

10th April.

Date.		£	s.	d.	£	s.	d.
1846.	RECEIPTS, viz :						
July 28.....	Received per warrant.....				7197	16	0
1847.							
January 30...	Do per do .....				2079	13	7
	EXPNDITURE, viz :						
1847.	Paid the following allowances from the Society for Propagating the Gospel, viz :						
July 2.....	Reverend Mr. Bancroft, 3 months, to 1st July, £12 10 0 Sterling, at Par.....	15	4	2			
" 2.....	" " Anderson, 6 " to 1st " 25 0 0 " at " .....	30	8	4			
" 2.....	" " Ross, 6 " to 1st " 25 0 0 " at " .....	30	8	4			
" 5.....	" " Whitwell, 6 " to 1st " 25 0 0 " at " .....	30	8	4			
" 5.....	" " Falloon, 6 " to 1st " 50 0 0 " at " .....	60	16	8			
" 7.....	" " Jackson, 6 " to 1st " 25 0 0 " at " .....	30	8	4			
" 9.....	" " Doolittle, 6 " to 1st " 25 0 0 " at " .....	30	8	4			
" 10.....	" " Abbott, 6 " to 1st " 25 0 0 " at " .....	30	8	4			
" 12.....	" " Mountain, for incumbent of Chapelry of St. Paul of Quebec, at 25 0 0 " at " .....	30	8	4			
" 12.....	" " Mountain, for incumbent of St. Peters of Quebec..... 12 10 0 " at " .....	15	4	2			
" 14.....	" " Abbott, 6 months, to 1st July, 25 0 0 " at " .....	30	8	4			
" 14.....	" " Johnson, 6 " to 1st " 25 0 0 " at " .....	30	8	4			
" 17.....	" " Morris, 6 " to 1st " 12 10 0 " at " .....	15	4	2			
" 27.....	" " Taylor, 6 " to 1st " 25 0 0 " at " .....	30	8	4			
August 26....	" " Fleming, 6 " to 1st " 6 5 0 " at " .....	7	12	1			
October 4....	" " Pless, incumbent of St. Peter's Chapel, 3 months, to 1st July, 18 15 0 " at " .....	22	16	3			
" 4....	" " Lansdall, incumbent of St. Paul's Chapel, 3 months, to 1st July, 18 15 0 " at " .....	22	16	3			
" 25....	" " Falloon, 3 " to 1st " 25 0 0 " at " .....	30	8	4			
November 3..	" " Bancroft, 4 " to 1st " 50 0 0 per annum.....	20	5	5			
December 10	The Bishop's order to Rev. A. A. Mountain, for allowance to late Rev. Mr. Morris, from 1st July to 1st October last, £6 5 0 per annum.....		7	12	1		
" 31	Reverend Mr. Johnson, 6 months, to 1st January, 25 0 0 Sterling at Par.....	30	8	4			
1848.							
January 3 ...	" " Anderson, 6 " to 1st " 25 0 0 " at " .....	30	8	4			
" 5....	" " Falloon, 3 " to 1st " 25 0 0 " at " .....	30	8	4			
" 5....	II. Jessop's draft for allowance to the incumbents of the Chapelries of St. Paul and St. Peter, in Quebec, for 3 months, to 31st ulto., at £75 per annum each, £37 10s. Sterling, at Par.....	45	12	6			
" 5....	Reverend Mr. Taylor, 6 months, to 1st instant, £25 0 0 Sterling, at Par.....	30	8	4			
" 7....	" " Fleming, 6 " to 1st " 6 5 0 " at " .....	7	12	1			
" 7....	" " Abbott, 6 " to 1st " 25 0 0 " at " .....	30	8	4			
" 8....	" " Arnold, allowance from 1st January, 1847, to 1st January, 1848, as sanctioned in the Bishop's letter of 11th September last, £50 Sterling, at Par.....	60	16	8			
" 13....	" " Doolittle, 6 months, to 1st instant, £25 Sterling, at Par.....	30	8	4			
" 14....	" " King, 12 " to 1st " 50 " at " .....	60	16	8			
" 19....	" " Whitwell 6 " to 1st " 25 " at " .....	30	8	4			
February 5...	" " Jackson, 6 " to 1st January, 25 " at " .....	30	8	4			
	Balance in Currency, deposited in Bank of Montreal.....				940	7	6
					8337	2	1
					9277	9	7

The payment made in 1848, is not yet accounted for.

(Signed,)

THOMAS B. ANDERSON,  
Treasurer of the Society for Propagating the Gospel.

Certified,

JOSEPH CARY,  
Dy. Insp. Genl.

MONTREAL, 25th February, 1849.

Appendix  
(I. I. I. I.)

10th April

MONTREAL, 2nd January, 1847.

SIR,—The Board of Commissioners elected by the Synod of the Presbyterian Church of Canada, in connection with the Church of Scotland, under the Act 3 and 4 Vict., cap. 78, for the management of the share of the fund arising from the Clergy Reserves appropriated to the Church of Scotland in Canada, have the honour to report to you, in conformity with the ninth Section of the Act aforesaid, for the information of His Excellency the Governor General in Council, their proceedings during the past year.

The Commissioners, previous to the distribution of any money amongst the Clergymen, adopted rules for their guidance, which are to the following effect :

“ That in the distribution of the Clergy Reserves Fund, regard be had to filling up the churches still vacant, as also to the future increase of the church.

“ That with this view the allowance to ministers be limited to a rate that is likely to be permanent, even after the vacant churches are filled up, and the probable increase of the church is provided for.

“ That all money received by ministers from any public source, other than the contributions of their congregations, be deducted from their shares of the Clergy Reserves Fund.

“ That no money be paid to any minister holding secular employment.

“ That no money be paid to any minister who does not reside within the bounds of the parish in which he officiates.

“ That in the case of ministers teaching public schools, no money be paid in instances where it is manifest that the ministerial office is subordinate to that of the teacher, and in other cases the allowance to be reduced in proportion to the amount of emolument derived from the school.”

Immediately after the receipt of the first payment from the Receiver General, on the 24th Dec. 1845, the Commissioners paid to every minister of the body under the above regulations, a sum making his endowment from the public funds,

Fifty pounds for the year 1845.

As soon as the necessary returns could be procured from the Presbyterian Clerks, a further sum was distributed among the clergymen, making an allowance of £36 per annum of arrears, from the 7th August, 1840, (the date of the passing of the Act,) till the 1st day of January, 1845. The subsequent payments to the ministers have been made half-yearly, on the 1st January, and 1st July, at the rate of £63 6s. 8d. per annum, that being the maximum sum paid to those who draw their allowance direct from the Government.

Each Minister, has, therefore, received

£36	per ann.	from 7th Aug., 1840,	till 1st Jan., 1845.
50	“	“ 1st Jany., 1845,	“ 1st “ 1846.
63	Gs. 8d.	“ 1st Jany., 1846,	“ 1st “ 1847.

A reference to the detailed statement herewith, will explain these matters more particularly.

All which the Commissioners respectfully submit, and hope His Excellency in Council will approve and sanction.

(Signed,) HUGH ALLAN, Com.  
Hon. Secty. to Com.

Certified,

JOSÉPH CARY,  
Dy. I. G.

Appendix  
(I. I. I. I.)

10th April.

Appendix  
(I. I. I. I.) DR.

THE CLERGY RESERVES FUND.

Appendix  
(I. I. I. I.) CR.

10th April.

10th April.

1846.		£	s.	d.	£	s.	d.	1845.		£	s.	d.	
Jan'y 5...	To paid Rev. R. Neil, Seymour .....	50	0	0				Dec'r 24.	By Cash from Receiver General .....	5330	18	3	
"	James George, Scarboro.....	50	0	0				1847.	Jan'y 1... By Interest from the Com-	115	19	6	
"	John Tause, King .....	18	6	8									
"	A. Lewis, Mono.....	50	0	0									
"	James Lambie, Pickering.....	50	0	0									
"	J. McMurchy, Eldon.....	50	0	0									
"	John Barclay, Toronto .....	50	0	0									
"	Isaac Purkis, Osnabuck.....	50	0	0									
"	John Dickey, Williamsburg....	50	0	0									
"	Thos. McPherson, Lancaster...	10	6	4									
"	A. Ross, Woolwich.....	50	0	0									
"	J. Anderson, South Gower....	50	0	0									
"	A. Mann, Packenham.....	50	0	0									
"	D. Evans, Richmond.....	50	0	0									
"	Alex. McKid, Bytown.....	50	0	0									
"	Thos. Fraser, Lanark.....	50	0	0									
"	Geo. Bell, Cumberland.....	50	0	0									
"	A. Mathieson, D.D., Montreal	10	6	4									
"	D. Moodie, Dundee.....	10	6	4									
"	Wm. Mair, Chatham.....	10	6	4									
"	W. Roach, Beauharnois.....	10	6	4									
"	Jas. Anderson, Ormstown.....	10	6	4									
"	J. C. Muir, Georgetown.....	10	6	4									
"	Jno. Cock, Quebec.....	10	6	4									
"	Wm. Simpson, Lachine.....	50	0	0									
"	D. Shanks, St. Eustache.....	50	0	0									
"	Jno. Me-lin, Hemingford.....	50	0	0									
"	E. Lapelctric, Montreal.....	50	0	0									
"	Jno. Davidson, Laprairie.....	50	0	0									
"	John McMorine, Ramsay.....	50	0	0									
"	Jas. Thom, Three Rivers.....	40	0	0									
"	W. Bain, Perth.....	16	13	4									
"	A. Wallace, Huntingdon.....	16	13	4									
	To paid Estate Dr. Black, Montreal.....	3	8	10									
					1227	12	10						
Feb'y 16.	To paid Rev. W. Simpson, Lachine.....	21	0	0									
"	D. Shanks, St. Eustache.....	32	0	0									
"	John Merlin, Hemingford.....	59	0	0									
"	Jno. Davidson, Laprairie.....	12	0	0									
"	Jas. Thom, Three Rivers.....	6	0	0									
"	J. Parkis, Osnabuck.....	74	0	0									
"	Jno Dickey, Williamsburg....	107	0	0									
"	A. Mann, Packenham.....	72	0	0									
"	J. Fraser, Lanark.....	21	0	0									
"	Jos. Anderson, South Gower...	123	0	0									
"	D. Evans, Richmond.....	36	0	0									
"	Geo. Bell, Cumberland.....	21	0	0									
"	A. McKid, Hamilton.....	36	0	0									
"	Jas. George, Scarboro.....	134	0	0									
"	Jno. Tause, King.....	6	10	0									
"	A. Lewis, Mono.....	125	0	0									
"	Jas. Lambie, Pickering.....	110	0	0									
"	Jno. McMurchy, Eldon.....	108	0	0									
"	Jno. Barclay, Toronto.....	75	0	0									
"	A. Ross, West Gwillimsbury...	69	0	0									
"	S. Scott, Missionary.....	49	13	4									
"	D. Scott, Dalhousie Mills....	73	13	4									
"	Robert Murray, Toronto.....	42	0	0									
					1412	16	8						
	G. McClatchey, Clinton .....	2	12	1									
	A. McKid, Hamilton.....	31	13	4									
	Jas. George, Scarboro.....	31	13	4									
	John Tause, King.....	16	16	8									
July 1....	Alex. Lewis, Mono.....	31	13	4									
"	James Lambie, Pickering.....	31	13	4									
"	J. McMurchy, Eldon.....	31	13	4									
"	Jno. Barclay, Toronto.....	31	13	4									
"	A. Ross, West Gwillimsbury...	31	13	4									
"	Samuel Porter, Clarke.....	10	11	1									
"	Jos. Anderson, South Gower...	31	13	4									
"	Alex. Mann, Packenham.....	31	13	4									
"	D. Evans, Richmond.....	16	13	4									
"	G. Bell, Cumberland.....	31	13	4									
"	J. Fraser, Lanark.....	31	13	4									
"	W. Bain, Perth.....	31	13	4									
"	Jno. McMorine, Ramsay.....	31	13	4									
"	Jno. Robb, Dalhousie.....	5	5	6									
"	Robert Neil, Seymour.....	31	13	4									
"	Isaac Purkis, Osnabuck.....	31	13	4									
"	Jno. Dickey, Williamsburg....	31	13	4									
"	Thos. McPherson, Lancaster...	11	16	6									
"	A. Mathieson, D.D., Montreal	11	16	6									
"	D. Moody, Dundee.....	11	16	6									
"	W. Mair, Chatham.....	11	16	6									
"	W. Roach, Beauharnois.....	11	16	6									
"	J. Anderson, Ormstown.....	11	16	6									
"	J. C. Muir, Georgetown.....	11	16	6									
	Carried over.....	£ 641	7	6	2640	9	6						
										Carried over....	£ 5446	17	9

Appendix  
(I. I. I. I.)

DR.

THE CLERGY RESERVES FUND.—Continued.

Appendix  
CR. (I. I. I. I.)

10th April.

10th April.

		£	s.	d.	£	s.	d.			£	s.	d.				
1846		Brought over.....						Brought over.....								
July 1....		641	7	6	2640	9	6									
	To paid Rev. D. Shanks, St. Eustache.....	31	13	4												
	“ W. Simpson, Lachine.....	31	13	4												
	“ J. Merlin, Hemmingford.....	31	13	4												
	“ D. Lapelletric, Montreal.....	31	13	4												
	“ J. Davidson, Laprairie.....	31	13	4												
	“ J. Thom, Three Rivers.....	25	0	0												
	“ A. Wallace, Huntingdon.....	31	13	4												
	“ Thos. Scott, Missionary.....	21	2	3												
	“ Jno. Cook, Quebec.....	11	16	6												
1847.								889	6	3						
Jan'y 1...																
	“ J. McClutchey, Clinton.....	2	12	1												
	“ A. McKid, Hamilton.....	31	13	4												
	“ Jno. Dyer, Missionary.....	15	16	8												
	“ Jas. George, Scarboro'.....	31	13	4												
	“ Jno. Tause, King.....	16	16	8												
	“ A. Lewis, Mono.....	31	13	4												
	“ J. Lambie, Pickering.....	31	13	4												
	“ J. McMurchy, Eldon.....	31	13	4												
	“ J. Barclay, Toronto.....	31	13	4												
	“ A Ross, West Guillimbury....	31	13	4												
	“ Samuel Porter, Clarke.....	31	13	4												
	“ P. McMaughton, Vaughan...	19	6	8												
	“ W. Brown, Missionary.....	21	2	3												
	“ R. Neill, Seymour.....	31	13	4												
	“ A. Colquhoun, Missionary....	15	16	8												
	“ J. Anderson, South Gower...	31	13	4												
	“ A. Mann, Pakenham.....	31	13	4												
	“ D. Evans, Richmond.....	16	13	4												
	“ Thos. Fraser, Lanark.....	31	13	4												
	“ G. Bell, Cumberland.....	31	13	4												
	“ W. Bain, Perth.....	31	13	4												
	“ J. McMorine, Ramsay.....	31	13	4												
	“ J. Robb, Dalhousie.....	31	13	4												
	“ J. Purkis, Osnabuck.....	31	13	4												
	“ J. Dickey, Williamsburg.....	31	13	4												
	“ Thos. McPherson, Lancaster.	11	16	6												
	“ Aeneas McLean, Missionary..	15	16	8												
	“ A. Mathieson, D.D., Montreal	11	16	6												
	“ D. Moodie, Dundee.....	11	16	6												
	“ W. Mair, Chatham.....	11	16	6												
	“ W. Roach, Beauharnois.....	11	16	6												
	“ J. Anderson, Ormstown.....	11	16	6												
	“ J. Cook, D.D., Quebec.....	11	16	6												
	“ J. C. Muir, Georgetown.....	11	16	6												
	“ Wm. Simpson, Lachine.....	31	13	4												
	“ D. Shanks, St. Eustache.....	31	13	4												
	“ J. Merlin, Hemmingford.....	31	13	4												
	“ J. Davidson, Laprairie.....	31	13	4												
	“ J. Thom, Three Rivers.....	31	13	4												
	“ A. Wallace, Huntingdon.....	31	13	4												
	“ G. Romanes, Bursar at															
	Queen's College.....	45	0	0												
								1023	13	0						
	“ Secretary to account of expen-															
	ses incurred by him for Books,															
	Stationary, Printing, Postage, and															
	other Disbursements.....							25	0	0						
Balance carried down on hand at this date.....								868	9	0						
								£5446	17	9						
														£5446	17	9

1847, January 2.—By Balance brought down on hand at this date, currency.....£868 9 0

Certified,

(Signed,)

HUGH ALLAN,  
Commissioner, Hon. Secy. to the Com.

Certified,

JOS. CARY,  
D. I. G.

Montreal, 2nd January, 1847.

Appendix  
(I. I. I. I.) (Copy.)

10th April.

MONTREAL, 3rd January, 1848.

Appendix  
(I. I. I. I.)

10th April.

SIR,—In conformity with the 9th Section of the Imperial Act 3 and 4 Vict. chap. 78, the Commissioners, elected by the Synod of the Presbyterian Church of Canada in connection with the Church of Scotland for the management of the share of the Fund arising from the Clergy Reserves appropriated to the Church of Scotland in Canada, have the honour to submit for the information of His Excellency the Governor General, the annexed statement of the Receipts and Expenditure of the Fund during the past year.

I have, &c.,

(Signed,)

HUGH ALLAN, Commissioner,  
Hon. Secretary to the Commission.

Hon. D. Daly,  
Provincial Secretary,  
&c., &c., &c.

Dr. THE CLERGY RESERVES FUND. Cr.

1847.		£	s.	d.	1847.		£	s.	d.
July 1....	To paid Rev. William King.....	2	3	0	By	Balance per account rendered			
	" John Bryning.....	2	3	0		last year.....	868	9	0
	" George McClutchey.....	2	3	0	Jan'y 13.	" Cash from the Receiver General	666	13	4
	" Jno. Cruikshank.....	5	16	8	25.	" Cash do do do...	8690	4	10
	" Alex. McKid.....	37	10	0	July 31..	" Cash do do do...	204	15	4
	" Andrew Bell.....	2	3	0		" Sums unpaid, transferred.....	79	3	4
	" P. Ferguson.....	5	16	8		" Interest.....	400	2	6
	" James George.....	37	10	0					
	" Thomas Johnston.....	2	3	0					
	" Jno. Tause.....	21	13	4					
	" James Lambie.....	37	10	0					
	" Jno. McMurchy.....	37	10	0					
	" Alex. Ross.....	37	10	0					
	" Samuel Porter.....	37	10	0					
	" P. McNaughton.....	37	10	0					
	" Wm. Brown.....	37	10	0					
	" Jno. Barclay.....	37	10	0					
	" Jno. Smith.....	5	16	8					
	" George Romanes.....	5	16	8					
	" Jos. Anderson.....	37	10	0					
	" Alex. Mann.....	37	10	0					
	" David Evans.....	37	10	0					
	" Thos. Fraser.....	37	10	0					
	" Geo. Bell.....	37	10	0					
	" Wm. Bain.....	37	10	0					
	" Jno. McMorine.....	37	10	0					
	" Jno. Robb.....	37	10	0					
	" Wm. Durie.....	37	10	0					
	" Jno. Machar.....	5	16	8					
	" Robt. Neil.....	37	10	0					
	" A. Colquhoun.....	37	10	0					
	" Hugh Urquhart.....	5	16	8					
	" Jno. Mackenzie.....	5	16	8					
	" Jno. McLaurin.....	5	16	8					
	" Isaac Purkis.....	37	10	0					
	" Jno. Dickey.....	37	10	0					
	" Thos. McPherson.....	17	13	2					
	" Eneas McLean.....	53	6	8					
	" Alex. Mathieson.....	17	13	2					
	" Duncan Moodie.....	17	13	2					
	" Wm. Mair.....	17	13	2					
	" Walter Roach.....	17	13	2					
	" Jas. Anderson.....	17	13	2					
	" Jno. Cook.....	17	13	2					
	" J. C. Muir.....	17	13	2					
	" Wm. Simpson.....	37	10	0					
	" D. Shanks.....	37	10	0					
	" Jno. Merlin.....	37	10	0					
	" Jno. Davidson.....	37	10	0					
	" James Thom.....	37	10	0					
	" Alex. Wallace.....	37	10	0					
	" Robt. McGill.....	5	16	8					
	" Geo. Romanes.....	20	0	0					
	To paid for legal opinion on the construction of the Act 3 & 4 Victoria cap. 78.....	17	10	0					
	" for Clerks Salary in 1847.....	100	0	0					
	To paid Rev. Alex. Mathieson.....	20	3	2					
	" Duncan Moody.....	20	3	2					
	" Wm. Mair.....	20	3	2					
	" Walter Roach.....	20	3	2					
	" James Anderson.....	20	3	2					
	Carried forward.....	1567	16	2			Carried forward, £	10909	8 4

Appendix  
(I. I. I. I.) DR.

THE CLERGY RESERVES FUND.—Continued.

Appendix  
CR. (I. I. I. I.)

10th April.		£	s.	d.	10th April.	
	Brought forward.....	1567	16	2	Brought forward.....	10909 8 4
1848.	Jan'y 1... To paid Rev. John Cook.....	20	3	2		
	" James C. Muir.....	20	3	2		
	" William Simpson.....	40	0	0		
	" David Shanks.....	40	0	0		
	" Johh Merlin.....	40	0	0		
	" John Davidson.....	40	0	0		
	" James Thom.....	40	0	0		
	" Alex. Wallace.....	40	0	0		
	" Robt. M'Gill.....	8	6	8		
	" Thos. Scott.....	35	0	0		
	" James Stuart.....	10	0	0		
	" John Mackenzie.....	14	3	4		
	" Hugh Urquhart.....	8	6	8		
	" Isaac Purkis.....	40	0	0		
	" John Dickey.....	40	0	0		
	" John McLaurin.....	8	6	8		
	" Thos. McPherson.....	20	3	2		
	" Colin Gregor.....	40	0	0		
	" Aeneas McLean.....	40	0	0		
	" Wm. Dunbar.....	5	0	0		
	" John Smith.....	8	6	8		
	" Joseph Anderson.....	40	0	0		
	" Alex. Mann.....	40	0	0		
	" David Evans.....	40	0	0		
	" Thos. Fraser.....	40	0	0		
	" Geo. Bell.....	40	0	0		
	" Wm. Bain.....	40	0	0		
	" John McMorine.....	40	0	0		
	" John Robb.....	40	0	0		
	" John Machar.....	20	16	8		
	" Robt. Neil.....	40	0	0		
	" James George.....	40	0	0		
	" A. Colquhoun.....	30	0	0		
	" P. Ferguson.....	8	6	8		
	" P. McNaughton.....	40	0	0		
	" Jno. Tause.....	24	3	4		
	" Thos. Johnston.....	4	13	6		
	" James Lambie.....	40	0	0		
	" Jno. M'Murphy.....	40	0	0		
	" Jno. Barclay.....	40	0	0		
	" Alex. Ross.....	40	0	0		
	" Samuel Porter.....	40	0	0		
	" William Brown.....	40	0	0		
	" Wm. Barr.....	40	0	0		
	" Wm. King.....	4	13	0		
	" G. McClutchy.....	7	5	1		
	" Andrew Bell.....	4	13	0		
	" Jno. Cruikshank.....	8	6	8		
	" Jno. Byning.....	6	16	0		
	" Alex. McKid.....	40	0	0		
	To paid Secretary to account for Printing, Books, Postage, &c.....	25	0	0		
	Balance carried down.....	£ 7878	19	3		
		£ 10909	8	4		
					£ 10909 8 4	

By Balance brought down on hand at this date.....£7878 18 3

Certified,

(Signed,)

HUGH ALLAN, Commissioner,  
Hon. Secy. to the Com.

Certified,

JOS. CARY,  
D. I. G.

Montreal, 2nd January, 1849.

Appendix  
(I. I. I. I.)

10th April.

MONTREAL, 3rd January, 1849.

Appendix  
(I. I. I. I.)

10th April.

SIR,—In conformity with the provisions of the Imperial Act 3 & 4 Viet. cap. 78, section 9, the Commissioners elected by the Presbyterian Church of Canada in connection with the Church of Scotland, for the management of the share of the fund arising from the Clergy Reserves appropriated to that Church in Canada, have the honour herewith to transmit for the information of His Excellency the Governor General in Council, the annexed Statement of the Receipts and Expenditure of the Fund during the past year.

In order that the principles on which this money is distributed may be readily understood, I crave reference to the Report of the Commissioners, dated 2nd January, 1847, and I would further remark that the payments made on the 1st April last, were still further carrying out the object of placing the Ministers, as nearly as practicable, on an equality as regards arrears, by continuing the allowance back to 1829.

The result of the whole is that every Minister now in connection with the Church, has received money from this Fund on the following scale from the date of his induction :

Not less than	£41	per annum,	from	1829	till	1845.
"	50	"	"	1845	"	1845.
"	63	Gs. 8d.	"	1846	"	1847.
"	75	"	"	1847	"	1848.
"	80	"	"	1848	"	1849.

The Commissioners have reason to believe that the principles on which the Fund is distributed have met with the entire approval of the Synod.

(Signed,)

HUGH ALLAN, Com.  
Hon. Secretary to the Com.

The Hon. Jas. Leslie,  
Provincial Secretary.

DR. THE CLERGY RESERVES FUND. CR.

1848.		£	s.	d.	1848.	Contr.	£	s.	d.
April 1...	To paid Rev. A. Mathieson, D.D.....	383	0	0	January..	By Balance from last account.....	7878	19	3
	" Duncan Moody.....	199	0	0		By wrong charge Rev. J. Machar, (last			
	" William Mair.....	178	10	0		year).....	12	10	0
	" Walter Roach.....	163	0	0		By Interest.....	553	9	10
	" Jas. Anderson.....	96	10	0					
	" John Cook, D.D.....	96	0	0					
	" Jas. C. Muir.....	56	5	0					
	" William Simpson.....	37	10	0					
	" David Shanks.....	32	10	0					
	" Jno. Merlin.....	31	13	4					
	" John Davidson.....	16	13	4					
	" Jas. Thom.....	16	0	0					
	" Alexander Wallace.....	13	15	0					
	" Robert McGill.....	95	0	0					
	" Jno. McKenzie.....	95	0	0					
	" Hugh Urquhart.....	95	0	0					
	" Jno. McLaurin.....	37	10	0					
	" Isaac Purkis.....	37	10	0					
	" Jno. Dickey.....	37	10	0					
	" Thos. Macpherson.....	55	0	0					
	" Eneas McLean.....	3	15	0					
	" Jno. Smith.....	71	0	0					
	" George Romanes.....	68	15	0					
	" Joseph Anderson.....	36	5	0					
	" Alexander Mann.....	35	0	0					
	" David Evans.....	32	10	0					
	" Thos. Fraser.....	17	10	0					
	" George Bell.....	17	10	0					
	" William Burn.....	11	0	0					
	" Jno. McMorine.....	41	0	0					
	" John Robb.....	7	10	0					
	" Jno. Machar, D. D.....	95	0	0					
	" Robert Neill.....	58	0	0					
	" Jas. George.....	235	0	0					
	" Archibald Colquhoun.....	330	0	0					
	" Peter Ferguson.....	70	0	0					
	" P. McNaughton.....	61	0	0					
	" Jno. Tausc.....	53	15	0					
	" Thos. Johnson.....	37	10	0					
	" Jno. McMurchy.....	26	5	0					
	" Jno. Barclay.....	25	0	0					
	" Alexander Ross.....	75	0	0					
	" Samuel Porter.....	8	15	0					
	" William Mair.....	2	10	0					
	" William Brown.....	2	10	0					
	" Jas. Lambie.....	32	10	0					
	Carried forward.....	£3227	6	8		Carried forward.....	£8444	19	1

Appendix  
(I. I. I. I.) DR.

THE CLERGY RESERVES FUND.—Continued.

Appendix  
CR. (I. I. I. I.)

10th April.

10th April.

		£	s.	d.			£	s.	d.
1848.	April 1...	Brought forward.....	555	0	0	Brought forward.....	8444	19	1
		To paid the Rev. Robert Murray.....	150	0	0				
		"    William King .....	36	13	4				
		"    George McClutchy.....	36	13	4				
		"    Andrew Bell.....	70	0	0				
		"    Jno. Cruickshank.....	88	15	0				
		"    Alexander M'Kid.....	20	0	0				
		"    Colin Grigor.....	2	10	0				
	July 1.....	"    Alexander Mathison.....	20	3	2				
		"    Duncan Moody.....	20	3	2				
		"    William Mair.....	20	3	2				
		"    Walter Roach.....	20	3	2				
		"    Jas. Anderson.....	20	3	2				
		"    Jno. Cook, D. D.....	20	3	2				
		"    Jos. C. Muir.....	20	3	2				
		"    William Sampson.....	40	0	0				
		"    David Shanks.....	40	0	0				
		"    Jno. Merlan.....	40	0	0				
		"    Jno. Davidson.....	40	0	0				
		"    Jas. Thorn.....	40	0	0				
		"    Alexander Wallace.....	40	0	0				
		"    Robert McGill.....	8	6	8				
		"    Thos. Scott.....	15	0	0				
		"    Jas. Stewart.....	30	0	0				
		"    Jno. McKenzie.....	8	6	8				
		"    Hugh Urquhart.....	8	6	8				
		"    Jno. M. Laurin.....	8	6	8				
		"    Thos. McPherson.....	20	3	2				
		"    Isaac Purkis.....	40	0	0				
		"    Jno. Dickey.....	40	0	0				
		"    Æneas McLean.....	40	0	0				
		"    William Dunbar.....	30	0	0				
		"    Jno. Machar, D. D.....	8	6	8				
		"    Robert Neill.....	40	0	0				
		"    A. Colquhoun.....	30	0	0				
		"    Jno. Smith.....	8	6	8				
		"    Jas. Anderson.....	40	0	0				
		"    Alexander Mann.....	40	0	0				
		"    David Evans.....	40	0	0				
		"    George Bell.....	40	0	0				
		"    Thos. Fraser.....	40	0	0				
		"    William Bain.....	40	0	0				
		"    John McMorine.....	40	0	0				
		"    John Robb.....	40	0	0				
		"    Peter Ferguson.....	8	6	8				
		"    John Tause.....	24	3	4				
		"    Thomas Johnston.....	4	13	0				
		"    Alexander Lewis.....	30	0	0				
		"    John Barclay.....	40	0	0				
		"    John McMurchy.....	40	0	0				
		"    Alexander Ross.....	40	0	0				
		"    Samuel Porter.....	40	0	0				
		"    P. McNaughton.....	40	0	0				
		"    William Bair.....	40	0	0				
		"    William Brown.....	40	0	0				
		"    Jas. George.....	40	0	0				
		"    William King.....	4	13	0				
		"    George McClutchy.....	4	13	0				
		"    Andrew Bell.....	4	13	0				
		"    John Bryning.....	4	13	0				
		"    John Crickshank.....	8	6	8				
		"    Alexander M'Kid.....	40	0	0				
		"    Hugh Mair, D. D.....	33	6	8				
		"    Colin Grigor.....	40	0	0				
		"    William Bell.....	10	0	0				
		"    J. Paul.....	20	0	0				
Dec. 31..		To paid Clerk's Salary, 1848.....	100	0	0				
		"    Balance of charges, account.....	37	16	6				
1849.	Jan'y 1...	To paid the Rev. Alex. Mathison, D.D.....	20	3	2				
		"    Duncan Moody.....	20	3	2				
		"    William Mair.....	20	3	2				
		"    Walter Birch.....	20	3	2				
		"    Jas. Anderson.....	20	3	2				
		"    Jno. Cook, D.D.....	20	3	2				
		"    Jas. C. Muir.....	20	3	2				
		"    William Simpson.....	40	0	0				
		"    David Shanks.....	40	0	0				
		"    Jno. Merlin.....	40	0	0				
		"    Jno. Davidson.....	40	0	0				
		"    Jas. Thorn.....	40	0	0				
		"    Alexander Wallace.....	40	0	0				
		"    Robt. McGill.....	8	6	8				
		"    Jas. Stewart.....	30	0	0				
		"    Robert McFarlane.....	10	0	0				
		Carried over.....	£5792	17	4	Carried over.....	£8444	19	1



Appendix  
(I. I. I. I.)

DR.

THE CLERGY RESERVES FUND.—Continued.

Appendix  
(I. I. I. I.)

CR.

10th April.		1849.			10th April.				
		£	s.	d.			£	s.	d.
	Brought over.....	5792	17	4		Brought forward.....	8444	19	1
Jan'y 1...	To paid the Rev. John McKenzie.....	8	6	8					
"	Hugh Urquhart.....	8	6	8					
"	John McLaurin.....	8	6	8					
"	Thomas McPherson.....	20	3	2					
"	Isaac Purkis.....	40	0	0					
"	Jno. Dickey.....	40	0	0					
"	Eneas McLean.....	40	0	0					
"	John Machar, D.D.....	8	6	8					
"	Robt. Neill.....	40	0	0					
"	Thos. Scott.....	40	0	0					
"	A. Colquhoun.....	30	0	0					
"	Jno. Smith.....	8	6	8					
"	Joseph Anderson.....	40	0	0					
"	Alex. Mann.....	40	0	0					
"	David Evans.....	40	0	0					
"	Thos. Fraser.....	40	0	0					
"	U. Paton.....	40	0	0					
"	John McKenzie.....	40	0	0					
"	Jno. Robb.....	40	0	0					
"	Alex. Spence.....	40	0	0					
"	Thos. Haig.....	20	0	0					
"	P. Ferguson.....	8	6	8					
"	John Tause.....	24	3	4					
"	Thos. Johnson.....	4	13	0					
"	Alex. Lewis.....	30	0	0					
"	Jno. Barclay.....	40	0	0					
"	John McMurchy.....	40	0	0					
"	Alex. Ross.....	40	0	0					
"	Samuel Porter.....	40	0	0					
"	W. Baro.....	40	0	0					
"	W. Bourne.....	40	0	0					
"	James George.....	40	0	0					
"	P. McNaughton.....	40	0	0					
"	W. King.....	4	13	0					
"	G. McClutchy.....	4	13	0					
"	John Bryning.....	4	13	0					
"	Andrew Bell.....	4	13	0					
"	John Cruikshank.....	8	6	8					
"	Alex. McKid.....	40	0	0					
"	Hugh Mair, D.D.....	40	0	0					
"	Colin Grigor.....	40	0	0					
"	William Bell.....	40	0	0					
"	J. M. Smith.....	26	13	4					
"	George Bell.....	40	0	0					
	Balance carried down.....	1379	10	3					
		8444	19	1			£ 8444	19	1

By Balance brought down on hand.....£1379 10 3

NOTE.—The amount due the Commissioners last year was paid by Debentures, the Government being unable to pay in Money. The interest is credited above.

(Signed,)

HUGH ALLAN, Com.,  
Hon. Secretary to the Commissioners.

Certified,

JOS. CARY,  
D. I. G.

Montreal, 3rd January, 1849.

Appendix  
(I. I. I. I.)  
10th April.

CROWN LANDS DEPARTMENT,  
MONTREAL, 28th March, 1849.

SIR,—I have the honour to transmit herewith a statement of the quantity of land set apart as Clergy Reserves, amount of sales, collections on account of the same, amounts paid to the Commissariat and Receiver General, expenses of management, and balances remaining due up to the 31st of December, 1848, together with the amount collected by this office on account of rents of leased lots, and sums paid on account of the same.

I beg to add, to complete what it is in the power of this Department to afford of the information required by the Address of the Legislative Assembly, of the 5th instant, that, the amount of Clergy Reserves remaining under lease on the 1st January last, was about 140,000 acres, at an annual rent of about £2450. The arrears of rent accrued up to 31st December last are estimated at seven to eight thousand pounds, but it is probable that a considerable portion of the above mentioned arrears, as well as of the annual rental, will never be collected, the lands leased having been abandoned at an early period, and being unimproved.

The quantity of land returned as originally set apart as the Clergy seventh, is 2,395,687 acres; of this amount 15,048 acres have been transferred to the 57 Rectories, and 530,913 acres sold under the 7th and 8th Geo. IV., which ought to leave 1,336,960 acres to be disposed of under the 3rd and 4th Vict. chap. 7, 8, but the Schedules of the Clergy lands

prepared in 1841 and 1842, for the Inspectors, show some 4000 acres less than that amount.

It will be seen by the accompanying statement, that the amount of land appropriated for the endowment of the 57 Rectories is 21,638 acres; total value in their natural state (founded upon the reports of the Clergy Inspectors) £26,197 17s. 6d. rather over 24s. 2d. per acre; of this amount 15,048 acres have been taken from the Clergy seventh, and 6,590 from Crown Lands.

The value of the land originally set apart for the Clergy seventh, as well as of the quantity remaining on hand on the first of January, 1849, 1,366,960, may be estimated at 10s. per acre. The sales up to that period average about 12s. 9d. per acre.

It is to be observed, that the quantity of land set apart for the Clergy seventh appears to exceed the proportion contemplated by the Imperial Acts which regulated those reserves. In 1838, the excess was estimated at three hundred thousand acres; it may now amount to half a million of acres.

I have the honour to be,  
Sir,

Your most obedient servant,

T. BOUTHILLIER.

Appendix  
(I. I. I. I.)  
10th April.

STATEMENT OF LANDS set apart for the Endowment of Churches in Upper Canada towards the support of Clergymen of the Church of England, under Order in Council, 15th January, 1836.

Township.	Lot.	Concession.	Acres.	When first specially set apart for the benefit of Clergymen.	Value per Acre.			Total Value.				
					£	s.	d.	£	s.	d.		
York .....	6	2 } from the Bay	200	Licence of occupation of this Lot as a Glebe granted to Paul Marian in 1806.....	1	10	0	300	0	0		
	9		200		Licence of occupation issued for the remaining Lots in this Township to the	1	10	0	300	0	0	
	22		200		Rev. John Strachan, as Glebes, on the 8th	10	0	0	2000	0	0	
	17		3 ditto.		200	Aug. 1818 .....	3	15	0	750	0	0
Hamilton.....	14	2 E. qt. B	200	O. C. 15th January, 1836 .....	1	12	6	325	0	0		
	Part 15		50		6	5	0	312	10	0		
	W. ¼ 15		50		6	5	0	312	10	0		
	27		6		200	0	15	0	150	0	0	
Bathurst.....	17	7	200	O. C. 15th January, 1836, cancelled by O. C. 13th October, 1841; sold and under patent to Peter Campbell .....	0	10	0	50	0	0		
					0	17	0	170	0	0		
Drummond .....	4	1	200	Order of Lieut. Governor, 18th Dec. 1816...	0	17	0	170	0	0		
Grimsby.....	11, 12, 13, 14	6	400	O. C. 25th August, 1789, made in obedience to the Royal Instructions .....	1	10	0	600	0	0		
Monaghan .....	Park 15 } " 16 } in sq.	13	18	O. C. 15th January, 1836 .....	2	0	0	36	0	0		
Peterborough .....	Town } 1, 2, 3, 4. } (Hunter Water Brock Streets	4	4	O. C. 15th January, 1836 .....				400	0	0		
Smith.....	17	2	180	License of occupation to the Rev. Samuel Armour, 11th February, 1832.....	0	16	3	146	5	0		
	40	13	193		O. C. 15th January, 1836 .....	0	7	6	72	7	6	
Woodhouse.....	S.W. ¼ 1	3 } S. ½ of N. ½ 1 } S.W. ¼ 2 } N. part 6 } Part of 10 }	402	O. C. 15th January, 1836 .....	0	17	6	351	15	0		
	S. ½ of N. ½ 1				3	O. C. 15th January, 1836 .....						
	S.W. ¼ 2				3	O. C. 15th January, 1836 .....						
	N. part 6				1	License of occupation to the Rev. Francis Evans, 23rd November, 1833 .....						
	Part of 10	4		Leased to ditto, 26th June, 1834 .....								
	Carried over.....		2997	Carried over.....				£ 6276	7	6		

Appendix  
(I. I. I. I.)

STATEMENT of Lands set apart for the Endowment of Churches in Upper Canada, &c.—Continued.

Appendix  
(I. I. I. I.)

10th April.								10th April.			
Township.	Lot.	Concession.	Acres.	When first specially set apart for the benefit of Clergymen.		Value per Acre.			Total Value.		
				£	s.	d.	£	s.	d.		
	Brought over.....		2997	Brought over.....			6276	7	6		
Bertie.....	6 and 7	5	400	O. C. 25th August, 1789, founded on Royal Instructions.....		1	10	0	600	0	0
Oxford, West.....	6 and 7	6				1	0	0	200	0	0
Oxford, East.....	2	1	200	O. C. 15th January, 1836.....		1	0	0	200	0	0
Ancaster.....	16	5	200	O. C. 15th January, 1836.....		1	0	0	200	0	0
Oxford, J. D.....	39, 40	5	400	O. C. 25th August, 1789, founded on the Royal Instructions.....		1	0	0	400	0	0
Cavan.....	16, E. ½ 15	1	250			1	2	6	281	5	0
Cavan.....	16	6	200	O. C. 15th January, 1836.....		1	10	0	300	0	0
Cavan.....	17	4	200	Licence of occupation to Rev. Samuel Armour, 11th April, 1834.....		1	5	0	250	0	0
Vaughan.....	10	10	200			5	0	0	525	0	0
Sophasburgh.....	N. ½ 27	1	150	O. C. 15th January, 1836.....		0	17	6	350	0	0
Augusta.....	N.E. part D	Block.	400	O. C. 15th January, 1836.....		1	0	0	200	0	0
Augusta.....	4		200	O. C. 25th Aug., 1789, founded on Royal Instructions.....		0	15	0	37	10	0
Elizabethtown.....	Comms. betw. 18, 19		50			0	12	6	125	0	0
East Flamborough..	19, 20	5	400	15th January, 1836.....		1	2	6	450	0	0
East Flamborough..	2	2	200			0	11	3	112	10	0
Hope.....	10	4	200	15th January, 1836.....		1	2	6	40	10	0
London.....	Part 9	1	36			0	17	6	175	0	0
London.....	27	4	200	15th January, 1836.....		0	15	0	150	0	0
Town of London..	6	8	200			1	15	0	700	0	0
London.....	12 and 13	C.	400	The ground on which the Church stands.....					100	0	0
London.....	15	3	200			1	10	0	300	0	0
London.....	15	7	200	O. C. 25th August, 1789, founded on Royal Instructions.....		1	0	0	200	0	0
Thurlow.....	Part 16	3	4½			1	10	0	6	15	0
Thurlow.....	16	3	200	O. C. 30th October, 1828.....		1	6	3	262	10	0
Richmond.....	17	3	200			1	10	0	300	0	0
Nepean.....	Part 4	1	18	O. C. 25th August, 1789, founded on the Royal Instructions.....		4	0	0	76	0	0
Nepean.....	15 and 16	4	400			0	12	6	250	0	0
Burford.....	2	4	200	O. C. 15th January, 1836.....		0	7	6	75	0	0
Burford.....	32	4	200			0	6	3	62	10	0
Malden.....	3	2	200	O. C. 15th January, 1836.....		0	15	0	150	0	0
Grantham.....	9	3	200			0	15	0	150	0	0
Thorold.....	80, 81	7	400	O. C. 25th August, 1789, founded on the Royal Instructions.....		1	10	0	600	0	0
Thorold.....	3	5 and 6	400			1	10	0	600	0	0
Louth.....	98, 99		400	O. C. 25th August, 1789, founded on the Royal Instructions.....		1	10	0	600	0	0
Louth.....	100, 121		400			1	10	0	450	0	0
Stamford.....	11, 12	4	300	O. C. 25th August, 1789, founded on the Royal Instructions.....		1	10	0	600	0	0
Stamford.....	12	5	400			1	10	0	600	0	0
Carradoc.....	72, 88		400	O. C. 15th January, 1836.....		1	5	0	293	15	0
Carradoc.....	89, 106		235			0	13	9	137	10	0
Town of Adolphustown.....	22	1st Reg. N. S. W. R.	200	O. C. 25th August, 1789, founded on the Royal Instructions.....		1	0	0	161	0	0
Town of Adolphustown.....	16	1	161			0	15	0	150	0	0
Cornwall.....	24, 25	1	161	Patent to the Bishops of Quebec, 23rd July, 1835.....					30	0	0
Cornwall.....	6, 7, 8	N. of 3rd St. S. of 4th St.	3			0	10	0	100	0	0
Williamsburgh.....	6, 7, 8	8	200	O. C. 16th January, 1836.....		0	10	0	75	0	0
Williamsburgh.....	19	8	150			2	0	0	128	0	0
Matilda, V.....	W. ¾ 38	8	150	License of occupation to the Rev. George Archibald, 9th November, 1833.....		1	0	0	37	10	0
Matilda, V.....	A strip of land of Cornwall, and the Concession of Cornwall, E. Br.	in rear of the Township of Cornwall, E. Br.	64			1	0	0	163	0	0
Matilda, W. B.....	Part of centre Commons.	1 and 2	37½	Patent to the Rev. J. B. Lindsay and others, 24th April, 1833.....					75	0	0
Matilda, W. B.....	Centre commons between 18 and 19.	13, 4	163			0	7	6	187	10	0
T. of Adelaide.....	19	6	200	O. C. 15th January, 1836.....		0	18	9	150	0	0
T. of Adelaide.....	12	1 N. E. R.	200			0	15	0	20	0	0
T. of Adelaide.....	25	1 S. E. R.	200	License of occupation to the Rev. Thomas Phillips, 25th March, 1835.....		1	0	0	205	0	0
T. of Adelaide.....	8, 9	Ft. St.	...			1	0	0	205	0	0
Etobicoke.....	3 and 4	1st Reg.	2	O. C. 15th January, 1836.....		0	10	0	200	0	0
Etobicoke.....	W. part 3	2, 3, 4	205			0	15	0	150	0	0
Hamsay.....	4	2, 3, 4	400	O. C. 15th January, 1836.....		0	12	6	125	0	0
Hamsay.....	26	2	400			0	12	6	250	0	0
Southwold.....	2	7	400	License of occupation to John Henry as a Glebe, 23rd July, 1818.....		1	2	6	225	0	0
Southwold.....	9	1	200			1	5	0	250	0	0
Warwick.....	17	4	200	O. C. 15th January, 1836.....		0	8	0	160	0	0
Warwick.....	15, 25	1	400			0	12	6	125	0	0
Markham.....	9	5	200	Patent to Church Society, 15th April, 1848.....		1	5	0	56	5	0
Markham.....	19	9	200			1	0	0	250	0	0
Vaughan.....	17 and 18	1st on Ottawa.	400	O. C. 25th August, 1789, found on the Royal Instructions.....					19947	17	6
Gloucester.....	23	2nd E. H. St.	200			1	0	0	250	0	0
Chinguncousy.....	29	4 do	200	O. C. 15th January, 1836.....		0	12	6	125	0	0
Chinguncousy.....	29	4 do	200			0	15	0	150	0	0
Toronto.....	Indian Re serve.	9 in Credit.	45	O. C. 15th January, 1836.....		1	5	0	56	5	0
Toronto.....	9 in Credit.	2	250			1	0	0	250	0	0
Fredericksburgh.....	9, 10, 11	2	250	Carried forward.....							
	Carried forward.....		16219	Carried forward.....			£ 19947	17	6		

Appendix (I. I. I. I.)

Appendix (I. I. I. I.)

STATEMENT of Lands set apart for the Endowment of Churches in Upper Canada, &c.—Continued.

10th April.

10th April.

Township.	Lot.	Concession.	Acres.	When first specially set apart for the benefit of Clergymen.	Value per Acre.			Total Value.		
					£	s.	d.	£	s.	d.
	Brought forward.....		16319	Brought forward.....				19947	17	6
Maidstone.....	3 East aux N. 1, between Rice and Riv. aux Perches	of Rivière Rice.	200	O. C. 15th January, 1836.....	0	8	0	80	0	0
Tilbury West.....	8 Back N. E. 1/4 21	Rivière aux Perches Front.	100	O. C. 15th January, 1836.....	0	12	6	62	10	0
Beckwith.....	W. 1/4 16	2	100	O. C. 15th January, 1836.....	0	4	0	20	0	0
Niagara.....	17	1	100	O. C. 15th January, 1836.....	0	2	6	12	10	0
	126, 127 } 128, 130 }	...	400	O. C. 25th August, 1789, founded on the Royal Instructions.....	0	2	6	25	0	0
Guelph.....	C. Division A, between C River	Reserve lot and the Speed.	26	O. C. 15th January, 1836.....	1	10	0	600	0	0
Guelph.....	14, 15	A	60	O. C. 15th January, 1836.....	10	0	0	260	0	0
T. of Guelph.....	Centre part of R. 1/4 34	St. George's Perches.	60	O. C. 15th January, 1836.....	5	0	0	300	0	0
Puslinch.....	Bro. 34	11	240	O. C. 15th January, 1836.....				30	0	0
Block adjoining Kingston.....	E. half 12, 13, and W. 1/4 14	Kingston.	18	O. C. 5th January, 1802.....	0	12	6	150	0	0
Kingston.....	42	3	500	O. C. 25th August, 1789, founded on the Royal Instructions.....	100	0	0	1800	0	0
Ernestown.....	F. 500, 12, 13, and W. 1/4 14	4	200	O. C. 15th January, 1836.....	0	10	0	250	0	0
Ernestown.....	18 and 19	4	400	O. C. 15th January, 1836.....	0	7	6	75	0	0
Goulbourne.....	24	5	200	O. C. 25th August, 1789, founded on the Royal Instructions.....	1	2	6	450	0	0
Fitaroy.....	17	9	200	O. C. 15th January, 1836.....	0	10	0	200	0	0
Clarke.....	20	2	200	" " ".....	0	3	0	30	0	0
Darlington.....	27	2	200	" " ".....	0	10	0	100	0	0
Tilbury, West.....	25, 31	1	400	" " ".....	1	5	0	400	0	0
Rochester.....	8, 15	1	200	" " ".....	1	5	0	500	0	0
	2 between Bell River	River and Ruscon.	200	" " ".....	0	10	0	100	0	0
Innisfil.....	28	13	200	" " ".....	0	15	0	150	0	0
	10	8	200	" " ".....	0	10	0	100	0	0
	10	14	120	" " ".....	0	9	6	95	0	0
Town of Barrie.....	131 } 132 } 133 } 114 } 115 } 116 }	N. of Mark Street. N. of Worsley Street. S. of McD. W.	...	O. C. 15th January, 1836.....	0	10	0	60	0	0
	Total Acres		21638					£ 26197	17	6

J. A.

These valuations are founded upon the Reports made by the Clergy Reserve Inspectors.

J. H. PRICE.

CROWN LANDS DEPARTMENT,  
Montreal, 19th March, 1849.

Appendix (I. I. I. I.)

STATEMENT OF RECEIPTS AND DISBURSEMENTS on account of

10th April.

Table with columns: Year, Land Sold (Acres, Amount), Principal received on Old Sales, Interest received on Old Sales, Principal on New Sales, Interest on New Sales, Rents on Leased Lots, Rents on Lots not Leased, Timber Dues. Rows for years 1828-1844 and totals.

Amount remaining due 31st December, 1848, on Sales under the Imperial Act, Geo. IV., on account of Principal.....£103,712 9 9
Interest, accrued on this sum, estimated at 75 per cent.
Amount remaining due 31st December, 1848, on Sales under the Imperial Act, "Vict." on account of Principal..... 225,290 10 2
Interest, accrued upon this sum, estimated at 10 per cent.

RECAPITULATION OF SALES AND RECEIPTS.

Summary table of sales and receipts, including original quantity of acres, amount of sales under Act Geo. IV and Act Vict. &c., and amount received.

CROWN LAND DEPARTMENT, MONTREAL, 26th March, 1848.

Appendix (I. I. I. I.)

the Clergy Reserves for Upper Canada, from 1828 to 1848.

10th April.

Table with columns: Inspections, Principal on Old Sales paid over to (Commissariat, Receiver General), Interest on Old Sales paid over to Receiver General, Paid over on account of New Sales to Receiver General (Principal, Interest), Disbursements on Old Sales, New Sales, Remission. Rows for years 1828-1844 and totals.

The amounts with an (\*) are the balances on hand on the 31st December, 1848, all since paid up, with the exception of £3,000.

RECAPITULATION OF PAYMENTS.

Summary table of payments, including amount of principal paid over to Commissary General and Receiver General, interest, and disbursements.

T. BOUTHILLIER.

---

**Montreal:**

**PRINTED BY LOVELL AND GIBSON,**

**SAINT NICHOLAS STREET.**

---

# RETURN

To an Address from the Legislative Assembly, to His Excellency the Governor General, of the 29th ultimo, praying that His Excellency would be pleased to cause to be laid before the House, by the proper Officer, Copies of all applications which have been made to the Executive Government by Religious Denominations, other than those which have been provided for by name, in the Act for the settlement of the Clergy Reserves, as well as all Correspondence which has taken place, having reference to the subject.

By Command,

J. LESLIE,  
Secretary.

SECRETARY'S OFFICE,  
Montreal, 10th April, 1849.

(COPY.)

*Province of Canada.*

At Her Majesty's Executive Council, for the Province of Canada, held at the Government House, in the City of Montreal, on the 19th day of January, 1848:

*Present:*

In Council, His Excellency the Governor General  
19th Jan. 1848 (Sd.) "E. & K." in Council.

Whereas, by an Act of the Imperial Parliament, passed in the third and fourth years of Her Majesty's Reign, intituled, "An Act to provide for the sale of the Clergy Reserves in the Province of Canada, and for the distribution of the proceeds thereof," it is among other things enacted, (section 2.) "That the proceeds of all sales of such Reserves which have been or shall be invested, under the authority of an Act passed in the eighth year of the Reign of King George the Fourth, intituled, 'An Act to authorize the sale of part of the Clergy Reserves, in the Province of Upper and Lower Canada,' shall be subject to such orders as the Governor in Council shall make for investing, either in some public funds, in the Province of Canada, secured on the Consolidated Fund of the said Province, or in the public funds of Great Britain and Ireland, the amount now funded in England, together with the proceeds hereafter to be received from the sales of all or any of the said reserves, or any part thereof: Provided always, that the necessary expenses of such sales shall be borne and defrayed out of the first moneys received therefrom."

And (section 3)—"That the interest and dividends accruing upon such investments of the proceeds of all Clergy Reserves sold or to be sold, and also the interest to accrue upon sales, on credit of Clergy Reserves,

and all rents arising from Clergy Reserves, that have been or may be demised for any term of years, shall be paid to the Receiver General of the Province of Canada, or such other person as shall be appointed to receive the public revenues of the said Province, and shall together form an annual fund for the purposes hereinafter mentioned, and shall be paid by him from time to time in discharge of any warrant or warrants, which shall from time to time be issued by the Governor, in pursuance of the provisions of this Act, (that is to say): in the first place, to satisfy all such annual stipends and allowances as have been heretofore assigned, and given to the Clergy of the Churches of England and Scotland, or to any other religious bodies or denominations of Christians in Canada, and to which the faith of the Crown is pledged, during the natural lives or incumbencies of the parties now receiving the same: Provided always, that until the annual fund so to be created and deposited with the Receiver General, shall suffice to meet the above mentioned stipends and allowances, the same, or so much thereof as the said fund may be insufficient to meet, shall be defrayed out of the Casual and Territorial Revenue of the Crown, in the Province of Canada." And (section 4)—"That as soon as the said fund shall exceed the amount of the several stipends and allowances aforesaid, and subject always to the prior satisfaction and payment of the same, the said annual fund shall be appropriated as follows: (that is to say,) the net interest and dividends accruing upon the investments of the proceeds of all sales of such reserves sold or to be sold, under the authority of the before recited Act, of the eighth year of the Reign of King George the Fourth, shall be divided into three equal parts, of which two shall be appropriated to the Church of England, and one to the Church of Scotland, in Canada; and the net interest and dividends accruing upon the investments of the proceeds of all sales

Appendix  
(J.J.J.J.)

10th April.

of such reserves, sold under the authority of this Act, shall be divided into six equal parts, of which two shall be appropriated to the Church of England, and one to the Church of Scotland in Canada; Provided always, that the amount of the before mentioned stipends and allowances which shall be paid to and received by any Clergyman of either of the said Churches of England or Scotland, shall be taken, as far as the same will go, as a part of the share accruing to each Church, respectively, by virtue of this Act, (that is to say.) the stipends and allowances to any Clergyman of the Church of England, as part of the share accruing to the Church of England, and the stipends and allowances to any Clergyman of the Church of Scotland, as part of the share accruing to the said Church of Scotland, so that neither of the said Churches shall receive any further or other sum beyond such respective stipends and allowances, until the proportion of the said annual fund allotted to them, respectively, in manner aforesaid, shall exceed the annual amount of such stipends and allowances." And (section 7)—"That subject to the foregoing provisions, the residue of the said annual fund shall be applied by the Governor of Canada, with the advice of the Executive Council, for purposes of public worship and religious instruction in Canada."

And whereas there is now a residue of the said annual fund arising from the new sale of Clergy Reserves, in that part of the Province of Canada, heretofore constituting the Province of Upper Canada, made under the authority of the said imperial Act, the 3rd and 4th Victoria, chap. 78, amounting to about eighteen hundred pounds, currency, (and increasing every year) applicable for the purposes mentioned in the seventh section of the said last mentioned Act, and His Excellency the Governor General is desirous to obtain such information as may enable him, with the advice of Her Majesty's Executive Council aforesaid, to distribute the said residue in the most equitable manner among the different religious bodies in the said part of the Province, for the purposes mentioned in the said 7th section.

Now, therefore, notice is hereby given, that any religious body in that part of the Province of Canada heretofore constituting Upper Canada, that may be desirous to receive a share of the said residue, under the provisions of the said 7th section, shall, on or before the first day of July next, make an application to that effect, addressed to the Clerk of the Hon. Executive Council, at Montreal, stating for which of the purposes mentioned in the said 7th section, they would desire the share of the said residue, which may be allocated to them, to be applied, and setting forth also, as nearly as possible, the number of persons, in the said last mentioned part of the Province, belonging to their religious persuasions.

Certified,

J. JOSEPH,  
C. E. C.

To the Hon. J. Joseph, Clerk, of the Executive Council.

The Petition of the undersigned, Missionary of the Society of the United Brethren, (commonly called Moravians,) labouring among the tribe of Delaware Indians in the Township of Orford, County of Kent, Western District of Canada West;

RESPECTFULLY SHEWETH:

That Your humble Petitioner, having observed that notice has been given by His Excellency the Governor General, to any religious body in that part of the Province of Canada, heretofore constituting Upper Canada, that may be desirous to receive a share of the residue of the annual fund arising from the new sales of

Clergy Reserves, in the said part of the Province, to make application on or before the first day of July next, would most humbly solicit a mite to aid in the erection of a new church, commenced by those under his charge at the Mission Station of New Fairfield or Moraviantown.

The Society of the United Brethren has been sending labourers to this station, for more than half a century, notwithstanding that its means have ever been inadequate to its wants, in spreading the Gospel of our Blessed Redeemer. The number of members under its care, at this station, has increased (in the last eleven years) from one hundred and fifty, to two hundred and thirty-five. In addition, there are white settlers in the vicinity, who frequently attend Divine worship here. These are not wealthy, but are labouring under all the privations and disadvantages with which the pioneers have to contend, whilst striving to subdue the forest, and erect a home for themselves and their children; and of course unable to contribute much towards erecting churches. The Indians also, although having left the savage state, and progressing in civilization, are unable to contribute much more than the labour of their hands, which they have thus far done, in a praiseworthy manner.

The liberality shewn by Her Majesty's Government in various parts of her vast Empire, especially in the West India Islands, towards the Missionaries of the United Brethren's Church, inspires Your Petitioner with the hope that his request will not be in vain.

Your Petitioner deeming it necessary that something should be shewn to testify that he is one of Her Majesty's subjects, and possesses the Ministerial qualifications to which he lays a claim, encloses the certificate received at the General Quarter Sessions, with the request that it may be returned.

And Your humble Petitioner, as in duty bound, will ever pray.

(Signed,) JESSE VOGLER,  
Miss. S. U. B.New Fairfield, C.W.  
Thamesville, P.O.

February 15th, 1848.

Be it remembered, that at the General Quarter Sessions of the Peace, holden at Sandwich, in and for the Western District, on the seventeenth day of November, in the year of Our Lord one thousand eight hundred and forty-six, before Alexander Chewett and others, Esquires, Justices of Our Sovereign Lady the Queen, assigned to keep the peace in the said District, came Jesse Vogler, of the Township of Orford, who professes to be a Minister of the United Brethren Church. It appears to a majority of the Justices, that he, the said Jesse Vogler, was duly ordained a Minister of the said church.

A. CHEWETT,  
C. L. S.M. R. Wood,  
Dpy. Clk. Peace Wes. Dist.

A true copy.

(Signed,) J. JOSEPH,  
C. E. C.

To the Hon. J. JOSEPH, C. E. C.

SIR,—Yours in reply to my former communication, has remained unanswered to this time; this would not have been the case had the Clerk of the

Appendix  
(J.J.J.J.)

10th April.



Appendix  
(J.J.J.J.)

10th April.

Peace, at Sandwich, forwarded me a certificate for which I have written twice, without having my wish gratified. My time being very limited, I could not go to Sandwich myself, and thus have failed. Will not the certificate enclosed in my first, prove the point in question, *a posteriori*, as the Act under which certificates are given, requires "Clergymen or Ministers to be subjects of Her Majesty," &c. This, however, may not be as satisfactory as the evidence, *a priori*, yet for want of such it is submitted for your consideration, by

Your humble servant,

JESSE VOGLER.

New Fairfield, River Thomas,  
Mosa P. O., C. W.,  
June 6th, 1848.

BYTOWN, DALHOUSIE DISTRICT,  
27th March, 1848.

SIR,—With this I beg leave to forward you for His Excellency's consideration, the petition from the Minister, Elders, and Trustees of the Free Church of the Townships of Gloucester and Osgood and immediate neighbourhood in the District, praying for a share of the Annual Fund arising from the sale of the Clergy Reserves, in pursuance of the Proclamation, dated 19th January, 1848.

The petition speaks for itself, but I beg respectfully to bear testimony to the zeal and usefulness of the Rev. gentleman in charge of the congregation of that part of the country.

The congregation is composed of respectable farmers, and the surrounding country is advancing very rapidly. They have built a very excellent church, purchased the ground, built a manse in which the Rev. William Lohead resides with his family. The congregation are considerably in debt, and I respectfully beg leave to intimate that I feel it my duty, as one publicly connected with this section of the country, strongly and considerably to urge their claim on the score of usefulness, on the consideration of the Government.

All which is respectfully submitted,

By your obedient servant,

EDWD. MALLOCH.

Hon. R. B. Sullivan,  
Provincial Secretary,  
&c., &c. &c.

P.S.—May I request to hear from you in due course?

To His Excellency the Governor in Council, the Right Honourable James, Earl of Elgin and Kincardine, Governor General of British North America, and Captain General and Governor in Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, and Vice Admiral of the same, &c., &c., &c.

The Petition of the undersigned, the Minister, Elders, and Trustees of the Presbyterian Churches of Osgood and Gloucester, humbly sheweth,—

That, whereas, His Excellency the Governor in Council has made Proclamation, of the date of the 19th January, 1848, that there is a residue "of the annual funds arising from the new sales of Clergy Reserves, in that part of the Province of Canada, heretofore constituting the Province of Upper Canada, made under the authority of the Imperial Act, the 3rd and 4th of Victoria chap. 78, amounting to about eighteen hundred pounds currency, to be applied by the Governor of

"Canada, with the advice of the Executive Council, for purposes of Public Worship and religious instruction," and inviting religious bodies to apply on or before the first day of July next, for an equitable share of said residue; We, the Minister, Elders, and Trustees of the Presbyterian Churches of Osgood and Gloucester, in the County of Carleton, District of Dalhousie, Canada West, and of the Presbytery of Perth, in the Synod of the Presbyterian Church of Canada, sometimes called the Free Church, hereby humbly and earnestly make application for a share of said residue.

And we feel the more encouraged to hope that our application shall not be in vain, from the fact, that the Rev. W. J. McDowell of South Gower and his congregation, our nearest neighbours of the same denomination, have already applied and obtained from His Excellency the Governor in Council a grant from said residue of fifty pounds currency per annum; and Your Petitioners beg humbly, but earnestly, to shew that they stand much more in need of aid, in sustaining Public Worship, inasmuch as their settlement is much more recent, and the people proportionately less able to support the ordinances of religion respectably amongst them. And, if the Minister and congregation of South Gower receive from said residue fifty pounds currency per annum, much more should Your Petitioners in equity receive a grant to the same amount.

Your Petitioners further show that their congregations consist of about one hundred and forty families, and the Synod of the Presbyterian Church in Canada to which we belong, in July, 1844, consisted only of eighteen Ministers, but now number about fifty, and the Presbytery of Kingston, which in July, 1844, covered the whole territory, now constituting the Presbyteries of Kingston, Brockville, and Perth, at the time was composed of four Ministers only, with their congregations, now numbers nineteen Ministers and about thirty congregations, and still rapidly increasing.

Should Your Excellency be pleased to grant a sum similar to that granted to their neighbours of South Gower, Your Petitioners will feel themselves in duty bound as Ministers and people to pray, and as much as lieth in them to promote the honour and stability of the Government under which it is their happiness to live. And so Your Petitioners will ever pray.

Signed, at Osgood, C. W., this eighth day of March, one thousand eight hundred and forty eight.

(Signed,) WILLIAM LOHEAD, Minister,  
ROBERT GRANT,  
JOHN RODNEY,  
WILLIAM MCGIRR,  
PETER DALGLISH,  
THOMAS DUNCAN,  
ROBERT GAMBLE, } Elders.

DONALD CAMPBELL, }  
DANIEL CAMERON,  
ALEX. KENNEDY,  
ROBERT GRANT,  
JAMES JOHNSON,  
THOMAS DUNCAN, } Trustees.

SECRETARY'S OFFICE,  
Montreal, 30th March, 1848.

SIR,—I am commanded to acknowledge the receipt of your letter of the 27th inst., transmitting the Petition of the Minister, Elders, and Trustees of the Free Church of the Townships of Gloucester and Osgood, in the Dalhousie District, praying for a share of the annual fund arising from the sale of the Clergy Reserves, in pursuance of the Proclamation, dated, 19th January, 1848; and to inform you that I have laid the same before the Governor General in Council.

I have the honour to be, &c.,  
(Signed,) R. B. SULLIVAN,  
Secretary.

Edward Malloch, Esq.,  
Bytown, C. W.

Appendix  
(J.J.J.J.)

10th April.

Appendix (J.J.J.J.) 10th April.

To His Excellency James Bruce, Earl of Elgin and Kincardine, K. G. C. B., Captain General and Governor in Chief, in and over the Province of Canada, &c. &c., in Council.

The Petition of the subscribers, the Kirk Session and Trustees of the Free Presbyterian Church and Congregation of Ramsay, Canada West.

HUMBLY SHEWETH:—

That Your Petitioners, having observed Your Excellency's Proclamation, inviting those denominations who were desirous of obtaining a share of the proceeds of the Clergy Reserves, to make application previous to 1st July next, and knowing that the regular meeting of the Synod of their Church will not take place in time to enable it to take action in the matter as a body, they venture to make the present application in behalf of the congregation which they represent, trusting that it will meet with Your Excellency's most favourable consideration.

Your Petitioners, in conjunction with the other inhabitants of the Township of Ramsay, holding Presbyterian principles, several years ago purchased land, and erected a Church, and a dwelling house for their minister, at a cost of not less than £800. At the disruption which took place in the Church in this Province, in connection with the Established Church of Scotland, Your Petitioners having withdrawn from that body, were, although they amounted to more than two thirds of the whole Presbyterian population of Ramsay, deprived of that property, which was retained by that portion of the population which remained in connection with the Church of Scotland.

In consequence of this, Your Petitioners, and the congregation which they represent, were again under the necessity of erecting another church, another house for the accommodation of their minister, at a cost of about £700, of which they still owe about £ , and they came under an obligation to pay their minister a salary of £140 per annum.

Although composing the great majority of the Presbyterians of Ramsay, in point of number, they are by no means individually the wealthiest, and partly in consequence of the debt they have been obliged to contract for the building of the Church and Manse, and partly in consequence of the great failure of last year's crops, in this District, Your Petitioners have been obliged to allow their Minister's salary to run considerably in arrear. And understanding from Your Excellency's Proclamation that there is a considerable sum arising from the Clergy Reserves still unappropriated, they have ventured thus to lay their case before your Excellency, and humbly request that you will be pleased to allow them some share of the same to enable them to place their Minister in more comfortable circumstances than they otherwise can do, on account of the debt with which they are burthened. And Your Petitioners will ever pray, &c.

(Signed,) W. G. JOHNSTON, Moderator, } Session.
JAMES YOULL, }
JOHN BENNIE, Sess. Clerk, }
ANDREW TOSHACK, }
GREVILLE TOSHACK, }
Chairman, }
GILBERT MOIR, } Trustees.
WILLIAM PAUL, }
DUNCAN BAIN, }
THOS. KENNEDY, }
PETER YOUNG, }
ANDW. COCHRAN, }
JAMES BLACK, Treasurer, }
DAVID READ. }

May 6th, 1848.

SIR.—In conformity with a Notice or Proclamation issued by command of His Excellency the Governor General in Council, dated the 19th January, A.D. 1848; concerning the distribution of the proceeds of the sale of the Clegy Reserves, in the Province of

Appendix (J.J.J.J.) 10th April.

Canada, and in accordance with the seventh section of the Act providing such sale and distribution.

We, the undersigned, Pastor and Wardens, of the Lutheran Church Communities of the villages of Preston and Waterloo, and their neighbourhood, in the Township of Waterloo, in the District of Wellington, in that part of the Province formerly called Upper Canada, most respectfully and humbly beg leave to state, that we are desirous to partake of the benefits of said Act, and receive share or shares of the residue of the proceeds of the sale of the Clergy Reserves, for the purpose both of public worship and religious instruction, which are closely united with us.

The number of persons belonging to our Congregations are

Table with 3 columns: Location, Adults, Minors. Rows: Preston, Adults 251, Minors 173, 424; Waterloo, Adults 256, Minors 149, 405

Total, 829

And which two Congregations are at present united under the Pastoral care of the undersigned Minister, viz:—the Rev. Jacob Huttner, residing at Preston.

We beg you to direct your answer or order for payment in due time, to Mr. Hartman Schnarr, Waterloo Post Office, Canada West, one of the subscribers to these presents.

We also beg you to accept the most humble respects of,

Sir,

Your most obd't humble serv'ts,

(Signed,)

JACOB HUTTNER, Pastor.
JACOB ROOB, } Church
OLVORM GORLBAYHORDY, } Wardens
JACOB GLICK, } of Preston.
ZOFANNA CZATT, } Church
HARTMAN SCHNARR, } Wardens of
JOHN ALO. FLEISCHIAUER. } Waterloo.

To J. Joseph, Esq., C. E. C. Montreal.

To His Excellency, the Governor General, &c. &c. &c., in Council.

The Memorial of the Very Reverend Angus MacDonnell, Vicar General and Principal of the College of Regiopolis;

HUMBLY SHEWETH :

That from an Order of Her Majesty's Council, held at the Government House, in the City of Montreal, on the nineteenth day of January last, it appears there is now a residue of the annual fund arising from the sale of the Clergy Reserves, in that part of the Province of Canada, heretofore constituting the Province of Upper Canada, made under the authority of an Act of the Imperial Parliament, 3rd and 4th Vict. cap. 78, amounting to about £1806 currency, to be applied, according to the 7th Section of the said Act, by the Governor of Canada, with advice of the Executive Council, for purposes of public worship, and religious instruction in Canada.

That notice was given to the various Religious bodies in that part of the Province of Canada heretofore constituting Upper Canada, requesting those that were desirous to receive a share of the said residue, under the provisions of the said Act, section the 7th, to make an application to that effect, on or before the first day of July next, stating for which of the above purposes mentioned in the 7th section, they would desire the share of the said residue, which may be allocated to them, to be applied, and setting forth also, as nearly as possible, the number of persons in the said part of the Province, belonging to their religious persuasion.

That Your Memorialist being authorized by the Right Reverend Remigius Gaulin, Bishop of King-

Appendix  
(J.J.J.J.)

10th April.

ston, and by the Very Revd. John Hay, Administrator of the Diocese of Toronto, to act for and in behalf of the Catholics of Upper Canada, in reference to the above mentioned matter, and having moreover consulted many of the Catholic Clergy, and some of the most influential men among the Catholic Laity of both Dioceses, respecting the number of Catholics in that part of the Province, heretofore constituting Upper Canada, and the manner in which they would desire the share of the said residue which may be allocated to them, to be applied, takes the liberty to state:—

1st. That from his own personal knowledge of the different localities, and from correct information sent to him from almost every Mission in Upper Canada, he is convinced that at the lowest calculation, the number of Catholics in that part of the Province, formerly constituting Upper Canada, does not fall short of one hundred and sixty thousand, and from their rapidly increasing numbers, they must, before many years elapse, form a majority of the population of that part of the Province.

2nd. That it is the general opinion of Catholics, both Clergy and Laity, in Upper Canada, that if their share of the fund arising from the sales of the Clergy Reserves be divided between the two Dioceses of Kingston and Toronto, and applied for the purposes of Public Worship, it will be frittered away in such a manner as to be of no use to the Catholics of either.

3rd. That having resolved to apply to the Provincial Legislature for such alterations in the Act incorporating the College of Rigiopolis, as will render that Institution equally beneficial to the subjects of both Dioceses in the higher branches of education, it is our intention, as soon as circumstances will admit of it, to create a fund from which an equal number of subjects from each Diocese shall receive a free and liberal education.

4th. That in order to make a beginning in carrying out this view, we hope the Governor General in Council, will be graciously pleased to grant to the College of Rigiopolis, for the above mentioned purpose, whatever share of the fund arising from the sales of the Clergy Reserves, the Catholics of Upper Canada may be entitled to receive. And as in duty bound, Your Memorialist will ever pray.

For and in behalf of the Catholics of that part of the Province heretofore constituting Upper Canada.

(Signed,) ANGUS McDONELL,

V. G. and Principal of the College of Rigiopolis.

Montreal, May 9th, 1848.

P. O. FRANKTOWN, 15th May, 1848.

DEAR SIR,—Enclosed I beg leave to send you a Petition from the Free Presbyterian Congregation of Beckwith to His Excellency the Governor General, soliciting a share of the surplus fund arising from the proceeds of the Clergy Reserves, which you will please present to His Excellency.

It is to be understood that though a present heavy outlay is one great cause of the present application, they will continue to be annual recipients of the said fund, should it be given in that manner.

I beg leave to mention that I sent a copy of the said Petition to the Hon. M. Cameron, a few days ago, for presentation to His Excellency, but those concerned in the matter of the Petition having learned that he is absent from Montreal on public business, thought proper to renew their application, addressed to you. If the Hon. M. Cameron is now in Montreal, please confer with him on the subject, so as to prevent the two being presented to His Excellency. If not, please to present the enclosed immediately. Your attention will much oblige,

Your most obed't serv't,

EWEN McEWEN.

The Clerk of the  
Hon. Executive Council.

Appendix  
(J.J.J.J.)

10th April.

To His Excellency the Right Honourable James, Earl of Elgin and Kincardine, Knight of the Most Ancient and Most Noble Order of the Thistle, Governor General of British North America, Captain General and Governor in Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick and the Island of Prince Edward, and Vice Admiral of the same, &c., &c., &c., in Council.

The Petition of the undersigned, Her Majesty's dutiful and loyal subjects, members of the Kirk Session and Trustees of the Free Presbyterian Church and Congregation of Beckwith, Canada West, humbly and most respectfully sheweth,—

That Your Petitioners have observed Your Excellency's Proclamation, inviting those denominations who are desirous of obtaining a share of the surplus fund arising from the proceeds of the Clergy Reserves, to make application previous to the 1st day of July next, and knowing that the regular meeting of the Synod of their Church will not take place in time to enable them to take action in the matter as a body, they venture to make the present application in behalf of the Congregation which they represent, trusting that it will meet with Your Excellency's most favourable consideration.

That Your Petitioners, in conjunction with the other inhabitants of the Township of Beckwith holding Presbyterian principles, several years ago purchased land and erected a Church and a dwelling house (or manse) for their Minister, at a cost not less than about £600.

That at the disruption which took place in the Church in this Province, in connection with the Established Church of Scotland, Your Petitioners having (for conscience sake) withdrawn from that body were, although they amounted to more than two thirds of the whole Presbyterian population of Beckwith, deprived of that property, which was retained by that portion of the population which remained in connection with the Church of Scotland.

That, in consequence of this, Your Petitioners and the Congregation which they represent, were again under the necessity of erecting another Church, on which they have already expended about £180, the pulpit and pews being still unfinished from want of funds; that they intend to build a manse at a cost of no less than £250, and that they come under an obligation to pay their Minister (the Rev. Duncan B. Blair from Scotland, who has satisfactorily laboured amongst them since the beginning of June, 1847,) a salary of £120 per annum.

That, although, composing a majority of the Presbyterians of Beckwith in point of numbers, they are by no means individually the wealthiest,—that partly in consequence of the additional expense to be incurred in finishing the pulpit and pews of the Church, in building a manse, and partly in consequence of the great failure of the last year's crop in this District, Your Petitioners are unable to make up the salary for the support of their Minister, without having their Church in an unfinished state, and delaying proceeding with the erection of the manse.

And, understanding from Your Excellency's proclamation, that there is a considerable sum arising from the Clergy Reserves still unappropriated, they have ventured thus to lay their case before Your Excellency and humbly request that Your Excellency would be pleased to allow them some share of the same to enable them to make up an adequate salary for the support of their Minister, and at the same time proceed with the finishing of their Church, and the building of a manse, and Your Petitioners will ever pray.

Signed in name, and by appointment of the congregation, this 8th day of May, 1848.

NEIL STEWART,  
JOHN McDONALD, } Elders.  
JOHN McEWEN,

DUNCAN McEWEN,  
JOHN McEWEN } Trustees.  
JOHN McTAVISH,  
JAMES STEWART,  
DONALD ROBERTSON,  
DUNCAN McNEE,

Appendix (J.J.J.J.) 10th April.

Woolwich, May 15th, 1848.

J. Joseph, Esq., C. E. C., Montreal.

SIR.—In conformity with a Notice or Proclamation, issued by command of His Excellency the Governor General in Council, dated January 19th, A. D., 1848, concerning the distribution of the proceeds of the sale of the Clergy Reserves in the Province of Canada, and in accordance with the 7th Section of the said Act providing such sale and distribution.

We, the undersigned Pastor and Wardens of the Lutheran Church Community of the Townships of Woolwich and Wellesley, and their neighbourhood, in the District of Wellington, and in that part of the Province of Canada, formerly called Upper Canada, most respectfully and humbly beg leave to state that we are desirous to partake of the benefits of said Act, and receive a share or shares of the residue of proceeds of the sale of the Clergy Reserves for the purposes of public worship and religious instruction, which are closely united with us. The number of persons belonging to our congregation, is as follows, viz. :—

Table with 2 columns: Location (Wellesley, Woolwich) and Age Group (Adults, Minors). Total: 575.

Which congregation is at present under the pastoral care of the undersigned minister, the Revd. Frederick Williams Wunderlick, residing in the Village of Waterloo, in the Township of Waterloo, Wellington District.

We beg you to direct your answer or order of payment in due time, to the above named Minister, or the subscribing Church Wardens.

We also beg you to accept the most humble respects of, Sir,

Your most ob't humble serv'ts,

(Signed,) F. W. WUNDERLICK, Pastor.

JACOB WINKLER, JACOB ALLUMMY, GEORGE HOLLINGER, GEORGE WELTZ, Church. Wardens.

Toronto, July 14th, 1848.

SIR.—Accompanying this, in envelope, is the Petition of the "United Presbyterian Synod" in Canada, to His Excellency the Governor in Council, and I beg your attention to it at your convenience, May I further ask that you support its prayer, for assuredly these Reserves have constituted the chief bane of all our social and political evils, and we never will have peace till they are applied to general secular or educational purposes.

I may state also that the Synod has prepared a Petition to Parliament for the rescinding of the Clergy Reserve Act, which we intend to commit to the care of Mr. Price. I know there are difficulties in the way. The Churchmen in England will give their decided opposition, but these Reserves must be otherwise appropriated, and we in Canada ought to have, in this respect, a will of our own, and certainly it would be a popular measure in the country to apply them for Common School Education.

I may state that I shewed the Petition to Messrs. Baldwin and Price, and had a conversation on the subject, and in a few weeks I intend to be in Montreal and solicit an audience of His Excellency, in regard to these topics; and when, perhaps, you may allow me a conversation with yourself in regard to them.

Appendix (J.J.J.J.) 10th April.

I may further state that our designation, as a Church, may be new to you. Formerly we called ourselves the Missionary Synod of Canada in connection with the United Secession Church of Scotland, but by a union with another Church in Scotland, the name is changed to the present one.

I am, Sir,

Your ob't serv't,

(Signed,) JOHN JENNINGS.

Hon. R. B. Sullivan, Provincial Secretary, Montreal.

To His Excellency the Right Honourable James, Earl of Elgin and Kincardine, Governor General of British North America, &c. &c., in Council.

The Representation and Petition of the United Presbyterian Synod in Canada, in Synod assembled;

HUMBLY SHEWETH:

That the Synod represents a body of Christians, who support their own religious institutions, and who maintain the principle that state interference in matters religious is unscriptural, unjust, and impolitic.

And whereas notice has been given in the Official Gazette, that a surplus has accrued from the sale of the Clergy Reserve Lands, and that said surplus awaits the application of such as are by law entitled to a share of it, this Synod, having always objected to the application of said Clergy Reserves, to religious purposes, as being injurious to religion, and obstructive to the peace and prosperity of this Province, and having ever believed and maintained, that said Clergy Reserves ought to be appropriated to the purposes of Common School Education, or to ordinary secular purposes, declines to apply for any part of said surplus, and further prays that no appropriation of said surplus, be made to any Religious body, till further action be taken by the Legislature, upon the Clergy Reserve Act in force.

And Your Petitioners will ever pray.

Signed, this ninth day of June, one thousand eight hundred and forty eight years, in name and by authority of the Synod, by

(Signed,) JOHN JENNINGS, Moderator, WM. PROUDFOOT, Synod Clerk.

To His Excellency the Right Honourable James, Earl of Elgin and Kincardine, Governor General of British North America, &c. &c. &c., in Council.

The Petition of the Ruling Elders and Committee of the Joint Congregation of South Gower, Oxford, and Mountain;

HUMBLY SHEWETH:

Thas as His Excellency has been pleased, by and with the advice of His Executive Council, to invite all the Religious bodies in that part of Canada heretofore constituting Upper Canada, that are desirous of obtaining an allowance out of the Clergy Reserve Fund, to make application on or before the first day of July next, Petitioners beg leave most respectfully to request that such an amount of said Fund as may be allowed to them, will be forwarded to their minister, the Reverend W. J. Macdowell, of Kemptville, as early in July as possible.

Petitioners cannot allow this most favourable opportunity to pass, without acknowledging the kindness of His Excellency in responding to their former Petition, by

Appendix  
(J.J.J.J.)

10th April.

allowing them £50 for the support of the Gospel among them.

And, as in duty bound, Your Petitioners will ever pray.

(Signed,)

W. MARTIN,  
ANDREW CARSON,  
WILLIAM CRAIG,  
W. HOLMES,  
JOHN GRAY,  
ROBERT MARLAN,  
ROBERT CAPSTON,  
WM. RUMROCK,  
JAMES COURTNEY,  
ROBERT KERNAHAN.  
ROBERT KIRKWOOD.  
JOHN R. CHRISTIE,  
W. THOMPSON,  
W. McDOWELL,  
ROBERT COLMAN,  
JOHN EWAN,  
ALEX. CHRISTIE,  
JOHN McEWAN,  
JOSEPH CLARKE.

Resolutions passed at the Annual Meeting of the Canada Baptist Union, held at Beausville, June 16, 1848, relative to the distribution of the Surplus Fund arising out of the sales of the Clergy Reserves:

1st. *Resolved*, That the manner in which the funds arising from the sale of that part of the Public Domain, called the Clergy Reserves, are now appropriated, is unsatisfactory to all—that the law upon which that arrangement is based, has always been looked upon in the light of a compromise,—that most, if not all parties, have only been waiting for a suitable time for opening the question afresh, in order to a final adjustment,—that such an agitation has been commenced by the Church of England,—and that, in the opinion of this Union, all the said funds ought to be spent in support of Education, to be enjoyed alike by all the people.

2d. That whereas a considerable sum of money has accumulated from the Clergy Reserves already sold, which is offered to such denominations, other than the Churches of England and Scotland, for purposes of religious instruction, as may apply for it, we, as a denomination, utterly decline receiving any of the same, and we recommend that measures be taken to devote the proportion which might be supposed to fall to the share of the Baptists, to the support of the Provincial Normal School.

(Signed,)

BENJ. DAVIES, *Chairman*.  
J. GIRWOOD, *Secretary*.

TORONTO, June 27, 1848,

SIR,—I have the honour herewith to transmit to His Excellency the Governor General, the Memorial of the Conference of the Wesleyan Methodist Church in Canada, on the subject of the Clergy Reserves.

By informing me at your earliest convenience the decision of the Government thereon, you will greatly oblige me.

I have the honour to be, &c.

(Signed,)

ANSON GREEN,  
*Conference Treasurer*.

John Joseph, Esq.,  
&c., &c., &c.

To His Excellency the Governor General of Canada,  
&c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

In pursuance of a Proclamation issued by command of Your Excellency in Council, bearing date 19th January,

Appendix  
(J.J.J.J.)

10th April.

1848, and stating that the sum of £1800 per annum is now available from the sales of Clergy Reserves, "for purposes of Public Worship, and Religious Instruction in Canada," in connexion with different religious bodies in Upper Canada not mentioned in the Imperial Act 3d and 4th Victoria, cap 78, and notifying any religious body desirous of participating in said sum to make application on or before the first day of July, 1848;

We, Her Majesty's dutiful and loyal subjects, the Ministers of the Wesleyan Methodist Church in Canada, in Annual Conference assembled, beg most respectfully to lay before Your Excellency, in Council, the claims of our Church in Upper Canada to participate in the said proceeds of the sales of the Clergy Reserves.

In accordance with the directions of the Proclamation referred to, we have, during our present session, collected from the Statistical Annual Reports of every part of our extensive fields of labour, the following information as to the number of Ministers, Churches, and Congregations belonging to the Wesleyan Methodist Church in Upper Canada.

We have one hundred and ninety-two Ministers, stationed in different parts of our work, besides several hundred Local Preachers, who render much useful service, by imparting religious instruction on Sabbaths.

We have two hundred and sixty-eight Churches or places of worship belonging to our Church, and eight hundred and ninety-three other places in which we hold regular Services, making a total of eleven hundred and sixty-one Congregations in Upper Canada, to whom we regularly minister the truths of the Gospel of Jesus Christ.

We have in our Church in Upper Canada, twenty-three thousand eight hundred and forty-two regular communicants, and at the low estimate of five hearers or adherents for every communicant, the adherents of our Church in Western Canada, considerably exceed one hundred thousand.

We think it proper to observe also, that the Churches of England, Scotland, and Rome, have long received large annual grants out of the Crown and Clergy Reserve revenue, from which our Church has been excluded; that the labours of our Church have been so co-existent with Canada as a Province, and nearly co-existent and co-extensive with its settlements; that the labours and privations of its ministers are without a parallel in the history of the country, apart from their persevering, expensive, benevolent, and successful efforts to christianize and civilize several Indian Tribes.

As to the objects to which it is our intention to apply whatever sum may be placed at our disposal from the proceeds of the sale of the Clergy Reserves, at present available, we remark that it is not our intention to apply it towards making up any part of our own salaries as Ministers, though they are very small, and in many cases, inadequate; but to expend it for those benevolent and useful objects in which the most needy portions of our people will be advantaged, and the most needy departments of our work promoted. It is our intention to apply the aid now available from this source, as nearly as may be, in equal proportions, to the three following objects, namely,—The relief of distressed Churches, and Parsonages, and the Theological instruction of young men who have been recommended, examined, and received as candidates for the Christian Ministry.

In the very numerous settlements to which our ministry extends, there are many cases in which even a small amount of aid will afford great relief to our people, in circumstances of debt and embarrassment, in their pious and noble efforts to erect places of worship. To aid efforts of this kind, and under such circumstances of need, we regard as a work of both piety and patriotism.

The same remark is applicable, to a great extent, to the second object above stated; namely, the relief of what we usually termed "Distressed Parsonages" that is, houses erected on the various circuits for the residence of the Ministers, and in the erection of which, many of the Trustees and Circuits concerned are greatly embarrassed, either by debt on houses erected, or from want of means to complete the work begun. The system of our ministry is itinerant; we are liable to remove every one or two years from one Circuit, or extensive pastoral charge, to another; houses for the residence of the Minis-

Appendix  
(J.J.J.J.)

10th April.

ters, are provided by the people of their charge, on the several Circuits; these houses must be either rented or built by our congregations; the latter is found much the more economical and convenient mode, for our people to provide places of residence for their Ministers, removing from Circuit to Circuit.

To the two objects thus stated, in promoting the religious instruction of the country, paramount importance was attached by the Imperial Government, as stated by His late Majesty's Secretary of State for the Colonies, in a Despatch addressed to Sir John Colborne, dated October 16th, 1832, when grants were first made to certain religious bodies in Upper Canada.

A third object to which we propose to apply a part of the available sum referred to, is the Theological and other preparatory instruction of young men who have been duly recommended, examined, and received, according to the usages of our Church, as candidates for the Christian Ministry.

We consider this an object of vital importance under any circumstances, and especially in the present progressive state of society, in this country; but it is one for which we have not been able thus far to provide, having no other resources than the voluntary contributions of our congregations, for the support of the ministry, and institutions of our Church, on regular Circuits, besides raising in the same way, upwards of £2500 per annum, for the support of missions to the Indian Tribes, and new settlements. Such are the three objects to which we propose to apply the portion of the Clergy Reserve Fund, at present available to the Wesleyan Methodist Church in Upper Canada, according to the provisions of the Imperial Statute, and pursuant to the terms of the Royal Proclamation above mentioned; and we earnestly pray that the sum awarded to our Church, may be paid to the order of the Revd. Anson Green, and G. R. Sanderson, or either of them, who are duly authorized, jointly or separately, to receive the same, on behalf of this Conference.

Signed, by order, and on behalf of the Conference of the Wesleyan Methodist Church in (Upper) Canada, at Belleville, 15th June, one thousand eight hundred and forty eight.

(Signed,) GEORGE B. SANDERSON,  
*Secretary of Conference.*

To His Excellency the Right Honourable the Earl of Elgin and Kincardine, Governor-in-Chief of Her Majesty's Provinces in North America, &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

The undersigned beg leave to lay before Your Excellency and Council these, their humble statements.

That whereas, by Your Excellency's Proclamation of the 22nd January last, it appears that a surplus of the Clergy Reserve Fund, after having satisfied the claims of the Churches of England and Scotland, is now on hand; and whereas Your Excellency and late Council have given notice "that any Religious Body in that part of Her Majesty's Province heretofore constituting Upper Canada, as may be desirous to receive a share of said residue, shall make an application to that effect,"—and inasmuch as the undersigned were appointed, at a Public Meeting of the members and friends of the Methodist Episcopal Church in Canada, a Committee, to take such steps, in reference to this question, as by them might be deemed advisable, (in consequence of the legislative body of their Church not having had a meeting since the date of said Proclamation,) and having ascertained the sentiments of the members and friends of the Church generally, they beg leave to submit their sentiments to Your Excellency and Council, upon the Clergy Reserve question, namely: That the Methodist Episcopal Church in Canada, as a body, is opposed to state grants for religious or denominational purposes.

Such being their sentiments, the proposed distribution does not meet their views; they would therefore prefer, if it is possible, that the residue of the said fund be withheld until Legislative enactment may be passed, directing

not only it, but the entire Clergy Reserve Fund, to Common Schools, or to the Bible Society, or such other purpose as may be in accordance with the wishes of a majority of the people of this Province.

And, as in duty bound, Your Memorialists will ever pray.

(Signed,) THOMAS WEBSTER,  
P. FISHER,  
DANIEL McLEOD.

Nelson, 29th June, 1848.

WILLIAMSBURG WEST, 5th July, 1848.

SIR,—Herewith, I take the liberty of sending you a Petition on the subject of the Clergy Reserve Fund, which you will have the kindness to present to His Excellency the Governor General. I could not without a great deal of trouble and time, obtain the signatures of the Lutherans, generally, in the Eastern District, as they are scattered throughout nearly the whole District, and thought that the signatures of the Church Officers, of the Congregations, would probably answer.

I remain, &c.,

(Signed,) WM. SHARTS.

Hon. R. B. Sullivan,  
Secretary, &c., &c., &c.

To His Excellency the Right Honourable James Bruce, Earl of Elgin and Kincardine, Knight Grand Cross of the most Honourable Order of the Bath, &c. &c. &c.

The Petition of the undersigned,

HUMBLY SHEWETH:

That as the surplus fund arising from the sale of the Clergy Reserves, is about to be divided among the several denominations of Christians in Canada West—and as the Lutherans in the Eastern District are recognized by Government as a Religious body—and as they have always proved loyal to the British Crown—Your Petitioners, therefore, would humbly approach Your Excellency, and respectfully request that the Lutherans in the Eastern District may receive a proportionate share of the Clergy Reserve Fund, to be applied to religious purposes, whenever such division of the funds shall take place.

And Your Petitioners, as in duty bound, will ever pray.

(Signed,) WM. SHARTS, Pastor, Luth.

CONROD FRYMIRE,  
JOHN RANY,  
JOHN WELLS,  
GEORGE FETTERLY,  
HENRY FROATS,  
PHILIP STATA,  
HENRY MARKLIER,  
HENRY BURKLAY,  
BERNARD WHITTAKER,  
JOHN WHITTAKER,  
JACOB L. MARKLEY,  
HENRY H. BARKLEY.

Officers of the Lutheran Congregations in the Eastern District.

Williamsburgh, 5th July, 1848.

To His Excellency the Right Honourable James, Earl of Elgin and Kincardine, Governor General of British North America, &c., in Council.

In behalf of the Congregation at Belymaville in connection with the Synod of the Presbyterian Church of Canada, in the County of Grenville, in Union with several preaching stations situated in the Counties of Leeds and Grenville, District of Johnstown, Canada West:

Appendix  
(J.J.J.J.)

10th April.

Appendix  
(J.J.J.J.)

The Petition of the Elders and Committee of said Congregations;

10th April.

**MOST HUMBLY SHEWETH:**

That Your Petitioners have been at considerable expense in erecting a house for Public Worship, and owing partly to the present depressed state of the country, but chiefly to the fact, that their Congregations are composed principally of new settlers, who have not had a sufficient time to acquire wealth such as old settlers usually enjoy, are not able to maintain their Minister so as to make him comfortable; we, therefore, desire to be placed under the favourable consideration of Your Excellency.

Having presented to Your Excellency a similar Petition some months ago, when a favourable answer was at least not certain, we now hail with thanksgiving the Proclamation of Your Excellency of the 19th of January instant, on the subject of Clergy Reserves, and do therefore haste to lay their claims before you, humbly praying that a share of the proceeds arising from the sale of the Clergy Reserves may be appropriated to the benefit of the Rev. Alexander Luke, our present pastor, or his successor, whoever he may be. That Your Petitioners are anxious for immediate relief, and do, therefore, earnestly pray that a Warrant be issued as early as possible in their favour, which can be taken into consideration when the general distribution is to take place.

And, as in duty bound, Your Petitioners will ever pray,—

(Signed,)

JOHN PEARSON,  
JOSEPH HILLIS,  
JOHN McCRATNEY,  
JAMES MILLER, } Elders.

JAMES W. SCOTT,  
THOMAS McCULLY,  
JOHN KYLE,  
WILLIAM ALLEN,  
WILLIAM BARR,  
JOHN COCHRAN,  
JOHN McKINLEY, } Committee.

North Augusta Post Office,  
April 10th, 1848.

To His Excellency, James, Earl of Elgin and Kincardine, Governor General of British North America, &c., in Council.

The Petition of the Elders and Committee of the Presbyterian Congregation in Bellamyville and its attached Stations, connected with the Presbyterian Church of Canada;

**HUMBLY SHEWETH:**

That, whereas, they presented some months ago a Petition, craving of Your Excellency a share of the Clergy Reserve Fund, under the Proclamation of Your Excellency, dated 19th January last, they beg leave to recall the attention of Your Excellency to said Petition, and pray that a favourable and speedy answer be returned to their earnest request, for they are very anxious to retain the services of their Minister, and Your Petitioners greatly fear that without the aid asked, the Congregation cannot long enjoy his instructions, an aid for which they have confidently hoped and waited, knowing that similar

aid was lately extended to a neighbouring Congregation of the same denomination.

And Your Petitioners, as in duty bound, will ever pray

(Signed,)

JOHN PEARSON,  
JAMES MILLER,  
JOHN McCRATNEY,  
JOSEPH HILLIS, } Elders.

THOS. McCULLY,  
JOHN KYLE,  
JOHN COCHRAN,  
WILLIAM BARR,  
JAMES W. SCOTT,  
WILLIAM ALLEN,  
JOHN McKINLEY, } Committee.

13th July, 1848.

Please address answer to John Pearson, Esq., North Augusta Post Office.

SECRETARY'S OFFICE,  
MONTREAL, 17th April, 1848.

SIR,—I am commanded by the Governor General, to acknowledge the receipt of the Memorial of certain Elders, &c., of the Congregation at Bellamyville, in connection with the Synod of the Presbyterian Church of Canada, praying for a share of the Clergy Reserve Fund, under the Proclamation of His Excellency, dated the 19th January, 1848, and to state, for the information of the Memorialists in general, that I have laid the same before His Excellency in Council.

I have the honour, &c.

(Signed,) R. B. SULLIVAN.

John Pearson, Esq.,  
North Augusta,  
Johnstown District, C. W.

To R. B. SULLIVAN, Esq.,  
Civil Secretary,  
Government Office, Montreal.

SIR,—I take the liberty to enquire whether or not I am entitled to a share of the Clergy Reserves, appropriated to the different denominations, generally styled Dissenters? I allude to the one thousand eight hundred pounds, now at the disposal of the Government.

I may state that I am one of the Ministers in connection with the Presbyterian Church of Canada, stationed at Ste. Therèse de Blainville, and as I get but a very limited support from the people amongst whom I labour, say about thirty-five to forty pounds a year, I need scarcely say, that a little aid from Government, or to speak more correctly, the Clergy Reserve Fund, would be very acceptable.

An answer to this, at your earliest convenience, would much oblige,

Sir,

Your most ob't. serv't,

(Signed,) DAVID BLACK.

Ste. Therèse de Blainville,  
26th June, 1848.

Appendix  
(J.J.J.J.)

10th April.

---

**Montreal:**

**PRINTED BY LOVELL AND GIBSON,**

**SAINT NICHOLAS STREET.**

---



## R E P O R T.

THE Select Committee to which was referred the Petition of JAMES CORMIER and others, of the Magdalen Islands, praying for the abolition of the Custom House and Circuit Courts on the said Islands, and for certain alterations in their Rents; and the Entry in the Journal of this House, of 9th June, 1847, relating to the Petition of HILAIRE NADEAU and others, of the Magdalen Islands, praying that measures may be adopted to secure to them the free enjoyment of the Lands they have occupied almost from time immemorial; with power to report from time to time, have the honor to Report:—

NOTE.—*The above Report was destroyed by Fire on the 25th April last.*

## R E P O R T

ON

## THE PETITION OF ANTOINE TALBOT.

THE SELECT COMMITTEE to whom was referred the Petition of Antoine Talbot of the Parish of Berthier, in the District of Quebec,—have the honor to present their REPORT, as follows:—

COMMITTEE ROOM,  
12th August, 1848.

Your Committee, desirous of doing justice to the Petitioner, Antoine Talbot, were convinced, at the same time, of the great importance of the subject set forth in the petition, and in the information furnished to Your Honourable House, in a Provincial, inter-Colonial, and even inter-national point of view.

The sea coast of the Gulf of Saint Lawrence and the Atlantic Ocean, commonly called the Coast of Labrador, is situate partly in this Province and partly within the jurisdiction of the Government of Newfoundland; the present limits between the two Provinces, after several variations, which it is useless to mention here, are fixed at Blanc Sablon, by section 9th of the Imperial Act 6th Geo. IV. chap. 59.

With respect to the encroachments of foreigners on the possessions of British subjects, it must be remarked, that by the treaty of peace with the United States in 1783, and by the convention of 1818, American citizens have the right of fishing on the coast of Labrador in particular, and to prepare and dry their fish in the bays, harbours and coves, as long as those places remain uninhabited; but as soon as they become inhabited, this indulgence will not be continued to them, in any such place, without the consent of the inhabitants, whether proprietors or mere possessors; such, at least, Your Committee believe to be the law on this subject. With so indefinite a position it is not astonishing that British subjects desirous of settling permanently in these so unprotected and unfrequented localities should be subjected to acts of aggression and violence. This grievance has existed for a long time, and Your Committee can only repeat what the late Mr. Bouchette says, in his topographical work: "The exercise of the rights of the nations concerned in Newfoundland fisheries, viz., England, France, and America, calls loudly for ulterior regulations, and we can only say, that such a measure is of vital importance to the preservation and future value of the fisheries." Until these regulations are made, the rights of Her Majesty's subjects would be more effectively protected by means of two or three small vessels of the Royal Navy, connected with the Halifax Naval establishment, to be stationed, and constantly to cruise along the coasts of Labrador, Newfoundland, the Magdalen Islands, and other places in the Gulf of St. Lawrence.

The commanders and other officers, in addition to the powers they derive from the Imperial Government, ought to be invested with a sufficient judiciary and administrative authority, under laws to be passed for the purpose by the Colonial Legislatures interested. As the subject becomes complicated, in consequence of the acts of violence exercised by British subjects among themselves, the Legislatures of Canada and Newfoundland might be called upon to furnish this coast guard by means of armed

schooners, which would, at the same time, serve to constitute and maintain the civil organization which it becomes necessary to establish in these localities.

The lumbering establishments, as well as the settlements now forming on the north bank of the Saint Lawrence, to a considerable distance below the Saguenay river, would, as far as Canada is concerned, offer means of assistance, and enable these vessels to take in provisions.

With respect to what ought to be done hereafter by the Government of this Province for that part within the limits of Canada, Your Committee would suggest that Commissioners might be appointed to examine into the claims of present possessors, after having required them, by sufficient notice on the spot, to prove their claims; and might give titles to certain extents of land, to those entitled to them in justice and in equity, having regard not only to the possession but the manner in which such possession was obtained. The granting of titles at a later period, and the constitution of a judiciary and summary authority in civil and criminal matters, in the majority of cases, ought to form part of the measures to be adopted.

Your Committee have not the slightest doubt that if sufficient protection be secured to those who are disposed to carry on the fisheries, honestly and peaceably, a source of riches beyond all expectation will be found to exist in this branch of industry. Wherefore they recommend that the consideration of this subject be taken up and continued with activity, and that in the meantime the Provincial Government do solicit the protection of Her Majesty's Government, and the co-operation of that of Newfoundland, to obtain the desired end.

There is one part of the subject which may appear of little importance but which is of very great importance if we consider it in connection with the means of subsistence, and the formation of permanent settlements. The islands and rocks bordering this immense line of coast, are frequented by aquatic birds, the flesh and eggs of which form at all times the food of the resident fishermen, but more particularly so in winter, when the fishing ceases; this race of birds diminishes considerably by the destruction which is carried on to obtain their down, but above all by the traffic in their eggs, which schooners come in great numbers to get at the proper season, in order to sell them at Halifax and some of the towns of the United States. In order to be certain that the eggs are fresh, these traders ascend the rocky heights where the eggs are deposited, and destroy them by taking them out with shovels, and on returning again after a few days take away the fresh laid eggs, thereby destroying for a small profit, the whole year's generation. Complaints have been made against this abuse for a great number of years, and Your Committee would suggest that it be prevented.

As regards the particular case of the petitioner,

Appendix  
(L.L.L.L.)  
12th April.

Antoine Talbot, Your Committee have ascertained that this individual is an honest, respectable and industrious man, living at Berthier, Bellechasse, in this Province, who has applied his means to his establishment on the Coast of Labrador, and suffers great losses from having been dispossessed thereof, the steps which have been taken for his protection not having as yet had any effect; as the place in question, called "Le Fortean," is within the limits of the province of Newfoundland, Your Committee are of opinion that this case is of sufficient importance to be made the subject of a communication on the part of the Government of this Province to the Government of that Colony.

Your Committee not having been able to procure the attendance of a sufficient number of witnesses, on

account of the distance from the place where these facts are known, have submitted a series of questions in writing to divers persons, the answers to which are submitted, as well as other replies furnished through the instrumentality of Antoine Talbot, on the part of persons unknown to Your Committee, but whom they believe worthy of faith, residing at Berthier, Bellechasse, or in the neighbourhood, and which answers also they have decided upon reporting.

The whole respectfully submitted.

M. DESALES LATERRIÈRE,  
Chairman.

Appendix  
(L.L.L.L.)  
12th April.

## APPENDIX TO THE REPORT.

14th February, 1849.

THE Committee drew up several questions this day, which they have decided on forwarding to several persons in Lower Canada. Adjourned to the 22nd of February, instant.

*To the Honourable the Legislative Assembly of Canada.*

The humble Petition of Antoine Talbot, of the Parish of Berthier, in the County of Bellechasse, in the District of Quebec, mariner,

MOST HUMBLY SHEWETH,—

That in the year 1838, Your humble Petitioner acquired certain property on the Coast of Labrador, for the purpose of carrying on the cod and herring fishery, and that from this period up to the spring of 1846, Your humble Petitioner constantly occupied the said property, which he considerably improved, by constructing a house, out-houses, and other buildings thereon, for the carrying on of this fishery, and on which he had, in the spring of the said year 1846, about eighteen hundred pounds currency worth of provisions and fishing implements.

That one William Henry Ellis, accompanied by a great number of armed men, whom he appeared to have in his service, took possession of the said fishing establishment, and of all the provisions and implements of fishing belonging to Your humble Petitioner, who, as well as the people in his service, was nearly killed in attempting to resist the attack of the said Ellice.

That the said Ellice has since then retained possession of the said fishery, as well as of all the buildings belonging to Your humble Petitioner, who has never been able to recover what the said Ellice took from him.

That Your humble Petitioner, who was deriving considerable profit from his said fishery, now finds himself quite ruined, and without hope of regaining what has been taken from him by Ellice and his people, there being no authorities on the said Coast of Labrador to whom Your humble Petitioner could address himself.

That nearly all the shippers of the District of Quebec, who have had, at divers periods, fisheries on the Labrador Coast, have successively been obliged to abandon them, on account of the robberies and aggressions of all kinds to which they were constantly exposed on the part of more than 10,000 foreigners, who take up their residence on this coast every summer; and that although the fisheries of that part

of the Gulf of St. Lawrence are very profitable, it is almost impossible to take advantage of them without being exposed to an almost absolute certainty of being robbed of all one possesses, and sometimes of life itself, unless there should be a sufficient number of armed men to oppose force by force.

That these fisheries are of an immense importance, and that in a few years they will become a very profitable source of commerce to the inhabitants of the country, if they could be assured of carrying them on with security.

That Your humble Petitioner humbly prays that it may please Your Honourable House to take such measures as in their wisdom they may deem fit, with a view to permit the shippers to carry on the fisheries of the coast in safety, and to exert their industry without danger. And Your humble Petitioner, as in duty bound, will ever pray.

ANTOINE TALBOT.

Berthier, 20th January, 1849.

Province of Canada, }  
District of Quebec. }

*Antoine Talbot*, of the Parish of Berthier, County of Bellechasse, and District of Quebec, mariner, having been duly sworn on the Holy Evangelists, deposed and saith:—From the year 1838, to the spring of the year 1846, I possessed, as proprietor, an establishment on the Coast of Labrador, where I carried on the cod, seal, and herring fishery: I had bought this establishment in the year 1838, from a certain James Dumaresq, for the sum of forty pounds sterling, which I duly paid him in money. During that period of time, I was always recognized by all the fishermen of the coast as sole proprietor of the said establishment, where I made generally above three hundred pounds currency net profit each year, so that although I had taken this establishment with very limited means, I improved it considerably and augmented my stock of fishing tackle, which were worth in the spring of the said year, 1846, about eighteen hundred pounds currency. With these means, I was then capable of carrying on the fishery on a tolerably large scale, and could expect to make larger profits than I had hitherto made. In the spring of the said year, 1846, I left Berthier with twenty-three men whom I had engaged to conduct

Appendix  
(L.L.L.L.)

12th April.

my establishment. Before I had arrived, a certain William Henry Ellis had taken it by force, having broken in the doors of my buildings and driven away the person I had left in charge, to take care of my effects and fishing implements; I called on the said Ellis to give me up my property and effects, but obtained nothing but menaces; he even struck me, telling me to leave the place immediately unless I wished him to take my life; the said Ellis had with him about sixty men. I retired with my hired men on board my schooner, and as it was impossible for me to regain my property by force, with the small number of men I had, I was obliged to keep away.

In order not to lose the fishing season entirely, I employed my men in fishing on board my schooner, and returned to Quebec in the autumn, with the few fish I had taken, the produce of which was not sufficient to pay the wages of my men. I had then lost nearly the whole of my summer, as well as the store of fishing implements, and also my establishment, as I have above stated.

In the hope that the said Ellis would at least leave me my establishment, with the buildings I had thereon erected, I went down to Labrador in the following spring, with some fishermen I had engaged at Berthier; I then took possession of my buildings which were unoccupied, and repaired the said establishment for the fishery; but about three weeks afterwards, the said Ellis arrived with twenty-eight men, and again drove me away; I was thus obliged to take refuge on board my schooner, where I employed to the best of my means the few men I had, in the same manner as the preceding summer, fishing on board my schooner.

On my insisting upon entering my buildings, I was nearly killed by Ellis's gang, one of whom tried to shoot me with a gun; Ellis' people even cut the cables with which I had moored my schooner to the shore. I returned to Quebec in autumn after suffering consider-

able loss. Not being able to make up my mind to abandon a property on which I had expended all I possessed, and the enjoyment of which might ensure to me considerable profits, I again went down to Labrador last spring, with some men I had engaged, but I still found the said Ellis in possession of my property, and again had to lose nearly my whole time in fishing on board my schooner. On the 10th of August, Her Majesty's ship the "Alarm," commanded by the Right Hon. Granville Gower Loch, Companion of the Bath, having touched at the place I was at, I went on board of the vessel, and laid my complaint before its Commander, who condemned the said Ellis to restore to me immediately my said establishment, as well as the effects he had taken from me; this took place on the 16th of the said month, but the said ship having left the coast, the said Ellis returned me nothing; he retained my said establishment as well as all my effects, and I returned to Quebec this autumn, with the produce of a fishery insufficient to cover my expenses. The losses I experienced in the manner stated, nearly ruined me. I have also to state that I know no authorities whatsoever on the Labrador coast to whom I could have applied to render me justice; that the nearest Court of Justice to my establishment, is at St. Johns, Newfoundland, which is about 150 leagues from my post.

I have, moreover, to state, that a great part of the Labrador coast is exposed to aggressions similar to those I have described, by the crews of above 1500 vessels, which arrive annually on this coast.

(Signed,) ANTOINE TALBOT.

Sworn in my presence, at  
Quebec, the 5th of January, 1849.

(Signed,) L. FRISER,  
C. B. R.

Appendix  
(L.L.L.L.)

12th April.

## MINUTES OF EVIDENCE.

Mr. Jean Belleau, Collector of Her Majesty's Customs for the Magdalen Islands, appeared before the Committee appointed on the Petition of Antoine Talbot and answered as follows:—

1. Have you made voyages to, frequented or resided on the said Coast of Labrador; if so, state the time, and have the goodness to relate all the facts having connection with the outrages committed on the persons and property of the inhabitants and shippers by foreigners?—I have never visited the Coast of Labrador, personally, but I have had frequent intercourse with the inhabitants and shippers of the coast, during seven years, having been engaged in the trading and carrying on of the fisheries of the Gulf of St. Lawrence, and during four years as Collector of Her Majesty's Customs at the Port of Magdalen Islands. I know, and it is of public notoriety, that aggressions and outrages have been committed on the persons and property of Her Majesty's subjects, who inhabit and frequent all parts of the Gulf for the fisheries, and this to the great injury of Her Majesty's subjects. I know personally, that not less than five hundred vessels enter the Harbours of the Magdalen Islands annually. The inhabitants have often complained of their presence in their Harbours and on the coast, where they make no scruple of taking away different articles belonging to the inhabitants, such as sheep, pigs, poultry, &c., &c. Their presence in the bay intercepts the en-

trance of mackerel and other fish, to the great detriment of the inhabitants of the place, whose means of carrying on the fisheries do not extend further than the bay known by the name of the "Baie de Plaisance." The habit and practice of the Americans in fishing with *seines* on the shores will, in my opinion, have the effect of infallibly destroying the fishery. Unfortunately it is not in the power of the inhabitants to prevent this system.

2. Do you know if the Government maintains any vessel to protect the shippers and inhabitants of the coast against the aggressions of foreigners and others?—The only protection on the part of Government to protect the fisheries and the shippers of the whole Gulf, including the Bay of Chaleurs, consists of one single ship of war, stationed there only three or four months of the year.

3. What means could be adopted in your opinion to protect the people of the country, and all British subjects, against such outrages?—The means, in my opinion, of protecting the subjects of Her Majesty, engaged in the fisheries of the Gulf, as well as of preventing smuggling, would be to keep in those localities, two or three small vessels of 50 or 75 tons, armed with three or four guns, and a crew of from fifteen to twenty men each.

4. If you know anything more on this subject, be so good as to state it at length?—The fitting out of similar vessels would be of great advantage to the inhabitants and shippers who frequent these coasts.

Appendix  
(L.L.L.L.)

12th April.

It was in contemplation, ten or twelve years ago in Nova Scotia, New Brunswick, Prince Edward's Island and Newfoundland, to arm conjointly a small flotilla, exclusively for the protection of the fisheries; Nova Scotia was the only Province that adopted this plan; she has had for several years, two schooners employed on this service, one of them "The Daring," Captain Darby, which I met at Halifax last December; several persons, one of whom holds a high place under Government, whom I met there, told me that the prizes and confiscations made by these vessels, had been more than sufficient to cover the expenses of their outfit. The Legislature of Newfoundland intends to take into consideration the formation of a similar coast guard, during its present Session. The French Government, who carry on considerable fisheries on their small Colonies on St. Pierre, Miquelon, and the coast of Newfoundland, maintain on their part, three schooners of from 50 to 60 tons, armed with six guns and manned by a Lieutenant of the Royal Navy, and a crew of twenty-five men. France has also an armed steamboat and a corvette of thirty guns. In the frequent intercourse that I have had with the commanders of the small schooners which arrive annually at the Magdalen Islands, to look after their fisheries, and also visit these Islands, they told me that their presence on the coast had an excellent effect, and prevented many disorders, and that in several cases, they had been called on to do the duty of police in the English establishment, in consequence of there being no local authorities on the spot, and the English corvette of the station being absent.

Mr. Hubert Tremblay, husbandman, replied as follows, by a letter dated Rimouski, the 21st February, 1849, to the preceding questions, which had been sent to him.

SIR,—I have the honor to acknowledge the receipt of your circular, dated the 14th of February, instant, requesting me to transmit to you answers to the questions therein enclosed, which you forwarded to me by order of the Special Committee, appointed by the Legislative Assembly to enquire into the abuses and acts of violence committed at divers places on the Coast of Labrador, and the means of remedying the same. My answers are as follows:—

1st. I travelled on the Coast of Labrador in 1844 and 1845, during two consecutive summers, and saw foreigners there, who committed great damage in procuring the eggs of the sea-fowl on the Islands, as well as the down and feathers with which they loaded their vessels (schooners), to the prejudice of the inhabitants residing on the Coast of Labrador. These foreigners came, for the most part, from the Island of St. Pierre, Miquelon, and made no scruple in preventing those who resided on the Coast of Labrador from procuring the eggs, and when they required the feathers, they hesitated as little to destroy the eggs while the birds were hatching; the same people also fished, drying their codfish on shore, to the prejudice of those who resided there, and caused them great annoyance, and not unfrequently gave rise to quarrels.

2nd. The Government sends annually to the Coast of Labrador a vessel of war, to protect the shippers of the coast; but the great distance it has to coast and visit, prevents its remaining for any length of time in each place where there are settlements, and foreign vessels, or rather those who command them, always take care to arrive before the coast-guard ship makes her appearance, or to leave again when she is expected, so as to avoid encountering her.

3rd. I am of opinion, that two war steamers ought to be employed instead of a frigate, and that the

visits to each post might be more frequent, and that more rigid instructions should be given to the commanders of these steamers, to bring to justice the foreigners who cause the depredations of which I have spoken.

Mr. Etienne Labadie replied as follows, by a letter dated Quebec, the 26th February, 1849, to the preceding questions, which were transmitted to him.

SIR,—I have the honour to acknowledge the receipt of your letter of the 22nd instant, in reply to mine of the 20th; and I must, in the first place, return you my thanks for the care you have taken to spare me the fatigue of a disagreeable journey at this very cold season; I shall therefore endeavour, to the best of my capacity, to answer in writing the questions submitted by the Special Committee of the House of Assembly, relative to the abuses and other acts of violence committed on the Labrador coast, and the means of remedying them.

In reply, I have the honor to inform you, that in 1837, I made an application to the Executive, on the part of the inhabitants of this coast, praying for protection. I also made an application in 1838, by a petition signed by the inhabitants to the same effect, and I forwarded another in 1840.

The answers to these different petitions, were that the subject had been taken into consideration, and that the Admiral of the station had received instructions in consequence; I was also called before the Council on this subject, as appears by the papers and correspondence, to which you may refer.

In reply to your first question, I have the honor to submit, that it is now about 15 years that I have resided principally on the Coast of Labrador, and that I have acquired a sufficiently general idea of the trade carried on there; I know that outrages and ill-treatments of all kinds have been committed on the inhabitants by foreigners, principally Americans, who finding themselves the strongest, do whatever they choose, or otherwise cause damage and injury to the fisheries, and keep the inhabitants in a state of poverty and fear.

As to your 2nd question, I have to state, that on two occasions only, a ship of war has cruised along the coast, although others have passed by at other times, but that did not in the least suffice to protect the inhabitants from the outrages they justly complain of, committed by Americans and other strangers, who, each year, come to renew those acts of violence, knowing that they can do so with impunity.

To your 3rd Question.—I am therefore of opinion that it will be necessary to station a ship of war on the said coast for the season, with orders to visit the different harbours and fishing posts, and to appoint a Magistrate who should be independent of the inhabitants, and in no way interested in the trade of the place.

The system of fishing as at present carried on, for many years past by the Americans, the French, the inhabitants of New Brunswick and of Nova Scotia, is absolutely ruinous; being foreigners they care but little about preserving or protecting the fisheries; on the contrary, they make use of every means, whether destructive or not, to profit by them in an illicit manner, and unfortunately there is no law or force there to prevent their depredations or to punish them.

This is what I have thought it incumbent on me to submit to the Committee, with reference to the questions submitted to me in the letter of the 14th inst.; the little that I have said will, I hope, have the effect of suggesting the importance of taking prompt and energetic measures to prevent the violation of this territory by these foreigners, and assuring to the in-

Appendix  
(L.L.L.L.)

12th April.

Appendix  
(L.L.L.L.)

12th April.

habitants who reside there the protection which they are entitled to expect from Government, and of protecting a trade so advantageous to this Province.

As to any other information which it may be in my power to give on this subject, I shall always be ready to reply.

*J. D. Armstrong*, Esquire, commander of a steamer, answered as follows by a letter dated at Sorel, 17th February, 1849, to the preceding questions transmitted to him.

SIR,—I have the honor to acknowledge the receipt of your letter of the 14th inst., containing certain questions, by order of a Committee of the Legislative Assembly, in reference to acts of violence said to have been committed on the inhabitants of the Labrador coast, and beg to state in reply.

1st. That I have never resided, nor have I visited the Coast of Labrador.

2nd. That coast is considered within the jurisdiction, and under the protection of the Admiral appointed to the British North American station, who sends a frigate or sloop of war once or twice a year along the coast for the protection of the inhabitants, and likewise, as Surrogate, to settle all matters of dispute between themselves.

3rd. My opinion is, that the vessels employed on such service are far too large, and their visits too far between, to afford that protection so essentially necessary for the welfare of the inhabitants. I should think that small vessels capable of entering into small harbours, and by-places, with a limited jurisdiction as to distance, would carry out the views of the Government in a more efficient manner than the mode now in practice.

4th. I was for many years connected in business with the south side of the Gulf of St. Lawrence, as well as the west coast of Newfoundland, during which period, and I may add, almost every year since, I frequently heard loud complaints on the part of the inhabitants in reference to the encroachments of the French and American fishermen, more particularly the latter, who, it is said, follow up the business with great impunity, to the serious prejudice of the inhabitants, as well as to the transient British fishermen, whose yearly losses in consequence must be very considerable.

I have the honor to remain,

Sir,

Your most obedient servant,

J. D. ARMSTRONG.

*John McDougall*, President of the Quebec Forwarding Company, Esquire, answered as follows, by letter dated No. 10, St. George Street, near Craig Street, Montreal, 22nd February, 1849, to the preceding questions, which were transmitted to him.

SIR,—I have the honor to acknowledge the receipt of your letter of the 4th instant, which was transmitted to me from Quebec, containing four questions. I beg leave to answer them as follows:

1. I am not acquainted with the Coast of Labrador, and am ignorant whether any acts of violence have been committed by strangers, on the inhabitants, ship-owners, or British subjects of that coast.

2. I have often read in the public prints, that the Admiral of the North American station had sent a ship to protect the fisheries. I do not know the nature of the instructions given to this vessel, but I

have no doubt the Admiral would furnish a copy of them, if he were asked.

3. I am of opinion that a small vessel belonging to the colony, armed as a cruizer for the prevention of smuggling, would be sufficient to protect the inhabitants and fishermen of the coast.

4. I beg to observe, that I am so little acquainted with the question under consideration, that I could not venture to take the responsibility of expressing an opinion on this matter.

*J. S. N. Bossé*, of the City of Quebec, Esquire, Advocate, answered as follows to the preceding questions, which were forwarded to him:—

I have at different periods made eight or nine voyages in the Gulf of St. Lawrence; but I visited the Coast of Labrador but once,—I believe it was in 1822.

Whilst I was at the Magdalen Islands in the years 1843 and 1844, as Commissioner, I questioned nearly all the shippers that I met with, and acquired a tolerably correct knowledge of what took place on the Labrador coast; for the fishermen of the Magdalen Islands repair to that coast when the fishing is unproductive at their own place. All agree in saying that although these fisheries are the richest in the Gulf, it is impossible to form settlements there, because the Americans are so numerous that they acquire the mastery and take by force all that they require. The French of St. Pierre and of Miquelon, the fishermen of Prince Edward's Island, of Nova Scotia, of New Brunswick, and of St. John's, Newfoundland, entertain the same convictions; and thus, each person thinking that the buildings and other improvements necessary for his establishment may be taken from him the following year, salts and dries or smokes as well as he can the fish he takes, and carries away in the autumn all that belongs to him. The following spring, each shipper brings with him whatever is necessary for carrying on the fishery, takes up another post, if not strong enough to retake from some new-comer the one he held the preceding year, and considers himself fortunate if he is not driven from his new establishment.

With such a state of things, no prudent man would embark his capital in this trade. The inhabitants along the whole of the coast are in a state of great poverty, whilst they have at their very doors an inexhaustible source of riches. And Lower Canada loses the most powerful means of bringing in foreign capital. A Report made in 1848 by a Committee of the Legislature of Nova Scotia, on the question of free trade, gives at three millions and a half the value of the fish taken each year in the Gulf. This value is divided as follows: Americans, £1,500,000; French, £1,000,000; Newfoundland, Nova Scotia, Prince Edward's Island, New Brunswick and Canada, £1,000,000. Enormous as this sum appears, I am inclined to believe it to be correct; for the inhabitants of Halifax, who almost owe the prosperity of their town to the fishing trade, ought to be well informed on this point.

2. The Halifax station sends nearly every year, about the month of June, a ship which cruises along the Coast of Labrador, as far down as the Bay of Esquimaux. As long as this vessel is in the jurisdiction of Lower Canada, her Captain receives the complaints that British subjects may have against foreigners, such as Americans, French, and the crews of some Spanish vessels who have been there since the spring. If the delinquent foreigners are kind enough to wait for the vessel of war, they are obliged to give up all they have taken; but if they have gone away, the complaint is deferred till the

Appendix  
(L.L.L.L.)

12th April.

Appendix  
(L.L.L.L.)  
12th April.

next spring, or rather there is an end of the matter.

With respect to the quarrels between the British subjects for the possession of harbours, beaches, fishing places, and acts of violence, the Captain takes no notice of them. I believe that the reason given by that officer is, that his powers only extend to see that the treaty of 1783 is respected. When he arrives at Blanc Sablon, the limits of the Province of Lower Canada, he acts as Justice of the Peace, if, before his voyage, his name has been included in the list of the commission of the peace for the island of Newfoundland, and if he has taken the oaths required.

After the departure of the ship, every one is at liberty to act as he chooses, and the law of the strongest is the only one acknowledged by the crews and fishermen of upwards of 15,000 schooners.

3. I know a great number of mariners and merchants who are interested in the Labrador fisheries. I have often consulted them on the means of protecting this important part of the Province; all agree in saying there is none other than having an armed vessel to cruise along the coast from the spring to the autumn. It is the method employed by the Province of Nova Scotia to protect fisheries much less important than ours. I think it would be very desirable that the Captain of this ship should be authorized to grant, (in consideration of a certain equivalent to be paid to the Province) title deeds to the inhabitants who have been in possession from a certain period, and to companies of merchants who may wish to form settlements at these places. By authorising this officer to decide summarily on all affairs of a civil nature, and empowering him to act as Justice of the Peace in all the cases provided for by the Acts of 1842, a feeling of security would, at little expense, be revived in this important part of the Province. As to acts of felony, the same vessel could hand over the guilty parties to the authorities at Gaspé. I believe that these means would be sufficient for some years, and until these fisheries shall become more extensively developed.

Perhaps, also, it would be desirable that the Captain of the vessel should be authorised to make foreigners pay the duties on the wares which they exchange with all the inhabitants of Labrador; this would certainly be a means of protecting the Canadian shippers, and of restoring more quickly to Quebec the trade in salt fish, which would find a sure market in the whole of Upper Canada and in the interior of the United States, by means of the canals which are now open.

4. I regret that the Committee who have done me the honor to submit me the questions to which I have thus replied in so brief a manner, are obliged to make their report in a few days; for, notwithstanding the busy term which is now going on, I believe I should have been able to have furnished several observations that might have been useful to the Committee. I shall take the liberty, in the absence of anything of greater importance, to refer the Committee to some observations which I published last August in *L'Ami de la Religion*. The facts contained in that article are deduced from the best possible information. For my own part, I have thought for many years, that the true riches of the District of Quebec consist, neither in the lumbering trade, which is falling off, nor in its agriculture, but really in the fisheries of the Gulf, where employment can be found for the thousands of individuals who are on the point of emigrating to the United States, and of consumers for the produce of our lands, which cannot be exported with advantage. The profits that would be drawn from these fisheries would bring back capital to the country without being obliged to attract it by holding out hopes of extraordinary returns.

*Frs. Duteau*, Esquire, of the City of Quebec, answered as follows to the preceding questions, which had been forwarded to him.

Appendix  
(L.L.L.L.)  
12th April.

1. I have never resided at Labrador, nor have I ever been there.

2. I have heard that one of Her Majesty's frigates proceeded every year to Labrador; but I have never known the authority or the extent of the jurisdiction of the commander of this vessel; nevertheless, as he only stops at some harbours, the advantage that might be expected, if he could do justice to the multitude of complaints of all kinds that exist, must be very trifling, for those who wish to rob and pillage, get out of the way when the vessel is expected, and return after it has passed, and exercise their robberies with impunity.

3. I think that a small vessel of about 100 tons, well armed, to cruise on the coast during the whole summer, would be sufficient to keep the foreigners in check, and put a stop to the depredations which are now committed with impunity. After having cleared the coast of these marauders, the captain of the ships ought to have the right of deciding all quarrels and difficulties which might arise between the fishermen and shippers, for the property or occupation of harbours, beaches and fishing places, and of securing to each one the improvements he has made. He ought also to decide all the disputes of the traders amongst themselves and the inhabitants of the place, in the exchange and traffic they carry on—and to protect the merchants of the country, he should make the foreigners pay the duties due to Her Majesty on the great quantity of fishing tackle, provisions and strong liquors which they sell and traffic in along the whole coast, to the great detriment of the revenue of the Customs at Quebec.

4. I carried on at Quebec, during many years, a tolerably extensive trade in fish, which I obtained from divers parts of the Gulf, but principally from the Labrador coasts. This fish was afterwards forwarded to Montreal, to the Islands, to Spain, to Italy, and to South America. I employed yearly, on an average, a capital of about £6,000. Since the year 1826, until the year 1837, I sent each year eight or nine ships, with a crew of from 90 to 100 men to the Labrador fisheries, which are infinitely more abundant than those of any other part of the Gulf of St. Lawrence. Besides the fish being more abundant, it is of a much better quality, and is preferred in all foreign markets; for instance, Labrador herrings are never worth less than 30 shillings a barrel, at Quebec, whilst those of St. George's Bay, the Magdalen Islands, and Gaspé, are only worth 15 shillings; but it is impossible to draw from these fisheries the advantages they offer, for not being assured of retaining the improvements one makes, the fishing is carried on without the necessary preparations, such as a dwelling-house, out-buildings, salting-house, and smoke-house, and whatever things are necessary must be brought down each spring and taken back in the autumn, not being sure, even then, of not being dispossessed of one's post during the fishing season. In 1831, I lost an entire cargo of fish—all my hired men were driven from the post which they had occupied for several years, by the French from Miquelon. All the fish was lost, and all the produce of the fishing season. As to the establishment itself, I abandoned it with the several improvements I had made on it. If the shippers were certain of being able to preserve the improvements they might make, an immense quantity of fish might be taken, which would be sent to every market. I believe that in a few years above 200 ships from the District of Quebec, would be employed in this trade, and more than 4000 men could be employed in a very profitable manner. All those who know

Appendix  
(L.L.L.L.)

12th April.

the advantages of these fisheries have been long desirous of having some protection to enable them to carry them on, and if the Province took those means, I am certain that notwithstanding the penury existing in Quebec, a powerful company would be immediately formed here, into which would enter nearly all the sea-going men of the District. I consider the protection of these fisheries as one of the greatest advantages that could at present be procured for the District of Quebec.

The Committee will permit me to observe, that the whale fishery, from which the Americans derive so much profit, is very abundant in Labrador. To carry it on in a profitable manner, requires a large expenditure, which no Quebec merchant has as yet ventured upon, on account of the little security that exists in the establishments which have been attempted to be made in that part of the country.

*Edward Dozer*, of the City of Quebec, Captain in the Royal Navy, answered as follows to the preceding questions, which were transmitted to him:—

SIR,—I have the honour to acknowledge the receipt of your letter of the 14th instant, requesting me to answer the several questions therein stated, for the information of the Special Committee of the House of Assembly appointed to enquire into the several abuses and acts of violence committed at different places on the coast of Labrador, and the best means to be adopted for remedying the same; and, in compliance with your request, I have the honor to enclose answers to the questions proposed, viz:

1. While in command of H. M. S. "Hussar," in 1828, I was employed in the Gulf of St. Lawrence, for the protection of the trade and fisheries; and I herewith enclose a copy of my Report to Sir Charles Ogle, the Commander in Chief, on this subject, which will shew the anxiety the Naval authorities feel for their interest and protection.

2. Two men of war are always stationed, for the protection of the trade and fisheries every year,—one at Newfoundland, and the other in the Gulf of the St. Lawrence; and any complaint that might be made, through His Excellency the Governor General, to the Naval Commander in Chief, would be promptly attended to.

3. As it requires great prudence in the means to be adopted for the protection of the fisheries, the treaty between Great Britain and the United States of the 20th October, 1818, which allows the Americans to cure and dry fish in any of the unsettled places on the south coast of Newfoundland, and Labrador; they frequently occupy places which they have no right to do, and often cause collision between the fishermen, which would be easily prevented by the occasional visit of a man-of-war.

4. And as our fisheries are now becoming of immense importance, and will be a source of great revenue to the Province when the free navigation of the St. Lawrence is granted, and more so when the contemplated Halifax and Quebec Railroad is carried out, I am decidedly of opinion that the Americans from the Upper Lakes would then bring their produce direct to Quebec and Montreal, for transshipment to Europe, and take salt-water fish, oil, &c., back, which the Gulf of the St. Lawrence so abundantly supplies.

It is therefore of great importance that our fisheries should at all times be well protected by the vigilance of a man-of-war.

*Edouard Hamel*, of the City of Quebec, Esquire, replied as follows to the preceding questions, which were forwarded to him:

Appendix  
(L.L.L.L.)

12th April.

1. I have property on the coast of Labrador which obliges me occasionally to visit it; and since 1834, I spend one year out of two at a post called Stamation, where I possess, with a partner named Michael Blais, a salmon fishery. I have no personal knowledge of outrages committed; but one year, some one set shoal nets at the entrance of the river, which made us lose our fishing; we could not prevent them, inasmuch as not having any coast guard to protect our fisheries, we should have been obliged to apply to the Newfoundland station for redress, or to come up to Quebec, and it would then have been too late to get justice.

2. I believe there are some ships on the Newfoundland station assigned for this service; but they nearly always keep below Blanc Sablon, and within the limits of Newfoundland; although they have authority on all the coast of Labrador, it is very rare that they come to our stations or go higher up.

3. The best method, in my opinion, to protect the fisheries and the people, would be to maintain a ship, with the authority necessary to render justice to all.

4. There are the eggs, which are of great assistance to the residents and to the Indians, but which they are unable to procure, because foreigners on the coast take possession of the Islands where the birds deposit their eggs, and establish themselves there by force of arms, drive away those of the residents who attempt to land, and prevent their gathering them. Not content with taking the eggs, these people kill the birds for the feathers, prevent them from hatching, and destroy them in such a manner, that there is a perceptible decrease in their numbers annually, so that in a few years the inhabitants will neither have eggs nor birds.

*Antoine Talbot*, of the Parish of Berthier, District of Quebec, mariner, replied as follows to the preceding questions, which were forwarded to him:

I am a mariner and proprietor of a post on the said coast of Labrador, and reside in the Parish of Berthier, County of Bellechasse. From the year 1828 to 1848 I was constantly voyaging on the Labrador coast. In the year 1837, I became proprietor, by purchase, of a fishing post called Isle St. Madette, where I resided every summer in undisturbed possession until the year 1845. During that time from 1500 to 1800 foreign and other vessels made voyages and fished annually in these parts. Although I was not personally annoyed, yet foreigners and others made a practice of visiting the different Islands on the coast, and took by force the eggs laid by the sea-birds, to the great detriment of the natives and others, who sometimes have nothing else to subsist on, particularly when the hunting fails. These depredations are committed by force of arms, and they repulse those of the inhabitants who wish to land. One individual even lost his life in endeavouring to defend his boat and effects. In 1845, I was dispossessed and turned out of my post in a brutal and violent manner, by a person whom I believe to be a British subject, and my merchandize, as well as my fishing implements, such as nets, cables, anchors and other utensils for fishing of seals and codfish, to the value of £1,800 to £2,000, were taken from me and carried away to other places; and of this sum I could only recover about £300. Although this person, in the presence of two officers of Her Majesty's ship "The Vesuvius," promised to give me up the post and my effects, he did nothing of the kind, but quite the contrary, for in 1846, when I went to retake possession of my post, I was again driven away, and in a brutal and violent manner. In 1848, Her Majesty's ship, the Alarm, Captain Gower Loch, having



Appendix  
(L.L.L.L.)

12th April.

entered these waters, I addressed myself to that gentleman, for the purpose of procuring redress against the person who had thus dispossessed me of my property. I obtained from him an order in writing, which I served upon the individual in question, enjoining him to restore me my post and effects; notwithstanding this, he did not obey, and it is now the fourth year since I was thus unjustly driven off my property, and rendered incapable of carrying on the fishery, if I am not protected next spring; and this protection cannot be given me by the vessels which only touch at these coasts as they pass, and for the most part only in the months of July and August, the time when fishing is nearly at an end, so that these coasting marauders have plenty of time to commit their depredations and get away safe and sound. The damage done by these foreigners and others, who come on this coast to fish for cod, is that of preventing the inhabitants from procuring the baits necessary for this fishery; inasmuch as the former have nets of a great depth, and catch the small fish in the offing, preventing them from coming sufficiently near to the land to enable the fishermen of the posts to take them. The taking of the seal is also rendered productive by these foreigners and others, on account of their spreading their shoal nets in front of those of the inhabitants, which prevents the seal from entering the passes where the inhabitants have their nets—this injury is also caused by those, who, shooting the seals with guns, and keeping them far out in the offing, prevent them from entering the different passes where the inhabitants of the coast have spread their nets.

As to the means to be adopted for remedying all these grievances, I must say, that in my humble opinion, there is nothing but the presence of a Coast Guard during the whole of the fishing season, which could ensure protection to the inhabitants of the said coast of Labrador; for the cruise made by the Government vessels on these shores, gives little or no protection to the shippers and fishermen of the coast.

The said Antoine Talbot has, moreover, furnished divers items of information (and a document herewith annexed, marked D,) which follow, and has also procured information from other individuals unknown to Your Committee, but Your Committee have thought it best to collect their tenor as follows, viz.:—From a certain *François Blais*, who states that he resided eight years at a post called "Stamamion," on the Labrador coast, and declares that several depredations were committed in the environs of that post by foreigners and others, coming in schooners, and that, in particular, he had forcibly taken from him, from 600 to 700 deals, as well as iron and other articles put on shore by himself and his associates, and saved from a ship wrecked on this coast; that during the whole time of his residence at this post, none of Her Majesty's ships visited these places, farther than passing by without stopping or making any enquiries; that the foreigners constantly visited these localities, and principally during the breeding season of the sea-birds, and that they took forcible possession of the different small islands in the neighbourhood of the post, and carried away the eggs, to the great detriment of the inhabitants in general, and especially of those who have no other means of subsistence in winter, when the chase fails them.

That, in his humble opinion, the only sure and efficacious method of protection against the depredations and violence committed on the different parts of this coast by foreigners and others, would be the presence of a Coast Guard during the whole of the fishing season, for the visits made up to the present time by the Government ships to these parts, are, so to say, useless, inasmuch as the depredations, nuisances and violences, committed by foreigners and

others on these coasts, happen in general, only in the fishing seasons, and the time of the passing of these ships along the coast is most frequent towards the end of July or the month of August, at which time the fishing is nearly over.

Of a certain *Michel Blais*, who states that he is proprietor of a post on the Labrador coast, and has resided there during 21 years; and declares that he knows, that in the course of his residence at his post, several depredations, outrages and robberies have been committed there, as well as in the neighbourhood, and at other posts; particularly the carrying away of fishing implements and utensils, as well for the taking of the seal as for cod, such as cables, anchors, nets, smoke-pans, &c. &c., by foreigners and others who arrive in schooners on the coast; that apart from these outrages and others, the foreigners also do considerable damage to the shippers and fishermen inhabiting the coast; inasmuch as they set shoal nets for the seal in front, and so as to bar out the seals, and by these means prevent them from entering the passes where the fishermen of the coast have their nets set; another practice carried on by these foreigners, which is not less hurtful and detrimental, is that of shooting at the seal with guns, which has the effect of driving them into the offing, and preventing them from entering into the passes.

As to the protection which the Government vessels have as yet been able to afford the shippers and fishermen of the said Coast of Labrador against the depredations, violences, and invasions, he sees little or none; these ships generally only passing the different posts without stopping, and that often the time when the fishing season is passed and the strangers have departed.

He therefore, in his humble opinion, believes that the only sure and effective mode of ensuring protection to the fisheries of the Labrador coast would be the presence of a Coast Guard during the whole of the fishing season. As respects the violence committed with regard to the eggs of the sea-fowl, I corroborate all that has been said above.

Of a certain *Magloire Gaumont*, who has resided during eleven years, that is from 1834 to 1845, on the said coast of Labrador, and declares that in the course of this time, a number of depredations, outrages and nuisances were committed, both at the post where he was and in the neighbourhood, and this by foreigners and others who came in ships to these localities. That one of the inhabitants, a fisherman, was violently driven away and dispossessed of his post, and his effects and building materials destroyed; that these foreigners are still doing considerable damage to the inhabitants of the coast, by forcibly taking away the eggs deposited by the sea birds on the small islands, and preventing the inhabitants from landing thereon, these being the only means of subsistence for many of their number in the winter season, above all when the chase fails them. The fishing for seals is also rendered unproductive to the shippers and inhabitants of the coast, inasmuch as the foreigners and others spread shoal nets at the opening of the passes, and in this manner bar the seal and prevent their entering the passes where the nets of the inhabitants of the coast are set; another nuisance is the shooting of the seals with guns, as is practised by these foreigners, by which means they keep the seals out in the offing, and prevent their coming near the land and entering the passes.

With respect to the Government ships that come into these localities, I do not see that they afford sufficient protection: they are only seen as they pass by, and that, generally speaking, when the fishing is nearly done, and the foreigners have left the coast. In my humble opinion, I see but one sure and effective method of protection for the shippers and fisher-

Appendix  
(L.L.L.L.)

12th April.

Appendix  
(L.L.L.L.)  
12th April.

men who inhabit this coast, and that would be the presence of a Coast-Guard during the whole of the fishing season.

And lastly, from a certain *Louis Gaumont*, who resided, from 1842 to 1844, at a post on the said Coast of Labrador, and says, that amongst other annoyances inflicted on the shippers and fishermen inhabiting the coast, by foreigners and others arriving by sea, is their setting shoal nets in front, so as to bar out the seals which come up to enter the passes where the nets of the inhabitants of the coast are spread. Then there is the shooting the seals with guns, which is done by these strangers, keeping them in this manner far out in the offing, and preventing them from coming towards the shore. He is also ready to corroborate what has already been stated with respect to the eggs of sea birds, these facts having come to his knowledge.

H. M. S. HUSSAR,

HALIFAX HARBOUR, *Aug. 7th*, 1828.

SIR,—In compliance with your orders to report to you on being relieved, or at the conclusion of the season, the nature of the fisheries carried on, and whether they have generally decreased or increased, and the number of men employed—at the same time the number of American fishermen employed, and the position they take up.

I have the honour to inform you, that having visited the principal fishing establishments, and communicated with the principal merchants who reside there, and from my own observations, I have no doubt, our fisheries are increasing considerably. The Jersey and Guernsey merchants, whose establishments extend along the north shore of Chaleur Bay to Cape Gaspé, employ about 3,000 tons of shipping, and ship for the foreign markets annually, at least 80,000 quintals of fish, and employ about 4,500 men, 1,200 of whom resort there from the Islands of Jersey and Guernsey and the environs of Quebec, the remainder being settlers. There are, likewise, numerous small establishments on that part of the coast, (every man getting a small boat being a fisherman,) who dispose of their fish to Halifax, Quebec and Pictou merchants, which are collected by small trading schooners at the conclusion of the season. At Shippegan, Caraquet and Miscou, the fishing is carried on in small schooners from 15 to 40 tons, and small open boats. There are likewise two or three small establishments to the southward of Shippigan, on the coast of New Brunswick, and I should estimate the number employed at these places, together with the south side of Chaleur Bay, about 1,000 men, making about 40,000 quintals of fish, which is likewise purchased by the Colonial merchants. There are none at Anticosti or Mingan, Islands, excepting salmon fisheries, (on that part of the coast, bordering on the Mingan Islands).

From the information I obtained at Pictou from the Collector and merchants, there are about 140 men employed at the Magdalen Islands, who fish in small schooners, making about 4,000 quintals of fish. But I beg leave to observe, the settlers on the whole coast of Nova Scotia, New Brunswick, Lower Canada, Prince Edward's Island, &c., generally employ themselves fishing during the season, which, to an industrious man, is very lucrative; they, as it were, fishing from their own doors. With respect to the Americans infringing the treaty by fishing within the limits, I have the honour to inform you, from the information I obtained from the resident agents to the establishments, they are hardly ever seen above the north side of Chaleur Bay to Cape Gaspé, and

no complaints, except that of throwing the offal overboard, on the ground they are allowed to fish on by treaty, which, of course, cannot be prevented. I, however, have every reason to believe, that many of them go into the harbours of Shippigan and Miscou for bait, and, on that part of the coast sometimes fish within the limits, but during the whole time I have been in the Gulf, I did not meet with a single instance, (although, occasionally a good deal amongst them). Your information as to the number resorting to the Magdalen Islands, landing their fish to cure, is considerably over-rated, the greatest number last year was not more than 50 sail, out of which, 15 or 20 landed their fish to dry, and I am perfectly satisfied, from the general dread they have of being found within the limits, a small man of war anchoring there in the early part of the season, (for they don't consider they have a right to do so,) would prevent it, and as our fisheries in the Gulf of St. Lawrence are increasing, and must be always of considerable importance, I think they ought to be strictly kept to the treaty, and in my opinion, would only require two small vessels (brigs or schooners,) to do it effectually, one stationed at the Gut of Canso to the Mingan Islands, the other from Miramichi to Cape Gaspé.

Their general fishing ground is on the Bradile and Orphan Banks, on the shores of Miscou, Shippigan, and on a bank between Anticosti and Mingan and the Magdalen Islands, and I should not estimate the number of vessels employed in the Gulf, at more than three hundred sail, from 50 to 80 tons, manned on an average from eight to ten hands each, some of which, make two voyages every season. With respect to your general orders to report to you the state of the light houses on the different Stations, I cannot close my report without informing you that there is not even one in the Gulf of St. Lawrence, where the navigation is so very dangerous from the currents being so very strong and irregular, and the very great difficulty in getting good observations, the horizon at all times being subject to so considerable apparent elevation and depression.

It was truly lamentable, Sir, the number of wrecks we saw on the different parts of the coast, and as the trade in the Gulf and River St. Lawrence must always be of the greatest importance to the North American Colonies, "their" attention should be called to this important subject, for the number of lives lost must be very great, and property incalculable.

For the trade of the River St. Lawrence, I am of opinion there should be a light house erected on St. Paul's Island; one if possible on Cape Rae, (Newfoundland), and one on the east or south west end of Anticosti; for the trade to Miramichi and the lower and S. W. parts of the Gulf, there should be one on the North Cape, and one on the East Cape of Prince Edward's Island (two very dangerous points); the coast on the North Cape was strewed with wrecks, several timber ships from Miramichi having been lost on it last year.

I have, &c.,

(Signed,) EDWARD BOXER,  
Captain.

Rear Admiral Sir Charles Ogle, Bart,  
Commander in Chief, Halifax.

Appendix  
(L.L.L.L.)  
12th April.

Appendix  
(L.L.L.L.)

12th April.

From *P. Granville Gower Loch*, Esq., Companion of the Most Honourable Military Order of the Bath, Commander of Her Majesty's ship "Alarm," Senior Officer of the Newfoundland Division of the North America and West India Station, and Justice of the Peace for the Island of Newfoundland and its dependencies.

Antoine Talbot, ship-owner, having formerly declared to me that you have driven him away from his house by force and violence, and taken possession of his property, seizing the same under pretext that you were acting under the authority of a person who claimed the said house and property; and the said Antoine Talbot having proved by witnesses worthy of belief, that not only did you and your people acting under your orders, seize his property and expel him therefrom by force and violence, but that you also issued a pretended legal document advertising the sale of his effects by auction.

I therefore notify you, by these presents, that all these acts on your part are in direct violation of the law, whatever these claims may be, or however just they may appear to you or to any other persons.

You have of your own accord, and without any authority that I am aware of, expelled by force a proprietor who was actually in possession of his property, and of the house he inhabited, destroying part of his property, and taking the remainder which was in the house on Isle Modeste, and carrying it away in vessels to Forteau Bay and other places.

Appendix  
(L.L.L.L.)

12th April.

I summon you, therefore, to give up immediately the said property and house to the complainant, and to prepare yourself to answer to the accusations brought against you; and it will be my duty to lay the whole matter before His Excellency the Governor General, and the Crown Officers of the law in the Island of Newfoundland, on my return to the port of St. John's.

Given under my hand and seal on board of Her Majesty's ship the "Alarm," at Blanc Sablon, Labrador, the 10th August, 1848.

GRANVILLE G. LOCH,

Justice of the Peace for Newfoundland.

To William H. Ellis,  
of Forteau Bay,  
Labrador.

We the undersigned certify to having seen Antoine Talbot deliver a letter addressed as follows:—

"On Her Majesty's Service.

"MR. WILLIAM H. ELLIS,

"Forteau Bay,

"Labrador."

"Alarm."

GEORGE DU HAUME, } Witnesses.  
THOMAS POWER, }

28th September, 1848.

Montreal:

PRINTED BY LOVELL AND GIBSON,

SAINT NICHOLAS STREET.

## R E T U R N

To an Address from the Legislative Assembly of last Session, dated 1st March, 1848, for certain Documents relating to the Affairs of Samuel P. Jarvis, Esquire, late Superintendent of Indian Affairs.

T. E. CAMPBELL, *Major,*  
Superintendent General of Indian Affairs.

GOVERNMENT HOUSE,  
Montreal, 13th April, 1849.

## S C H E D U L E .

- |  |   |
|--|---|
| <p>A.—Mr. Jarvis' Official Bank Account with the Bank of Upper Canada.<br/>Statements, Nos. 1, 2, 3, 4, 5, 6, 7.<br/>The Bank of Upper Canada Debenture Account.<br/>The Correspondence shewing Mr. C. E. Anderson's Appointment, and how he came to be employed, viz. :—<br/>George Vardon, Esquire, to Dr. Badgley 9th April, 1845.—Respecting an Umpire to decide on certain disputed points between two Official Accountants.<br/>George Vardon, Esquire.—Memorandum on the above subject, and of Mr. C. E. Anderson's employment.<br/>The Correspondence relative to Mr. Anderson's Remuneration for his services, viz. :—<br/>C. E. Anderson, Esquire, 8th June, 1846.—Requesting Mr. Secretary Higginson to bring under the notice of the Governor General his claim for remuneration.<br/>C. E. Anderson, Esquire, 16th June, 1846, to G. Vardon, Esquire.—Referring to the reply of the Governor General to the above application, as to obtaining the opinion of Mr. Higginson.<br/>George Vardon, Esquire, to C. E. Anderson, Esquire, 17th June, 1846.—In reply to the above.<br/>George Vardon, Esquire, to W. Badgley, Esquire, 19th June, 1846.—Transmits Mr. Anderson's Account for his opinion.<br/>W. Badgley, Esquire to G. Vardon, Esquire, 27th June, 1846.—Returns Mr. Anderson's Account, and does not consider his claim too high.</p> | <p>Mr. Anderson's Memorial to Lord Elgin of 29th June, 1847.<br/>C. E. Anderson to Major Campbell, 9th August, 1847.—Applies for copies of certain papers relative to Mr. Jarvis' Accounts, laid before the House of Assembly.<br/>Major Campbell to Mr. Anderson, 24th August, 1847.—In reply to the above.<br/>C. E. Anderson to Major Campbell, 25th August, 1847.—Applies for copy of a certain Statement of Mr. Dickinson's of 16th July, and attached to letter of the 1st.<br/>C. E. Anderson to Major Campbell, 6th September, 1847.—Respecting Mr. Jarvis' Accounts—replying to Mr. Dickinson's statements and to Mr. Cayley's letter.<br/>Mr. W. Dickinson to Major Campbell, 9th September, 1847.—Declines to act any longer as Accountant for Mr. Jarvis—Encloses copy of letter to him.<br/>Major Campbell to S. P. Jarvis, Esquire, 1st October, 1847.—Adverts to the length of time his accounts have been in Mr. Dickinson's hands, and calls upon Mr. Jarvis to bring the investigation to an immediate close, or to pay without further delay to the Receiver General the balance exhibited against him.<br/>S. P. Jarvis, Esquire, to Major Campbell, 25th October, 1847.—Protests against Mr. Anderson's Statement of Account against him.<br/>S. P. Jarvis, Esquire, to Major Campbell, 18th February, 1848.—Referring to the above letter, and requests to know the views of the Government on the suggestions therein.</p> |
|--|---|

**A.** THE BANK of UPPER CANADA in Account with SAMUEL P. JARVIS, Chief Superintendent of Indian Affairs.

Cr.

Dr.

Dr.	£	s.	d.	Cr.	£	s.	d.
October 13, 1837 ...	394	0	10	By Self .....	190	0	0
November 6, do ...	100	0	0	" Kendrick .....	10	0	0
do 21, do ...	125	0	0	" Hodgson .....	10	15	6
do 22, do ...	325	0	0	" White .....	1	15	0
December 31, do ...	200	1	8	" Charles Thompson .....	19	8	0
				" Charles Thompson .....	27	4	0
				" Self .....	75	0	0
				" do .....	100	0	0
				" do .....	250	0	0
				" do .....	150	0	0
				" do .....	250	0	0
	£1084	2	6		£1084	2	6
February 10, 1838 ...	250	0	0	By Balance from 1837 .....	200	1	8
March 16, do ...	46	12	7	do .....	96	10	11
	£296	12	7		£296	12	7
July 1, do ...	96	10	11	By Self .....	40	0	0
October 2, do ...	365	6	0	do .....	20	0	0
do 5, do ...	46	7	4	do .....	30	0	0
November 15, do ...	251	15	0	do .....	7	10	0
December 22, do ...	800	0	0	do .....	7	10	0
do 24, do ...	243	12	2	do .....	1698	11	5
	£1803	11	5	By Balance to 1839 .....	£1803	11	5
January 1, 1839 ...	1698	11	5	By Gamble, & Co. ....	800	0	0
February 26, do ...	23	15	5	" Self .....	160	0	0
do 4, do ...	1510	18	9	" Baldwin .....	13	17	0
do 20, do ...	20	0	0	" Gwynne .....	9	18	5
do 28, do ...	150	19	0	" Routh .....	1510	18	10
April 11, do ...	125	0	0	" Paterson .....	34	1	3
do 7, do ...	168	1	3	" Self .....	125	0	0
do 29, do ...	15	0	0	" Cathcart .....	14	5	0
	£3712	6	4	" Self .....	20	0	0
	£3712	6	4	" do .....	12	10	0
				" do .....	25	0	0
				" Shuter and Paterson .....	7	10	0
				" Bearer .....	20	0	0
				" Balance .....	959	5	10
	£3712	6	4		£3712	6	4

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

THE BANK of UPPER CANADA in Account with SAMUEL P. JARVIS, &c.—(Continued.)

Dr.		Cr.	
July 1, 1839	July 5, 1839	July 5, 1839	July 5, 1839
do 16, do	do 17, do	do 17, do	do 17, do
September 30, do	do do do	do do do	do do do
October 1, do	do do do	do do do	do do do
November 16, do	do do do	do do do	do do do
do 23, do	do do do	do do do	do do do
December 6, do	do do do	do do do	do do do
do 19, do	do do do	do do do	do do do
do 30, do	October 1, do	do do do	do do do
To Balance.....	By Bearer.....	£ 959	£ 200
To Commissariat Check.....	“ Mitchell & Darling.....	218	10
To Interest on Debentures 321 and 298.....	“ Bearer.....	30	0
To Commissariat Check.....	“ Gamble & Boulton.....	534	218
do do do.....	“ Darling.....	225	30
do do do.....	“ Gordon.....	31	0
To Interest on Debentures 216, 306, 369, 370, 217.....	“ James Donaldson.....	66	0
To Commissariat Check.....	“ Brough.....	136	4
To Interest on Debenture No. 11.....	“ Donaldson.....	15	0
	“ Darling.....		10
	“ Hatch.....		11
	“ M'Donald.....		1
	“ Darling.....		0
	“ Rolph.....		3
	“ Brough.....		9
	“ Self.....		0
	“ Bearer.....		0
	“ Orris.....		0
	“ Clark.....		5
	“ M'Gil.....		5
	“ Smith.....		17
	“ Westcott.....		11
	“ Bearer.....		2
	“ do.....		0
	“ do.....		0
	“ Wawanosh.....		8
	“ Dallas.....		15
	“ Balance to 1840.....		4
			2
		£2209	£2209
		17	17
		2	2
		£1484	£481
		18	8
		2	3

Carried over.....

Carried over.....

THE BANK of UPPER CANADA in Account with SAMUEL P. JARVIS, &c.—(Continued.)

Table with columns for Dr. (Left), Cr. (Right), and a central column for descriptions. Rows include 'Brought over' entries, various bearers (e.g., M'Donald, Darling, Cotterell), and specific dates from March to October 1840. Totals are £1484 on both sides.

Dr.

Cr.

Carried forward...

Carried forward...

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

THE BANK of UPPER CANADA in Account with SAMUEL P. JARVIS, &c.—(Continued.)

Dr.		Cr.	
£	d.	£	d.
<i>Brought forward</i> .....		<i>Brought forward</i> .....	
4064	2 4	1275	10 1
<i>To Balance from 1841</i> .....		<i>By Gilkison</i> .....	
56	0 0	387	10 0
30	0 0	59	19 5
201	19 5	100	0 0
1685	3 11	16	6 6
253	14 6	25	0 0
192	9 7	44	12 3
178	9 7	28	0 0
30	0 0	550	10 0
47	5 0	150	0 0
200	0 0	50	0 0
25	0 0	12	10 0
66	0 0	50	0 0
48	15 4	20	0 0
270	16 4	1269	4 1
15	0 0	£4064	2 4
<i>Carried over</i> .....		<i>By M'Donald</i> .....	
£4565	2 5	59	19 5
<i>To Balance from 1840</i> .....		<i>“ M'Donald</i> .....	
1269	4 1	100	0 0
56	0 0	16	6 6
30	0 0	25	0 0
201	19 5	44	12 3
1685	3 11	28	0 0
253	14 6	550	10 0
192	9 7	150	0 0
178	9 7	50	0 0
30	0 0	12	10 0
47	5 0	50	0 0
200	0 0	20	0 0
25	0 0	1269	4 1
66	0 0	£4064	2 4
48	15 4	<i>By Baby</i> .....	
270	16 4	<i>“ Darling</i> .....	
15	0 0	<i>“ Cowan</i> .....	
<i>Carried over</i> .....		<i>“ Darling</i> .....	
£4565	2 5	<i>“ Bearer</i> .....	
<i>To Balance from 1841</i> .....		<i>“ John Sunday</i> .....	
1269	4 1	<i>“ Bearer</i> .....	
56	0 0	<i>“ do</i> .....	
30	0 0	<i>“ Bullock</i> .....	
201	19 5	<i>“ do</i> .....	
1685	3 11	<i>“ Bell</i> .....	
253	14 6	<i>“ Bearer</i> .....	
192	9 7	<i>“ M'Lean</i> .....	
178	9 7	<i>“ Bell</i> .....	
30	0 0	<i>“ Debentures Nos. 385, 315, and 72 bought</i> .....	
47	5 0	<i>“ Bullock</i> .....	
200	0 0	<i>“ Bearer</i> .....	
25	0 0	<i>“ do</i> .....	
66	0 0	<i>“ M'Donald</i> .....	
48	15 4	<i>“ do</i> .....	
270	16 4	<i>“ Gwynne</i> .....	
15	0 0	<i>“ Case</i> .....	
<i>Carried over</i> .....		<i>“ Bearer</i> .....	
£4565	2 5	<i>“ Wesley</i> .....	
<i>To Balance from 1840</i> .....		<i>“ Sackville</i> .....	
1269	4 1	<i>“ Bearer</i> .....	
56	0 0	<i>“ do</i> .....	
30	0 0	<i>“ do</i> .....	
201	19 5	<i>“ do</i> .....	
1685	3 11	<i>“ do</i> .....	
253	14 6	<i>“ do</i> .....	
192	9 7	<i>“ do</i> .....	
178	9 7	<i>“ do</i> .....	
30	0 0	<i>“ do</i> .....	
47	5 0	<i>“ do</i> .....	
200	0 0	<i>“ do</i> .....	
25	0 0	<i>“ do</i> .....	
66	0 0	<i>“ do</i> .....	
48	15 4	<i>“ do</i> .....	
270	16 4	<i>“ do</i> .....	
15	0 0	<i>“ do</i> .....	
<i>Carried over</i> .....		<i>“ do</i> .....	
£4565	2 5	<i>“ do</i> .....	





Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

THE BANK of UPPER CANADA in Account with SAMUEL P. JARVIS, &c.—(Continued.)

Dr.

Cr.

		£	s.	d.			£	s.	d.
<i>Brought forward</i> .....		7251	16	6			4593	4	0
							39	0	0
							40	10	0
							40	0	2
							20	1	7
							109	7	10
							40	0	0
							28	6	2
							2391	17	9
		£7251	16	6			£7251	16	6
January 1, 1842	To Balance.....	2331	17	9	By Vardon.....	80	0	0	0
do 15, do	“ Deposit by Self at Kingston.....	30	0	0	“ Henderson.....	29	0	10	10
February 3, do	“ Interest on Debentures 244, 297, 362.....	60	0	0	“ Debentures bought.....	205	19	0	0
do 5, do	“ Deposit by Self at Kingston.....	258	1	4	“ do do.....	1029	3	0	0
do do do	“ Interest on Debenture No. 12.....	6	0	0	“ William Ross.....	33	4	9	9
March 7, do	“ do do 408.....	1	15	0	“ M'Lean.....	7	18	3	3
do 29, do	“ J. Jackson's Check.....	392	15	0	“ Bell.....	69	7	11	11
April 1, do	“ Interest on Debentures 321, 298.....	30	0	0	“ Bearer.....	40	0	0	0
do 9, do	“ Deposit by Self at Kingston.....	250	0	0	“ do.....	15	5	6	6
do 15, do	“ do do.....	261	3	8	“ R. Wells' Draft.....	10	0	0	0
do do do	“ do do.....	52	5	0	“ Bearer.....	150	0	0	0
May do do	“ Interest on Debentures 216, 217, 306, 369, 370.....	66	5	0	“ do.....	225	0	0	0
do do do	“ do do 77, 162, 249, 244, 292, 315, 335, 348.....	386	16	4	“ James Wallis.....	20	5	0	0
do do do	“ Deposit by Self at Kingston.....	400	0	0	“ Bearer.....	100	0	0	0
June 4, do	“ Commissariat Check.....	100	0	0	“ James Henderson.....	100	2	7	7
do 7, do	“ A. Shade.....	1	5	0	“ R. Wells' Draft.....	10	0	0	0
do 14, do	“ Interest on Debenture No. 366.....	15	0	0	“ Vardon.....	127	0	7	7
do 30, do	“ do do 111.....				“ Bearer.....	32	0	0	0
					“ do.....	15	0	0	0
					“ do.....	20	0	0	0
					“ do.....	25	0	0	0
					“ do.....	50	0	0	0
					“ Canada Company.....	87	10	6	6
					“ Bearer.....	20	0	0	0
					“ Henderson.....	9	14	2	2
					“ Boulton.....	75	0	0	0
					“ R. Wells' Draft.....	10	0	0	0
					“ Henderson.....	104	1	7	7
					“ do.....	136	19	0	0
					“ G. S. Boulton.....	75	0	0	0
					“ William Ross.....	40	0	0	0
					“ Bearer.....	200	0	0	0
					“ do.....	25	0	0	0
					“ John Earnes.....	33	0	0	0
					“ Balance.....	1544	10	8	8
		£4699	4	1		£4699	4	1	1

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

THE BANK of UPPER CANADA in Account with SAMUEL P. JARVIS, &c.—(Continued.)

Dr.		Cr.	
July	1, 1842	July	4, 1842
To Balance	1544	By Bearer	75
" Commissariat Check	500	" Laughton	14
" William Vernon	35	" John Jones	12
" Interest on Debentures 244, 297, 362	60	" Bearer	100
" Interest on Debenture No. 12	6	" Whisker	95
" do No. 408	1	" Bearer	150
" do Nos. 321, 298	30	" Strachan & Cameron	525
" Commissariat Check	900	" Grand River Navigation Company	2000
" Deposit by Self at Kingston	514	" Bearer	125
" Grand River Navigation Company's Check, charged in error on the 1st August	2000	" Mosley	30
" Commissariat Check	200	" Henderson	8
" Interest on Debentures 216, 217, 306, 369, 370	66	" M'Donald	4
" do 72, 162, 243, 244, 282, 315, 335, 348	66	" Bearer	245
" Deposit by Self at Kingston	296	" Jones	8
" Balance on renewal of Note	18	" Bearer	75
" Debentures sold	0	" Bearer	7
" Interest on Debenture No. 365	8756	" Taunchey	17
" do Debentures Nos. 111, 115	1	" Howcutt for Taunchey	0
	80	" Bearer	112
		" do	150
		" do	50
		" do	100
		" do	200
		" do	30
		" Wawanosh	80
		" Ross	150
		" Bearer	218
		" West	30
		" do	25
		" Borland	325
		" Ross	40
		" Agency on Debenture No. 115 lodged	1
		" Mosley	15
		" Henderson	271
		" Interest on advances made to the G. R. N. Co.	47
		" Grand River Navigation Company	3500
		" Chief Wabatic	25
		" Balance to 1843	441
			£9408
			14
			5
January 1, 1843	To Balance		£441
			1
			5

(Signed,) J. S. BALDWIN,  
Vice-President, Bank Upper Canada.

BANK OF UPPER CANADA,  
Toronto, 1st January, 1843.

No. 1.

FUNDS PROVIDED FOR PARTICULAR INVESTMENTS.				AMOUNT INVESTED.			BALANCE IN HAND.			
		£	s.	d.	£	s.	d.	£	s.	d.
September 29, 1840...	Funds provided for investment for Oneida Indians, J. H. Dunn's Check.....	2250	0	0						
do 25, 1841...	Funds deposited at Kingston.....	1178	15	0						
		£3428	15	0						
1843.....	Funds provided for Tyendcnaga Church.....	1574	5	0	2997	16	7	430	18	5
1844.....	Henry Cragie, value of his improvements on Lot Nos. 15 and 16, Concession 3, Township of Onondaga.....				1554	3	9	20	1	3
								* 7	10	0
								£457	19	8

\* This is entered here as an unappropriated balance but has no reference to investments.—My letter to the Commissioner of Crown Lands, dated 25th September, 1844, explains this deposit—being the value of certain improvements on a lot of land in the Township of Onondaga, paid for by a Mr. Scroggie.

No. 2.

MANATOWANNING PAY LISTS.

DATE.	AMOUNTS.			STOPPAGES.		
	£	s.	d.	£	s.	d.
September—October, 1839.....	136	4	11	31	11	2½
November—December, do .....	153	13	6			
January—February, 1840.....	137	7	0	66	15	8½
March—April, do .....	174	8	6	54	14	3
May—June, do .....	199	4	9½	33	13	7
July—August, do .....	151	15	6			
September—October, do .....	201	19	5			
November—December, do .....	192	9	7½	59	4	9½
January—February, 1841.....	178	9	7	47	10	5
March—April, do .....	270	16	4	14	17	10½
May—June, do .....	238	13	9	47	14	7
July—August, do .....	236	5	2½			
September—October, do .....	278	13	10½			
November—December, do .....	258	1	4	59	19	11
January—February, 1842.....	261	8	8			
March—April, do .....	266	16	4	20	5	3
May—June, do .....	255	10	7			
July—August, do .....	258	18	4			
September—October, do .....	296	18	1	6	2	6½
November—December, do .....	281	17	0½	74	17	0
January—February, 1843.....	266	11	1½			
March—April, do .....	271	16	6½			
May—June, do .....	266	1	3½			
July—August, do .....	279	7	0	7	1	3
September—October, do .....	235	14	6	5	7	7
November—December, do .....	217	4	3½	48	19	8
January—February, 1844.....	217	14	2			
March—April, do .....	219	14	6½			
				£578	15	7
Referring to a Memoranda in my possession, I have reason to believe that one or two stoppage lists are missing, and that a further sum of £16 9s. 10d. has to be charged .....				16	9	10
				£595	5	5

No. 3.

(Copy.)

THE TYENDENAGA CHURCH.

		Dr.		£	s.	d.
January	20, 1848	To	Cash advanced by the Commissioner of Crown Lands to John W. Hill.....	100	0	0
March	17, do	do	do do do do do to Paulus Claus.....	100	0	0
May	27, do	do	do do do do do to John W. Hill.....	100	0	0
June	3, do	do	paid to the "Canadian Loyalist" for advertising for tenders.....	0	10	0
do	26, do	do	do John Barker, Editor of the "Whig," for advertising.....	0	17	4
July	15, do	do	do Angus M'Leod for 51½ toises of stone.....	64	1	3
do	do	do	do John D. Pringle.....	245	16	8
August	17, do	do	do James Gardiner..... £26 0 0			
do	do	do	do H. Watson and Charles Clark ..... 25 5 0			
do	24, do	do	do John Wandby, Editor of the "Kingston Herald".....	51	5	0
September	29, do	do	do Angus M'Leod.....	0	10	0
do	30, do	do	do John Hill.....	18	15	0
do	do	do	do John D. Pringle.....	75	0	0
do	do	do	do John D. Pringle.....	125	0	0
October	3, do	do	do Henry Watson for cartage of stone.....	21	12	0
do	10, do	do	do John Pringle.....	100	0	0
do	28, do	do	do Wright for John Pringle.....	26	10	0
November	10, do	do	do John Craig for Glass.....	15	0	0
do	18, do	do	do John Pringle.....	80	0	0
December	5, do	do	do "Statesman" Newspaper for advertising.....	0	14	0
January	18, 1844	do	do G. Brown, Architect.....	16	0	0
do	19, do	do	do John Hill.....	50	0	0
April	16, do	do	do John D. Pringle.....	50	0	0
May	12, do	do	do J. Watkins for stove and pipes.....	8	5	0
do	24, do	do	do John Hill.....	75	0	0
				£1324	16	3
Due J. Pringle.....				199	7	6
				£1524	3	3

DEBENTURES SOLD TO MEET THIS EXPENSE.

		£	s.	d.	£	s.	d.
No. 297.—York Road Debenture.....					500	0	0
Interest 14th January to 19th May, 1843...		11	3	7			
Less 2½ per cent Agency.....		2	10	0			
					8	13	7
No. 298.—York Roads Debenture.....		500	0	0			
Interest 29th March to 17th August, 1843.....	£11 13 5						
Agency 2½ per cent.....	2 10 0						
		9	3	5	509	3	5
Balance unexpended on certain Debentures sold to pay Six Nations Indian Instalment on the Grand River Navigation Stock.....					256	8	0
					£1274	5	0

## No. 3, PART 2.

## MEMORANDA of WAYS and MEANS to meet the foregoing EXPENDITURE.

	£	s.	d.	£	s.	d.	£	s.	d.
Advanced by the Commissioner of Crown Lands.....							300	0	0
York Roads Debenture No. 297.....				500	0	0			
Interest from 14th January to 19th May, 1843.....	11	3	7						
Less 2½ per cent. Agency.....	2	10	0						
				8	13	7	508	13	7
York Roads Debenture No. 298.....				500	0	0			
Interest from 29th March to 17th August, 1843.....	11	13	5						
Less 2½ per cent. Agency.....	2	10	0						
				9	3	5	509	3	5
Amount of certain Debentures sold by the Bank of Upper Canada to pay Instalments on Six Nations Stock in the Grand River Navigation Company, with Interest.....				3756	8	0			
Against which was drawn.....				3500	0	0			
Leaving an unexpended balance of.....							256	8	0
							£1574	5	0
ABSTRACT.									
Amount disbursed to this date.....							1324	16	3
Remaining due to the Contractor.....							199	7	6
							£1524	3	9
Commissioner of Crown Lands' Check in favour of J. G. Howard for Plans and Specifications.....							30	0	0
Total.....							£1554	3	9
Funds provided.....							1574	5	0
Expended.....							1554	3	9
Balance on hand.....							£20	1	3

## No. 4.

## SUMS received at various times for INVESTMENT in DEBENTURES.

	£	s.	d.
October 5, 1838 ... Cash from the Rev. W. M'Murray.....	46	7	6
do 15, 1840 .. Trustees Peter Robinson.....	289	11	10
February 11, 1841 ... Mr. Sullivan's Check.....	1685	3	11
do 27, do ... Draft on H. Glass.....	253	14	6
September 16, do ... Gore Bank Draft.....	822	18	3
March 29, 1842 ... Jackson's Check.....	382	15	0
June 7, do ... A. Shade.....	100	0	0
January 2, 1844 ... Proceeds of Debenture No. 111.....	500	0	0
May 25, do ... Total amount of Interest on Debentures received to this date.....	1634	10	0
	£5715	0	10

No.

DEBENTURE

THE BANK of UPPER CANADA in Account with SAMUEL

Dr.

When Bought or Lodged.	No.	Service.	Amount.	Days.	Accrued Interest.			Total paid by S. P. Jarvis.		
					£	s.	d.	£	s.	d.
May 26, 1838...	111	Toronto City Debenture,—Lodged by S. P. Jarvis.....	500				500	0	0	
August 27, 1839...	400	Roads and Bridges.....	400							
do do do ...	217	do do .....	400							
do do do ...	321	Welland Canal.....	500							
do do do ...	362	do do .....	500							
do do do ...	369	York Roads.....	500							
do do do ...	370	do do .....	500							
do do do ...	397	do do .....	500							
do do do ...	298	do do .....	500							
do do do ...	306	do do .....	400							
March 31, 1841...	335	War Loss.....	1200	127	21	0	10	4200	0	0
do do do ...	315	do do .....	500	131	9	18	11			
do do do ...	72	do do .....	50							
		Agency ½ per cent.....			4	7	6			
October 15, do ...	244	Kettle Creek.....	1000	156	15	15	7	1785	7	3
		Agency ¼ per cent.....			2	10	0			
January 28, 1842...	12	Simcoe District .....	200	180	5	19	0	1018	5	7
do do do ...	244	War Loss.....	90							
do do do ...	243	do do .....	90	49	1	12	8			
do do do ...	162	do do .....	60							
do do do ...	348	do do .....	560	37	2	18	4			
do do do ...	282	do do .....	100	49	0	13	9			
do do do ...	366	do do .....	50	21	0	3	0			
do do do ...	408	do do .....	70	155	1	4	0			
		Agency ¼ per cent.....			0	2	11	1235	2	0
November 23, do ...	115	Toronto City,—Lodged by S. P. Jarvis.....	500					501	5	0
		Agency ¼ per cent.....			1	5	0			
February 15, 1844...	258	Toronto City,—Lodged by S. P. Jarvis.....	75					75	3	9
		Agency ¼ per cent.....			0	3	9			
May 16, do ...	268	Toronto City.....	500					501	5	0
		Agency ¼ per cent.....			1	5	0			
			£9745		£71	8	7	9816	8	7

BANK OF UPPER CANADA,  
Toronto, 3rd October, 1844.

5.

ACCOUNT.

P. JARVIS, Esquire, Chief Superintendent of Indian Affairs.

Cr.

When Redeemed or Disposed of	No.	Service.	Amount.	Days.	Accrued Interest.			Total received by S. P. Jarvis.		
					£	s.	d.	£	s.	d.
December 19, 1842...	216	Roads and Bridges.....	400	23	1	10	3			
do do do ...	217	do do .....	400	23	1	10	3			
do do do ...	321	Welland Canal.....	500	102	8	7	8			
do do do ...	362	do do .....	500	156	12	16	5			
do do do ...	369	York Roads.....	500	35	2	17	6			
do do do ...	244	Kettle Creek .....	1000	160	26	9	5			
do do do ...	306	York Roads.....	400	43	2	16	6			
June 20, 1843...	370	do do .....	500	36	3	0	10	3756	8	0
		Less ½ per cent. Agency.....			2	10	0			
May 19, do ...	297	York Roads.....	500	135	11	3	7	500	10	10
		Less ½ per cent. Agency.....			2	10	0			
August 17, do ...	298	York Roads.....	500	140	11	13	5	508	13	7
		Less ½ per cent. Agency.....			2	10	0			
January 2, 1844...	111	Toronto City.—Redeemed.....	500					509	3	5
								500	0	0
June 4, do ...	335	War Loss.....	1200							
do do do ...	315	do do .....	500							
do do do ...	72	do do .....	50							
do do do ...	12	Simcoe District.....	200							
do do do ...	244	War Loss.....	90							
do do do ...	243	do do .....	90							
do do do ...	162	do do .....	60							
do do do ...	348	do do .....	560							
do do do ...	282	do do .....	100							
do do do ...	366	do do .....	50							
do do do ...	408	do do .....	70							
do do do ...	115	Toronto City.....	500							
do do do ...	258	do do .....	75							
do do do ...	268	do do .....	500							
			£9745		£74	15	10	4045	0	0
					71	8	7	9819	15	10
		Balance of Interest received.....			£3	7	3			

\* These Debentures were transferred to the Receiver General of Canada for account of the Indian Department, under this date.

(Signed,) THOS. G. RIDOUT,  
Cashier.





Appendix (M.M.M.M.) 13th April.

Appendix (M.M.M.M.) 13th April.

No. 7.

INVESTMENT ACCOUNT for sundry Tribes of Indians in Account with SAMUEL P. JARVIS, Esquire, Chief Superintendent.

Cr.

Dr.

		£	s.	d.	£	s.	d.	£	s.	d.
May 26, 1838	To City Debenture No. 111, purchased.	500	0	0	500	0	0	0	0	0
March 31, 1841	“ sundry Debentures purchased as per Statement.	1750	0	0	0	10	10	0	0	0
October 15, do	“ accrued Interest and Agency on the above Debentures.	35	7	3	8	13	7	0	0	0
January 28, 1842	“ Kettle Creek Debenture, purchased.	18	5	7	9	3	5	0	0	0
November 23, do	“ accrued Interest and Agency on the above Debenture.	15	2	0	20	0	0	0	0	0
February 15, 1844	“ sundry Debentures purchased as per Statement.	1	5	0	126	0	0	282	0	0
May 16, do	“ accrued Interest and Agency on the above Debentures.	0	3	9	369	10	0	507	10	0
	“ City Debenture No. 115, purchased.	1	5	0	74	0	0	255	10	0
	“ Agency for 1/4 per cent. Commission on the above Debenture.	0	3	9	3	7	3	0	0	0
	“ City Debenture No. 258, purchased.	1	5	0	3	7	3	0	0	0
	“ Agency for 1/4 per cent. Commission on the above Debenture.	0	3	9	0	0	0	0	0	0
	“ City Debenture No. 268, purchased.	0	3	9	0	0	0	0	0	0
	“ Agency for 1/4 per cent. Commission on the above Debenture.	1	5	0	0	0	0	0	0	0
	Total Debentures bought.	£5545	0	0	£2000	0	0			
	Interest paid	71	8	7	1656	5	1			
		£5616	8	7	£3656	5	1			

By Road Debenture No. 370, sold. ....  
 Interest received on do .....  
 “ Road Debenture No. 297, sold. ....  
 “ Interest received on do .....  
 “ Road Debenture No. 298, sold. ....  
 “ Interest received on do .....  
 “ City Debenture No. 111, redeemed. ....  
 “ Interest received in 1838, per Statement. ....  
 do do 1839, do .....  
 do do 1840, do .....  
 do do 1841, do .....  
 do do 1842, do .....  
 do do 1843, do .....  
 do do 1844, do .....  
 By Balance of interest received on the purchase and sale of Debentures, as per Statement. ....

Total Debentures sold. ....  
Interest received. ....

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

No. 9.—SAMUEL P. JARVIS, Esquire, Chief Superintendent of Indian Affairs, in Account with The BANK of UPPER CANADA.

Cr.

Dr.

When Sold.	Number of Debentures.	Service.	On what Account Sold.	Amount of Debentures.	Date of Lodgment or Purchase.	Number of Debentures.	Service.	By whom Lodged, where Purchased.	Amount of Debentures.	£	s.	d.
December 19, 1842	No. 216.....	Roads and Bridges.	Advance made for the Grand River Navigation .....	400	August 27, 1839	No. 216.....	Roads and Bridges.	Lodged by S. P. Jarvis, C. S. I. A.....	400	0	0	0
do	do	do	do	400	do	do	do	do	400	0	0	0
do	do	do	do	500	do	do	do	do	500	0	0	0
do	do	do	do	500	do	do	do	do	500	0	0	0
do	do	do	do	500	do	do	do	do	500	0	0	0
do	do	do	do	400	do	do	do	do	400	0	0	0
do	do	do	do	1000	March 31, 1841	do	War Loss.....	Purchased per Deposit Account, this date...	1200	0	0	0
do	do	do	do	500	do	do	do	do	500	0	0	0
do	do	do	do	50	do	do	do	do	50	0	0	0
do	do	do	do	1000	October 15, do	do	Kettle Creek.....	do	1000	0	0	0
do	do	do	do	£3700	January 28, 1842	do	Simcoe District.....	do	200	0	0	0
do	do	do	do	90	do	do	War Loss.....	do	90	0	0	0
do	do	do	do	90	do	do	do	do	90	0	0	0
do	do	do	do	60	do	do	do	do	60	0	0	0
do	do	do	do	560	do	do	do	do	560	0	0	0
do	do	do	do	100	do	do	do	do	100	0	0	0
do	do	do	do	50	do	do	do	do	50	0	0	0
do	do	do	do	70	do	do	do	do	70	0	0	0
do	do	do	do	5545	February 19, 1844	do	City of Toronto.....	Purchased by Cashier Bank U. C.....	75	0	0	0
do	do	do	do	500	May 16, do	do	do	do	500	0	0	0
do	do	do	do	£9245	do	do	do	do	£9245	0	0	0

\* These two Debentures have been disposed of in defraying the expenses of the Tyendinaga Church. | † MEMORANDUM.—Debenture No. 115, £500, redeemed, and replaced by No. 268.

Cr

Appendix  
(M.M.M.M.)  
13th April.

No. 10.

(Copy.)

9th April, 1845.

MY DEAR SIR,

Not having the pleasure of being personally acquainted with your brother, the Judge of the Bankrupt Court, will you do me the favour to ask him to recommend an Umpire to decide on disputed points between two Official Accountants.

Yours very truly,

(Signed,) GEORGE VARDON.

Dr. BADGLEY, M. D.,  
Montreal.

## MEMORANDUM.

On application to Mr. Badgley, Judge of the Bankrupt Court, he recommended Mr. Weekes, a Notary, as the Umpire between Mr. Ferguson and Mr. Steers. He was too much occupied to undertake the business, but recommended a Mr. Anderson, who is personally known to both the Accountants. They mutually consented to his being arbitrator. He has the papers in his hands, and promises to go through with the work at once.

(Signed,) GEORGE VARDON.

J. M. HIGGINSON, Esquire.

Approved.

(Signed,) J. M. H.

No. 11.

(Copy.)

MONTREAL, 8th June, 1846.

SIR,

Previous to your departure from the Province, may I request the favour of your bringing under the notice of His Excellency the Governor General my claim for remuneration for services performed for the Indian Department, relative to the Accounts of S. P. Jarvis, Esquire, late Chief Superintendent.

In so doing, I would beg to draw your attention to the following circumstances relative thereto, viz. :

That the said Accounts have been upwards of twelve months, as it were, under my supervision; during which period I have held three separate positions with regard to them, viz. :—

- 1st. As Arbitrator.
- 2d. As Government Accountant.
- 3d. As Mutual Accountant.

I have submitted three different Statements of Account, each accompanied by a Report relative thereto.

The last Account was most elaborate, and occupied the whole of my spare time for a period of three months close application; and I trust I will not be

deemed egotistical when I state, that the said Account was of that plain and lucid character which, from the complex nature of the Papers, Documents, &c. &c., from which it was concocted, it was heretofore deemed next to impossible to arrive at.

I doubt not but His Excellency, in awarding me remuneration for my services, will not only look at those services as that of a mere Accountant, but at the importance of the matter therewith connected, and with which Government was pleased to honour me by submitting to my decision; an honour certainly at all times most flattering, but where private or personal interests are concerned, not always either lucrative or pleasant;—the latter, from circumstances, I have myself in this instance experienced.—Still, I have dared to do my duty, and I feel satisfied my Accounts and Reports will stand the strictest scrutiny, and be found fair, equitable, and impartial.

Should it be the pleasure of His Excellency to reopen the matter, I shall of course be happy to render any service in my power.

I have the honour to be,  
Sir,

Your most obedient Servant,

(Signed,) C. E. ANDERSON.

J. M. HIGGINSON, Esquire,  
Civil Secretary,  
&c. &c. &c.  
Montreal.

No. 12.

(Copy.)

MONTREAL, 16th June, 1846.

SIR,

Referring to the reply of His Excellency the Governor General relative to my application for remuneration for services performed for the Indian Department under date of 8th instant;

If I correctly understood you, His Excellency was desirous that Mr. Higginson's opinion should be obtained as to my remuneration.

This really seems to me a very hard case, now that Mr. Higginson has left the country that I should be obliged to wait a reply from him from England, perhaps for a period of three months; more especially after my being aware that when I some two months back applied to Mr. Higginson to have the matter settled, that he left the matter in your hands to make enquiry as to what was a fair remuneration. Further, I was not employed by Mr. Higginson in the matter; it was you who called upon me and requested me to act in the first instance, and previous to my accepting, I made enquiry of Mr. Ferguson how he had been remunerated.

Comparisons are at all times odious, but in this instance I am necessitated to adopt them; and I would therefore respectfully suggest, that my remuneration be grounded on what Mr. Ferguson received.

Mr. Ferguson merely made a Statement of Account on the part of Government, and which Statement was subsequently shewn to be inaccurate in a great degree, and which only occupied him during one month, and for which service he received £100

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

currency; and Mr. Higginson and yourself have both stated to me, that until my first Statement of Account was received, the nature of the Account was not at all understood; and so satisfied was Lord Metcalfe with my Statement, that he unhesitatingly intimated to Mr. Jarvis that the Government would be bound by my decision, and to which Mr. Jarvis's Agent also acceded.

My last Statement was laid before His Excellency Lord Cathcart, who, it would appear, was also so satisfied with the same, as to demand of Mr. Jarvis the payment of the balance.

Under these circumstances, I can scarcely conceive it fair that any delay further should take place as regards my remuneration, more especially as the cause can in no way be attributed to me.

It is a matter which has caused me great labour and no small odium, and I fear not to say has injured me in a pecuniary sense.

I would also beg further to lay before His Excellency the Governor General the fact, that my means are of that limited nature as to be insufficient to support my family unless my spare time be occupied, and that my services as an Accountant are sufficiently known and valued in Montreal as at all times to command employment, and that the time occupied by the Accounts, &c., in question, could have been equally as well, and perhaps more lucratively, employed otherwise, and certainly without any odium or difficulty with regard to remuneration.

I have engagements to meet during the present week, for the payment of which I fully depended on remuneration for the services referred to, and which if withheld will certainly place me in a most unpleasant position; the engagements referred to being an Instalment on a Builder's contract, which, if not met, besides stopping the building, places me under a penalty.

Under these circumstances, and from the fact that my services must still be required relative to the said Accounts, I most respectfully beg that His Excellency will re-consider the matter.

I have, &c.,

(Signed,) C. E. ANDERSON.

GEORGE VARDON, Esquire,  
&c. &c. &c.

No. 13.

(Copy.)

CIVIL SECRETARY'S OFFICE,  
Indian Department, 17th June, 1846.

SIR,

I am directed by the Governor General to acknowledge the receipt of your letter of the 16th instant, and to inform you that His Excellency would regret to put you to the inconvenience that you anticipate from the delay which would be occasioned by referring the subject to Mr. Higginson. At the same time, His Excellency cannot decide as to the amount of remuneration that ought to be paid to you without further information, as there is nothing on

record to shew what arrangement was entered into between the Civil Secretary and yourself. His Excellency has only seen the result of your work, which he considers to be very satisfactory to the Government, and creditable to yourself.

I am, therefore, to request that you will state what you conceive to be due to you for your services rendered to this Department, and His Excellency will be prepared to give the subject his consideration.

I have the honour to be,

Sir,

Your obedient Servant,

(Signed,) GEORGE VARDON.

C. E. ANDERSON, Esquire,  
Montreal.

No. 14.

(Copy.)

CIVIL SECRETARY'S OFFICE,  
Indian Department, 19th June, 1846.

SIR,

In the month of April, 1845, application was made to you to recommend an Arbitrator to decide upon disputed points of an Account, and Mr. C. E. Anderson was selected for that duty. He has since been employed by the Department to re-investigate and to report upon the same, and he has submitted his claim for payment to the Governor General; but His Excellency has no means of judging as to what the amount of compensation ought to be. I am therefore directed to enclose the Account to you, and to request that you will afford His Excellency the benefit of your opinion in this respect.

The Documents that have been examined by Mr. Anderson, and the Account itself, are too voluminous to transmit with this letter; but I will submit them for your inspection whenever it suits your convenience to examine them, with any information that you may require to aid you in forming a correct estimate of the labour performed.

I have, &c.,

(Signed,) GEORGE VARDON.

WILLIAM BADGLEY, Esquire,  
&c. &c. &c.

MONTREAL, 17th June, 1846.

THE INDIAN DEPARTMENT

To C. E. ANDERSON,

Accountant,

For balance due him for his services in investigating the Accounts of Samuel P. Jarvis, Esquire, late Chief Superintendent Indian Affairs, during a period of eight years, involving a sum of upwards of £50,000 currency—the time he was so employed being during a period of fifteen months.—£250, Halifax Currency.

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

(Copy.)

MONTREAL, 27th June, 1846.

SIR,

I have the honour to return inclosed Mr. Anderson's claim for services in the matter of Mr. Jarvis' Accounts with the Indian Department, and to request you to inform His Excellency the Governor General that, considering the period of time employed by Mr. Anderson in the examination of the very numerous Documents connected with the Accounts prepared by him, the mass of vouchers, and the various Accounts investigated and arranged, I do not consider the claim for compensation made by Mr. Anderson too high.

I have, &amp;c.,

(Signed,) W. BADGLEY,  
Circuit Judge.

G. VARDON, Esquire,  
Assistant Superintendent General.  
Indian Department.

No. 15.

To His Excellency the Right Honorable JAMES BRUCE, Earl of ELGIN and KINCARDINE, Governor General of British North America, &c. &c. &c.

May it please Your Lordship :

The Memorial of the undersigned, Charles E. Anderson, most respectfully represents, that on the 10th April, 1845, being then a Public Accountant in the City of Montreal, he was appointed by the late Lord Metcalfe, to investigate the Accounts of S. P. Jarvis, Esquire, late Chief Superintendent of Indian Affairs.—That on or about the 5th May following, he handed in a Statement of Account and Report to the Indian Department, exhibiting a balance against Mr. Jarvis of £4,132 18s. 5d. currency.—That so satisfied was Lord Metcalfe with the said Account, that on the 10th of the same month His Lordship suspended Mr. Jarvis from office, and called on him to pay the above balance.

That on the 9th day of June, 1845, your Memorialist entered on the duties of Book-keeper in the Office of the Inspector General of Provincial Accounts, and that on the 6th day of August following, the Honorable William Cayley was appointed Inspector General, being the head of the Department in which your Memorialist was Book-keeper. That previous to Mr. Cayley's appointment as Inspector General, he had been acting for Mr. Jarvis, relative to the accounts in question. That after his appointment as Inspector General, he had frequent interviews with your Memorialist relative to Mr. Jarvis' Accounts, and was mainly instrumental in causing the Account to be re-opened, and another opportunity afforded Mr. Jarvis of clearing himself. Consequently an Explanatory Account was prepared by Mr. Jarvis' Accountant assisted by Mr. Cayley, and which was referred by Lord Metcalfe to your Memorialist to examine and report on. The result of his examination was increasing the balance against Mr. Jarvis some £300 more than his previous account. Again, in November, 1845, through the intervention of Mr. Cayley, the account was re-opened ;

your Memorialist was put in possession of various statements, vouchers, &c. by Mr. Cayley on the part of Mr. Jarvis, and was requested by Mr. Cayley to act for Mr. Jarvis, and by Lord Metcalfe to act for the Indian Department,—both parties consenting and agreeing that his decision should be final. Your Memorialist, accordingly, gave the matter his most serious and minute attention, and on the 4th of February, 1846, your Memorialist handed into Government a Statement of Account in Duplicate, exhibiting a balance against Mr. Jarvis of £6,375 6s. 11d. currency ; the increase arising from the facilities afforded your Memorialist of examining the books of the several public departments, and from information got from the various papers handed to him by Mr. Cayley. On the 14th February, 1846, a copy of your Memorialist's last Account was transmitted to Mr. Jarvis, calling on him to pay the balance of £6,375 6s. 11d. currency, but which to this day remains unsettled, and to this day no explanation has been offered of the above balance ; notwithstanding that Mr. Jarvis has had the able assistance of the first book-keeper in the Inspector General's Office, your Memorialist's superior officer, to aid him, Mr. Jarvis, to clear up the deficiency.

Your Memorialist's last account referred to, was transmitted to England, and reported upon by the Board of Audit, and which report your Memorialist is quite prepared to prove to be most erroneous,—he has solicited that privilege already from Government, but from some unknown cause, it has been denied him.

Since your Memorialist rendered his last account he has been made the victim of private slander and persecution by all Mr. Jarvis' friends—his name has most unwarrantably been dragged into the public prints of the country, even by Mr. Jarvis himself—and still the common justice of being allowed to reply to these slanders has been refused him ; and it is with no small degree of pain that he is thus necessitated to state, that he observes by the public prints that Mr. Cayley, the head of his Department, in his seat in Parliament, on the 17th instant, referred to your Memorialist, in connexion with these accounts, in a manner most injurious to your Memorialist's reputation, and which is not borne out by facts. The Honorable gentleman stated, that the charges made by your Memorialist against Mr. Jarvis were found in Mr. Jarvis' Private Bank Account. Your Memorialist would respectfully inform Your Excellency, that he made no charge against Mr. Jarvis without stating on the face of the account the source from which Mr. Jarvis obtained the money, viz. :—the date, number of the warrant, the deposit, &c. &c., except some two or three sums which he found in Mr. Jarvis' Official Bank Account, fyled by Mr. Jarvis as official, and which sums, both Mr. Jarvis and his Accountant acknowledged to be Indian monies. Your Memorialist courts the closest possible scrutiny of his accounts, and would have felt much more pleasure in clearing Mr. Jarvis of any charge, than of establishing one against him. Your Memorialist does not know Mr. Jarvis—has never seen him—and consequently can have no feeling but one in the matter, namely common justice ; and if Your Lordship would condescend to examine the account in question, Your Lordship would at once see that the utmost liberality has been shewn Mr. Jarvis. The balance of £6,375 6s. 11d. currency, is not a round sum given to Mr. Jarvis to explain—but is defined by certain sums paid to him on certain days, for certain purposes,—and if capable of explanation, could have been done in 16 days instead of 16 months.

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

Your Memorialist would, in conclusion, most humbly apologize to Your Excellency for this intrusion, and would respectfully solicit from Your Lordship that protection in the case which common justice demands. If your Memorialist's account is erroneous, let it be first shewn, and let him be called upon for explanation; but it is hard that his reputation should be traduced before either is done, and no opportunity left him of refuting such accusations.

Your Memorialist would also respectfully inform Your Lordship, that his services with regard to Mr. Jarvis' accounts, are in no way connected with his duties in the Office of the Inspector General, that he has performed those services invariably at his own private dwelling, and has been paid for the same out of the military chest.

(Signed,) C. E. ANDERSON.

ST. CATHERINE STREET,  
Montreal, 29th June, 1847.

No. 16.

ST. CATHERINE STREET,  
Montreal, 9th August, 1847.

SIR,

On the 8th ultimo, at your request, I lent you (in order to facilitate some Returns you were preparing for the House of Assembly) my Account of Mr. Jarvis' affairs of the 4th February, 1846. As the above was the only copy I possessed, I would feel obliged, now that time is not so pressing, to be furnished with another copy from the original in possession of the Indian Department.

I should also feel obliged by your laying before His Excellency the Governor General my respectful request, to be furnished with a copy of the Honorable Mr. Cayley's communication of the 16th July, and Mr. William Dickenson's, of the 1st of July—both relative to these Accounts, and especially referring to my connexion with them—and both of which I hastily perused before the Committee of the House of Assembly.

I have the honor to be,  
Your most obedient Servant,

(Signed,) C. E. ANDERSON.

T. E. CAMPBELL, Esquire,  
Major,  
Civil Secretary,  
&c. &c. &c.

No. 17.

(Copy.)

CIVIL SECRETARY'S OFFICE,  
Montreal, 24th August, 1847.

SIR,

I am commanded by the Governor General to acknowledge the receipt of your letter of the 9th instant, and to transmit herewith, in compliance with your request, a copy of your Account of Mr. Jarvis' affairs of the 4th February, 1846, of Mr. Cayley's letter of the 16th July, and Mr. Dickenson's of the

1st July; which Documents have already been laid before the House of Assembly.

I have the honor to be,  
Sir,  
Your most obedient humble Servant,

(Signed,) T. E. CAMPBELL,  
Major,  
Civil Secretary.

Mr. C. E. ANDERSON.

No. 18.

(Copy.)

MONTREAL, 25th August, 1847.

SIR,

I have the honor to acknowledge your communication of yesterday, with its enclosures.

But, on reference, I find that Mr. Dickenson's letter, of the first of July, does not contain all the Statements and matter which were transmitted to the House of Assembly attached to that letter.

What I refer to is, a Statement of Mr. Dickenson's, of date the 16th July, but attached with tape to his letter and Statements of the 1st July, forming a portion thereof. This Statement I have seen and perused at the House of Assembly, and have been informed by an officer of that House that it came down with the rest of the Correspondence, attached as it now stands. The Statement occupies a full sheet of foolscap, and is to me of much importance, and I would respectfully request to be furnished with a copy thereof.

I have the honor to be,  
Sir,  
Your most obedient Servant,

(Signed,) C. E. ANDERSON.

Major CAMPBELL,  
Civil Secretary,  
&c. &c. &c.

No. 19.

SAINT CATHERINE STREET,  
Montreal, 6th September, 1847.

SIR,

On the 25th ultimo I had the honor of receiving your communication of the 24th, transmitting by command of His Excellency the Governor General—

A copy of my Account of Mr. Jarvis' affairs of 4th February, 1846.

Of Mr. Cayley's letter of the 16th July, 1847.

And of Mr. Dickenson's of the 1st July, 1847.

And having, on the 1st instant, had the honor of an interview with His Excellency relative to these Documents, His Lordship was pleased to direct that I should transmit through you, in writing, such explanations and remarks as I had to offer on the subject; and in obedience to his commands I now proceed to do so.

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

I shall premise by stating, that on the 4th of February, 1846, I rendered in duplicate my last Account of Mr. Jarvis' transactions with the Indian Department, shewing a balance against him of £6,375 6s. 11d. currency; that on the 14th of the same month, by Lord Cathcart's orders, Mr. Jarvis was furnished with a duplicate of the said Account, and was called upon to pay the above balance.

Since that period it would appear that Mr. Jarvis, assisted by his Accountant, Mr. William Dickenson, (the first Book-keeper in the Inspector General's Office,) has been engaged in endeavouring to refute my Account referred to: and notwithstanding that Mr. Dickenson has had all the Documents in his possession upon which my Account was framed, has had authority to examine all the Books and Records of the several Public Departments, still, on the 1st of July, 1847, being 17 months after my Account had been rendered, this gentleman states, when called upon by Government to Report,—

"I have the honor to state that I am not yet prepared to do so, having only just received the two accompanying Returns from the Crown Lands and Receiver General's Departments. These Returns shew that out of £4,954 12s. 5d. charged by the Accountant as advanced to Mr. Jarvis, only one item of £250 is admitted or claimed by the Departments supposed to have made the advances, leaving the charge of £4,704 12s. 5d. unsustainable."

The Returns referred to are somewhat extraordinary and of doubtful authenticity, inasmuch as neither of them bear a date. The one purporting to be from the Crown Land Department does not even bear a signature, while that from the Receiver General's Department bears the simple "B. Turquand" appended to an answer of a most inconclusive and evasive nature.

How far these Statements are correct, will appear from the following facts:—On the 30th ultimo, 5 days after the receipt of these Statements, I went to the Crown Land Department, and in less than 15 minutes, assisted by the Accountant of that Department, I traced the various sums, amounting to £2,206 0s. 3d. currency, charged in the Books of that Department as paid to Mr. Jarvis in his capacity of Chief Superintendent of Indian Affairs on the respective dates as specified in my Account, and which sums this Return of Mr. Dickenson's purported to deny. I have the honor to annex an original official Document marked A., substantiating the above, bearing the signature of the Assistant Commissioner of Crown Lands, and dated the 30th ultimo.

I have still to account for the sums £250 and £12 10s. on Mr. Dickenson's "Return," which I do thus:—They are both found in my Account, folio 6, charged to Mr. Jarvis under the Account "Sundries," and on reference it will be seen that the sum of £250 is re-credited Mr. Jarvis on the opposite line as having been already charged him on folio 3 of my Account, thus neutralizing the charge altogether. The charge of £12 10s. is a mistake on my part in having taken the words St. James for S. P. Jarvis, in extracting it from the Bank-book of the Crown Land Department, owing to the indistinct manner in which it was written. Thus I refute the whole of the Return filed by Mr. Dickenson as from the Crown Land Department, with the exception of the £12 10s. above explained.

It now remains for me to shew that Mr. Jarvis received the £2,486 2s. 2d. which the unofficial

Statement from the Receiver General's Department would tend to disprove.

I find in Mr. Jarvis' official Bank Account with the Bank of Upper Canada, that on the 24th of December, 1838, the sum of £236 2s. 2d. is passed to his credit as paid in by J. H. Dunn's check. Mr. Jarvis himself, before the Kingston Commission, admits it as Indian money; and Mr. Steers, Mr. Jarvis' first Accountant, also admits it as Indian money, and charges him with it. Under such circumstances, I look upon it that I am fully justified in charging Mr. Jarvis with that item. The other sum of £2,250 currency, is in my Account charged against Mr. Jarvis as money received on J. H. Dunn's check for the Oneida Indians; and the best proof I can possibly adduce that Mr. Jarvis did receive that sum, is the following extract from Mr. Jarvis' letter to Captain Higginson, of date the 30th May, 1844:—

"The sums received by me on account of the Oneida Indians were £2,250 and £1,500—making together £3,750. The Schedule, marked No. 2, gives a List of the Lands purchased for them, and the amount paid."

It may be well for me to explain how the Oneidas came to be possessed of Mr. Dunn's check. It was thus: When they came to settle in this Province from the United States, they brought their money with them in specie, which specie was handed over to Mr. Dunn, and for which he gave his check; hence his name appears in the transaction. Thus, I trust, it will appear to His Excellency that I have satisfactorily refuted the two Returns submitted by Mr. Dickenson, who, from the opportunities he has had of being more accurate, cannot escape the animadversion of Her Majesty's Government, especially when it is recollected that the original vouchers for a very large portion of the amounts questioned by him, are actually of record in the Inspector General's Office, and part of them in the desk at which he daily writes. Copies of which vouchers I beg leave to subjoin, marked B.

I deem it my duty, at the same time, to call to His Lordship's notice the evidence of Mr. Dickenson before the Committee of the House of Assembly, (of which an extract is hereunto annexed, marked with the letter C,) in which he very unguardedly contradicts the most important part of his written Statements to Government.

So far I have replied to the Documents transmitted to me with your letter of the 24th ultimo, as regards Mr. Dickenson's Returns.

There is, however, another Document which I find appended to Mr. Dickenson's communication of the 1st July, laid before the House of Assembly, which latter Document I have understood from you verbally to be disavowed as coming from the Executive Government. I therefore have obtained an official copy of the same from the House of Assembly, a copy of which I now transmit, together with a copy of my answers to that Document. They form Appendix D. to my present communication. The Document referred to is dated the 16th of July, the same date as the Honorable Mr. Cayley's letter, and is an original Document in Mr. Dickenson's hand-writing, and by him signed. How it came to be appended to the Papers transmitted by Government to the House of Assembly remains to be explained.

With reference to the communication of the Honorable Mr. Cayley, of the 16th July, I beg leave to

Appendix  
(M.M.M.M.)  
13th April

Appendix  
(M.M.M.M.)  
13th April.

refer to the answers thereto given by me to the Committee of the House of Assembly; a copy of which is annexed hereto, marked E.

In addition, however, to the answers given by me before the Committee of the House of Assembly, I have added such further remarks as I had omitted, and which I now consider as called for.

It is worthy of remark, that notwithstanding the approval of my Account, that the matter stands now precisely as it did when the Account was rendered in February, 1846, and that no further action has been taken thereupon.

In conclusion, I would assure His Excellency that in the investigation of the Accounts of Mr. Jarvis,

I have had but one object in view—that of discharging creditably to myself and to the Government, and honorably towards Mr. Jarvis, the arduous duties imposed upon me in the various positions I have held in relation to these Accounts; and that I have, on no occasion, been animated by any feeling of “partizan-ship,” or of hostility to any of the parties concerned.

I have the honor to be,

Sir,

Your most obedient Servant,

(Signed,) C. E. ANDERSON.

Major CAMPBELL,  
Civil Secretary,  
Montreal.

Appendix  
(M.M.M.M.)  
13th April.

A.

(COPY.)

MONTREAL, 30th August, 1847

The undersigned having, by command of His Excellency the Governor General, been furnished under date of the 24th instant, with certain Statements relative to the Accounts of Samuel P. Jarvis, Esquire, late Chief Superintendent of Indian Affairs, which require explanation on the part of the undersigned, he would most respectfully request of the Honorable the Commissioner of Crown Lands, replies to the following Queries, and he would feel much obliged by this Document being returned to him with the Replies thereunto.

(Signed,) C. E. ANDERSON,

Accountant.

QUERIES.—Do the following Sums appear in the Books of the Crown Land Department as having been paid to Mr. Jarvis in his capacity of Chief Superintendent of Indian Affairs? viz. :—

		£	s.	d.	£	s.	d.
June	30, 1838 ...	For the Saugeen Indians, per order of the Lieutenant Governor of the 15th May, 1838.....			50	0	0
September	11, do ...	For the Saugeen Indians.....			50	0	0
February	14, 1840 ...	do do do .....			100	0	0
July	2, do ...	do do do per requisition, 25th March, 1840.....			75	0	0
September	22, do ...	do do do do .....			200	0	0
July	13, 1841 ...	677	14	2	For sundry Tribes of Indians.....		
do	do do ...	528	3	7	For Six Nation Indians.....		
do	14, do ...	178	15	4	do do do .....		
do	do do ...	96	7	2	For sundry Tribes.....		
October	4, 1839 ...	.....			1481	0	3
do	16, 1841 ...	For the Portage Road.....			12	10	0
					250	0	0
					£2218	10	3

(Signed,) C. E. ANDERSON,

Accountant.

All these Sums appear charged in the Books of the Crown Land Department as having been paid to Mr. Jarvis in his capacity of Chief Superintendent of Indian Affairs, on the respective dates herein stated, with the exception of £12 10s. on the 4th October, 1839, which is a mistake of names on the part of Mr. Anderson.

(Signed,) T. BOUTHILLIER.

CROWN LAND DEPARTMENT,  
30th August, 1847.



Appendix  
(M.M.M.M.)

13th April.

## B.

Appendix  
(M.M.M.M.)

13th April.

£	s.	d.	
50	0	0	<p>UPPER CANADA.—COMMISSIONER OF CROWN LANDS OFFICE, Toronto, 30th June, 1838.</p> <p>Received from R. B. Sullivan, Esquire, Commissioner for the Sale and Management of Crown Lands in the Province of Upper Canada, the sum of Fifty Pounds currency, to be paid to the two principal Chiefs of the Saugeen Tribe of Indians, per order of the Lieutenant Governor of the 15th May, 1838, herewith.</p> <p>Having signed two receipts of the same tenor and date. (Signed,) SAMUEL P. JARVIS, Chief Superintendent of Indian Affairs.</p>
50	0	0	<p>UPPER CANADA.—COMMISSIONER OF CROWN LANDS OFFICE, The 11th day of September, 1838.</p> <p>Received from R. B. Sullivan, Esquire, Commissioner for the Sale and Management of Crown Lands in the Province of Upper Canada, the sum of Fifty Pounds currency, for the use of the Saugeen Tribe of Indians, on the lands to the South of Owen's Sound, on Lake Huron, ceded by them.</p> <p>Having signed three receipts of same tenor and date. (Signed,) SAMUEL P. JARVIS, Chief Superintendent of Indian Affairs.</p>
75	0	0	<p>UPPER CANADA.—CROWN LANDS OFFICE, Toronto, 2nd day of July, 1840.</p> <p>Received from R. B. Sullivan, Esquire, Commissioner for the Sale and Management of Crown Lands in the Province of Upper Canada, the sum of Seventy-five Pounds, Halifax Currency, as per Requisition dated 25th March, 1840.</p> <p>Having signed three receipts of same tenor and date. (Signed,) SAMUEL P. JARVIS, Chief Superintendent of Indian Affairs.</p>
200	0	0	<p>UPPER CANADA.—CROWN LANDS OFFICE, Toronto, the 21st day of September, 1840.</p> <p>Received of R. B. Sullivan, Esquire, Commissioner for the Sale and Management of Crown Lands in the Province of Upper Canada, the sum of Two Hundred Pounds currency, by Requisition of the Lieutenant Governor, on account of Crown Lands ceded to the Crown by Saugeen Indians.</p> <p>Having signed three receipts of the same tenor and date. (Signed,) SAMUEL P. JARVIS, Chief Superintendent of Indian Affairs.</p>
£375	0	0	
677	14	2	<p>CROWN LANDS OFFICE, Kingston, 13th July, 1841.</p> <p>Received of R. B. Sullivan, Esquire, the sum of Six Hundred and Seventy-seven Pounds, Fourteen Shillings and Two-pence currency, in obedience to an order of His Excellency the Governor General, of the 13th July, 1841, being proceeds of Sales of Lands on account of sundry Tribes of Indians.</p> <p>Having signed three receipts of same tenor and date. (Signed,) SAMUEL P. JARVIS, Chief Superintendent of Indian Affairs.</p> <p>Witness—J. DEAN.</p>
528	3	7	<p>CROWN LANDS OFFICE, Kingston, 13th July, 1841.</p> <p>Received from R. B. Sullivan, Esquire, the sum of Five Hundred and Twenty-eight Pounds, Three Shillings and Seven-pence currency, in obedience to an order of His Excellency the Governor General of 13th July, 1841, being proceeds of Sales of Lands on account of Six Nation Indians.</p> <p>Having signed three receipts of same tenor and date. (Signed,) SAMUEL P. JARVIS, Chief Superintendent of Indian Affairs.</p> <p>Witness—J. DEAN.</p>
178	15	4	<p>CROWN LANDS OFFICE, Kingston, 14th July, 1841.</p> <p>Received from John Davidson, Esquire, the sum of One Hundred and Seventy-eight Pounds, Fifteen Shillings and Four-pence, in obedience to the instructions of His Excellency the Governor General of 13th instant, on account of proceeds of Sales of Six Nation Indian Lands.</p> <p>Triplicate Receipts. (Signed,) SAMUEL P. JARVIS, Chief Superintendent of Indian Affairs.</p> <p>Witness—J. DEAN.</p>
96	7	2	<p>CROWN LANDS OFFICE, Kingston, 14th July, 1841.</p> <p>Received from John Davidson, Esquire, the sum of Ninety-six Pounds, Seven Shillings and Two-pence currency, in obedience to instructions of His Excellency the Governor General of the 13th instant, on account of proceeds of Sales of Lands on account of sundry Tribes of Indians.</p> <p>Having signed triplicate Receipts. (Signed,) SAMUEL P. JARVIS, Chief Superintendent of Indian Affairs.</p>
£1481	0	8	

I certify the above to be true and correct copies of the Original Receipts of Record in the Office of the Inspector General of Public Accounts.

MONTREAL, 6th September, 1847.

(Signed,) C. E. ANDERSON,  
Accountant.

## C.

EXTRACT from the Evidence of Mr. WILLIAM DICKINSON, First Book-keeper in the Inspector General's Office, before a Committee of the House of Assembly, 26th July, 1847:—

1.—Is the Paper marked A. the Account you refer to as being received from the Crown Land Department?—Yes, it is.

2.—Is this Statement intended to shew that a large sum of money charged by Mr. Anderson as having been received by Mr. Jarvis from that Department, was never paid him by that Department?—It is intended to shew that I could not attain the object in view, of ascertaining the particular service for which payments were made to Mr. Jarvis. How far it will tend to prove that such monies were not paid, I submit to the Committee.

3.—Did you put the questions on the Paper marked A. to the Crown Land Department?—Yes.

4.—Do you infer from the answers that Mr. Jarvis did not get the money?—I believe he received the greater part, but am in doubt whether he received the whole or not.

5.—Did you go to the Crown Land Department to investigate these Accounts?—I did.

6.—How many years have you been in the Inspector General's Office?—Since the spring of 1843.

7.—Are you fully acquainted with the routine of the Office?—Yes.

8.—Could you have obtained the information required in your own Office?—I made no search in the Inspector General's Office, considering that the Crown Lands Department should furnish the infor-

mation required. I might have derived information on examination of the Records in the Inspector General's Office, but not, I conceived, to the extent or with the same correctness, as from the Crown Land Department.

9.—Are not the original Accounts and Vouchers of the Crown Land Department of Record in the Inspector General's Office?—They should be, but at the period to which this Account has reference I should despair in finding the Vouchers referred to.

10.—Were you aware that Mr. Jarvis' original Receipts for the monies in Paper A., were in the desk at which you sit daily?—I am not aware that they were.

11.—Do you know if they are there at the present time?—I am not aware that they are.

12.—When you examined Mr. Jarvis' Accounts, did you find any proof of Mr. Jarvis having received the £2,250 from Mr. Dunn?—I have no doubt the sum was received from Mr. Dunn.

13.—When you obtained the Statement from Mr. Turquand, were you of opinion that Mr. Jarvis had not received the monies as stated by Mr. Turquand in that Account?—I had some doubt as to the smaller sum, but none as to the larger one (£2,250.)

14.—At the time you put the query to Mr. Turquand, did you know for what Tribe the money was obtained?—At the time I did know, but at this moment I do not recollect.

The above questions, and Mr. Dickinson's answers, were taken down by the undersigned before the Committee on 26th July last.

6th September, 1847.

(Signed,) C. E. ANDERSON.

## D.

COPY of a DOCUMENT appended to Mr. DICKINSON'S LETTER of the 1st July, 1847, (marked C.X.) to Major CAMPBELL, Civil Secretary, and forming part of the Correspondence sent down to the Legislative Assembly, in Answer to Address.

[Copy of Original Document.]

The Accountant of Mr. Jarvis objects to the account as preferred on behalf of the Government, dated 4th February, 1846, on the following grounds, viz. :—

1.—Because the account embraces but a portion of Mr. Jarvis' transactions, and, consequently, opens the door to much confusion, by mis-application of credits. For instance, a sum of £400, paid by Mr. Jarvis, 22nd November, 1842, to A. Borland, for Indian houses, is taken to balance an entry of £400, May 14th, 1842, to pay Indian Chief Wabatic, but which was acquitted 8th July, 1842.

2.—Because the division of the Accounts, under the heads of the several Tribes, is rendered very imperfect and confused, from the fact, that under the head of "Sundry Tribes," nearly all the alleged deficiencies are entered, and these receipts and payments being, in a great measure, comprised of transactions which cannot be traced.

3.—Because various warrants to a large amount, exceeding £2,000, although regularly acquitted, stand charged against Mr. Jarvis, and which it is submitted cannot be sustained; and a reference to the Despatch from the Colonial Office, will shew that various charges therein referred to, have been already accounted for.

Appendix  
(M.M.M.M.)  
13th April.

4.—Because the purpose for which many alleged advances were made, is not shewn, and the expenditure, in consequence, cannot be traced; and on reference to the sources from which sums are stated to have been received, no such entries can be found. For instance, see accompanying Queries and Replies, A. and B. from the Crown Land and Receiver General's Departments.

5.—Because various sums, to a large amount, were admitted as credits to Mr. Jarvis, on 5th May, 1845, but disallowed by the same Accountant, on the 4th February, 1846, without sufficient reasons being given for such apparent contradiction.

6.—Because that with reference to Debenture No. 111, for £500, if the same was handed over to Mr. Jarvis, in like manner as other Debentures, at his debit, of course, Mr. J. should be charged with the redemption thereof; but there is nothing to shew that such was the fact, and therefore this charge so far is not sustained.

7.—Because vouchers to a large amount are rejected, in consequence of the nature of such payments not being stated, or the Tribe to which the same refer; at the same time that such explanations are admitted to be next to impossible.

8.—Because many items are selected from the Bank Pass-book, and unaccompanied by any note to shew whence these sums were drawn, or for what purpose to be appropriated, while the same Pass-book is not admitted as affording any proof of payment by Mr. Jarvis. It is submitted that the mode of proceeding should be uniform, and that proof should be adduced by the Government Accountant, to shew that such monies were actually received by Mr. Jarvis, as Superintendent of Indian Affairs.

9.—Because, that whilst the writer agrees in opinion with all who have preceded him, in the examination of the Accounts of Mr. Jarvis, that it appears almost impossible to make out a clear Account; he would submit, that he (Mr. Jarvis) has at various times represented the necessity of employing an Accountant in his office, but that such representations were disregarded; and judging from the result of his application to the Offices of the Crown Lands and Receiver General's Departments, it would appear that few public officers could render a proper Cash Account, so far back as Mr. Jarvis has been called upon to do, so defective has been the system of keeping Accounts, throughout the Public Departments.

(Signed,) WM. DICKINSON.

Montreal, 16th July, 1847.

REPLY of C. E. ANDERSON to the Statement of the  
16th July, 1847, signed WILLIAM DICKINSON.

To Clause No. 1.—My Account of the 4th February, 1846, embraces all the personal transactions of Mr. Jarvis with the Indian Department, and which alone, it was perfectly understood both by Government and Mr. Jarvis, was to form the matter of Account. The charge of misapplication of credit in the case of A. Borland, exhibits but little foresight or research on the part of Mr. Jarvis' Accountant.

The case is simply this:—In October, 1841, Mr. Jarvis entered into a verbal agreement with Borland

for the building of certain Indian houses for the Saugeens. During the winter he was engaged in getting the stuff out and ready, and in the spring of 1842 he commenced the buildings. In the month of May, a Warrant was issued in the name of the Saugeen Chief "Wabatic," but which Mr. Jarvis himself distinctly states (*vide* his letter to Mr. Rawson, 24th November 1842,) was not for distribution among the Tribe, but for the payment of certain houses for the Tribe. This warrant was not acquitted until July, 1842; and although Borland's Voucher for the £400 is dated 22nd November, 1842, it will be found, on reference, that payments to him were made as he progressed with the buildings, and the balance only paid him on the 22nd November, 1842. Mr. Jarvis' Accountant vainly attempted to shew, before the Committee, that Borland was paid *ex* Warrant A. 112. The gentleman had not reflected, that the latter Warrant issued at a date prior even to the verbal agreement for the building of the houses.

To Clause No. 2.—I divided the Account under the heads of the several Tribes, in order to simplify it, and to shew Mr. Jarvis' transactions with each Tribe, &c.; and it appears to me that an Account of so complex a nature cannot be too much simplified.—The gentleman states that under the head of Account "Sundries" nearly all the alleged deficiencies are entered. On what he grounds this I am quite at a loss to conceive: he certainly never could have examined my Account, for under the Account "Sundries" not one single deficiency exists, instead of which there is a balance in favor of Mr. Jarvis of £21 14s. 4d.; and under that Account there is not a single payment but what is both clear and defined.

To Clause No. 3.—I cannot reply to this Clause better than to give the following extract from the Special Report of the Kingston Commission on the same subject:—

"The first instance of irregularity which has come under the notice of Your Commissioners with regard to payments on account of annuities, occurred in 1841, within a few days after the death of Lord Sydenham, when the Chief Superintendent obtained the signature of His Lordship's Successor to two Warrants for £400 each, in favour of Chiefs 'Wabatic' and 'Metigwaub' respectively, for the use of two bands of Saugeen Indians. These were acquitted under Powers of Attorney, signed by those Indians on the 9th and 12th August, 1841, in favor of Mr. James Henderson, a Land Agent in Kingston, and Mr. George Walton, a resident of Toronto. These Powers of Attorney were procured by Mr. Jarvis from the Indians on his visit that year to the Manitoulin; and it does not appear that the gentlemen in whose names they were drawn had anything to do with the transaction, or were they aware of the intended use of their names—they immediately handed the money over to Mr. Jarvis, who paid it into his Bank. Your Commissioners are of opinion that there was no sufficient reason for drawing these sums, as there could not have been, at that season of the year, any immediate demand for £800 for one Tribe; and the Bank Account furnished by Mr. Jarvis affords no explanation as to the time or mode of expenditure." The case of the Chippawa Chief "Yellowhead" is of a similar nature; and "Yellowhead" stated before the Kingston Commission that he had no recollection of giving any Power of Attorney—had no knowledge of the application of the money—that he remembered signing a Document, but that he was told by Mr. Jarvis that it was a certificate of two new houses having been properly

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

completed in his settlement. With this before me, I conceive Mr. Jarvis both legally and morally accountable for these monies: although the Warrants were in favor of particular Chiefs, still the monies were for the Tribes. Mr. Jarvis, it is proved, got the money on these Warrants; but there is nothing to shew that either the Chiefs or the Tribes ever got one farthing. It may be said that it is a matter between the Tribes and Mr. Jarvis; but I would respectfully submit, that the Indian Department represent the Tribes, and it consequently becomes the duty of Government to see that Mr. Jarvis accounts for those monies.

To Clause No. 4.—I am not aware of having charged Mr. Jarvis with any monies without giving the number of the Warrant, the Department, and for what Tribe or service, with the exception of, I think, two sums referred to in my Report accompanying my Account of the 4th February, 1846. I charged Mr. Jarvis with these sums, as I found them in his official Bank Account, and because he and his Agents have stated them to be Indian monies. With regard to queries and replies A. and B., from the Crown Land and Receiver General's Departments, my letter of this date renders any remark here perfectly superfluous.

To Clause No. 5.—My Account of the 5th May, 1845, was merely as umpire upon two Accounts submitted to me, and I had not the means nor authority to look into the correctness of all the credits; but on making up my Account of the 4th February, 1846, I had full authority to examine the Records of all the Public Offices, &c. &c., and found errors in all the previous Accounts. I stated this to Government, and requested permission to commence *de novo*, which was granted—hence the “apparent contradiction.”

To Clause No. 6.—Mr. Jarvis is found by his official Bank Account, to have been credited with the proceeds of this Debenture, No. 111, £500, when redeemed; and the Debenture Account shews it to be an Indian Debenture. Neither Mr. Jarvis nor his first Accountant have ever before pretended that he (Mr. Jarvis) purchased or paid for this Debenture. If he claims credit for the amount on that score, it surely could have been an easy matter to shew when he purchased it, and from whom: this, I have reason to think, will be found a difficult matter, and on no other ground has he a shadow of claim for such a credit.

To Clause No. 7.—I have rejected no vouchers which bear the slightest claim or feasibility to be

Appendix  
(M.M.M.M.)  
13th April.

credited, without good and sufficient reason having been given in writing; and previous to closing my Account of 4th February, 1846, Mr. Jarvis' Accountant went through all the rejected Vouchers with me, and fully coincided with me that I could not credit any of them; and I remain still of the same opinion. It would have been well had Mr. Dickenson stated his cause of change on the question.

To Clause No. 8.—The first portion of this Clause is answered in my reply to No. 4. But Mr. Jarvis' Accountant is wrong in stating that the Bank Checks have not been admitted as affording any proof of payment. They have been so admitted to a very large extent—that is, in every case where it was in any way shewn for what purpose the Check was drawn—and it has only been refused where the Checks are payable to self or bearer, without further explanation, which of course renders them inadmissible: and in some instances when explanation had existed, it has been destroyed. This I shall more fully explain in replying to Mr. Cayley's communication.

To Clause No. 9.—Mr. Dickenson would endeavour to screen Mr. Jarvis on the ground that he had at various times applied for an Accountant for his Office, and which Government declined acceding to. How far this will tend to extenuate the fact, of a public officer, with an income of £570 currency per annum, being unable to account for the monies intrusted to his care, I leave to Her Majesty's Government to decide: at the same time, I cannot refrain from remarking, that, after being well versed with the duties Mr. Jarvis had to perform, it appears to me that a school-boy might have kept his Accounts without the slightest difficulty. In this Clause Mr. Dickenson also, I do think most ungenerously, makes a wholesale attack upon the “defective system of keeping the Accounts throughout the Public Departments,” citing his applications to the Crown Lands and Receiver General's Departments. I am not disposed to become the champion of the several Departments, but I do think his citation in this instance is rather unfortunate; as, if he did not get the information from these Departments which he desired, the fault was his own, for, had he displayed common energy and capacity, he could have correctly obtained the information he was in quest of. And if the system of the Departments is bad, it appears to me he has yet to shew that it is likely to be improved by his connexion with them.

(Signed,) C. E. ANDERSON.

Montreal, 6th September, 1849.

## E.

EXTRACT from the Evidence of C. E. ANDERSON, before a Committee of the House of Assembly, relative to Mr. JARVIS' Affairs, 26th July, 1847; being in Reply to a Communication from the Honorable Mr. CAYLEY, of 16th July, before the Committee:—

I also perceive that a long Communication is before the Committee, from the Honorable Mr. Cayley, of date the 16th instant, relative to these accounts. I have only had time to glance hurriedly over it, but I see that it is full of personalities and insinuations of a nature which I have no inclination to follow, even if my official relative position would admit of it; as it does not, however, I am for the present neces-

sitated to content myself by making a few respectful remarks, and endeavour to point out, as far as my memory serves me, where the Honorable gentleman has fallen into error.

In the first place, he seems to doubt my having made a Private Report relative to Mr. Jarvis' Check-book, on the grounds that I, in one of my letters to

Appendix  
(M.M.M.M.)

13th April.

Lord Cathcart, state "that I omitted to do so before." I of course meant, that I had not publicly reported on them before; and it will be seen, on reference to my letter of the 18th November, 1846, that I beg of Lord Cathcart, to be allowed to have my "private report" fyled as a public one: and I am prepared to prove that Lord Cathcart stated, that he had seen my private report, but considered that it should be left to his own discretion, as to what he should do with it.

The Honorable gentleman says, that I have referred to Mr. Jarvis' Check-books having been mutilated. I have said they were mutilated, and I say so still, and am prepared to shew it.

The Honorable gentleman has also stated, that I had made charges against Mr. Jarvis, from his Private Bank Account. To this I would reply, that I have never seen but one Bank Account of Mr. Jarvis', and that one was his Official Bank Account with the Bank of Upper Canada, fyled by Mr. Jarvis as official, and all the Checks which I have seen on that Bank Account was signed by Mr. Jarvis as Chief Superintendent of Indian Affairs, and having had occasion to decypher the whole of that Account, I have no recollection of tracing one single private transaction in it. There is, however, one peculiarity in that Account deserving of notice, namely, that between the 15th November, 1837, and the 25th October, 1844, Ninety-nine Checks were drawn against it, payable to self, bearer, &c. &c., varying in amounts from £5 to £300, making a total of £6,515 2s. 1d. currency, and of which no explanation of any kind has been offered. This is somewhat remarkable, when it is considered that the unexplained balance of my Account of the 4th of February, 1846, is £6,375 6s. 11d. currency.

The Honorable gentleman refers to the remuneration I have received for my services, with reference to these Accounts. I can only say, that it appears to me, that it is a matter with which he has no concern,—certainly no more than I should have to question what Mr. Dickinson has done for the Fifty Pounds he received from Mr. Jarvis. I must, however, remark, that previous to my being paid, my services were duly examined by Judge, now Mr. Attorney General Badgley, and my charge declared to be fair and reasonable. Upon this I was paid, and I am not aware that the Imperial Government have made any complaint of my being overpaid. The Honorable gentleman seems throughout, no doubt unintentionally, to have put an erroneous construction on my correspondence—the particulars of which would take too long to go into,—but it is to me a great comfort, that my Statements of Accounts and Reports in this matter have given the highest satisfaction to those by whom I have been employed. The late Lord Metcalfe, Lord Cathcart, and Captain Higginson have eulogized them in the strongest terms, and my last Account still stands unrefuted.

On reflection, there is one point which I must still remark upon, which had almost escaped my memory; I refer to the Report of the Board of Audit, which I must confess I have great pleasure in entering upon—after its having been held up by Mr. Jarvis, and all his friends, as so perfect a refutation of my Account; and I think, ere I have done, that I will shew it to be anything but a refutation.

In the first place, the Commissioners state, that on the 3rd June, 1839, I charge Mr. Jarvis with £140 1s. 0½d. sterling, equal to £168 1s. 3d. currency,

and only gave him credit for £140 1s. 0½d. currency; and as they say, "they imagine the Government Accountant must have fallen into error." Instead of such being the case, I shall prove that the Commissioners of Audit have erred. The case is simply this:—

On the 3rd of June, 1839, as is found on reference to the Books of the Indian Department, a Pay-list was prepared for £140 1s. 0½d. Halifax currency, and on which Pay-list Mr. Jarvis obtained a Warrant for £140 1s. 0½d. sterling, and for which he received from the Bank of Upper Canada, £168 1s. 3d. Halifax currency, and he paid the parties on the Pay-list £140 1s. 0½d. Halifax currency, thus making £28 0s. 2d. currency, by the transaction.

In the month of April, 1840, (nine months afterwards,) application was made to Mr. Jarvis by Deputy Commissary General Knowles, to the effect that the Pay List should have been currency instead of sterling, and calling on him to refund the difference; and on the 10th of April Mr. Jarvis refunded the Commissariat £17 as the difference, instead of £28 0s. 2d.

I have accordingly, in my Account, charged Mr. Jarvis with £168 1s. 3d. currency, and given him credit for £140 1s. 0½d. currency; and also, the £17 in the very next line, which is all he is entitled to,—so that the Board of Audit is in error in stating that I have only given him credit for £140 1s. 0½d. currency; and Mr. Jarvis has still to account for £11 0s. 2d., on the transaction.

It is somewhat remarkable that the Board of Audit, in investigating the Manitoulin Account, should have been so forcibly struck with what they conceived an error in favor of Mr. Jarvis, of so large a sum as £28, and that they should have altogether overlooked the defalcation, in said Account, of £658 15s. of which they make no mention whatever.

The next items referred to, are the warrants for Wabatic, Metigwaub, and Yellowhead, drawn under Powers of Attorney, but Mr. Jarvis received the proceeds. These items I conceive I have satisfactorily explained already.

Then comes the case of John Cotterell, which involves the sum of £50 2s. 3d. currency, and which, I contend, there was no satisfactory proof that Cotterell ever got it, exhibited to me.

I credited Mr. Jarvis for £539 17s. 9d., which was all there was any proof of payment of, but as there appears to be a voucher in England for £590, Mr. Jarvis is entitled to receive credit for the difference, £50 2s. 3d.

The sum of £25 to Puntash, seems in the same position as the above sum, and Mr. Jarvis is entitled to credit for it also. Also, the sum of £150 pounds received by Mr. Jarvis on the 14th September, 1837, for the Mohawks, appears to have been repaid the Commissariat on the 16th September, as appears by a voucher in England, consequently Mr. Jarvis is entitled to credit for this sum.

Such is the result of the examination of this wonderful Report, concerning which such an outcry has been made. It causes Mr. Jarvis to be credited with £225 2s. 3d. currency, the vouchers for which were all in England, consequently it could scarcely

Appendix  
(M.M.M.M.)

13th April

Appendix  
(M.M.M.M.)  
13th April.

be expected that these sums could have been credited by me.

(Signed,) C. E. ANDERSON.

26th July, 1847.

MONTREAL, 6th September, 1847.

In addition to the preceding remarks, the undersigned having had an opportunity of attentively perusing and reflecting on the Honorable Mr. Cayley's letter of the 16th July, avails himself of the present opportunity to make some farther remarks thereon.

(Signed,) C. E. ANDERSON.

The Honorable gentleman says: "It is unnecessary to remark on the tone adopted by Mr. Anderson in his letter of the 11th November last, or on the insinuation conveyed in his letter of the 18th of the same month."—I can only say that I have now perused both of those communications, and that I really cannot comprehend what the Honorable gentleman refers to. They contain a plain and simple statement of fact, written, I conceive, in the most respectful manner; and I see nothing in either of them that I would now desire to retract.

The Honorable gentleman refers to the time I was occupied in investigating Mr. Jarvis' Accounts, and my remuneration for the same, in connexion with my appointment and salary as Second Book-keeper in the Inspector General's Office. What the one has to do with the other I am at a loss to understand; and I am not aware that the Honorable gentleman, as the Head of the Department in which I hold a subordinate appointment, has the prerogative of questioning or putting a value on any of my private transactions, so long as they are of an honorable character, and do not interfere with my official duties. And I am still more at a loss to understand why my services to the Imperial Government should be placed in juxtaposition with Mr. Dickenson's services in examining the Accounts of the Welland Canal, and for which he only received £20. All I can say is, that £20 was all that he demanded; and if his investigation of these Accounts was performed in the same manner as Mr. Jarvis' was examined by him, he was over-paid even at £20—and perhaps at no very distant period a re-investigation of these Accounts may prove such to be the fact.

As the Honorable gentleman has so particularized the monies I have received since my connexion with the Indian Accounts—even to my Office Salary—although it is somewhat personal, still I deem it not out of place to state the fortunate circumstances that have attended Mr. Dickenson since his connexion with these Accounts. He has had his Salary permanently increased from £220 to £275 per annum; he has received £50 for extra services in the Inspector General's Office; and he has received £50 from Mr. Jarvis. These facts I am personally aware of.

The Honorable gentleman states, in reference to my "Private Report:"—"This Private Report, my Lord, I have never seen; and I cannot withhold expressing my astonishment and doubt of the accuracy of the whole statement, as far as it implicates Mr. Higginson."

I regret exceedingly the Honorable gentleman used the language in the above quotation. I do not

think it would have been derogatory to his dignity or high position to have been more courteous. The fact is simply this, as stated in my evidence before the Committee of the House of Assembly:—

"Accompanying my official Report of the 4th February, 1846, I handed to Captain Higginson a Private Report, embracing matter relative to Mr. Jarvis' Check-books which I deemed Government were not desirous to have made a matter of public record, from the lenient feeling they seemed desirous should be exhibited to Mr. Jarvis. Captain Higginson expressed himself highly gratified that I had adopted this course; and some short time afterwards he sent for me, and stated that he and Mr. Cayley had been endeavouring to trace the charge made by me in my Private Report, but could not. At Captain Higginson's request I immediately went to the Indian Department, procured the Checks and Check-books, and clearly convinced Captain Higginson that my charge was correct." And I again here repeat, that I am prepared to prove, by the Records of the Indian Office, that Lord Cathcart also saw my Private Report.

The Honorable gentleman states that he is at a loss to understand my extreme reluctance to surrender the Check-books and Vouchers out of the possession of Government, and that no "casual reader could infer that the Accountant into whose possession the Documents were to go, and whom the Government had permitted Mr. Jarvis to select, was an Officer in the same Department as Mr. Anderson, of older standing and superior grade."

My reason for protesting against the Check-books, Checks, and Vouchers going out of the possession of Government, was simply to prevent them being separated as they are now, especially the Checks and Check-books. I had made a grave charge against Mr. Jarvis relative to them, and the only proof I had of that charge was handed over to Mr. Jarvis' Accountant. And where are they now? One portion of them, in original, at the House of Assembly, and the rest I know not where. These Vouchers had all been credited Mr. Jarvis in my Account. They were not Mr. Jarvis' private property, but official Documents; and when the Honorable gentleman himself put me in possession of them in the first instance, he employed Mr. Dickenson to withdraw all the duplicate and triplicate Vouchers, and to make a Schedule of every one of them, giving the date, nature, and amount: so that the want of these Vouchers themselves could not have retarded Mr. Jarvis' explanations.

If a casual reader will only peruse my communication to Captain Higginson of the 4th May, 1846, and also of the 18th May, with the accompanying letters from Messrs. Steers and Henderson, he will not be surprised at my objecting to these Vouchers, &c., referred to, being put into the possession of the "Officer of older standing and superior grade."

But it should not here be lost sight of, that Mr. Dickenson has had these Vouchers since the end of November, 1846, now nine months—still nothing is produced. I most positively assure the Honorable gentleman that he did apply to me personally for these Vouchers. He made the application in the passage of the Inspector General's Office; and I informed him that I had handed them all over, with my Accounts, to the Indian Department.

The Honorable gentleman lays great weight upon my having stated, in my letter of the 4th May, 1846,

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April

that "if I was acting partially for Mr. Jarvis, that I could reduce the balance at his debit;" but if the Honorable gentleman had taken the trouble to peruse the following paragraph of that letter, he would have found the quotation satisfactorily explained. The Honorable gentleman has not treated me generously in extracting isolated paragraphs from my letters, which if the whole letter was given would not bear the same construction.

The Honorable gentleman adverts to a letter containing "rather unusual instructions from Mr. Vardon to Mr. Anderson, viz., 'that Mr. Dickenson, 'a senior Officer, was to report the result of his 'examination to me, his junior Officer.'" I presume that Mr. Vardon never has issued any instructions that were not by command of the Governor General. 'Tis true Mr. Dickenson is my senior in the Inspector General's Office by upwards of two years: but I have yet to learn what reference that has to Mr. Jarvis' Accounts. As regards them, I am of opinion I am the senior Officer. If I am to infer capability from seniority, it would be a matter of rather too personal a nature for me to enter into, and I prefer leaving that point to be tested on its own merits.

With regard to the anonymous correspondence referred to, I have already disavowed it to Lord Cathcart, and I still do so. At the same time, I do think Mr. Jarvis most unwarrantably introduced my name into the public prints of the Province: and I do not think that I was fairly dealt with by Lord Cathcart, in refusing me permission to reply to Mr. Jarvis. I, however, as in duty bound by my position, succumbed to His Lordship's orders.

The Honorable gentleman refers to a portion of my letter of the 18th November, 1846, where I draw the attention of His Excellency to the official position of the gentleman "opposed to me, as representing Mr. Jarvis and the course adopted towards me "by these gentlemen," which called for my letter of 4th May, 1846. I have already referred to this letter, the subject of which is of a most unpleasant nature; and as the letter speaks for itself, I shall make no further remark on the subject.

The Honorable gentleman states: "I am aware of "but two occasions in which I was constrained to "decline assisting Mr. Anderson in his wishes. The "one was an application for an increase of Salary, "which I placed before Council without comment; "the other for a Mining License on behalf of a relative or connexion."

The Honorable gentleman is mistaken. The application for the Mining License was for my father-in-law, Colonel Elliot, of Sandwich, who wrote me down requesting me to apply for him. I did so through Mr. Cayley; and the Honorable gentleman wrote me a most kind and polite note, expressing his regret that it could not then be procured, but stating if the matter was re-opened, that he would see that Colonel Elliott was not forgotten. I interfered no farther in the matter, but sometime afterwards Colonel Elliott got his License, and I was certainly under the impression that the Honorable gentleman was instrumental in procuring it for him;—and, although I had no personal interest in the matter, still I deemed I was under an obligation to the Honorable gentleman for his assistance. But it appears I have been mistaken.

It is true I have on more than one occasion unsuccessfully applied, through the Honorable gentle-

man, as the head of my Department, (my only course,) for an increase of Salary; and I believe Colonel Prince very kindly applied to the Honorable gentleman on my behalf, at the period when Mr. Dickinson's Salary was increased £50 per annum: but what that has to do with Mr. Jarvis' Accounts I am at a loss to understand. Surely the Honorable gentleman does not mean to insinuate that I have been influenced in my conduct towards Mr. Jarvis because my Salary has not been increased: if so, I can assure the Honorable gentleman he is labouring under a mistake. I most indignantly disavow that I have been actuated by any such feeling; but I have endeavoured throughout to discharge my duty with credit to myself, and honorably towards Mr. Jarvis.

The Honorable gentleman raises a question, which I have heard from more than one of Mr. Jarvis' friends before, that no creditor nor claimant appears against Mr. Jarvis. To this I would simply reply, that the Indians, through their head, the Governor General, are creditors and claimants sufficient to warrant due investigation.

The Honorable gentleman also refers to Mr. Dickinson's Memorandum of the 1st July, and the Statements from the Crown Lands and Receiver General's Departments as clearing up nearly the whole of the unexplained balance. My letter to the Civil Secretary of this date, (6th September,) I am of opinion, completely sets this matter at rest.

I have now to remark, in conclusion, on Mr. Grant Powell's letter to Mr. Jarvis, of 7th January, 1847, wherein he states that I had told him, that if I had been Mr. Jarvis' Accountant instead of that of the Government, that I could have brought the Account square.

The above, without a qualification, is rather a serious charge. Mr. Powell's memory is, however, bad. What I stated was as follows:—In the course of a private conversation I had with Mr. Powell relative to Mr. Jarvis' Accounts, knowing Mr. Powell to be a relation of Mr. Jarvis' I said, "That had I "in the first instance been employed to act for Mr. "Jarvis, partially, that, from my knowledge of the "Accounts, and the loose manner in which they had "been kept, that I believed I could have prepared "an Account that would have appeared favorable to "Mr. Jarvis, and which no one could have refuted "unless they possessed the same knowledge of the "Accounts that I did."

I never gave Mr. Powell to understand that I would have so acted for Mr. Jarvis, which I most decidedly would not have done; and I was fully under the impression at the time, that Mr. Powell must have seen that such an Account would not have been an honest one. It was a casual, though on reflection I must admit an unguarded remark; and I had not the slightest idea it would have been repeated and twisted in the manner it has been.

In order to shew the simple nature of my Account, I annex hereunto a Recapitulation of the same, marked F., which will at once shew how far it is capable of explanation.

(Signed,) C. E. ANDERSON.

Montreal, 6th September, 1847.

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

F.

RECAPITULATION of ACCOUNT rendered by C. E. ANDERSON, 4th February, 1846, of the Affairs of S. P. JARVIS, Esquire, late Chief Superintendent of Indian Affairs.

HEADS OF ACCOUNT.	Monies Received by Mr. Jarvis.			Monies Expended by Mr. Jarvis.			Balances Due by Mr. Jarvis.			Due to Mr. Jarvis.			REMARKS.
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	
Interest .....	1709	5	10				1709	5	10				This amount was received by Mr. Jarvis as Interest accrued on Indian Debentures, and it is not shewn what he has done with one farthing of it. This is stoppages from the Laborers at Manitoulin, for goods ex the Indian stores. Balance of monies paid Mr. Jarvis by this Tribe, unaccounted for. This consists of two stated sums, paid Mr. Jarvis for investment, viz.: £622 16s. 3d. September, 1841, and £382 15s. March, 1842. Warrants A. 111 and 112,—the monies for which Mr. Jarvis received, and has not accounted for. The balance of a sum paid Mr. Jarvis in October, 1838,—still unaccounted for. Warrant B. 55, and part of B. 56, &c. &c. Warrants 189, A. 49, B. 58, &c. &c. Money paid Mr. Jarvis by Commissioner of Crown Lands, 21st November, 1837. Various sums clearly pointed out in my Account. £565 1s. 2d. of this amount I have credited Mr. Jarvis, without vouchers of any kind. Balance in favor of Mr. Jarvis.—See the Account.
Manitoulin.....	8091	4	4½	7492	9	4½	658	15	0				
Oneidas.....	3755	0	0	3746	9	10	8	10	2				
Six Nations.....	8153	15	0	1948	1	9	1205	13	3				
Saugeens.....	2560	17	10	1760	17	10	890	0	0				
Wyandotas.....	1755	0	1	1503	5	1	251	15	0				
Sundry Tribes.....	318	16	11	318	16	11							
Chippewas of St. Clair.....	1403	2	8	1403	2	8							
do the Thames.....	75	0	0	75	0	0							
do Lakes Huron and Simcoe.....	3696	14	3	3000	2	0	696	12	3				
Moravians of the Thames.....	293	6	10	293	6	10							
Missisaguas of the Credit.....	523	15	5	523	15	5							
do Rice and Mud Lakes.....	2098	17	7	1548	17	7	550	0	0				
do Alnwick.....	1313	10	0	1188	10	0	125	0	0				
Mohawks of the Bay of Quinte.....	1991	5	8	1589	15	11	391	9	9				
Travelling expenses.....	924	2	5	924	2	5							
Sundries.....	10521	16	7	10543	10	11				21	14	4	
Balance at Mr. Jarvis' debit.....	£44175	11	5½	37800	4	6½	6897	1	8	21	14	4	
	£44175	11	5½	6875	6	11	21	14	4				
				44175	11	5½	6875	6	11				

(Signed,) C. E. ANDERSON.

MONTREAL, 6th September, 1847.



Appendix

(M.M.M.M.)

13th April.

(Copy.)

No. 20.

MONTREAL, 9th September, 1847.

SIR,

I beg to inform you, that I have declined to act further as Accountant for Mr. Jarvis, for the reasons stated in my letter to that gentleman, a copy of which I beg leave to enclose herewith.

I have, &amp;c.,

(Signed,) WILLIAM DICKENSON.

Major CAMPBELL,

Civil Secretary.

MONTREAL, 9th September, 1847.

SIR,

With feelings of respect, and sincerely desirous, if it were possible, that your Account with the Government may be brought to a fair and equitable adjustment, I beg to decline acting further as your Accountant in the matter in question.

In justification of my conduct in coming to that conclusion, I would state, that I have at various times and on various occasions been subject to the grossest abuse and threats, by the party acting as Government Accountant, to persons in the public streets, as also whilst performing my office duties; and my statements have been represented, in writing, to the Committee of the House of Assembly, in your case, to be wilfully false.

Feeling as I do, that I am not protected against the past, or a continuation of the like conduct on the part of that gentleman, I do not consider that any recompense would compensate me for the insults to which I have been, and am likely to be subjected, while continuing to act on your behalf.

I am, &amp;c.,

(Signed,) WILLIAM DICKENSON.

S. P. JARVIS, Esquire,

Toronto.

No. 21.

(Copy.)

1st October, 1847.

SIR,

I have it in command from the Governor General to inform you, that Mr. Dickenson has enclosed to me a letter purporting to be a copy of one addressed to you, in which he delines to act any longer as your Accountant in the matter of Indian Accounts referred to him by you.

Adverting to the length of time, now upwards of a year, that your Accounts have been in Mr. Dickenson's hands, I am directed to call your attention to this fact, and to state, that it is essentially necessary that you take steps to bring to an immediate close the investigation into these Accounts undertaken by this gentleman on your behalf, or to pay, without further delay, into the Receiver General's hands the balance exhibited against you by the Accountant appointed on behalf of the Indian Department.

I have, &amp;c.,

(Signed,) T. E. CAMPBELL,

Major, Civil Secretary.

S. P. JARVIS, Esquire.

No. 22.

(Copy.)

TORONTO, 25th October, 1847.

SIR,

Upon receiving Mr. Anderson's exposition, upon the part of the Indian Department, of my Account

as Chief Superintendent, I had prepared a protest against the manner in which the account was taken. I had reason, however, to think that the investigation of that Account by an Accountant, acting on my behalf, would lead to a very different result from that at which Mr. Anderson had arrived, and that it could be made to appear that the sources from which Mr. Anderson had prepared the Account would also have furnished sufficient evidence to discharge me from most, if not all the items with which Mr. Anderson thought fit to charge me. I accordingly employed Mr. Dickenson to act as Accountant on my behalf, to investigate Mr. Anderson's exposition, and the sources from which that exposition was taken. I regret that, for the reasons detailed in Mr. Dickenson's letter referred to in your favor of the 1st instant, he has felt himself compelled to decline acting any further upon my behalf. I am, therefore, reduced to the necessity of entering my protest against the manner in which the Account has been taken against me; and I trust I shall be able to give sufficient reason to justify me in this protest.

For the information of His Excellency the Governor General, I think it necessary to premise by stating, that I have throughout this investigation contended as I now do, that the Indian Department has never been, and, under its former constitution, never could be regarded as an accounting party in the manner in which it appears to be by the Accountant, Mr. Anderson; and that in order to arrive at the truth, a very different principle than that upon which he has proceeded must be adopted.

The Accounts of the Indian Funds have always been kept by the Commissariat Department, or by the Receiver General or Commissioner of Crown Lands. The former for the acquittal of all warrants—the Receiver General for the accounting for all monies received by him in his capacity of a Trustee of the Six Nations—and the Commissioner of Crown Lands as the receiver and accountant of all monies paid in respect of sales made of Indian Lands by the Crown.

With respect to the Commissariat, no monies ever are paid by that Department, except upon warrants and the acquittal of the party entitled to receive the amount, made out in duplicate, and signed by him in person, or by some person acting as his Attorney under a duly attested and authenticated Power of Attorney, for the special purpose. With respect to the Receiver General's and Commissioner of Crown Lands Departments, no monies have ever been paid over to me as Chief Superintendent, except under an Order in Council, or a Requisition of the Governor, and such orders and requisitions respectively, have always, to the best of my recollection, specified the reason and the purpose for which such sum was paid over to me; and such payments never have been made except by placing the amount to my credit, as Chief Superintendent, in the Bank of Upper Canada, or upon a receipt which will shew the object and purpose of the payment. Under these circumstances, it has always been impossible for me to draw upon any Indian Fund except such as have been placed in my hands as the Agent for the Government and the Indians, or persons who have rendered services to them chargeable upon their funds.

For the purpose, therefore, of making me chargeable for a misapplication of Indian Funds, or of making me in any manner accountable, it is obviously necessary to shew that money has been placed in my hands, out of the Indian Funds, to be applied to a specific purpose, which I have neglected to do. In so far as Warrants are concerned, the Indian De-

Appendix

(M.M.M.M.)

13th April.

Appendix  
(M.M.M.M.)  
13th April.

partment being a Department of the Treasury, that Department has provided all the necessary Checks, to prevent the issuing of money except for an approved purpose, and this purpose is either specified in the Warrant or in some document attached to it, and transmitted to the Treasury: neither will the money be paid by the Commissariat except upon the acquittal of the party entitled to receive the amount, or his duly appointed Attorney. If, for the purpose of accommodating parties at a distance engaged in the service of the Indians, or the Indians themselves, I have permitted myself to be nominated the Attorney to acquit the Warrant and to receive the money, so far as the Government is concerned it is discharged; and my receipt becomes a receipt solely to the use and for the benefit of the party in whose favour the Warrant has been acquitted or the money received. I do not make this observation with the view of divesting myself of accountability to the Government, in the event of any accusation of non-payment or misapplication being made by the party entitled to receive the amount. The tenor and substance of all my communications with the Commissioners and the Government will show this; but I make use of it simply for the purpose of urging that in the absence of any accusation of non-payment or misapplication being made against me. I think it neither just or proper that although the Indian Office has never been furnished with an Accountant, or with the means of keeping the complicated Accounts of the Department, and although the purpose for which every shilling has been placed in my hands must be sought for in other Offices than the Indian Department, I, as Chief Superintendent, should be charged or sought to be charged with monies received by me for the purpose of payment over in the manner I have stated, when not a single case of default has ever been suggested by any of the many parties who, during my eight years tenure of office, made me the medium for the receipt of their claims upon the Government. I have said not a single case;—for the only one that has ever been pretended to be made was by the Chief Pautash; and that not made by him, but for him, by others, who took advantage of his ignorance and their position to induce him to make a charge, the nature of which he never understood, as will appear by a reference to his own Affidavit filed in your Department.

The accountability sought to be established against me is based upon my account with the Bank of Upper Canada; and such accountability has been, originally and throughout this investigation, endeavoured to be sustained upon the principle of debiting me with every item in that Account appearing to be placed to my credit as Chief Superintendent, without crediting me with or accepting my explanation of the Checks drawn by me in my capacity of Chief Superintendent upon the Bank, unless the deposits in my favour at the Bank, and the Checks drawn in return to those deposits appeared upon the face of the Bank Account to have such a connection by equality of amounts or similarity of dates, as to show in itself a manifest acquittance; or unless I should produce sub-vouchers, independently of the Checks. In some cases, if the Checks be several and the deposit single, it has been sought to make me chargeable with the amount which the Commissioners and Accountant conceived to be comprised in the deposits, and not comprised in Checks of the same or nearly the same dates; nay, it has even been sought to charge me with every deposit appearing upon my Bank Account to have been made to my credit as Chief Superintendent, as well as with every Warrant appearing by the Warrant Book to have been acquitted by me; although those very Warrants are for the greater part the subjects of the deposit, and

although it is known that I could have nothing to deposit in the Bank upon account of Indian Affairs unless placed in my hands by Warrants, Orders in Council, or Checks.

In various communications which I have had the honor to submit to the Government and the Commissioners appointed to investigate Indian Affairs, (and to which communications I beg respectfully to refer His Excellency,) I have endeavoured to explain the nature of this Bank Account and the manner in which it was opened, and the authority by which this deviation from the manner in which the Department was conducted previously to my entering the Office, was sanctioned—the benefits which resulted from it, and the urgent necessity for its being opened which was imposed by the inaptitude of the machinery for the management of Indian Affairs to the growing wants and necessities of the Indians. The opening this Account was imposed upon me, from the circumstance of there never having been made any provision for keeping Accounts in the Indian Office, the necessity for which provision I repeatedly, but ineffectually urged upon the Government.

I have already explained to the Commissioners upon Indian Affairs that while the opening of this Bank Account might have the effect of prejudicing myself, inasmuch as I alone became responsible to the Bank for the amounts which I might draw, and which I did repeatedly draw in advance: and I assumed the responsibility of looking to the parties who might be entitled to receive monies from the Indian Funds for my own indemnity; yet the opening of that Account never could give me the command of Indian Funds; nor can any thing merely appearing upon the face of it make me accountable to the Government. If any sums which appear to have been deposited by me to my own credit in that Account are charged against me, I have, in all justice and propriety a right to demand that all Checks drawn by me be allowed to me against the deposits, without being called upon to produce sub-vouchers or other evidence explanatory of the matters in respect of which the Checks were given.

I respectfully submit, therefore, for His Excellency's consideration, that no items can be charged against me simply because they appear on my Bank Account. The only manner in which I can be held chargeable is by shewing, by the Warrants on the Commissariat in my favour and the Vouchers annexed to those Warrants, that money has been placed in my hands for a specific purpose, which has not been so applied; or, by shewing that monies have been placed in my hands under Orders in Council, or the requisitions of the Governor, to be applied to a specific purpose, (which purpose will appear by the Orders in Council and Requisitions, or the entries made in the Books of the Department on parties paying over the money to me,) and that I have neglected to make the proper application.

Where monies have been placed in my hands for the payment of Contracts entered into by me upon behalf of the Indians, it would be unjust, considering the deficient means furnished the Department for keeping Accounts and making entries of the application, to call upon me to produce sub-Vouchers, that the Contractors to whom I became personally responsible have received from me the amount of their Contract, in the absence of all accusation upon their part,—of any default upon mine. In like manner where Warrants have been acquitted by me, acting as Attorney for any Indian Chief, more especially if of old standing; I do not, for the same reason of the defective machinery furnished to the Department, think it just that I should be called upon to produce

Appendix  
(M.M.M.M.)  
13th April.

Appendix  
(M.M.M.M.)  
13th April.

the receipt of the Indian entitled, in the absence of accusation upon his part, of default upon mine, in paying over to him the amount. I am undoubtedly chargeable to the extent of shewing that all monies placed in my hands for investment (and that monies have been so placed in my hands must be proved by papers or entries in the Department paying the same to me) have been so applied: and I claim the right of doing this in the aggregate, not in separate Accounts of each particular sum placed in my hands, but by shewing general assets equal to the whole amount deposited in my hands for investment. It is impossible for me, by reason of the defective provision for conducting the Department furnished to me, to attempt to explain the source from which, and the purpose for which every particular sum has been placed in my hands. Before being charged with any sum, I claim the right of having these facts established by reference to the Offices where alone the evidence can be found; and then I shall have to shew that I have transferred to the credit of the Indian Estate property equivalent to the amounts deposited in my hands for investment. This is the only principle upon which, as I submit, I can be made chargeable; and the absence of all accusation proceeding from any person entitled to receive monies placed in my hands, and the fact that every pretence for accusation against me arises from a Bank Account opened by me on my own private credit at my own responsibility to the Bank, in a manner, in fact, to shelter the Government from, instead of making it liable to the claims of any individual whatever, makes it not only just but necessary, that in order to charge me, other evidence must be adduced than that Bank Account. It is not accountability that I resist, but the manner in which that accountability is sought to be established. I have repeatedly explained to the Commissioners upon Indian Affairs that I claimed the right of being judged by the evidence which the Vouchers upon which monies have been placed in my hands furnish of the intended application; and not by a Bank Account, the opening of which, although sanctioned by the Government in practice, had only the effect of making me alone personally responsible to the Bank. When I am charged with a misapplication of Indian Funds, I claim the right of being informed for what purpose every particular sum with respect to which explanation is demanded has been placed in my hands, and of discharging myself by shewing the purpose fulfilled, or assets to the credit of the Indian Estate equal to that amount: and I also claim the right, that I shall not be held accountable merely because I cannot by proper books, for the keeping which I have never been furnished with the means, shew the manner in which, and the persons to whom every item has been disbursed. It is not I who am to be blamed for this defect, but the ineffective machinery supplied to me for conducting the Department.

If it shall be seriously charged that I have misapplied Indian Funds, I do sincerely hope that some means may be devised by the Government for investigating the charge with justice and impartiality. The injustice of the manner in which Mr. Anderson has framed the Account must be apparent, when I am charged with large amounts for which warrants have issued for the payment of contracts entered into by me, under seal, with parties who have erected houses for the use of the Tribes, merely because I may not have kept with sufficient care the receipt of the contractors, with whom I had entered into a personal obligation, binding upon my own property for the due payment of the amount of their contracts. To those who are cognizant of the means furnished for conducting the affairs of the Department, and the manner in which they were conducted prior to my

appointment, the injustice of Mr. Anderson's method of taking the Account must be equally apparent, when by it, I am sought to be charged for large sums extending over a period of eight years, received by me, merely as the Attorney of Indian Chiefs and others to whom those sums were payable, and in respect of which no demand has ever been made upon the Government, and no complaint has been made against me by the parties entitled to receive those sums, and for which, if not paid, I am responsible in the Courts of Law to those parties, to the whole extent of my property. For all sums which should now form a portion of the Indian Funds, I admit my responsibility, if it shall appear that I have not transferred to the Department in money, securities for money, and in lands purchased for the Indians, assets sufficient to cover all such sums. If the Account be taken upon this principle, I have little doubt that the injustice of the accusations of my being a public defaulter, which have been made against me, will be apparent; and that it will be found that the inefficient machinery supplied me for the conducting the Department, and the Bank Account which I opened for the purpose of improving this machinery, have resulted in my having made disbursements on account of the Indian Estate out of my own private funds, which I have it not in my power to bring forward as a claim upon that estate. In full confidence that neither the Imperial or Provincial Government will suffer me to be made a sacrifice to the inefficiency of the Department over which I was placed, or will use to my prejudice a Bank Account, the opening of which, while it imposed upon me personal responsibility to the Bank, could not affect injuriously the Indian Estate, but was in fact highly serviceable in enabling me to conduct the affairs of the Department in any degree of efficiency; I abide His Excellency's determination upon the matters which I have herein thought it necessary to bring under the consideration of His Excellency.

I have, &c.,  
(Signed,) SAMUEL P. JARVIS.  
Major CAMPBELL,  
Civil Secretary, Montreal.

No. 23.

(Copy.)

TORONTO, 18th February, 1848.

Sir,

Upon the 25th of October last I had the honor of addressing to you a letter, upon the subject of the demand made by the Government against me, as Chief Superintendent of Indian Affairs, to be laid before His Excellency the Governor General. In that letter I endeavoured to explain the nature of the accountability to which I conceived myself amenable, and I gave my reasons for suggesting that any Account taken against me should be taken on a very different basis from that adopted by the Government Accountant; and I took the liberty also of suggesting to His Excellency the manner in which alone it appeared to me the Account could properly be taken.

Not having yet received any reply conveying to me either His Excellency's approval or disapproval of the sentiments expressed by me, I have to request that you will call the attention of His Excellency to the subject, as I am desirous of knowing what view His Excellency's Government takes of the suggestions made by me, and of the manner in which my liability to the amount claimed is sought to be established by the Accounts from time to time presented to the Government by its Accountant, Mr. Anderson.

I have, &c.,  
(Signed,) SAMUEL P. JARVIS.  
Major CAMPBELL,  
&c. &c. &c.

Appendix  
(M.M.M.M.)  
13th April.

# R E P O R T .

The COMMITTEE to which was referred the Petition of Joseph Aumond and others, of the County of Ottawa, and other references, beg leave to present the following Report:—

COMMITTEE ROOM,  
13th April, 1849.

Your Committee have examined the Petition of Joseph Aumond and others, complaining of obstructions to the lumber trade, caused by the two bridges recently constructed over the *Rivière des Prairies*, and have devoted much time and attention to the matters therein set forth, and complained of; and in order to arrive at a just and sound conclusion, have also taken the testimony of persons not in the interest of the Petitioners, but who would be *prima facie* benefitted by the continuance of the alleged grievances, and also the testimony of the proprietors of the two bridges in question.

Your Committee cannot help expressing their surprise that Charters should have been granted for the construction of two bridges over this river, within a mile of each other, and at such a point in the river as to greatly impede the navigation, and prove exceedingly detrimental to the lumber trade of the Ottawa, and they are at a loss to conceive how any Act should have been permitted to pass, containing provisions so injurious to the trade, without meeting with the dissent of those who were at that time the Representatives of Ottawa interests in the Legislature.

It is matter of surprise to Your Committee, that whilst the Government were expending large sums of money on the Upper Ottawa, to facilitate the descent of timber by its waters, and whilst the public interest seemed to urge upon the Legislature the necessity of rendering navigable all rivers capable of improvement, by removing natural obstructions therefrom, it should have been thought advisable to grant Charters, by which new obstructions were allowed to be placed in a river already difficult to navigate. The granting of the Charters for erecting the bridges in question would in itself, in the opinion of Your Committee, have been a sufficient injury to the lumber interests; but the injury is materially increased by the insertion of a clause in each of the Acts (the 4th Section) by which the owners of rafts are required to pass but one crib at a time, through the bridges, and to give two hours notice of the passing of each crib: instead of a provision of this kind, it appears to Your Committee, that it would have been more consistent with justice to have required the proprie-

tors of the bridges, to make good any damage that might be sustained by a raft, in passing through them. The injury caused by the erection of these bridges, alone, may be estimated at at least five per cent on the whole value of the Ottawa Timber Trade, while the introduction into the Charters of the provision above mentioned, increases the damage, as will be seen by the accompanying evidence, to fifteen per cent. Taking therefrom the annual value of the Ottawa lumber trade, at the average of £750,000, the increased expense caused by these bridges, in the hire of extra hands, purchase of additional binding material, time lost in breaking up rafts, and in re-binding, and other expenses, amounts to £112,500, or 15 per cent on the whole. Your Committee would submit to Your Honourable House, whether such a serious injury should be permitted to be inflicted on the people of the Ottawa, and its trade, for the private benefit of the owners of these two rival bridges, by the continuance of their Charters.

Your Committee find that the channel of the river has been much contracted by the piers of both bridges, even when placed at the distance required by the Charters, respectively; and in the bridge constructed by Delisle and Lemoine, one of the piers has been placed in the centre of the channel, contrary to the provisions of the Statute; the elevation of the bridges also, above high water, is not sufficient to permit the passage of timber, without injury, or risk of life.

Your Committee, after a due consideration of the question, would respectfully recommend that an Act be passed repealing the 4th clause of each of the above mentioned Acts, (requiring the rafts to be passed through the bridges in detached cribs,) and also providing that the proprietors shall be required, on pain of forfeiture of their respective charters, to remove forthwith all piers that may in any way obstruct the free descent of timber, and to elevate the said bridges at least 10 feet above high water mark (in the channel) and construct chain booms to guide rafts through between the piers, which is necessary to ensure a safe passage, in consequence of the rapidity of the current at the points where the bridges are situate.

G. BYRON LYON,  
Chairman.

## MINUTES OF EVIDENCE.

## COMMITTEE ROOM,

17th February, 1849.

*Joseph Montferant*, Pilot, called in, and examined.

1. How long have you acted as Pilot in passing Timber on the Rivière des Prairies?—24 years, after an apprenticeship of six years.

2. Have you heard read to you the (4th) clause in the Act 10 and 11 Vic. c. 97, obliging parties to give two hours notice before passing timber through the bridge built over the Rivière des Prairies under that Act, and allowing but one crib to be passed at a time; and which provision is also contained in the Act 10 and 11 Vic. c. 98?—Yes.

3. Is it your opinion that the law can be complied with in that respect?—I think it impossible to comply with it when the current is strong and the water high, unless the Statute can control both those elements.

4. How many cribs have you been in the habit of running there before the bridges authorized by the two Statutes above referred to were built?—From 16 to 24 cribs at a time.

5. How many men are generally required to run 16 cribs of squared timber?—From 20 to 24.

6. How many men would be required to run one crib?—Three, a pilot and two other men.

7. Then it is your opinion that there would be a difference of 24 men in running 24 cribs, under the provisions of the present law?—Yes, it now takes 48 men to do what 20 to 24 formerly did.

8. Is it necessary, then, to have 16 to 24 pilots to do what one could do formerly?—It is, a pilot being now required for each crib, and their wages are double that of ordinary men.

9. What is the distance from where you start now with a crib to where you land?—9 miles.

10. How many trips do you usually make in a day?—A pilot makes but two trips in a day.

11. Is not the travel of the men, in returning to take down the cribs, much increased under the present law?—It is just doubled.

12. Are not the owners of rafts subject to great inconvenience from the accumulation of timber at the head of the Rapids, consequent on the delay in passing the bridges, and the increased demand for men's labour since the building of the same, thus subjecting the manufacturer to the payment of an exorbitant amount of wages?—Yes; previous to the building of the bridges, an ordinary raft of 60,000 feet could pass in two days, with 24 men, wind and weather permitting; whereas now, to fulfil the requirements of the law, it would take the same raft ten or twelve days. I consider that the additional expense on such a raft would be from £60 to £100, varying, of course, according to the weather; the men having to be paid the same whether they are working or not. The great accumulation of rafts at the head of the Rapids, and the confusion which takes place in consequence, causes serious inconvenience, as one crib may shove another out of the channel; and after they get through the arches of the bridges the same inconvenience is felt, on account of the great accumulation of rafts at the foot of the Rapids, before they can be secured.

22d February.

*Joseph Montferant* again called in, and examined.

13. About what time does the low water commence in the Rivière des Prairies? Generally in the middle of July; but it frequently happens that the water continues sufficiently high to admit 16 cribs passing at a time through the whole season, which was the case last year.

14. Does timber get earlier to market now, than before the slides were constructed on the Ottawa?—Formerly, rafts taken from Fort à Cologne, on the Ottawa, did not reach Quebec before the fall; now a raft gets to market

from that place in June or July, about two months difference.

15. Are you interested in the Timber Trade in any way?—No, I merely act as pilot, and have acted in that capacity for the last 24 years.

16. Is there much expense incurred in putting a raft together at the foot of the Rapids, when broken in cribs?—Yes, there is a great loss of time, besides the necessity of having a great quantity of grub and small withes, or *des harts*; the grub withes cost 15s. per 100, and the small, 7s. 6d. per 100; it would take at least double in running single cribs, under the present system, to what it did before. I should say an additional expense of at least £5 for each raft; at some periods the withes are not to be obtained at any price.

24th February, 1849.

*Mr. John Waddel*, of Hawkesbury, Pilot, called in and examined.

17. How long have you acted as pilot in passing timber and deals on the Rivière des Prairies?—I have been in the habit of conducting and superintending the running of rafts there, during a space of 25 or 30 years.

18. Have you read the Acts authorizing the construction of two bridges over that river?—Yes.

19. Is it your opinion that the law can be complied with, in respect of obliging parties to give two hours notice, before passing through said bridges?—In certain weather and pitch of water it would be impossible.

20. What difference in respect of the expense of running do you conceive the construction of these bridges is calculated to make?—I conceive, from the long experience I have had, that under the most favourable circumstances, the expense would be doubled by these obstructions; but if the requirements already alluded to have to be fulfilled, the difference would be incalculable.

21. What do you ground your calculations on?—The extra number of men and pilots required, to say nothing of the risk and danger incurred.

22. What is the danger to which you allude?—From the proximity of the upper bridge to the Big Sault Rapid, and the swiftness of the current, rafts have not time to recover from any mishap or disaster which frequently occurs in running there, and consequently, would not be able to clear the piers or abutments of the said bridge.

23. Which Bridge do you consider the most injurious?—I consider the Upper Bridge, now in course of construction, the most dangerous of the two, though I also conceive the northerly pier of the Lower Bridge, a very great detriment also, owing to its position, inasmuch as it is constructed in the centre of the North Channel, which is generally used at all seasons, except in extreme low water, and therefore prevents the possibility of running the usual quantity at the same time.

24. What remedy, if any, do you think would obviate these obstructions?—With regard to the Upper Bridge, I do not see that anything can be done unless to remove it altogether, or the piers that have been already sunk, in order to secure the same safety and facility to the Trade, which it previously had, but in respect of the lower one, I think if the pier I have spoken of were removed, and the abutments on either side extended instead, which I think would be equally effectual, as the channel which passes between an island and the main land is but narrow—in this way I think the obstruction would be removed, with the exception of the provision in these Acts, requiring two hours notice, and that of being obliged to run only one crib at a time.

25. Have you any further remarks to offer on the subject?—I may add besides the items already mentioned, the expense would be much increased by the taking apart, and putting together again the cribs—as also the delay and material necessary for that purpose—the increased rate of wages consequent on the demand for more men—as well as many other incidental expenses.

Appendix  
(N.N.N.N.)

13th April

The accumulation of rafts, too, both above and below the bridges, owing to the delay, would create serious inconvenience, and often, perhaps, lead to worse consequences.

26th February, 1849.

Mr. Stephen Tucker, of Petite Nation, called in, and examined.

26. Are you engaged in the Timber Trade?—Yes, I have been engaged in it 24 years, during which period I have been yearly in the habit of taking timber to Quebec on my own account.

27. Have you seen the two bridges now in course of construction over the Rivière des Prairies?—Yes.

28. Do you think it possible for lumberers to comply with the provisions of the Acts under which those bridges are being constructed?—I do not.

29. Did you pass any timber there last year?—Yes; 4 rafts.

30. Were the bridges then complete?—No, the piers were not all down, and I understood that another would be placed in the centre of the channel, in order to complete the bridge.

31. Did you find much difficulty in passing your rafts, in consequence of the piers which were already there?—I did, with a little wind it was very unsafe to run them, and before that time it would take a very strong wind to prevent running the rapids.

32. What additional expense will be entailed in the running of a raft of ordinary size by the construction of those bridges?—The cost of running the rapids with a raft will be trebled, besides the risk of breaking it up.

Mr. Peter Aylen, of Alymer, (C. E.) called in, and examined:

33. Are you engaged in the Lumber Trade?—Yes; I have been engaged in it 33 years, during which I have been constantly in the habit of taking timber to Quebec.

34. Have you generally passed your rafts through the Rivière des Prairies?—Yes; always.

35. How many cribs were you in the habit of passing in a band at one time?—16 cribs in a band, in high water.

36. Have you read the Acts authorising the erection of two bridges over the Rivière des Prairies?—Yes.

37. Do you think the provision in those Acts, requiring two hours notice before passing rafts under the bridges, can be complied with?—Not without great loss and inconvenience to the trade.

38. What is your opinion as to the increased expense entailed on the passing of a raft by the erection of those bridges?—The extra expense of pilots' and men's wages, and the delay caused by passing one crib at a time would increase the cost of running the Rapids about 50 per cent.

39. Is there no greater inconvenience suffered than the mere expense?—Yes; the delay and the risk of running against the piers, which in high wind or high water could hardly be avoided, on account of the rapidity of the current, which is about seven miles an hour at the lower bridge, and  $5\frac{1}{2}$  at the upper, in high water, besides the great danger of the cribs coming in contact, and crowding each other out of the channel.

40. After a band of timber passes through the upper (Lachapelle's) bridge and the Sault, at what place can a raft land so as to separate the cribs?—There is no proper landing place until after passing the lower bridge and the rapids below it; so that under the law as it now exists, it is necessary to break up a raft above the upper bridge, and run the cribs through the whole length of the Rapids.

41. In what way do you think the inconvenience could be remedied?—I consider the lower bridge can be materially improved by extending the abutment or pier on the north shore, further out, and bringing nearer to it that on the adjoining island, so as to leave the space required by the Act between those two piers, removing altogether the pier now standing, near the centre of the North Channel. In the upper bridge I see no remedy but removing it altogether, unless it were by sinking

Appendix  
(N.N.N.N.)

13th April.

piers at certain angles, with chain booms attached, extending from the piers to the abutments of the bridge, so as to act as a guide to the timber in passing down; this would not only aid the lumberman in passing, but would also protect the bridge on each side of the passage.

Mr. James Wadsworth, of Alymer, called in, and examined.

42. How long have you been engaged in the lumber trade?—28 years.

43. Have you been in the habit of passing timber through the Rivière des Prairies during that period?—Yes, every year.

44. Have you seen the two bridges now in course of erection over that river?—Yes.

45. Do you think those bridges will cause any inconvenience to the Lumber Trade?—Yes; before the erection of those bridges, I was in the habit of running my rafts in high water the whole length of the Rapids, by merely dividing it in two bands, and dividing the crew also, without any extra hands; I have run over 30 cribs in a band down the Rapids in this way, with from 12 to 16 men; under the law by which these bridges are built, I shall have to run each crib separately in future, each one requiring at least three men. Another inconvenience is the delay caused by the provision requiring two hours notice before passing through, which not only causes a delay of that length of time, but should a change of wind take place in the mean time, which is of very frequent occurrence, it might involve a delay of 24 hours or more, as we generally commence running by daylight; in consequence of the height of the banks, the wind is generally either straight up or down the river, and the channel being very crooked, there is great danger of the wind driving us on the shoals, which renders it necessary to start early in the morning that we may run the whole length before the wind rises, which is usually about nine or ten o'clock in the morning.

46. What would be the additional expense incurred by the different mode of running the rafts as above mentioned?—About 60 to 100 per cent, and each raft would lose at least ten days in getting to Quebec.

Ans. to Ques 41.—I would remove the alteration recommended by Mr. Aylen with respect to the lower bridge, and would remove the upper one altogether.

Mr. Robert Conroy, of Alymer, called in, and examined.

47. How long have you been in the Lumber Trade?—About 12 years.

48. During that period have you passed your timber through the Rivière des Prairies?—Yes, always.

49. Have you read the Acts authorising the erection of two bridges over the Rivière des Prairies?—Yes; I have also examined the bridges in course of erection under those Acts.

50. Have you heard the evidence of Messrs. Wadsworth and Aylen, taken this day?—I have, and fully concur in what they state relative to those bridges.

27th February.

Mr. Asa Cook, of Petite Nation, called in, and examined.

Ans. to Ques 47.—I have been engaged in the Lumber Trade about 30 years.

Ans. to Ques 48.—I have passed timber through the River des Prairies every year, I believe, during that time.

Ans. to Ques 49.—I have.

Ans. to Ques 44.—I have seen the bridges, and have passed timber down the river since the building of them was commenced.

Ans. to Ques 45.—I think that to comply with the provisions of the Acts under which those bridges are being built, will cost the lumberer treble what it previously did, to pass timber down the Rivière des Prairies, as, instead of passing a band or drum of 16 cribs as formerly, he can now pass but one crib at a time.

Appendix  
(N.N.N.N.)

13th April.

51. Are you of opinion that in Mr. Vieau's bridge, the provision in the Act requiring an opening to be left between the pillars of at least 150 feet in width, in the deepest part of the river, has been complied with?—I think not; I am of opinion that one of the piers is in the channel in the deepest part of the river, so as materially to obstruct the passing of timber.

52. Has the like provision in the Act under which the other bridge now constructing by Messrs. Delisle and Lemoine is built, been complied with?—I think not; there is one pier immediately in the channel through which timber passes.

53. Do you consider this bridge, and the provision in the Act relating to it, equally injurious to the Lumber Trade with that of Mr. Vieau?—I do.

54. Do any of the piers of this bridge obstruct the channel of the river, and is the space between the piers over the channel, or deepest water?—One of the piers is placed in the centre of the channel, and is such an obstruction, that rafts cannot pass without striking it, and consequently subjecting the owners to the liabilities imposed by the Charter, without fault on their part, and so impossible is it to avoid striking, that during the last summer some of the timber of this pier was almost worn through.

55. Can a raft passing down this river be at all times controlled so as to avoid a collision with the bridge?—It cannot, for many times in high water, a raft will pass down the river from the force of the current, and it is impossible to stop it.

56. Do you speak from your own experience, practically, as one engaged in the trade, or how?—I speak from my own personal experience in having been engaged in the trade for the last twenty-five years, and having run rafts through the Rivière des Prairies; and I know it is sometimes impossible to guide a band of timber through that River in high water, because the current runs in so many different ways in high water from its usual course in low water.

Edward Wilmot, Pilot, called in, and examined:—

57. How long have you acted as Pilot on the Rivière des Prairies?—For the last ten years.

58. Have you seen the two bridges now in course of construction on that River?—I have.

59. How many cribs have you run at a time down that river?—I have run twenty-four cribs at one time, in a band.

60. How many men did you require to run these twenty-four cribs?—Eighteen.

61. Suppose you were obliged by law to take down but one crib at a time, how many extra hands would you require to run twenty-four cribs?—I should require at least forty-eight men, and the expense would be increased fifty per cent.

62. Can a Pilot prevent cribs from striking against the pillars which are built in the channel?—Not always; it would be impossible to prevent it when the wind blows from a certain quarter.

WEDNESDAY, 28th February.

Mr. Robert Russell, called in, and examined:

63. Are you engaged in the lumber trade?—Yes, for the last twenty-six years,—during the whole of which I have been in the habit of taking timber to Quebec, on my own account and for others.

Ans. to Ques. 44.—I have.

Ans. to Ques. 45.—Yes, a material inconvenience. The bridge below the Big Sault (the upper one of the new bridges) is directly in the way of running rafts as we formerly did, there being great danger of breaking up against the piers, and after passing it, there is no chance of landing the timber until passing the lower bridge, and reaching the foot of the rapid.

Ans. to Ques. 59.—In the spring from twenty-four to thirty cribs; after the water began to lower, about sixteen to twenty cribs, and at low water, nine cribs.

64. How many extra hands are now required to take down a raft, when broken into cribs?—More than double the number.

65. Is there any delay occasioned by the present regulation?—At least ten or twelve days detention on a raft with the ordinary hands.

Mr. Pierre Vieau, of St. Martin, called in, and examined:

66. Are you one of the proprietors of the bridge over the Rivière des Prairies?—Yes.

67. What is the name of your bridge?—Montée Noël or Low Bridge.

68. Have you read the Act authorising the construction of the bridge?—Yes.

69. Have you complied with the Act in every respect?—Yes.

70. Have you built the piers in the shallowest part of the river?—Yes, I have.

71. Do the piers so erected interfere with the navigation of the river?—Not at all.

72. What is the distance between the bridge which you have erected and the other bridges?—About a mile.

73. Have you seen the piers erected for the lower bridge?—Yes.

74. Is not one of the piers of the said bridge in the middle of the channel, in the deepest water?—The pier to the north of the island is, in my opinion, and in the opinion of all who have seen it, and with whom I have conversed on the subject, in the middle of the channel.

75. Are you of opinion that a pier so erected in the middle of the channel will materially affect the descent of timber?—Yes, and I myself saw a raft completely stopped there last summer.

76. Is it then your opinion that this pier should be removed?—It would appear to me that it should.

77. Can it be removed, and the bridge be constructed in such a way as not to interfere with the navigation of the river?—By making the abutment larger, I think this pier could be taken away without affecting the bridge.

78. How many cribs were run at a time, in high water, before those bridges were erected?—Persons have informed me of twenty cribs passing at a time.

79. Are you aware that the fourth clause of the Act, provides that only one crib shall pass through the said bridge at a time?—Yes.

80. Does not the same clause likewise provide that two hours' notice be given before passing through the bridge?—Yes.

81. In your Petition to the House, did you ask for such a clause?—No.

82. Do you think it just towards the Timber Trade, that the clause alluded to should exist, or do you require that it be carried out?—As far as the notice is concerned, I think it but just, while I believe that part of the clause which requires that only one crib pass at a time, to be unjust, as eight cribs might safely pass through in a band without doing any harm.

83. Do you think two hours notice necessary?—In my opinion it is only necessary to notify the proprietors of the bridge immediately before the raft passes through, in order that the owner could be held responsible for any damages that might occur.

84. Supposing you had received notice from eight or ten persons at a time, and that their cribs passed indiscriminately, some of them causing damage to the bridge, would you be able to discover the owners of those cribs that did the damage?—It would be rather difficult to do so.

85. Will not the expenses of the Timber Trade be increased by reason of those bridges?—If the provision requiring that only one crib pass at a time be put in force, the expense will be considerably increased.

86. Do you, as proprietor of the bridge, desire to see the fourth clause of the Act carried into effect?—In as much as it seriously affects the interests of the Timber Trade, I do not desire to see the clause in question carried into effect.

87. Might not some means be adopted to prevent rafts being broken up by striking against the bridge?—Yes, I think means of protecting the rafts could be devised.

Appendix  
(N.N.N.N.)

13th April.

Appendix  
(N.N.N.N.)

13th April

88. Is it your opinion that the Timber Trade is of sufficient importance to require such protection?—It is.

89. Are you aware that any of the piers of the lower bridge have been damaged by rafts striking against it?—I have seen one of them much battered and nearly cut through from this cause.

*Antoine Plouffe*, Pilot, called in, and examined.

90. Are you acquainted with the bridge now constructing over the Rivière des Prairies, by Mr. Vieau? Yes, I have lived near where it is being built for the last twenty-five years.

91. Do you know if the piers are erected in the channel down which you are in the habit of passing?—No, they are built on the shoals, where there is little water.

92. What depth of water is on those shoals upon which the piers are built?—When lowest, from three to four feet, and from eight to ten feet, when highest.

93. Did you pass there last summer with rafts?—Yes.

94. Had you any difficulty in doing so?—No.

95. After descending the rapids, had you sufficient time to put your raft in a proper position to pass through the channel, at the bridge?—Yes.

96. How many cribs could you pass there in a band without danger?—I think I could safely pass ten or twelve, unless the wind blew high from a contrary direction.

97. How many cribs were you in the habit of passing in a band, previous to the construction of those bridges?—From twelve to twenty.

98. How many men did you require to run a band of sixteen or twenty cribs?—Fifteen men and a Pilot.

99. If obliged, as the law now requires, to run but one crib at a time, how many men would you require to run a similar band?—Thirty-two men.

100. Would not the expense be much increased by running only a crib at a time?—I think so.

101. What price are Pilots in the habit of getting?—A dollar a trip, or two dollars a day.

102. Are there many Pilots in that quarter acquainted with the channel in low water?—I know but seven old Pilots, but there are some young ones pretty well acquainted with the channel.

103. Should twenty rafts be descending at the same time, how many Pilots would they require under the 4th section of the present Act?—Not having ever run one crib at a time, as the law now requires, I cannot exactly say: but I really believe there is not enough of Pilots in the entire district.

104. Is it difficult to engage men at Little River as extra hands?—In summer there are a good many such men to be had at 2s. 6d. a trip, or a dollar a day, and their board.

105. Do you think the pier alluded to in a previous question should be removed, in order to afford that facility for the descent of timber which is required?—It is a great impediment, though rafts might descend without its being removed, not however without an increase of expense, especially as a large portion of the timber is passed during low water.

*Laurent Munier*, Pilot, called in, and examined.

[Witness having heard read to him the testimony of the preceding witness, stated that he fully corroborated the same.]

106. Do you consider that the piers of Mr. Vieau's bridge are better constructed than those of the bridge below?—Yes, the span of the arch of Mr. Vieau's bridge is much wider.

107. Do you think that the lower pier is an obstruction to the navigation?—It is, because it is placed exactly in the channel.

2nd March, 1849.

*A. M. Delisle Esq.*, (of Montreal,) called in, and examined:

108. Are you not one of the proprietors of the lower bridge, over the Rivière des Prairies, built under the Act granted in 1847, to P. P. Lachapelle?—I am the principal proprietor.

109. Is it your opinion that the provisions of the Act can be complied with, without material inconvenience to the Lumber Trade?—No, for in my opinion, if the Act were rigidly enforced, it would entail upon the Lumber Trade a tax which it is incapable of supporting, for, by the Act in question, it is the duty of the proprietors or conductors of rafts, to give two hours' notice to the toll gatherer, or person having charge of the bridge, of their intention to pass through the same with a raft, and no more than one crib can be passed at a time through the same opening, under the penalty expressed in the fourth section of the said Act; this, in my opinion, cannot properly be enforced.

110. How many channels are there for running timber in the Rivière des Prairies?—At the site of the lower bridge, there are two, the high and low water channels, though the high water channel is invariably used through the season.

111. Are there any obstructions placed in the high water channel and the river?—There are ten or eleven piers in my bridge, none of which, in my opinion, are directly in the channels; the principal piers are placed on the edge of the channels, and rafts deviating from the centre of the channel may and have come in contact with the piers, injuring the same, and suffering considerably themselves.

112. Was not the pier of your bridge dividing the river between the small island and the north shore injured last year by rafts coming in contact with it?—That being the channel commonly used by rafts, the pier in question was necessarily more exposed than the others, and did suffer injury; but this was chiefly owing to the imperfect state in which it had been left by the contractors; it is now completed, and loaded with stone, and though rafts may still suffer, I have no apprehension of any material damage to the pier.

113. Previous to the erection of those piers, how many cribs were usually seen in a band?—I think as many as thirty; whereas now, if the law be insisted upon, only one at a time can be passed.

114. What extra expense do you consider is thus entailed upon the passing of a raft?—If the law is insisted upon and the bridges continued as they are at present, the expense of running between *l'Abord a Plouffe* and *St. Vincent de Paul* would be about doubled.

115. Have you seen Mr. Vieau's bridge?—I have.

116. Is it constructed according to the provision of the statute?—No, not in my opinion, for the law authorises him to erect a bridge between the Parish of *La Visitation du Sault aux Recollets* and *Ile Jésus*, in the Parish of *St. Martin*, and he is building it between the former parish and that of *St. Vincent de Paul*; again, the arches of his bridge have not the elevation above the river required by the statute.

117. Is it your opinion that in high water, rafts could strike the arches, or part of the arches, of the bridge last mentioned?—It is, for each of the arches takes its rise from nearly the level of the water.

118. What is the breadth of the river at that bridge?—About one thousand one hundred feet.

119. How much of the river is dammed up with piers and abutments?—About four hundred feet, or fully one third.

120. What is the width of the river at your bridge, and what portion of it is taken up with piers and abutments?—About one thousand five hundred and fifty feet, of which about two hundred and fifteen feet are occupied with piers and abutments.

121. What has been the cost of the two bridges?—I cannot accurately state the cost of our bridge, because it is not yet completed; but should suppose about £5000, and the upper bridge probably about £3,500.

122. Did the petition to the Legislature, upon which your Act was founded, pray for all the privileges accorded by the said Act?—No, the Act authorises much more than was prayed for.

123. How much of the river could you have dammed, under the provisions of the Act?—Provided one arch of one hundred and fifty feet span was left over the deepest channel, no restriction whatever was imposed as far as the rest of the river was concerned, and the greater part of it might have been dammed, under the sanction of the

Appendix  
(N.N.N.N.)

13th April



Appendix  
(N.N.N.N.)

13th April.

law; as it is, however, I have left five spans of one hundred and eighty feet each in the deepest part of the river.

124. Do the obstructions placed in the river increase the rapidity of the current?—They do, for the more the obstruction, the greater the velocity of the current created thereby.

125. Have you built any new piers since the close of the navigation?—No, my piers stand as they did last year, without any addition to them.

126. How many piers were there in the upper bridge last summer, and have any been since built?—There were two during the last summer, and one of large size is now being erected in the centre of the river.

127. Do you think the navigation will be rendered more difficult in consequence of this additional pier?—It will necessarily be much more so than before.

*Mr. William Stubbs, of Aylmer, (C. E.) called in, and examined.*

128. How long have you been engaged in the Lumber Trade?—Sixteen years.

129. During that time have you been in the habit of passing timber through the Rivière des Prairies?—Yes, every season of the term of years above stated.

130. Do you think the bridges erected in that River are impediments to the descent of timber?—Yes, we have ordinarily run timber in large bands containing sixteen to twenty cribs, with sixteen to twenty men, while now to fulfill the requirements of the Act authorizing the erection of these bridges, we are restrained to the running of one single crib, which will require two men to run in safety; thus making an increase of one hundred per cent, besides the additional expense of disbanding and re-assembling all, and putting it into the form of a raft.

131. Will the pilots of rafts be benefited by the erection of the bridges in question?—Yes, it is very evident they will, as instead of one pilot being required for each raft, we will now require six to eight extra ones.

132. Do you not think the bridges indispensable for the accommodation of the community, and particularly the inhabitants of the surrounding country?—I think from their proximity to one another, that one of them is entirely superfluous, and could be dispensed with, without any inconvenience.

133. Which do you consider the greatest obstacle to the passing of timber?—The upper bridge—that is the one at the foot of the "Big Sault," said to have been built by Pierre Vieau.

134. Can you suggest any remedy, whereby all the parties concerned would be benefited?—I am strongly impressed with the necessity of removing the bridge above alluded to, otherwise more extra expense will be incurred upon timber in one season, than the bridge will have cost, so that its removal must very evidently benefit lumbermen, and by the Government remunerating the parties who have partially constructed it, they will, at least, not lose, and the lower bridge being at such a considerable distance from Lachapelle's upper bridge, makes it a great acquisition to the country, and by extending booms in two places, after having removed one of the piers on the north side of the island, and directly in the channel, we will be enabled to run timber through, as formerly, *i. e.* in large bands.

135. Will lumbermen suffer any inconvenience from their being required by the Act to give the persons in charge of the bridges two hours notice previously to their running?—It will be attended with the greatest inconvenience, and it is most unreasonable to require such notice, or in fact any notice whatever. We commonly leave *à Abord à Plouffe* at the break of day, in order to avail ourselves of the calmest part of the day, as well also as to endeavour to make two trips down, which is difficult to do, and cannot be performed unless we leave very early in the morning.

*Ruggles Wright, Esq., of Hull, called in, and examined:*

*Ans. to Ques. 26*—I was engaged in it up to the present year, since 1810.

*Ans. to Ques. 27*—I have seen the bridges in ques-

tion. In consequence of several accidents which had occurred to rafts, and the numerous complaints of the Pilots and others, I was desired by several to wait upon the Board of Public Works, to request that an Engineer might be allowed to accompany myself and others to examine the said bridges. This request was acceded to, and T. Keefer, Engineer, myself, Mr. A. Gilmour, and several other gentlemen, largely interested in the trade, went and saw several bands pass at these bridges, examined different pilots, and came to the conclusion that they were a great obstruction, and that a protest should be served upon the proprietor of the upper bridge, which was accordingly done on or about the 7th of October last—the Engineer, Mr. Keefer, was also to have reported those particulars to the Board of Works.

*Ans. to Ques. 28*—I do not think they could without adding an unnecessary tax upon the trade.

*Ans. to Ques. 29*—I did.

*Ans. to Ques. 30*—No, the piers were not then all down, the one which would constitute the greatest obstruction not having then been sunk, and it was with the view of preventing its further progress that those interested in the trade entered their protest—conceiving that the two bridges were unnecessary, and would only be a burden to the proprietors as well as an obstruction to the Lumber Trade. The work then done on either of the bridges was but a trifle when compared with the gross amount necessary to construct such works.

*Ans. to Ques. 31*. I did; my old pilots had to employ other pilots who had learned the new channel and draught of water since those works had been commenced. Besides they dare not run as large bands as formerly, and a slight wind often prevents them from making the desired position; then there is a danger of coming in contact with the piers and causing a separation of the cribs, which would doubtless break many; in this state the timber would become unmanageable, and undoubtedly come in contact with the lower bridge, which would cause an additional breakage and separation, and the Rapids being immediately below, the greater quantity of the timber would be scattered on the different shoals, and a large portion lost, besides the extra expense of re-rafting.

*Ans. to Ques. 32*. Presuming that the conditions of the Act authorizing the erection of those bridges are enforced, after making the most minute and careful calculation from thirty eight years experience, I can come to no other conclusion than that the expense would be trebled, exclusive of vexatious suits which might be brought as often as a stick of timber might rub against any of the piers.

*Ans. to Ques. 36*. I have.

*Ans. to Ques. 132*. The upper bridge, in consequence of its lying so immediately below the Big Sault that rafts after passing the latter have not time to recover any derangement of timber, breaking of fastenings, or the effect of unfavorable winds, all which often occur, and which render it impossible to gain the position necessary in order to pass through the arches in safety.

*Ans. to Ques. 133*. The upper or rather centre bridge ought, I think, to be at once discontinued, and the parties interested indemnified; and there being other two bridges situated so near each other, there would be ample accommodation for the travelling community. The expense of indemnification should be borne in part by the proprietors of the other bridges, who would be benefited by the withdrawal of the competition of the middle bridge; that they would be willing to do so I am aware, as in fact they have suggested it to me. They might pay it either in stock in their own bridges, or in money, as might be most suitable to them. I would recommend the trade to bear a portion of the expenses of indemnification—were it not that, like the estate of a minor, under parental guardianship, its revenue, are in the hands of the Government, which ought, therefore, to come forward and bear this burden out of the revenues of the trade. The farmer requires and has a highway to market, and why should the highway which nature has provided for the lumberman be obstructed, when his trade is the staple trade of the country? The lower bridge might be improved by piers and booms at a trifling expense, so as to be but a slight impediment.

Appendix  
(N.N.N.N.)

13th April.

# REPORT.

THE COMMITTEE to whom was referred the Returns to Addressess to His Excellency the Governor General, of the 23rd January last, praying for Statements of the Income derived by the Sheriff of the District of Montreal, and by the Crier, and Tipstaff of the Court of Queen's Bench for the said District, for the last five years;— have agreed to make this their FIRST REPORT:—

COMMITTEE ROOM,  
17th April, 1849.

Your Committee, submitting herewith the evidence which they have taken, report herein the points which appear to them the most worthy of the attention of Your Honourable House.

It behoves Your Committee, in the first place, to report that Mr. Sheriff Coffin was the first witness examined, and that at his request, preferred during his examination, Your Committee permitted him to take communication of all the evidence. On the seventh instant it was accordingly placed in his hands for perusal, a fact which he has recorded in his letter to the Chairman, received on the ninth, at noon, hereunto annexed, (marked A.) and to which Your Committee refer. Mr. Meredith, Queen's Counsel, also spontaneously appeared before Your Committee, not in a professional capacity, as he himself cautiously stated, but in the character of a mere friend, on behalf of Mr. Boston, who was stated to be absent. Mr. Meredith further tendered some testimony, of which he saw fit to transmit the substance to the Chairman, in a letter dated the seventh, but received on the ninth, at four in the afternoon, also hereunto annexed, (and marked B.) Mr. Boston himself, however, called on the ninth instant, and took communication of the evidence. Mr. Coffin was desirous of obtaining, firstly, a copy of the evidence, and secondly, an indefinite delay; but Your Committee could not accede to either request without foregoing the hope of placing their labours before Your Honourable House during the present Session. The arrival in town of Mr. Boston seems, too, to have removed the ground upon which the application of Mr. Meredith was based, and Your Committee are of opinion, that to have admitted him under the circumstances to give the evidence which he tendered would have been to introduce a bad precedent. Your Committee are, however, relieved of much of the difficulties incident to their position and duties, by the conviction that the Sheriffs have, from the first, been acquainted with the nature of their pro-

ceedings,—that the latter have been perfectly open to their inspection,—and that it was competent to the Sheriffs, had they seen fit, to have interposed either personally or by Attorney.

The Sheriffs of Montreal are by law the Depositaries of large sums, the proceeds of levies made under writs of execution, by the sale of chattels as well as of immovables. For reasons to be hereafter stated, the precise amount of these sums could not be accurately ascertained, but they must be very considerable. In relation to this subject, there are two Statutory provisions. The first, being the Act 25 George III, chap. 2, provides for the compensation of the Sheriffs, and permits them to retain, over and above all their disbursements, a sum of 2½ per cent. upon all moneys which they may levy. This percentage is the only profit that the law allows the Sheriffs. But Your Committee have ascertained, and Mr. Coffin, one of the Sheriffs, has admitted, that they make a large annual addition to their income in the shape of interest upon the public funds. The original Sheriffs Returns contained an admission of the fact, and in his personal examination, Mr. Coffin has spontaneously avowed it. On this head, Your Committee are of opinion that such an application of any part of the public funds to the Sheriff's use, was not contemplated by law. If the funds levied be insufficient to meet the demands of the creditors, it is evident that it would be desirable, proper, and necessary, that any addition of which they are susceptible, any interest accruing upon the principal during the pending of the proceedings, should form a part of the debtor's assets, and should be paid over to the creditors. If, on the other hand, the levy be sufficient, the debtor and his family should benefit by the interest accruing upon the sum produced by the sale of his property. These funds are levied by execution upon unsuccessful litigants, upon men involved in hopeless embarrassments, the most unhappy of mankind. And Your Committee invite Your Honourable House to pronounce upon the claim of the Sheriffs, thus to make a profit upon the proceeds of levies,

Appendix  
(O.O.O.O.)  
17th April.

and to apply that profit to their own use, to the prejudice of parties and creditors.

*Secondly.*—Mr. Sheriff Coffin has disclosed a fact of an extraordinary nature. It seems that while these gentlemen benefit in one way by interest, they have actually invested a part of the public funds in Bank Stock. They thus purchased Bank Stock with the public funds, and they receive the dividends thereon, but they do not give the public credit for those dividends. On the contrary, they apply those dividends, like the interest, to their own use. It is true that Mr. Coffin attempted to defend that course by alleging that it was pursued solely to ensure the safe keeping of the funds. But surely if the Bank be the only safe custodian, it must be possible to dispense with the Sheriffs, to relieve them of all responsibility, and to place the public funds directly in the keeping of the Banks. Among the advantages of that system, it is manifest that the profit, in the shape of interest and of dividends, would be added to the principal. Thus the creditor, or the debtor himself, as the case might be, both of whom have sacred rights preferable to the claim of the Sheriffs, and which ought not to be lightly defeated, would have the benefit of that interest, and of those dividends, as well as of the two and a half per cent now taken by the Sheriffs. Admitting that their opinion is unfavourable to the claim of the Sheriffs, Your Committee respectfully invite Your Honourable House to decide the question. This, in the opinion of Your Committee, is an objectionable practice, an abuse, for which a remedy should be provided by law, and though Your Committee will not enter into the details of the measure which they would recommend, they deem it fitting to add that they have given the subject some consideration, and that such a measure would be susceptible of no difficulty.

There is, however, another point; it is the question of right set up by the Sheriff to deal or trade with the public funds, in the manner detailed in the evidence of Mr. Coffin. It is manifestly open to grave objections, and the evidence justifies Your Committee in reporting that the unwillingness of Mr. Coffin promptly to satisfy the public creditors, and the illegal and vexatious delays interposed by him, are the result of the above described disposal of the public funds. So long as they retain these funds in their hands, a profit accrues to the Sheriffs, and it is manifest that they had, and have, an interest in disobeying the Orders of the Court, and in resorting, as it is proved that they did resort, to very unjustifiable means, to use moneys which they had no right to receive or hold, as well as to avoid making satisfaction when regularly called upon.

The second Statute relating to the public funds, is the Act 6 Wm. IV., cap. 15. This Act is intended for the public security, as also to afford every individual a cheap and easy mode of ascertaining the precise amount in the hands of Sheriffs. It provides that, "On the first

Appendix  
(O.O.O.O.)  
17th April.

"juridical day in every Term of the Court of King's Bench, the Sheriffs shall exhibit an accurate and detailed statement, and account upon oath, of all moneys in their hands, by them received as Sheriffs, when, and from whom received, and of all Orders and Judgments directing any moneys to be paid, specifying to whom the same are payable, and to whom paid, and of all moneys remaining unpaid."

From the use of the word "Statement," as well as "Account," and the term "detailed," it is manifest that the law cannot be satisfied by a mere arithmetical sketch. It requires the fullest information, and as time is an important element in all computations, the Sheriffs are bound to specify the period at which each particular sum has come into their hands. There being four Terms of the Court of King's Bench, this statement is to be repeated four times every year.

Your Committee regret to be obliged to report, however, that the Sheriffs have treated these wise provisions of the law with marked contempt. In one word, they have, (Your Committee can scarcely suppose from ignorance,) disobeyed the law. In the first place, it is true that in the year 1847, the Sheriffs filed four different statements, but those statements are not in the form required by law, and they positively convey no available information whatever. Then, in the year 1848, the Sheriffs did not even prepare the number of statements required by the Statute; on the contrary, they filed only two instead of four, and those two are as informal, irregular, and unavailable as those filed by them in the preceding year. Owing to the irregularities and insufficiencies affecting these six Returns, all in the hand-writing of Mr. Coffin, and attested by him, Your Committee have not extended their researches farther.

Your Committee have here to remark that in Lower Canada, for civil purposes, the office of Sheriff is not only unnecessary, but positively mischievous. The Sheriffs themselves never execute a writ, but they receive large fees, while the Bailiffs, who do all the work, necessarily also receive fees. The latter being mere automatons, subject to the patronage of the Sheriff, are not all as respectable, as intelligent, as well informed, as they might be, and lastly they ought to be, and would doubtless be, if they were employed directly by the Bar, without the intervention of the Sheriff. That intervention is founded upon reasons which may at one time have existed, but which exist no longer, and instead of the monopoly enjoyed by the Sheriffs, suitors ought to have the privilege of choosing among numbers of competent and worthy men, who would be found ready to serve the public were an opportunity afforded them. Stimulated by interest, and urged by competition, to acquit themselves in a satisfactory manner of their duties, those men would contribute powerfully to the ends for

Appendix  
(O.O.O.O.)

17th April.

which Courts of Justice are established. At present the interposition of the Sheriffs is injurious, not only because they have that monopoly, but because, from their wealth, and their station in life, they can never be expected to promote economy, or personally to take any pains promptly and effectually to satisfy suitors. They are, in fact, above the details of the business of their office. By a fiction somewhat reprehensible, they are daily made to certify that they have themselves executed writs, which is notoriously untrue: but unless it be desirable to give those gentlemen a pretext for claiming the prodigious income which they annually receive, there is no cause for resorting to any fiction whatever. On reference to Mr. Coffin's evidence, it will be found that every writ is entrusted to a Bailiff, every service performed by a Bailiff, and that each of these Bailiffs, having given good and sufficient security, the Sheriffs are not exposed to any danger, and have in fact never suffered any loss. Now, it were surely practicable to make the Bailiffs give security to the public, and to dispense with the circuitous, cumbrous, and expensive course, and machinery, out of which the Sheriffs make so undue a profit.

Though every Defendant, condemned to satisfy his Creditor, is allowed a delay of fifteen days after the date of Judgment, Your Committee, are unanimously of opinion that the Sheriffs, who are mere depositaries, have no right to claim any delay whatever. It would seem that but for the use to which they apply the public funds, and the profit which they thereby make, they would have no reason for refusing instant obedience to the Orders of the Court. But whether they be or be not allowed to use the public funds as their own, it is the unanimous opinion of Your Committee that the Sheriffs are bound to satisfy, at sight, every order or judgment of the Court enjoining them to pay.

According to the evidence adduced before them, the duties devolving on the Sheriffs have been negligently and ill performed. Those gentlemen do not reach their office in time; they are both often absent during office hours; they withhold funds which they should pay; they put both Bar and suitors to daily inconvenience and loss. The division and internal arrangements of that office are represented to be not only unusual, but offensive, and the deportment of Mr. Coffin, who is stated to be the acting and managing partner, is proved to be habitually, and even intentionally, insulting. There is indeed evidently but too much reason to complain, not merely of his unaccommodating and insolent conduct, but of his avidity, verging upon, if it does not quite amount to, extortion.

The enumeration of the duties devolving on the Sheriffs, furnished by Mr. Coffin, is ingenious, but it rests on no solid foundation. In point of fact, excepting only their attendance in Court, and the subscription of their signatures, they themselves perform no single

Appendix  
(O.O.O.O.)

17th April.

act. The list furnished by Mr. Coffin is long, but the details are all managed by mere Clerks of ordinary capacity and acquirements. Mr. Coffin has made some parade of the title deeds which he declares the Sheriffs to have been engaged in signing. This is the naked fact, but it is so worded as to imply much more, and he has omitted to state, firstly, that they were not indispensable; and secondly, that the Sheriffs were well paid for so signing them. As it is the Law which grants the title, and not the Sheriff, a copy of the Writ of Execution and Sheriff's Return, at a cost of five shillings, would suffice; but the Sheriff's charge is, in some cases, twenty shillings, in some as much as thirty shillings for a deed. Now, this deed is a mere printed form, applicable to every case. It contains blanks for the name of the cause, of the purchaser, of the description of the property, of the price, and of the dates. As these blanks can be filled, and are always filled up by a mere Clerk, and as the Sheriffs merely subscribe their names, it is quite clear that Mr. Coffin was not justified in laying upon this act all the stress he has done. The same remark would apply to all the official acts enumerated by Mr. Coffin, and it cannot be too often repeated, that the Sheriff's functions, in civil cases, are all much of the same character.

Their income certainly seems to be, even on their own shewing, quite out of all proportion to the services they render, as well as to the circumstances of the country. It is a fact, which was brought by Petition under the notice of the Court in the year 1839, but that Petition was followed by no results, and there is reason to apprehend that, unless Your Honourable House should be pleased to interfere, that income will not be reduced.

Under these circumstances, Your Committee cannot hesitate to conclude that the Sheriffs do not deserve to retain so large an income, wrung, as it is, from the scanty means of the poor and the unfortunate. Your Committee are prepared to maintain, too, that the members of the Profession, the suitors, and the public at large, have an undoubted right not only to expect from every public officer a due degree of readiness and zeal to discharge his duties, but the utmost courtesy.

Your Committee are also of opinion, that the exorbitant and prodigious income of the Crier and Tipstaff should be reduced, and Your Committee are of opinion that £100 per annum for the first, and £75 for the second, would be amply sufficient.

If the excessive emoluments of those parties, as well as of the Sheriffs, were reduced; they might be applied to the erection of a Court-House with great and lasting advantage to the community.

Such are the points upon which Your Honourable House is respectfully invited to determine.

The whole, nevertheless, humbly submitted,  
A. GUGY, Chairman.

## MINUTES OF EVIDENCE.

TUESDAY, 13th March, 1849.

*W. F. Coffin*, Esquire, one of the Sheriffs for the District of Montreal, examined:—

1. When were you appointed Joint Sheriff?—In March, 1842.

2. What is the amount of profits that you have received for the year 1848?—The total amount of profits of our office for the year 1848, is £1609 12s. 8d.; that is to say, official emoluments £1165 17s. 4d., amount of salary £111, and amount of interest, &c., £332 15s. 4d.

3. Please to say what *et cetera* signifies?—Dividends on bank stock, amount of interest on deposits, amount of interest on notes which we have received from parties, bearing interest.

4. Under what circumstances have you taken, and do you take notes?—These notes have been taken from purchasers of land sold at Sheriff's sale, as a matter of accommodation to such purchasers.

5. Assuming that you would not of course accommodate parties of whose solvency you entertain the slightest doubt, will you state whether you have made it a rule to accommodate in the manner implied in your last answer?—Certainly not: the rule has been the reverse since I have had the honour to be associated in the Sheriff's Office. From my first entrance into the Sheriff's Office, I have in principle opposed the granting of such accommodation, although the parties asking such accommodation have often been some of the most responsible persons in the District?

6. What is meant, in your third answer, by the words, "Dividends on bank stock?"—have you so invested any portion of the public money? The public moneys are at our risk and at our disposal, so at least we humbly apprehend, and so it has hitherto been understood. A small portion of these public moneys have, for safe keeping, been invested in bank stock.

7. In what bank? and how much?—In the Bank of Montreal, and City Bank. I will bring a statement to-morrow, showing how much Mr. Boston and myself had on the 1st January last, in these banks.

Moneys invested in bank stock, as follows:—

Mr. Boston, Montreal Bank Stock.....	£1343	15	0
Mr. Coffin, do do do.....	£682	10	0
Do City Bank ...	500	0	0
	£1182	10	0
	£2526	5	0

I know of no law, or Ordinance, or custom, or practice, which prescribes, or even suggests, to the Sheriff, the course he ought to pursue in the disposal of these moneys. The only obligation imposed by law upon the Sheriff, is the obligation to pay over all such moneys to the parties thereunto entitled, when lawfully ordered to do so. Indeed, it appears to me that responsibility would be incompatible with restriction. If the Sheriff is to be answerable for the forthcoming of all such moneys at proper place and legal time, he must, as a consequence, be a free agent in disposing of them. If the law compels him to adopt a specified course, it must necessarily relieve him from any responsibility in the event that such course should prove to be a bad one.

The same process of argument extends to the interest or profit, in whatever shape it may accrue,

arising from the safe keeping of such moneys. He may keep them in his chest if he chooses, and derive no pecuniary benefit from their investment; but if the Court House burns, as has been the case, neither the Sheriff nor his sureties could plead such fire, or any other accident as a release from their responsibilities; so in case a bank should fail, the Sheriff must supply the deficiency, or submit to the alternative, go to gaol. If he accepts the peril, he takes the profit with it. I add hereto a copy of a letter deposited by us with the Cashier of the Montreal Bank, relative to the above-mentioned bank stock:—

MONTREAL, 23rd May, 1845.

SIR,—We hereby declare that twenty-five shares of Montreal Bank stock, paid up in full, at a premium of seven and a half per cent per share, being equal in value to a sum of thirteen hundred and forty-three pounds fifteen shillings currency, held in the name of John Boston, Esquire; and twenty-two shares of like Montreal Bank stock, also paid up in full at a premium of seven and a half per cent per share, being equal in value to a sum of eleven hundred and eighty-two pounds ten shillings currency, held in the name of William F. Coffin, Esquire, are, to all intents and purposes, public property, to be accounted for by each of us respectively, in the above proportions and amounts, to the office of Sheriff of Montreal, and that we individually are only entitled to the interest or dividends which may, from time to time, accrue thereupon.

We have the honour to be,

Sir,

Your most obt. servants,

(Signed)

JOHN BOSTON.

WILLIAM F. COFFIN.

To the Cashier,  
Montreal Bank.

8. What amount of interest or profit do you get on these deposits?—Upon the amount invested in bank stock, we get the dividends, whatever they may be. Upon the amount deposited in the Bank of British North America, in which we place our deposits, they allow us 3 per cent. For our own security, as well as for the security of our sureties and of the public, we place our deposits as widely as is consistent with convenience and safety, in the best moined institutions in this city.

9. Do you consider them safe where they are?—I know of no safer investment or deposit. We generally pay public claims upon us, under judgments or orders of the Court of Queen's Bench, and all other demands upon us in our capacity of Sheriffs, by checks upon the Bank of British North America.

10. Is the Committee to understand that this is a profit which you derive upon the public moneys entrusted to you, over and above the 2½ per cent allowed you by law?—Assuredly.

11. Has any part of this money so derived by you, in the shape of interest and dividends, been returned so as to be distributed among creditors, or part to a plaintiff, or returned to a defendant?—Certainly not.

12. Is the disposal of public moneys based upon any law or rule of practice of the Courts?—No: the course adopted by us in the depositing of this money, has been adopted for the purpose of protecting both ourselves and the public, and to secure profit to ourselves consistent with safety.

Appendix  
(O.O.O.O.)

17th April.

13. What functions do you or your partner personally perform as Sheriffs, and please to specify explicitly what acts you yourself perform?—We are compelled to attend day by day, and at all times during the Session of the Court of Queen's Bench, both on the Criminal and Civil side in Superior Term. Within the last few years, we have, under the special instructions of Her Majesty's Government, been compelled in like manner, day by day, and at all times, during the Session of the Court, personally to attend in the Court of Quarter Sessions. We are officers of the Court of Bankruptcy, and as such, are compelled to give our attendance when required; these duties impose the necessity of a constant, if not an unintermitted attendance in our office. One of the two incumbents of the office, receives all moneys which, day by day, and at all times during the day, are paid into the office of the Sheriff, and to make the necessary entries of the same; to convey such moneys to the Bank, and take the usual receipts; to pay all money's ordered to be paid under orders from the Court of Queen's Bench or judgments; to pay out all the ordinary and daily disbursements of the office, and to sign all warrants, orders, commissions, or other documents, which the Sheriffs of the District issue under their official signature.

With reference to this question, I beg permission to add certain details to my original reply, which I trust may more fully inform the Committee as to the nature and extent of our duties. To effect this I will endeavour to detail the duties performed within the last three months, say from the 15th December, 1848, up to yesterday, the 15th March, 1849, as nearly as possible.

On or about the 15th December, 1848, we commenced the "detailed statement" presented to the Court of Queen's Bench on the first day of Term, (7th January, 1849,) under the provisions 6 William, IV., cap. 15, sec. 18, to which section we respectfully refer the Committee for the details of the same. This statement would of itself furnish occupation to one person for a fortnight, the time which the law evidently contemplates as necessary for its preparation, as it involves the necessity of running through books and examining judgments. Since my appointment to the office in 1842, up to the opening of the Civil Term Court of Queen's Bench; and during the same (7th to 31st January,) our clerks prepared and we examined and signed about 240 returns. We beg leave to observe, that careful perusal and examination of such returns is indispensable, seeing that a trifling clerical error may involve the Sheriff in the cost and other legal consequences of previous proceedings. During this period also, we received about £3,000 of public moneys, in sums varying from 5s upwards, in silver, notes, and cheques, all of which required counting, receipts to be given for the same, to be entered upon our books, to be taken to the bank by us personally, to be there counted and receipts taken for the same. From the 7th to the 31st January we attended personally the Court of Queen's Bench every day during the Session of the Court, to receive the orders of the Court, surrender of prisoners, &c. On the 10th January, 1849, commenced the Quarter Sessions, at which Court we gave personal attendance day by day during the Session to the 19th, this Court and the Civil Term Queen's Bench sitting simultaneously, having previously prepared the lists of Grand and Petty Jurors, and issued summonses for the same, (for which we receive no compensation); during the same period also, it was necessary to sign deeds of sale of lands, to examine and sign bonds prepared before Notary, to sign Commissions of Bankruptcy, to examine Bailiffs' returns to the same, and to sign our own returns to the same. On the first February commenced the Criminal Term of the Court of Queen's

Appendix  
(O.O.O.O.)

17th April.

Bench, which continues for fifteen days. This Court we attended also, personally, during the Session, being called upon to furnish a separate panel for the trial of every individual case. I should have stated that we had also prepared the lists of Grand and Petty Jurors, and issued summonses for the same, without fee or compensation for such duty. During this period of three months we have paid out of our office a sum of £2539 15s 8d currency, in sums from five shillings upwards upon judgments and orders for the distribution of moneys, all of which had to be examined and verified, the authorities under which parties claimed payments to be inquired into, receipts to be prepared and cheques signed, Bailiffs' accounts and printers accounts to be examined and paid. During this period also, we have repeatedly visited the Common Gaol of this District, going through all the wards and inspecting the premises.

14. Referring to the tenour of the last question, please to say whether most of the acts performed nominally by you, are not in fact executed by Bailiffs?—The great proportion of them are executed by Bailiffs. It would be impossible for the Sheriff of such an immense District as Montreal, to execute personally all warrants technically executed by him; practically, and so far as the public is concerned they are executed by him, seeing that he and his securities are responsible for the acts of the Bailiffs.

15. Are the Bailiffs allowed any fees for such acts?—Yes, the principal expense incurred in the employment of Bailiffs is the cost of travel. If the Sheriff could execute personally the duties discharged by the Bailiffs, he would be entitled to similar costs of travel.

16. Do you mean to say that the Bailiff gets no fee?—Yes, he gets a small fee, but the chief expense is the cost of travel, depending of course upon the distance.

17. Is the Committee to understand in one word, that the work is done by Bailiffs, and that in one shape or other they receive remuneration therefor?—The work above referred to is done by Bailiffs and they are paid for it, the Sheriff being responsible for the due and legal performance of such work.

18. Then the emolument allowed you is for responsibility only?—I infer that part of such emolument has been allowed for work, and part for responsibility. I cannot, however, affirm the principle upon which such emoluments have been accorded by the Legislature, or by the rules of practice of Courts of Justice.

19. Did you ever personally execute a warrant or writ of execution?—No, never.

20. Do you claim a delay of 15 days on the presentation to you of a judgment of distribution, or of an order for the payment of money to a successful litigant? We have claimed such delay, but do not, as the Montreal Bar can testify, punctiliously adhere to that rule. The claim has been founded on a belief, an unconfuted belief thus far, of its legality; and of the necessity which exists that the Sheriff should be allowed sufficient time, after the delivery of judgment of distribution into his hands, to examine and compare the same, and to verify the accuracy of their own calculations. We do not make any claim to delay in payment of orders for the distribution of money, let the amount of the same be what they may, the simplicity of the details of such orders enabling us to dispense with any such rule or claim for delay.

21. Can you direct the Committee to the law upon which what you call your unrefuted belief is founded?—The law is in the hands of the lawyers. I presume that if we are wrong, the lawyers would long since have refuted our hitherto unrefuted belief.

22. The Committee is not satisfied with the foregoing answer; please to state distinctly whether you

Appendix  
(O.O.O.O.)

17th April

are guided in that particular by any known law, and what it is?—I cannot, on the spur of the moment, cite any law, but I know there is a rule of practice by which no judgment becomes executory until after a lapse of 15 days, and I conceive that this rule of practice applies as much to judgments of distribution as to any other judgment.

23. Will you be pleased at your earliest convenience to produce and file a copy of that rule of practice?—I believe I can produce it, and to the best of my ability, I will.

In answering the above question I was wrong as to the rule of practice, and right as to the law. The practice has always existed and required no confirmation by rule or order of Court. It is an incident of the French law, in force in this part of the Province of Canada, that no judgment becomes executory until after the expiration of fifteen days.

But by the Statute law of this Province, Act 25 Geo. III, cap. 2, sec. 29 introducing appeals, an interval of fifteen days from the rendering of any judgment is the limited period for filing an appeal. Now an appeal will lie as much from a judgment of distribution as from any other judgment, and should the Sheriff divest himself of moneys adjudged under any such judgment of distribution before the fifteen days have expired, he would distribute moneys in anticipation and to the prejudice of any such appellant, and would become thereby personally responsible for the reproduction and repayment of such moneys to the appellant, should appellant succeed in his appeal; such at least is my view of the law.

24. Are not all the Bailiffs whom you employ bound in bonds to you in good and sufficient security for the performance of their duties?—Every Sheriff's Bailiff is bound to the Sheriff in a bond with two sureties, to the extent of £500. This security is ostensibly good and sufficient; we take every precaution to have it so, and yet it may be doubted whether, with all possible precaution, such security, if unfortunately it came to be tested, would prove to be good and sufficient.

25. Who was the Bailiff in the cases cited in your letter of the 5th February to Mr. Secretary Leslie, and did you lose money in consequence of the employment of a Bailiff in any one of these cases?—No, only in the case of Bowman against Dawson No. 1250. I cannot just now state facts with accuracy.

26. Will you be pleased to make the necessary inquiry, and to return hither prepared to state all the facts connected with the cases cited in your said letter to Mr. Secretary Leslie?—I will. The case of Vaneps vs. Platt is one of those cases especially referred to in our official letter to Mr. Secretary Leslie of 5th February, 1849, as involving us in heavy responsibility, in taking bail under *Capias ad respondendum*.

In this instance the defendant appeared in compliance with one of the conditions of the bond. The Court held his appearance to be insufficient. The case remained pending before the Court from the 15th January, 1845, to the 31st of March, 1846, when judgment was rendered against the defendant, who had absconded in the interim, and thereupon the Sheriff was ruled to pay the debt or stand committed for contempt. We paid the debt, and have sued the bail; this action is still undecided. Before it is decided the bail who, up to this time, bear all appearance of being good, may prove to be bad; and it is no disparagement to any bail of whatever standing or respectability, to express an apprehension that in times of commercial difficulty like the present, and especially in Montreal, some doubt may be entertained of their ultimate sufficiency.

To illustrate the process for the information of the Committee, we will state a case. A defendant is arrested on *Capias ad respondendum*, and tenders

bail for his appearance on return of writ. If the Sheriff refuses such bail, he is liable to an action of damages. The best men are doubtful in doubtful times, and yet the expression of a doubt is looked upon as an insult. A strong case would be made out against the public officer of having denied lawful liberty to the subject, by refusing bail to all appearance unimpeachable, and the case would most probably be tried by a Jury of the associates or friends, or of persons of congenial pursuits both to the defendant and bail. Public sympathy would be with the parties, and the chances sorely against the public officer.

On the other hand, suppose the Sheriff takes bail apparently good, and in reality solvent at the time, for the appearance of the defendant on the return day, say three months distant. The Sheriff may feel sure of the sufficiency of such bail for three months, should their sufficiency be challenged within that period; but reasoning from the precarious circumstances of a mercantile community, he would be unwilling to incur a more extensive or indefinite risk. And yet if the defendant fails to appear, the Sheriff is held responsible not only for the sufficiency of the bail at the time when defendant failed to appear, but for the further sufficiency of the bail up to the time when judgment is rendered against defendant; in the case above cited, Vaneps vs. Platt, an interval of fourteen months or thereabouts occurred, but which may vary more or less according to circumstances in every case. But the responsibility of the Sheriff does not cease here; judgment being rendered against defendant, instead of accepting an assignment of bail bond, as heretofore had been the practice, the present practice is for the plaintiff to rule the Sheriff to produce the body of defendant or pay the debt. The debt having been paid by the Sheriff, that officer may then proceed against the bail, upon the bail bond, for the recovery of the amount thereof, risking the failure or insufficiency of the bail during the time which may elapse in the process of a tedious litigation. Thus having taken bail originally for a period of three months, the Sheriff, under the influence of circumstances over which he can exercise no control, is compelled to be responsible for such bail remaining good and solvent during a period of three years and upwards, as in the case of Vaneps vs. Platt, first above cited.

This explanation, detailed as it is, and unavoidably prolix, will perhaps spare me the necessity of occupying the time of the Committee with the details of the other two cases, adverted to in your return to Mr. Secretary Leslie, to wit, Try vs. Daily, and Torrance vs. Scott, further than to say that the first is a case in which we have lost the amount stated from the insufficiency of the Bail, and the second a case wherein the bail demurs to paying the amount of the judgment, leaving thereby the responsibility on the Sheriff.

The case of Durochers vs. Mount is a case of a different description. By the 15th Sect. 41 Geo. III, chap. 7, a Plaintiff purchasing lands sold at his own suit is authorized to retain in his hands so much of the purchase money as may equal the amount of the judgment upon which said lands were sold, giving a bond to the Sheriff in lieu of the price. In the case above cited, through the inadvertence of a clerk, the plaintiff was allowed to give his bond for the whole amount of purchase, which very much exceeded the amount of his judgment, and the Sheriff's return to the Court was a return prejudicial to themselves as well as erroneous, seeing that they returned that they held moneys and not bond; as we could not recede from our return we were compelled to pay the moneys and fall back on the bond, which proved to be valueless.

I would beg leave to observe, in conclusion, that

Appendix  
(O.O.O.O.)

17th April

Appendix  
(O.O.O.O.)

17th April.

these cases have been cited by me, not so much to show the amount of losses specially incurred, as to particularize the class of cases to which our responsibility extends, and to call attention to the fact, that cases which have occurred once may and probably will occur again.

MONDAY, 19th March.

W. F. Coffin, Esq, again examined by the Committee.

27. In the case of *Bowman vs Dawson*, No. 1250, which you cite as an example, in which you paid costs and charges to the extent of £32 8s 2d currency, have you no hope of recovering the amount? please to explain.—I am very sure we have no means of recovering the amount. The lands were seized by one Enoch Holt, a Bailiff of the Court of Queen's Bench, (but not one of ours); he seized the lands of another person by mistake, and thus made us responsible for that amount.

28. Can you inform the Committee as to who employed Holt?—I cannot; we would not employ one who is not bound to us, if we could find one who is bound to us; and our practice has been to allow the attorneys concerned to employ the Bailiffs themselves, in remote parts of the country. In this particular case, I rather think that Holt was employed by the attorney.

29. Can you in a day or two ascertain and state to the Committee, who was the attorney, and who employed Holt?—I will endeavour to do so. The attorneys of record in the case *Bowman vs Dawson*, were Messrs Fisher and Smith; Mr. Drummond was attorney for the opposant, Buchanan; Holt was employed by Messrs. Fisher and Smith.

30. Are you now ready to answer in detail the 26th question?—I will endeavour to do so on Wednesday next.

FRIDAY, 23rd March.

W. F. Coffin, Esquire, again examined by the Committee.

31. Without reference to probabilities, please to state whether you have suffered loss in any other cases than those which you have just enumerated?—I cannot at the moment recall facts.

32. Have you accounted in detail for all the cases cited in your letter to Mr. Secretary Leslie?—I have.

33. How were you engaged before your appointment as Sheriff?—I am an Advocate by profession, and at the time of my appointment to the office of Sheriff, I held the office of Commissioner of Police for the Province of Canada.

34. Will you favour the Committee with a copy of that Commission?—I will. (See Appendix C.)

35. How long had you been called to the Bar before your appointment as Sheriff?—I think I was called to the Bar in 1836.

36. In how many cases were you engaged before your appointment?—Very few.

37. Had you six?—I was professionally associated with C. R. Ogden, Esq., in the summer of 1838, who was then the Attorney General, and as so associated with him, I had several cases at the Quebec Bar, and I had also several at the Montreal Bar prior to that.

38. Did it occur to you in the case of *Durocher* against Mount, that the difficulty in which you were placed, is the result of your own mistake?—The difficulty in which we were placed arose from the

Appendix  
(O.O.O.O.)

17th April.

mistake of a clerk, which occurred (if I err not) during a pressure of public business. For this mistake we were liable, hence a portion of our responsibilities.

39. Have you in fact lost any thing in the way which you have alluded to?—No, we have not, but we have serious apprehension that we will.

Mr. Coffin handed in the following two memorandums:—

1st. The Committee having expressed its readiness to receive any details as to the operation of law or of forms of law which impose responsibility, and justify the claim to adequate compensation, I would beg leave to call the attention of the Committee to the risk which has been hitherto incurred from the manner in which we have been induced, I may say, from force of circumstances, compelled to execute writs of execution *de bonis*. These writs are of course executable throughout the whole extent of this very extensive District. The execution of them is very often a mere preliminary, but indispensable, from the return being frequently, if not for the most part "*nulla bona*," nothing. Strictly speaking, we ought to execute these writs through our Bailiffs, but as in most cases the probability is, that the proceeds of sale, if any, would not suffice to pay the expenses of a man sent from Montreal to an indefinite distance into the country, we have, to meet the public convenience, and to obviate costs and charges to the parties, been in the habit of confiding our warrant in the writ "*de bonis*" to the Plaintiff's attorney, allowing him to transmit it in the most economical way to the residence of the defendant, and to cause it to be there executed by any Bailiff of the Court of Queen's Bench, whether such Bailiff has given security to the Sheriff or not. We in fact assume a heavy responsibility to convenience the public, for it does occasionally occur that these writs *de bonis* are productive of large sums of money, which the Bailiff, from inexperience, or a hasty desire to perform a duty he does not exactly understand, may pay over to the wrong person, or which, being in no way personally liable to the Sheriff, he may appropriate to his own purposes, or which, from ignorance, he may fail to levy and return in a proper and legal form, in all these cases making the Sheriff responsible and liable for his errors or inadvertency. It is difficult to assign a limit to our liability in this matter, as cases of which we have long since lost sight may at any time be brought up against us. In fact I look upon the responsibility of the Sheriff's office, in these as well as in other cases, to be, in the words of one of the ablest and most respected members of the Montreal Bar "not so much that of which he knows anything as that of which he does not." This gentleman would I am sure, if invited by the Committee, give the benefit of his testimony and of his professional experience to this effect.

2nd. I wish to call the attention of the Committee to the disbursements which we are compelled to make in the matter of printers' charges, and to the risks and responsibilities involved therein. In the execution of writs *de terris*, writs against lands, it has been the practice in the Sheriff's office, from a period antecedent to my association in it, when the seizure has been made and the property so seized is so far known as to be capable of description, to send such description, in compliance with the law, to the *Quebec Official Gazette*, for publication previous to sale. The publications continue during a period of four months, and the expense is charged against the office of Sheriff. The printer of the *Quebec Official Gazette* sends in his bill for payment every three months, and up to a late period, has been paid in full upon a simple verification of the fact that the publications charged had been made under our instruc-



Appendix  
O.O.O.O.)

17th April

tions. We, however, can only be reimbursed our disbursements after the land has been sold and the price thereof realized. The costs and charges of the sale are deducted from the amount so realized. But it often occurs that the sale does not take place, that the plaintiff's attorney suspends the sale, or proceedings are stopped by opposition, which in the not unusual process of tedious litigation may remain undecided for years. In these cases, having made the disbursements, we too must await the decision of the Court before we can be reimbursed or reimburse ourselves. The effect of this practice has been, until within the last few months, to make the public our debtor to the extent of some £480 and upwards. Within the last year or fifteen months, we have adopted a different course, and have declined paying the printers except in cases wherein the sale has been made and money realized, or wherein, in the case of suspension, the costs have been paid to us. Thus far the printer of the *Quebec Gazette* has acquiesced in this course, from an assurance, or an impression of assurance, that the deduction of the unpaid cases is only a delay, that the arrears, in the course of time, will be paid to us and handed over to him, but if any sudden change takes place in his office, as appears just now to be contemplated by the Legislature, the question may and possibly will be raised by him, or his representatives, as to our immediate liability towards him, to an amount, I should say at this moment, of at least £250 currency. I wish the Committee to understand that I do not complain of these responsibilities. As far as I am concerned, I assumed them with the emoluments of the office; I only cite them to show that responsibilities do exist, and that these responsibilities are conducive to the convenience of the public.

SATURDAY, 31st March.

*René Auguste Richard Hubert, Esq., Advocate, examined:—*

40. Can you give to the Committee any information on the subject referred to them?—I know that when parties have recovered judgment, and presented themselves at the Sheriff's office with their rules of Court, ordering the said Sheriffs to pay them the amounts allowed them by the Court, they have been put off by them to some later period. This has very frequently happened,—it is a notorious fact, that in all distributions the Sheriffs invariably insist on their right to a delay of fifteen days from the parties collocated; whether they come from a distance or reside near, it matters not. These gentlemen have made arrangements with each other, in consequence of which Mr. Boston never pays; he may be in the office, but it matters not, and if Mr. Coffin is out of the way, one must either wait or return another time, for Mr. Coffin alone is the cashier. It is certain that both these gentlemen are very frequently absent from their office, nor do they ever get there before eleven o'clock in the morning, I have even known Mr. Boston to be absent at his Seignior, while Mr. Coffin was at Boston, in the United States. This state of things has been a source of great inconvenience to parties engaged in lawsuits, particularly those residing in the country; there is not, however, the slightest chance of obtaining justice from the Court, for this reason, amongst others, that the distributions being made at the end of the Term, can only be presented to the Sheriffs during the Vacation; now there is no means of applying to the Court out of Term, and parties having to wait during three months, are obliged to submit to the Sheriffs. These gentlemen have also the means of retaining in their hands, the funds of private indi-

viduals. It appears that the Sheriffs are even interested in doing so, for they receive interest on these funds as long as they retain them in this manner; I have not the slightest doubt that the Sheriffs could advantageously be dispensed with in all civil matters. We have, it is true, two officers, but there is really but one Sheriff, for Mr. Boston appears to be completely under the control of Mr. Coffin, and interferes very little in the business of the office.

*David Rochon, Esq., Advocate, examined.*

41. Can you give the Committee any information relative to the Sheriff's office?—I was employed in the Sheriff's office previous to the appointment of Mr. Coffin, and continued in that office until about eighteen months ago. I cannot say that these gentlemen were very punctual in their attendance at the office. They were sometimes both absent during office hours; they often came to the office at eleven o'clock in the morning; I think the public must sometimes have suffered from their absence. Mr. Boston, however, came earlier than Mr. Coffin.

According to the rules of practice, the office should be kept open from 10 o'clock A. M., until 4 P. M. in Vacation; during Term it should be kept open from 8 A. M., to 6 P. M. These gentlemen had made an arrangement together, by which Mr. Coffin alone had the management of the moneys. Mr. Coffin's absence from office was therefore more felt than Mr. Boston's—for even when the latter was present, the judgments of distribution could not be paid unless Mr. Coffin was present. I have frequently heard complaints made in my presence of the delay required by the Sheriffs before satisfying the judgments of distribution. The reason Mr. Coffin gave was that he was obliged to examine the judgments before he could pay the different sums allowed; judgments sometimes came in requiring very minute examination, and I remember that, from not having examined with sufficient care a judgment of distribution that came in, the Sheriff once paid a sum which was not due. I do not recollect whether any complaints were made against Mr. Boston, individually. As to the Sheriff's returns now before the House, I cannot say whether they are correct or not, except that the amount of moneys mentioned in the account annexed to the return appears to me rather low; I must, however, say, that if it is not correct, it must be through an involuntary error on the part of the Sheriff.

*A. D. Dorval, Esq., examined.*

42. Can you furnish this Committee with any information on the subject referred to them?—I do not believe that the duties of the Sheriff are correctly fulfilled, and I will state a case, to prove how much the public suffer. In the case of "*Beaudry versus Trudeau*," and four opposants, judgment of distribution was rendered in January 1847; as usual a great deal of time was taken in preparing it at the Prothonotary's office, and the Sheriffs had had it several days in their hands, when I sent for my clients the four opposants, from the country, to receive the amounts for which they were respectively collocated. We went to the Sheriffs office and I addressed myself to Mr. Coffin in the name of the parties then with me, and requested him to pay them the amounts they were entitled to; Mr. Coffin told me plainly, that he had not time to pay them then, and put them off for eight days, the opposants are from St. Sulpice, and they were obliged to go home and return again. It is a pity that Mr. Coffin's manner and tone, cannot be described on paper, they were very

Appendix  
(O.O.O.O.)

17th April

Appendix  
(O.O.O.O.)

17th April.

offensive and grossly insulting to me. My clients were paid on their second journey to town.

*Charles Drolet, Esq., Advocate, called in, and examined:*

43. Can you give to the Committee any information upon the subject of reference?—These Sheriffs do not appear to me to devote that attention to their duties which the public has a right to expect from them; they are often both absent at the same time during business hours. I have also repeatedly called before eleven in the morning, and never found either of them in their office, nor do I believe that they ever attend until after that hour. I would state also that in that office the public are not treated with that courtesy to which they are entitled, nor has the appointment of a second Sheriff been attended with any of those advantages that might have been, and perhaps were expected. On the contrary, since that appointment, both of them have been very lax in the performance of their functions. It would appear indeed that Mr. Boston transacts in that office only his own private business, and that Mr. Coffin is exclusively charged with the public business. On application to Mr. Boston upon any subject, however simple, he has invariably referred me to Mr. Coffin, and in money matters Mr. Boston never interferes. He seems entirely to submit to Mr. Coffin, and as to that important branch of the Sheriff's business, we have in fact but one officer. This creates great inconvenience to the public, for Mr. Coffin resides out of town, and is seldom at his office in the morning before eleven or twelve at noon, and very often not at all. I have called with clients for money, and been told Mr. Boston was out of town, and that Mr. Coffin had not come in. I have repeatedly returned during the day in the hopes of seeing Mr. Coffin, but in vain. I cite the case of Mr. Bonneau, of Laprairie, as an example. In this case, as in many others, I had called after the expiration of the fifteen days of delay which they unjustly claim before paying deposits in their hands. A poor blind man from St. Cesaire, led in by another, came to the Sheriff's office for some three or four pounds for which he had the order of the Court upon the Sheriffs, but both the Sheriffs being absent this man could not be paid. Mr. Kurczyn, a clerk in the Sheriff's office, wishing to spare the man a detention over night in town, begged of Mr. Monk, one of the Prothonotaries, to lend him the money, but unfortunately could not obtain it. This man was not my client; it was only by accident that I witnessed the fact. To exhibit the spirit in which the Sheriffs act, I shall cite the case of Mrs. Langlois, who was my client. Being ill-treated by her husband she obtained a separation, and upon the sale of the husband's effects the proceeds were to be paid to her, less the costs. Her claim being established by the *notary practician*, she bought in almost all, and under these circumstances she did not pay the price in cash, but gave to the Sheriffs the most undoubted security to pay. This was to cover the possibility of oppositions adverse to her being fyled. However, none were fyled, and the Court ordered the proceeds to be paid to her. When she presented her order to the Sheriffs to be exchanged for the bail bond, Mr. Coffin affected to consider that he had lent her money, and he charged her (over and above all fees incident to the bond) the sum of thirteen shillings and ninepence currency, or thereabouts, for interest, as if he had lent her the money, which he had not. The Sheriff also, having the patronage of the bailiffs (which the bar should have), put the parties to great expence, which might be saved upon executions. In some cases I have known enormous unnecessary expenses incurred by

Appendix  
(O.O.O.O.)

17th April.

the Sheriffs, as much as one-fourth of the proceeds of the sale has been thus absorbed. I can cite a case; it is that of Titus and Layin, St. John's. I have been told that as much as seventy pounds of expenses has been incurred for selling a piece of property. This might be done much cheaper, if the Sheriff did not interfere or could be dispensed with.

The kind of bar and box, with a sliding pannel, behind which Mr. Coffin places himself in the Sheriff's office, is always ridiculous, and sometimes offensive,

It is my opinion that the crier and tipstiffs are most unreasonably and exorbitantly paid. I know from the latter himself that he has made in some years as much as seven hundred pounds; whereas seventy-five pounds would be enough for such a man in a purely menial office, and at the utmost the crier might have a hundred and twenty-five pounds to pay these salaries.

The public is taxed five shillings on every writ, and large sums upon judgments of distribution for the payment of moneys; they also get a shilling upon every witness examined in Court.

TUESDAY, 3rd April, 1849.

*J. Romuald Cherrier, Esq., examined:—*

44. Can you give any information to this Committee respecting the Sheriff's Office?—In the cause, No. 122, of Jean Baptiste Cadieux dit St. Pierre, and divers opposants, the Sheriff had sold three lots of ground, and returned into Court, on the 17th October last, a sum of £72 6s. 6d. currency, as being the amount derived from the sale of the Lots Nos. 2 and 3, and had made out a return of *folle enchère* against one Ambroise Pelletier, who had bought the lot No. 1, for the sum of £43 currency. I represented three privileged creditors, opposants in the said cause, and who, together, were to have the greatest portion of the money returned, in part payment of the amounts due them. My clients, consequently, were interested in there being only one judgment of distribution in order to avoid costs. I fyled, on the 16th October last, in the office of the Prothonotary of the Court of Queen's Bench for this District, during the sitting of the Court, a motion *de droit*, upon which a rule of the said Court intervined the same day, authorizing the Sheriff to withdraw his first return, and to add thereto immediately a supplementary return of the amount derived from the sale of the said lot No. 1, which had been paid, in the interval, by the purchaser. I immediately took the said rule to the Sheriff's Office, and one of the Clerks thereupon prepared the supplementary return in question, dated 16th October last, in conformity with the said rule, but when it was presented to be signed, to William Foster Coffin, Esquire, one of the Sheriffs, he went off to the Prothonotary's Office, and reproached them severely for having issued the said rule on a motion which had not been directly made to the Court. The Prothonotaries having replied to him that the motion and rule were *de droit*, according to the ordinary practice of the Court, the said W. F. Coffin, Esquire, persisted in his refusal to conform thereto, or to make a return as required. To please Mr. Coffin, who had also attempted to reprimand me, pretending that I was wrong in thus acting, and particularly in the hopes of obtaining the distribution of the said moneys in the October term, I next morning renewed the motion in petition before the said Court, which was granted as *de droit*, and I hastened again with the said order to the Sheriff's Office, and begged of him to sign his return, which was already prepared as before mentioned, and to send it immediately to the Prothonotary's Office, as it was the last day, in accordance with the Rules of Practice, for obtaining

Appendix  
(O.O.O.O.)

17th April

judgment of distribution in the said October Term. It was in vain that I renewed my entreaties with his clerks during the whole of the day of the 17th last October, intimating that the strict delay for posting up the said judgment of distribution would expire on that very day. The only answer I could obtain was as follows: that Mr. Coffin had the papers before him, and that he had said that there was no hurry, and that he would make his return when he had time. I therefore left, waiting till Mr. Coffin should be pleased to decide the fate of my judgment of distribution for that Term, or the Term following. I was not deceived in my apprehensions: the return was made one day too late for me to obtain my judgment of distribution in the October Term, that is to say, the 18th of October, and the moneys remained in the hands of the Sheriff without being distributed, until the last January Term, when they were distributed principally to the clients I represented. The moneys would have been distributed in the October Term if the return in question had been made one day sooner, as I had justly demanded. All these facts can be verified by the record in the cause I have just cited.

As to the tone of superiority, and even want of politeness, with which the gentlemen of the bar and other parties are often treated by Mr. Coffin, in the exercise of his duties as Sheriff, I can say that, besides the complaints I have heard made, I was myself treated by him on the above occasion, in a manner that I would not make use of myself towards my equals, nor even towards my inferiors, although I only exercised, for the interests of my clients, a right which was afterwards sanctioned by the Court. I must here, however, do justice to his colleague, Mr. Boston, from whom, as yet, I have received every politeness and attention.

As regards the question to determine how far the office of Sheriff is indispensable in this part of the Province, I must say that I am not competent to the solution of this question, but there is one thing certain, and which no one will gainsay, that if, instead of the system now in force, another less expensive and more expeditious could be substituted, more particularly for the taking in execution of seized debtors, both they and the public in general would gain thereby, in my humble opinion, as far as regards the management of property for the mutual benefit of debtor and creditor. There exist in fact, great abuses in the present system, and here is one which is not the least among them. It is, that the Sheriffs who are in reality but the proxies of the creditor, receive annually for their own profit, independently of the sufficiently high commission allowed to them by law, the interest on considerable sums of money, that which they levy and deposit in banks, in many instances for years together. While the creditor is there waiting for a distribution, which is often retarded for several terms, through dilatoriness or negligence on the part of the public officer, in making his returns to the competent tribunals or through other circumstances, by which the Sheriff at all events, ought not to profit, to the prejudice of the creditor; and this, perhaps, is one of the motives that may help to give us an explanation of the interpretation which the Sheriff gives to judgments of distribution, which he only commences to liquidate a fortnight after they have been fyled in his office, although there is nothing in the tenor of the said judgment of distribution which can give rise to such an interpretation. In speaking of the case of the opposants in question,—I must say that I feel convinced that Mr. Coffin had the intention of depriving them of their judgment of distribution, as well as the intention to insult me; he even intimated to me that I ought to have asked him confidentially, and as a favour, to make the return in question.

Thomas Judah, Esq., Advocate, examined:—

Appendix  
(O.O.O.O.)

17th April

45. Can you give the Committee any information upon the subject referred to them?—I have had during several years daily opportunities of knowing how the public business is transacted in the Sheriff's Office. These officers are very often both absent;—they always arrive late, and the conduct of one of them, Mr. Coffin, is habitually, and, I think, intentionally, offensive, and even insulting. I understand that by an arrangement made between them, Mr. Coffin has always been the exclusive manager. I will give one instance out of a hundred: I had a judgment against a Mr. Baby, brother-in-law to Mr. Prothonotary Coffin, who is cousin to Mr. Sheriff Coffin. Mr. Baby made an opposition to a writ of execution, which opposition had been dismissed. He subsequently made a second on the same grounds, which was also dismissed. I must also remark that a form of affidavit is in such cases prescribed, and it is so framed as to prevent frivolous oppositions. But to prevent the sale of his effects, Mr. Baby made a third opposition without the affidavit prescribed by the rules, and Mr. Sheriff Coffin evinced a readiness to suspend the sale. I therefore called at the office, with the Rules of Practice in my hand, to show the particular rule to Mr. Coffin, but he would not look at it: he cut me short, though I spoke most civilly, and slammed the door in my face, not only in a rude manner, but with the most marked intention to insult me. Eventually, the third opposition was dismissed with costs. As Mr. Baby was insolvent, this was no consolation to my client, for he not only had to wait for the money for which the writ had issued, but had to pay costs. I obtained a rule, it is true, against the Sheriff, founded on these facts, but, as usual, my rule was dismissed with costs. The Sheriffs are proverbially great favourites with the Court, and no one can succeed against them. Each opposition cost my client about nine pounds of costs. This was a consequence of Mr. Coffin's conduct; but what is worse, on each writ of execution he insisted on having his fees paid in advance, so that he managed to get three sets of fees, when, if he had done his duty, he would only have had one. I mean to say, that the second opposition was dismissed because of the insufficiency of the affidavit, and the third opposition was fyled without any affidavit whatever. If writs were addressed to bailiffs, I have no doubt that justice, in such cases, would be impartially administered. In the Sheriff's Office there is a sort of bar, such as are seen in low taverns, and Mr. Coffin has a sliding pannel, which he opens and shuts at pleasure. The gentlemen of the profession are thus kept waiting outside, mixed up with the Sheriff's servants; and the whole appearance of the place, as well as the mode of transacting the business, is very offensive to gentlemen who are Mr. Coffin's equals, if not his superiors. I have often called on official business when Mr. Coffin has been inside engaged in conversing on topics interesting to himself, as, for instance, upon railroads. I have had orders for money, and have had to wait, and to return, and have thus been put to great inconvenience and loss of time, because Mr. Coffin could not be disturbed. Mr. Coffin's clerks stand in such dread of him that not one would dare to interrupt him under any circumstances. It is due to Mr. Boston to say that he has always been personally mild and civil.

Referring to the affidavit which should have been appended to Mr. Baby's opposition, and which was not; I have to add, that the rule is so worded, that according to its letter, as well as according to its spirit, the Sheriff should have proceeded to sell in despite of Mr. Baby's opposition. It is also worthy of note, that my motion to dismiss the opposition was kept under consideration by the Judges during

Appendix  
(O.O.O.O.)  
17th April.

the whole Term. It was made on the first day, and the opposition was dismissed on the last; the Judges thus taking the whole Term to determine a question which should not have occupied them above five minutes.

*Alexis Giard*, Esq., Advocate, examined:—

46. Can you give any information to this Committee on the subject referred to it?—In the case of *Leste vs. Lorié*, in which I acted for the plaintiff, I placed a writ of execution in the hands of the Sheriffs; they did not seize under it because the defendant paid without any sale taking place. On these grounds, the Sheriffs ought not to have 2½ per cent, because there was no sale; they ought not either to receive the proceeds, nor still less to retain them in their hands. In this case the bailiff who received the money ought to have been sent with it to the plaintiff to pay him. Nevertheless, the Sheriffs took the money, and paid themselves their 2½ per cent. When I went with the plaintiff to ask for the money, Mr. Boston referred me to Mr. Coffin, who refused to pay,—he made his return in the Court, and made the plaintiff wait about six weeks. I must add, that about the same time he paid a sum of money in a similar circumstance to Mr. Dumas, a member of your Committee, which induced me to think that Mr. Coffin did not act through ignorance; this fact was told me by Mr. Dumas himself.

The *Chairman* gives the following statement to the Committee:—

In August, 1839, I felt the fees and emoluments of the Sheriff to be so oppressive, that for their reduction I presented to the Court a Petition, which I submit herewith. The Court took not the least notice of it; the subject was not even mentioned by any one of the Judges, and the fees remaining the same, the income was eventually found to be too large for one person. Some three or four years afterwards, (as I heard and believe, because the income was too large for one person,) Mr. Coffin, a gentleman who had not been long at the bar, who cannot say that he had even six causes; and who, if I mistake not, had not many more than two, was promoted over the whole profession, and joined in the commission with Mr. Boston. It appears to me that it would have been better to have reduced the income one half, than to have named a second Sheriff because the income was too large for one. I wish to add, that it is extremely inconvenient and unpleasant to have any business with the Sheriffs; for my part I very seldom can find them in their office, Mr. Boston being very frequently at his seignior, and Mr. Coffin said to be engaged at the Railroad office; I have also very frequently witnessed their being called for in Court without success. In that office, to my certain knowledge, as far as my observation extends, no attention is paid to the wants of the suitors; Mr. Coffin, who seems to be the managing partner, either does not know or choose to know anybody, and I have known him to refuse as bail for about £70, a man worth two or three thousand pounds; he is not only unaccommodating, but his deportment as a public officer is very offensive. I do not enter into the causes, but I venture to remark that it seems to me to be inexpedient that a subordinate officer like the Sheriff should so rapidly acquire wealth, as to be in that particular immediately placed above the bar. That they possess great wealth, and that it has affected Mr. Coffin's conduct is, I think, unquestionable.

In all those arrangements too, incident to process *in rem*, as for instance a *saisie conservatoire*, on pretext of their responsibility, the Sheriffs will interfere, but they cannot stoop to take measures to do the

Appendix  
(O.O.O.O.)  
17th April.

work promptly and effectually, nor yet to promote economy. Dealing with the funds of others, they can lose nothing, and they know it; but if the plaintiff were allowed to choose his own officer, the latter would be responsible, would find it for his own interest to be efficient and to study economy, as it would secure him a preference. The Sheriffs possess, in fact, an odious monopoly, enjoying an immense income, without any other labour than what is necessary for the receipt and investment of it, and without any real responsibility whatever. Most of their duties are also very negligently performed, that of preparing Jury lists is one; thus out of 24 names in one list, nine had been absent or dead, some for a length of time,—one man had been dead three years, and a man well known to all the world was not summoned because the Sheriff did not choose to know him, or would not condescend to interfere. This occurred in a case of my own, delay and costs followed, and I could get no satisfaction, and the rule which I obtained, to make the Sheriffs pay the costs of their own negligence, was discharged.

In the forty-eight names composing a Jury list, the same name would be sometimes found down twice, described in one place as his place of residence, and in a second as his place of business. In another case in which I am concerned, this has been one of the grounds for demanding a new trial.

The kind of bar behind which they sit in their office, coupled with other circumstances, is not pleasant, and the wicket with a sliding pannel, which Mr. Coffin draws or closes at pleasure, while the gentlemen of the bar are kept standing, waiting his pleasure outside, certainly savours of indignity.

To the Honourable the Justices of Her Majesty's Court of King's Bench for the District of Montreal.

The Petition of Bartholemew Conrad Augustus Gagy, Esquire,

RESPECTFULLY SHEWETH:—

That in common with all Her Majesty's subjects, and more particularly as a suitor before this Court, Your Petitioner has an interest in the reduction of such of the fees of the officers of the Court as may be exorbitant.

That for some years at least, those of the Sheriff of this District have been admitted, not only by the community at large, but by the Legislative bodies, and as Your Petitioner is informed and believes, even by this Court, to be unreasonably high, and that Your Petitioner has greatly suffered in consequence.

That they have been generally understood to amount to upwards of two thousand pounds, a sum not only much beyond the means of the country, and out of all proportion with the incomes of professional men of talent, learning, and industry, but unquestionably four times more than a just compensation for duties, most of which are purely mechanical, or performed by the printer, or by officers of the lowest class.

That during the suspension of the constitution, Your Petitioner submits, that it is the duty of this tribunal not only to protect the Queen's faithful lieges, but to exclude the possibility of a pretext for complaint and disaffection, by redressing a grievance which has been widely felt.

That Your Petitioner, relying not only on your sense of justice and of sound policy, but on a distinct pledge, which this Court is understood to have long since given, confidently appeals to Your Honours for the reduction of these extravagant fees, more particularly as the length of the present vacation will afford abundant leisure for the purpose.

And Your Petitioner, as in duty bound, will ever pray.

A. GUGY.

Appendix  
(O.O.O.O.)

17th April

(Signed,) RICHARD D. JACKSON.

PROVINCE OF  
LOWER CANADA. }[L.S.] Victoria, by the Grace of God, of the United  
Kingdom of Great Britain and Ireland,  
Queen, Defender of the Faith.To all to whom these presents shall come, or whom  
the same may concern,

GREETING :

**WHEREAS** in and by a certain Ordinance of the Governor of Our said Province of Lower Canada, and of the Special Council, for the affairs thereof, made and passed in the Session thereof held in the third and fourth years of Our Reign, and intituled "An Ordinance to repeal certain parts of an Ordinance therein mentioned, and to amend certain other parts of the said Ordinance, and to amend certain parts of another Ordinance therein mentioned, and to make further provision for establishing and maintaining an efficient system of Police in the Cities of Quebec and Montreal, and the Town and Borough of Three Rivers," it is among other things enacted, that it shall be lawful for the Governor of our said Province to nominate and appoint a fit and proper person to be Commissioner of Police for the Province of Lower Canada, to have, hold, exercise, and discharge certain powers, authority, and duties in the said Ordinance set forth, expressed, and contained, and thereby vested in such Commissioner of Police.

Now, know ye, that reposing full trust and confidence in the loyalty, integrity, fitness, and capacity of William Foster Coffin, of the City of Montreal, Esquire, We have nominated and appointed, and by these Our Letters Patent do nominate and appoint the said William Foster Coffin to be Commissioner of Police for the Province of Lower Canada, and to have, hold, exercise, and discharge all and singular the powers, authority, and duties in the said Ordinance expressed, contained, and set forth, and thereby or by law vested in such Commissioner of Police for the Province of Lower Canada.

To have and to hold unto him the said William Foster Coffin, the said Office of Commissioner of Police for the said Province of Lower Canada, with all and singular the rights, powers, authority, and emoluments to the said office appertaining or in any wise belonging, under the said Ordinance or by law, for and during Our Royal pleasure, and the residence of the said William Foster Coffin within our said Province; subject always to all and every the conditions, enactments, requirements, and provisions of the said Ordinance, or of the law, touching or concerning the said Office.

IN TESTIMONY WHEREOF we have caused these Our Letters to be made patent, and the Great Seal of Our said Province of Lower Canada to be hereunto affixed.

WITNESS Our trusty and well beloved Sir Richard Downes Jackson, Knight Commander of the Most Honourable Military Order of the Bath, Administrator of the Government of Our Province of Lower Canada, and Commander of Our Forces in British North America, at Our Castle of St. Lewis, in Our City of Quebec, in Our said Province of Lower Canada, the eighth day of July, in the year of Our Lord one thousand eight hundred and forty, and in the fourth year of Our Reign.

(Signed,) D. DALY,  
Secretary.SATURDAY NIGHT,  
7th April, 1849.Appendix  
(O.O.O.O.)

17th April

SIR,—By permission of the Committee appointed to inquire into the returns of the Sheriff of Montreal, of which you are Chairman, I perused in the Committee Room the evidence which has been taken by the Committee since I had last the honour to appear before it.

In requesting this permission from you personally, in the lobby of the House this evening, I stated to you the facts, first, that my associate in office, Mr. Boston, was not in Montreal, having been sent upon public business to the United States by Her Majesty's Government; and, secondly, that in consequence of his absence, my personal attendance in Court or in my office during this week, from 10 A. M. to 6, P. M. in accordance with the Rules of Practice, had precluded me from taking communication of this evidence during that time.

For the correctness of the latter part of this statement, I can, with confidence, appeal to yourself from your familiarity with the details and duties of the office of Sheriff, and from the circumstance that your own constant attendance in Court, during the week, cannot but have brought mine under your notice.

I beg leave now to state that the evidence above referred to, being that of five or six members of the Montreal Bar, contains imputations affecting seriously the office I have the honour to hold, and myself individually; and I do not hesitate to express my conviction that there is no part of such evidence, so far as a cursory perusal has enabled me to judge of it, which with time and opportunity, I shall not be able either to refute entirely or explain satisfactorily.

I have, therefore, to request most respectfully that the Committee will be pleased to suspend further action on the said evidence until I am furnished with a transcript thereof, which I pray may be so ordered, and until I have had an opportunity afforded me of producing evidence in refutation of any charges which may be preferred against me and my office, and further that such postponement may be granted as will admit of the return of Mr. Boston, and enable him to meet any charge or imputations contained in the said evidence which may affect him, either individually or in connection with his office.

I have the honour to be,

Sir,

Your obedient servant,

WILLIAM F. COFFIN,  
*Joint Sheriff, Montreal.*Colonel Gagy,  
Chairman, &c.

MONTREAL, 7th April, 1849.

SIR,—I now beg leave to inform you and the other honourable gentlemen composing the Committee, before whom I deem it my duty to appear this afternoon, that the evidence which I am prepared to give as to the manner in which the duties of the office of Sheriff have been performed by Messrs. Boston & Coffin is to the following effect: That so far as I have had the means of judging, (and my practice as an advocate of the Montreal Bar has for some years past been very extensive, as I believe is known to some of the members of the Committee), Messrs. Boston & Coffin have faithfully and efficiently performed the duties of their office, from the time they were appointed to it until the present time, and more particularly that I have never known

Appendix  
(O.O.O.O.)  
17th April.

or heard of an instance of their improperly delaying the payment of any sum of money, which they were required to pay by any judgment or order of the Court.

Mr. Johnson, Q.C., Mr. Rose, Q.C., Mr. Andrews, Mr. Andrew Robertson, Mr. Cross, and Mr. Bethune, who, as advocates enjoying a highly respectable and very extensive practice, have had ample opportunities of forming their opinions on this subject, authorize me to say, as I informed the Committee, that they were ready to be examined before the Committee, if required; and I am now authorized by those gentlemen to say that they are prepared to testify as to the efficient manner in which Messrs. Boston & Coffin have at all times performed their official duties, and especially as to the promptitude with which they have invariably paid all orders or judgments, distributing moneys in their hands. A number of other advocates, holding a high rank in their profession, to whom I have since spoken on the subject, are prepared to give their evidence to the same effect. I may mention the names of Mr. Griffin, Mr. Bleakley, Mr. Mackay, and Mr. George Robertson.

Although I very gratefully acknowledge the courtesy which was extended towards me by you, and the other gentlemen before whom I had the honour of appearing to-day, yet I do not consider it necessary to offer any apology for having so appeared, or for the present letter. As a friend of Mr. Boston, I think it proper that the Committee should be made aware that he is now absent from this Province, on public business connected with his office, and as a lover of justice, I deem it my duty to apprise the Committee that a number of gentlemen, competent to give evidence on the subject of the inquiry now being made by the Committee, are ready to be examined if required.

I have the honour to be,

Sir,

Your very obedt. servt.,

W. C. MEREDITH.

Col. Gagy, M.P.P.,  
Chairman.

April 9th.—Since writing the above, I have learned that Mr. Boston returned to this city yesterday.

W. C. M.

#### RETURN

To an Address from the Honourable the Legislative Assembly to His Excellency the Governor General, of the 23d January ultimo, praying that His Excellency would be pleased to cause to be laid before the House, a Statement in detail of the Income derived by the Sheriff of the District of Montreal in virtue of their office, distinguishing the several sources thereof, and specifying the amount of Public Moneys in their hands, together with profit, in the shape of interest or otherwise, derived by them for the last five years; and accompanied by a copy of certain remarks, in connection with the above, by the Sheriff.

By command,

J. LESLIE,  
Secretary.

Secretary's Office,  
Montreal, 6th February, 1849.

SHERIFF'S OFFICE,  
Montreal, 5th February, 1849.

Appendix  
(O.O.O.O.)  
17th April.

SIR,—In obedience to the commands of His Excellency the Governor General, we have the honour to transmit, enclosed, a Statement, in detail, of the income derived by us as Sheriff of Montreal, in virtue of our office, distinguishing the several sources thereof, and specifying the amount of Public Moneys in our hands, together with the profit, in the shape of interest or otherwise, derived by us for the last five years.

This statement contains:

First, The total average amount of Public Moneys in our hands, in each of the years above specified.

Secondly, The amount of income derived by us as Sheriff of Montreal, in virtue of our office.

Thirdly; The salary allowed annually to the Sheriff of this District as a compensation for personal services rendered the Government in superintending the government of the Gaol, in summoning Grand and Petty Jurors for the Courts of Queen's Bench and Quarter Sessions, for preparing Jury Lists of Grand, Petty, and Special Jurors, making Registers of the same, and for various other services involving expenses far exceeding the amount of salary.

Fourthly, The amount of profit, in the shape of interest or otherwise, which has arisen annually from the dispositions made by us of the Public Moneys, which the law places in our safe keeping, and for the forthcoming of which, as commanded by the Court of Queen's Bench, we, and our sureties, are at all times responsible.

There remains yet another source of income under the head of receipts under "Mesne Process." The proceeds of fees under mesne process have been devoted to defray the expenses of the Sheriff's Office, and have proved to be insufficient for that purpose. To support the current expenses of the Sheriff's Office, and as clerks' salaries, registers, stationery, and printing, we have disbursed a sum of £699 7s. 10½d., over and above the proceeds under mesne process, during these five years past, which sum of £699 7s. 10½d., divided among these five years, and deducted from the annual return of net income in each, reduces the annual emoluments of the Sheriff's Office of the District of Montreal, to the amount specified in the return made for each year.

We may be permitted to remark that, by the 17th Section of the Judicature Act, 7 Vict., c. 16, the service of writs of summons, issuing from any Court of Queen's Bench, was taken from the office of Sheriff, and transferred to the hands of the Bailiffs of these Courts; by this Act, the office of Sheriff was deprived of the service of writs, which, with little comparative responsibility, ensured a certain amount of income, while it was, at the same time, and under the same clause in the same Act, expressly charged with the execution of all other writs, such as writs of *Capias ad respondendum*, *Saisie arrêt* before judgment, *Saisie gagerie*, and *Saisie revendication*, which repay a very great amount of responsibility, by a very trifling and inadequate remuneration; the abstraction of this source of income, without any compensation, will account for the diminution of the proceeds of our office, under the denomination of fees under "mesne process;" as it is, they by no means meet the annual expense of the office.

It would, however, be difficult, in the time at our disposal for preparing these returns, and inconvenient from length of detail, to give here a statement of daily receipts and expenditures covering a space of five years. Should, however, any more detailed statement be desired, with sufficient time we are prepared to furnish the same.

With reference to these Returns of the emoluments of the office of Sheriff, we beg leave to bring under

Appendix  
(O.O.O.O.)

17th April.

the notice of His Excellency the Governor General, the nature and extent of some of the responsibilities of this office, and we submit respectfully to the consideration of His Excellency how far these emoluments, divided between two incumbents, are or are not disproportionate to the pecuniary responsibilities involved in its tenure.

We would, in the first place, call attention in general terms to the fact, that the Sheriff of this extensive district is held responsible for the acts of all Bailiffs to whom the execution of warrants must be necessarily confided.

These duties can only be performed through the instrumentality of agents who, remote from our immediate direction, supervision, or control, and in despite of all precaution, constantly involve us in the consequences of their inadvertencies and omissions, as will be more fully exemplified hereafter.

We do not attempt to question that the responsibility of the Sheriff should be, as it always has been, an effectual protection to the public, but it should not be forgotten how much, from the circumstances of country and climate, from the remoteness and dispersion of settlements, and from the meagre choice of men, the responsibilities of Sheriffs are increased in Canada; and with these considerations before it, we are sure that the public, which profits by the protection, will not refuse a fair compensation for the risk.

As Custodiers of the Montreal Gaol, not now, as formerly, situated in close contiguity to the Court House and our office, or under our eye and constant observation, we are responsible for the safe keeping of all debtors, with the alternative of paying the debt for which each party is confined, in the event of escape, nor are we responsible for our own acts alone, but for the negligence or inattention or inadvertence of every subordinate Officer of the Gaol. Some idea may be formed of the nature and extent of this responsibility, when we state that we hold at this moment one party under alleged liabilities, amounting to £5000, while by a late judgment of the Court of Queen's Bench, Mr. Boston was adjudged to pay a sum of upwards of £200 currency, in the case of *McFarlane vs. Boston*, being a case of escape, arising from one of those acts of accidental, and almost unconscious carelessness on the part of a subordinate, which no foresight can guard against, and no precaution control.

But it is in cases of arrest under process of *Capias ad Respondendum*, and in the taking of bail thereupon, that the pressure of our responsibility proves most onerous and most arbitrary. By the law as it operates practically, and as interpreted by our Courts, the Sheriff is not only compelled to take bail, or to be answerable for such bail being good and solvent when taken, but that officer is made responsible for such bail remaining good for an indefinite period during the time while one, perhaps two series of legal proceedings, are in protracted progress, to final decision. In the interim, the Sheriff is, by a summary proceeding, held to produce the body, or pay the debt, or go to gaol.

It will be easily understood that in a large commercial community, such as that of Montreal, bail which might be unimpeachable, when taken, might bear a very different aspect in a few months or even weeks after.

How aggravated, therefore, must be the nature of the responsibility, which under such circumstances, may extend to a period of years. The practical effect of this anomaly will be still more intelligible, when we state, that as far as we are concerned, it has within the last few months resulted in the payment of £129 3s. 3d. in the case No. *Vaness vs. Platt*, of £76 10s. 4d. in the case No. 1643, *Try vs. Daly*, and that in another case, No. 105, *Torrance vs. Scott*, judgment against us for the sum of £260 has only

been deferred from the Term now sitting to the next, by the courtesy of Counsel.

Thus also, in the matter of bonds, which, under the provisions of the 41 Geo. III., chap. 7, sect. 15, a plaintiff, when he becomes the purchaser of lands sold at his suit, is authorised to give to the Sheriff, in lieu of the purchase money pending adjudication of such purchase money; in one instance, the case No. 2315, *Durocher vs. Mount*, we were compelled to pay a sum of £216, having taken therein security, which we could not refuse, which we could not compel to justify (the law affording us no such remedy) and which finally proved to be insufficient.

So also in the case of an erroneous seizure, where a Bailiff is sent to attach and sell real property some 200 miles up the Ottawa, and in the confusion of the trackless forest seizes the land of another owner; in cases such as these, the proceedings are of course quashed at the expense of the Sheriff. In the case No. 1250, *Bowman vs. Dawson*, for example, we paid costs and charges to the extent of £32 8s. 2d. cy.

We might easily multiply the instances of responsibility, to show that such responsibilities ought not to be imposed, without adequate compensation; but we refrain, first, from the belief that enough has been said upon this head, and secondly from the necessity we are under to extend this already protracted communication, by praying the attention of His Excellency to another feature in the unequal operation of progressive legislation, so far at least as it has affected the office of Sheriff, within the last few years.

When the Legislature in its wisdom has thought fit to transfer to others the lighter duties of our office, and the emoluments therefrom arising, it is not for us to complain. We may have thought that we were entitled to some compensation for the income taken away; looking to the onerous character of the duties expressly retained, but we felt that it was our part to submit cheerfully to a decision based, doubtlessly, on public considerations only, and we did so. But in carrying out the details of a subsequent legislation, cases have arisen involving the Sheriff in new and heavy responsibilities, undesigned, we feel convinced, and unforeseen by the Legislature, for which too, from like reasons, no compensation has been provided whatever.

Thus under the operation of the 37th Section of the 7th Vic., c. 16, a Bailiff under a Writ of *Saisie Arrêt*, before judgment issued out of a Circuit Court, may seize a floating raft, precarious property, which the Sheriff, under the provisions of 6th Wm. IV. cap. 15, Sec. 22, could not be compelled to seize, (except under security to hold him harmless from the consequences), and on making his return to the Sheriff, impose thereby upon that officer the whole responsibility of the seizure, and the responsibility which might accrue in the interval, between the making of such return to the Sheriff, and the taking into possession by the Sheriff, of a raft of valuable timber, lying, perhaps, in an insecure position at Aylmer, on the Ottawa, or, as actually did occur, in the same river opposite to Bytown, and, of course, all subsequent responsibility. For the same reason, doubtless, that the responsibility was unforeseen, no fee or compensation is provided for this service.

We would also call attention particularly to the operation of the Bankrupt Act, 7th Vic. c. 10, and 9th Vic. c. 30, which transferred from the Office of Sheriff, to the charge of Assignees, all the large estates, movable, and immovable, sold by Judicial sale, since the passing of the same, deducting so much from the two and a half per centage of the Sheriff's Office, while, at the same time, novel duties and heavy responsibilities were imposed upon the Sheriff, without any remuneration being provided by such Acts; and it was only when the Commissioners in Bankruptcy were authorized to establish a Tariff that the Sheriff

Appendix  
(O.O.O.O.)

17th April.

Appendix  
(O.O.O.O.)  
17th April.

Appendix  
(O.O.O.O.)  
17th April.

obtained, in a very modified per centage, some compensation for the responsibilities incurred, and to be incurred.

The nature of these responsibilities may be inferred from the fact, that there impends over Mr. Boston in his capacity of Sheriff sole, at this moment, a judgment in appeal, involving a sum of at least £1000. Case No. Fisher vs. Boston.

We trust, therefore, that in making a return of the income of our office, we shall be pardoned these details. It may be very necessary for the public protection to impose upon the public office the responsibilities referred to. It may be within the letter of the law to exact rigorously the penalty of such responsibilities, but it can never have been in the contemplation of the Legislature to reduce the average of emoluments, below the average of responsibility, nor could it have been intended, by any inadvertent

process, to aggravate the liabilities of office, without the knowledge of the Incumbent, while, at the same time, the income of the office, upon the faith of which he accepted the original liabilities, is from time to time reduced without his cognizance, and without compensation.

In the firm belief that the facts above related only require to be known to ensure attention, justice, and remedy, we submit the same to the consideration of His Excellency the Governor General, with a renewal of the expression of our deep respect, and have the honour to subscribe ourselves.

Sir,  
Your most ob't serv't,  
(Signed,) BOSTON & COFFIN,  
Sheriff.

1844.

STATEMENT of Income of Office of Sheriff, for the year 1844.

	£	s.	d.	£	s.	d.	£	s.	d.
Average amount of Public Moneys in Sheriff's hands.....							11127	12	11½
Amount of receipts on sales of movable and immovable properties.....	1035	15	4½						
Amount of receipts on Deeds and Bonds.....	337	5	9				1373	1	1½
Amount expenses of Office, being Clerks' salaries, Stationery, &c.....	581	10	8½						
Deduct amount received on Mesne Process.....	523	18	5				57	12	3½
Amount of salaries as received from Government.....	111	0	0				1315	8	10
Amount of Interest as received from Bank on Deposits, &c.....	397	12	6						

BOSTON & COFFIN,  
Sheriff.

5th February, 1849.

1845.

STATEMENT of Income of Office of Sheriff, for the year 1845.

	£	s.	d.	£	s.	d.	£	s.	d.
Average amount of Public Moneys in Sheriff's hands.....							16572	10	0
Amount of receipts on sale of movable and immovable property.....	935	12	10						
Amount receipts on Deeds, Bonds, and in Bankruptcy.....	258	10	0				1194	2	10
Amount of the expenses of Office, being Clerks' salaries, Stationery, &c.....	574	2	11						
Deduct amount received on Mesne Process.....	321	1	1½				253	1	9½
Amount of salaries as received from Government.....	111	0	0				941	1	0½
Amount of Interest as received from Bank on Deposits, &c.....	608	18	8						

BOSTON & COFFIN,  
Sheriff.

5th February, 1849.



Appendix  
(O.O.O.O.)

17th April.

**1846.**

STATEMENT of Income of Office of Sheriff, for the year 1846.

Appendix  
(O.O.O.O.)

17th April.

	£	s.	d.	£	s.	d.	£	s.	d.
Average amount of Public Moneys in Sheriff's hands.....							11629	11	11
Amount receipts on sale of movable and immovable property.....	604	4	1						
Amount receipts on Deeds, Bonds, and in Bankruptcy.....	271	5	5				875	9	6
Amount of the expenses of Office, being Clerks' Salaries, Stationery, &c.	465	16	10						
Deduct amount received on Mesne Process.....	389	2	4				76	14	6
Amount Salary as received from Government.....	111	0	0				798	15	0
Amount Interest, &c, as received from Bank on Deposits, &c.....	650	17	0						

BOSTON & COFFIN,  
Sheriff.

5th February, 1849.

**1847.**

STATEMENT of Income of Office of Sheriff, for the year, 1847.

	£	s.	d.	£	s.	d.	£	s.	d.
Average amount of Public Moneys in Sheriff's hands.....							12,322	11	0
Amount receipts on sales of movable and immovable property.....	888	1	0						
Amount receipts on Deeds and Bonds, and in Bankruptcy.....	648	3	0				1536	4	0
Amount of the expenses of Office, being Clerks' Salaries, Stationery, &c.	413	11	1						
Deduct amount received on Mesne Process.....	389	16	8½				23	14	4½
Amount of Salary as received from Government.....	111	0	0				1512	9	7½
Amount of Interest, &c., as received from Bank on Deposits.....	544	2	9						

BOSTON & COFFIN,  
Sheriff.

5th February, 1849.

**1848.**

STATEMENT of Income of Office of Sheriff, for the year 1848.

	£	s.	d.	£	s.	d.	£	s.	d.
Average amount of Public Moneys in Sheriff's hands.....							5424	12	8½
Amount receipts on sales of movable and immovable property.....	894	1	11						
Amount receipts on Deeds and Bonds, and in Bankruptcy.....	474	4	0				1368	5	11
Amount of the expenses of Office, being Clerks' Salaries, Stationery, &c.	767	15	5						
Deduct amount received on Mesne Process.....	565	6	10				202	8	7
Amount of Salary as received from Government.....	111	0	0				1165	17	4
Amount of Interest, &c., as received from Bank on Deposits, &c.....	332	15	4						

BOSTON & COFFIN,  
Sheriff.

5th February, 1849.



Appendix (O.O.O.O.)

STATEMENT and Account of all Moneys received by the Sheriff of Montreal, &c.—Continued.

Appendix (O.O.O.O.)

17th April.

17th April.

Table with columns: Page, PARTIES' NAMES, Amount received, Date of Order or Judgment, Whence, Amount paid, To whom paid, Remarks. Includes entries for Johnson vs. Leishman, Bingham vs. Séguin, Mills vs. Thompson, and many others.

Appendix  
(O.O.O.O.)

STATEMENT and Account of all Moneys received by the Sheriff of Montreal, &c.—Continued.

Appendix  
(O.O.O.O.)

17th April.

17th April.

Page.	PARTIES' NAMES.	Amount received.			Date of Order or Judgment.	Whence.	Amount paid.			To whom paid.	Remarks.
		£	s.	d.			£	s.	d.		
198	Quebec Bank vs. Downes .....	29	2	4	January, 1847	Lands	45	1	8	Prothonotary and Opposants	Settled in full.
199	Mallet vs. Booth .....	45	1	8		"	"	113	18	8	Prothonotary et al.....
201	Beaudry vs. Trudeau .....	118	18	6	"	"	93	17	6	Plaintiff et al.....	10 0 0
203	Latham vs. Robb .....	103	17	6	"	Goods	16	9	0	Plaintiff .....	Settled in full.
	McIntosh vs. Shepherd.....	16	9	0	"	Lands	86	7	2	Divers parties .....	Settled in full.
	Marcoux vs. Leroux .....	86	7	2	"	"	5	9	4	Meredith & Bethune.....	12 8 3
204	Harwood vs. Hodgson.....	17	17	7	"	Goods	24	4	8	Opposants .....	Settled in full.
	Commercial Bank vs. Kelly .....	24	4	8	"	"	8	11	7	Plaintiff .....	Settled in full.
205	Beaupré vs. Laverdure .....	8	11	7	"	Lands	41	9	3	Plaintiff .....	Settled in full.
	Joliette vs. Dalpéous.....	41	9	3	"	"				Plaintiff's Bond.	
206	Armstrong vs. Bondy .....	371	8	6		"				Plaintiff's Bond.	
209	Brunet vs. Lagive.....	40	19	6		"				Plaintiff's Bond.	
	McLaughlin vs. Tucker .....	900	18	0	January, 1847	"	71	5	3	Board of Ordinance.....	829 12 9
210	Beaupré vs. Cadieux .....	36	19	9½	"	Goods	36	19	9½	Plaintiff et al.....	Settled in full.
	Chef vs. McDermott .....	6	4	10	"	"	4	18	2½	Plaintiff .....	1 6 8
211	Lamothe vs. Cormack .....	2	9	1	"	"	2	9	1	Plaintiff .....	Settled in full.
212	Boudreau vs. Boudreau .....	23	3	10	"	"	22	17	10	Plaintiff et al.....	0 6 0
213	Desjardins vs. Claude .....	30	2	3	"	"	30	2	3	Plaintiff et al.....	Settled in full.
	Leduc vs. Spennard .....	55	14	5	"	Lands	55	14	5	Plaintiff et al.....	Settled in full.
214	Grant vs. Clifford.....	403	18	2	"	"	349	2	4	Opposants et al.....	54 15 10
215	Chisholm vs. D'Aoust.....	112	13	0	"	"	112	13	0	Plaintiff et al.....	Settled in full.
	Delisle vs. Nichols .....	30	7	3½	"	Goods	30	7	3½	Plaintiff et al.....	Settled in full.
Vol. VI.											
1	St. Louis vs. Schmeltz .....	12	9	2	January, 1847	Goods	11	9	2	Prothonotary et al.....	1 0 0
2	Cleland vs. Timins .....	19	6	4	"	"	19	6	4	Meredith & Bethune .....	Settled in full.
	Phatt vs. Allison .....	9	17	6	"	"	9	17	6	Prothonotary et al.....	Settled in full.
3	Turbayne vs. Grantham .....	19	6	6	"	"	19	6	6	Opposants et al.....	Settled in full.
	Jones vs. Compstock .....	529	8	3	"	Lands	529	8	3	Plaintiff .....	Settled in full.
4	Cartwright vs. Monk .....	6052	17	6		"					
	Ordinance Board and S. Gerrard .....	500	0	0	January, 1847	Lands	500	0	0	S. Gerrard.....	Settled in full.
5	Seminary of Montreal vs. Globenski.....	156	11	6	"	"					
	McLaughlin vs. Tucker .....	59	9	6	"	"					
6	Ferrier vs. McGill .....	113	2	0	"	"	113	2	0	Plaintiff .....	Settled in full.
	Laroque vs. Pion .....	1071	5	8	"	"					
7	Mailhot vs. Berthiaume .....	12	17	6	"	"					
	Gillespie vs. Hester .....	3	9	1½	"	Goods	3	9	1½	Plaintiff .....	Settled in full.
8	Nye vs. Taylor.....	17	16	0	"	Lands	17	16	0	Plaintiff .....	Settled in full.
	Bingham vs. Bellanger .....	24	15	6	"	"					Plaintiff's Bond.
9	McNider vs. Bellingham .....	1562	16	2	"	"					
	Gauthier vs. Martin.....	43	9	7	"	"					
10	Dorion vs. Antrobus.....	5	14	3	"	"					
	Molson vs. Wetherly.....	5	1	5	"	Goods					
11	Beaudon vs. Hamilton.....				"	(Susp.)					Suspended Case.
	Robert vs. Meunier .....	1	17	5½	"	Goods					

We certify that the above written Statement is correct, and corresponds with the returns made by us to the Court of Queen's Bench of the District of Montreal, to the several Writs to us addressed as Sheriff of this said District, up to this 16th day of March, 1847, inclusive.

(Signed,)

BOSTON & COFFIN,  
Sheriff.

Sworn before me at Montreal, this 1st day of April, }  
1847, by William Foster Coffin, Esquire. }  
(Signed,) CHAS. D. DAY, J. B. R. }

We, the Joint Prothonotary of Her Majesty's Court of Queen's Bench for the District of Montreal, do hereby certify that the foregoing is a true Copy of the Statement and Account of Moneys received and paid by the Sheriff, for the District of Montreal, from the 27th day of December, 1846, to the 16th day of March, 1847; the original whereof was deposited by the said Sheriff in our Office, on the first day of April, one thousand eight hundred and forty-seven.

Given at Montreal, this 14th day of April, 1849.

MONK, COFFIN & PAPINEAU,  
Prothonotary.



Appendix (O.O.O.O.) STATEMENT and Account of all Moneys received by the Sheriff of Montreal, &c.—Continued. (O.O.O.O.)

17th April.

17th April.

Table with columns: Page, PARTIES' NAMES, Amount Received, Date of Order or Judgment, Whence, Amount paid, To whom paid, Remarks. Rows include various legal cases like Johnson vs. Leishman, Bingham vs. Séguin, etc.

Appendix (O.O.O.O.)

STATEMENT and Account of all Moneys received by the Sheriff of Montreal, &c.—Continued.

Appendix (O.O.O.O.)

17th April.

17th April.

Table with columns: Page, PARTIES' NAMES, Amount Received (£ s. d.), Date of Order or Judgment, Whence, Amount paid (£ s. d.), To whom paid, Remarks (£ s. d.). Rows include entries like 'Quebec Bank vs Downes', 'Cartwright vs Monk', 'Seminary of Montreal vs Globenski', etc., up to 'Delory vs Darveau'.

Appendix  
(O.O.O.O.)

STATEMENT and Account of all Moneys received by the Sheriff of Montreal, &c.—Continued.

Appendix  
(O.O.O.O.)

17th April.

17th April.

Page.	PARTIES' NAMES.	Amount Received.			Date of Order or Judgment.	Whence.	Amount paid.			To whom paid.	Remarks.
		£	s.	d.			£	s.	d.		
	Delery vs. Daout .....	21	14	1	July, 1847.....	Lands ...	21	14	1	Plaintiffs.....	Settled in full.
50	Vallee vs. Drolet .....	2444	3	3	" " .....	" .....	2444	3	3	Divers parties.....	Settled in full.
	Jones vs. Whitney .....	282	0	0	" " .....	" .....					
51	Pigeon vs. Brock .....	29	5	0	" " .....	" .....	29	5	0	Defendant .....	Settled in full.
	Beaupré vs. Cadieux .....	292	3	0	" " .....	" .....	292	3	0	Divers parties .....	Settled in full.
52	Darce vs. Gregorie .....	15	14	8½	" " .....	" .....	15	14	8½	Opposants .....	Settled in full.
54	Belanger vs. Leduc .....	35	14	8	" " .....	Goods .....	35	14	8	Plaintiffs .....	Settled in full.
	O'Neill vs. Anderson .....	56	17	0	" " .....	Lands .....					
55	Watkins vs. Glen .....	18	18	4	" " .....	" .....	18	18	4	Plaintiffs .....	Settled in full.
	Cyr vs. Rochrune .....	70	13	6	" " .....	" .....	70	13	6	Plaintiffs et al. ....	Settled in full.
56	Christie vs. Shedden .....	49	13	3	" " .....	" .....					
	Roy vs. Sarrazin .....	15	2	3½	" " .....	Goods ...	15	2	3½	Opposant and Attorney ...	Settled in full.
57	Vennor vs. Fraser .....	57	3	0	" " .....	" .....	57	3	0	Plaintiffs .....	Settled in full.
	Deléry vs. Marcellin .....	236	16	10	" " .....	Lands .....					
58	Bonneau vs. Boire .....	62	10	6	" " .....	" .....					Bond.
	Papineau vs. Luchanan .....	675	15	0	" " .....	" .....					
59	Armstrong vs. Chenevert .....	0	1	0	" " .....	" .....					
60	Laporte vs. Coton .....	32	8	2	" " .....	" .....					
	Eager vs. Douglass .....	198	9	4	" " .....	" .....					
61	Christie vs. Denault .....	13	17	8	" " .....	" .....					
	Bonneau vs. Gibeau .....	27	6	6	" " .....	" .....					
62	Montmarquet vs. Gibson .....	120	4	0	" " .....	" .....					Plaintiff's Bond.
	Sauvageau vs. Laberge .....	52	17	4	" " .....	" .....					
65	Laframboise vs. Viau .....	140	5	6	" " .....	" .....					
66	Christie vs. Gamache .....	10	7	0	" " .....	" .....					
	Maason vs. Roy .....	54	0	8	" " .....	" .....					
67	Beauharnois vs. Daigneau .....	62	16	0	" " .....	" .....					
	Deléry vs. McDonald .....	4	11	7	" " .....	" .....					
68	Deléry vs. Fontaine .....	4	14	7	" " .....	" .....					
69	vs. Neven .....	5	0	8	" " .....	" .....					
	Tetu vs. Langellier .....	116	18	6	" " .....	" .....					

We certify that the above written Statement is correct, and corresponds with the returns made by us to the Court of Queen's Bench of the District of Montreal, to the several Writs to us addressed as Sheriff, up to this 20th day of September, 1847.

(Signed,) BOSTON & COFFIN,  
Sheriff.

Sworn before me at Montreal, this 29th day of September, 1847, by William Foster Coffin, Esquire,  
(Signed,) CHAS. D. DAY, J. B. R. }

We, the Joint Prothonotary of Her Majesty's Court of Queen's Bench for the District of Montreal, do hereby certify that the foregoing is a true Copy of the Statement and Account of Moneys received and paid by the Sheriff, for the District of Montreal, from the 16th day of March, 1847, to the 20th day of September, 1847; the original whereof was deposited by the said Sheriff in our Office, on the 1st day of October, one thousand eight hundred and forty-seven.

Given at Montreal, this 14th day of April, 1849.

MONK, COFFIN & PAPINEAU,  
Prothonotary.









Appendix  
(O.O.O.O.)

STATEMENT and Account of all Moneys received by the Sheriff of Montreal, &c.—Continued.

Appendix  
(O.O.O.O.)

17th April.

17th April.

Page.	PARTIES NAMES.	Amount received.			Date of Order or Judgment.	Whence.	Amount paid.			To whom paid.	Remarks.
		£	s.	d.			£	s.	d.		
	Ellice <i>vs.</i> Quesnel, .....	6	13	6		Lands					
99	Gilbert <i>vs.</i> McNamee, .....	11	7	0	January, 1847	Goods	11	7	0	Divers parties	Settled in full.
	Santell <i>vs.</i> Houmier, .....	0	16	3	" "	"		16	3	Plaintiff	Settled in full.
100	Colville <i>vs.</i> Blanchette, .....	35	2	0	" "	"					Plaintiff's Bond.
	Molson <i>vs.</i> McLaughlin, .....	8	17	11	" "	Goods	8	17	11	Plaintiff	Settled in full.
101	Hautson <i>vs.</i> Adams, .....	48	10	2	" "	"	48	10	2	Plaintiff <i>et al.</i>	Settled in full.
	Montreal <i>vs.</i> Beaudry, .....	57	10	3½	" "	"	57	10	3½	Plaintiff	Settled in full.
102	Colville <i>vs.</i> Forbes, .....	184	0	0	" "	Lands	184	0	0	Opposants	Settled in full.
103	Robert <i>vs.</i> Goyet, .....	260	7	5	" "	"	43	11	0	Divers parties	216 16 5
104	Hervieux <i>vs.</i> McCaffray, .....	4	17	5	" "	Goods	4	17	5	Plaintiff	Settled in full.
106	Barbeau <i>vs.</i> Jérémie, .....	200	14	4	January, 1848	Lands	55	2	0	Divers parties	145 12 4
107	Mills <i>vs.</i> Goodwin, .....	139	0	6	" "	"	135	7	2	Defendant	3 13 4
	Papineau <i>vs.</i> Adam, .....	59	8	10	" "	"	59	8	10	Plaintiff <i>et al.</i>	Settled in full.
105	Bancroft <i>vs.</i> Mathers, .....	43	5	2	" "	"	43	5	2	Plaintiff	Settled in full.
	Lussier <i>vs.</i> Massue, .....	62	3	10	" "	"					
109	Paré <i>vs.</i> Tremblay, .....	158	9	0	" "	"	158	9	0	Plaintiff <i>et al.</i>	Settled in full.
	Charlebois <i>vs.</i> Fairant, .....	0	12	3	" "	Goods	12	3		Plaintiff	Settled in full.
110	Beaudry <i>vs.</i> Hamelin, .....	9	19	7	" "	"	9	19	7	Plaintiff	Settled in full.
	Adams <i>vs.</i> Kerr, .....	3	9	11	" "	"	3	9	11	Plaintiff	Settled in full.
111	Prevost <i>vs.</i> Herard, .....	2	11	11	" "	"	2	11	11	Plaintiff	Settled in full.
	Matchett <i>vs.</i> McDonald, .....	12	12	10	" "	"	10	11	1	Divers parties	2 1 9
112	City Bank <i>vs.</i> Bunker, .....	14	4	8	" "	"	14	4	8	Plaintiff	Settled in full.
	Moreau <i>vs.</i> Watson, .....	45	16	6	" "	Lands	45	16	6	Plaintiff <i>et al.</i>	Settled in full.
113	Bank of Montreal <i>vs.</i> McDonald, .....	13	11	0	" "	Goods	11	19	8	Plaintiff <i>et al.</i>	1 11 4
	Leclerc <i>vs.</i> Poirin, .....	20	2	0	" "	"	20	2	0	Plaintiff	Settled in full.
114	Cuthbert <i>vs.</i> Tellier, .....	17	12	0	" "	"	17	12	0	LaFontaine & Bertrand	Settled in full.
	Brazeau <i>vs.</i> Brault, .....	27	10	6	" "	Lands					Plaintiff's bond.
115	Pinsonneault <i>vs.</i> Dupuis, .....	18	7	6	" "	"	18	7	6	Plaintiff	Settled in full.
	McGinnis <i>vs.</i> Odell, .....	33	11	1	" "	"	33	11	1	Plaintiff	Settled in full.
116	Gale <i>vs.</i> Thompson, .....	1	19	1	" "	Goods					
117	Sauvageau <i>vs.</i> Laberge, .....	50	0	4	" "	Lands					
	Bank <i>vs.</i> Cornillet, .....	19	19	11	" "	Goods					
118	Dufresne <i>vs.</i> Leduc, .....	44	18	9	" "	Lands	20	0	10½	Plaintiff <i>et al.</i>	24 17 10½
	Watson <i>vs.</i> Dunn, .....	189	4	6	" "	"	189	4	6	Plaintiff <i>et al.</i>	10 0
119	Allard <i>vs.</i> Nichols, .....	131	11	10	" "	"	131	11	10	Plaintiff <i>et al.</i>	Settled in full.
	Bruneau <i>vs.</i> Whitney, .....	40	17	2	" "	"	40	17	2	Plaintiff	Settled in full.
120	Bowie <i>vs.</i> Drolet, .....	22	10	3	" "	"	22	10	3	Plaintiff	Settled in full.
	Moreau <i>vs.</i> Keyes, .....	236	10	6	" "	"					
121	Parkins <i>vs.</i> Parker, .....	39	11	10	" "	"					
122	Cunningham <i>vs.</i> Strong, .....	40	19	9	" "	"					By Bond.
	Morin <i>vs.</i> Pearson, .....	59	11	1	" "	"					
123	Squire <i>vs.</i> Brown, .....	34	3	11	" "	"					Plaintiff's Bond.
	Paigo <i>vs.</i> Bachelor, .....	25	3	6	" "	"					Plaintiff's Bond.
124	Roy <i>vs.</i> Mathieu, .....	7	15	11	January, 1848	Goods	7	15	11	Plaintiff	Settled in full.
	Grant <i>vs.</i> Mittleberger, .....	1770	1	3	" "	Lands					Plaintiff's Bond.
125	Bourgeois <i>vs.</i> Seguin, .....	53	5	8	" "	Goods					
126	Robin <i>vs.</i> Lee, .....	480	3	4	" "	Lands					Plaintiff's Bond.
128	Vallée <i>vs.</i> Rouville, .....	542	6	8	" "	"					

We certify that the above written Statement is correct, and corresponds with the Returns made by us to the Court of Queen's Bench of the District of Montreal, to the several writs to us addressed as Sheriff, up to this 16th day of March, 1848.

(Signed)

BOSTON & COFFIN,  
Sheriff.

Sworn before me at Montreal, this 1st day of April, }  
1848, by William F. Coffin, Esquire, }

(Signed) CHAS. D. DAY, J. B. R.

We, the Joint Prothonotary of Her Majesty's Court of Queen's Bench for the District of Montreal, do hereby certify that the foregoing is a true copy of the statement and account of moneys received and paid by the Sheriff for the District of Montreal, from the 26th day of September, 1847, to the 16th day of March, 1848, the original whereof was deposited by the said Sheriff in our office on the 1st day of April, one thousand eight hundred and forty-eight.

Given at Montreal, this 14th day of April, 1849.

MONK, COFFIN & PAPINEAU,  
Prothonotary.







Appendix (O.O.O.O.)

STATEMENT and Account of all Moneys received by the Sheriff of Montreal, &c.—Continued.

Appendix (O.O.O.O.)

17th April.

17th April.

Page.	PARTIES' NAMES.	Amount received.			Date of Order or Judgment.	Whence.	Amount paid.			To whom paid.	Remarks.
		£	s.	d.			£	s.	d.		
150	Barbeau vs. Jérémie, .....	1	16	7	April, 1848	Lands	1	16	7	Advocate	Settled in full.
	Lefebvre vs. Byer, .....	32	2	11	"	Goods	32	2	11	Plaintiff	Settled in full.
	Drolet vs. Phaneuf, .....	28	11	8	"	Lands	28	11	8	Divers parties	Settled in full.
151	Lacombe vs. Laframboise, .....	63	3	9	"	"	"	"	"	"	Plaintiff's Bond.
	Cuvillier vs. Brown, .....	28	16	11	"	Goods	28	16	11	Plaintiffs	Settled in full.
152	Beaupré vs. Cadieux, .....	32	0	2	"	Lands	"	"	"	"	"
157	Campbell vs. Hincley, .....	12	6	11	"	Goods	12	6	11	Divers parties	Settled in full.
	Baudry vs. Smart, .....	392	9	0	"	Lands	392	9	0	Plaintiffs	Settled in full.
158	Cartier vs. Ellis, .....	57	5	0	"	"	"	"	"	"	Bond.
	Cardinal vs. Baret, .....	15	1	6	April, 1848	"	15	1	6	Plaintiff	Settled in full.
159	Molson vs. Moffatt, .....	180	12	0	"	"	180	12	0	Plaintiff	Settled in full.
	Beaupré vs. Cadieux, .....	427	17	2	July, 1843	"	135	16	11	H. Lionais and Advocate	292 0 2½
160	Laroque vs. Séguin, .....	14	0	3	April, 1848	"	14	0	3	Plaintiffs et al.	Settled in full.
	Laberge vs. Leroux, .....	3	15	1½	"	Goods	3	15	1½	Moreau and Leblanc	Settled in full.
161	Halt vs. Leitch, .....	112	9	0	July, 1848	Lands	110	15	8	Divers parties	1 13 4
162	Deléry vs. Héneault, .....	13	9	10	"	"	13	9	10	Plaintiff	Settled in full.
166	Blanchard vs. Dewar, .....	36	17	8	"	"	36	17	8	Plaintiff	Settled in full.
168	Deléry vs. Huneau, .....	70	7	4	"	"	44	9	8	Plaintiff et al.	25 17 8
170	Dugan vs. Wright, .....	22	2	10	"	Goods	22	2	10	Plaintiff	Settled in full.
	Taylor vs. Proctor, .....	9	1	10	"	"	9	1	10	Plaintiff	Settled in full.
171	Thibert vs. Lepage, .....	0	8	10	"	"	"	"	"	"	"
	Papineau vs. Robitaille, .....	23	19	0	"	"	"	"	"	"	"
172	Hébert vs. Moussette, .....	233	17	0	"	"	"	"	"	"	Plaintiff's Bond.
173	Mitchell vs. Lay, .....	13	7	9	"	Goods	13	7	9	Plaintiff	Settled in full.
	Skinner vs. Cormack, .....	29	7	5	"	"	29	7	5	Plaintiff	Settled in full.
174	Grant vs. Tamblinson, .....	5	11	0	"	"	5	11	0	Plaintiff	Settled in full.
	Anderson vs. Hagarty, .....	47	7	8	"	Lands	44	6	0	Divers parties	3 1 8
175	Freligh vs. Schoolcraft, .....	61	12	3	"	"	61	12	3	Plaintiff	Settled in full.
	Montreal Benevolent Society vs. Fox	544	17	6	"	"	538	15	0	Plaintiff et al.	6 2 6
177	Cotilleir vs. Leduc, .....	31	1	8	"	"	31	1	8	Plaintiff	Settled in full.
	Workman vs. Clarke, .....	83	2	11	cap. ad satisf.	"	"	"	"	"	"
178	Olivier vs. Bondy, .....	22	4	6	"	"	"	"	"	"	Plaintiff's Bond.
179	Manson vs. Glen, .....	223	2	0	July, 1848	"	222	11	2	Plaintiffs et al.	0 10 10
	Désautel vs. Rivet, .....	92	10	0	"	"	92	10	0	Plaintiffs et al.	Settled in full.
180	"	27	7	6	"	"	27	7	6	Plaintiffs et al.	Settled in full.
	Green Shields vs. Willet, .....	66	4	2	"	"	10	6	2	Divers parties	55 18 0
181	Davidson vs. McKenzie, .....	144	0	0	"	"	144	0	0	Plaintiff	Settled in full.
	Kershaw vs. Dyer, .....	57	7	6	"	"	57	7	6	Plaintiffs et al.	Settled in full.
182	Maçon vs. Héneault, .....	12	17	3	"	"	12	17	3	Plaintiffs et al.	Settled in full.
	Le Mesurier vs. Rouville, .....	319	6	4	"	"	319	6	4	Plaintiffs et al.	Settled in full.
183	Power vs. Higgins, .....	23	2	8	"	"	"	"	"	"	"
	Mathien vs. Chapdelaine, .....	34	1	0	"	"	"	"	"	"	Plaintiff's Bond.
184	Christie vs. Henry, .....	64	15	6	"	"	61	13	10	Plaintiffs et al.	3 1 8
	Delederniers vs. Knubly, .....	25	10	7	"	"	25	10	7	Plaintiff	Settled in full.
185	Lowe vs. Selden, .....	68	9	10	"	"	68	9	8	Plaintiff	Settled in full.
	Ross vs. Briggs, .....	15	12	11	"	Goods	15	12	11	J. Ross, Advocate	Settled in full.
186	Bello vs. St. Pierre, .....	10	1	10½	"	"	11	1	10½	Plaintiff	Settled in full.
	O'Neill vs. Wright, .....	28	18	10	"	"	28	18	10	Plaintiff	Settled in full.
187	Beaujeu vs. Lachlan, .....	2	0	0	"	"	2	0	0	Plaintiff	Settled in full.
	" Amesse, .....	1	5	11	"	"	1	5	11	"	Settled in full.
189	Dupont vs. Baubien, .....	73	5	9	"	Lands	73	5	9	Prothonotary et al.	Settled in full.
	Molson vs. Elliott, .....	0	16	1	"	Goods	0	16	1	Plaintiff	Settled in full.
190	Cuvillier vs. Prevost, .....	46	7	0	"	"	46	7	0	Plaintiffs	Settled in full.
191	Fraser vs. McKenzie, .....	275	4	5	"	Lands	"	"	"	"	Plaintiff's Bond.
	Titus vs. Lay, .....	44	4	2	"	"	41	9	6	Divers parties	3 0 8
192	Cowan vs. Moor, .....	3	13	9	July, 1848	"	3	13	9	Plaintiff	Settled in full.
	Kanitz vs. Telfer, .....	849	15	6	"	"	291	6	10	Divers parties	558 8 8
193	Paige vs. Morehouse, .....	192	14	8	"	"	"	"	"	"	Plaintiff's Bond.
	Darvymple vs. Esther, .....	7	9	5	"	"	7	9	5	Plaintiffs	Settled in full.
194	McCready vs. Dupuis, .....	26	16	3	"	"	"	"	"	"	"
	Molson vs. McAuley, .....	1	14	4	"	"	1	14	4	Plaintiff	Settled in full.
195	Bertrand vs. Grégoire, .....	182	7	2	"	"	167	0	2	Plaintiff et al.	15 7 0
	Sawtell vs. Homier, .....	141	4	3	"	"	79	2	6	Divers parties	62 1 9
196	Stevens vs. Magie, .....	40	4	8	"	"	8	13	5	"	31 11 3
	Fortier vs. Freeborough, .....	71	8	6	"	"	71	8	6	Plaintiffs et al.	Settled in full.
197	Bryson vs. Archer, .....	68	7	6	"	"	56	2	4½	Divers parties	12 5 1½
198	Pinsonnault vs. Porelron, .....	230	3	9	"	"	"	"	"	"	"
	Orr vs. Lynch, .....	15	15	6	"	Goods	15	15	6	Plaintiff	Settled in full.
199	Lyman vs. Higgins, .....	40	19	7	"	"	"	"	"	"	"
201	Lewis vs. Jones, .....	2	14	9½	"	"	"	"	"	"	"
202	Moss vs. Mack, .....	1	7	11	"	"	"	"	"	"	"

We certify that the above written Statement is correct, and corresponds with the returns made by us to the Court of Queen's Bench of the District of Montreal, to the several Writs to us addressed as Sheriff, up to this 16th day of September, 1848.

(Signed,) BOSTON & COFFIN, Sheriff.

Sworn before me at Montreal, this 2nd day of October, 1848, by William Foster Coffin, Esquire. (Signed,) CHAS. D. DAY, J. B. R.

We, the Joint Prothonotary of Her Majesty's Court of Queen's Bench for the District of Montreal, do hereby certify that the foregoing is a true copy of the Statement and Account of Moneys received and paid by the Sheriff, for the District of Montreal, from the 16th day of March, 1848, to the 16th day of September, 1848; the original whereof was deposited by the said Sheriff in our Office, on the 2nd day of October, one thousand eight hundred and forty-eight.

Given at Montreal, this 14th day of April, 1849.

MONK, COFFIN & PAPINEAU, Prothonotary.



Appendix  
(O.O.O.O.)  
17th April.

Appendix  
(O.O.O.O.)  
17th April.

STATEMENT of all Moneys received, and which are in the hands of John Boston and William Foster Coffin, Esquires, Sheriff of Montreal, from the 2nd day of October, 1848, and of the payments thereof since made, rendered according to the requirements of the Provincial Act, 6 Will. IV, cap. 15, intituled, "An Act for making regulations respecting the Office of Sheriff."

Page.	PARTIES' NAMES.	Amount received.		Date of Order or Judgment.	Whence	Amount paid.		To whom paid.	Remarks.	
		£	s. d.			£	s. d.		£	s. d.
12	Pothier vs. Foucher, .....	9053	0 8	{ 20th April, } { 20th Oct. } 1843 .....	Lands .....	8994	10 11	Opposants <i>et al.</i> .....	58	9 4
17	Badgley vs. Bistodeau, .....	721	13 6	20th Oct., 1842..	" .....	658	9 11	Plaintiffs <i>et al.</i> .....	63	3 7
39	Beaupré vs. Dalpé, .....	142	13 2	" .....	" .....	141	2 8	Opposants <i>et al.</i> .....	1	4 4
40	Lionais vs. Duclou, .....	137	1 8	" .....	" .....			Plaintiff's Bond .....		
42	Bank of Montreal vs. Perrin, .....	248	17 4	{ 20th April, } { 20th June, } 1843 .....	" .....	229	14 6	Divers opposants .....	19	2 10
"	Christie vs. Lacroix, .....	128	4 2	20th April, 1844	" .....	124	11 10	Opposants <i>et al.</i> .....	3	12 2
43	Perkins vs. McCaffray, .....	0	11 6	" .....	Goods .....					
51	Papineau vs. Boisvert, .....	84	1 2	17th June, 1844	Lands .....	82	5 2	Plaintiffs <i>et al.</i> .....	2	16 0
"	Paradis vs. Curtier, .....	659	17 11	" .....	" .....					Plaintiff's Bond.
56	Beaupré vs. Desilets, .....	4	6 1	" .....	Goods .....					
60	Ellice vs. Lepitre, .....	19	6 8	8th Oct., 1842..	Lands .....	16	4 3	Plaintiffs .....	2	3 5
64	L'Espérance vs. Dufresne, .....	173	3 2	30th Nov., 1844	" .....	170	8 2	Plaintiffs <i>et al.</i> .....	2	10 0
87	DeBartch vs. Plamondon, .....	44	1 11	" .....	" .....					
98	Bertrand vs. Massé, .....	73	9 5	20th Feb., 1843	" .....	70	19 11½	Plaintiffs <i>et al.</i> .....	2	9 6
106	Torrance vs. Bolton, .....	260	13 5	" .....	Pl's Bond					
107	Crepeaud vs. Lepère, .....	32	12 2	" .....	" .....	31	7 2	Divers opposants .....	1	5 0
108	Dorion vs. Barcelo, .....	172	0 0	" .....	" .....					Plaintiff's Bond.
119	Robert vs. Scheffre, .....	133	14 10	14th June, 1843	" .....	127	10 0	Divers opposants .....	6	4 8
121	Colville vs. Bryson, .....	65	16 2	12th April, 1843	" .....	61	12 0	Plaintiff <i>et al.</i> .....	4	8 0
128	Martin vs. Leduc, .....	211	0 0	20th Feb., 1844	" .....	202	17 5	Divers opposants .....	8	2 7
132	Buchanan vs. Mackay, .....	847	12 5	31st May, 1844.	" .....	86	6 2	Opposants .....		
162	Cousineau vs. Cloutier, .....	25	17 0	20th July, 1843	" .....	23	8 6	" .....	2	10 0
166	Keith vs. Griffin, .....	1516	8 0	20th June, 1843	" .....	1508	18 6	Plaintiffs .....	7	2 2
169	Frothingham vs. Nye, .....	32	8 2	14th June, 1844	" .....	26	7 9	Plaintiffs <i>et al.</i> .....	6	0 6
184	Limoges vs. Delagrave, .....	616	6 0	{ June, 1843, } { Feb., 1844, }	" .....	612	19 0	" .....	3	7 0
191	Deléry vs. Joassin, .....	5	17 1	" .....	" .....					Plaintiff's Bond.
205	Robert vs. Scheffre, .....	166	4 3	20th Oct., 1843	" .....	157	2 6	Divers opposants .....	9	1 9
206	Benoit vs. Chapdeleine, .....	52	0 8	19th Oct., 1843	" .....	45	11 8	Plaintiffs <i>et al.</i> .....	2	9 8
210	Roiveau vs. Roiveau, .....	179	2 8	October, 1843..	" .....	115	19 5	" .....	63	9 3
215	Morehouse vs. Benoit, .....	7	7 0	" .....	" .....	2	5 10	Hubert, Advocate.....		
218	Valotte vs. Lanctot, .....	920	11 0	" .....	" .....	486	0 6	Divers opposants .....	434	4 6
219	Scott vs. Schmetz, .....	29	4 8	" .....	Goods .....	26	15 2	Plaintiffs <i>et al.</i> .....	2	9 4
222	Roy vs. Lemay, .....	31	7 8	" .....	Lands .....					Plaintiff's Bond.
223	Duplessis vs. Viau, .....	9	19 1½	" .....	" .....					Plaintiff's Bond.
Vol. IV.										
3	Globenski vs. Archambault, .....	0	14 10½	" .....	Goods .....					
10	Deléry vs. St. Armand, .....	41	18 3	October, 1843..	Lands .....	38	11 2	Plaintiff .....	3	11 1
16	Theroux vs. Theroux, .....	71	2 6	" .....	" .....					Plaintiff's Bond.
17	Primeau vs. Archambault, .....	8	10 10	" .....	Goods .....	4	0 0	Opposants .....	2	6 9
19	Rouville vs. L'Heureux, .....	25	9 8	January, 1846..	Lands .....	21	2 11	Plaintiffs .....	4	10 10
25	Larou vs. Morin, .....	109	8 8	" .....	" .....					Plaintiff's Bond.
37	LaFontaine vs. Valiquette, .....	348	15 6	October, 1844..	Lands .....	344	5 10	Divers opposants .....	4	9 8
38	O'Brien vs. Mélangon, .....	10	18 1	April, 1844..	Goods .....	8	12 4	Opposants .....	2	5 9
43	Lantier vs. Giroux, .....	48	7 4	February, 1844.	Lands .....	53	10 6	Opposants <i>et al.</i> .....	5	3 4
46	Bagg vs. Rousselle, .....	109	8 8	April, 1844..	" .....	81	17 5	Divers opposants .....		
50	Desautels vs. Wait, .....	4322	13 0	February, 1844.	Lands .....	4321	11 11	Divers opposants .....	0	19 1
59	Demers vs. Bautron, .....	10	0 11	" .....	Goods .....	9	3 4	Ferroux, Advocate.....	0	19 6
60	DeBartch vs. Ouellette, .....	39	12 4	" .....	Lands .....					Plaintiff's Bond.
74	Vallée vs. Rognier, .....	127	6 3	20th Sept., 1844	" .....	124	16 3	Divers opposants .....	2	10 0
77	Lussier vs. Beauchamp, .....	11	10 4	" .....	" .....					
78	Rossiter vs. Ryan, .....	180	3 0	" .....	" .....					
"	Wilkes vs. Cunet, .....	181	12 0	" .....	" .....					Plaintiff's Bond.
79	Viger vs. Cousineault, .....	255	1 11	20th April, 1844	" .....	254	7 2½	Plaintiffs <i>et al.</i> .....	0	14 8
90	Guy vs. Garipey, .....	2	6 9	" .....	Goods .....					
92	Desjardins vs. Brien, .....	15	6 3	May, 1844 .....	" .....	14	4 3	Plaintiffs .....	1	2 0
104	Workman vs. Clarke, .....	43	17 4	July, 1844 .....	" .....	39	4 8	Opposants <i>et al.</i> .....	4	12 9
105	Taylor vs. Clarke, .....	18	4 10	May, 1844 .....	" .....	13	1 7	Plaintiffs <i>et al.</i> .....	5	3 5
106	Ellice vs. Archambault, .....	212	4 6	" .....	Lands .....	208	19 10	" .....	3	4 8
108	Tremblay vs. Tremblay, .....	186	5 6	September, 1844	" .....	184	11 6	Plaintiffs <i>et al.</i> .....	1	14 0
112	Froste vs. Pacaud, .....	170	6 10	" .....	" .....	161	0 10	Divers opposants .....	9	5 10
117	Goodnow vs. Salls, .....	84	11 9	" .....	" .....					Plaintiff's Bond.
122	Prevost vs. Leblanc, .....	27	18 0	" .....	Goods .....	23	14 2	Divers opposants .....	4	3 10
131	Desrivières vs. Sax, .....	175	11 0	" .....	" .....	174	19 4	Opposants <i>et al.</i> .....	0	11 8
134	Molson vs. Townsendl, .....	13	5 11	" .....	" .....	8	12 11	Plaintiff <i>et al.</i> .....	4	13 0
135	Hamilton vs. Castonguez, .....	142	12 9	" .....	Lands .....	139	13 9	" .....	2	19 0
138	Lespérance vs. Geoffrion, .....	368	6 6	" .....	" .....					Plaintiff's Bond.
141	Connolly vs. Languedoc, .....	56	11 7	" .....	" .....					Plaintiff's Bond.
142	Turcot vs. Demers, .....	91	10 4	November, 1844	" .....	90	2 4	Divers opposants .....	1	8 0
144	Pigeon vs. Castonguez, .....	55	7 0	September, 1844	" .....	50	1 10	Opposants <i>et al.</i> .....	25	5 2
149	Languedoc vs. Prevost, .....	59	2 6	" .....	" .....	56	19 10	" .....	2	2 8
150	Johnson vs. Leishman, .....	39	5 9	" .....	" .....	37	0 1½	Plaintiffs .....	2	5 8
151	Bingham vs. Séguin, .....	58	19 10	" .....	" .....	43	9 0	Opposants <i>et al.</i> .....	15	10 11
155	Mills vs. Thompson, .....	498	7 10	November, 1844	" .....	493	17 10	Opposants .....	2	10 0
163	Frehigh vs. Little, .....	373	6 4	" .....	" .....	347	17 11	Prothonotary and Opposants	25	13 5
Vol. V.										
2	Froste vs. Tait, .....	82	8 7	29th Jan., 1845.	Goods .....	68	11 0	Divers parties.....	13	17 7
5	Egan vs. Pitt, .....	225	10 0	" .....	Lands .....					Plaintiff's Bond.

Appendix (O.O.O.O.) STATEMENT and Account of all Moneys received by the Sheriff of Montreal, &c.—Continued. (O.O.O.O.)

17th April.

17th April.

Page.	PARTIES' NAMES.	Amount Received.			Date of Order or Payment.	Whence	Amount paid.			To whom paid.	Remarks.
		£	s.	d.			£	s.	d.		
5	Mongennat vs. Cardinal	48	11	10						Plaintiff's Bond.	
8	Mathewson vs. Gauthier	4	19	2½							
16	Chef vs. Blot	189	15	9	March, 1845	Lands	188	15	8	Plaintiffs et al.	
18	Dorion vs. Berthelot	9	12	11	"	Goods	9	12	11	Divers parties.	
19	Planté vs. Vinu	131	2	6	"	Lands	130	7	4	Plaintiffs et al.	
24	Christie vs. Boisverd	1	12	11	"	"					
28	McCallum vs. Pinsonneault	1	0	9	"	"					
29	Mathewson vs. Spence	124	16	2	"	"	120	13	7	Plaintiffs	
39	Papineau vs. Chevrier	18	17	2	"	"				Plaintiff's Bond.	
41	Christie vs. Lewis	214	2	0	May, 1845	"	173	7	1	Divers parties.	
42	Mathewson vs. Hebert	122	10	6	"	"	120	0	5		
43	Dewar vs. Williams	8	0	4	"	"				Plaintiff's Bond.	
44	DeBartzch vs. Burgault	202	18	1	"	"				Plaintiff's Bond.	
45	Petit vs. Primeau	17	7	2	"	"	7	13	4	Prothonotary et al.	
47	Christie vs. Leslie	77	11	0	"	"	29	3	11	"	
50	Weir vs. Armour	26	1	2	"	Goods	14	14	3	"	
51	McKenzie vs. Tait	1451	3	6	January, 1846	Lands	1444	3	11	Plaintiffs et al.	
53	Christie vs. McDougall	40	13	0	July, 1845	"	20	11	2	Divers parties	
54	Christie vs. Babeux	54	8	6	January, 1848	"	35	11	2	Plaintiffs et al.	
65	Beauchamp vs. Corbeau	41	2	2	"	"	39	14	2	Divers parties.	
66	Bailey vs. Tait	220	5	2	July, 1845	Goods	220	5	2	"	
"	Lemoine vs. Tait	516	11	0	"	"	516	11	0	"	
74	Seminary of Montreal vs. Globensky	199	6	9	September, 1845	"	197	4	9	Plaintiffs et al.	
75	Frost vs. Tait	3888	19	3	January, 1848	"	3871	11	0	Opposants et al.	
77	Hoss vs. Brayton	52	9	3	September, 1845	"	50	7	7	Plaintiffs	
81	Massue vs. Bertrand	20	2	8	"	"				Plaintiff's Bond.	
"	Christie vs. Giroux	59	10	3	March, 1846	"	32	1	0	Plaintiffs et al.	
83	Chef vs. Goyet	43	12	11	"	Goods	43	1	2½	Prothonotary and Plaintiffs	
92	Semple vs. Tait	199	5	4	November, 1845	"	197	10	5	"	
93	Bailey vs. Tait	257	1	3	"	"	251	0	8	"	
"	Dupuy vs. Viger	155	19	0	"	Lands	155	7	4	"	
96	DeBartzch vs. Gaudreau	10	14	8½	"	Goods				"	
"	McGillis vs. Tait	321	7	4	"	Lands				"	
108	Derocher vs. Messier	13	9	10½	November, 1845	Goods	12	4	9	Attorneys	
120	Franchère vs. Lebeau	82	15	5	January, 1846	Lands	61	5	10	Prothonotary et al.	
124	Yule vs. Scheffre	110	14	2	March, 1846	"	102	11	6	Prothonotary et al.	
129	Mondelet vs. Ekenberg	117	18	9	"	Lands					
130	Semple vs. Tait	263	5	7	"	Goods	248	8	7	Prothonotary et al.	
133	Larocque vs. Martel	62	6	0	"	Lands	58	12	4	Prothonotary and Opposants	
136	Labbe vs. Murray	90	17	11	"	Goods	89	7	5	Divers parties.	
140	Jussaume vs. Dupuis	116	0	0	October, 1846	Lands	114	11	6	Prothonotary et al.	
142	Lewis vs. Chalifoux	49	10	11	March, 1846	"	47	0	11	Plaintiffs et al.	
147	Kellogg vs. Leishman	217	19	8	May, 1846	"	217	17	6	J. Donegani	
150	Delvecchio vs. Gauvreau	209	12	5	"	"	203	11	10	Divers parties.	
152	Henry vs. Cilley	37	4	11	March, 1846	"	36	19	11	Prothonotary et al.	
163	LaFontaine vs. Robert	28	1	2	"	Lands					
167	Masson vs. Bélanger	104	12	6	"	"				Plaintiff's Bond.	
174	Moffatt vs. Porteous	106	14	2	"	"					
178	Adams vs. Peddie	19	1	0	"	Goods	16	12	0	Plaintiffs et al.	
179	Robertson vs. Drolet	43	12	8	"	Lands	40	3	5	Prothonotary et al.	
185	Hamilton vs. Curtis	9	13	0	"	"					
"	Rolland vs. Hurton	102	18	6	"	"	71	14	10	Plaintiff et al.	
189	Christie vs. Carlton	71	2	3	"	"	70	1	7	"	
197	Rolland vs. Facey	72	2	9	"	Lands	67	10	0	Plaintiffs et al.	
198	Bank of Quebec vs. Downes	29	2	4	"	"					
199	Beaudry vs. Trudeau	118	18	6	January, 1847	"	116	19	6	Prothonotary et al.	
201	Latham vs. Robb	103	17	6	"	"	93	17	6	Plaintiff et al.	
206	Armstrong vs. Bondy	371	8	6	"	"				Plaintiff's Bond.	
209	Brunet vs. Lague	40	19	6	"	"				Plaintiff's Bond.	
212	Boudreau vs. Boudreau	23	3	10	January, 1847	Goods	22	17	10	Plaintiffs et al.	
Vol. VI.											
1	St. Louis vs. Schmeltz	12	9	2	January, 1847	"	11	9	2	Prothonotary et al.	
4	Cartwright vs. Monk	6052	17	6	{ July, 1847, } { April, 1848, }	Lands	5378	9	10	Plaintiffs et al.	
5	Seminary of Montreal vs. Globensky	156	11	6	April, 1847	"	154	1	6	"	
8	Bingham vs. Bélanger	24	15	6	"	"				Plaintiff's Bond.	
9	McNider vs. Bellingham	1562	16	2	"	"				Plaintiff's Bond.	
18	Jones vs. Compstock	51	4	10	"	"				Plaintiff's Bond.	
20	Lacaille vs. Lacaille	143	7	3	"	"	139	19	4	Plaintiffs et al.	
21	Brazeau vs. Major	47	8	4½	"	Goods	42	13	11	"	
"	Tartre vs. Frenay	30	11	3	"	Lands				Plaintiff's Bond.	
26	Cuthbert vs. Lavoie	157	10	3	"	"	154	10	3	Divers parties.	
32	Howard vs. Boudreau	852	11	10	{ July, 1847, } { Jan., 1848, }	"	831	19	6	"	
42	Osterout vs. Jones	92	7	5	October, 1847	"	89	17	5	"	
43	Renaud vs. Franchère	5	17	2	"	Goods					
47	Froligh vs. Baker	86	18	3	"	Lands	74	15	3	Plaintiffs et al.	
48	Chef vs. McDermott	144	12	5	"	"	141	7	9	Plaintiffs et al.	
58	Bonneau vs. Boire	62	10	6	"	"	43	17	2½	"	
60	Laporte vs. Coiton	32	8	2	"	"				Plaintiff's Bond.	
62	Montmarquet vs. Gibson	123	4	0	"	"	114	16	8	Plaintiffs	
69	Tetu vs. Langellier	116	18	6	January, 1848	"	112	8	4	Divers opposants	
72	Mercier vs. Dufresne	23	8	4½	"	"	8	10	4	Opposants et al.	
76	Vallée vs. Guy	429	14	2	"	Goods	285	19	2	Plaintiffs	
77	Robly vs. Malburg	1	0	0½	"	"	0	9	8	Opposant.	
78	Bonneau vs. Gibeau	71	11	8	October, 1847	Lands	69	16	4	Plaintiffs	
81	Sherwood vs. Côté	49	9	6	April, 1848	Goods	38	8	8	Divers parties.	

STATEMENT and Account of all Moneys received by the Sheriff of Montreal, &c.—Continued.

17th April.

17th April.

Table with columns: Page, PARTIES' NAMES, Amount received, Date of Order or Judgment, Whence, Amount paid, To whom paid, Remarks. Includes rows for various legal cases such as Bruneau vs. Schmeltz, Robert vs. Mombert, etc.

Appendix  
(O.O.O.O.)

Appendix  
(O.O.O.O.)

STATEMENT and Account of all Moneys received by the Sheriff of Montreal, &c.—Continued.

17th April.

17th April.

Page.	PARTIES' NAMES.	Amount received.			Date of Order or Judgment.	Whence.	Amount paid.			To whom paid.	Remarks.
		£	s.	d.			£	s.	d.		
230	Kitson vs. Lamothe,.....	55	18	6	.....	Lands					£ s. d. { Ptiff's Bond for £105.
	Leste vs. Vadeboncoeur, .....	146	8	9	.....	.....					
Vol. VII.											
1	Cadioux vs. Lefebvre, .....	29	14	6	.....	.....					Plaintiff's Bond.
	Ostell vs. Dufresne, .....	7	13	0	.....	Goods	6	11	9	Plaintiffs et al.....	1 1 3
2	Ferrie vs. Crerar, .....	298	11	6	.....	Lands					Plaintiff's Bond.
3	Martin vs. Murray, .....	9	0	9	.....	Goods					
	Cadron vs. Cadron, .....	41	13	6	.....	Lands					
4	Taylor vs. Proctor, .....	2917	8	6	.....	"	2917	8	6	Plaintiffs et al.....	Settled in full.
	Bronsdon vs. Hunter, .....	26	19	6	.....	"	26	19	6	Plaintiffs et al. ....	Settled in full.
5	Masson vs. Séguin, .....	8	6	5	.....	Goods	8	6	5	Plaintiff .....	Settled in full.
	Leprohon vs. Derbishire,.....	49	9	0	.....	"					
6	Leprohon vs. Bouchette, .....	19	6	9	.....	"	18	12	1	Plaintiff .....	0 14 8
	Adams vs. Smith,.....	49	6	9	.....	Lands					
7	Montmarquet vs. McPhee, .....	242	15	6	.....	"					Plaintiff's Bond.
9	Valois vs. Delagrave, .....	790	19	6	.....	"					Plaintiff's Bond.
	Christie vs. Filion, .....	38	13	3	.....	"					
11	Burroughs vs. Adams,.....	0	14	8½	.....	Goods					
13	Donegani vs. Dufresne, .....	209	4	10	.....	Lands					

We certify that the Statement hereinbefore written is correct, and corresponds with the Returns made by us to the Court of Queen's Bench of the District of Montreal, to the several writs addressed to us as Sheriff, up to this 20th day of December, 1848.

(Signed,)

BOSTON & COFFIN,  
Sheriff.

Sworn before me at Montreal, this 8th day of Jan., }  
1849, by William F. Coffin, Esquire. }

(Signed,)

J. SMITH, J. Q. B.

We, the Joint Prothonotary of Her Majesty's Court of Queen's Bench for the District of Montreal, do hereby certify that the foregoing is a true copy of the statement and account of moneys received and paid by the Sheriff for the District of Montreal, from the 2nd day of October, 1848, to the 20th day of December, 1848, the original whereof was deposited by the said Sheriff in our office on the 8th day of January, one thousand eight hundred and forty-nine.

Given at Montreal, this 14th day of April, 1849.

MONK, COFFIN & PAPINEAU,  
Prothonotary.

---

**Montreal :**

PRINTED BY LOVELL AND GIBSON,

SAINT NICHOLAS STREET.

---

# \* FIRST REPORT

OF

## THE SELECT COMMITTEE ON THE LUMBER TRADE.

THE SELECT COMMITTEE appointed to inquire into the state of the Lumber Trade, the causes of its present depression, the protection of the forests from unnecessary destruction, and upon all other matters affecting the Lumbering interests of this Province,—beg leave to present the following as their FIRST REPORT :

COMMITTEE ROOM,  
18th April, 1849.

Your Committee have considered the Petition of Alex. McDonell and others, (referred to them,) praying for the construction of a public depository for timber at the Port of Quebec. They have examined various parties, connected with the trade in all its branches, from the operative to the shipper, and have endeavoured to arrive at such conclusions as were warranted by the evidence, and by the importance of the trade.

After a due consideration of the testimony thus before them, they are of opinion that no time should be lost in the purchase or construction of a boom or depôt for the reception and safe keeping of rafts on their arrival at Quebec, which Your Committee feel convinced would not only facilitate the transaction of business at that port, but would materially assist the manufacturer by preventing, in a great measure, loss from storms, and reducing the heavy charges consequent upon the present booms or depôts being in the hands of parties whose interests, as shippers, are adverse in most instances to those of the manufacturers, besides these booms are the actual "markets" in which all timber taken to Quebec for shipment must be exposed for sale, and are for the most part owned or occupied by merchants engaged in the shipping trade, who are generally the purchasers of the article. This being the fact, the power possessed by the boom owners, of compelling the payment of such dues as they think proper, and of having an understanding

with each other injurious to the manufacturer and restrictive of the trade, now become the most important in the Province, is, in the opinion of Your Committee, sufficient to convince them of the necessity of some change in the system. That this change can only be effected by the construction of a provincial boom or depôt, which would then become "the market" for the sale of timber for shipment, seems to Your Committee to be sufficiently obvious; they therefore beg leave to recommend the purchase or construction of such a boom or depôt as the exigencies and importance to the trade seems to demand.

Your Committee have also considered, as far as practicable, the most convenient site for such depôt, as well as the probable cost of purchase or construction, and are of opinion that these matters should be left entirely with the Department of Public Works; but they would remark, that from all the evidence taken upon the subject they feel convinced that a handsome revenue would accrue to the Government from its construction, even if less than one half of the charges at present exacted were imposed upon timber stored there, and it would undoubtedly exercise a beneficial influence upon the trade, by rendering the seller independent of the buyer, and thus giving opportunity to small dealers of purchasing in a market uncontrolled by the wealthy boom owners and shippers, who at present enjoy a monopoly of the trade.

All which is respectfully submitted.

JNO. SCOTT,  
Chairman,

## MINUTES OF EVIDENCE.

17th February, 1849.

*John Sharples, Esq.,* Supervisor of Cullers, Quebec, called in, and examined:—

1. What becomes of rafts on their arrival at Quebec, as respects the accommodation for their protection previous to sale?—Rafts of timber arriving at Quebec for sale, are generally moored or fastened outside of the several booms and piers on both sides of the St. Lawrence, but more particularly those on the Quebec side, and when sold are usually towed to the boom of the purchaser; if not disposed of soon after arrival, the owner must, of course, for the safety of his property, make arrangements to boom his timber. In some cases provision for boomage is made by the owner prior to the lumber arriving; if so, it is of course towed direct to the boom so provided.

2. Considering the extent and magnitude of the

\* Original destroyed by the fire, proof corrected by the copy furnished the printer.

trade carried on in Quebec in timber, what is your opinion as to the results that would arise to the manufacturer by having a public boom or depository, where rafts could be placed for safety until sold?—It would afford greater facility in securing timber for sale in the open market upon arrival. In establishing a boom of public deposit for the safe keeping of lumber, particular care ought to be taken to confine its uses to being a boom of deposit only. The quantity of timber to be deposited there would, I conceive, vary materially with the circumstances of the season. During seasons of ready and immediate sale upon arrival, such as occurred in 1844 and 1845, the quantity would in consequence be light, comparatively speaking, and in years of stagnation, such as 1846 and 1847, the quantity would be large. Timber contracted for delivery at Quebec or advanced upon by parties interested in cove property, would, I presume, be towed direct to the booms of the respective parties.

3. If the manufacturer is obliged to lay his raft

Appendix  
(P. P. P. P.)  
18th April.

over during winter, is he not subject to a heavy charge for wintering and moulinetting?—The manufacturer must of course pay the usual charges for wintering over, provided the property be held over on his account.

4. Is it not for want of proper room that private cove-owners are obliged to moulinette, the expense of which comes out of the manufacturer when the timber is unsold?—Timber, when moulinetted, occupies a smaller space, and when space is an object, moulinetting is a ready way to obtain it. The charges of moulinetting are a subject of arrangement; but if no agreement exists, and the timber is wintered on account of the manufacturer, he is usually required to pay the same.

5. Supposing a raft of 50,000 cubic feet is laid over, as above alluded to, what is the usual cove charge for wintering and moulinetting, which the manufacturer is required to pay?—50,000 cubic feet of red pine, assuming an average of 40 feet per stick, calculating moulinetting at 3d. and boomage wintering at 1s. per stick, the amount would be £78 2 0

On 50,000, white pine, assuming an average of 70 feet per stick, moulinetting at 5d. and boomage wintering at 1s. the amount will be.....£50 1 6

Which charges have to be paid by the parties wintering the timber. The above are the rates usually charged by the best situated booms, that is by booms which, from their position, command a large share of business.

The proprietors of Caronge Cove and Indian Cove, which are both very extensive coves, and established within the last two years on the principle of deposit and shipping coves united, will receive and winter timber at less rates. Some of the coves on the Point Levy side also receive and winter at less rates than those quoted. I cannot speak as to the precise rate charged by them, as it is open to arrangement generally, but an approximation of charges for such purposes made by them may readily be obtained.

6. If a public boom were established, as proposed, is it not your opinion that the charge could be reduced at least one-half, by having sufficient room where the raft might lay, and be removed in the spring without being broken up?—A large mass of timber deposited in a public boom such as that alluded to, would naturally tend to lower charges for deposit, and the wintering of such lumber as might remain at the close of each season; a great deal would depend on economical outlay or purchase in the first instance, and subsequent management.

7. Is it not a fact that nearly all those shipping timber from the Port of Quebec are interested in booms?—The major portion are.

8. Are you not aware that if the raft of a lumberer is put in a private boom, the purchaser generally requires the timber to be taken to his own boom?—Purchasers having shipping coves of their own will be desirous, of course, to ship all the timber they can conveniently from them, and will doubtless endeavour to make their arrangements to that effect.

9. Are you not aware that purchasers have an objection to take timber out of, or at least ship it from the boom of others; and is not the seller obliged to sell his timber, in consequence, at a disadvantage?—Purchasers prefer shipping from their own coves or from those at which they execute their business, and will give a decided preference to lumber which is in a condition to be purchased and shipped.

10. Do you think that the trade would be materially benefited by the construction of a public boom; if so, give the reasons for your opinion?—I think the producer would be benefited by the construction

of such a boom, inasmuch as he would be afforded a safe and secure depôt for his lumber till sold; and, it appears to me, without prejudice to the interest of purchasers.

11. Could not a public boom be established as a commercial depôt in connexion with the Supervisor's Office, at a small additional expense to the present establishment?—The Supervisor's Office being one of measurement and culling, has objects distinct and separate from anything having relation to a depôt; at the same time, if it were considered desirable on the score of economy, for the Supervisor's Office to act in the matter of this kind for the collection of fees, &c., for boomage, of course it could be done, but otherwise it would be preferable for anything of this nature to be established free and independent of the Supervisor's Office, as having distinct ends to attain.

12. How would the interests of cove owners and others at Quebec be affected by the construction of a public boom?—It is necessary to remark that the coves at Quebec may be distinguished under two classes, viz.: private coves and commission coves. The private coves are represented by the shippers who execute their shipments through their respective establishments. The commission coves are principally conducted by parties not interested as shippers, but who boom and store timber on behalf of either producer or merchant, and likewise receive and ship for account of those who are shippers, but not cove-holders. The interest of private cove-holders would not, in my opinion, be injuriously affected, but probably the contrary; but the interest of commission coves would, inasmuch as their receipts or emoluments for boomage, wintering charges, &c., would be materially reduced.

13. Would they be likely to oppose the construction of a public boom;—if so, do you think they could show any good reason for such opposition;—and who are the parties who would probably be opposed to its construction?—For the reasons assigned in previous questions, I conceive the commission cove owners and lessees would be opposed to the establishment of a public depôt, but not private cove-holders.

14. Are there at present a sufficient number of booms at Quebec and its environs for the reception of rafts arriving there?—The boom accommodation for lumber has been greatly extended and increased the last three or four years more especially; and during years of average production, the present coves are capable of containing the lumber, provided, of course, it be distributed about amongst them.

15. Are the rates at present exacted by the proprietors of booms at Quebec exorbitant or reasonable?—The rates demanded the last two years or so for boomage of rafts, subject to being moved "en bloc" by the proprietors of the large coves lately established, are, I consider, reasonable, being, I believe, about 2d for the first month per ton; however, these rates are not accepted by those holding coves in more favoured positions. The rates for shipping have not varied or been altered for many years, and are paid by the shipper after the timber has been delivered for shipment.

16. Do you think that if a public boom were established the rates would be considerably reduced thereby—and in what proportion?—The public boom, I understand to be talked of, if confined to one of deposit for the purpose of constituting a general mart, (and which it ought particularly to be restricted to,) would not then interfere with the shipping booms or charges for shipping. It will require a year or two's practical experience to establish a rate of tariff sufficient to cover the first outlay and charges of conducting; but I certainly conceive the tendency will be to reduce boomage charges.

17. Has there been several booms established at

Appendix  
(P. P. P. P.)  
18th April.

Appendix  
(P. P. P. P.)

18th April.

Quebec during some years past, which have cost their proprietors a considerable sum—and do you believe that the establishment of a public boom would be prejudicial to the interests of those proprietors to a considerable degree?—Since 1844, there have been several new coves wharfed and opened out for the convenience of the lumber trade; and improvements of this nature can only be done at a heavy outlay. Amongst the coves thus improved, stand prominent, Carouge Cove and Indian Cove. They are very extensive, and have been improved and wharfed at a heavy outlay and upon a large scale, with a view of receiving timber on deposit and delivering it “en bloc,” upon payment of certain boomage;—they also ship timber. The public boom contemplated would certainly be prejudicial to the interest of those coves as well as other commission coves, as pointed out in my answer No. 12.

18. What place would you think most advantageous for the establishment of a public boom?—I have heard canvassed repeatedly the several sites spoken of in relation to a public boom, viz.: mouth of River St. Charles, the Domain Beech of Lauzon, Point Levy, and Carouge.

As respects River St. Charles, it appears pretty clear that too many natural obstacles exist to admit of its answering that purpose.

Timber could only be there placed by aid of steamers; and, even with steamers, of great risk of rafts and ships coming in contact whilst threading the shipping, added to which, the outlay required to render it safe and well sheltered, would be treble that necessary for a beach more favoured by natural position.

The towage of timber up stream for delivery to purchaser's booms is another objection; and in so doing it must again mar the shipping.

Captain Boxer has expressed, in his communications in relation to improvements at River St. Charles, an objection to any lumber depot being made there, as tending to block and obstruct the mouth of the only harbour of refuge open to river craft.

For security, facility of access, both for receiving and delivering, and saving of steamboat hire, I should be inclined to advocate Carouge. The distance is the question of draw-back, being eight to nine miles from the city; however, the road is a metal one, and in the best possible order. A weighty portion of the shipping business is executed at the booms, extending from Lance des Mores to head of Sillery and Huron Cove, and the moorage distance from those establishments to Carouge does not exceed five miles. The Point Levy side, about Hadlow Cove, and the Domain Beach is equally safe with Carouge. The Point Levy side is objected to by many, owing to the difficulty of getting across, except at certain hours, viz.: whilst the steamers are clying. If the Hadlow Cove and Domain Beach section was decided upon, it would be requisite to cause to be removed the ridge of boulder rocks lying on the outer section of the batture skirting the deep water channel, in order to admit of steamers towing and landing their rafts at all times of tide with safety both to steamer and raft, as the tide water flowing over said batture is of limited depth. In addition to this, it would also be necessary to extend wharves out to deep water, to allow of rafts being secured at the last quarter ebb.

I have been induced to go into this question at some length, conceiving that if a public depôt be decided upon, the desirability of the respective sites will require to be closely scrutinized before any decision be taken thereon, as the benefit to be afforded may, to a certain extent, depend upon the eligibility of the site so selected, and the amount of outlay requisite to accomplish that purpose.

23rd February, 1849.

Appendix  
(P. P. P. P.)

18th April.

*David Douglas Young, Esq.,* called in, and examined:—

19. Are you not a merchant at Quebec, and extensively engaged in the shipment of timber from that port?—Yes.

20. Are you not a partner in the House of G. B. Symes & Co?—Yes.

21. Does not your house ship their timber chiefly from their own boom?—Yes.

22. Considering the magnitude of the timber trade carried on at Quebec, is it your opinion that a public boom or depôt for timber would be advantageous both to the manufacturer and the shipper?—I am of opinion that a public boom or depôt for timber, to enable the lumber merchant to put his raft in safety on arriving at Quebec, would be of great service and benefit to him, and to the trade generally; the timber being safe, it would render the lumber merchant more independent in the sale thereof, for we have often heard of men selling their rafts lying outside of a boom, for fear of a gale of wind springing up, which might cause destruction to his property.

23. Does not the manufacturer suffer a great disadvantage in not having some place of public deposit for his timber on its arrival at Quebec?—Besides the disadvantage under which the lumber merchant labours, named in the preceding answer, there is one of vital importance to the interest of the lumbermen; the Quebec merchant will always give a preference to a raft which he can bring to his own cove, for once inside a boom of another person, the value of said timber is diminished nearly to the extent of the charges for shipping,—say 1s. 2d. per ton on white, and 1s. 6d. on red pine.

24. If a public depôt is established, so that a merchant can purchase timber placed therein, and take it to his own boom without being broken up, will it not be an advantage and a facility to all parties?—Decidedly, provided said boom or depôt is so placed that it will be in the centre of trade, or as near as possible, but not at either end.

25. Where, in your opinion, should such a depôt be established?—I am of opinion that the Ottawa and Hadlow Cove would be the most convenient to the trade, or if a place could be had opposite Ottawa and Hadlow, it would be still better.

26. What do you consider would be the expense of establishing the boom and piers in the place you recommend, so as to have it perfectly safe?—I am not prepared to say, but do not think that it would cost much.

27. What advantage does the place you recommend possess over Cap Rouge, St. Charles, or Indian Cove,—and state your reasons for objecting to those places?—It is more central, and nearer to town than either Cap Rouge or Indian Cove, and in case of east wind, much handier to get timber from it than St. Charles River, besides the cost of running a raft to seven eighths of the buyers, would be less than from either of the above mentioned places.

*William Stubbs, Esq.,* of Aylmer, C. E., called in, and examined:—

28. Are you engaged in the manufacture of timber on the Ottawa?—Yes, I have been engaged in the lumber trade for sixteen years.

29. Have you been in the habit of taking rafts to Quebec on your own account?—Yes, for the term of years above stated, I have had from one to six rafts in each year.

30. Have you ever experienced inconvenience or loss from the want of a public depôt on your arrival at Quebec?—Yes, I have been subjected to great



Appendix  
(P. P. P. P.)

18th April.

inconvenience and loss upon my arrival at that port, having been frequently prevented landing outside the booms of private parties; and on one single occasion I lost timber amounting in value to £2,500, by leaving it exposed outside the booms of Messrs. Wood & Gray.

31. Is it not a fact that there is no place of safety for a raft unless it be placed in the booms of a private individual?—I am not aware of any place of safety unless the coves of private parties, into which I have frequently obtained temporary admission by paying dearly for such accommodation, and which I look on as being onerous to parties engaged in the trade.

32. Does the manufacturer suffer any disadvantage from placing his raft in a private cove?—Yes, by placing his raft in a private boom he greatly curtails the chances of selling it; for to avoid the removal to another cove, he has to force the sale of it with some merchant who ships timber from the same cove, whereas if it were landed at a public boom, he would be enabled to offer it to any or every shipper of timber in Quebec, and avail himself of the highest offer made him.

33. Are not some of those engaged in shipping timber from Quebec interested in booms?—Yes, the most extensive establishment in the city (Messrs. Gilmour) have their own booms; and from assistance rendered to cove-holders by the merchants generally, I am of opinion that every merchant purchasing timber in Quebec is, in a greater or less degree, interested in all the different coves; and I have invariably witnessed a leaning of the cove-holder towards the merchant when sales would be going on.

34. Are you of opinion that placing a raft within private coves has a prejudicial effect upon the sale?—Most assuredly; from the combination of merchants to keep down the prices of timber, they will seldom purchase unless the raft be removed to their own boom, or to that in which they ship their timber from; the removal of which in very many cases is out of the question from the rottenness of the withs to hold it together, the rafts being moulinetted, or if moved, the shipping charges would fall on the owner or seller of the raft. The owner, being thus debarred from fair competition, and forced into a sale with the friend of the cove-holder, is invariably subjected to a loss of at least 5 per cent.

35. Do you know the shores on either side of the River at the Port of Quebec?—I do.

36. State what locality on either shore you think most suitable for the establishment of a depot?—I am of opinion that "Cap Rouge" would be the most desirable and convenient situation for lumbermen, for the following reasons: 1st. From its safety in being so well sheltered from the easterly and westerly gales. 2ndly. It is more easily landed at than any other cove, and lumbermen could dispense with steamboats for towing in, which at present forms a very considerable item. 3rdly. The comparatively small expense of improvement and consequently low charges for admission. 4thly. Its being on the same side of the river with the city would be of infinite advantage to lumbermen, and more particularly the working class, as they would be enabled to travel to and from "Cap Rouge" to town at night, while night travelling to and from "Hadlow" would be attended with both danger and inconvenience. 5thly. I have frequently witnessed gales at Quebec of 2, 3, and 4 days duration so boisterous as entirely to prevent crossing the river, even by the most venturesome pilots. 6thly. No cove below the town would do for a public depository, as the removing rafts amongst the vessels, after being sold, would be attended with great danger, both to the owners of ships and rafts.

24th February, 1849.

Appendix  
(P. P. P. P.)

18th April.

Mr. Asa Cook, of Petite Nation, called in, and examined:—

37. Are you interested in the timber trade?—Yes: I have been so for thirty years.

38. Have you been in the habit, during that period, of taking rafts to Quebec?—I have.

39. Have you found much inconvenience from the want of a public place of deposit for rafts, on their arrival at that port?—I have: first from the fact that if a raft is taken into a private boom, it is not so saleable, because purchasers wish to have the timber in a place where they can ship it from, at their own convenience; and secondly, because a raft, if not so taken into a boom, is liable to be wrecked from being exposed to the violence of the weather.

40. Are there not frequent instances of rafts being wrecked after arrival at Quebec, from the want of proper shelter?—Yes.

41. May not a raft when wrecked at Quebec be considered a total loss?—Yes: the tide would carry off the logs to such a distance that it would cost as much as the raft would be worth to collect it together again.

42. What is the average value of a raft of white or red pine of the ordinary size?—A raft of white pine, averaging from 60,000 to 70,000 feet, would be worth about £1,500; and a like quantity of red pine, about £2,000, varying according to the market prices.

43. Have you known rafts of oak to be wrecked at Quebec?—I have: and if an oak raft is broken up, it sinks, and is consequently a total loss.

44. Do you think the establishment of a public boom at Quebec would be a benefit to the manufacturer?—I think it would be a great boon to the manufacturer and the shipper.

45. Are you of opinion that it would interfere with the interests of private cove-owners?—No; inasmuch as the timber would merely be placed in such a boom for safety, and would be transferred to the shipping booms by the purchasers.

46. Is it not generally the case that rafts are moored outside the private booms previous to sale, being consequently exposed to storms?—Yes.

47. What disadvantages are they subjected to from being outside the booms?—Rafts lying outside of booms are in danger of being wrecked; consequently the owners, from fear of wreck, are frequently induced to sell, and force them into the market at a disadvantageous time, being thereby sometimes subject to great loss on the sale.

Mr. Peter Aylen, of Aylmer, C. E., called in, and examined:—

*Ans. to Ques. 37.*—Yes: I have been in the timber trade about thirty-three years.

*Ans. to Ques. 38.*—I have, for myself and others.

*Ans. to Ques. 39.*—I have, in various ways. I have generally been obliged to moor my rafts outside the booms and piers, in exposed situations, sometimes to avoid the expense of entering and moulinetting, and also because merchants are unwilling to pay as much for the timber inside the boom of another person. My rafts being thus moored in exposed situations, I have frequently sold them at a less sum than I would have done had they been in a place of safety, on account of the frequent storms, especially if late in the season; and merchants knowing the anxiety of owners to press sales in consequence of such exposure, are apt to take advantage of it, which they could not do if there was a public depot. I have found it very expensive and injurious

Appendix  
(P. P. P. P.)  
18th April.

to my interests to have to moulinette and winter over my timber in private booms.

*Ans. to Ques. 41.*—I have known many instances of rafts of all descriptions being wrecked in consequence of their exposure; and a raft once wrecked, the expense of collecting and securing the timber again generally amounts to pretty near its full value.

*Ans. to Ques. 37.*—I think the south shore on Lauzon beach, between New Liverpool and Patton's Cove, the most suitable place, it being very easy of access, and more protected from the winds which usually wreck rafts on the north shore, and being also out of the way of the shipping. I think it also quite central for the trade. The current also strikes over to this place from Black Eddy Point, which would facilitate the landing.

26th February, 1849.

Mr. Robert Conroy, of Aylmer, called in, and examined:—

48. Are you engaged in the timber trade?—Yes: I have been engaged in it about twelve years.

*Ans. to Ques. 24.*—I think it would benefit both parties; though such of the shippers as have booms of their own might object to it.

*Ans. to Ques. 25.*—The manufacturer does suffer a great disadvantage from the want of a public place of deposit for his timber. I have been a great loser myself from having to place my timber in a private boom. When I have sold it to another party I have had to pay heavy boom charges, and have frequently had to sell it below the market price, in consequence of the prejudice that one merchant has against purchasing timber out of the boom of another. In fact, I may say, that timber in a private boom, is hardly considered to be in the market at all; and there are some booms in Quebec, that no merchant, except the owner of the cove, will have anything to do with timber lying in them.

49. Do you think the establishment of a public boom would affect the interests of private cove-owners?—I do not think it could affect the owners of private coves, as the timber would merely be put in the public dépôt for safety, and would afterwards be transferred to the shipping coves; it might curtail the profits of the commission coves, but their present charges are so exorbitant, that I consider them of little or no benefit to the trade; and I do not think there are more than half a dozen of these coves that are not more or less concerned in the shipping trade.

*Ans. to Ques. 27.*—I think the best place would be Cap Rouge; I think this better than any other place, because, in tolerable weather, we could get a raft in there with our own men, without hiring a steamboat to tow it in; and it would be out of the way of the shipping.

*Ans. to Ques. 28.*—I am not able to say what it would cost, but I am quite sure it would cost less than in any other place, being a natural cove.

50. Do you think it should be optional with the owner of a raft to enter the boom, or obligatory?—Parties should have the option of doing whichever they might find most advantageous.

27th February, 1849.

Wm. Price, Esq., of Quebec, called in, and examined:—

51. Are you a merchant residing in Quebec?—Yes.

Appendix  
(P. P. P. P.)  
18th April.

52. How long have you been engaged in the timber and deal trade there?—Thirty years.

53. Considering the magnitude and extent of the timber trade, what is your opinion as to the utility of having a public boom or timber dépôt at Quebec?—I consider that a public boom will be useful to those lumber dealers who come to Quebec with their rafts for sale, independent of resident merchants who may have assisted them in getting out their timber, and who necessarily in such cases require that they shall deposit their rafts in their (the merchants,) private boom.

54. Are you not aware that great loss of timber has occurred, and a number of rafts been broken up at Quebec, for the want of a proper place to put them in on their arrival?—If they have not a safe place provided for their rafts on arrival, they are, of course, exposed to have them broken up and lost in heavy gales of wind.

55. Is it not a fact, that there is a prejudice or a delicacy in the minds of purchasers to go into the booms of private merchants to purchase?—Clearly there is.

56. If a public boom were established where rafts might be deposited and taken out when purchased, would it not be a boon to the purchaser, as well as to the seller?—I think it would, as it would present a fair and untrammelled market for all.

57. Where, in your opinion, would be a suitable place for the erection of such a boom?—From my experience in the timber business of Quebec, and my knowledge of the past, I am decidedly of opinion that the low cove, in the Lauzon Seigniorie, is the most suitable place, from its extent, the facility of access to it, and shelter and security when in it, and being central for the trade.

58. In your opinion, what would the cost of a public boom or dépôt be?—I think, with all the buildings, wharves for shelter, booms and chains, it would cost from £15,000 to £17,000.

59. What, in your opinion, would be the revenue derived from such a public establishment, supposing it to cost £20,000, and supposing the charge made on timber placed there to be one fourth of what is now exacted on rafts which are taken into private booms?—The revenue to be so derived would of course depend on the extent of business doing. In seasons of glut, or excess of supply, it would doubtless be very considerable, such as in the season of the year 1846. In ordinary seasons, I think it would afford an adequate return, but it is impossible to judge at present with any precision.

1st March, 1849.

Mr. Robert Russell, of Bytown, called in, and examined.

60. Are you engaged in the lumber trade?—Yes, I have been engaged in it upwards of 26 years, and during the greater part of this time I have been in the habit of taking rafts to Quebec.

*Ans. to Ques. 55.*—I think it would materially benefit all parties concerned in the timber trade; it will put the seller in a more independent position, as the placing of his timber, as at present, in a private boom, creates a delicacy on the part of merchants not interested in that boom, rendering them unwilling to interfere with timber that is in the boom of another person,—a public deposit for timber would also benefit the purchaser, by removing this feeling, and placing this timber in a fair position in the market, so that no one would have a preference over another in the purchase of it. Parties have, on more than one occasion, declined to purchase timber from me, because it was attached to the boom of another person.

Appendix  
(P. P. P. P.)

18th April.

*Ans. to Ques. 54.*—Yes, I have suffered loss on more than one occasion myself; not wishing to enter a private boom, I moored my timber on the outside of a boom, and a storm arising, the raft was broken up with serious loss of timber, and I was put to great expense in gathering together such of it as it was possible to save.

*Ans. to Ques. 57.*—I should recommend the south side of the river, at the Lauzon seigniority beach, between Mr. Price's boom and Hadlow Cove,—that being the easiest place for landing rafts, and the expense attending the landing being less than in any other part; I have landed timber there without the aid of a steamboat at all, which is almost indispensable in any other part; it is also, in my opinion, as central a place as could be obtained.

61. Do you think that if a public boom were established, it would yield a sufficient return for the outlay?—I am confident that it would.

Mr. L. G. Bigsloe, of Buckingham, called in, and examined.

*Ans. to Ques. 60.*—I have been engaged about 25 years in the lumber trade, and send a large quantity of sawed lumber to Quebec every year.

*Ans. to Ques. 53.*—I think it very necessary, as it would make the manufacturer of lumber more independent of the purchaser, and would reduce the charges considerably.

*Ans. to Ques. 54.*—I have frequently heard of the loss of rafts moored outside of the booms.

*Ans. to Ques. 55.*—There is a great prejudice which of course operates against the manufacturer.

*Ans. to Ques. 56.*—I think it would, for there being, as before stated, a delicacy on the part of merchants in purchasing timber from the boom of another person, this objection would be removed, and all the timber in the market would be equally open for their inspection.

Joseph Aumont, Esq., of Bytown, called in and examined:

62. How long have you been engaged in, the timber trade?—For the last 17 years.

63. Are you in the habit of sending many rafts to Quebec?—Yes; from 20 to 50 in a year.

*Ans. to Ques. 53.*—My opinion is that a public dépôt for timber is very much wanted, and that it would be a very great benefit to lumbermen, as all of us are compelled to make use of private booms, which is not only expensive but detrimental to the sale of the timber, as in many instances persons who are themselves owners of booms are unwilling to purchase from the boom of another.

*Ans. to Ques. 54.*—I am aware that much loss is sustained yearly; and in some instances, whole rafts have been lost, in consequence of their exposure outside of the booms.

*Ans. to Ques. 56.*—I think that it would decidedly benefit both parties, as for instance, buyers who are compelled to slip from the booms of other persons have the shipping charges to pay to the proprietor of the boom, while their own booms remain empty and their servants idle.

*Ans. to Ques. 57.*—I should say on the south side of the river, in any place between New Liverpool and Tibbitts' Cove, as I consider it much easier of access than any other place about Quebec. If this place should not be deemed advisable, Cape Rouge would be the next most eligible place in my opinion.

64.—What do you think of the eligibility of Indian Cove, the property of Messrs. Gilmour & Co., for the establishment of a public depot?—My opinion

is that it would be the most exposed place for timber lying outside of it, of any place about Quebec, and very difficult of access with a slight easterly wind; I do not think any lumberman would consent to take his lumber there.

*Ans. to Ques. 58.*—I think from £7,500 to £10,000 would be sufficient to erect piers and booms to hold all the timber likely to go there. Even supposing the outlay to be £20,000, I think it would still yield a good revenue to the Government, and the charge to the lumbermen would be reduced two-thirds.

65.—What amount have you and others in the trade, been accustomed to pay for wintering a raft of timber at Quebec?—We are compelled in some instances to pay 1s. a stick for ground rent, besides from 3½d. to 5½d. per stick for moulinetting. I have myself paid in one year from £2,500 to £3,000. and to my knowledge, there are other houses who have paid much more. I should say, that the whole charges for wintering lumber in Quebec, could not be less than £25,000 in one year, and in years of glut nearly double that amount.

Mr. Thos. McGoey, of Templeton, County of Ottawa, called in, and examined.—

66.—How long have you been engaged in the lumber trade?—Twenty-four years; and I have been continually in the habit of sending timber to Quebec during that time.

*Ans. to Ques. 53.*—I think it would be very beneficial to the lumberer and the purchaser, and would yield a good revenue to the Government.

*Ans. to Ques. 54.*—Yes; I have been a loser myself to a great extent; having been obliged to moor rafts outside of private booms, either to avoid the exorbitant charges for entering, or as is sometimes the case for want of room, I have frequently had my rafts broken up by a storm arising suddenly.

*Ans. to Ques. 55.*—There is a great prejudice which causes a reduction in the price of the timber when once inside a private boom.

*Ans. to Ques. 57.*—In some places between New Liverpool and Tibbitt's boom; this, I think, would be the best and safest locality. The next to that in my opinion would be Cap Rouge; I consider the first to be preferable on account of the ample room it would afford, and its being nearer to the town and the shipping, without being at all in the way of the shipping.

*Ans. to Ques. 58.*—I should think that from £7,000 to £10,000 would be sufficient to construct piers and booms for the protection of all lumber that might be deposited in it.

Mr. James Wadsworth, of Aylmer, called in, and examined:—

66.—How long have you been engaged in the lumber trade?—About 28 years.

*Ans. to Ques. 53.*—I think it would be a very great benefit, providing that it were optional with those engaged in the trade to use it or not, as they thought proper, otherwise it is my opinion that it would not.

*Ans. to Ques. 54.*—Yes; I have lost part of three different rafts, and lost also, upon the sale of what was saved of them. There being no public place of deposit, lumberers are unwilling, unless obliged by wind or storm, to enter a private boom, not only because of the great charges for boorage and sometimes moulinetting, but because it materially injures the sale, as merchants, upon learning that timber is in a private boom, generally refuse to buy it. There are some commission booms, but they are so small

Appendix  
(P. P. P. P.)

18th April.

Appendix  
(P. P. P. P.)  
18th April.

that but few of them will contain a large quantity of timber without moulinetting, which is attended with a heavy expense, and obliges parties purchasing to ship from that boom, which merchants owning private booms object to do.

*Ans. to Ques. 56.*—I think a large public boom, from which timber could be removed in block, (that is in a whole raft,) would be a benefit to the purchaser as well as the seller; for, at present, timber moored either inside or outside of a private boom, is hardly saleable, for merchants, as stated above, having an objection to have anything to do with timber which has any connection with another person's boom, we are obliged to have our timber measured, and place a specification in the hands of a broker, in order to satisfy merchants that the timber is really in the market; this is attended with an expense, in addition to the ordinary charges, of at least one per cent. on the sale of the raft.

*Ans. to Ques. 59.*—I think Cap Rouge would be a very suitable place, as there is a long point on the west side that would protect it from westerly winds, and the river to the east is very narrow, which would protect it from easterly winds. Southerly winds would not have any effect on the boom or the timber in it; the flats, too, are deeper, so that rafts would not ground so quick, as in many coves about Quebec, and consequently there would be a greater length of time for mooring rafts out of the boom. Cap Rouge is also easy of access, and out of the way of the shipping, so that rafts could be generally landed by the ordinary crew, without the aid of a steamer. Hadlow Cove might do very well, were it not that the shipping on the ballast ground would be so much in the way as to render it sometimes difficult to avoid a collision.

16th March, 1849.

*J. G. Irvine, Esq., of Quebec, examined:*

110. Are you not a merchant at Quebec, and extensively engaged in the shipment of timber from that port?—I am not at present engaged in the trade, but have occasionally shipped timber from Quebec.

111. Do not your house ship their timber chiefly from their own boom?—No.

112. Considering the magnitude of the timber trade carried on at Quebec, is it your opinion that a public boom or depôt for timber would be advantageous both to the manufacturer and the shipper?—Yes.

113. Does not the manufacturer suffer a great disadvantage in not having some place of public deposit for his timber on its arrival at Quebec?—Yes.

114. If a public depôt is established so that a merchant can purchase the timber placed thereon, and take to his own boom without being broken up, will it not be an advantage and a facility to all parties?—I think it most decidedly would be a great advantage to all parties.

115. Where, in your opinion, should such a depôt be established?—I should consider Cap Rouge the proper place for the depôt.

116. What do you consider would be the expense of establishing the boom and piers in the place you recommend, so as to have it perfectly safe, and what would be the probable revenue arising therefrom?—In my opinion the expense might be about £20,000, and the revenue would probably be from £3000 to £4000 per annum.

117. What advantage does the place you recommend possess over Cap Rouge, St. Charles, or Indian Cove, and state your reasons for objecting to those places?—I am of opinion that Cap Rouge would be the safest and most convenient place; St. Charles ought to be reserved for additional harbour accommodation

for the increase of trade expected from the West. Indian Cove is not conveniently situated for the trade.

118. Can you give the Committee any further information relative to the advantages, or otherwise, likely to arise from the establishment of a public boom?—Not any.

20th March, 1849.

*Ruggles Wright, Esquire, of Hull, called in, and examined:—*

*Ans. to Ques. 29.*—I am not now, but was from 1810 to 1848, and during that period I acquired a practical knowledge of it in all its branches, having both manufactured timber in the woods, and disposed of it in the British market.

*Ans. to Ques. 30.*—I have taken from four to twenty rafts to Quebec market in a season, during the above mentioned period.

*Ans. to Ques. 31.*—I have experienced numerous and severe losses in consequence of having no such depôt or public boom wherein to secure my rafts.

*Ans. to Ques. 32.*—Yes, such is the fact, unless commission merchants' booms can be considered to the contrary, and they have their regular customers, and sometimes will not receive rafts, even when they have plenty of room, in consequence of prior engagements. I have known arrivals in one night at Messrs. Wood and Gray's booms to such an extent that on the flood tide the booms were broken and partly carried away, although constructed in the most substantial manner, causing a heavy expense in repairs, re-landing the rafts, &c., exclusive of loss of timber, in which, had it come on to blow, instead of continuing fine weather, it is impossible to estimate the extent of the loss of property that would have ensued; the greatest portion must have been lost. But presuming that this had not been the case, and that the booms had not been broken, still with all these rafts hanging on outside, obstructing all intercourse between the booms and the shipping, what would have been the position of the cove proprietor, compelled to execute orders for thirty or forty ships, then loading, and unable to deliver a stick of timber in consequence of the obstruction caused by these rafts; the captains swearing at him, he in his turn indignant at the abuse, loss and delay, threatening to cut the fastenings and cast the rafts adrift, and the raftsmen defending their fastenings because they did not know where else to go. I have actually known, been present, and seen men hired and armed for the protection of a commission merchants' boom, and directed, whatever might be the consequences, to shoot the first man who should attempt to attach a raft to the boom, the merchant observing, at the same time, that he had thirty ships to supply with timber the next day, which he would be wholly unable to do, unless he kept the way clear by some stringent means.

All the rafts not previously under the control of the Quebec merchants are similarly situated on their arrival. There is no relief, and the men have to be kept on at a heavy expense, until the raft is secured in some safe place, or is permitted to be fastened outside of some boom, until it is sold or arrangements are made to get it inside. Rafts in an exposed position outside of a boom are often compelled to wait many weeks during which time a heavy gale may come on, the rafts be broken up, and become nearly a total loss to the proprietor.

*Ans. to Ques. 33.*—Most certainly, as by placing a raft in a private boom it must be more or less subject to the influence of the proprietor, and in fact it requires but a hint from him to prevent its sale, as one cove proprietor has a delicacy in interfering with another.

Appendix  
(P. P. P. P.)  
18th April.

Appendix  
(P. P. P.)

18th April.

I have frequently been told, when asking a purchaser to look at my raft lying in a private boom: "It's a pity, I don't like to interfere; would not the boom proprietor purchase? he wants timber;" when I would observe, "Yes, the boom proprietor wants it, but at less than the market price," then the intending purchaser would answer, "Oh yes, it's in his boom," and walk off. On removing it from the boom I would be subject to half the shipping charges, and all other actual charges of taking in, turning out, &c. The disadvantage in going into a private boom is, in fact, so great, that rather than subject themselves to it, most lumberers incur the enormous risk of leaving their rafts outside, and when they have them in that situation, the purchasers can take great advantage of their exposed position, and the consequent anxiety of the owners, in driving their bargains. A public boom would entirely obviate all these difficulties, by providing a place of safety for the rafts, and thereby securing fair competition in the trade, while in consideration of the advantage derived from it, the trade could well afford to make it a remunerative undertaking for the Government.

*Ans. to Ques. 34.*—Yes; those most extensively engaged in shipping timber have booms of their own, and others do their shipping business through the coves of the commission merchants, whose interests seem to be more identified with theirs than with those of the manufacturers.

*Ans. to Ques. 35.*—Most decidedly, as stated in reply to Ques. 33, I think that the sales of rafts placed in private booms are depreciated at least six per cent.

*Ans. to Ques. 36.*—No one can know them better than I do, having spent the greater part of my life in landing, selling, and delivering rafts in the different coves since 1810.

*Ans. to Ques. 37.*—From all my experience, I can state positively that there is no position so advantageously situated as that on the south side of the St. Lawrence, commencing a short distance above the Etchemin Mills, the property of Government, where a wharf should be built out to low water mark, and piers and booms extended from thence downwards, including Hadlow Cove, if required. This is the only proper position in which to construct a public boom, and the cove seems in fact as if nature had formed it for that express purpose. The wharf, extending as above mentioned, preventing the action of the west winds, together with the booms and piers in connection with the high lands on the south and Point Levy would prevent the heaviest gale from injuring any rafts in the cove. The wharf would form a great advantage, as the current set over from Black Eddy and Point à Piseau, forming a natural draught of water which would bring the rafts directly up to the wharf. This

would obviate the necessity of employing steamboats, which now cost on an average twelve pounds ten shillings (£12 10s.) per raft. There is a fine open channel to descend to the proposed wharf, which cannot be obstructed by the shipping, nor admit of ships being injured by the rafts, as there is no anchorage in that channel; Besides, it is the most central position, as rafts from this cove could be landed in any of the shipping coves within the half hour, at slack tide, either high or low water, and received into the booms without incurring any risk, whereas in making the public boom in any other locality, these great advantages would be lost, unless some of the principal coves should be brought up for the purpose, and even then they would not possess half the advantages which the proposed site possesses, and, at all events, as the object is to extend the accommodation, it would not be good policy to disturb them. I have heard Beauport Flats, Indian Cove, and Cap Rouge suggested. Those places labour under every disadvantage as compared with the one I have above proposed: They lie remote from the shipping coves, and the rafts would be exposed for three hours, and then be compelled to bring up among the shipping before they could get alongside of the booms, and this in a heavy current, and in the frail state that all rafts are subject to be in after having been laid up for a short time, would be attended with risk, besides subjecting the shipping to great inconvenience. I might advert to many other circumstances, but it is unnecessary, as the position is too well known to require any further argument, and its advantages, as compared with any other position, are, I believe, fully appreciated.

*Capt. Boxer, R.N., Harbour Master at the Port of Quebec, examined:*

119. What is your opinion as to the expediency of establishing a public boom or dépôt for timber arriving at the port of Quebec, for the safe keeping of the same, previous to sale? I beg to refer the Committee to my examination on this question before the Select Committee appointed to inquire into the affairs of the Seigniorie of Lauzon, July 23d, 1847; since which I have become more convinced of the necessity of a dépôt for timber arriving in the harbour of Quebec, and as there is every reason to expect a great increase of the trade at this port, no time, in my opinion, should be lost in establishing it, and the best situation in the harbour for its site is the one recommended by the above mentioned Special Committee, that is between the River Etchemin, and the seigniorial grist mill.

Appendix  
(P. P. P.)

18th April.

## SECOND REPORT

OF

## THE SELECT COMMITTEE ON THE LUMBER TRADE.

THE SELECT COMMITTEE appointed to inquire into the state of the Lumber Trade, the causes of its present depression, the protection of the Forests from unnecessary destruction, and upon all other matters affecting the Lumbering interests of this Province,—beg leave to present the following as their SECOND REPORT:—

COMMITTEE ROOM,  
18th April, 1849.

Your Committee, in the prosecution of their inquiries, have taken considerable pains to ascertain the state of the lumber trade, and the causes which have tended to its present ruinous condition. The general depression of all commercial matters, both in this Province and in Europe, has of course operated injuriously upon the trade, but Your Committee conceive that much might have been done by a more judicious management of the waste lands of the Crown (from which a large proportion of the timber taken to market is obtained) by wholesome regulations for the granting of licenses, by a more equitable exaction of duty, and by less oppressive duties upon articles imported for the exclusive use of the trade.

From the evidence adduced, it appears to Your Committee that the present depression of the trade has been caused by the over production of 1846, to the extent of about 13 millions of feet; in the fall of 1847 the surplus remaining in Quebec was still greater; in 1848 it had but slightly diminished, and it is likely, for the next year and probably longer, to have an injurious effect upon the trade; this great increase of manufacture no doubt was induced by the enormous profit of 1845, and the supposition that large quantities of our timber would be required in the construction of railroads then projected in Great Britain and other parts of Europe; another cause of increase in the manufacture, which however would apply chiefly to the Ottawa country, was a regulation of the Crown Lands Department, requiring the manufacture of a certain quantity of timber on each "limit" whether or not it suited the occupier, under penalty of forfeiture. The tenure of "limits" was also of so uncertain a nature, that many holders were induced to manufacture as much as possible with a view of deriving the full advantage from their improvements so that they might, before forfeiture or change of system, have manufactured all the timber fit to be taken to market, and thus have defeated propositions then mooted for the division and re-granting of all limits held under Crown licenses from year to year; both of the above regulations have been suspended for the last two years, but not until the consequences had been severely felt, and the effects of which are still apparent in the large stock of timber on hand, and which has been a dead weight upon the trade since 1846.

Your Committee can suggest no remedy to prevent over production; the ease with which the quantity of timber can be increased, resulting from the unlimited extent of the lumbering country, and the fact that little or no mechanical skill is required in its manufacture, renders its production com-

mensurate only with the means of the manufacturer and some few natural causes, such as the fall of snow, the spring floods, &c. &c.

Your Committee are, however, of opinion, that the plans suggested by several witnesses examined before them, of abolishing the present system of granting licenses, having due regard to the rights of the present occupants, and then issue upon the terms of a ground rent, as proposed by Messrs. Aumond, Porter, Dawson, Russell, and others, and the adoption of an export duty in lieu of the present charges, as now in use in the Province of New Brunswick, would have the effect of relieving the manufacturer from the oppressive burthen of deposits on the issue of licenses, and the payment of the duty on the timber reaching the market or soon after, without having any or much effect upon the revenue, or the rights of private parties owning timbered lands.

In the event of this plan being considered impracticable, Your Committee beg leave to suggest an alteration in the collection of duty, by the substitution of actual measurement instead of the system now in use, of the payment of so much per stick, without reference to its size; this would have the effect of equalizing the duty on all sizes of timber, whereas at present the stick containing one hundred feet or more, pays no more to the revenue than the one containing twenty feet or less, although the large stick is often one third more valuable per foot than the small one; an increase in the revenue would thus be gained, and an impetus be given to the manufacture of the smaller sizes of timber for railroad and other purposes, which cannot at present be profitably manufactured, and which leads to the destruction of the larger sizes of timber for uses which the smaller kind would suit as well, and which the present system prevents being manufactured, nor would the manufacture of small timber have the effect of destroying forests from which supplies of large timber might hereafter be drawn, as it is a fact that in many situations there are large tracts of country covered with small timber, which has arrived at its full growth, and might be a source of wealth to the lumberman, and revenue to the Province, if its manufacture were not virtually prohibited.

Your Committee would also suggest the reduction of the present establishment for the collection of timber duties, and the management of Slides upon the Ottawa, and the remodelling of the various offices, as suggested by the evidence of the parties above referred to, by which a saving to the Province of upwards of £1000 per annum might be effected.

All of which is respectfully submitted,

JNO. SCOTT,  
Chairman.

## MINUTES OF EVIDENCE.

COMMITTEE ROOM,  
17th February, 1849.

*John Sharples, Esq.*, Supervisor of Cutlers at Quebec, called in, and examined:

19. Do you think the present system of levying duties upon timber cut upon Crown Lands, a good one?—I know very little about the subject matter personally; however, I may say I have heard frequent complaints from producers about the Crown Timber Duties, both as respects the rates and the mode of levying the same. They would prefer paying for the actual quantity of cubical feet contained in the raft, in lieu of assuming an average as at present; if considered desirable to change this system of average, the Supervisor's records of measurement would clearly establish the exact quantity of cubical feet contained in the raft. To collect stumpage duty on timber by means of an export duty, would cause the timber cut on private lands to pay duty also, as I conceive it would be impossible to cause a distinction to be correctly kept; the New Brunswickers established this method, in order, I believe, to bring under duty the timber cut on the American grounds, and which was allowed to pass down the St. John River, as arranged for by treaty at the time of settlement of the Madawaska territory.

3d March, 1849.

*John Porter, Esq.*, of Bytown, called in, and examined:

67. Are you acquainted with the practical details of the lumber trade, and if so, by being personally engaged in it or otherwise?—I am, by being personally engaged in it.

68. Are you aware that the trade has been in a depressed state for the last three years, and can you state the causes which appear to you to have brought about this state of depression?—I am aware that the trade has been in a depressed state during these years, and I attribute it to these causes, viz: The over production of 1845-6 in Canada, and since then the general depression in the English markets, and the competition with foreign timber it had to meet with there: it is also in some degree owing to the regulations of the Crown Lands Department requiring the manufacture of a large quantity on every limit on the penalty of forfeiture, which induced parties to increase their business.

69. Do you believe that there were other causes operating to produce the glut in the market in 1846, besides those consequent upon the unusual profits of 1845?—Yes there were, as stated in the foregoing answer.

70. Do you think that the system adopted by the Crown Lands Department has had anything to do with the fluctuations to which the trade has been subjected?—This has been answered by stating that the system of requiring the manufacture of a large quantity, under the penalty of forfeiting the license, aided in producing the overstock.

71. Are you aware of any taxes which bear upon the trade, and the removal of which would afford relief to those interested?—The reduction of the Timber Dues about one half, and the entire abrogation of the duty on pork, would afford relief to the extent

of about £18000 per annum on the Ottawa alone, thereby enabling the Canadian lumberer to compete more successfully with the Baltic in the English market, while the revenue would not be reduced in the proportion of one half, as that measure of relief would have a tendency to increase the consumption of Canadian timber.

72. Are you aware of anything else which acts injuriously upon the trade, can you suggest anything which would tend to the removal or modification of those evils?—The foregoing answer includes all I can suggest, except what will more properly come in answer to questions on the subject of the system of collecting the revenue derived from the timber.

73. Do you think that the interests of the trade have suffered from the want of a properly regulated system of granting licenses to cut timber?—I do.

74. What right do you conceive the holder of a license should be able to exercise over the tract or limit to which it refers?—An absolute and exclusive right, as far as relates to the timber and wild hay, excepting what timber may be required for roads, bridges, &c.

75. Do you conceive that there is any danger of a monopoly of licenses to cut timber on the waste lands of the Crown,—what means can be taken to prevent it?—The substitution of an annual ground rent as a final payment for the present system of deposits; and if the limit should not be occupied, the doubling of the ground rent for the next year, and so on, would act as a sufficient preventive of monopoly; in case of the double payment being evaded by false representations, the limit should be forfeited and adjudged to the party proving the fact. If the duty were reduced one half I do not think that 5s. per square mile of ground rent would be too much.

76. Do you think that the making it compulsory for every holder of a license to have a practical business establishment on the limit would be a sufficient preventive of monopoly?—The ground rent being doubled in case of non-occupation, I would make the standard of occupation 5000 feet for all limits except such as are under five miles, for which half the quantity would be sufficient as a check upon monopoly.

77. What extent would you consider the maximum extent of ground or frontage to be granted in one license?—Ten miles.

78. Do you believe that licenses should be renewed from year to year as a matter of right, when desired by the holders, or only as a matter of indulgence, which the Crown Land Department might or might not concede?—As a matter of right, subject to the condition of occupation as defined in answers to questions Nos. 75 and 76, and such other conditions as the interests of the trade may require—also subject on renewal, to such sales as may have taken place up to the date of renewal.

79. Do you think that licenses should be transferable or subject to attachment, and in what way, and upon what restrictions?—They should be transferable, and subject to attachment and subject to no restrictions that I can see more than any other species of property.

80. What do you think would be the best means of protection to limits from trespassers?—I think the best means would be to give the holder of the license power to seize the timber as his property; and also to make it felony, subject to criminal prosecution on the part of the trespasser.

81. Do you think the waste lands of the Crown

Appendix  
(P. P. P. P.)  
19th April.

(in the lumbering districts) should be prevented from being trespassed upon, in cases where no licenses have been granted, and where the timber duties can be collected and no injury is done to third parties?—The Crown should have the power of confiscating all timber cut by trespassers on the unlicensed waste lands of the Crown, whenever thought requisite, and the informer should get one half.

82. At what period in each year do you think parties should be required to take out their licenses, and if a stated period be fixed, should it be strictly adhered to; and if so, by what penalty would you enforce it?—Between 1st May and 1st November, —if not then taken, to be given to the first applicant.

83. If it be necessary to prevent monopoly, that there should be a practical business establishment upon every limit, would it be requisite to insist upon the manufacture of any given quantity of timber in each year, in order to entitle the holders to renewals; and if so what quantity per mile of river frontage should be insisted upon, and what effect would the provision have upon the annual supply in the market?—This question has been answered in reply to No. 76; the effect of the quantity there specified would not be injurious to the trade.

84. If you think that non-occupation should be a ground of forfeiture, what evidence of the fact should be required, and how should the forfeited limit be disposed of?—It should be proved by the certificate of a Surveyor, or the acknowledgement of the party; the disposal of the limit is answered in reply No. 76.

85. Assuming that the first applicant for a vacant limit is to have it adjudged to him, when two or more applications are received at the same time, how should the question of precedence be decided?—By ballot, or, if agreed to by the parties, by arbitration.

86. After a limit has been adjudged to an applicant, how long do you think he ought to be allowed to retain his claim before being called upon to pay the deposit and take out the license?—Two months.

87. Have you any objection to the present system as it relates to deposits, and if so what remedy would you propose?—See answer to No. 75.

88. For what time do you think licenses should be granted, and should there be any exceptions to the general rule?—For one season, and always to terminate on the 30th of April.

89. What do you think of the form of license now in use?—It is the most useless form that could be invented, and creates a great deal of unnecessary labour.

90. Do you think the bond and duplicate license usually filed in the Timber Office at Bytown of any practical use, and do you think that they in any way secure the payment of the dues, or otherwise facilitate the business of the office, or guarantee the fulfilment of the conditions of the license?—They are of no practical use; they do not facilitate the payment, and are not guarantee. They are a labour vain.

91. How do you think surveys of disputed limits or lines should be made, at whose expense; what authority should the office possess in deciding upon disputed boundaries; and should such decision be final?—The office should have the supervision of these surveys—the expense should fall on all the parties interested, the office bearing its proportion; the returns should be made to the office as public property. The decision of the office should be final with regard to disputed boundaries, unless objected to, and a different decision obtained from arbitrators within three months; one arbitrator to be appointed, by the parties interested, the Surveyor or Agent of the office to act as the other, and in case an umpire should be necessary, and the arbitrators should not be able to agree upon one, he should be appointed by the Attorney General.

Appendix  
(P. P. P. P.)  
19th April.

92. Do you think the present system of collection of timber duties a good one, if not, what remedy would you propose?—The present system is unjust, expensive and ineffectual, giving facility for fraud. I would propose as a remedy that an export duty of one shilling per ton upon all timber clearing the Custom House should be exacted, but in case of the opposition of other interests being too powerful to admit of this scheme being passed, I would still do away with the present unfair and inefficient system, and substitute collection by the Supervisor's specification in Quebec, and charge the duty upon the actual number of feet. By this there would be no possibility of evading the duty, while the pressure would be made even on all, and the present cumbrous machinery of counting, bonding &c. would be dispensed with. Again, even if the present system were persevered in so far as relates to the charging of the duty per stick instead of per foot, I would still refer to the Supervisor's Office for the number of sticks as a substitute for the counting and bonding at Bytown.

93. Do you think the present mode of ascertaining those dues could be improved, and be made to bear more fairly upon the dealers and manufacturers of different descriptions and qualities of timber, by charging the amount according to actual measurement as furnished by the specifications of the Supervisor of Cutters at Quebec?—This is answered in the affirmative in the reply to the foregoing question.

94. If the system of charging the dues according to the Supervisor's Office were adopted, do you think that the bonding of timber at Bytown might be dispensed with?—Most certainly.

95.—If this system were adopted do you think that the chance of defrauding the revenue would be greater or less than it now is?—Much opportunity for fraud now exists; no fraud could be practised under the other system.

96.—Are you aware of any reason why the manufacture of timber under a certain size should be prohibited by the imposition of a heavier rate upon it, than upon timber of a large size; and are you aware whether the actual condition contained in the licenses against cutting small timber has been enforced, or has been a dead letter?—It has been a dead letter as far as regards the actual prohibition to cut it, but the imposition of a heavier rate has been a grievous fact, for which I can see no reason.

97. Supposing that the present system of estimating the dues on square timber according to a fixed and arbitrary average should be persevered in, do you believe that the number of pieces could be ascertained with greater or less accuracy through the Supervisor's Office in Quebec, than by counting at Bytown, as now practised?—With much greater accuracy, in fact, with perfect accuracy, as already stated.

98. Do you think the means now taken of ascertaining the quantity of timber cut on private lands, and which is entitled to pass free, is effectual; do you think frauds are committed, and what remedy would you propose?—I think that the system is not effectual, and I think that frauds are committed; as to the remedy, an export duty would be effectual, but in case of this not being adopted, the next best mode would be to make the onus of proof upon oath rest upon those claiming exemption, and make their timber subject to confiscation in case of attempted fraud, one half of the amount going to the informer, as in other cases of fraud on the revenue; the parties should also be subject to the penalties of perjury.

99. Are you aware of the relative pressure of the Crown dues upon dealers in square timber, and the dealers in sawed lumber; if so, state the particulars?—The dealer in square timber, by the present system, pays 2s. 11d. for every tree (white pine,) while



Appendix  
(P. P. P. P.)

19th April.

the dealer in sawed lumber pays 1s. 3d. for every tree he uses, (the average of saw logs being about three to every ten.) He, however, makes timber available for saw logs, which would not be accessible for square timber, and the trade in sawed lumber is also more of a home manufacture, employs a greater number of men, and consequently consumes more taxed articles. The adoption of the export duty would be effectual in this particular, in obviating all jealousy between the dealers in the respective articles, and fall lightly on all. As a second best mode, I would in this, as in the other, collect the duty according to specification in Quebec, exempting the proportion which might be proved to be from private lands. And below Quebec I know of no other mode than through the Custom House.

100. Do you know what system is now practised for ascertaining the number of saw logs cut upon Crown Lands; if so, do you think it efficient, and if not, what remedy would you propose?—There is no system but the voluntary returns made by the saw-mill owners. My answer to the previous question supplies my view of the only effectual remedy; the only other course would be to insist on affidavits, and impose penalties for any attempt at evasion.

101. Are you aware of any rule by which the standard for saw logs is regulated, and whether there is any particular in this circumstance which would affect the interests of the trade, or parties engaged in it?—I am not aware of any fixed rule for estimating the standard. Those interested in that branch of the business should more properly answer this question, as all mills do not use the same standard.

102. Provided the Supervisor's Office in Quebec were resorted to, (whether for details of the number of pieces or of the number of feet) as a substitute for the counting at Bytown, do you think that sufficient means would be afforded by the ordinary revenue establishments for securing the dues at such other points of the frontier as timber might be exported from?—I think there would be ample means afforded by the ordinary revenue establishment in such cases.

103. Provided the bonding at Bytown were done away with, how would you prevent timber from being shipped the moment of its arrival in Quebec, and without payment of the Crown dues?—I would prevent it by law, and the refusal of a clearance at the Custom House.

104. Are you aware what establishment is now maintained at the Crown Timber Office at Bytown, and into what branches or departments it is divided?—It is divided into two departments, the one being called the Collector's, and the other the Surveyor's branch.

105. Can you state what are the relative duties and responsibilities of the "Collector's" and "Surveyor's" departments, respectively?—The duties of the Collector's department are to receive the deposits and transmit the bonds when the timber is passing Bytown in summer, for collection by the Inspector of rafts in Quebec, and the management of a portion of the correspondence of the office. Its responsibilities are the safety of the cash received as deposits. The duties of the Surveyor's department are the regulating of the granting of licenses, and the arrangement of the limits on the waste lands of the Crown throughout the whole of the lumbering country, bordering on the Ottawa and its tributaries,—the recording of applications, answering them, &c., and the supervision of all questions relating to limit boundaries and the description of limits. Its responsibilities are the accuracy of these descriptions, and the care that every applicant receives the space to which he is duly entitled.

106. Do you think that the duties attached to the Collector's branch of the office, are such as to compel constant attendance and employment throughout

the year?—I think not, as the sole duties arise as above, from the cash account kept of the deposits received and an abstract of the collection, made up from the bonds which are transmitted to the Inspector of rafts at Quebec. I look upon the Collectorship as a sinecure, as the slight duty appertaining to it could be done by the head of the Surveyor's department and one efficient clerk.

107. Do you think that by amalgamating the two branches of the office a saving could be effected; if so, how many officers do you think would be necessary to carry on the office effectually, and in what particular do you think the establishment could be reduced?—I think, as stated in the foregoing answer, that a saving could be effected, and that two active officers could do the whole duty, viz., an Inspector of licences and an assistant.

108. Do you know what are the duties of the Collector of Slide Dues; do you think his office necessary, if not, what system would you substitute for the collection of slide dues, and do you think by this system the said dues could be equally well collected; if so, state your reasons at large?—There is not, properly speaking, any collection of slide dues at Bytown, any more than there is of Crown timber dues, the Collector of Slide Dues merely takes the acknowledgments of the parties, which he transmits to be collected by the same party in Quebec, who collects the Crown timber dues. This could be done through the Crown Timber Office, without adding anything perceptible to the duties thereof. The office is, therefore, unnecessary.

109. Do you consider that an *ad valorem* or a fixed duty upon timber is to be preferred?—I think a fixed duty; but all red pine averaging 30 feet and under should pay but one half, and all white pine of 50 feet average and under, the same; I believe this would accord with the practice in England and Scotland. The descriptions of timber above mentioned are much required for rail-road purposes, and meet with active competition from Baltic timber.

Joseph Aumont, Esq., again called in, and examined:—

*Ans. to Ques. 67.*—I am personally engaged, directly and indirectly, in the lumber trade, and have been so for the last eighteen or twenty years.

*Ans. to Ques. 68.*—Yes: it has been caused by the over-production, the depression in the English market, and the regulations in the Crown Land Department, requiring us to make large quantities on limits granted to us by that department.

*Ans. to Ques. 69.*—I am not aware of any other cause than those stated above.

*Ans. to Ques. 70.*—This has been answered by my stating that the system of requiring the manufacturer to make a large quantity under the penalty of forfeiting his limits.

*Ans. to Ques. 71.*—A reduction of the timber dues of about one-half, and the entire abrogation of the duty on pork, will afford us great relief.

*Ans. to Ques. 72.*—I am not.

*Ans. to Ques. 73.*—I do.

*Ans. to Ques. 74.*—An exclusive right, as far as relates to timber and hay, excepting such timber as might be required for roads and bridges within the limits, and also, the right of way.

*Ans. to Ques. 75.*—The substitution of an annual rent as a final payment for the present system of deposits; if the limits should not be occupied, the doubling of the ground rent for the next year, and so on, would act as a sufficient preventive of monopoly. In case of the double payment being evaded by false representations, the limit should be forfeited. I do

Appendix  
(P. P. P. P.)

19th April.

Appendix  
(P. P. P. P.)

19th April.

not think that 2s. 6d. per square mile would be too much for ground rent.

*Ans. to Ques. 76.*—I think it would be requisite to know what quantity of timber constitutes occupation as a criterion for doubling the ground rent, or the alternative of forfeiting the limit. I think that 25,000 feet would be sufficient for all limits, except such as are under five miles, for which half the quantity would answer.

*Ans. to Ques. 77.*—Ten miles at most.

*Ans. to Ques. 78.*—As a matter of right, subject to the condition of occupation, as before stated; also subject on renewals, to such sales as may have taken place up to the date of the renewal.

*Ans. to Ques. 79.*—They should be transferable, and subject to attachment, and to no restriction that I can see, more than any other species of property.

*Ans. to Ques. 80.*—To seize the timber on such limits, as the property of the holder of the limit, and also to make it felony, subject to criminal prosecution on the part of the trespasser.

*Ans. to Ques. 81.*—The Crown should have the power of confiscating whenever thought requisite.

*Ans. to Ques. 82.*—A period should be fixed, say, from 1st May to 1st November in each year, and enforced by the penalty of forfeiture. A month's grace might be allowed.

*Ans. to Ques. 83.*—I have before answered the first part of this question; and I think that the quantity stated by me, viz., 25,000 feet for a limit of ten miles, would scarcely have any perceptible effect on the market.

*Ans. to Ques. 84.*—It should be proved by the certificate of a surveyor, or the acknowledgment of the party, and the limits should be adjudged to the parties proving the fact.

*Ans. to Ques. 85.*—By ballot, or if agreed to by the parties, by arbitration.

*Ans. to Ques. 86.*—Three months.

*Ans. to Ques. 87.*—None but those that I have stated before.

*Ans. to Ques. 88.*—They should be granted for one season only, and should always terminate on the 30th of April.

*Ans. to Ques. 89.*—That it is perfectly useless.

*Ans. to Ques. 90.*—They are of no practical use, and do not facilitate the payment.

*Ans. to Ques. 91.*—The office should have the supervision of the surveyor, and the expense should fall on all parties interested.

*Ans. to Ques. 92.*—The present system is unjust. I would propose, as a remedy, that an export duty of 1s. per ton on all timber clearing the custom house, should be exacted. In case of opposition of other interests being too powerful to admit of its passing, I would still do away with the present unfair and bad system, and collect the duty by the specification of the Supervisor of Cullers at Quebec, and charge it upon the actual number of feet.

*Ans. to Ques. 93.*—Answered in the foregoing.

*Ans. to Ques. 94.*—Most certainly.

*Ans. to Ques. 95.*—Much opportunity for fraud now exists, and would be avoided by the system suggested.

*Ans. to Ques. 96.*—As far as regards the actual prohibition against cutting timber, it has been a dead letter; but the imposition of a heavier rate has been a grievous burthen, for which I can see no reason.

*Ans. to Ques. 97.*—With much greater accuracy.

*Ans. to Ques. 98.*—I think that much fraud is committed. As to the remedy, an export duty would be effectual.

*Ans. to Ques. 99.*—A dealer in square timber, by the present system, pays 2s. 11d. for every white pine tree, while the dealer in sawed lumber pays 1s. 3d. for every tree he uses; the average of saw-logs being generally three to a tree.

Appendix  
(P. P. P. P.)

19th April.

*Ans. to Ques. 100.*—There is no system but the voluntary returns made by the saw-mill owners.

*Ans. to Ques. 101.*—I am not aware of any fixed regulations estimating the standard.

*Ans. to Ques. 102.*—I think there would be ample means afforded by the Revenue establishment in such cases.

*Ans. to Ques. 103.*—I would prevent it by the refusal of a clearance at the Custom House.

5th March, 1849.

*Mr. McGoey*, again called in, and examined:—

*Ans. to Ques. 75.*—I consider there is danger of such a monopoly, and I would suggest that a ground rent of 2s. 6d. per square mile, and the actual occupation of limits, be substituted for the present system of deposits. If deposits are still to be collected, I would have them payable at Quebec instead of Bytown.

*Ans. to Ques. 79.*—They should be transferable but not attachable, as the power of attachment would put it in the power of individuals to monopolize the licences, and drive the practical lumberer out of the trade.

[Witness having heard the evidence of Mr. Porter read, stated that he coincided with all the other answers given by him.]

*Mr. Peter Ayley* again called in, and examined:—

*Ans. to Ques. 68.*—Yes: the cause of the depression is, in my opinion, the supply vastly exceeding the demand, produced by the high prices which lumber obtained in 1844 and 1845; like causes having produced the same effects, to my knowledge, during my own experience (33 years), alternate periods of prosperity and depression having continually occurred.

*Ans. to Ques. 70.*—I do not.

*Ans. to Ques. 71.*—Yes, the duties are too high, and I would say should be reduced one half. The duty on pork and the toll on slides operate very unfavorably on the lumberman, and have an injurious effect on the trade.

*Ans. to Ques. 73.*—Yes.

*Ans. to Ques. 74.*—The right of cutting timber and hay and preventing trespass.

*Ans. to Ques. 75.*—I do: I think the proper means to prevent it would be to compel the holder of a licence to make a certain quantity of timber and draw it off the limit; and a ground rent of 2s. 6d. per square mile should be substituted for the system of deposits; in case of non-occupation, the ground rent should be doubled, or the licence forfeited.

*Ans. to Ques. 76.*—I would make the standard of occupation 500 feet per square mile, for all limits.

*Ans. to Ques. 77.*—No one license should exceed 25 square miles, as is now the case; large limits have created much ill feeling and disputation among lumbermen.

*Ans. to Ques. 78.*—As a matter of indulgence, as revolutions may occur in the lumber trade which would render a continuance of the present limits very dangerous to the trade.

*Ans. to Ques. 79.*—They should be transferable, but not subject to attachment.

*Ans. to Ques. 80.*—Forfeiture of timber cut thereon, to the party holding the licence.

*Ans. to Ques. 81.*—I think not.

*Ans. to Ques. 82.*—Any time between 1st May and 1st November would give a fair opportunity for

Appendix  
(P. P. P.)

19th April.

parties to obtain licences; the penalty should be forfeiture of limits.

*Ans. to Ques. 84.*—On the certificate of a Surveyor; and the limit should be assigned to the party proving the non-occupation.

*Ans. to Ques. 85.*—By ballot, or by arbitration.

*Ans. to Ques. 86.*—Three months.

*Ans. to Ques. 88.*—For one season only, terminating on 30th April.

*Ans. to Ques. 89.*—I think it perfectly useless.

*Ans. to Ques. 90.*—I do not.

*Ans. to Ques. 91.*—I think the river should be scaled at the expense of the Government, and the side lines between the limits to be paid for, half by the parties and half by the Timber Office; disputed boundaries should be decided by arbitrators, one to be chosen by each of the parties, and if they cannot agree, an umpire to be appointed by the Attorney General.

*Ans. to Ques. 92.*—I think the present system unjust and expensive; the collection might be made at Quebec, according to the specification of the Supervisor. An export duty of 1s. a ton would be preferable to any other mode, could it be effected.

*Ans. to Ques. 94.*—I do.

*Ans. to Ques. 95.*—Less.

*Ans. to Ques. 96.*—The condition mentioned has been a dead letter, and the imposition of a heavier rate has been very injurious.

*Ans. to Ques. 97.*—Yes, I think there is more fraud now practised than could be if the number of pieces were ascertained from the Supervisor.

*Ans. to Ques. 98.*—I think that frauds are committed; the onus of proof should lay with the parties claiming exemption, under penalties of perjury for false swearing.

*Ans. to Ques. 99.*—Under the present system, dealers in square timber pay 2s. 11d. for every tree of white pine, sawed lumber 1s. 3d., at an average of three logs to the tree, making a difference of 1s. 8d., which I consider rather much, but I think some indulgence should be allowed to the manufacturer of saw logs, as encouragement for the erection of mills, and the outlay of capital.

*Ans. to Ques. 100.*—I know of no other system than the report of the owners of mills; I consider that the proper mode of ascertaining it would be by the specification of the Supervisor at Quebec,—persons claiming exemption upon deals taken from private lands to be subject to the onus of proof, the same as in square timber.

*Ans. to Ques. 101.*—Persons in different localities have different standards; to obviate this, the standard should be established by law.

*Ans. to Ques. 102.*—I do.

*Ans. to Ques. 103.*—By refusal of a clearance at the Custom House.

*Ans. to Ques. 104.*—There are the offices of the Collector and Surveyor, each of whom has a clerk.

*Ans. to Ques. 105.*—The Surveyor performs the entire labour of granting licenses, except the mere signature of the Collector to the licence, and his initials on the application; the Collector receives the deposits, and transmits bonds for collection at Quebec; there are also two tellers, and two boatmen employed, and a check clerk, at Chatham, making, in all, nine persons.

*Ans. to Ques. 106.*—I do not.

*Ans. to Ques. 107.*—I think a Surveyor and one clerk could perform all the office duties, with one man to count the timber, which latter would not be required, if the Supervisor's Office were resorted to, as recommended.

*Ans. to Ques. 108.*—I do not think the office necessary, as the collection could be made in the same way as the timber dues; but I would recommend that

a charge for a fixed quantity be substituted for the charge per crib.

*Ans. to Ques. 109.*—A fixed duty on white pine above fifty feet, and on red pine above thirty feet, and a low *ad valorem* duty on all smaller sizes, for the purposes of railroads, or for hand-masts, small spars, and booms, lathwood, &c., as the small quality of timber meets with greater competition in the home market. If the *ad valorem* duty be adopted, I would include black birch, spruce, and tamarac.

Mr. William Stubbs, again called in, and examined:

*Ans. to Ques. 67.*—I have been practically and personally engaged in the timber trade for 16 years.

*Ans. to Ques. 68.*—I am aware that the trade has been awfully depressed for the last three years; the chief causes arise from the super-abundant or over-production of timber, the paralyzed state of trade throughout Europe, and consequent stoppage of the railways in Great Britain.

*Ans. to Ques. 69.*—No other causes of moment than the anticipation of a steady consumption and demand in Great Britain.

*Ans. to Ques. 70.*—No, not to any serious extent.

*Ans. to Ques. 71.*—The exaction of the present dues both for stumpage, the tolls on slides, and the duty on pork, are intolerable burdens upon the manufacturers of timber.

*Ans. to Ques. 72.*—Yes, a recognition by the Government, both imperial and colonial, and a portion of their fostering care. The removal of the navigation laws of the St. Lawrence, or the imposition of a further protection duty upon foreign timber.

*Ans. to Ques. 73.*—I believe it would be of infinite advantage, and particularly to the practical lumberer, such a system as would afford equal justice to all.

*Ans. to Ques. 74.*—He should have a right of pre-emption only so long as he continued to occupy in the true meaning and intent, to cut timber as the license directs, and have a right to all wild hay.

*Ans. to Ques. 75.*—There exists at present a monopoly to a very considerable and fearful extent, and nothing that I am aware of will so effectually check it, as the making it compulsory on licentiates to either occupy or relinquish.

*Ans. to Ques. 76.*—Answered in the preceding question, further than as relates to quantity, which should be 500 feet per square mile.

*Ans. to Ques. 77.*—Five miles frontage by five in depth, making a block of twenty-five square miles.

*Ans. to Ques. 78.*—I hold that, so long as the licentiate occupies in the true sense and meaning as required by his license, he should be entitled to the right of pre-emption.

*Ans. to Ques. 79.*—No. They should be neither transferable nor subject to attachment, but remain the *bonâ-fide* property of the Crown—granting them to such persons as might be willing to conform to the requirements of the law respecting the granting them—such as legitimate occupancy and just payment of dues.

*Ans. to Ques. 80.*—Giving licentiates power of instituting actions against such trespassers in a Criminal Court of Law on behalf of the Crown, and at the expense of the Crown.

*Ans. to Ques. 81.*—No person should be allowed to cut timber without license under any pretence or circumstances, whether a third party suffer or not.

*Ans. to Ques. 82.*—Any person should be entitled to a license (for a limit not previously applied for,) on application, by paying the deposits required by law; and for renewal of licenses, the 1st May to 15th November might suit the majority of those engaged

Appendix  
(P. P. P.)

19th April.

Appendix  
(P. P. P. P.)  
19th April.

in the trade; all should be strictly adhered to, and in case of a party not strictly complying, by paying the deposit and taking out his licence, it should be given to the next applicant.

*Ans. to Ques. 83.*—I do not understand what is meant by a "practical business establishment," but what I said in questions 76 and 77, I hold to be the only true means of preventing monopoly. The annual supply of timber, like all other commodities, must be regulated by the foresight and prudence of those engaged in the trade.

*Ans. to Ques. 84.*—By the evidence of three men on oath or a sworn Surveyor, and the party so proving the non-occupancy of the other should be entitled to the limit.

*Ans. to Ques. 85.*—It is improbable that two would apply for the same limit at the same instant, and I have advised in question 82 that the first applicant be immediately granted the licence on payment of the necessary deposit; should there be two or more applications received by mail at the same time, for the same limit, bearing the same date, then the parties so applying can draw by ballot for the limit.

*Ans. to Ques. 86.*—Three months might be allowed by the office.

*Ans. to Ques. 87.*—None, none.

*Ans. to Ques. 88.*—From year to year without any exception, unless in cases of bankruptcy, whereupon, on application to the Government, such parties should be allowed the privilege of retaining their limit one year without occupancy.

*Ans. to Ques. 89.*—The form is well enough, but the system is not so—and if a change take place in the system, the form will necessarily be changed also.

*Ans. to Ques. 90.*—Most assuredly, as without that I am of opinion that the Government could not recover dues in cases of resistance to pay them, (*i.e.*) under the present system.

*Ans. to Ques. 91.*—By a sworn Surveyor, without any other instructions from the heads of the Department than the licences of both parties as a criterion for him, and at the expense of the Government; and in case of the dissatisfaction of either party, a new survey should be made by two Surveyors, each of the parties having the power to name one each, in which case the expense should fall on the parties in dispute in equal shares, unless a palpable error were made by the first surveyor, in which case one half of the expense should fall upon him, and also be deprived of any remuneration for the first survey.

*Ans. to Ques. 92.*—The present system, however good, is not just, as we are constrained to the payment of a large quantity of timber which is consumed in Canada, and moreover for many culls, as well also as what timber may be lost out of rafts on their descent from Bytown to Quebec. The amount actually exported would be fair for the Government to exact dues from; the next best mode would be the Supervisor's Office, as per specification of rafts.

*Ans. to Ques. 93.*—This question is answered in the preceding, further than the reference it bears towards the collection of dues according to the Supervisor's specification. No doubt can be entertained that it is unfair to exact payment for a 70 feet average, as at present practised, when fully one half of the white pine going to market does not exceed 55 feet, and the red pine is averaged at 38 feet, when a great proportion does not exceed 30 feet.—thus compelling the less fortunate lumberer, who may not have a limit susceptible of producing large timber to pay one farthing more dues than his more fortunate neighbour.

*Ans. to Ques. 94.*—Yes. If an enactment of the Legislature were made to secure payment, there would be no necessity for bonding timber at Bytown.

*Ans. to Ques. 95.*—I am not aware that any fraud could be practised by its not being bonded at Bytown,

provided a check were kept at Bytown, and the timber counted, and regular returns made to the Collector at Quebec.

*Ans. to Ques. 96.*—A person holding a limit should be allowed to cut any sized timber he thought most advantageous to himself; the licences in this respect have never been conformed to, but have been a dead letter.

*Ans. to Ques. 97.*—Yes: for we very frequently lose timber going from Bytown to Quebec, which evidently we should not pay for, and if another party find timber so lost, he should be obliged to pay the duty,—moreover, the culls are all counted at Bytown, which we should not be compelled to pay.

*Ans. to Ques. 98.*—Certificates given by parties holding private lands should suffice; I am not aware of any frauds, and consequently can propose no remedy.

*Ans. to Ques. 99.*—I believe that dealers of sawed lumber have greatly the advantage over the dealers in square timber, but I am not acquainted with the particulars.

*Ans. to Ques. 100.*—I do not know.

*Ans. to Ques. 101.*—I am not aware of any standard, but I think there should be a fixed standard whereby the dealer in sawed lumber should pay as much for a tree as the dealer in square timber.

*Ans. to Ques. 102.*—There might be an efficient person stationed at Montreal, who having daily correspondence with the Bytown Office and the Collector at Quebec, could very easily detect any attempt at fraud, but I do not apprehend any danger on that point.

*Ans. to Ques. 103.*—By seizure, or the preventing them obtaining a clearing from the Custom House, Quebec.

*Ans. to Ques. 104.*—The establishment consists of two branches or departments. Mr. Stevenson as collector of deposits and granting of licences, &c., who keeps one clerk. The other department is that filled by Mr. Russel, a person of ability, and gives every general satisfaction to all parties; he also has the assistance of one clerk; the duty of this department consists in making out licences, receiving and filing applications, &c., &c., &c. There are two timber counters, and two servant men in a boat to take them throughout the different rafts.

*Ans. to Ques. 105.*—Timber such as is commonly used for railroad purposes, say from 45 to 50 feet average of white pine, and 25 to 30 for red pine, should be fixed at  $\frac{1}{2}$ d. for white pine, and  $\frac{1}{2}$ d. per foot on red pine. Should, however, the anticipated reduction take place on timber to  $\frac{1}{3}$ d. and  $\frac{1}{4}$ d., the above description of timber should still be lower.

106. Do you think that settlers should be allowed to claim any right to timber on the limits of lumbermen?—No right should be given settlers to claim the slightest shadow of right to timber on limits already granted, as it would be evidently an injustice, after a party improving a stream so that to facilitate the descent of his timber, and expend a large amount in doing so, that parties should be entitled as settlers to claim the timber upon the limit, when the lumberman expended his money for improvement, in good faith that he would be allowed every opportunity by the Government of re-imbursing himself in what he had expended.

William Harris, Esq., of Bytown, called in, and examined:

*Ans. to Ques. 67.*—I am acquainted with the practical details of the lumber trade, and was personally engaged in it in the years '33, '34 and '35.

*Ans. to Ques. 68.*—Yes. The causes which brought about the state of depression are, in my opinion, 1st,

Appendix  
(P. P. P. P.)  
19th April.

Appendix  
(P. P. P. P.)

19th April.

The supply vastly exceeding the demand, induced by the high prices which lumber obtained in '44 and '45, like causes in this trade having produced like effects, to my knowledge for a very considerable period—for the past 16 years there have been alternate periods of prosperity and depression in the timber trade, consecutively.

*Ans. to Ques. 69.*—There were no material causes.

*Ans. to Ques. 70.*—I do.

*Ans. to Ques. 71.*—The doing away with the deposits on ground rent tax would have that effect.

*Ans. to Ques. 72.*—Yes: the lumber trade is a peculiar trade, and it requires peculiar remedies. It is my opinion the Crown ought to step in and regulate the supply by the demand; the trade has never regulated itself; in it there has been always extreme years of prosperity and depression. The Commissioner of Crown Lands might apportion a limited quantity of white pine timber for each year.

*Ans. to Ques. 73.*—Yes.

*Ans. to Ques. 74.*—The right of cutting timber and preventing the interference of trespassers.

*Ans. to Ques. 75.*—I do. The means to prevent it in my opinion are as follow: Compel the holder of the limit to take a certain quantity of timber off that limit, and not to evade it as it is now notorious he does, by concentrating his business on one or two particular spots, and then returning the timber taken therefrom as having been taken in fair proportions off the whole. No holder of limits should be permitted to transfer them to another either directly or indirectly. No holder of limits should be allowed to hold them through the agency of a person whom he supplies. No licences or limits should be liable to seizure or attachment of any kind in the hands of the person holding, as thereby some creditors might be defrauded.

*Ans. to Ques. 76.*—No; not in all cases.

*Ans. to Ques. 77.*—Five miles.

*Ans. to Ques. 78.*—As a matter of indulgence. Revolutions may occur in the trade of the country, which would make it impolitic to give the holders of limits an undue influence or monopoly in them and the trade of the country.

*Ans. to Ques. 79.*—I think not.

*Ans. to Ques. 80.*—Forfeiture of timber cut thereon to parties holding licence for limits.

*Ans. to Ques. 81.*—I think not.

*Ans. to Ques. 82.*—Any time from the 1st of May to the 1st of November, will give fair opportunity for all parties to obtain limits or renew licences,—forfeiture of limits the best penalty.

*Ans. to Ques. 83.*—I think it is erroneous to assume that monopoly would be altogether prevented by having a practical business establishment upon every limit; if by such assumption is meant, a storehouse with a clerk superintending it, it would be requisite to insist upon the manufacture of a given quantity of timber, say half a thousand feet in every square mile contained in the limit; regulating by the river frontage would not prevent monopoly. I cannot say directly what effect such an arrangement would have upon the supply in the market; but I think it would have eventually a good effect. There should be twelve and a half thousand taken off every limit.

*Ans. to Ques. 84.*—The refusal of the party to swear that the limit was occupied by him; the forfeited tract should be disposed of to the highest bidder next season, excluding the person forfeiting the tract from competition, *i. e.*, he should be prohibited from bidding for the tract so forfeited. On renewal of licence the party holding licence should swear that he occupied the limit for which he sought renewal of licence in the spirit of his licence, whether such limit was applied for by others or not; and if the contrary is proven, forfeiture of all licence holden by him.

Appendix  
(P. P. P. P.)

19th April.

*Ans. to Ques. 85.*—By first discovery. On the moment of making application at the Crown Timber Office, the applicant should receive a certificate that no previous application had been made. If fair play is observed, disputes on this head cannot often arise; should such a thing happen, the Surveyor to settle the point of precedence. Priority of post-mark might also be received as evidence of priority of application.

*Ans. to Ques. 86.*—Three months, on a new application.

*Ans. to Ques. 87.*—A most decided objection. I object to deposits in any shape, as it gives to mercantile houses, having command of money, an influence in the obtaining of limits to the prejudice of the practical lumberman, who makes the lumber-trade subservient to actual settlement of the country.

*Ans. to Ques. 88.*—From year to year. The exceptions should be in cases when expensive and permanent improvements are made, or to be made, to go to limits which otherwise could not be worked.

*Ans. to Ques. 89.*—Nothing.

*Ans. to Ques. 90.*—I do not.

*Ans. to Ques. 91.*—There should be a certain corps of Surveyors employed by the Crown, whose duty it would be to survey all limits. The frontage of all limits should be defrayed, wholly by the Crown, as also the scaling of all rivers and lakes, side lines and lines between parties to be run by a Crown Surveyor according to the courses or descriptions marked on the back of the licence, to be paid for by the parties interested in the survey. In disputes of all kinds, chief Surveyor's at Bytown, decision to be final. In disputes of all kinds, the aggressor, subject as above mentioned to the decision of the Surveyor, ought to bear the expense incurred by the aggression.

*Ans. to Ques. 92.*—I would charge the amount according to actual measurement by specifications in the Supervisor's Office at Quebec, and at an *ad valorem* duty.

*Ans. to Ques. 93.*—I do.

*Ans. to Ques. 94.*—I think it might.

*Ans. to Ques. 95.*—I think it would be less.

*Ans. to Ques. 96.*—After all the large timber is cut off a limit, so many trees, blocks, chips, &c., are down on the ground, the pine woods are subject to be and are frequently destroyed by fire; the young and small timber reserved in the woods is totally destroyed; whereas, had the lumberman been induced to cut it in the first place by an *ad valorem* duty, he would avail himself of his opportunity, of his advantage to do so, for railroad, framing, lathwood and other purposes where small lumber can be employed. Under the existing system an immense revenue is lost to the Crown, and a serious drawback is inflicted on the lumberman. Under this system as large dues are exacted for the smallest tree as the largest—a tree of 12 or 14 feet would be as expensive to cut as one of 60, which amounts to a prohibition of cutting small timber. Were an *ad valorem* duty imposed instead of the present dues, a considerable amount of revenue for masts and spars, over the amount now collected, would be obtained. Instead of paying 3s. 2d. for a stick available for masts worth, say £20, one-eighth per cent should be obtained, and for a red pine spar worth £10, a like per centage, which would make a material difference in favour of revenue derivable from this source. Spruce, black birch, hackmatack, for sleepers for railroads, and other small timbers, would be taken also, which are now left rotting in the woods. Spruce would do for booms; birch for cabinet work; and very large quantities of this species of timber are to be met with very far north of the Ottawa, hitherto untouched.

*Ans. to Ques. 97.*—Yes.

*Ans. to Ques. 98.*—I think frauds are committed.

Appendix  
(P. P. P.)  
19th April

An export duty would be effectual, or make the onus of proof rest with parties claiming exemption, and subjecting their timber to confiscation, one half of the amount going to the informer—parties being also liable to the penalties of perjury.

*Ans. to Ques. 99.*—Under the present system dealers in square timber pay 2s. 11d. for every tree,—the dealer in sawed lumber 1s. 3d., making a difference in the revenue of 1s. 8d. to the tree, and frequently more, as all trees do not produce 3 standard logs,—a loss arises to the revenue by counting loss instead of measuring them; the square timber maker takes the whole of the tree, the deal manufacturer takes nothing but the clearest stuff, leaving all trees and parts of trees having the slightest appearance of knot or flaw in the woods abandoned to rot or fire. An advantage over the square timber maker should be had by the deal maker, inasmuch as he expends in his business in the country more capital than the square timber maker, but not to the unfair extent now existent.

*Ans. to Ques. 100.*—There is no system but the voluntary return of saw-mill owners. The best mode to collect the duty would be by the specifications of the Supervisor in Quebec; ascertaining the proportion which might be proven from private lands; the onus of proof of private property resting on the party claiming pre-emption from payment; and below Quebec I know of no other mode than through the Custom-House.

*Ans. to Ques. 101.*—Answered in reply to 99.

*Ans. to Ques. 102.*—I think there would be ample means afforded by the ordinary revenue establishments in such cases.

*Ans. to Ques. 103.*—It would be prevented by the refusal of a clearance at the Custom House.

*Ans. to Ques. 104 and 105.*—I am. There are the offices of the collector and surveyor, with their officers respectively, each having a clerk. The Surveyor performs the entire labour of the granting of license, and all the business connected with that branch of the department; and the collector receives the deposits, and transmits bonds for collection to Quebec; There are also two tellers and two boatmen employed at counting the timber, and a cheque clerk at Carillon, making in all 9 persons employed.

*Ans. to Ques. 107.*—I think the collector's office a sinecure. The surveyor would be sufficient, as his instructions from that office, and applications are fyled by him, licences made, &c. If collection at Quebec be adopted there will be no necessity for collector, tellers, boatmen or cheque clerks; and if not, one half the establishment might be reduced.

*Ans. to Ques. 108.*—I do. Counting cribs and settling for the slidage accounts,—2d, I do not,—3d, the surveyor's department of Crown Timber Office might undertake their (the slide's) supervision,—4th, Collections made at Quebec,—5th, Substituting for cribs a fixed quantity of measured timber, taking the average ascertained from the Supervisor's office at Quebec. The most effectual mode of collecting slidage at Quebec would be so much per thousand instead of so much per crib. The same reasons as applicable to the collection of the Crown dues will apply to the collection of slide dues.

15th March, 1849.

Ruggles Wright, Esq., of Hull, examined.

*Ans. to Ques. 67.*—I have been for the last thirty years extensively engaged in the lumber trade, and am perfectly acquainted with all its different branches, from that which devolves on the manufacturer and labourer to that which is in the hands of the exporter, having had practical experience of each, and have

Appendix  
(P. P. P.)  
19th April

been the inventor of slides which render the descent of timber practicable, from localities otherwise inaccessible to the operations of the lumberer.

*Ans. to Ques. 68.*—I am aware that the trade has been in a ruinous state during these three years past caused by the depressed state of commercial affairs in Europe, and the over-production in Canada. This state of things appears to have been prolonged by the state of anarchy which has prevailed among the continental powers of Europe, and the consequent want of confidence, tending to diminish commercial enterprise.

*Ans. to Ques. 69.*—I do; which causes were, the bad government of the trade by the Crown Land Department in forcing on the manufacture of timber as much as possible, and in opposition to the remonstrances of those engaged in the trade—the subdivision of limits which induced parties whose limits were subject to that threatened measure, to try and make the most of them, while they had them, by making all the timber they could in the meanwhile, and lastly the disputes arising from the mismanagement of the department, in most of which the parties were left to fight the matter out by physical force—the forces brought on the ground for that purpose, being used to increase the quantity of timber getting out. I would also mention that through the defects of the Crown Lands system, and the want of any legitimate protection to license holders, trespassers went upon their limits and made large quantities, which, had this not been the case, would not have been added to the general accumulated overstock.

*Ans. to Ques. 70.*—I do, as stated in the foregoing reply.

*Ans. to Ques. 71.*—I think that a reasonable reduction in the direct charges upon timber would afford a considerable relief. The duty upon mess pork, I think quite outrageous, and it operates as a direct tax upon the trade, the article not being generally used in this country except in lumbering establishments. The charges for culling in Quebec ought also to be reduced so as simply to cover expenses, as I cannot believe that it was ever intended that the Cullers' Bill should operate as an additional tax upon the trade, for revenue purposes.

*Ans. to Ques. 72.*—The foregoing and following questions seem to render any special reply to this unnecessary.

*Ans. to Ques. 73.*—Most assuredly.

*Ans. to Ques. 74.*—An exclusive and absolute right, the same as any one might exercise over a leased property, reserving of course the right of way, and such timber as may be required for roads, bridges, &c.

*Ans. to Ques. 75.*—There is danger of monopoly, and I would prevent it by a ground rent, which, in case of non-occupation, should double every year, and in case of any fraudulent evasion, I would cancel the license, and give it to the party adducing proof of the fact. The ground rent should be five shillings per square mile, but as this should be in the shape of a final payment, I would only have it in case the trade should be relieved in some other way to a corresponding extent.

*Ans. to Ques. 76.*—I think it would, but it would be necessary to know what would constitute a business establishment; I should say twenty-five thousand feet on all limits of five miles and upwards, and half the quantity on smaller limits would answer as a standard of occupation.

*Ans. to Ques. 77.*—Ten miles square, in whatever position it may chance to be vacant when applied for.

*Ans. to Ques. 78.*—They should be renewed as a matter of right, subject to the condition of occupation. This would serve as a stimulus to the enterprise of those holding licenses, as it would secure to them the benefits of their improvements, and encour-

Appendix  
(P. P. P.)

19th April.

age the investment of capital in developing the resources of the lumbering county. It would also induce them to economize the timber, and save it from waste and destruction, thereby enhancing the value of it to the Government, and increasing the actual receipts to be ultimately drawn from it in the shape of duties or otherwise. In case of actual sale, the right of the license holder should still be maintained to the merchantable timber, the settler having the right to all such timber as he might require for buildings or agricultural purposes. My reasons for this are that under the plea of actual purchase, any one, merely for the purpose of speculating in the timber, can now go and break up any lumbering establishment within the surveyed lands, thereby taking from the lumberer that in which his whole means may be invested; and in many instances, or rather in every instance, sales of this kind are detrimental to the Government, as the proceeds of the timber, in duties, would in many cases amount to ten times the purchase money for the right of soil.

*Ans. to Ques. 79.*—They should be transferable, but not subject to attachment, and there should be no restriction or exception.

*Ans. to Ques. 80.*—The party holding the license should have the power of retaining the timber, besides which he should have a right to damages in an action against the trespasser, as the law provides in common leases.

*Ans. to Ques. 81.*—I would prevent it by confiscating the timber, giving one half of the proceeds to the informer, and appropriating the other half to the revenue.

*Ans. to Ques. 82.*—A period should be fixed, affording ample time, say the first of November, and be enforced under the penalty of forfeiting the limit.

*Ans. to Ques. 83.*—Reply to Question No. 76, answers this,—the effect upon the market would not be felt—that being my reason for naming so small a quantity.

*Ans. to Ques. 84.*—The evidence of non-occupation should be a surveyor and two other respectable witnesses—the party adducing such proof of non-occupation should get the limit.

*Ans. to Ques. 85.*—By arbitration.

*Ans. to Ques. 86.*—I should say three months.

*Ans. to Ques. 87.*—The system is bad and oppressive; a ground rent is the proper remedy.

*Ans. to Ques. 88.*—For one season, without exception.

*Ans. to Ques. 89.*—It is bad, and the mere fact of holding the license in its present form is of no use, as I have attempted to take action upon it against a party trespassing upon my limits, and found from the best legal authority in Montreal that it could not be sustained.

*Ans. to Ques. 90.*—They are of no practical use, they are no guarantee, and only give additional trouble to the office.

*Ans. to Ques. 91.*—The expense should fall equally upon the parties interested, and the Government should bear its proportion, in order to make the timber office the depository of the returns of these surveys for the public good. The surveyor should be appointed, and the instructions issued by the office in order to prevent any undue influence being exercised by any of the parties. With regard to disputed boundaries, the decision of the office should be final, subject, if objected to, to be over-ruled by arbitrators; one arbitrator to be appointed by, and represent the claim of the party objecting, and the surveyor or agent of the office to act as the other, and in case of their not agreeing and being unable to appoint an umpire, the whole to be referred to the Attorney General, who would act in that capacity. I would allow one month for this, after the parties had been notified of the decision of the office. This

time may appear short to those who are not acquainted with the practical operations of the trade, which has to be attended to in season as much as sowing in spring and harvesting in autumn, and a longer delay would, in many instances, have worse effects than an erroneous decision.

*Ans. to Ques. 92.*—It is unjust, dishonest, and commercially embarrassing to the trade. Should the present system of charges be persevered in, the collection should be made according to the Supervisor's specification in Quebec, but an improved mode of raising the revenue and affording relief to the trade would be to impose a duty on all timber clearing at the Custom House in lieu of all present charges. This would consist in a low rate of, say from 6d. to 1s. 3d. per ton, to be levied upon the respective kinds of timber, according to their average relative value, and, with the proposed ground rent, sufficient in all to make up an amount equivalent to the revenue at present derived from timber.

*Ans. to Ques. 93.*—I have answered that it could in my previous reply.

*Ans. to Ques. 94.*—I do decidedly.

*Ans. to Ques. 95.*—It would be much less, as the chance for fraud would not exist. And it is now apparent, but it is very doubtful to what extent it is practice. Under the present operation of the Cutlers' Bill, there are cutlers watching every raft that arrives, and as they have an interest in detecting every one, so that none may escape measurement, it would be impossible to evade the Crown dues. It might be said that in case of timber being lost by the way, the Crown dues on that quantity would be lost by adopting the Quebec measurement, but such is not the case, as what is lost out of one raft is picked up by other rafts, and the proposed change would merely make the man who got it pay for it, instead of the man who lost it.

*Ans. to Ques. 96.*—The strict consideration of the license has been a dead letter, but the heavier rate levied upon it has been almost prohibition of the trade in small timber. I can see no pretext for this, which common sense or the slightest knowledge of the trade could justify. Our forests possess a boundless supply of small timber, and in this article we meet with the greatest competition from the Baltic. Instead, therefore, of being burdened with a heavier rate than large timber, it ought to be relieved to the utmost extent possible, so as to admit of our competing more successfully.

We possess but a limited quantity of the large sizes of timber, and there are many purposes for which it is used, for which small timber, of which we have a boundless supply, would be better, or at least, as well adapted, but the almost prohibition tax upon the latter prevents its being used to the extent it would otherwise be, while our large timber is cut down and wasted for the purposes to which the small timber could be more profitably applied.

*Ans. to Ques. 97.*—With much greater accuracy.

*Ans. to Ques. 98.*—I think that frauds are committed, and I would propose as a remedy, that parties claiming to pass their timber as having been cut upon private lands, should have to prove their title to do so upon oath; and in case of any fraud being then attempted, I would confiscate the timber, and prosecute for perjury. As a means of detection, I would give half the proceeds of the confiscated timber to the informer. As an effectual check, however, and this is one of the strongest arguments in favour of that measure, I would adopt the system proposed in my reply to question No. 92, and make a slight charge upon all timber clearing at the Custom House.

*Ans. to Ques. 99.*—The dealer in sawed lumber, pays 1s. 3d. for every white pine tree he uses, while the dealer in square timber pays 2s. 11d., but the former deserves some indulgence, as his establish-

Appendix  
(P. P. P.)

19th April.

Appendix  
(P. P. P. P.)

19th April.

ment requires a greater investment of capital, is more beneficial to the country, and affords more employment in proportion to the quantity of timber. He also uses a portion of crooked timber, &c. not answerable for the square timber trade. The system proposed in reply to question No. 92, would be applicable to this as well as to square timber. But in view of this not being adopted, I would take the data for collecting the Crown dues from the Supervisor's returns, making a deduction for the quantity that might be proved to be from private lands. In other ports than Quebec, I would take the Custom House returns.

*Ans. to Ques. 100.*—The saw-mill proprietors make voluntary returns, which is all the system I know of. The proposition in reply to No. 92, would afford the proper remedy. The only improvement that could be made irrespective of that, would be to make the parties prove upon oath. By the system proposed in reply to question 92, local consumption would, of course, be exempt from any charge but its proportion of ground rent on such as might be from Crown lands. This exemption might be provided against in some other way, were it expedient to do so, but I do not see that it would be so, as it only afforded a small incidental encouragement to the industry of the country.

*Ans. to Ques. 101.*—There is no fixed standard, but it is desirable that there should be one to prevent any misapprehension when contracts are entered into between parties, depending upon the number of standard logs. Under the present system the duties are estimated by the standard log, and nobody knows what the standard log is, every mill owner furnishing a voluntary statement, having his own particular standard.

*Ans. to Ques. 102.*—I do.

*Ans. to Ques. 103.*—The Cullers' Bill provides for the measurement of all timber arriving, and the Custom House would afford the means of preventing it from leaving the port until the duties were paid.

*Ans. to Ques. 104.*—There are two departments, one of which is called the "Collector's," and the other the "Surveyor's," Department.

*Ans. to Ques. 105.*—As far as my business has brought me in contact with the office, I have had to pay my deposits in the Collector's Office, and sign the bonds, payable in Quebec, for my own timber duties. In everything connected with licenses, limits, boundaries, descriptions, &c., I have been always referred to the Surveyor's department, on which nearly the whole responsibility and labour would appear to have rested.

*Ans. to Ques. 106.*—They are not.

*Ans. to Ques. 107.*—A saving could thus be effected, and I should think that two officers would be sufficient, consisting of one competent person to describe the limits, direct surveys, &c., and one book-keeper or clerk.

*Ans. to Ques. 108.*—No such officer as that of collector of slide dues is necessary at Bytown. The individuals in charge of the respective slides, could communicate with the Crown Timber Office, as easily as they now do with the collector of slide dues, and the acknowledgments of the parties could be taken in that office as efficiently as a collector of slide dues could take them, and without making any additional labour worth notice. I feel competent to speak positively on this subject, as when the proceeds of my Hull slide exceeded two thousand pounds in one season, I had only one man to attend to the quantity of timber passing, who also took the notes of the parties, being the duty of the slide master and the collector of slide dues combined, and he was not employed more than one third of his time during the period of passing timber.

*Ans. to Ques. 109.*—I would prefer an *ad valorem* duty.

W. W. Dawson, Esq., of Bytown, examined:

*Ans. to Ques. 67.*—I am acquainted with the practical details of the lumber trade from having been personally engaged in it, and from having conducted the licensing of the waste lands of the Crown, for the purpose of cutting timber, for a number of years, on the Ottawa and tributaries.

*Ans. to Ques. 68.*—I know that the trade has been in a state ruinous to all engaged in it during these years. In order to shew fully the causes which have led to this, I must answer at some length. The year 1845 was the most prosperous to which my knowledge of the trade extends. The quantity of timber brought to market that season was 27,702,344 feet, and the quantity exported was 24,223,000 feet, thus shewing that the supply and the demand were not far from being in that proportion to each other, the nearest possible approximation to which is the great point to be attained in any branch of trade, in order to ensure its being on a healthy footing. At the close of the navigation therefore, in the fall of 1845, allowing something for local consumption, the stock on hand was but little greater than in the fall of 1844, and there being no reasonable indication of a falling off in the demand for the ensuing year, the trade might have been said to have worn a most flourishing aspect prospectively, as well for the time being. Nor would this have been a mistaken position, as far as external circumstances were concerned, for the demand did continue good in 1846, and if the trade had been well regulated, the presumption is, that it would have been as profitable that year as it had been the year before. In 1846, however, the quantity of square timber brought to the Quebec Market was 27,300,643 feet, and the quantity exported was 24,242,689 feet. Thus it appears that the quantity exported had actually increased, the demand had increased, and yet in the face of this the prices fell to a ruinous degree, and this simply because, although the demand was all that could have been anticipated, the supply was out of all proportion to that demand. It is also to be remarked that the supply cannot be even fairly estimated at the thirty-seven millions actually arrived in market, as there were several millions more lying between Quebec and Bytown, which parties, who knew they could not sell, preferred wintering in that way, as it was more convenient than to take it into Quebec.

The first great blow then which the trade received in 1846, was caused by over production, for had the supply been in due proportion to the demand, there is no reason to believe that prices would have ruled one fraction lower than they did the previous year, nay, it is probable that they would have ruled higher, as, notwithstanding the high prices the British merchants paid for Canadian timber in 1845, they had found their dealings therein sufficiently satisfactory to induce them to increase their demand for it in 1846. In the two succeeding seasons, 1847 and 1848, although other causes entered into combination with it, the over-production of 1846, hanging like a dead weight on the market, still operated as the principal depressing influence. Thus in 1847, including the quantity brought to market and the stock in hand, there was a total supply of 44,927,253 feet of square timber, to meet a demand for 19,060,880 feet, and in 1848 there was in like manner, a total supply of 39,447,776 feet to meet a demand for 17,402,360. The other causes which have combined to depress the trade in the two latter years, resolve themselves, so far as we are concerned, into one, viz: a decreased demand. The causes which have led to the decreased demand, we have no control over, and I shall only briefly advert to what seem to be the most apparent. In the first place, our own large export of 1845 and 1846 may have tended in some measure to overstock

Appendix  
(P. P. P. P.)

19th April.



Appendix  
(P. P. P.)

19th April.

the British market; in the next place, it would appear that an enormous supply has been thrown upon the market in these latter years from the Province of New Brunswick, quite unprecedented at any former period. What influence the Baltic trade may have had I am not very clearly aware, as it does not appear that, at least of square timber, there has been any great increase of the quantity thrown upon the market from that quarter. The greatest and most apparent cause of all, however, is to be found in the diminished consumption arising from the depressed state of commerce in general in Great Britain, and throughout the whole of Europe.

It is therefore clear that the depressed state of the trade was solely owing to over-production in 1846, and to that primary cause, combined with a decreased demand in 1847 and 1848.

*Ans. to Ques. 69.*—I believe that there were other causes arising out of the pernicious influence exercised over the government of the trade by the absurd policy sometimes pursued by the Crown Land Department, (as it was then conducted,) the particulars of which, as far as they relate to this question, may be classed under three heads, viz:

1st. The order to manufacture a certain large quantity of timber upon every limit, under penalty of forfeiture.

2d. The threatened subdivision of the limits, and

3d. The want of any equitable or decisive action on the part of the Department with respect to disputed boundaries, &c.

The first of these speaks for itself and needs no explanation, as it is evident that those who considered their limits valuable, or had invested large sums in their improvement, would rather risk the remote, and, at that time, inapparent consequence, of overdoing the trade, than yield any just title they possessed. It is at all events impossible to deny some influence to this cause, when we find these two facts staring us in the face—first fact, the Government ordered the trade to be overdone,—second fact, the trade was overdone.

With regard to the second, the subdivision of the limits,—there were indeed some who made light of or laughed at it, knowing that it would either be rescinded before it came into force, or that they could evade it; but a great number were carried away by the idea that as, after a stated period, they would have to give up a part of their limits, they ought to make the most of them while they had them, especially as the times were then good. It thus afforded an excuse for some and added a stimulus to others, to increase their business; very few in the lumbering fever of that period, pausing to consider the ultimate consequence.

The third of these causes may appear a strange one, but is easily explained. There were cases of disputed boundaries, which, for the want of any decisive action on the part of the Government, even when applied to by all the parties, resulted in appeals to physical force. This of course induced the parties who struggled for a physical superiority in these remote parts, entirely beyond the ordinary reach of law, to double, treble, or quadruple the number of men they would otherwise have employed, and as such force, when on the ground, would of course, be used to the most advantage, they would thus double, treble, or quadruple the quantity they would otherwise have manufactured. That this has been the case to some considerable extent, I am positively aware, as I could point to one instance in which certain parties, who would not otherwise have got out but a limited quantity, but who were by this means forced into a business of half a million of feet or upwards. While, therefore, the rage for lumbering, consequent upon the large profits of 1844 and 1845, must be allowed to have been the main cause of the over-production,

these other causes aided very materially in producing that result.

*Ans. to Ques. 70.*—I do, as stated in my reply to the previous question, only that in some particulars I should rather say, that it was not the system, but the want of any system.

*Ans. to Ques. 71.*—I think that the interests of the trade might be advanced, not only by relieving it from some taxes which press peculiarly hard upon it, but also by adopting a different mode of collecting the direct revenue from it. The indirect tax which bears hardest upon the trade, is the duty upon pork; the burden of slide tolls is also peculiar to it. With regard to the latter, it may be said that the trade derives an advantage from slides more than proportionate to the amount of the tolls, which in fact it does, as slides are indeed as indispensable as the use of pork is; but slides are the highways for timber, which develop the resources of the trade, and should be looked upon exactly in the same light as a road made for the purpose of admitting the transit of the produce of a rich agricultural district to market. In removing or modifying any of the imposts with which the trade is burdened, I do not see that one farthing more would be put in the pockets of the lumber dealers. The grounds upon which I would reduce any such impost to the lowest possible figure, are very different. Every burden or impost upon the trade, of whatsoever nature, adds so much to the prime cost of the article, as it lies exposed for sale in the Quebec market. In order that the trade should exist at all, it must find such a level as that upon an average of years, the article produced must be sold at an advance upon that prime cost of production. Every burden or impost therefore upon the trade, adds so much to the price the English consumer has to pay for our lumber, and consequently limits his demand for it to a corresponding extent, so long at least as he has a supply from another quarter entering into active competition with ours for his custom. Any measure which will lessen the cost of production, is not to be looked upon as putting the balance into the pocket of the producer, but as enabling our trade, as a whole, to enter into more extensive and more successful competition with the Baltic trade. That every possible means should be taken of attaining this end, must be apparent to every one, when it is considered that the benefit of an increased export trade, must be felt by all classes of the community, inasmuch as that every additional amount paid for the productions of the Province, is really so much capital added to its resources, which, whoever be the party through whose hands it may be first received, (whether those of a merchant, a shanty-man, or a farmer,) must ultimately be diffused through the country, to the benefit of all. A few figures will shew the importance of relieving this trade, as much as possible, as being the main source from which the resources of the country are derived, and that through it, principally, we have the means of paying for our imports. Taking the year 1845, the gross amount of lumber exported from Quebec, was sold at a moderate calculation, for the gross sum of £1,196,863. The export from below Quebec I have no data to estimate exactly, but I am confident I am under the figure, when I state its value at £200,000. The value of the export from the western sections of the Province has been stated in Parliament by one who ought to know as well as any, at £300,000, for sawed lumber sent into the United States. Thus the timber trade, when on a good footing, may be said to be worth £1,696,863 to the Province, annually. Everything, therefore, which can tend to cheapen the production of this article, so as to make it enter into more extensive competition with foreign timber, thereby increasing the annual export, and the sum total to be derived from it, must tend to the general

Appendix  
(P. P. P.)

19th April.

Appendix  
(P. P. P. P.)  
19th April.

prosperity of the country. All the relief that can reasonably be expected in this way, is indeed comparatively small, but when there is an active competition, a small thing will sometimes turn the scale on the one side or the other, producing important results. The means of relief I propose by changing the mode of collecting the direct revenue will appear in answer to a subsequent question.

*Ans. to Ques. 72.*—My previous answer includes all but what the further question will more properly elicit.

*Ans. to Ques. 73.*—I know that the trade has suffered most materially in this respect.

*Ans. to Ques. 74.*—To all the merchantable timber upon the limit, his right ought to be absolute, and to the exclusion of all others. Timber required for buildings, roads, bridges, &c., ought to be at the service of any one making such improvements as would require it.

*Ans. to Ques. 75.*—There is no danger of a general monopoly of the waste lands of the Crown on the Ottawa, the extent being too great to admit of the possibility of such a thing; but there is a danger of monopoly occurring, as it has already occurred, in particular instances. The remedy is easily applied, as it only requires that the title to the renewal of license should depend upon actual occupation. This has hitherto been the rule, but the standard of occupation has been too high, thereby injuring the trade materially, while in particular instances, the object has been defeated by making special cases in which the rule was not enforced. The absurd policy, (formerly pursued,) of making exceptions to general rules, and the injury to the trade, by requiring so large a quantity to constitute occupation, have tended to withdraw public confidence from the system, as it has hitherto existed, and make it of non-effect, as a preventive of monopoly.

I think that this question might be favourably affected by a change in the present system of deposits, which would at the same time afford a very considerable degree of relief to those engaged in the trade. At present a deposit of one fourth of the duty on the quantity required to be taken out, is exacted on the issuing of every license for the season's operations—the amount being remitted next year, upon the collection of the duty on the actual quantity which may have been cut. Instead of this, I would propose that a ground rent of 2s. 6d. per square mile, as a final payment, should be levied annually for every limit upon the issuing of the license for that year's business; as a preventive of monopoly, I would then double the ground rent in case of non-occupation, and continue doubling it every year the limit remained unoccupied. Thus, if A required a renewal of his license, he should be asked if he had occupied it during the term of the expired license, and if he should say he had, the license should at once issue upon payment of the usual ground rent; and if he should say he had not, it should issue upon payment of the double ground rent, and double that amount again, should it be a second year unoccupied, and with the ground rent thus doubling upon him every year, he would soon tire of playing the dog in the manger. The payment of the double—or as the case might be, the quadruple, ground rents, should hold his claim as good as if he had actually occupied the limit, but in case of his getting his license renewed for the lesser sum, on the plea that he had, and it should afterwards be proved that he had not occupied it, the limit should be forfeited to the party proving the fact, making the license obtained under false pretences good for nothing. Thus if B knew that A had not occupied a certain limit, he would come to the office and inquire, and, on finding that the double ground rent had not been paid, he would at once set about procuring the necessary proof. I would scarce-

Appendix  
(P. P. P. P.)  
19th April.

ly venture, in the present state of the trade, to propose the ground rent system, if it were to constitute an additional impost upon the trade, but, if a corresponding degree of relief could be afforded in any other way, it would be most satisfactory and efficient. The amount I have proposed, (2s. 6d. per square mile,) would produce more than enough (as far as the Ottawa is concerned,) to pay all the government establishments necessary, in connection with the trade in that quarter.

*Ans. to Ques. 76.*—I think it would; but to prevent the farce of cutting down a few trees, it would be requisite that a quantity should be specified; that quantity should be sufficiently large to require a *bonâ fide* business occupation, and yet so small as to have no possible effect upon the supply going to market, I think that 25,000 feet on every limit of the extent of five miles or upwards, and say half the quantity for limits under that extent, would be sufficient.

*Ans. to Ques. 77.*—I would make ten miles, as it formerly was, the maximum; and I do not hesitate to say that there should be no restriction under that extent. This is one of the most important considerations connected with the trade, and one on which, in a great measure, depends whether the trade is to be maintained on a permanent footing of stability and prosperous and healthy action, or whether, like the annual inundations of its great artery, the Ottawa, it is to be periodically flooded (if I may so use the expression) with an overwhelming supply, which the demand is not calculated to require, and which over-supply will chiefly consist of the inferior qualities of timber from the more easily-accessible section of the country, while the trade would be in a similar manner checked in the direction of new and unexplored tracts, from which the superior qualities of timber must always be expected to come.

A code of regulations was published in the *Official Gazette* in 1846, by one of the clauses of which a three years' notice was given, that after the first of May, 1849, all limits of a larger extent than five miles should be subdivided, so that none should exceed that size. The effects of this notice at the time I have already glanced at, in reply to question No. 69. The object of reducing the size of all limits to five miles, I believe to have been pretty much the same as that of the clause requiring the manufacture of a large quantity, viz.: to make every space of five miles, for which license should issue, produce a raft of timber annually,—a theory which, I should hope, has been sufficiently exploded by its bitter effects. When the trade is in a prosperous condition, the profits are sometimes very large, and this naturally gives rise to an excessive spirit of speculation, which speedily brings ruin upon all concerned. A wise policy, therefore, would rather supply some check upon, than add a stimulus to, this speculative spirit, by discouraging instead of facilitating and urging on an over-production, especially as it is hardly possible to conceive any danger of the opposite extreme, as the facilities will always be such, in spite of any discouragement, as to keep the supply in excess of the demand.

All the new limits that can henceforth be granted are in remote parts, beyond any previously granted, or else in localities where the difficulties to be overcome have hitherto deterred parties from encountering them. Now, where parties have hesitated, or rather hitherto altogether declined, to invest the capital necessary to overcome these difficulties, on the faith of a ten mile limit affording a supply of timber sufficient for the operations of a number of years, and therefore a reasonable hope of a profitable investment, can any one for a moment suppose that they will hazard that investment on the faith of the supply of timber afforded by a five mile limit? The conclusion is inevitable, that if their calculations (and they

Appendix  
(P. P. P.)

19th April.

do often calculate as minutely as to form, from actual inspection, an estimate of the number of merchantable trees over the whole tract) have been such as to deter them from making the investment upon the security of a ten mile limit, there is no chance whatever of their making it upon a fourth part of that security. I could point to localities where from several hundreds up to several thousands of pounds respectively, have been expended before one stick of timber could be taken from the limits which such expenditures were intended to make accessible. The improvements requiring such investments would clearly never be undertaken, unless a sufficient quantity of timber were secured to afford a reasonable hope of ultimate profit. Thus, then, I arrive at the conclusion, that if the size of the limits were reduced to five miles, the supply of the superior qualities of timber would be checked, as remote limits would not be made available, while in the more easily accessible portions of the country, which have already been denuded of their best timber, the limits would be in a greater number of hands, and the market would be periodically swamped with the inferior qualities. The granting of new limits to the extent of ten miles is a measure of sound policy, to induce and encourage a spirit of enterprise and improvement; and the retaining of old limits in their present form is a measure of justice to those who have already made improvements on the faith of being able to retain them. A mistaken idea is very prevalent among some unacquainted with the trade, that the forests of the Ottawa are like a field of corn which might be mowed down from one end to the other, when, in fact, an extent of ten miles may have but two or three "groves" of timber upon it, in which merchantable trees are interspersed, requiring to be reached, in the ordinary course of business, by roads, bridges, &c., &c., irrespective of general improvements. Any abuse that has hitherto existed in this particular has not arisen from the size of the limits, but from some parties holding several of the largest limits unoccupied in reserve; and this, the system of ground rent doubling upon them every year, would soon cure.

*Ans. to Ques. 78.*—My reply to the previous question affords, I think, the most conclusive evidence that the nature of the trade is such as to require that parties should be entitled to renewals of their licenses from year to year, as a matter of absolute right. A lumbering establishment, laying aside all question of improvement, is of a most expensive character, and of far too unwieldy a nature to be moved about from year to year, from one station to another, probably some hundreds of miles apart. Most lumberers also, in remote parts especially, invest a large amount in clearing and cultivating farms, which are only useful in connection with their limits, and for the purpose of raising provender for their stock, required in lumbering operations. Now, it could scarcely be pretended that a common squatter, even in the heart of a settled country, should have a pre-emptive claim to the lot on which he settled, and that the lumberer—the pioneer of settlement, who goes some fifty or a hundred miles on a track of his own—should not have the same privilege; for by taking his limit from him, his farm and other improvements also would be taken from him, because they would be of no benefit where there are no inhabitants except in connection with his limit, and no market for agricultural produce but what is afforded by his establishment. The party, therefore, who might get his limit, were his absolute right of renewal not recognised, would have his farm and other improvements into the bargain, for nothing, although they might be of the value of thousands of pounds, and not only that, but also his stock in trade, as the cost of any article taken even from Bytown to these remote lumbering stations, is more than doubled by the cost of transport,

all which the intruder might in many instances have for nothing, unless he thought fit to pay, as the cost of removal would exceed the value when removed.

The right of renewal has hitherto been practically recognised, although the theory held out has been that it was a matter of indulgence on the part of the Commissioner of Crown Lands. I can see no object in making it a matter of indulgence, as there is no instance in which a renewal ought to be refused, but what some general rule might be made to apply to, and it is dangerous to vest such power in one individual, when such large interests are at stake; for although it might for the present be exercised with discretion and judgment, there are instances to which I could point in which it has formerly been exercised with partiality and favour. The system is, in fact, thoroughly bad, and leaves the door open to every species of intrigue; and in the various changes to which we are subject, there might be cause to dread that such things as have occurred before could occur again.

As lands desirable for lumbering purposes are generally more valuable for the timber than for the soil, and are often purchased for the timber, the duties on which may be worth five times the purchase money, and the lumberer put to serious inconvenience and loss, the current license should take precedence of all sales; but on the renewal of the license, all lands sold up to that date should be excepted. Other conditions of renewal are stated in other answers. It might even be expedient to provide that timber should not be included in sales unless specially bargained for; because while an inducement is held out to purchase lands solely for lumbering purposes, it operates as a serious bar to settlement.

*Ans. to Ques. 79.*—Licenses should be, and always have been, transferable, notwithstanding an order to the contrary in the code of regulations promulgated in 1846. Some are in favour of their being subject to attachment, and some are against it; but I need not enter into the respective arguments, as I do not see that they can be otherwise than like any other temporary or permanent title, subject to the law of the land.

*Ans. to Ques. 80.*—I would prevent trespass by giving the license holder all the powers necessary to protect himself, whereby he would be enabled to seize the timber summarily as his property, and prosecute the trespasser criminally, as a thief or a robber.

*Ans. to Ques. 81.*—This is a question of minor importance to the preceding one, but I think it would be highly beneficial upon the whole, if no timber were cut without license, as it would tend to keep the trade in a more steady position. I would simply give the Crown the power of confiscating the timber, one half of the proceeds to be applied to the revenue, and the other half given to the informer.

*Ans. to Ques. 82.*—It would be absolutely necessary for the regularity of the business of the officer in granting licenses, that they should terminate on some given day in each year respectively, and I think the most convenient time would be the first of May. Renewals might commence to be granted as called for immediately after, (that is if the ground-rent system were adopted, as with the present system some time would have to be allowed for proving non-occupation), and any limit for which the renewed license should not be taken up by the first of November should be forfeited, and open to the first applicant, the same as the other vacant waste lands of the Crown. To prevent mistakes, it might be well to allow a month's grace, in which time the party might come forward, and get his license upon paying double ground rent. Exceptions to general rules have been the bane of the business, and there should be none, so that the rule should be made to afford

Appendix  
(P. P. P.)

19th April.

Appendix  
(P. P. P. P.)  
19th April.

every facility possible, and then be strictly enforced. The first of November would afford ample time, as the Quebec transactions of the lumberers must be generally terminated by that period, and the last of them must be on their way to push a-head their winter's operations in the woods. Licenses should all be for one season; but for remote limits, when granted in winter, they might be made to extend to the first of May of the year thereafter next ensuing, as in remote localities, provisions, &c., have to be taken up during the sleighing season of the year previous to that in which timber can be manufactured.

*Ans. to Ques. 83.*—It is necessary that there should be some standard of occupation, as defined in answer to question No. 76.

*Ans. to Ques. 84.*—The only evidence admissible should be the certificate of a Provincial Surveyor, or the acknowledgment of the party. The forfeited limit should be adjudged to the party who may have adduced the proof.

*Ans. to Ques. 85.*—Under the absurd old system of receiving applications only during three months of the year, this frequently occurred, and the questions of precedence were very troublesome and gave rise to much bad feeling. Two modes of settling these questions have been tried, and both proved complete failures. Such questions will rarely, if ever, occur now. I would determine them by arbitration or ballot, but would prefer arbitration.

*Ans. to Ques. 86.*—I would allow three months. The party who may have explored a limit may have spent a considerable sum in that exploration,—and may require some time to negotiate for supplies, &c., before he knows whether he will be able to carry on his business or not, and the success of such negotiation may depend upon his ability to shew that he is entitled to the limit.

*Ans. to Ques. 87.*—The present system of deposits is most objectionable in every way. For remedy, see answer to Question No. 75, proposing a ground rent.

*Ans. to Ques. 88.*—For one season, ending at the first of May, as more fully explained in reply to question No. 82.

*Ans. to Ques. 89.*—The form of license now in use creates a great deal of labour to no purpose, and has been declared by lawyers of the highest standing to be an abortion, unfit for any legal purpose. All that is necessary might be embraced in a very concise form.

*Ans. to Ques. 90.*—The bond and duplicate license are so much labour in vain. They are no guarantee and are only a drag upon the public service.

*Ans. to Ques. 91.*—The Crown Timber Office should be made the focus where all the information acquired by surveys, &c., of the lumbering country, should be concentrated; and for this purpose, the office should have the supervision of all surveys connected with limits granted under its jurisdiction, and the expense should fall upon the parties interested, the office bearing its proportion. If the expense fell entirely upon the lumberers, they would get their surveys made without reference to the office, which would be left in the dark, as to the knowledge thereby acquired; in like manner, if the office bore the whole expense, there would be more demands for surveys than could be complied with. There are still some general surveys to be made, in which individuals could not be expected to participate. With regard to disputed boundaries, the decision of the office should be final; I should have said unless a contrary decision were obtained from a competent legal tribunal, but I find that it would be more agreeable to the trade to have a final decision irrespective of a Court of Law. I should therefore say, that the decision should be final, unless it were objected to within three months, (after the parties should be notified of it,) and a contrary decision obtained. The party

objecting should appoint one arbitrator, and the Surveyor or Agent of the office, should act as the other; and in case of their disagreeing, and not being able to determine upon an umpire, the latter should be appointed by some disinterested party, say a member of the Government, the Attorney General, for instance, as being less likely to be influenced by the office, than any one in the Crown Lands Department. I would have no objection to limit the time for objecting to the decision of the office to one month, delay being in those cases the worst of evils.

*Ans. to Ques. 92.*—Anything more unjust in its principle and application, or more expensive and inefficient in its operation, could scarcely be invented. Before proposing a remedy, I must shew at some length the evils of the present system, and for this purpose I shall confine myself to one kind of timber, the principle being the same in all.

The amount nominally levied upon red pine is one penny per cubic foot. The timber upon which this charge is imposed, is not, however, measured, but only counted, and the amount is made up from a fixed and arbitrary average of 38 feet per stick, without reference to the actual average of the respective rafts or lots of timber upon which it is levied.

The real averages of the red pine rafts taken to Quebec, vary from 26 feet or under, to 50 feet or upwards per stick. The amount levied, therefore, is not, as pretended, 1d. per foot, but in reality 3s. 2d. per stick, each stick being assumed to contain neither more or less than 38 feet, and thus, although ostensibly collected as a penny per foot, the stick of 50 feet or upwards, is charged precisely 38d., the same as is the stick of 26 feet or under.

If, then, the comparison be made according to the value of the different articles, the disparity will appear still greater. For instance, a raft was taken to Quebec the other year, the largest sized red pine timber, it is admitted, ever seen there, which averaged 68 feet per stick. Having no record at hand of the small rafts of that season, I shall take one of the years previous, which averaged 26 feet per stick.—The owner of the large raft, assuming the duty to be a penny per foot, had exactly thirty feet in every stick, for which he had to pay nothing, while the owner of the small raft had to pay for twelve feet more on every stick than it actually contained. In other words, the owner of the large raft had 5s. 8d. worth of timber in every stick, for which he paid only 3s. 2d., while the owner of the small raft had only the value of 2s. 2d. in every stick, for which he actually paid 3s. 2d. Finally, as a charge *ad valorem*, the large raft was sold for 1s. 3 $\frac{1}{2}$ d. per foot, the small raft was sold for 5d per foot. Thus the owner of the large raft paid about 3 $\frac{1}{2}$  per cent of the whole proceeds of his timber to Government, while the owner of the small raft paid something over twenty-nine per cent of the whole proceeds of his. Now I know of no argument that can give a colour of justice to this, as it simply amounts to taxing the industry of one man, in the same branch of trade, nine hundred per cent more than the industry of another, and he has to submit to it simply because he is less favorably situated and cannot get as good a location as the other. The above is, of course, an extreme case, but the same principle acts throughout, the effects being more or less opposite, according to the sizes of the timber, one man paying five per cent on the proceeds of his timber, another ten, another twenty, and so forth.

The remedy for this, as far as making the burden fall more equally upon those paying Crown dues for their timber, is very simple, and would consist in collecting the amount according to the actual number of feet instead of the number of pieces, as now practised. The Supervisor of Cullers' specification would afford the means of adopting this remedy at once without

Appendix  
(P. P. P. P.)  
19th April.

Appendix  
(P. P. P. P.)  
19th April.

any new machinery whatever, as the Inspector of Rafts could get the data from there as easy as he can get his Bytown letters from the Post Office.

There is, however, a more important measure in view, which would supersede all the abuses of the present system, and at the same time afford a great degree of relief to the trade at large. This measure is the same as that now in force, and which has been found to work so well in New Brunswick, and would consist in imposing a small duty on all timber clearing at the custom house, which, with the proposed ground rent, would stand in lieu of all the present charges. One shilling per ton in this way would produce a much larger revenue than that now derived from timber.

To propose an export duty might well appear an anomaly, as exports, especially such as meet with active foreign competition, should be, as much as possible, relieved from all pressure; but in this no burden is proposed but what already exists, and exists in such a way as not only to press unequally in a general point of view, but also in such a way as to constitute a tax upon honesty and a premium upon fraud. The only opposition that could be expected to this measure would be from those owning extensive tracts of timber lands; but I think that a general view of all the reasons for adopting it, and the benefit the country at large would derive from it, would induce even them to acquiesce. At all events the duty might be made so low (6d. per ton, for instance,) without much detriment to the revenue, as they would scarcely trouble themselves to object to it.

It is a notorious fact that a less proportion of the timber taken from Crown lands above Bytown escapes payment of the Crown dues than of that taken from any other part of the country where there are any Crown lands, and yet we find the following results: During the last three years, viz., 1846, 1847, and 1848, the gross quantity of white pine which passed Bytown was 322,332 pieces, equal, at the Government average, to 22,563,240 feet. Of this, the Crown dues were levied upon 7,854,980 feet, producing £17,364 to the revenue, while the amount for which exemption from these dues was claimed and obtained was 14,708,260 feet, equal (at the Government charges) to a revenue of £30,642. Now of the amount exempted from the Crown dues I have no hesitation in giving it as my decided opinion, that little more than a half was entitled to exemption which would make, say £15,000, of which the revenue has been defrauded, and which, under the present system, it is impossible to have an effectual check upon. It is clear, therefore, that the timber, for which exemption from the Crown dues is thus fraudulently obtained, enters into unfair competition, not only with the timber on which the Crown dues are exacted, but also with timber from private lands, and no other system but that proposed would fully meet the difficulty.

The following figures will show how the proposed change would affect the revenue. Upon an average of the last five years the quantity shipped at Quebec, including square timber and sawed lumber would produce at 1s per ton.....	£34,604	13	0
From below Quebec I think I don't over estimate at.....	4,281	15	0
From the Ports of Montreal, St. Johns and the various ports in Canada West, at least.....	4,500	0	0
Ground rents.....	2,000	0	0
	<hr/>		
	£45,323	18	0

These figures, with reference to the Quebec export, are correct, but with reference to the export below Quebec, from St. Johns, the ports of Western Canada, &c. they are only an estimate, but I think, at

least with regard to Upper Canada, that they would be found to be under the real thing.

The great argument in favour of this measure is that there are no other means of effectually reaching the vast quantity, which, as I have already stated, is passed fraudulently, and although it would constitute a slight tax upon private timber, I think it should be cheerfully submitted to for the good of the trade and the country. As, however, the object of this proposition is not to increase the revenue, but to relieve the trade, with as little detriment to the revenue as possible, and make the burden fall more equitably, it might be modified so as to fall still more lightly upon the owners of private timber; thus, for instance, most of the timber taken from private lands consists of white pine, while all the red pine (but what is not worth mentioning) comes from the waste lands of the Crown. Let, then, the export charge upon white pine, deals, &c., be 6d per ton, which would be too trifling for any one to object to, while red pine might be made 1s; and as a further difference in favour of private timber, the ground rent, which would fall exclusively upon timber from Crown Lands, might be double or treble what I have suggested. This would shew the following result:—

Square white pine, deals, &c. from Quebec at 6d per ton.....	£12,146	0	0
Square timber, other than white pine.....	10,312	0	0
From below Quebec, St. Johns, Western Canada, &c. say.....	4,250	0	0
Ground-rent say.....	5,000	0	0
	<hr/>		
	£31,708	0	0

In the above, all the Quebec export of square timber other than white pine, is estimated at 1s, but the respective kinds, if a distinction is made at all, should be charged in proportion to their average relative value. The gross proceeds of the timber revenue, on an average of the last four years, would appear to have been about £33,000. It would be easy, however, to modify the proposed rates so as to make up the difference, say by 1s. 3d. upon red pine for instance, or by still further increasing the ground rent, and it is also to be remarked that by the proposed system a large saving might be effected in the expenses of collection, local agencies, &c.

I have no personal knowledge of the details of the trade in the western parts of the province, but from all I have heard, from reliable sources, I am led to believe that a much greater proportion of the timber from that quarter obtains undue exemption from the Crown dues than of that from the Ottawa. It is necessary as a protection to the fair dealer to put a stop to these frauds, and any measure that would at all approximate to a perfect check, by making those claiming exemption prove their title to it, would actually impose a heavier tax upon the owners of private timber than six pence per ton.

This, therefore, is proposed as the best system that could be adopted; but in case of the present mode being continued, the place of the Supervisor's specification is necessary as a lesser measure of justice.

*Ans. to Ques. 93.*—The previous answer replies to this in the affirmative.

*Ans. to Ques. 94.*—The bonding of timber at Bytown, and all the labour connected with it, might be dispensed with.

*Ans. to Ques. 95.*—There is a good deal of smuggling now (irrespective of what is passed under false certificates); I don't see that it could exist at all if the Supervisor's Office were resorted to.

*Ans. to Ques. 96.*—The prohibition has been a dead letter, nor do I see why it should be enforced; the imposition of a heavier rate has arisen from the absurd system of charging for twenty-six feet the

Appendix  
(P. P. P. P.)  
19th April.

Appendix  
(P. P. P. P.)  
19th April.

same as for sixty-eight feet, &c. as detailed in answer to question No. 92. The plea for discouraging the manufacture of small timber has been that it should be fostered for a future supply. To any one acquainted with the pine forests, the idea is ridiculous. In the first place there are localities where there are quantities of the, nominally, prohibited size, which has attained as mature a growth as timber of double the size in other localities, and it could scarcely be argued that the manufacture of small timber of a mature growth should be prohibited; Again,—where the extreme large sizes are to be found it is generally in a scattered state, and there are many extensive prolific “groves” of young growing timber, which, as far as the cultivation of the forest could well be practised, are benefitted by the thinning they receive from the operations of the lumberer. If indeed the future timber trade of Canada were dependent upon the cultivation of the small timber which is now in a growing state, and were that small timber coming forward fast enough to be generally available, and subject to no other destroying influence than the axe of the lumberer, the quantity is so immense that the supply would be boundless. The supply of the large sizes of timber is indeed falling back year by year to more and more remote localities, where greater investments of capital are necessary to carry on lumbering operations, and there is little doubt but what all the choice lots that were at all accessible would gradually dwindle away under the axe of the lumberer alone; but it is not so with the small timber which is in abundance sufficient to yield a supply which we need have no fear of being cut short in any given period to which we can at present look forward.

But many are under the impression that the timber trade of Canada will owe its extinction to a far more fatal element of destruction, and long before the ordinary operations of the trade could bring it to a close. Any one who has ranged the pine forests extensively will have seen immense tracks that have been over-run with fire, where nothing is to be met with but the seathed and blackened trunks that mark the progress of destruction. It may be said that if the pine forests were ultimately to be destroyed by this means, as the same cause has been at work for ages, they would have been destroyed long ago. But it must be remarked, that, wherever a white man makes his habitation for a time, there is a much increased application of the cause which is so fast producing this result, the clearing of land being entirely effected by the use of fire, and even the manufacture of timber affording increased facilities for it to originate and spread, by means of the dry resinous hewings of the timber. This merely shows the folly of inflicting a present evil for a supposed prospective benefit which must prove illusory. I, therefore, see no reason why the lumberer should be compelled to sacrifice the large timber, of which the country possesses but a limited supply, for railroad or other purposes for which small timber is equally well or better adapted, and of which the supply is unlimited.

*Ans. to Ques. 97.*—With much greater accuracy.

*Ans. to Ques. 98.*—I know that it is not effectual, as shewn in my reply to question 92. There is no check upon the parties claiming exemption from the Crown dues on the plea of their timber being from private lands, except their own voluntary statements or a species of certificates which they procure, and which can be got up for the occasion by the dozen. The only effectual remedy is stated in reply to question 92; but in case of the present system being continued in that respect, I would make the onus of proof upon oath rest with those claiming exemption for their timber; in case of fraud I would confiscate the timber and give one half of the proceeds to the informer. If the timber were gone, I would levy for

the value of it upon the goods and chattels of the party, wherever found, and prosecute for perjury besides. Some decisive cure for this evil is loudly called for; it is such a glaring injustice that one man should be charged at a high rate for the timber he procures on Crown Lands, while another, by the use of fraudulent means, can obtain it for nothing.

*Ans. to Ques. 99.*—I am not much acquainted with the details of the deal trade. The saw-mill owner pays about 1s. 3d. for every tree of white pine he uses, while the dealer in square timber pays 2s. 11d., but the former uses many trees which the other could not make available. The trade in sawed lumber also deserves some indulgence, in as far as it is more beneficial to the country, by affording employment to a greater number, and wherever there is an extensive saw-mill established, it almost invariably creates a village, and thus leads to the settlement of the country. The mode I have suggested of levying the Crown dues, would be as applicable to sawed lumber as to square timber, and might be put on a footing which I think would prove highly satisfactory to the trade. If the export duty of 6d. or 1s. per ton were not adopted, I would still resort to the same alternative as for square timber, and collect the duty according to the Quebec measurement, exempting the proportion which might be from private lands; and on such as might pass out of the Province by any other route, I would collect through the Custom House.

*Ans. to Ques. 100.*—The voluntary return, made by the saw-mill proprietors, is at present, the only mode of ascertaining the number of logs consumed at their respective establishments. Charging, as proposed, by the quantity exported, would completely set every question on this head at rest; besides this, I see no other mode than to insist on affidavits, and punish by heavy penalties any attempt at making a false return.

*Ans. to Ques. 101.*—There is no fixed standard, as almost every establishment has one peculiar to itself. The only particular in which I can see that this would affect the interests of any one, would be when a party had made a contract to furnish so many standard logs to any establishment. There should be some fixed standard to prevent misapprehension in such cases.

*Ans. to Ques. 102.*—I think the ordinary revenue establishments ought to be perfectly sufficient, inasmuch as I can't see how a stick of timber could be more easily smuggled past than a silk shawl.

*Ans. to Ques. 103.*—The law already requires all the timber to be measured and inspected through the Supervisor of Cullers' Office; I would further prevent its clearing at the Custom House unless the duties were paid.

*Ans. to Ques. 104.*—The establishment consists of nine persons, as shewn in the return dated 22nd February, to an address of the House; their united salaries, as therein stated, amounting to £1253 4s. It is divided into two departments, viz:—the “Collector's” and the “Surveyor's,” employing in all four persons for the office duties, the other five being connected with the counting of the timber.

*Ans. to Ques. 105.*—The deposits required on the issuing of the licenses are paid into the Collector's department, and the cash and the disbursement accounts are kept there. The bonds made up from the counting of the timber are transmitted to the Inspector of Rafts in Quebec for collection; an abstract of that collection is kept, which, with some general correspondence consequent thereon, make up the duties of that branch. The only responsibility I can think of is the keeping of the cash arising from the deposits. The licenses are signed in, and the applications addressed to, that branch, but both are matters of form.

The duties devolving upon the Surveyor's de-

Appendix  
(P. P. P. P.)  
19th April.

Appendix  
(P. P. P.)

19th April.

partment are to receive and record the applications for limits—say about seven hundred each season; compare them all with each other and with existing licenses, and answer the parties as to whether the spaces applied for are vacant, wholly or in part, or not vacant. To make out licenses annually (with duplicates and bonds which are a useless waste of labour) for all the limits granted, and being referred to in cases of disputed boundaries, &c., there is much work in making maps, &c. In a word, the whole regulating of the limits, and the responsibility of giving correct descriptions, &c. &c., depend upon that branch.

*Ans. to Ques. 106.*—The duties are not such as to afford constant employment to the parties engaged in that branch.

*Ans. to Ques. 107.*—From having myself performed the most onerous duties of the office for a number of years, I am constrained to say that a saving could be effected, and that two efficient officers would be but lightly burdened with the whole duty. These officers should consist of one fully competent to regulate the granting of licenses, and an efficient assistant.

*Ans. to Ques. 108.*—The Collector of slide dues merely takes the acknowledgments of the parties who may have passed timber through the slides, which he transmits to Quebec, (the real collection being made there by the same party, the Inspector of Rafts, who collects the Crown timber dues.) This was done through the Crown Timber office when the slides first came into operation, without making any sensible difference to the duties thereof; and I don't see why it should be otherwise now. It is, therefore, unnecessary to keep up a separate establishment for the slide dues in Bytown, when the service could be done without requiring any greater force than what I have suggested in the Crown Timber office.

*Ans. to Ques. 109.*—In case of anything like the present charges being continued, I would prefer an *ad valorem* duty, as it would tend to relieve the small timber, which is most heavily burdened, and meets with the greatest competition. I have shewn in reply to question 92, that a raft of small timber is charged for a greater number of feet than it actually contains, while a raft of large timber is not charged for so much as it contains; taking the Supervisor's specification would cure this, but still it would be unfair to lay the same charge upon a foot of timber worth only 5d. or 6d., as upon a foot of timber worth 10d. or 1s. If the export duty were adopted, however, it might be sufficient to allow a reduction of one-half upon red pine under 30 feet, and white pine under 50 feet. In fact a fixed duty would be the most appropriate under any circumstances, provided a scale of charges were graded so as to fall upon each quality of timber according to its average relative value.

A. J. Russell, examined:—

*Ans. to Ques. 67.*—I have some knowledge of the details of the lumber trade, from having been engaged since July, 1846, in the granting of licenses to cut timber on the Crown Lands on the Ottawa, and from having resided in lumbering districts and superintended public works there.

*Ans. to Ques. 68.*—I am aware that the trade has been in a state of depression for the last three years, occasioned by the large over-production in the winter of 1845-6, combined with the general depression of business at home, which checked building in a considerable degree, and arrested the construction of public works, which would have consumed much timber. The supply of red and white pine at Quebec in 1846, exceeded by twelve and a half millions

of feet the average of the exports for the last five years, which is seventeen and a half millions of feet; the supply at Quebec in 1846 having been thirty millions of feet of red and white pine. The chief cause of this over-production was the unusual profit in 1845.

*Ans. to Ques. 69.*—There was another cause that tended to increase a little that over-production, namely, the regulation requiring the manufacture of a certain quantity of timber on each limit or berth held by license under authority of the Crown Land Department, whether it suited the interest of the holder or not, under penalty of forfeiture of the limit and all improvements thereon.

But the operation of this cause was limited to one third of the supply. Of the thirty millions of feet of timber above mentioned, about ten and a quarter millions only were made under license throughout the Province. A part only of this ten and a quarter millions could be over-production, and of that part a fraction only could be due to the regulation alluded to, it being a minor cause. Thus, while the supply in the Province at large for 1846 exceeded the average of the last five years by twelve and a half millions of feet, the excess from licensed limits on the Ottawa (held from the Crown Timber office) over the average of their produce for the same five years was only one million and one ninth; the average supply being seven millions and a seventh;—shewing that the excess in 1846, over the average of the five years, was only fifteen and a half per cent from licensed Crown Lands, while it was seventy-one per cent from private lands over their usual produce. This indicates that the glut in the market was occasioned chiefly by the rush of small dealers, country store-keepers, farmers, and even tradesmen, into the business, and not so much by the regular lumberers holding limits in Crown Lands (as was ably shewn to have been the case in New Brunswick, by the Hon. the Surveyor General of that Province, in his report for 1847).

*Ans. to Ques. 70.*—The regulation alluded to, requiring a certain amount to be manufactured, no doubt contributed a little to all fluctuations from over-manufacture, ever since it has been in force. It was designed to prevent people from holding, to the exclusion of others, limits they did not require for present use. It is objectionable as tending to produce over-manufacture, to the injury of the innocent, and also because when it does act as a check on the monopolist, by requiring him to work at disadvantage and loss, where it is not his interest to work, it is a dead loss which is to the profit of nobody; whereas, if an augmented ground rent were levied on non-occupied limits, the rent lost by the non-occupant would be gain to the public.

*Ans. to Ques. 71.*—The import duty on salted provisions of six shillings a hundred weight, presses heavily on the lumberers. Probably upwards of five thousand pounds annually of this duty are at present paid by two or three hundred parties lumbering on the Ottawa.

The mode of levying the price of the trees cut under license, (erroneously called duty), is considered by some as injurious to the trade, because the same price is charged for a small stick as for a large one, though the large stick may contain twice as much timber, and sell for nearly twice as much per foot, on account of large timber being valued higher:—whereby four times as much duty may be charged on a small stick as on a large one, reckoning "*ad valorem*."

The lumberers differ on this subject, according as they are interested, namely as holders of berths containing large or small timber. The duty presses unequally; the method was thought good, because it is a check on the manufacture of small timber,

Appendix  
(P. P. P.)

19th April.

Appendix  
(P. P. P.)  
19th April.

which was also forbidden in the license, in a clause which still exists. But as small timber, when left, is often destroyed by fires, caused by the rubbish attending the cutting of the large timber, and as there are many tracts of small timber that will never grow bigger. I now believe that the restriction is of no actual benefit to the public forests.

It would make little difference in the revenue on the Ottawa whether the duty were levied as now, by the number of pieces, or upon the actual contents in feet. Were small timber, as in 1846, manufactured, the duty by actual measurement in feet would be about a thousand pounds a year less than by the present system, but in 1847 and 1848, it would have been in all about two hundred pounds greater; the timber having exceeded in size the standard rate per stick, as now computed.

*Ans. to Ques. 72.*—I am not aware of anything else that acts injuriously upon the trade generally, but the holders of timber berths suffer much from the want of legal protection from trespass. It is of great importance to license holders that some Act should be passed, however short or simple, making it felony in certain cases, and with a modified punishment, to take timber without permission (except for public purposes or seller's use,) from Crown Lands or license limits, giving the licentiate trespassed upon the right to keep any timber cut on his limits, and to recover it any where within the Province, if removed. Further suggestions will be found in the replies to other questions.

The removal of the import duty on salted provisions, would seem a just measure of relief, as that duty taxes the depressed lumberers, to enhance the profits of the farmers, who are more prosperous than they.

A reduction of the timber dues to one half might be proposed, which would benefit the Ottawa lumberers to the amount of about thirteen thousand pounds a year, or upwards of fifteen thousand pounds to the lumberers holding license from the Crown Land Department in the Province. This might enable them to sell a little cheaper, and cause a little more consumption of our timber in lieu of Baltic timber; the license holders making up for the slight reduction in price, by the profit on the greater quantity sold: but as the quantity produced under license ranges from about a half to little more than one third of the whole quantity produced in the Province, the producers from private land are the majority, (or at least their timber is so,) and their timber would be depreciated by the reduction of price, while they would have no share in the reduction of duty. There might be a little more made under license, and a little more consumption of dutiable articles, to diminish the deficiency to be made up by general taxation.

The adoption of the New Brunswick system, might be proposed, of an export duty on all timber, (without exception), of one shilling a ton; license holders paying in addition an annual ground rent, say of five shillings a square mile, for the limits they held. This, in the year 1846, would have yielded, for the whole Province, a gross revenue of about forty-two thousand eight hundred and fifty pounds, in lieu of the forty thousand pounds, very nearly of gross revenue, which the timber of that year yielded, and for the years 1845-46-47-48, taken together, such an export duty would have yielded seven thousand two hundred and sixty-six pounds annually, more than the gross duty collected, without calculating export duty on deals and timber taken to the United States. In my calculation, I include all deals as timber by the ton. This system is found to be extremely suitable in New Brunswick. It is simple and effective. It would diminish the expense of collection, probably twelve hundred pounds annually in this Province. It would give much less opportunity of dishonestly evading

duty, which the mode of proving timber to be from private land now so easily admits of:—much that escapes now, especially in the form of deals, would pay duty, and evasion, by false Custom House entries on shipment, would be all that would have to be guarded against, say, by confiscation, as in some cases in the Customs Act,—a risk that would not be incurred to evade £5 or £6 of the whole duty on a cargo. By this system, the red and white pine cleared from Bytown in 1846, which paid 26,309 10s. 1d., would have been charged in all with £13,006 7s. 6d. of ground rent and tonnage, whereby £13,303 2s. 7d. would have been saved to the lumberers working in licensed limits in the Bytown district, without loss to the revenue, as the amount would have been fully covered by the export duty charged on timber from private lands, and on what now escapes duty in that and other districts. The export duty would scarcely be felt by the owners of the land from which the timber was cut, excepting, probably, some of the seigniors in Lower Canada, who receive large sums for the right of cutting saw-logs on their seigniories, and who, perhaps, might not be able to obtain so much in the face of the export duty.

This system would lighten the load of duty borne by the minority, that is the license holders, by laying part of it on the majority—the owners of private lands—who are better able to bear it, their timber being nearer market—and on the parties now evading the payment of duty, whereby the whole trade would be put on a more equal footing as to ability to compete with foreign timber. It is to be observed that it gives great satisfaction in New Brunswick, where one-third of the land is private property. By this system, timber cut on Crown Lands, used in the Province in ship or house building, would pay no other duty than the ground rent, which would be one-tenth of the present duty. The timber for local consumption is chiefly from private lands, and the remainder is almost altogether cull timber, unfit for shipment, excepting what is used in shipbuilding, which benefits the Province more from the employment it gives than any duty levied on it would do, if shipped as lumber. This system of charging the duty by the ton on export would remove the present unequal pressure of it on small timber.

The unequal pressure of the present method of charging the duty would be removed, as far as the ports of Quebec and Montreal are concerned, by levying the duty according to the returns of measurement of the Supervisor of Callers' Office. To prevent any timber from Crown Lands escaping duty in this method, it would be necessary that the Collectors of Customs at all other ports should levy duty on all such timber shipped, as was not covered by certificates from local agents that it had already paid duty, or that it was from private lands. This would give the owners of more than half the timber exported the trouble of proving, by such certificates, that the timber was from private lands.

The requiring of such certificates give inducement to much fraud and abuse, which is easily practised and hard to be detected. They are required by the present system, though to a much less extent than the above method would require, or any other method whereby private timber would be excepted, and the duty otherwise strictly levied. It is only by an export duty on all timber that such certificates can be dispensed with. The only means of checking fraud in this way would be by imposing heavy fines, giving one half to the informer proving the fact. Enactments against fraud in this respect would be of no avail unless it be made the interest of others cognizant of it to inform and prosecute. Penalties should be recoverable by proceedings, commenced within three years of the fact, to increase the risk to the

Appendix  
(P. P. P.)  
19th April.



Appendix  
(P. P. P.)

19th April.

offender, and give a better chance of detection, as is the case with respect to customs evaded.

Any system requiring all timber from private lands to be proved as such throughout the whole Province, would probably be thought almost as vexatious as a moderate export duty;—were it not so, the unequal pressure could be taken off small timber, and that from private lands also excepted from duty, by the Collectors of Customs levying the present duties on all timber shipped, excepting such as was proved to be from private lands, by a clearance from the local agent, who should have a pecuniary interest in detecting imposture. The local consumption would, in this case, escape duty, and the clearances of timber from private lands (in distant agencies) consumed in Montreal and Quebec, would be used to cover shipments at these ports, unless guarded against. If the local agents were allowed, as now, to collect the duties, and all timber not covered by their clearances to be struck with duty on export, the returns of the Collectors of Customs of the agents' clearances of timber from private lands, and of what had paid duty, would afford a conclusive check on the faithfulness of the accounts of the agents to the Crown Land Department, if the ground rents were received by the banks, on their orders, instead of being paid to the agents themselves.

*Ans. to Ques. 73.*—The trade has suffered in some degree from the want of a proper system as to licenses and duties, partly by the regulation before spoken of, and partly from the want of any sufficient method of settling disputes, and from the want of protection from trespass, there being no positive law either for the protection of licentiates or the collection of the duty.

*Ans. to Ques. 74.*—The licentiate should have the exclusive right, for the period specified, to all the timber and wild hay on the limit, and the right of way through all waste lands of the Crown, and also through all unimproved, unenclosed private lands that may be in his way; provided that all persons should have the right of way through the limit, and of taking any timber required for roads, bridges, or public works, and rafting materials, such as floats and oars, when necessary; and that settling thereon, under lawful authority, should not in any way be interrupted. He should have the right to take, and keep as his own, all timber cut by trespassers on his limits, and to recover it any where within the Province, if removed from the limit.

*Ans. to Ques. 75.*—There is great danger of monopoly if allowed. The substitution of an annual ground rent as a final payment, instead of the deposit on amount, now levied on the issue of the license, would prevent monopoly, without tending to cause over-manufacture. Instead of requiring a certain amount of timber to be made on the limit, the ground rent to be doubled the second year of non-occupation, and quadrupled the third, and so on: the limit to be forfeited to any one proving, by surveyor's certificate, that it continued unoccupied while the increased rent was evaded by pretended occupation. The ground rent to be five shillings the first year, for each superficial mile, and the same annually thereafter, while occupied. If unoccupied the second year, ten shillings, and so on. In surveyed townships, the ground rent should be double the rate for unsurveyed lands; for in surveyed lands, the party picks out the good lots for lumbering on, and rejects the inferior ones. In unsurveyed lands that cannot be done. Monopoly is also more offensive in townships where there are settlers wishing to make timber.

*Ans. to Ques. 76.*—If the system of charging a ground rent, as just described, be not adopted it will be necessary to compel occupation as hitherto practised, (with the exception of the last two years), in

order to check monopoly; and even if the system of a ground rent be adopted, it will be necessary to define occupation, in order to determine when increased rent should be paid or forfeiture inflicted. The making of two hundred and fifty feet of square timber or ten saw logs on an average to each square mile, on limits of five miles square or upwards, and twelve thousand six hundred feet of square timber, or five hundred saw logs, as the least total quantity, on all limits under five miles square, should be considered as occupation. Where such quantities could not be had on the limits, they would not be worth keeping.

*Ans. to Ques. 77.*—Ten miles square, or a hundred superficial miles, would be the most advantageous maximum to adopt for the interest of the individual lumberer and the trade generally. A man must have the use of a certain extent guaranteed to him to render it worth while to make the expensive improvements that are so often required in making roads, and slides on rapids, and sometimes farms for raising food for cattle. To avoid giving occasion for outcry against monopoly, fifty superficial miles might be adopted as a maximum; but if the system of ground rent be adopted, such restrictions will be less necessary; and it is to be borne in mind, that when the loudest outcry is made against monopoly, it is exactly then that the system of large limits is operating most advantageously as a check on the imprudent intrusions of an unwarrantable number of persons, who would otherwise glut the trade, to the injury chiefly of themselves.

*Ans. to Ques. 78.*—Renewal of license should be granted as a matter of right, as long as the individual complies punctually with the conditions and regulations in force at the time, and makes duly the required payments, and as long as the Executive may see fit to continue granting licenses in the ground in question.

When lots are purchased within a licensed limit during the period of license, the licentiate should still have a right to the timber, but the purchaser should not be interrupted in his occupation, nor in using timber for building.

*Ans. to Ques. 79.*—License should be transferable unconditionally; and the right of the licentiate to his limit, together with all his improvements thereon, should be attachable like any other asset. Transfers should have effect and take priority from the day they are lodged in the hands of the Agent of the District, who grants the licenses.

*Ans. to Ques. 80.*—Protection from trespass would be afforded by giving the licentiate the right to keep all timber cut on his limit, throwing the onus of proving that it was not cut by trespass on the other party. By making it felony to take timber by trespass from licensed limits, as stated in reply to question No. 72.

*Ans. to Ques. 81.*—Considering that the trespasser, on unlicensed ground, would be defrauding the public of the ground rent, even if the other dues were collected on exportation, the timber cut in trespass should be forfeited, half to the Crown, and half to the informer proving the fact; or one quarter to the informer, if in the employment of the public and otherwise paid, such as a local agent or ranger. The timber to be liable to seizure any where within the Province, or should the informer not be in the employment of the Crown Land Department, he should have the right to obtain license for the ground, and get the timber with it, if not removed previously.

*Ans. to Ques. 82.*—With respect to renewals of licenses, the parties should be required to take them out between the 1st of July and the 1st of November each year. The limit to be forfeited, if license be not taken out before 1st December, and be granted to the first applicant as a vacant limit; but the former

Appendix  
(P. P. P.)

19th April.

Appendix  
(P. P. P.)  
19th April.

holder should have a right to get it any time between 1st November and 1st December, by paying in, as a forfeit, a sum equal to the ground rent or deposit. No renewal of license should be issued before 1st July in each year, in order to give time for any person to make application and lodge proof, necessary to obtain the limit by forfeiture, in case of non-occupation and evasion of increased ground rent.

*Ans. to Ques. 83.*—See answer to question No. 76. The effect on the market of the quantity there proposed to be required, on each limit, would be imperceptible almost.

*Ans. to Ques. 84.*—The certificate of a licensed Surveyor, on inspection of the limit, should be required, in proof of non-occupation, or the acknowledgment of the holder, provided it were evidently not an acknowledgment in favour of a friend, in order to get the limit back again:—to prevent that, it would be sufficient to require that all such acknowledgments should be accompanied by the payment of the increased ground rent already evaded, or the forfeit of a sum equal to the deposit, should the present system be continued. The whole limit should be given to the party first adducing the proof or acknowledgment of non-occupation.

*Ans. to Ques. 85.*—In cases of double applications at the same time for a limit, the right to the limit should be decided by lot, or arbitration, if the parties preferred it.

*Ans. to Ques. 86.*—As many of the applicants for licenses for new limits are wandering people, it would be practically impossible to give them notification of the decision on their applications, unless they, or agents for them, were obliged to call at the license office, as notification by post might be disputed in important cases, and be difficult to prove; and no regular time of calling could be fixed for them, because, if a man, for instance, were second applicant, no answer could be given him, of use to him, before waiting to see whether the first applicant would call, or neglect to call for license. Three months should be given from the delivery of the application into the office, for the party to go and examine the ground; for he should be sure of getting it when he comes back, before incurring the expense of such a journey, and on his return, he has to make arrangements to insure his being able to work on it before taking license. If he does not call for license within the three months, his application should be void; the next applicant after him falling in to the right in his turn, till the expiration of three months from the delivery of his application, or two months might be sufficient, allowing the second and subsequent applicant, each two months from the expiration of the preceding application, provided they called within two months of the delivery of their own, to claim it; this would be more equitable, as it would give each an equal time.

*Ans. to Ques. 87.*—A ground rent, as proposed in reply to question No. 75, would be better than a deposit; being a final payment, it would give less trouble in accounts, not requiring to be kept at the credit of the parties and afterwards deducted.

*Ans. to Ques. 88.*—Licenses should be granted for one season only, and should terminate on the 30th of April annually, without any exception.

*Ans. to Ques. 89.*—The present form of license is quite unsuitable and inapplicable. I have a shorter form of license prepared, which embodies what I think might be all the licentiate's rights and obligations.

*Ans. to Ques. 90.*—I am not aware that the practical force of any of these bonds was ever tried in law; or that they have had any effect in securing the payment of the timber dues,—unless, perhaps, from producing an impression on the minds of some that they and their sureties were liable for something

in signing the documents. Perhaps, in the absence of all definite law to protect this considerable branch of the revenue, it would be well to continue the bonds till legislation be obtained. The duplicate licenses, however, are not necessary in addition to the register of licenses. The bonds and duplicate licenses (forming together upwards of six hundred documents) give much additional labour, for little use, in my branch of the office duties. See also reply to question No. 94.

*Ans. to Ques. 91.*—The expense of surveys should I think be divided between the parties and the office; or the Crown Timber Office should, at least, be required to give instructions for the surveys of limits when asked by the parties interested or either of them, which would be a saving to the parties, as they would have the benefit of the surveys already performed and recorded in the office. The returns should be made to the office for examinations, the office paying for the plans and field notes and for any scaling of rivers; if not, for one third of the whole work,—or one fourth, where three other parties were concerned.

After having my attention much occupied with disputes as to limits, the best method which I have been able to devise for the speedy settlement of them is, that the opinion of the Crown Timber Office or Agent should be finally binding in such cases, if not reversed by arbitration within three months after such opinion has been officially communicated to the parties, or by decision of Court upon proceedings commenced within that period. Either party feeling himself aggrieved should notify his dissent to the office or Agent, naming the arbitrator he had appointed, with whom the Surveyor of Timber Licenses or Agent should be obliged to act as arbitrator on the other part, in support of the opinion he had given; and in case of their not agreeing as to an umpire, should one be required, then the Commissioner of Crown Lands should appoint an umpire, at the joint expense of the parties, on the request of either of the parties or arbitrators,—so that decision could not be delayed, either by the parties themselves or even the Crown Timber Office. Should both parties dissent from the opinion first given, they should find another decision for themselves within the three months, or submit their case to a Court of Law, otherwise the decision of the office should become final and binding in law thereafter.

Had such a system as this been adopted previously, the Crown Land Department, and even the Executive Council, would have been saved much trouble and the parties much loss. There would be no room for complaint against the decisions of the office, as they could be revised immediately if the parties pleased to reject them.

*Ans. to Ques. 92.*—The present system grew up on the principle of trial and error. Though it may not be perfect, it is evident that it is far from being a very bad one, seeing it secured the duties to the public, without the force of law to support it, at an average cost probably of about six per cent. in the Bytown district. In 1847 it was six and a quarter per cent.

The evils of the present system are,—

1st. It admits of timber being fraudulently passed as from private lands, so evading the payment of duty.

2nd. It admits of much sawn timber from logs cut on Crown Lands escaping the payment of duty, as the statements of the parties have to be taken as to the quantities.

3rd. It presses unequally on square timber of different sizes; most heavily on the small and least valuable.

There are practical objections and working difficulties attending every system that can be proposed,

Appendix  
(P. P. P.)  
19th April.

Appendix  
(P. P. P. P.)

19th April.

which it would be tedious to enter into, and that do not appear at first sight.

The system of an export duty, as explained in reply to question 78, would obviate the three evils above stated, and be simplest and most economical in application; but it would press a little, though very slightly, on private property. The duty of one shilling a ton would, with the ground rent, be little more than one-third of what it now is, on red pine from Crown Lands.

The system of levying the duty according to actual measurement, obtained from the Supervisor of Culler's office, would obviate the third evil above mentioned. The other two evils would remain, though they might perhaps be checked by penalties on fraudulent statements. Such penalties would be also required if the present system be continued. The difficulties in the system of levying duties by the measurement obtained from the Supervisor of Culler's office, would be increased if applied to the timber from other districts besides the Bytown district, for there it might be necessary to require proof or certificates of its being from private lands, to accompany all the timber from private lands throughout the Province. Besides, the Supervisor of Culler's at Quebec could not be cognizant of timber that might pass into the United States from the agencies on the St. Lawrence above the Ottawa.

As respects the Bytown district, the present system might be improved as regards the third evil before mentioned, by levying the duty upon the superficial measure of the cribs or their number, modified by the inverse ratio of the number of pieces, or by levying the duty on the number of cribs of a certain width in each raft; but this could be applied with any certainty to timber passing the slides only.

*Ans. to Ques. 93.*—Is included in the last.

*Ans. to Ques. 94.*—If the duties were levied by the Supervisor of Culler's returns of measurement at Quebec, the bonding at Bytown might be dispensed with. In that case I would have a duplicate of the license, with a short clause at the foot of it, to be signed by the securities, whereby they would bind themselves, jointly and severally, to pay all duties payable on any timber made in virtue of the license, in the event of the licentiate failing or refusing to do so. This might supersede the first and second set of bonds now taken, and if not so stringent as the bonds, which I think it would be, it could be made so in any Act on the subject. The duplicate licenses would be kept of record instead of detailed descriptions in the Register, which might then be a mere schedule of the licenses.

*Ans. to Ques. 95.*—If parties passing timber through the slides were required to give memorandums or declarations to the slide keepers of the numbers of cribs and pieces in each, and the slide keepers transmitted them to the Crown Timber office, noting if they were correct or not, the office could advise the Inspector of Rafts of the numbers, so that he would see if any pieces were missing, and detect any attempt at frauds; and at the same time levy the slide dues as he now does. The Collector of Customs at St. Johns would have to be authorized to levy the usual duties on all timber not covered by agents' certificates, as having paid duty or proven to be from private lands,—otherwise a check officer would have to be stationed there to do so. The present system does not require either.

*Ans. to Ques. 96.*—The design was to check the manufacture of small timber. It is denied by many with good reason that it is desirable to do so. The interdiction has not been enforced; the charging of as much duty on small sticks as on large ones being thought sufficient check.

*Ans. to Ques. 97.*—If the assistance of the lock keeper at Bytown were obtained, to keep account of

the timber passing out of the Rideau Canal, in addition to the means mentioned in reply to question 95, the number of pieces could be as well determined at Quebec for the purposes of duty.

*Ans. to Ques. 98.*—The only way of ascertaining timber to be from private lands, now practicable, admits of abuse, and considerable fraud is no doubt practised, which might be checked by penalties, as stated in reply to question 78.

*Ans. to Ques. 99.*—The duty on saw logs is less than half what it is on square timber. There should be a difference in favour of sawn timber, on account of the benefit that mills are to the country, in causing the formation of new settlements.

*Ans. to Ques. 100.*—Generally the statements of the mill owners themselves as to the number of saw logs cut on Crown Lands have to be taken, in levying the duty. It is very much more difficult to determine the accuracy of such returns than if they were for square timber, for the number cannot be ascertained after the logs are sawn up and mixed with timber from private lands. An export duty on deals and boards would be the best remedy for this evil. It would be more suitable even than an export duty on square timber, and more necessary for the security of the public interests; and would be more fair as regards the parties concerned, for the chief mill owners get timber both from public and private lands, and it would make little or no difference to them.

*Ans. to Ques. 101.*—I believe there is a little difference in the standard for saw logs in different localities, but am not able to say what effect it may have on the trade.

*Ans. to Ques. 102.*—The revenue establishment would be sufficient to secure the duties on timber exported at other ports besides Quebec and Montreal, if the owners of timber from private lands were obliged by law to prove it to be so, to the satisfaction of the local agents, and get passports to that effect to exempt them from duty.

*Ans. to Ques. 103.*—By levying duty through the Collector of Customs on the cargo entered for exportation, unless covered by a passport from the Inspector of Rafts, or of the local agents elsewhere.

*Ans. to Ques. 104.*—The establishment of the Crown Timber office at Bytown consists of two branches, the Collector's and the Surveyor's branch.

The Collector's branch consists of the Collector and his clerk, two timber counters, and two boatmen. The Surveyor's branch consists of the Surveyor and his clerk. Connected with the collection of the duties, there is a check officer employed at Chatham, on the Ottawa, during the summer months; and there is the sub-collector or Inspector of Rafts at Quebec.

The duties of the Collector are to issue the licenses prepared by the Surveyor, and receive the deposits payable thereon; the control of the general affairs of the office; the calculation of the duty on timber cut under license, and the taking of bonds for the payment of it; the transmission of these bonds to the sub-collector at Quebec for collection, and the correspondence connected with the collection of duties and with accounts; and the keeping and rendering of accounts of duties due and collected.

The accounts of the Collector at Bytown and the Sub-Collector at Quebec are respectively a check upon each other, and as such are necessary, as in all other cases of revenue, no matter how upright the officers may be.

The duty of the check officer at Chatham is to note and report any timber that may escape notice at Bytown.

The duties of the Sub-Collector or Inspector of Rafts are, to watch strictly the arrival of rafts at Quebec from the Ottawa timber district, and to keep

Appendix  
(P. P. P. P.)

19th April.

Appendix  
(P. P. P. P.)

19th April.

them in view until the duties are realized; the collection of the duties, for which bonds are given, either in cash or good notes; the final realizing of the latter; the keeping and rendering of account of all duties so collected; and the correspondence with the office at Bytown and the Crown Land Office at Montreal, connected with his duties; also the collection of dues on all timber passing the Ottawa slides, upon acknowledgments transmitted to him, and the dues of slides on the Trent.

I should have stated that the duty of the two timber counters is to visit all the rafts, before their leaving Bytown, and count the pieces of timber in them; to deliver to the Collector a report or memorandum of the contents of each raft, and record the same in a report book in the office. They are generally occupied in this manner from the beginning of May to the early part of September. One of them is sent in winter to visit those parts of the district where there is danger of timber or saw logs being taken from Crown Lands unknown to the office. The boatmen are employed in conveying the timber counters to the different places where the rafts are made up; one of them cuts firewood for the office and lights the fires.

The duties of the Surveyor are, to examine, register, and decide upon all applications for limits, and prepare the licenses, and register them when issued; to examine all returns of surveys made to the office; to compile maps exhibiting the timber limits licensed; to investigate and report upon all cases of contestation or questions respecting limits that come before the office; and to give information to all persons calling at the office and requiring it respecting vacant and licensed limits.

*Ans. to Ques. 105.*—The Collector is responsible for the collection of the revenue and the faithfulness of his accounts.

The Surveyor is responsible for the just awarding of limits to the parties entitled to them, and for the accuracy of the licenses he prepares; but should the Collector become aware of anything wrong or unjust in any license, it would be his duty to abstain from giving it effect. Accordingly, the license, as an instrument of right acquired on the payment of deposit, and giving bonds to the Collector, is signed by him; but the definition of the premises to which the right is given, is signed by the Surveyor.

*Ans. to Ques. 106.*—The nature of the duties of the Collector's branch of the office are such as to require constant attention during the period that the timber is passing, and also when the principal part of the licenses are being issued. Afterwards there is the making up of accounts; after which, during the remainder of the winter, there is, comparatively, little to be done, still the Collector attends regularly at his office for the transaction of any casual business that may arise, in addition to the correspondence with the Crown Land Department, and the Sub-Collector at Quebec, and other individuals communicating with him on business connected with the office. In this respect the Collector's Office much resembles a lumber merchant's office in Quebec,—the Offices of Customs, the Trinity House, and several other public offices.

*Ans. to Ques. 107.*—This question requires to be answered under different conditions. If the system of an export duty and ground rent were substituted for the present method, the two branches of the Crown Timber Office could be amalgamated, and the duties of it efficiently discharged, together with the duties of the Collector of slide dues, by two officers with a copying clerk and an office messenger or labourer; making a reduction of two timber counters, one clerk, the check officer at Chatham, and one labourer or boatman,—assuming that the Inspector of Rafts at Quebec would still be required in connec-

tion with the Customs there, or otherwise, in realizing slide dues.

If the system of leying the duties at Quebec by the Supervisor of Cullers' returns of measurement, were adopted, the duties of the Crown Timber Office could be amalgamated and conducted by the two officers (say the Collector and the Surveyor), a clerk and messenger, as before stated, and the boatmen and timber counters dispensed with, provided the collection of the slide dues were also added to the duties of the office, in order to enable us, by means of the returns of the slide-keepers and the boom-keeper on the Gatineau, to advise the Inspector of Rafts of the quantities of timber he had to watch for, and to give the office opportunity of scrutinizing the cases of timber stated to be cut from private lands, which could be better done at Bytown than at Quebec.

If the present system of counting the timber be continued, the duties of the office, together with those of the Collector of slide dues, could be effectively performed with the present establishment, or, perhaps, by simplifying forms and arrangements, one of the clerks or timber counters might be dispensed with; but I would most respectfully suggest that this as well as the other questions should be referred to the Collector of Crown Timber dues at Bytown. Before the establishment of the Supervisor of Cullers' Office afforded the means of checking the counting at Bytown, two counters were at all times absolutely required as a check on each other, for the security of revenue.

*Ans. to Ques. 108.*—I believe the duties of the Collector of slide dues to be the collection of slide dues, or rather the acknowledgments for dues on timber passing slides, and the transmission of them to Quebec for collection; the payment of slide keepers' salaries, &c., and, I presume, the supervision of these officers in some degree, and the custody of the slides at Bytown; and the rendering of accounts connected with his duties. The office does not seem necessary when the duties can be otherwise performed without additional cost, as before explained. The slide dues were at one time collected by the Crown Timber Office, and are still realized by the Inspector of Rafts at Quebec, an officer forming part of the establishment of the Crown Timber Office. The duties of the Collector of slide dues would be best ascertained from the gentleman himself.

The suggestions contained in the foregoing replies are the result of much careful considerations of the subject, in which many things that would at first sight seem very suitable have been considered, and rejected.

If it be not intended to exempt timber from Crown lands, used in the Province, from duty, or to encroach on private property by levying duty on timber from private lands; and if a system of more thoroughly collecting the duty on timber from Crown lands were desired, it would unquestionably be found in combining several of the methods before mentioned, namely, by strictly counting the timber at Bytown, as at present practised, perhaps with the establishment reduced, as stated in reply to question No. 107—to prevent any timber from being smuggled off on the way to Quebec, levying the duty there on actual measurement, for the relief of the lumberers from pressure on small timber; and charging all timber with the usual duties, through the Collectors of Customs, on export, if not covered by certificates or passports from local agents that it had already paid duty, or was from private lands; to prevent evasion of duty, especially in the form of deals; by all which the revenue would no doubt be increased; but such a plan would be more complicated, and perhaps almost as irksome to the public, and probably less advantageous to the timber trade than an export duty.

Appendix  
(P. P. P. P.)

19th April.

Appendix  
(P. P. P. P.)

19th April.

*Ans. to Ques. 109.*—I can see no objection to a lower rate of duty being charged on all timber under a certain size, excepting the general principle that it is imprudent to proceed from one extreme to another, and that after checking the production of small timber, from a desire to keep up the average size, and consequently price, of Canadian timber, and to preserve a certain stock of small growing wood, it might be found eventually injurious to give a premium in this way for its manufacture, though the evil of doing so might not be apparent now.

By authority of the Honourable the Commissioner of Crown Lands of the Province of Canada, and for and on consideration of the sum of \_\_\_\_\_ paid to Her Majesty as ground rent, I do hereby give unto A. B. \_\_\_\_\_ of \_\_\_\_\_ Executors, Administrators, and Assigns, and unto his or their Agents or Workmen, full power and license to cut \_\_\_\_\_ Timber within the limits described on the back hereof by the Surveyor of Timber Licenses, and to hold and occupy the same to the exclusion of all other persons, except as hereinafter mentioned; and to cut any wild hay thereon for the use of his works, with the right of conveying away the said timber through any ungranted lands of the Crown, and through all other uninclosed, unimproved lands whatsoever. And by virtue of this License the said A. B. has a right by Provincial Statute, Vict. cap. \_\_\_\_\_ to all timber cut by trespass on the limits hereby assigned, with full power to recover the same anywhere within this Province as the Statute directs.

But this License is subject to the following conditions, viz: that any person or persons may at all times make and use road and travel over the lands hereby assigned, and cut any timber necessary for the floats, traverses, oars, and withes used in rafting. That nothing herein shall prevent any person or persons from taking standing timber of any kind to be used in the making of Roads or Bridges or for Public Works, and that persons settling under lawful authority or title within the limits hereby licensed,

shall not in any way be interrupted by the said A. B., or any one acting for him or by his permission; and further subject to the conditions that the said A. B. or his representatives shall comply with all the regulations of the Crown Land Department, respecting timber, limits, and licenses, and shall submit all the timber cut under this or any other license (r right, to be counted or measured, (furnishing affidavits as to all timber cut on private lands,) and settle for the duties due thereon before its leaving

and finally pay or cause the same to be paid as required, otherwise this license to become void, and all the timber cut in virtue thereof to be forfeited to the Crown, and be virtually at the disposal of the Commissioner of Crown Lands.

Given under my hand at \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord one thousand eight hundred and \_\_\_\_\_

Certified to be a true copy,

(Signed,)

We hereby bind and oblige ourselves jointly and severally to pay to the Honorable the Commissioners of Crown Lands or officers authorized to receive the same, all duties that may become due or payable on all timber cut in virtue of this license, in the event of the said A. B. failing or refusing duly to do so.

Witness,

(Signed,)

*Description of the Limit.*

(Signed,)

Surveyor of Timber Licenses.

NOTE.—The renewal of this license, if desired, must be taken out and the within mentioned ground rent paid thereon between the 1st day of July and the 1st of November in each year.

Appendix  
(P. P. P. P.)

19th April.

Appendix  
(Q. Q. Q. Q.)

20th April.

# RETURN

To AN ADDRESS from the Legislative Assembly to His Excellency the Governor General, dated the 17th instant, praying that His Excellency would be pleased to cause to be laid before them "Copies of all Annual Reports made by the Commissioners of the Temporary Provincial Lunatic Asylum at Toronto, for the years "1845-6-7 and 8 inclusive, in conformity with Rules of the Commissioners, and "approved of by the Government."

By command,

J. LESLIE,

Secretary.

PROVINCIAL SECRETARY'S OFFICE,

Montreal, 19th April, 1849.

To His Excellency the Right Honourable the EARL CATHCART, G.C.B., Governor General of British North America, &c.

MAY IT PLEASE YOUR EXCELLENCY,

The Commissioners appointed to superintend the affairs of the Temporary Establishment of the Provincial Lunatic Asylum in Toronto, most respectfully report for the information of Your Excellency in Council;

Appendix  
(Q. Q. Q. Q.)

20th April.

Appendix  
(Q. Q. Q. Q.)  
20th April.

That from the date of their last Report, 1st July, 1844, to the 31st December, 1845, inclusive, being a period of a year and a half, with a daily average of 70 Patients, the whole expenses of the Institution have amounted to the sum of.....  
Sums received during that period for Patients capable of contributing more or less towards the expenses of their Medical treatment.....  
From other sources.....

£	s.	d.	£	s.	d.
			3624	13	6½
184	13	10½			
9	8	1	194	1	11½
			3430	11	7

Actual cost from the funds of the Province during the above period.....

These expenses have been met by warrants issued at different times in favour of Your Commissioners, as follows:—

1844—December, Warrant for.....  
1845—February, do .....  
“ —May, do .....  
“ —July, do .....  
“ —December, do .....  
1846—January, do .....

£	s.	d.	£	s.	d.
464	0	8			
610	14	0			
486	0	10			
546	3	0			
574	9	1			
749	4	0	3430	11	7

For the Medical Statistics connected with this Institution, your Commissioners respectfully refer Your Excellency to the Report, hereto appended, of the late Medical Superintendent up to the close of his services, and, for the subsequent period, to that of his successor.

There has, up to the present time, been a gradual increase in the average number of patients,—an increase not calculated to excite surprise when viewed in connection with the still greater proportional increase in the population of the Province.

The increase in the expense has, of course, been co-relative to the increase in the number of patients; and if such expenses should appear to be greater than in hospitals of another description, the fact will not fail to occur to Your Excellency, that a much more frequent renewal of many articles of clothing and furniture, together with more expensive diet and more numerous attendance, necessarily render an establishment for the reception of this unhappy class of patients—considering, too, that an enormous proportion of them are absolute paupers—than is likely to be required in an hospital merely for the sick and the wounded.

Your Commissioners are happy in at length suspending the frequent expression of their regrets—most painfully justified by the facts—at the utter inadequacy of the accommodation hitherto afforded for the still increasing number of patients, especially in the sultry months of summer; not because the evils arising from a crowded and inappropriate building have yet ceased to exist, but that they can now look forward with hope to the early completion of the great Provincial Asylum now in progress; and also contemplate the speedy relief which will be partially afforded by the humane considerateness of Your Excellency in devoting, for the present, the spare wing of the Parliament Buildings to the reception of such sufferers as, from their being convalescent or for other medical reasons, may with propriety be transferred thither; and they trust with confidence to the munificence of the Provincial Parliament, which alone can render Your Excellency's liberal appropriation of the building practically beneficial.

The number of patients now in the Institution is 94, a number which, considering the close structure of the building, is wholly incompatible with the maintenance of health in the approaching warm season, and so great as to render even the admission of more, under any circumstances, not only inexpedient, but almost impracticable.

All which is respectfully submitted,

(Signed,) ROBERT S. JAMESON,  
Presiding Commissioner.

6th April, 1846.

Appendix  
(Q. Q. Q. Q.)  
20th April.

To His Excellency the Right Hon. James Earl of Elgin and Kincardine, Captain General and Governor in Chief of the Provinces of Canada, New Brunswick, &c. &c.

The Commissioners of the Temporary Provincial Lunatic Asylum beg to report:—

That during the fifteen months which have elapsed since their last presentation of a Report of that Institution to the Government, there has been a steady increase of patients in the establishment—an increase from the number of 87, which were under treatment at the commencement of this period, to 132 on the 31st ultimo. The average number for the whole period was 100, and that of the last three months 129. During this time, through the generous consideration of Your Excellency's predecessor, the eastern wing of the former Parliament Building of this city was devoted to the accommodation of the increased number of patients, and was also commodiously furnished. Your Commissioners can, however, confidently testify that the expenditure thus incurred has been far more than compensated in the advantages supplied to the greater number of unfortunate sufferers in the two branches of the Institution, and the credit acquired by the Institution itself.

The expenditure for the two parts of the establishment during the period has been £4366 19s. 2d., of which £190 5s. 7½d. has been paid by the friends of patients, thus leaving the actual cost to the Province £4186 13s. 7½d., of which £3166 12s. 3½d. has been received at the times and in the amounts which follow:—

	£	s.	d.
May, 1846 .....	658	1	2½
July, " .....	677	12	0
October, " .....	777	7	11
February, 1847 .....	1053	11	2
	£3166	12	3½

Leaving the sum of £1010 1s. 3½d. at this date due by the Commissioners.

Increased as is the above aggregate expenditure, it is less in proportion to the number of patients than has been incurred in any former year, while there has been secured considerable improvement in the accommodation, food, and apparel supplied to the inmates of the Institution.

The following table will supply Your Excellency with a classification of the items in the above expenditure:—

Appendix  
(Q. Q. Q. Q.)  
20th April.

Appendix  
(Q. Q. Q. Q.)  
20th April.

	Clothing and Furniture.			Salaries.			Provisions.			Rent and Water.			Firewood.			Miscellaneous.			Total.			
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	
1846.																						
March .....	96	3	10	180	10	0	302	2	5	50	0	0	13	8	9	75	3	8½	717	8	8½	
June .....	65	6	3½	176	10	0	294	11	10	50	0	0	46	2	6	67	1	4½	699	12	0	
September .....	37	4	0	202	3	8	317	14	11	50	0	0	90	1	10	129	17	10	827	2	3	
December .....	190	3	9	206	10	0	398	18	1	50	0	0	62	10	0	178	12	0½	1086	13	10½	
1847.																						
March .....	225	4	0½	206	10	0	394	17	2	50	0	0	2	10	0	157	1	1½	1036	2	4	
	614	1	11	972	3	8	1708	4	5	250	0	0	214	13	1	607	16	1	4366	19	2	

The Medical Statistics will be laid before Your Excellency in the accompanying Report of the Medical Superintendent.

Your Commissioners would add to these statements the fact, that the long-continued and steady increase of sufferers brought to the Institution, points to an early period when even the existing provision for their reception will be insufficient,—a period there is reason to apprehend far too early to allow the hope that then the permanent edifice will be so far completed, as to be available for their service. The sum at present allowed by the instructions sent from the Government is already exceeded to a small amount by Your Commissioners, and they pray Your Excellency to take into consideration the present and prospective claims made upon them, and to make such provision as to Your Excellency's wisdom may seem adequate.

Mem.—This Report was not dated. It was enclosed in a letter from the Chairman of the Commissioners, dated the 24th April, 1847.

TEMPORARY LUNATIC ASYLUM,  
City of Toronto, 31st March, 1849.

To His Excellency the Right Honourable James Earl of Elgin and Kincardine, Captain General and Governor in Chief of the Provinces of Canada and New Brunswick, &c. &c.

The Commissioners of the Temporary Lunatic Asylum at Toronto beg leave to Report,—

That almost two years have elapsed since they communicated to Your Excellency a comprehensive statement of the progress of the Institution, though during that period they have regularly presented a quarterly statement of its finances, and at other times have frequently submitted for your judgment their more important proceedings.

During the two years now about to expire, there has been a constant increase in the number of patients in the establishment. The average number for the year then reported having been 100, that of the commencement of the last two years being 129, and that of the present period 194. At this time there are as many as 119 in the building which was formerly the Gaol of this District, and 75 in that formerly a part of the Parliament Buildings, being 14 more than the number at which the medical officer requested the Board to refuse any increase of admissions. It has, however, been stated to Your Excellency that endeavours would be made to admit all cases suitable for treatment within the Institution, till you should be pleased to prohibit the increased expenditure which it involves. And the Board has been the more inclined to continue in that course, on account of the apparent nearness of the time when the large accommodation being provided in the permanent buildings, will be available.

It is, however, proper now to state that the present number of patients is much beyond that which it would be prudent to have without larger premises, in case of the arrival of any epidemic or contagious disease, or even of the high temperature of summer.

Should there, therefore, be a considerable addition to the present number of patients, it will be requisite to provide other premises, in which exigency Your Excellency would probably authorize the fitting up and use of a part of the new building.

Of these patients a large proportion have been for several years in this establishment, and many of them were insane long before they were brought hither—some even from their births. These are probably incurable.

This fact is referred to at this time, as Your Excellency may consider it of importance in determining the classes of persons to whom the Permanent Asylum shall be open.

The expenditure of this Institution during the period now under review has been as follows:—

	Amount.		
	£	s.	d.
For the Quarter ending 30th June, 1847.....	942	18	7
Do do 30th Sept., " .....	1092	18	7
Do do 31st Dec., " .....	1470	2	8
Do do 31st March, 1848 .....	1059	8	5
Do do 30th June, " .....	860	10	10
Do do 30th Sept., " .....	1145	9	6
Do do 31st Dec., " .....	1550	9	4
Do do 31st March, 1849 .....	975	10	8

Upon a comparison of the expenditure for the year 1848 with that of 1847, it is found that the cost for each patient diminished from £29 2s. 7½d. to £25 4s. 6d.; and comparing the daily cost of each patient in the year preceding the service of the present Commissioners with that of the year 1848, there is found a diminution from 2s. 5½d. to 1s. 4d.

In the expenditure for the last year there has also been included a great increase of stock.

The Medical Statistics will be furnished by Dr. Primrose.

Your Commissioners would only add to these statements, that they are conducting their affairs with a view to the early termination of the Institution, and of their own official responsibilities.

(Signed,) H. J. GRASSET,  
Chairman, *pro. tem.*

## R E P O R T.

THE SPECIAL COMMITTEE to whom were referred, 1st, the Petition of T. C. Lee and others, of the City of Quebec, praying for the Repeal of the Act 10 and 11 Victoria, chapter 25, intituled, "An Act for regulating the Shipping of Seamen," &c. 2ndly. The answer to an Address of the Legislative Assembly to the Governor General, praying for a Copy of all Correspondence which may have taken place between the Imperial and Canadian Governments, and between the latter and individuals with reference to the above Act;—3rdly. The supplementary answer of the same date to the same Address;—have the honour to REPORT as follows:—

Your Committee, after having carefully examined the above numerous and voluminous documents, and heard witnesses of respectability for and against the continuance of the 10 and 11 Victoria, have become convinced that this Act has in no wise remedied the grave inconveniences under which the trade was labouring, and to do away with which this Act was passed.

The petition of the Inhabitants of the City of Quebec, praying for the repeal of the 10 and 11 Victoria, chap 25, is supported by more than two thousand signatures; and although this petition has been before the Legislature since the 19th January last, that is, for more than three months, and although Your Committee to whom it was referred have been in existence and have acted since the 5th February last, no counter-petition has been laid before the House, praying that this Act be continued in force, from which Your Committee are induced to believe, either that its continuance is not desired at Quebec, or that those who desire it, and who are interested in desiring it, are few in number.

The 10 and 11 Vict., chap. 25, was intended to prevent crimping and the desertion of sailors; it may have remedied the first evil, but it certainly has not prevented desertion; the sole difference being, that previous to the passing of this act, seamen deserted from one vessel to ship in another, while at present they invariably and necessarily desert to the United States, where they find more liberty, more justice, and, above all, higher wages.

If the object of preventing crimping is to put an end to desertion, Your Committee do not perceive of what service an Act can be, which may possibly secure the former object, but which is ineffectual in preventing desertion.

The number of seamen who frequented the Port of Quebec in 1848, was 15,197, and the number of deserters, 1355; 1101 of whom could not be retaken or identified, and the only conclusion to be drawn from this fact, is, that they went off to the ports of the United States, and were thus lost to the trade and the ports of Great Britain.

The considerable number of desertions has unavoidably necessitated a proportionate increase in the price of seamen's wages, and has occasioned a dearth of seamen which has been more than once very prejudicial to the interests of trade and of the mercantile navy. It is notorious that ship-masters having lost their crew by desertion, and being unable, in consequence of the restrictions of the present Act, to find seamen in the Port of Quebec to replace them, have gone to procure some at considerable expense, at the ports of New York and Boston. Others not being able to recruit their crews through the shipping master, after waiting for a long time, perhaps for weeks together, have found themselves compelled to employ the agency of crimps. Captain Ross, of the Southampton, for instance, having been obliged to violate the law precisely because the law was ineffectual, and produced a contrary effect to

that which it was intended to have, was fined in a heavy penalty.

One of the witnesses examined by Your Committee declared, that he had been employed by more than two hundred ship masters to find seamen for them, in consequence of the insufficiency of the shipping office. This appears to be a convincing proof that the present law has not prevented crimping, while it has produced a much greater evil, the desertion of seamen out of the country.

In 1844, before the 10 and 11 Victoria, chap. 25, came into force, the number of vessels arriving at the Port of Quebec, was 1232, and that of the seamen, 16,698; the number of desertions reported on oath, was 764. In 1845, while the 47 Geo. III. chap. 9, was still in force, the number of vessels was 1489; and that of the seamen 20,932; the number of desertions reported was 554. In 1846, under the existence of the same law, the number of vessels was 1480, and that of the seamen 20,064: that of the desertions reported was only 195.

The number of desertions, therefore, while the 47 Geo. III. chap. 9, was in force, was constantly and considerably decreasing from 1844 to 1846, inclusively, while the number of vessels and seamen at the Port of Quebec was proportionately increasing.

It is true that in 1847, under the 47 Geo. III, chap. 9, when there were only 1200 vessels, and 17,564 seamen at Quebec, the number of desertions reported was 516; but this unusual increase of desertion is to be attributed to an extraordinary and accidental cause. The total number of desertions in 1847, reported and not reported, was 3549. These desertions were almost all owing to the dread which the seamen had of being infected with the pestilence which was decimating the immigrants on board of their vessels. But as they only deserted from one vessel to ship in another some days after, the trade did not really suffer from these desertions, as it did in 1848, when it had to deplore the absolute loss of 1101 seamen.

W. K. M'Cord, Esquire, Superintendent of Police, being examined by Your Committee as to the number of desertions in 1846, replies that he has no knowledge on the subject, but affirms that the number of desertions in 1847 was 3549. We have just seen to what unusual circumstance this large number of desertions must be attributed; but it would have been desirable that Mr. M'Cord had been able to give the number of desertions for 1846, under unusual and under ordinary circumstances, and when the number of seamen at the Port of Quebec was 20,164, for this number would have contrasted favourably with that of the desertions of 1848, under the operation of the new law, and when the number of seamen was only 16,423. In fact, we have above seen that the number of desertions reported in 1846 was 195, while it was 256 in 1848. Pierre Doucet, Esquire, Clerk of the Peace at Quebec, has submitted to Your Committee an



Appendix  
(R.R.R.R.)

24th April.

official Statement, shewing that the number of offences punishable under the Merchant Seamen's Act, was 887 in 1847, and 980 in 1848; that is 107 more in 1848 than in 1847; while the number of seamen in 1847 was 20,164, and only 16,423 in 1848.

The number of offences punishable under the Police Ordinance was 888 in 1847, and 803 in 1848: shewing a difference of 85 in favour of 1848; but it must be observed that the number of sailors in 1847 exceeded by 3741 that of the year 1848.

The above facts are, to Your Committee, satisfactory proofs that the new law has not improved the moral condition of seamen.

If the present Act has the deplorable effect of causing seamen to desert to foreign ports, its effects are also no less ruinous to the trade, by leaving exclusively to the seamen the work of lading and unlading vessels. The seamen not liking this work, perform it slowly and with repugnance; besides, the shipmasters being unable to find seamen at the Port of Quebec to replace those whom they lose by desertion, are detained there for several days, and often for weeks together, thus losing valuable time which is much more than equivalent for the value of the work performed.

It is well known that the labourers of the Port of Quebec load and unload vessels much more rapidly than seamen usually do or can do.

If, on the one hand, the present law, or any other of equal or greater stringency which may replace it, has not effected or cannot effect any improvement whatsoever in the condition of the trade and of the merchant navy, but, on the contrary, has made, and will only make it worse; it is, on the other hand, infallibly ruinous to that part of the population of the City of Quebec, employed each year in the lading and unlading of vessels. Besides, the sailors spent a considerable part of their wages there in the purchase of clothes and other articles.

Your Committee do not see why the means of existence should be taken from a numerous population, if at the same time the condition of trade is not improved; nor why the seamen should not be allowed to spend their money in the Port of Quebec, as well as in the other ports of Great Britain, and in those of foreign countries.

Calculations as approximate as possible have led Your Committee to estimate at upwards of £50,000 the amount annually expended by seamen in the Port of Quebec.

Reasoning from these facts, Your Committee have come to the conclusion to recommend to Your Honourable House the repeal of the 10 and 11 Vict., chap. 25; the 47 George III. chap. 9, being sufficient of itself, with a provision authorizing the Governor of this Province to appoint a certain number of shipping-masters, and thereby to establish a competition which would prove advantageous to the merchant navy.

Your Committee beg leave, moreover, to draw the attention of Your Honourable House to that part of the petition of the inhabitants of Quebec, praying the Legislature to adopt measures for obtaining a modification of the 46th clause of the imperial Act 7 and 8 Vict., chap. 112, intituled, "An Act to amend and consolidate the laws relating to Merchant Seamen, and for keeping a Register of Seamen," so as to allow ship-masters to hire their seamen for the voyage out only.

This modification would operate favourably to the trade, inasmuch as it would throw into the Quebec market a considerable number of sailors, who would, at all times, be sufficient for the merchant navy.

The whole, nevertheless, respectfully submitted.

(Signed,)

F. X. METHOT,  
Chairman.

## MINUTES OF EVIDENCE.

MONDAY, 19th February, 1849.

*Edouard Glackmeyer*, Esquire, of the City of Quebec, Notary Public, appeared this day before the Committee, and his examination was postponed to answer the written questions to be transmitted to him.

The Committee have drawn up the following series of questions, to be put and transmitted to each of the persons examined:

1. What is your opinion of the Act 10 and 11 Victoria, relative to the shipping of seamen at the Port of Quebec?
2. Have the merchant navy and the trade derived any benefit from the working of the said Act?
3. What are the advantages which have resulted from the said Act, and what class of persons has it benefitted?
4. Has the said Act had the effect of diminishing the number of seamen at the Port of Quebec, and of inducing them to go off to the United States?
5. Has the desertion of the seamen of merchant vessels at the Port of Quebec increased or diminished, since the said Act has come into force?
6. Do seamen out of employment at Quebec, and who have not obtained a written discharge, succeed in shipping with as much facility as before the said Act came into force?
7. How do they act in such circumstances?
8. Are the seamen themselves satisfied with the provisions of the said Act which regulate the manner of shipping them at the Port of Quebec?
9. Has the conduct of the seamen improved at the Port of Quebec, since the said Act came into force?
10. Are you of opinion that the repeal of the present Act would have the effect of preventing seamen from leaving for the United States, and of enabling them to obtain employment at Quebec?
11. Is the present Act prejudicial to the interests of the ship-builders at the Port of Quebec?
12. Are you aware that vessels, after loading, and on the point of sailing, have been detained at the Port of Quebec, from not being able to obtain crews through the mediation of the shipping office?
13. What effect has the present law relative to the shipping of seamen had on the interests of the City of Quebec in general?
14. Have you any other observation or suggestion to make relative to the said Act?
15. How many vessels entered the Port of Quebec, in the years 1846, 1847 and 1848, and how many seamen arrived at the said Port of Quebec during the same years?
16. What is the number of seamen who deserted in the said years 1846, 1847 and 1848?
17. How many vessels were built at Quebec during the said years 1846, 1847 and 1848?
18. At what rate were seamen engaged from 1846 to 1848 inclusive?

Appendix  
(R.R.R.R.)

24th April.

Appendix  
(R.R.R.R.)

24th April.

19. Is not the diminution or augmentation of seamen's wages caused by the small or large number of seamen in the Port of Quebec?

20. Are you aware that since the act 10 and 11 Victoria, chapter 25, is in force, the number of seamen in the Port of Quebec has diminished, and that it has become more difficult than formerly for ship-builders and those not having sufficient crews, to procure a number of seamen sufficient for the use of their vessels; and can you state from what causes these difficulties have arisen?

21. If you are of opinion that there should be some law on this subject, would it not be necessary that there should be several shipping offices at the City of Quebec, and in what places would you suggest that they should be placed?

22. Is the present system advantageous to ship-owners, or not?

23. Are you of opinion that the public interests would be better consulted by allowing the Act to remain in force, or by repealing it?

TUESDAY, 20th February, 1849.

*Edouard Glackmeyer*, Esquire, again appeared before the Committee, and answered as follows to the above questions:

The Act alluded to in these questions, with the other restrictive measures which have been adopted for some years, with a view to prevent the desertion of sailors, and to protect that class of men, and at the same time the ship-owners, have had no other effect than that of creating difficulties where there were none previously, and have not in any manner attained the end which was proposed.

Before these coercive measures had been adopted, there was always a sufficiency of seamen at Quebec, and at much lower rates than since. I know that pilots' apprentices, who are obliged by law to perform two sea voyages during their apprenticeship, shipped as seamen for almost nothing, during the autumn. Persons of respectability have told me that it was a fact that vessels had been able to obtain a large part of their crew, for the fall voyage, for nothing, on account of the number of seamen who were desirous of returning home; and it is true that the seamen were always to be had at low rates during the fall.

This is the natural and inevitable result of the situation of the Port of Quebec; the ports nearest to it are at so great a distance, and the difficulties in reaching them are so numerous, that the seamen would never think of going there without being compelled by some very strong necessity; and all seamen coming to Quebec from the United Kingdom (and this includes almost all) require to return thither; and if they leave a vessel in which they came out, it is to return in another of the same place; there is a change of vessel and that is all. Let things be allowed to take their natural course, and there will be no inconvenience.

It may perhaps be said that the number of new vessels which are built in the country every winter, absorb a very considerable proportion of the seamen of England, causing thereby a scarcity, which tends to raise the wages to an exorbitant rate. Such is not the case, and if there is any inconvenience, it is very unimportant and does not last long.

Every year many vessels are shipwrecked, throwing a number of seamen out of employment, and there are always young men of the country who ship as seamen, and several pilots' apprentices who have to perform their fall voyage. Some builders or owners of new vessels send for a part of their crew, and besides, it is a well

known fact that vessels can return with a smaller crew than they come out with. These various sources furnish more seamen than are required for the new vessels; perhaps at the opening of the navigation, before the arrival of the spring fleet, there may be some inconvenience and an increase in the amount of wages, but this does not last, and is nothing in comparison with what afterwards takes place.

The desertion of seamen is complained of; this can never be prevented; it is in the nature of these men to love change, and to be inconstant; they would not otherwise be seamen; to say nothing of their not being always very well treated. I have already shewn that no great inconvenience resulted from this as to the navigation of the vessel, the replacing of the seamen being so easy; and as to the change, persons of experience believe that it is advantageous, and many prudent and judicious ship-masters do not object to seeing the whole of their crew leave them on their arrival, preferring to have their vessel laden by stevedores, who do the work much more expeditiously and much better than an inexpert crew, whose sole interest is in prolonging the lading; and as there is in Quebec a large number of persons engaged in the business of lading ships, and having a perfect knowledge of their calling, the competition is such that the lading may be performed at a reasonable rate, and I have never heard many complaints on this subject; and it is thought that the wages and victualing of a crew occupied for a length of time in lading the vessel would cost more than the sum paid to stevedores, who perform the lading expeditiously.

Inconveniences, however, having occurred, some merchants became alarmed and believed it was necessary to adopt coercive measures, and a beginning was made by establishing a Maritime Police, whose principal office was to hunt after seamen. From this moment the real inconveniences which are now complained of, began; every day the public papers called attention to the capture and imprisonment of a number of seamen, a step which every one would approve of; nevertheless, after a short interval, the evil which would inevitably result from it, began to show itself; seaman became scarce. Many had fled to New York (and it is ever since then that they have learned the way there), others concealed themselves, while a large number were imprisoned; wages became exorbitant. Then in place of retracing these steps, there was a demand for measures still more stringent. The law of the Imperial Parliament and the Act of the Provincial Parliament which assumes to regulate the shipping of sailors, was obtained, and at each new coercive measure the evil became greater.

I am of opinion that the establishment of shippers of seamen, usually called crimps, dates also from the establishment of the Maritime Police. The ship-masters not being able to engage seamen who were concealed, and these not daring to shew themselves, they addressed themselves to stevedores or tavern-keepers, who mediated between the two. From that time, this branch of industry became regularly organized, and for a moderate remuneration of 5s. per man, ship-masters could at any time obtain seamen at low rates; these men were rather interested in the lowering of the prices than otherwise: it was also their interest to serve assiduously both the ship-masters and the seamen so as to obtain their custom, and their number was sufficiently large to allow of the existence of a salutary competition.

In all well regulated sea ports, the establishment of these shipping-masters, whose utility is universally recognized, is encouraged, notwithstanding which it has been attempted to destroy this branch of industry, against which much senseless clamour has been raised, and the Act 10 and 11 Victoria, chapter 25, regulating the shipping of seamen was passed, by which it was intended to prevent the pretended abuse of crimpage, and thus, it was said, to put an end to the desertion of seamen, and abolish the impositions to which they were subjected on the part of the tavern-keepers or others with whom the seamen boarded.

Appendix  
(R.R.R.R.)

24th April.

Appendix  
(R.R.R.R.)

24th April.

It is singular enough, that to destroy crimping, it has been legally established under the most dangerous form, that is to say, it has been made a monopoly; a Government crimp has been appointed, who has no further interest in the matter than to retain his situation. Whether the seamen desert or not—whether they are well treated or ill treated—whether the wages are high or low—whether he ships many seamen or few, all that is perfectly indifferent to him; and, as it is impossible for him to perform all the business by himself, he has several subordinates who also have not the least responsibility.

This Act has so little prevented desertion, that it is a notorious fact, that the shipping-master appointed by law has shipped a large number of deserted seamen in spite of the law itself, or has been compelled, in order to enable business to progress, to have a sort of tacit understanding that the law should not be observed; business otherwise would have been completely stopped.

As to lowering the wages of the seamen, the law has indeed had some effect, for during a part of the summer, the prices have been higher than ever; and if, at the approach of the fall, they have become lower, this decrease has been much less than it should have been, for the number of ships built in the country last winter was much less than for many years previous, and many vessels had been shipwrecked; and without the large number of seamen whom this law had forced to fly to New York during the summer, wages would have been much lower this year than for a long time previous.

I am aware that it has been asserted that in 1847, prices were very high: that is due to the large number of seamen who died of the typhus or ship-fever which prevailed with so much intensity during that year.

As to the treatment of the seamen at the tavern-keepers', the law has had no influence whatever. And thus, while evils have been created which were not in existence, and nothing has been remedied, considerable injury has been done to the trade, as well as to the industry of the country, and of Quebec in particular.

A number of seamen who have not been discharged at Quebec, those who have fled, those who, by law, are only paid after having been shipped for the return voyage, have not expended the sums which they usually did; and it is calculated that in this manner the Quebec trade loses annually a sum of at least thirty thousand pounds, by which the poor mechanics who emigrated from Ireland were the chief gainers.

The class of stevedores and their assistants, which is tolerably numerous, and is almost exclusively composed of poor emigrants from Ireland, also loses much; if the seamen even derived from it any material or moral advantage, there would be nothing to say, but the money which they take with them would not, doubtless, be better employed in the English ports than it would be here, so the country deprives itself of the advantages of this trade, to give it to another, without any advantage to those whom it was intended to protect.

These laws, made for the protection of sailors, are detested by them: during the whole summer they have laboured to elude them and to render them ineffective, and they have succeeded; and many vessels have been delayed and exposed to considerable expense in consequence.

And there is yet an observation to be made of still greater importance; it is, that while formerly the desertion was from one English vessel to another, now it is desertion to a rival nation: the seaman who had fled to New York, will never again be an English seaman.

I am well convinced, that if these restrictive measures are abolished, and if the repeal of the clauses of the Act of the Imperial Parliament of the 7th and 8th Victoria, chapter 112, which imposes restrictions on the licensing of

the seamen at Quebec, were obtained, all serious difficulty would be at once at an end. There will doubtless be always, with such a class of men, some difficulties, but this is inevitable, and would be absolutely impossible to succeed in guiding or governing them at pleasure, like soldiers; each new attempt will have the inevitable result of increasing the evil: let us therefore profit by the experience of the past, and let the Legislature retrace its steps.

Let the licensing of seamen in our ports be facilitated,—let their be no restraint on their re-shipping,—let those even who have deserted, be set at liberty, and very soon, in place of seeing ship-masters looking for seamen, we shall see seamen looking out to be shipped, and the interest of all those connected with this branch of industry, will tend to a similar state of things, and all the real inconveniences which it is possible to avoid, will cease at once.

*Question.*—Are you not a notary of considerable experience and large practice in the Lower Town of Quebec, and as such, are you not in a position to be well informed on the present subject?—I am.

*Mr. Jean Baptiste Fréchet*, of the City of Quebec, Merchant, answered as follows to the above series of questions:—

In answer to the questions submitted to me by Your Committee concerning the shipping of seamen at the Port of Quebec, under the operation of the Act 10 and 11 Victoria, chapter 25, I beg leave to make the following remarks:—

I am decidedly of opinion that the Act for the shipping of seamen has been prejudicial to the interests of the seamen themselves, to maritime affairs at Quebec, as also to the interests of the owners or patrons of vessels frequenting the Port of Quebec; the only plan to be adopted to prevent the desertion of seamen and to reduce their wages to a rate nearly similar to that which exists in Great Britain and in the United States, and at the same time to put an end to the frauds which are practised by the persons keeping the houses generally called "boarding-houses for seamen," and also to prevent the loss of time, the trouble, and the sad spectacle of English seamen continually going to or returning from prison under the escort of policemen, would be, in my opinion, that the crews of vessels leaving England for Quebec should only be engaged for the passage to Quebec, and that they should be paid off and discharged immediately after the arrival of the vessels in this port. This plan would have the effect of striking at the root of the evil, and would undoubtedly reduce the wages of the seamen, if it were generally adopted, to the half of what they have been during late years. The seamen would then employ their money as they might think proper, and would very probably ship on board of vessels on reasonable conditions.

It appears to me also that there is too great a disposition to make laws on matters which would regulate themselves better if left alone and without legislation. The manner of loading which was adopted last fall, resulted in causing the loss of at least six days in the loading of each vessel. Supposing that the mean burden of these vessels is six hundred tons, and that the daily expense of a vessel of this description is six pounds, and that the number of vessels which has been loaded is one thousand, there would be a loss to the proprietors of twenty thousand pounds on the lading. And if we suppose that the complement of the crew of each vessel is twenty men, and that their wages are three or four pounds a month, as they should and might be, there would be a saving in the wages of two pounds a month on twenty thousand pounds which, added to the twenty thousand pounds on the lading, would save the owners a sum of £60,000.

I believe that the fear which the seamen have of being harassed and imprisoned under the Act in question, has been the cause of the desertion of a great number of them

Appendix  
(R.R.R.R.)

24th April.

Appendix  
(R.R.R.R.)

24th April.

to the United States, where if they do not receive higher wages, they are at least better treated.

I do not see why every person should not be allowed to ship seamen himself, if he should think proper, as well as exercise any other calling; and I do not think any good can result from limiting the right of shipping seamen to one or two persons. Before the passing of this Act, the seamen certainly spent more money; the amount expended was probably forty thousand pounds at least, which is a loss to Quebec. I am certain that seamen could obtain whatever they have need of, particularly warm clothing, for the whole voyage, as reasonably as in any port in America, or even in England, and I do not see why Quebec should be deprived of the advantage of this trade. I am therefore of opinion that this Act has not had the good effect that was expected.

The following evidence, as well as that of Messrs. J. Maguire, H. LeMesurier, and D. Maguire, was delivered to the Committee in English, but the original having been lost at the fire which destroyed the Parliament Buildings, on the 25th April, it became necessary to re-translate the said evidence from the French translation, which was fortunately preserved.

*William King McCord*, Esquire, Inspector and Superintendent of the Police of the City of Quebec, appeared before the said Committee, and answered as follows:—

1. I am of opinion that the 10 and 11 Victoria, chapter 25, has done much good in protecting the interests of ship-owners, and preventing the desertion of seamen, but it does not embrace all the necessary clauses to suppress desertion altogether. I have therefore prepared another Bill, which I have placed in the hands of the Government.

2. The shipping interest has derived much benefit from it, by the decrease in desertion, thereby enabling the ship-masters to unload and load their ships with one half of his crew, who receive from ten to fifteen dollars per month each, instead of employing labourers in the port, at the rate of six shillings per day, or £8 8s. per month, each.

3. Answered by the last answer.

4. No: it has not had the effect of diminishing the number of seamen at the Port of Quebec. I am not aware that any have left for the United States, excepting twenty who were sent there towards the close of the navigation, last fall, by A. Campbell, Esquire, one of the Commissioners appointed to assist shipwrecked or indigent seamen.

5. Desertion has gradually decreased; in 1847, 3549 seamen deserted, and in 1848, only 1355 deserted, showing a decrease of 2194; one single company shipped 674 seamen in 1847, and only 207 in 1848.

6. Yes, if they are not deserters.

7. This is best answered by referring to the sixth clause of the Act itself.

8. Yes; if there were no crimps to induce them to desert, they would be much better off.

9. Yes, in 1847, 888 seamen were brought up, under the Police Ordinance; and in 1848, there were only 803, shewing a decrease of 85.

10. The repealing of this Act, without introducing a new one, would be highly injurious, both to ship-owners and seamen.

11. No.

Appendix  
(R.R.R.R.)

24th April.

12. Such may have been the case, in consequence of a coalition between the crimps and seamen, but not to my knowledge.

13. I have heard that the petty shop-keepers of the Lower Town complain that they do not sell as much as formerly; this can easily be explained; when desertion was unlimited, wages rose to £10 or £12; the poor seaman was then taken in his hiding place, only receiving perhaps one pound of tobacco, and a bottle of grog, and the balance, so unjustly extorted from the ship-owners, was expended in Quebec.

14. Repeal it, but pass the new Bill now before the Ministry.

15. I cannot say as to 1846; but up to the middle of November, 1848, 978 arrived; in 1847, 1110:—difference 132.

16. I cannot say how many seamen deserted in 1846; but in 1847 there were 3549, and in 1848, 1355:—decrease 2194.

17. I cannot say.

18. At the rate of from five to ten pounds, and sometimes twelve pounds.

19. Yes: but this diminution is caused by the system adopted by the crimps, who send the seamen into the country until wages are higher, and until the vessels from which they have deserted have left the port.

20. No, nor can I see how the Act in question could have this effect, for it could have neither diminished nor increased the number of seamen arrived at the Port of Quebec; the number of seamen registered last year was 15,197: out of the 1355 deserters, 408 were engaged at the office, and the remainder were put on board by the ship-owners, as they are empowered to do by the present Act.

21. One office is quite sufficient, for if desertion is suppressed, few people will be required.

22. Yes: most decidedly of advantage.

23. The interests of the merchant navy would be better consulted by passing a more stringent act than the present one.

I submit a statement of Mr. Hawkins, marked A.

Suggestions for the guidance of ship-masters, and amendments proposed to be made to the Imperial Act 7 and 8 Victoria, chap. 112.

The first error, which is productive of much inconvenience, is the negligence with which the ship-masters make their engagements; some do not even sign the contracts, and others are not present when their men sign, or when the articles are read, and cannot in consequence give evidence as to the fact that the seamen has signed or made his mark, or that the articles have been read to him; now, it must be evident that as every ship-master, according to the 7 and 8 Victoria, chap. 112, is a competent witness to prove his contract, it is necessary to wait until he is present, when this contract is passed, and be enabled in consequence to prove it. By adhering strictly to this line of conduct, the service of a large number of seamen would be prevented from the defects of the contract, and in fact contracts are every day passed with so much negligence, that seamen sue for the recovery of their wages, in the hopes that some defect will be discovered in the contracts, that they will be discharged, and be able to obtain any sum, no matter what, for the return voyage.

Next is the insertion in the contract of the quantity of provision allowed, which if it is not done in strict conformity with the Act, renders it impossible to carry into

Appendix  
(R.R.R.R.)

24th April.

force that part of the 12th section which allows a grant to the seamen when they are out of provisions.

All medical men are of opinion that in a voyage from Great Britain to one of the North American ports, it is not necessary to make use of lemon or citron juice or of vinegar; the repeal of this part of the 8th section of the 7th and 8th Victoria, chap. 112, would be beneficial, for at present the seamen make a speculation out of it, to obtain their discharge; for example, if a master only omits to give them some once, they ask for their discharge, and threaten, if it is refused them, to apply for the penalty of the law. For some time, however, the penalty has been reduced to its minimum, and sixpence has been allowed to the informer, but the ship-masters have often dismissed their seamen rather than submit to a prosecution for the fine.

It would be beneficial if it were enacted that all the penalties imposed by the 7 and 8 Victoria, chapter 112, could only be recovered at the end of the voyage in Great Britain; this measure would not injure the seamen, nor would it exonerate the ship-masters; but it would prevent these seamen from availing themselves of it to obtain their discharge in the colony; in this case the jurisdiction of the Magistrates would only extend to suits for wages to the amount of £20, as at present. If, however, this amendment was not approved of by the authorities in England, it would be desirable that that part of the fine which has to be paid to the Seamen's Hospital Society, should be made payable to the Marine Hospital situate in the District of Quebec, where seamen, suffering from illness or accidents, are sent.

The Colonial Act 10 and 11 Victoria, chap. 11, will remedy many of the inconveniences which are most sensibly felt, for a Bill will be submitted at the next session of our Legislature to regulate persons keeping boarding houses, as they style it, but who in reality keep grog shops without license, and who busy themselves solely in inducing seamen to desert, to get them to board in their houses. These measures will check desertion if they do not prevent it altogether.

But as the crews necessary to take vessels built in this colony to England, are generally supplied by desertion, it would be well that the Imperial Parliament should enact provisions for the legal engagement and shipment of a certain number of supernumerary seamen, who might be hereafter re-shipped in the colonies, on board of some new vessel already finished or on the point of being finished; and the engagement might be made by separate contracts, obliging these seamen to perform at the same time the duties of their station in the vessels on board of which they would be shipped, until they are re-shipped in a new vessel.

*John Maguire*, of the City and District of Quebec, Esquire, Advocate, appeared before the Committee, and answered as follows to the above questions:—

1. I am of opinion that the Act 10 and 11 Victoria, chapter 25, is perfectly useless; it neither benefits the seamen nor those who employ them, while it imposes unjust restrictions on all.

2. I believe that this Act has considerably injured the interests of the merchant navy of Quebec.

3. I cannot say that this Act has been advantageous to any class of persons. In fact, the only person who has derived from it any advantage, is the shipping-master appointed under the said Act, and who appears to be authorized to receive 7s. 6d. for each seaman shipped by him.

4. Yes: at the beginning of last summer, after the Act came into operation, I know that the seamen have very generally refused, at Quebec, to ship through the mediation of the shipping office established by the said Act; and I am informed that, far from submitting to these restric-

tions, a great number of them have gone to the United States.

5. I am unable to say whether the Act in question has any influence on the desertion of the seamen from the service of the merchant navy, it is rather the rate of wages which guides the seaman in this matter; but I have been informed that a larger number of seamen have been imprisoned at Quebec for various offences in 1848, since the said Act came into force, than had been imprisoned in 1847, although the number of vessels arrived at the Port of Quebec in 1848 was less than that of the preceding year.

6. No, they do not.

7. They are compelled to abandon the service or leave the country and go to the United States.

8. No, they have so great a repugnance to the restrictions imposed by this Act, that they last year formed a coalition not to ship through the shipping office, and the departure of several vessels who were in want of seamen was delayed for several days, after having taken in their lading, because they were unable to complete their crews, although seamen's wages were at that time as high as £10 sterling a month.

9. I should be inclined to say not, from the number of seamen who were imprisoned last summer.

10. I believe so.

11. Certainly, it must be prejudicial to them, since it is very difficult if not impossible for them to complete the crew of their vessels.

12. Yes: I know that the departure of several vessels has been delayed, after taking in their lading and although ready for sea, since the present Act relative to the shipping of seamen, because the seamen do not wish to ship through the shipping office.

13. It is the general opinion at Quebec, that this Act is very prejudicial, by withdrawing from circulation a large sum of money, which would otherwise be spent in the city. Much of the distress which now prevails may be attributed to the pernicious consequences of this Act.

14. If it were intended by this Act to produce some good, this law has certainly failed in its object. The relations between masters and seamen are well defined by the Imperial Statute, 7 and 8 Victoria, chapter 112, not only so long as they are in Great Britain, but also during the whole course of the voyage, whether to foreign or colonial ports. We have, moreover, the Provincial Statute, 47 Geo. III, chap. 9, which contains provisions sufficient to prevent and punish the desertion of the seamen in the merchant navy at Quebec; and if these laws were properly administered and enforced, I am certain that they would suffice, and would give more satisfaction than is derived from useless and arbitrary laws such as the Act 10 and 11 Vict., chap. 25.

*Henry LeMesurier*, of the City of Quebec, Esquire, answered as follows to the above questions, which were transmitted to him:—

1. I consider that the Act 10 and 11 Vict., chap. 25, regulating the shipping of seamen, has rendered essential service to the vessels arriving at the Port of Quebec, but this Act requires to be amended.

2. and 3. It has had the effect of lessening the number of desertions from on board the vessels, and consequently of producing a considerable saving to the ship-owner in wages, the ordinary price being from £2 10s. to £3 a month, while seamen shipped at Quebec have always received from £5 to £10.

Appendix  
(R.R.R.R.)

24th April.

Appendix  
(R.R.R.R.)

24th April.

4. This Act cannot possibly have affected in any way the number of the seamen coming to this port, and I am not aware that any have left for the United States, excepting some poor seamen who were sent there out of charity last fall.

5. It has fallen off considerably, and especially since the month of August last.

6. Yes ; unless they have deserted.

7. I do not understand this question.

8. The seamen, if they were not badly advised by crimps and others, would be quite satisfied with the Act.

9. Yes : as may be seen by the Criminal Statistics of the Police of Quebec.

10. As the seamen are not in the habit of leaving for the United States, I do not see how the repeal of this Act could affect this question.

11. No.

12. They may have been sometimes kept back when the crimps and the keepers of boarding houses used all their influence to prevent the working of the Act ; but only then.

13. The effect has been to diminish the amount of money received by the crimps and others who made a living out of the deserters from vessels, and it has been in consequence injurious to them ; but I am not aware that it has, in any way, generally affected the interests of the City of Quebec.

14. I am of opinion, as well as the Quebec Board of Trade, of which I am Vice-President, that the Act may be much amended by the introduction of two clauses to the following effect, that is to say :—First, to prevent the ship-masters from advancing more than one pound to the sailors who are shipped at Quebec ; and, in the second place, to prevent persons who are working on the vessels from carrying away any bed linen or other articles from on board ship without permission, while causing or inducing seamen to desert.

15. The tonnage in	1846	was	639,085,
	1847	"	548,895,
	1848	"	497,692.

16 and 17. I cannot say, without consulting the documents which are at Quebec ; but I could send for them if necessary.

18. I do not exactly recollect : between £5 and £10, I think, in 1846-7 ; but in 1848 they were above £10, in the month of June, and gradually declined to £2 10s. in the fall.

19. No doubt, when the number of available seamen increases, wages are lower, and *vice versa*.

20. I am not aware that the former Act prevented ship-owners from obtaining crews for their new vessels ; but if the Act has the effect of entirely putting an end to the desertion of seamen, it will certainly oblige these ship-owners to import their crews ; and I think it would be only just that they should do so.

21. There is no need of more than one office ; for if the Act attains its end, this office will become a sinecure.

22 and 23. Certainly ; and in speaking in favour of the present Act, I desire that it may be clearly understood that I also express the opinion of every member of the Council of the Board of Trade, which for the last fortnight has had this subject under consideration ; and this Council is of opinion that the repeal of the present Act would do considerable damage to the whole merchant navy carrying on the trade with Quebec and the Pro-

vince, and this at a time when it is suffering from the general depression of trade, and when it is imperatively necessary to navigate vessels with the greatest economy.

Appendix  
(R.R.R.R.)

24th April.

*D. Maguire*, of the City of Quebec, District of Quebec, ship-chandler, appeared, and answered as follows to the above questions :—

1. I am of opinion that the Act 10 and 11 Victoria, chap. 25, regulating the shipping of seamen at the Port of Quebec, is a measure which will do considerable injury to the greater part of the citizens if it is kept up, and that it will end by entirely ruining thousands of persons whose existence depends altogether on the profits they make with the merchant navy and seamen during the summer.

2. In my opinion, the merchant navy and trade have gained nothing by this Act ; on the contrary, they have both suffered by it.

3. Some individuals may have profited by this Act, as, for example, the shipping-masters and ship-owners residing at Quebec ; but the distress and misery which now prevail among the working classes of the town are to be wholly attributed to the bad effects of this Act.

4. Most certainly it has that effect.

5. Although the number of seamen who arrived at Quebec during the season of 1848 was not so large as in 1847, the number of deserters was, nevertheless, greater by upwards of a hundred.

6 and 7. They cannot, without forging a discharge, which some of them do ; but the greater number leave for the United States.

8. To my knowledge, many of them remained without employment during several weeks last season, at the Port of Quebec, rather than ship under the auspices of a shipping office.

9. It will be impossible ever to succeed in improving the conduct of any one by constraint, and still less the conduct of seamen, who are ready to do, and will do whatever they can to revenge themselves of those who persecute them ; and they look upon this Act as having been passed on purpose to punish them. I am satisfied of this from conversations which I have had on this subject, both with the ship-masters and the seamen.

10. I am firmly convinced that nothing less than the entire repeal of this Act, with some other amendments to the law, can have the effect of preventing the seamen from leaving for the United States ; and unless the Act in question is wholly repealed, the general interests of the merchant navy will suffer considerably.

11. It is so, most certainly ; for how is it possible to obtain crews if the seamen leave the country ?

12. I can testify that several vessels have been detained for many days after taking in all their lading, and at the end of this time the ship-masters themselves, with my assistance, have, on several occasions, been compelled to ship their own crews, being unable to ship them through the shipping office.

13. The effect of the present law on the interests of the citizens of Quebec has been disastrous ; and if ever any measures have been adopted which tend to the ruin of a community, this is certainly one ; and I can cite, as a proof of this assertion, the distress which prevails among the working classes and the merchants, who, before the passing of this Act, were in easy circumstances, but who now find themselves plunged in distress and misery, owing to the influence of the Act in question during the past summer.

Appendix  
(R.R.R.R.)

24th April.

14. In answer to this question, I would take the liberty of making a few remarks for the information of the Committee, on the subject now under their consideration.

From my own personal knowledge, and information obtained from more than 200 ship-masters who have had business with me during the past season, I can declare that all are agreed in saying, that this Act will not remedy the evils complained of before its passing. Many of these ship-masters would be inclined to leave the shipping of the seamen open to competition, like all other matters,—to grant licenses to those who might desire to become shipping-masters,—to oblige them by a heavy security to fulfil the duties devolving upon them,—to oblige these masters to hold their offices in the Lower Town, for the ship-masters are obliged to come there to obtain their clearances; and it is, moreover, a procedure more in character with the port itself, inasmuch as all the vessels which take in their lading in the different coves, generally sail down in front of the city to make their preparations for the voyage; and it is from this place that seamen are sent on board the vessels.

A license should always be refused to a shipping-master keeping a tavern or selling spiritous liquors of any kind whatsoever; and in my opinion these shipping-masters should not be allowed to have any intercourse or traffic with the seamen; if the seamen whom they ship require any clothing, it should be their duty to report to the ship-masters what articles they are in want of; and it should then be incumbent on the ship-masters to see that their seamen are not defrauded, because in nine cases out of ten, the crimps make these poor seamen pay for articles which they have never received, and often charge boots or other articles to their account, while in fact it is the liquor which they have had; this is one reason for not allowing the shipping-master to have any traffic or communication with the seamen.

The ship-masters should never engage their crews for the voyage, but on the contrary should always dismiss them on their arrival at Quebec. I have often heard the ship-masters regret that they had not the liberty of doing so; it is unpleasant, for example, for a ship-master to be obliged to keep in his service a man of unruly character who may have caused disturbances among the crew; and on the other hand, it is cruel to compel an unfortunate seaman who has been ill-treated during the former part of the voyage, to return with a tyrant who has treated him badly; and moreover, it is a loss for the ship-owners to be compelled to keep seamen on board in the port, who can never be made to work in taking in a cargo, particularly of timber, like labourers accustomed to the work. The better plan would be to dismiss every one excepting the officers and apprentices; each would benefit by this arrangement, the shipper would gain by having his cargo promptly taken in; the seamen would gain by being unable any longer to injure themselves; and the shipping-master would also gain by his fees for shipping seamen; and moreover, the seamen would never attempt to leave the port.

Why is it that seamen can always be obtained in any English port? Because the plan is adopted of diminishing the crews on the arrival of the vessels in the port. I can say with certainty that seamen would never be so scarce in the Port of Quebec if the present Act was repealed, and if the plan of dismissing the crews on the arrival of the vessels were adopted.

The only thing which could cause a scarcity of seamen at Quebec, is the formation of crews for the new vessels built here; there will be a scarcity during some part of the season; but seamen are always rare in autumn; during the summer this cannot happen, for there always arrives a number of seamen to replace those who leave; in autumn, however, it cannot be thus; and how is it to be remedied? each ship generally carries away as many seamen as it has brought to the port; crews must also be supplied for the new vessels; besides this a number of seamen die during the passage before arriving at the port;

a number are carried off by the sea; many are lost in the port and many remain with their friends in the country.

From all these causes, there must naturally exist a great deficiency in the number of the seamen.

Some measure should be adopted to remedy this evil, and I would suggest that each vessel coming to this port should bring a supernumerary seaman; for instance, a vessel of 300 tons should bring one; a vessel of 600 tons should bring two; and a vessel of above a 1000 tons should bring three. It will be said that this measure would be unjust towards the ship-owners, but to this I would answer that it is better that they should pay a trifle in this manner than be compelled to pay wages to all their seamen, which has already happened and will happen again so long as vessels are built in this country. This very year there are 17 or 18 vessels building at Quebec, which will take on an average, 20 men each. I believe that, as the ship-builders find men on the spot to work their ships, without being compelled to incur expenses in obtaining or sending for them, some contribution should be paid them, suppose a small sum of for each man they require, and at the end of each season the amount of this contribution would be considerable; this money might be employed in the support of those needy or ship-wrecked seamen who might have the misfortune to remain in the country or to be thrown on our coasts. Many of these unfortunates have to my knowledge suffered all the severity of a Canadian winter, and would infallibly have perished if some charitable Canadian farmers, living along the coast, had not sheltered them during the winter till the opening of the navigation.

The support of these seamen should not be entirely left to the charitable class of individuals, but a house of refuge should be established where they might be received until the opening of the navigation, and maintained out of the funds raised in the manner I have just described.

Such, gentlemen, is my opinion on the Act relating to the shipping of seamen, and the amendments which, as I think, it requires. All that I have stated has fallen within my own personal knowledge, and I have repeated nothing on hearsay.

Besides what I have already declared to the Committee, I take the liberty of submitting to them the following for their information:—

In my opinion, the advances which are made to seamen in the Port of Quebec, should not be limited but left entirely to the discretion of the ship-master. When the shipping master reports the articles of clothing which the seamen might require for the voyage, it should then be the duty of the ship-master to satisfy himself that these articles are absolutely necessary, and to allow advances in consequence. I have known hundreds of seamen who could not embark without having a complete "fit out" of shoes, boots, shirts, pea-jackets, stockings, south-westerns, &c. &c. Now I would ask, how the seamen can obtain these articles, if the advances are limited to sums of small amount, as is proposed by some gentlemen?

I have known hundreds of seamen who purchased for thirty dollars and more, before their departure, but by limiting the amount of the advances to a small sum, you not only do an injustice to the seamen, but you also deprive the country of an immense trade, and of its most profitable branch of traffic.

During the season of 1848, more than 1200 vessels arrived at the Port of Quebec; the year preceding, 1400 arrived; and in 1846 the number of arrivals was still greater. At present, if the trade of the Province is kept up, even in its present condition, we may hope that there will annually arrive 1200 vessels; on the lowest calculation, each vessel on an average is manned by 20 men, making a total of 24,000 seamen. I can say from experience that on an average each sailor expends £2 10s. which would give an annual sum of £60,000; but if the advances to be made to seamen are limited to ten shillings each (as

Appendix  
(R.R.R.R.)

24th April.

Appendix  
(R.R.R.R.)

24th April.

some persons propose) an annual trade will immediately be created to the country of £48,000. From what I have already said, supported by experience and by facts, I would humbly suggest that the advances made to sailors should not be limited, and that the whole should be left to the discretion of the ship-master, who should certainly be considered the best judge in these matters.

*Pierre Doucet*, Esquire, Clerk of the Peace, in and for the District of Quebec, appeared before this Committee, and answered as follows to the above questions :—

1. I am inclined to think that the Act of the 10 and 11 Victoria, chapter 25, has been far from attaining the end proposed by the Legislature, if we can judge of it by its results from the short space of time that it has been in operation; for this Act, passed for the advantage of trade, and with a view to stop the desertion of seamen, has only had the effect of annihilating a branch of industry favourable to the greater part of the population of the suburbs of St. Roch, St. Louis, of the Champlain Ward, and of the coves of Quebec, by depriving the numerous class of stevedores and their assistants of the profit of a branch of industry on which they are dependant, without any results capable of compensating the loss of this branch of local industry; and has also the immediate effect of favouring the desertion of seamen to foreign ports, to the United States or the Upper Lakes.

2. Considering the short space of time during which this Act has been in operation, it is difficult to determine whether any advantages might eventually result from it to the merchant navy, or to trade, but up to the present time it has not produced any good whatsoever.

3. If any advantage has resulted from it, it can only be in favour of a very small number of ship-owners, and of the shipping master.

4. Yes; the seamen have in general refused to ship through the medium of the shipping master, and a large number of them, as I have been informed, have reached the ports of the United States. The return furnished by Mr. Hawkins, and fyled before this Committee, by which it appears that there are 947 seamen whom he can give no account of, seems to confirm this opinion.

5. I do not think that the Act in question has had the effect of diminishing the desertion. Some persons appear to be of this opinion, and found their calculations on the difference of the number of deserters in the two years, 1847 and 1848. I apprehend this opinion is erroneous, for no comparison can be established between the two years, if it be considered that in 1847, 1210 vessels entered the Port of Quebec, and that at that time the typhus fever, which was decimating the large emigration of that year, was also spreading among the crews of these vessels, and occasioned numerous desertions; and that on the contrary in 1848, only 1188 vessels entered, and there was no epidemic. It is not, therefore, to be wondered at if the number of deserters has been less during this year than in 1847. I must also call attention to the fact, that during the year 1847, a large number of seamen who had been reported as deserters, returned to their vessels, after the landing of the emigrants, the ventilation of the vessels, and the disappearance of danger. I take the liberty of submitting a statement of the number of vessels arrived at Quebec from 1844 to 1848, inclusive, (the said statement being marked D), the number of sailors in the crews, the number of deserters against whom proceedings have been adopted before the Magistrates, and the proportion of such deserters of each vessel, compared with the total number of seamen.

Appendix  
(R.R.R.R.)

24th April.

6. No; and to succeed in again shipping at Quebec, they have no other means than that of counterfeiting a certificate of discharge, so rigorous are the restrictions imposed on their being shipped.

8. The seamen have the greatest repugnance to ship at the shipping office, and many, as I have been told, have refused wages of £8 or £10 a month, so odious to them is this mode of shipping.

9. Judging from the number of offences, I should say not. In 1847, there were 873 offences under the Merchant Seamen's Act, while in 1848 there were 980, making an increase for 1848 of 107 offences, although in 1848 the number of seamen who entered the port was less by 1141 than during the preceding year. The offences under the Police Ordinance are less by 85 in 1848 than in 1847; but if it is observed that in 1848 the number of sailors who entered the port was less by 1141, it will be seen that this disproportion of 85 does not affect what I have stated.

10. I think so.

11. I believe so, since they pray for its repeal, and I refer to their petition on this subject.

12. Yes; and I know that ship-masters have been unable to obtain crews through the mediation of the shipping office, and have been delayed for several days at the Port of Quebec after having received their lading; and I shall instance among others, in support of what I advance, the brig "Southampton," Captain Daniel Ross, which was delayed for a long time in the Port of Quebec for want of being able to get a crew. In this case, Captain Ross, after waiting for several days, was under the necessity of shipping a crew himself, and was subsequently sued and condemned to pay a fine for having hired and received on board the brig "Southampton," seamen who had deserted from other vessels. The proceedings against Captain Ross are now pending before the Court of Queen's Bench at Quebec, where they were returned on writ of *certiorari*.

The present law is prejudicial not only to the working class, but also to the trade of Quebec in general. Before the passing of the Act, the seamen who deserted and abandoned their vessels to ship on board another, always returned in an English vessel; but at present being unable to ship on board a vessel in port without having a certificate of discharge from the master of the vessel in which they came, they desert on arriving at Quebec, take refuge in the United States, and thus become lost to our navy. The average number of vessels arriving at our port is 1200; by allowing ten men to a vessel, we have a total of 12,000 seamen. Before the passing of the Act, these twelve thousand men received, on arriving at Quebec, about two pounds each and a like sum at their departure, making a total of £48,000, the greater part of which was expended among our population, while more than 3000 labourers from the suburbs were employed in loading the vessels and gained each about £20 during the season, making another sum of £60,000 expended in our trade. But, on the other hand, under the present law, the seamen in place of amusing themselves on their arrival at Quebec, are kept on board the vessels to load them, and are only paid on their return to the different ports of Great Britain.

14. This Bill contains restrictions which are too severe on the seamen, and should be repealed for the reasons above stated; and I think that by obtaining the repeal of those clauses of the Imperial Act 7 and 8 Victoria, chap. 112, which interfere with the licensing of the sailors at Quebec, and by subjecting, by a law, those persons who keep boarding-houses for the reception of seamen, to the same regulations as those to which tavern-keepers are at present subject, we should obtain without difficulty the end proposed by the Legislature by the Act of the 10 and 11 Vic., chap. 25.



Appendix  
(R.R.R.R.)

24th April.

15. In answer to this question I beg leave to refer to the annexed statement, marked B.

16. The number of seamen entered as deserters, at the Custom-house, in 1847, is 3549, and in 1848, 1345. I have not been able to procure the statement of the desertions of preceding years. The cause of the great number of desertions in 1847 is explained in my answer No. 5.

17. In answer to this question, I take the liberty of referring to the annexed statement, marked B.

18. I have been unable to procure correct information on this subject.

19. The seamen's wages, in my opinion, are higher or lower according to the greater or smaller number of seamen in the Port of Quebec.

Appendix  
(R.R.R.R.)

24th April.

(The remainder of this Report was lost at the destruction of the Parliament House by Fire on the 25th April, 1849.)

## R E P O R T.

THE Committee appointed to ascertain what original Bills, pending in Your Honorable House, have been destroyed by the late Fire, and to report the course that may be proper to take with respect to such Bills, to enable Your Honorable House to proceed with them from the different stages at which they had arrived, beg leave to REPORT:—

That the calamity which rendered it necessary for Your Honorable House to impose upon Your Committee this solemn duty, having deprived them of the means of access to those sources of information upon which Your Honorable House and Your Committee have hitherto been able to depend as guides in the practice and proceedings of Parliament, Your Committee have been compelled to proceed without any elaborate search for precedents upon the present occasion.

Before proceeding to do this, however, it is proper that Your Committee should state that they find it laid down in Mr. Bramwell's work on Bills, page 28, That "if the written copy of the Bill presented to the House should in its progress be lost, the House, on being informed by a Member that the Bill is missing, will permit another Bill to be presented, but the proceedings must begin *de novo*," and he refers to the "63d volume of the Journals of the Imperial House of Commons, page 185, Jesuits' Bark," as his authority. They also find it stated in a Note to the second volume of Hatsell, page 267, that "25th May, 1786. The House being informed that a Bill which had been read a first and second time was missing, the House gave leave to present another copy of the said Bill. The like happened in the case of the Bark Bill, 17th March, 1808, and the foregoing precedent was acted upon."

It has been suggested that a similar case once occurred in the House of Assembly of Upper Canada, but Your Committee have not been able to find it, and have not deemed it of sufficient importance to delay their Report, with a view to a further search.

The latter of the two first mentioned cases, however, expressly applies to a Bill which had as yet not engaged the attention of the House in Committee, and was one in which no great public inconvenience could be felt in proceeding upon it *de novo*. And the latter, except that in Upper Canada, of which the Committee cannot of course speak, were cases of Bills of a private rather than a public nature, to which the same remark is still more strongly applicable.

In the present cases, however, where several Bills of the utmost importance to the public have already received the fullest consideration of Your Honorable House, Your Committee consider that the substantial points to be ascertained, with a view to the public interest, is the actual state in which each Bill was at the time it was last under the consideration of the House. When that is once ascertained to the satis-

faction of the House, Your Committee can see no necessity, upon any general principle, to treat them as in any other stage of Parliamentary progress towards completion, than that in which the calamity by which they were overtaken found them.

In accordance with this view, Your Committee have prepared Schedules, numbered from 1 to 10, inclusive, in which all the Bills introduced into Your Honorable House during the present Session, are classified, and have also appended to their Report copies of those Bills, as the same were printed under the authority of Your Honorable House. To these Schedules, accordingly, Your Committee most respectfully beg leave to refer Your Honorable House.

The whole nevertheless humbly submitted.

ROBERT BALDWIN,  
Chairman.

2nd May, 1849.

## SCHEDULE No. 1.

A List of the entire number of Bills introduced into Your Honorable House during the present Session, up to the time of the interruption of the proceedings of the House on the 25th April last.

## SCHEDULE No. 2.

A List of such of those Bills as had passed both Houses of Parliament, and received the Royal Assent.

## SCHEDULE No. 3.

A List of such of those Bills passed both Houses of Parliament, but which appear not to have received the Royal Assent.

## SCHEDULE No. 4.

A List of such of those Bills as had passed Your Honorable House, and appear to have been sent to the Honorable the Legislative Council.

Appendix  
(S.S.S.S.)

2nd May.

## SCHEDULE No. 5.

A List of such of those Bills as had been ordered for a third reading, but appear not to have been read a third time.

## SCHEDULE No. 6.

A List of such of those Bills as had been committed to a Committee of the whole House, and which appear to have been still pending before such Committee.

## SCHEDULE No. 7.

A List of such of those Bills as had been read a second time and ordered to be committed to a Committee of the whole House, but on which the House do not appear to have resolved itself into such Committee.

## SCHEDULE No. 8.

A List of such of those Bills as had been read a second time and referred to a Select Committee, but which appear not to have been reported upon by such Select Committee.

## SCHEDULE No. 9.

A List of such of those Bills as had been reported upon by Select Committees, but where the Report of the Select Committee appears to have been ordered to be referred to a Committee of the whole House.

## SCHEDULE No. 10.

A List of such of those Bills as had been introduced, read a first time, and ordered to be read a

second time, but which do not appear to have been read a second time.

Appendix  
(S.S.S.S.)

2nd May.

BILLS received from the Legislative Council, and still before the Assembly, on the 25th April, 1849, the day of the conflagration of the Parliament Buildings :—

1. Property of Persons dying Intestate.
2. For Incorporation of Joint Stock Companies for Manufacturing, Mining, Mechanical, and other purpose.
3. Insertion of Notices in "Canada Gazette" only.
4. For Protection of Mill-owners.
5. To amend Laws relating to Interest of Money.
6. To remedy defects in administration of Criminal Justice.
7. To incorporate Roman Catholic Archbishop and Bishops in Lower Canada.
8. Relating to Ameliasburgh Survey.

The Bill relating to Marriages and Oppositions to Marriages was returned from the Legislative Council, with amendments, but the amendments had not been considered by the Assembly.

All the above were burned.

W. B. LINDSAY,  
Clerk Assembly.

CLERK'S OFFICE, LEGISLATIVE ASSEMBLY,  
30th April, 1849.

**PROVINCIAL PENITENTIARY.****STATEMENT**

OF THE

**ACCOUNTS AND AFFAIRS**

OF THE

**PROVINCIAL PENITENTIARY,**

FOR THE YEAR 1848;

LAID BEFORE THE HONOURABLE THE LEGISLATIVE ASSEMBLY,

ON THE 4TH MAY, 1849.

*Pursuant to Statute (of Upper Canada), 9 Victoria, Chapter 4.***SCHEDULE.**

No. 1.—Chaplain's Report.

No. 2.—Surgeon's Report.

- A.—Return of Convicts received into the Provincial Penitentiary, during the year ending 1st October, 1848.
- B.—Return of Convicts discharged from the Penitentiary, during the year ending 1st October, 1848.
- C.—Return of Convicts remaining in the Provincial Penitentiary, 1st October, 1848.
- D.—Return of the Property of the Province on hand at the Provincial Penitentiary, 1st October, 1848.
- E.—Return of Convicts employed at the Provincial Penitentiary, 30th September, 1848.
- F.—General Account of Disbursements at the Provincial Penitentiary, during the year ending 30th September, 1848.
- G.—General Account of Receipts and Disbursements at the Provincial Penitentiary, during the year ending 30th September, 1848.

Appendix  
(T.T.T.T.)

4th May.

## No. 1.—CHAPLAIN'S REPORT.

Appendix  
(T.T.T.T.)

4th May.

To the BOARD of INSPECTORS of the PROVINCIAL  
PENITENTIARY.

GENTLEMEN,

I have the honour of presenting my Report for the year ending October, 1848.

The number of Convicts under my spiritual charge is 271. The duties of the Chaplain's Office have been attended to daily, since the complete recovery of my health; and I beg here to tender my thanks to the Board for the consideration shewn during a long and tedious illness.

In the midst of many difficulties, which, I trust, are now in course of removal, much of the benefits of the Penitentiary system has been destroyed; and yet good has been done, proving the truth of the opinion generally entertained, of the superiority of this over every other reformatory plan hitherto devised.

Among the hindrances alluded to, I would again mention the absence of a Chapel, School-room, School-master; the need of more time to be devoted to the moral and religious benefit of the Convicts; and a much larger share of spiritual superintendence than can, at present, be given, in justice to other claims on the Chaplain's time and attention.

Occasionally, instances of the benefit arising from the Penitentiary meet me. Let me mention two of recent occurrence. J. S. was sentenced for three years for manslaughter; but, in consequence of his good conduct, one-half of his time was remitted. On leaving, he was recommended by me to a gentleman in the country, in whose service he has been for two years; and on inquiring after him, a few weeks since, his master said he was doing well; had purchased and paid the first instalment on a farm, to which he intended to remove in the coming spring.

W. T. was convicted of the same crime, and served three years sentence. Last week I received a message from him, through his Clergyman, of a very encouraging kind, asking for a Bible, which I had great pleasure in sending him. My informant tells me that the young man is married to a respectable woman, and that he is himself highly respectable.

During my incumbency twelve have been baptised as adults.

Until a Chapel is provided, for which one of the vacant rooms in the new buildings might serve, the Lord's Supper cannot be administered, which is a privation to which those having long sentences cannot be exposed without spiritual injury. I cannot but express my regret at the deteriorated moral condition of the Female Convicts, which I must attribute in a great degree to the removal of the late efficient Matron.

It would appear a trespass on the province of others to do more than express the hope, that the wisdom of Parliament will speedily provide a remedy for the anomalous position in which the Act of May, 1846, places the Chaplain.

Believe me,

Gentlemen,

Your obedient Servant,

R. V. ROGERS,  
Chaplain.

## REPORT of the SCHOOL of the PROVINCIAL PENITENTIARY, for the year ending September 30th, 1848.

	Coloured.	White.	Total.
Average attendance .....	20	60	80
Ages, from.....	25 to 60	15 to 40	
Number who have learnt to read.....	.....	.....	30
Learning to read Testament.....	.....	.....	60
Learning to spell .....	.....	.....	50

The School is held thrice a-week, averaging one hour a-day.

R. V. ROGERS,  
Chaplain.

## No. 2.—SURGEON'S REPORT.

To the INSPECTORS of the PROVINCIAL PENITENTIARY.

GENTLEMEN,

A sanitary Report of the Provincial Penitentiary must present, in many respects, a remarkable difference from that of other Institutions and Communities, in consequence of the nature or character of the subjects—their confinement, and their employment.

The subjects of medical care exhibit none of the diseases peculiar to the extremes of age, there being very few Convicts whose ages do not range between twenty and sixty years; but they are chiefly derived from the class of idle, dissolute, and drunken; hence we perceive such an array of cases classed as (muscular)

pains, which are the natural effect of ordinary labour upon those who had not previously been accustomed to it.

It is remarkable, that grave diseases and deaths occur so rarely among so many whose constitutions have been broken or impaired by drunken or debauched lives. But the nature of the confinement—the regularity of sleep, meals and labour—habits of cleanliness—wholesome diet and comfortable clothing—and, above all, abstinence from the use of spirituous liquors, conduce mainly to the great healthfulness of the prison. On the other hand, moral influences have a depressing effect; for although a majority of the Convicts are hardened in crime, and dead to shame, while others are of obtuse sensibility or otherwise indifferent, yet to many, the operation

Appendix  
(T.T.T.T.)  
4th May.

of moral causes, the sense of degradation and shame, is prejudicial to their physical and moral health, and renders this class of Convicts much more obnoxious to fatal diseases, and death might be expected to follow any ordinary illness of such an one. Such is almost the invariable character of the Indian, and it would be an object of humanity if, when convicted of crime involving a sentence to the Penitentiary, it could be for the shortest possible period of duration. Our systems of punishment are not well adapted to his nature. His is both physically and psychically different from us. He is calculated to roam abroad in his native forests, and his enjoyment is only in unbounded freedom. The restraints of civilization seem prejudicial to him, and the discipline and confinement of a prison, if of long duration, cannot but be productive of a gloomy remorse, and must be eminently depressing to his vitality. If he chances to get sick, a hopelessness and despair of recovery become depicted in his countenance, and he dies without the evidence of any sufficient morbid lesson being afterwards discoverable. Nature has not reacted. He sinks without an effort to rally; indeed, as if of a broken heart. He dies of mental shock.

A considerable proportion of Convicts that place themselves on the sick list, are malingerers with a view to avoid labour, or to obtain admission into hospital, and some are so experienced and ingenious, that it requires the greatest circumspection and watchfulness to discriminate. Another numerous class of cases is the result of accidents, the natural attendant on the operation of building, but these are generally of trifling moment.

The cases of serious illness, and those requiring much attention, are treated in hospital, while most of the trivial ones have the "range" of the wing, and those suspected of malingering, are for the most part detained in their cells.

It may be interesting, in a medico-political point of view, to state, that out of 514 Convicts examined for vaccination, 445 had either been vaccinated, inoculated, or had had small pox; and only 69, or 12.5 per cent of the whole, were, on their entering the prison, obnoxious to variola. This may be taken as a pretty fair estimate of the proportion of the adult population of the country at large, liable to this disease.

Appendix  
(T.T.T.T.)  
4th May.

The number of deaths for the fiscal year has been six, or, if we except a case of suicide, (of a lunatic who was not under medical care,) the number would be five, or 1.08—a mere fraction over one per cent per annum of deaths among all the convicts confined; or 3.6 per cent of all the cases treated in hospital, indicating a remarkably salubrious state of the institution, and a smaller per centage of deaths, it is believed, than in any other prison in the world! And this proportion of mortality is not singular to the past year, for the average of deaths, since the first establishment of the prison, has been 1.37 per cent per annum only.

It is a gratifying fact, that none of the epidemics which have prevailed in the neighbourhood of the Penitentiary from time to time have affected the health of its inmates. In the summer of 1847 Typhus and "Lake" fevers were particularly prevalent in the immediate vicinity, yet not a single case of either was seen here: and what is more curious, epidemics, as agues, although very common just without the walls, are of rare occurrence within them. This may be accounted for by an almost continuous breeze from the Lake carrying the deleterious gases, formed by the decomposition of vegetable matters in the adjoining bay, away from the prison; also, it is probable that the high walls which enclose the latter are a barrier to the miasms, which, owing to their greater gravity, float so near the surface of the earth, as not to surmount them.

It has fallen to my duty thus to make these observations upon the salubrity of the Penitentiary during the past year, being at the termination of it in the (temporary) capacity of Surgeon to this noble Institution; and I trust that I have touched upon all necessary matters as fully as consistent brevity and my inexperience in the management of this department will warrant.

I am, Gentlemen,

Your very obedient Servant,

HORATIO YATES, M.D.

1st October, 1848.

RETURN of Cases treated out of Hospital, PROVINCIAL PENITENTIARY, from October 1, 1847, to September 30, 1848.

DISEASES.	No.	DISEASES.	No.
Abcess of the Axilla.....	2	<i>Brought up</i> .....	80
do do Knee.....	2	Blenorrhœa.....	2
do do Groin.....	1	Catarrh.....	93
do do Eyelid.....	1	Contusions of various parts.....	44
do do Hand.....	1	Carbuncle.....	1
do do Gum.....	7	Constipation.....	70
do do Cheek.....	2	Colic.....	2
do do Thigh.....	1	Cozarus Morbus.....	1
do near Anus.....	1	Cynanche Parotidœa.....	1
Asthma.....	3	Chilblain.....	1
Anasarca.....	6	Diarrhœa.....	95
Arthritis.....	1	Dysentery.....	1
Amenorrhœa.....	1	Debility.....	4
Bronchitis, Chronic.....	1	Dysuria.....	7
Bolls.....	49	Deafness (partial).....	2
Burn of the Hands.....	1	Dyspepsia.....	1
<i>Carried up</i> .....	80	<i>Carried over</i> .....	405

Appendix  
(T.T.T.T.)

RETURN of Cases treated out of Hospital, PROVINCIAL PENITENTIARY, &c.—(Continued.)

Appendix  
(T.T.T.T.)

4th May.

4th May.

DISEASES.	No.	DISEASES.	No.
<i>Brought over</i> .....		<i>Brought up</i> .....	
Eczema .....	405	Pains—Stomach .....	921
Epididymitis .....	8	do Hip .....	32
Ear Ache.....	12	do Back .....	2
Excoriation .....	1	do Legs .....	30
Erythema .....	1	do Legs .....	5
Epilepsy .....	9	Pompholyo Bullæ .....	1
Favus .....	3	Palpitation .....	6
Fevers—Slight .....	10	Prurigo .....	1
do Intermittent.....	13	Paronichia .....	2
Frost Bite .....	8	Rheumatism.....	120
Fistula in Ano.....	4	Sprains—Hip .....	1
Gastralgia .....	14	do Wrist .....	3
Giddiness.....	2	do Back .....	12
Headache, &c.....	104	do Loins.....	4
Hernicrania .....	3	do Shoulder.....	1
Herpes .....	1	do Ankles .....	6
Hordeolum .....	1	do Foot.....	1
Hysteria .....	2	do Arm.....	1
Hæmaturia .....	1	Scabies.....	1
Hæmorrhoids.....	12	Scrofula .....	2
Hydrocele .....	1	Sycosis Menti.....	9
Impetigo.....	6	Sore Throat.....	17
Indigestion .....	35	do Legs .....	16
Insanity .....	2	do Fingers .....	2
Influenza .....	20	do Arms.....	1
Ishuria .....	1	do Feet.....	2
Injuries—Slight .....	29	Syphilis .....	3
do from a Blast .....	1	Swollen Knee .....	1
Inflamed Eyes.....	22	Tormina .....	14
do Knee .....	1	Tumors .....	3
Lumbago .....	7	Tympanites .....	1
Liver Affection, Chronic .....	3	Vertigo .....	11
Lichen .....	1	Toothache (Extracted) .....	69
Lippitudo.....	1	Unsound Mind .....	1
Lepra Vulgaris .....	1	Urticaria.....	1
Nausea .....	72	Ulcerated Legs .....	5
Neuralgia .....	2	do Lip .....	1
Orchitis .....	8	do Toes .....	2
Ozæna .....	1	do Feet .....	5
Pains—Chest.....	58	do Groin .....	1
do Side.....	29	Wounds—Incised .....	3
do Loins.....	3	do Lacerated .....	3
do Shoulder.....	6	Worms—Ascarides.....	3
do Iliac Region.....	2	do Lumbricus Teres .....	2
		do Tænia Solum.....	1
<i>Carried up</i> .....	921	<i>Total</i> .....	1384

RETURN of Cases treated in the Hospital, PROVINCIAL PENITENTIARY, from October 1, 1847, to September 30, 1848.

DISEASES.	Remaining, 30th Sept., 1847.	Admitted.	Discharged.	Died.	Remaining, 30th Sept., 1848.	DISEASES.	Remaining, 30th Sept., 1847.	Admitted.	Discharged.	Died.	Remaining, 30th Sept., 1848.
						<i>Brought up</i> .....					
Abscess of the Knee.....		1	1			Injury—by a Fall.....	6	78	78	3	3
do Ankle.....		1	1			do from a Blast.....		1	1		
Anasarca .....		4	4			Injured Loins.....		1	1		
Amenorrhœa .....		2	2			Torpid Liver .....		1	1		
Bronchitis Chronic .....		3	3			Lumbago.....		2	2		
Burnt hands (extensive).....		1	1			Lacerated Wound (scalp).....		1	1		
Contusions.....	1	1	2			Menorrhagia.....		1			1
Catarrh.....		9	9			Neuralgia (face).....		2	2		
Coxarius Morbus.....		1	1			Pains—Temple.....		1	1		
Dysentery.....	1		1			do Chest .....		1	1		
Dyspepsia .....	1	1	2			do Bowels.....		1	1		
Diarrhœa.....		10	10			Pneumonia Chronic .....		1			1
Diseased Heart .....		3	1	2		Palpitation.....		2	2		
Debility.....		2	2			Pompholyz Bullæ.....		1	1		
Epilepsy.....		3	3			Pleurisy Chronic.....		1	3	4	
Fever—slight, Remittent.....	1	5	6			Rheumatism.....	1	13	13		1
do Intermittent .....		5	5			Sciatica.....	1	1	2		
Fistula in Anó.....		3	2		1	Syphilis.....	1	1	2		
Fractured Clavicle.....		1	1			Sore Throat.....		1	1		
Hæmaturia .....		1	1			Sycosis Menti.....		1	1		
Hæmorrhoids.....		1	1			Sprained Back.....		1	1		
Hysteria.....		3	2		1	do Ankles.....		1	1		
Hepatitis.....		4	3	1		Sarcocœle.....		1	1		
Jaundice.....	2	1	3			Scrofula.....		1			1
Indigestion.....		7	7			Suicide.....					1
Insanity.....		2	2			Spasms.....		1	1		
Inflamed Eyes.....		1	1			Ulcerated Bowels.....		1			1
do Knee.....		1	1								
Hydrocele.....		1			1						
<i>Carried up</i> .....	6	78	78	3	3		10	121	120	6	6

Appendix  
(T.T.T.T.)  
4th May.

Appendix  
(T.T.T.T.)  
4th May.

DEATHS, from October 1, 1847, to September 30, 1848.

NAMES.	Age.	DISEASES.	Admitted.	Died.	No. of Days in Hospital.
John Murphy.....		This Convict was a Maniac and committed suicide in his cell .....		October 26, 1847.....	
Edward Turner.....	37	Disease of the Heart .....	March 24, 1848 .....	March 27, 1848.....	4
Andrew J. Long.....	28	Pnuemonia, Chronic .....	January 24, do .....	May 1, do .....	99
Abraham Shepherd.....	23	Ulcerated Bowels .....	August 7, do .....	August 19, do .....	13
Matthew Udell.....		Disease of the Heart.....	do 24, do .....	September 1, do .....	8
Elias Moss.....		Hepatitis .....	do 30, do .....	do 6, do .....	7

A.

RETURN of CONVICTS received into the PENITENTIARY, during the year ending 1st October, 1848.

No.	NAME.	DISTRICT.	CRIME.	WHEN SENTENCED.	TERM.
1967	John Boyd.....	Midland.....	Military.....		Until November 8, 1847.
1968	Daniel Anderson.....	London.....	Felony.....	September 27, 1847.....	Four years.
1969	Charles Murphy.....	do.....	do.....	do do do .....	Three do
1970	Alfred Washington.....	Niagara.....	Horse stealing.....	do 22, do .....	do do
1971	Edward Simons.....	Midland.....	Military.....		Until November 14, 1847.
1972	John Simpson.....	Johnstown.....	Larceny.....	October 6, 1847.....	Five years.
1973	Robert Oakes.....	Midland.....	Military.....	do 11, do .....	Ten days.
1974	Richard Sotcher.....	do.....	do.....	do 13, do .....	Forty do
1975	John White.....	do.....	do.....	do do do .....	do do
1976	Benjamin Grout.....	Gore.....	Larceny.....	do 8, do .....	Three years.
1977	Robert Smith.....	do.....	do.....	do do do .....	do do
1978	Charles Doherty.....	do.....	Arson.....	do do do .....	Seven do
1979	Thomas Welsh.....	do.....	Larceny.....	do do do .....	Three do
1980	Douglas Macdonald.....	Midland.....	Military.....		Until January 16, 1849.
1981	George Midgley.....	do.....	do.....		do September 29, 1848.
1982	James Trotter.....	do.....	do.....		do do 28, 1849.
1983	James Walsh.....	do.....	do.....		do do do do
1984	William Savehall.....	do.....	do.....		do November 14, 1847.
1985	Patrick M'Donough.....	Victoria.....	Larceny.....	October 15, 1847.....	Three years.
1986	Samuel Anderson.....	Midland.....	Military.....	do 19, do .....	Twenty-nine days.
1987	Patrick Lawlor.....	do.....	do.....	do do do .....	do do
1988	George Daniel.....	do.....	do.....	do do do .....	Thirty-nine do
1989	Christopher Morrells.....	do.....	do.....		Until November 17, 1847.
1990	Dennis Keenan.....	do.....	do.....		do December 3, do
1991	William Christelow.....	do.....	do.....		do April 6, 1848.
1992	Thomas Seager.....	do.....	do.....		do do do do
1993	William Greenwood.....	do.....	do.....		do February 27, 1849.
1994	John Grant.....	Simcoe.....	Horse stealing.....	October 21, 1847.....	Three years.
1995	James Campbell.....	Newcastle.....	do do.....	do 23, do .....	do do
1996	James Graydon.....	do.....	Arson.....	do do do .....	Seven do
1997	John Gibbons.....	London.....	Military.....		Until March 23, 1848.
1998	James Houghton.....	do.....	do.....		do do 25, do
1999	Andrew Doyle.....	do.....	do.....		do do do do
2000	George Pondfield.....	do.....	do.....		do July 13, do
2001	George Pottle.....	do.....	do.....		do do 22, do
2002	John Flude.....	do.....	do.....		do September 7, do
2003	Timothy Burke.....	Midland.....	Murder.....		For Life.
2004	Mary Burke.....	do.....	do.....		do
2005	Jacques St. Jean.....	Montreal.....	Larceny.....	October 25, 1847.....	Three years.
2006	John M'Kron, alias C. Carroll.....	do.....	do.....	do 26, do .....	do do
2007	Richard Lane.....	do.....	do.....	do do do .....	do do
2008	James Howard.....	do.....	do.....	do do do .....	do do
2009	John Carroll.....	Quebec.....	do.....	do 30, do .....	do do
2010	James C. O'Neil.....	do.....	Uttering counterfeit coin.....	do do do .....	do do
2011	Ann Anderson.....	do.....	Larceny.....	do do do .....	Four do
2012	Thomas Fitzpatrick.....	Midland.....	Military.....	November 6, do .....	Seven days.
2013	Hugh Robinson.....	do.....	do.....	do 8, do .....	do do
2014	John Love.....	do.....	do.....	do do do .....	do do
2015	William Smith.....	do.....	do.....	do do do .....	do do
2016	John Garrod.....	London.....	do.....		Until April 6, 1848.
2017	Stephen Clout.....	Home.....	do.....		do do 10, do
2018	Edward M'Donald.....	London.....	do.....		do August 20, do
2019	William Murray.....	do.....	do.....		do May 16, 1849.



Appendix  
(T.T.T.T.)

RETURN of CONVICTS received into the PENITENTIARY, &c.—(Continued.)

Appendix  
(T.T.T.T.)

No.	NAME.	DISTRICT.	CRIME.	WHEN SENTENCED.	TERM.
2020	John Munro.....	Midland.....	Military.....		Until March 30, 1848.
2021	William Perry.....	do.....	do.....		do November 18, 1847.
2022	Henry Shoyler.....	do.....	do.....		do December 19, do
2023	James Bearman.....	Niagara.....	do.....		do April 17, 1848.
2024	Thomas Fullam.....	Midland.....	do.....		do November 20, 1847.
2025	Hannah Gormley.....	Home.....	Larceny.....	October 1, 1847...	Three years.
2026	William Duncan.....	do.....	do.....	do 27, do ...	do do
2027	Thomas Birchall.....	do.....	Manslaughter.....	do do do ...	do do
2028	William M'Guinniss.....	Midland.....	Military.....		Until November 23, 1847.
2029	Robert Clarke.....	do.....	do.....		do December 15, do
2030	James Duff.....	do.....	do.....	November 17, 1847...	Thirty-nine days.
2031	Patrick M'Donough.....	do.....	do.....		Until November 24, 1847.
2032	Alexander Killeen.....	do.....	do.....		do do do do
2033	Jonathan Ward.....	do.....	do.....		do do do do
2034	Abigail Somers.....	do.....	Larceny.....	November 19, 1847...	Three years.
2035	Elisha Rodes.....	Johnstown.....	do.....	do do do ...	do do
2036	Jno. Kelly.....	Midland.....	Military.....		Until November 29, 1847.
2037	Jno. Lowe.....	do.....	do.....		do do do do
2038	Richard Timlinson.....	do.....	do.....		do do do do
2039	Alfred Nichols.....	do.....	do.....		do December 31, do
2040	William Smith.....	do.....	do.....		do do do do
2041	James Maysent.....	do.....	do.....		do do 1, do
2042	John Dillon.....	do.....	do.....		do do do do
2043	Edward Shannon.....	do.....	do.....		do do do do
2044	George M'Kilkin.....	Gore.....	Horse stealing.....	November 23, 1847...	Five years.
2045	George Spiers.....	do.....	Sheep do.....	do do do ...	Three do
2046	George Noble.....	do.....	Rape.....	do 15, do ...	Seven do
2047	George Bendle.....	do.....	do.....		For Life.
2048	Robert Fenier.....	Talbot.....	Larceny.....	November 20, 1847...	Four years.
2049	Ezra Cronk.....	do.....	do.....	do do do ...	do do
2050	Bridget Cain.....	do.....	do.....	do do do ...	Three do
2051	John Ward.....	Midland.....	Military.....		Until December 6, 1847.
2052	Nicholas Shine.....	do.....	do.....		do do 8, do
2053	George Combe.....	do.....	do.....		do do 20, do
2054	William Comford.....	do.....	do.....		do January 9, 1848.
2055	Charles Hird.....	do.....	do.....		do December 11, 1847.
2056	William M'Guinniss.....	do.....	do.....		do do 13, do
2057	William Thompson.....	do.....	do.....		do do 14, do
2058	William Grieves.....	do.....	do.....		do January do 1848.
2059	William Borrowes.....	do.....	do.....		do do do do
2060	Francis Morris.....	do.....	do.....		do December 17, 1847.
2061	Robert Hamey.....	do.....	do.....		do January do 1848.
2062	Jno. Lewis.....	do.....	do.....		do do do do
2063	Charles Reed.....	do.....	do.....		do do 18, do
2064	Jonathan Ward.....	do.....	do.....		do do 21, do
2065	William Peters.....	do.....	do.....		do do do do
2066	William Forreleen.....	do.....	do.....		do December 23, 1847.
2067	Thomas Lynes.....	do.....	do.....		do do 27, do
2068	Thomas Winstanley.....	do.....	do.....		do do do do
2069	John Gravatt.....	do.....	do.....		do January do 1848.
2070	Robert Robinson.....	do.....	do.....	December 21, 1847...	Twenty days.
2071	Patrick O'Donell.....	do.....	do.....		Until December 31, 1847.
2072	George Doyle.....	do.....	do.....		do January 3, 1848.
2073	William Jones.....	do.....	do.....		do do do do
2074	William Barker.....	do.....	do.....		do do do do
2075	Nicholas Keegan.....	do.....	do.....		do do do do
2076	William Taylor.....	do.....	do.....		do do do do
2077	Richard Tisley.....	do.....	do.....	December 29, 1847...	Nineteen days.
2078	Alexander Killeen.....	do.....	do.....		Until January 27, 1848.
2079	William Griffith.....	do.....	do.....		do March 19, do
2080	Donald Dennis.....	do.....	do.....		do February 10, do
2081	Samuel Bateman.....	do.....	do.....		do January do do
2082	George Contes.....	do.....	do.....		do do do do
2083	John White.....	do.....	do.....		do February 11, do
2084	James Woodcock.....	do.....	Larceny.....	January 7, 1848...	Three years.
2085	David Woodcock.....	do.....	do.....	do do do ...	do do
2086	Henry Johnson.....	do.....	Military.....		Until January 19, 1848.
2087	William Wilton.....	do.....	do.....		do February 7, do
2088	John Blain.....	do.....	do.....		do do do do
2089	Joseph Lanatt.....	do.....	do.....		do January 20, do
2090	Damor Keeting.....	do.....	do.....	January 13, 1848...	Forty days.
2091	Henry Woodby.....	do.....	do.....		Until January 22, 1848.
2092	Patrick Considine.....	do.....	do.....		do do do do
2093	William Forsyth.....	Ottawa.....	Larceny.....	January 5, 1848...	Three years.
2094	Robert Doore.....	Midland.....	Military.....		Until February 14, 1848.
2095	Henry Chalcroft.....	do.....	do.....		do January 25, do
2096	William M'Ginnis.....	do.....	do.....		do do do do
2097	Robert Collins.....	do.....	do.....	January 19, 1848...	Nineteen days.
2098	Charles Hird.....	do.....	do.....		Until February 26, 1848.
2099	Charles Lee.....	do.....	do.....		do January 27, do
2100	James Lovelocke.....	do.....	do.....		do do 29, do
2101	Robert Torrence.....	do.....	do.....		do do 31, do
2102	Charles Evans.....	do.....	do.....		do do do do
2103	William Sullivan.....	do.....	do.....		do do do do

4th May.

4th May.

Appendix  
(T.T.T.T.)

RETURN of CONVICTS received into the PENITENTIARY, &c.—(Continued.)

Appendix  
(T.T.T.T.)

No.	NAME.	DISTRICT.	CRIME.	WHEN SENTENCED.	TERM.
2104	William Taylor.....	Midland .....	Military.....		Until January 31, 1848.
2105	John Bingham.....	do .....	do .....		do March 3, do
2106	James Ronche.....	do .....	do .....		do February 12, do
2107	John Kennedy.....	do .....	do .....		do April 6, do
2108	Charles Foker.....	do .....	do .....		do July 12, do
2109	Henry Showler.....	do .....	do .....		do February 8, do
2110	John Ward.....	do .....	do .....		do March 11, do
2111	George Ferguson.....	Bathurst .....	Larceny.....	January 6, 1848.....	Five years.
2112	George Dixon.....	Midland .....	Military.....		Until February 14, 1848.
2113	Sam Bateman.....	do .....	do .....		do March 17, do
2114	Joseph Turner.....	do .....	do .....		do February 16, do
2115	Edward Fill.....	do .....	do .....		do do 17, do
2116	William Tilesley.....	do .....	do .....		do do do do
2117	John Drew.....	do .....	do .....		do April 30, do
2118	George Coates.....	do .....	do .....		do February 22, do
2119	William Brown.....	do .....	do .....		do do do do
2120	Archibald Brown.....	do .....	do .....		do do do do
2121	Robert Udjey.....	do .....	do .....		do do do do
2122	Thomas Fullam.....	do .....	do .....		do March 24, do
2123	Robert Torronce.....	do .....	do .....		do do 15, do
2124	Henry Showler.....	do .....	do .....		do do 25, do
2125	Thomas M'Donald.....	do .....	do .....		do do do do
2126	Joseph Large.....	do .....	do .....		do do do do
2127	Henry Wilson.....	do .....	do .....		do February 26, do
2128	William Crowe.....	do .....	do .....		do do 28, do
2129	Francis Lovelock.....	do .....	do .....		do March 4, do
2130	Henry Woodby.....	do .....	do .....		do do 6, do
2131	William Doyle.....	do .....	do .....		do do 9, do
2132	Bryan Connor.....	do .....	do .....		do April 9, do
2133	Thomas Fitzpatrick.....	do .....	do .....		do March 17, do
2134	John Ross.....	Quebec.....	Burglary.....	February 10, 1848.....	Three years.
2135	Pierre Simard.....	do .....	Felony.....	do do do .....	do do do do
2136	Thomas Simard.....	do .....	do .....	do do do .....	do do do do
2137	George Goutes.....	Midland .....	Military.....		Until April 19, 1848.
2138	William Smith.....	do .....	do .....		do do 22, do
2139	Henry Clarke.....	do .....	do .....		do June 4, do
2140	William Webb.....	do .....	do .....		do April 21, do
2141	James Brown.....	do .....	do .....		do March 23, do
2142	John Lewis.....	do .....	do .....		do do do do
2143	Patrick Consadine.....	do .....	do .....		do do 24, do
2144	Thomas Liles.....	do .....	do .....		do do 14, do
2145	Solomon Pezey.....	do .....	do .....		do do do do
2146	James Stokes.....	do .....	do .....		do do 6, 1850.
2147	James Mahony.....	do .....	do .....		do April 16, 1848.
2148	Peter M'Donald.....	Wellington.....	Assault of rape.....	November 16, 1847.....	Three years.
2149	Thomas Fitzpatrick.....	Midland .....	Military.....		Until March 27, 1848.
2150	Francis Morris.....	do .....	do .....		do do do do
2151	James M'Entee.....	do .....	do .....		do do do do
2152	Thomas Martin.....	do .....	do .....		do do 30, do
2153	James Riley.....	do .....	do .....		do April 1, do
2154	Thomas Galliger.....	do .....	do .....		do do do do
2155	Edward Simon.....	do .....	do .....		do May 5, do
2156	William Morsden.....	do .....	do .....		do April 8, do
2157	William Thompson.....	do .....	do .....		do do 12, do
2158	Michael Conlan.....	do .....	Larceny.....	April 7, 1848.....	Five years.
2159	Damor Keating.....	do .....	Military.....		Until April 17, 1848.
2160	William Crowe.....	do .....	do .....		do do do do
2161	Robert Oakes.....	do .....	do .....	April 12, 1848.....	Nineteen days.
2162	John Gilchrist.....	Dalhousie.....	Larceny.....	do 8, do .....	Three years.
2163	Richard Paul.....	do .....	do .....	do do do .....	do do
2164	James Keegan.....	Huron.....	Assault with intent to commit felony.....	do 6, do .....	do do
2165	Patrick M'Donough.....	Midland .....	Military.....		Until April 25, 1848.
2166	Francis Morris.....	do .....	do .....		do do 26, do
2167	Patrick Gilgun.....	Newcastle.....	Larceny.....	April 6, 1848.....	Three years.
2168	Thomas Martin.....	Midland .....	Military.....		do 19, do .....
2169	Robert Adzey.....	do .....	do .....	do do do .....	Forty do
2170	James Brown.....	do .....	do .....	do do do .....	do do
2171	George Combo.....	do .....	do .....	do do do .....	do do
2172	John Stewart.....	Home.....	Larceny.....	March 13, do .....	Three years.
2173	John Lewis.....	Midland .....	Military.....		Until April 29, 1848.
2174	Thomas Bailey.....	do .....	do .....		do do do do
2175	George Daniel.....	do .....	do .....	April 24, 1848.....	Ninety-six hours.
2176	John Peters.....	do .....	do .....	do do do .....	Forty days.
2177	Edward Beansoleil.....	Montreal.....	Larceny.....	January 11, do .....	Three years.
2178	Michael Halligan.....	do .....	Burglary.....	do do do .....	do do
2179	David Gordon.....	do .....	Larceny.....	do 12, do .....	do do
2180	William C. Tate.....	do .....	do .....	March 19, do .....	do do
2181	Lyman Jones.....	do .....	Stealing a heifer.....	February 15, do .....	do do
2182	William Alexander.....	do .....	Stealing a gelding and felony.....	do do do .....	Four do
2183	Richard M'Nair.....	do .....	Larceny (two indictments).....	January 14, do .....	Seven do
2184	John Cameron.....	do .....	Larceny.....	do 18, do .....	do do
2185	Joseph M'Mullin.....	do .....	do .....	do do do .....	do do

4th May.

4th May.

Appendix  
(T.T.T.T.)

## RETURN of CONVICTS received into the PENITENTIARY, &amp;c.—(Continued.)

Appendix  
(T.T.T.T.)

4th May.

4th May.

No.	NAME.	DISTRICT.	CRIME.	WHEN SENTENCED.	TERM.
2186	James Wright.....	Montreal.....	Burglary.....	January 19, 1848...	Seven years.
2187	James O'Donell.....	do .....	Sacrilege.....	February 15, do ...	do do
2188	Godefroe Cere.....	do .....	Rape .....	March 18, do ...	Fourteen do
2189	James Goodwin.....	do .....	Manslaughter.....	.....	For Life.
2190	James Carrol.....	do .....	Felony.....	.....	do
2191	Jacob Price.....	Niagara.....	Larceny.....	April 7, 1848...	Three years.
2192	Thomas Rain.....	do .....	Bestiality.....	do 14, do ...	do do
2193	Robert Humphreys.....	Midland.....	Military.....	do 26, do ...	Fourteen days.
2194	James Scale.....	London.....	do .....	.....	Until June 17, 1848.
2195	Richard Howarden.....	Home.....	do .....	.....	do do do do
2196	Thomas Woods.....	London.....	do .....	.....	do July do do
2197	John Rea.....	do .....	do .....	.....	do do 23, do
2198	James Valley.....	do .....	do .....	.....	do September 6, do
2199	Garrett Welsh.....	Niagara.....	do .....	.....	do do do do
2200	Joseph Newbury.....	Home.....	do .....	.....	do do 16, do
2201	Thomas M'Crennor.....	do .....	do .....	.....	do January 1, 1849.
2202	James Bradshaw.....	do .....	do .....	.....	do do 10, do
2203	Edward Grimsby.....	do .....	do .....	.....	do December 18, do
2204	Thomas Bradshaw.....	London.....	do .....	.....	do January 17, 1850.
2205	Henry Woodley.....	Midland.....	do .....	.....	do May 5, 1848.
2206	William Griffith.....	do .....	do .....	.....	do June 6, do
2207	Julia Tooney.....	Montreal.....	Larceny.....	January 11, 1848...	Three years.
2208	Bridget Burke.....	do .....	do .....	do 14, do ...	do do
2209	Margaret Smith.....	do .....	Stealing from the person.....	April 29, do ...	do do
2210	Thomas Penwarden.....	do .....	do do .....	do do do ...	do do
2211	James Maysent.....	Midland.....	Military.....	.....	Until June 1, 1848.
2212	Thomas M'Clure.....	Three Rivers.....	Stealing a cow.....	January 17, 1848...	Three years.
2213	Jno. alias Jean Petit.....	do do .....	Sheep stealing .....	February 1, do ...	do do
2214	Robert Hen. Munroe.....	Johnstown.....	Obtaining goods falsely.....	April 29, do ...	do do
2215	James Dallis.....	do .....	Forgery.....	do do do ...	Four do
2216	James Furlong.....	Midland.....	Military.....	.....	Until May 13, 1848.
2217	William Shields.....	Niagara.....	do .....	.....	do October 8, do
2218	Thomas Russel.....	Home.....	do .....	.....	do August 14, do
2219	William Scott.....	do .....	do .....	.....	do September 11, do
2220	Robert Smith.....	do .....	do .....	.....	do April 9, 1849.
2221	George Terry.....	do .....	do .....	.....	do do do do
2222	Thomas Ebbs.....	Gore.....	Larceny.....	April 12, 1848...	Three years.
2223	John House.....	do .....	Felony.....	do 29, do ...	do do
2224	Mark O'Hara.....	do .....	do .....	May 4, do ...	do do
2225	Wm. War. Reynolds.....	do .....	Assault with intent to commit Rape.....	do 6, do ...	One do
2226	Charles Hird.....	Midland.....	Military.....	.....	Until June 23, 1848.
2227	William Forridice.....	do .....	do .....	.....	do do do do
2228	William Taylor.....	do .....	do .....	.....	do do do do
2229	John White.....	do .....	do .....	.....	do do do do
2230	John Smith, alias John H. Robinson.....	Gore.....	Larceny.....	April 12, 1848...	Five years.
2231	John M'Cann.....	Midland.....	Military.....	.....	Until May 26, 1848.
2232	William Danlary.....	do .....	do .....	.....	do do 27, do
2233	Nathaniel Moores.....	do .....	do .....	.....	do June 28, do
2234	Lan. Von Bushkirk.....	Brock.....	Felony.....	May 10, 1848...	Three years.
2235	William Heyes.....	Dalhousie.....	Shooting with intent to Murder.....	do 11, do ...	Seven do
2236	William Doyle.....	Midland.....	Military.....	do 31, do ...	do days.
2237	John Blain.....	do .....	do .....	.....	Until November 12, 1848.
2238	John Rouché.....	do .....	do .....	.....	do June 7, do
2239	Patrick Eagan.....	do .....	do .....	.....	do do 8, do
2240	Alfred Carter.....	London.....	Burglary.....	May 17, 1848...	Seven years.
2241	Patrick Glasheen.....	Midland.....	Military.....	June 2, do ...	Two do
2242	James Warrener.....	do .....	do .....	do 5, do ...	Thirty days.
2243	James Duggan.....	London.....	do .....	May 3, do ...	168 do
2244	John Mahony.....	do .....	do .....	do do do ...	Twelve lunar months.
2245	Josiah Horton.....	do .....	do .....	do 8, do ...	Two years.
2246	Henry Woodley.....	Midland.....	do .....	.....	Until July 5, 1848.
2247	Henry Showler.....	do .....	do .....	.....	do do 15, do
2248	John Lewis.....	do .....	do .....	.....	do do do do
2249	Daniel Salmon.....	do .....	do .....	.....	do June 15, do
2250	John Fury.....	Home.....	Forgery.....	June 6, 1848...	Three years.
2251	Thomas Wheeler.....	do .....	Manslaughter.....	do do do ...	do do
2252	Mark Long.....	do .....	Larceny.....	do do do ...	do do
2253	Orrin Ray.....	do .....	Assault with intent to commit Rape.....	do do do ...	do do
2254	Benjamin Stanton.....	Victoria.....	Horse Stealing.....	do 8, do ...	Four do
2255	William Hallam.....	Midland.....	Military.....	.....	Until July 1, 1848.
2256	Joseph Bodrie, alias Beaudret.....	Newcastle.....	Larceny.....	June 10, 1848...	Five years.
2257	John M'Cann.....	Midland.....	Military.....	.....	Until September 6, 1848.
2258	Thomas Gallagher.....	do .....	do .....	.....	do November 29, do
2259	William Morton.....	do .....	do .....	.....	do do do do
2260	Hugh Monaghan.....	do .....	do .....	June 17, 1848...	Fifty-one days.
2261	John Andrews.....	do .....	do .....	.....	Until June 24, 1848.
2262	John Ward.....	do .....	do .....	.....	365 days.
2263	John Munro.....	do .....	do .....	June 21, 1848...	168 do
2264	Robert Collins.....	do .....	do .....	do 27, do ...	Thirty-seven days.

Appendix  
(T.T.T.T.)

RETURN of CONVICTS received into the PENITENTIARY, &c.—(Concluded.)

Appendix  
(T.T.T.T.)

No.	NAME.	DISTRICT.	CRIME.	WHEN SENTENCED.	TERM.
2265	James Brue .....	Midland .....	Military .....	June 29, 1848.....	Forty days.
2266	John Ward.....	London .....	do .....	do 14, do .....	168 do
2267	William Shutts.....	do .....	do .....	do 21, do .....	365 do
2268	Philip O'Brien.....	do .....	do .....	do do do .....	do do
2269	Ann Irvine .....	Midland .....	Larceny.....	July 6, do .....	Three years.
2270	Henry Chalcraft.....	do .....	Military.....	do do do .....	336 days.
2271	Edward Lees.....	do .....	do .....	do 11, do .....	333 do
2272	Hugh M'Donald .....	do .....	do .....	do do do .....	do do
2273	Alexander John.....	Johnstown.....	Felony.....	do 7, do .....	Three years.
2274	Patrick Considine.....	Midland.....	Military.....	.....	Until August 20, 1848.
2275	William Crowe.....	do .....	do .....	.....	do do do do
2276	Neil M'Aleer .....	Newcastle .....	Larceny.....	July 5, 1848.....	Three years.
2277	William Brown.....	Midland .....	Military.....	.....	Until August 22, 1848.
2278	John M'Gaughey.....	London .....	do .....	July 4, 1848.....	252 days.
2279	Thomas Ferras .....	Wellington .....	Murder .....	.....	For Life.
2280	John Stock.....	Midland .....	Military.....	.....	Until October 10, 1848.
2281	John Davies.....	do .....	do .....	.....	do August 29, do
2282	Joseph Hunt.....	do .....	do .....	.....	do do do do
2283	Pierre Lepage.....	Quebec .....	Larceny.....	July 10, 1848.....	Three years.
2284	Boniface Vandal.....	do .....	do .....	do do do .....	do do
2285	Eustache Chalder.....	Montreal.....	do .....	do 11, do .....	do do
2286	John M'Fee.....	do .....	do .....	do do do .....	do do
2287	William Taylor .....	Midland .....	Military.....	.....	Until August 6, 1848.
2288	William Webb.....	do .....	do .....	July 29, 1848 .....	168 days.
2289	James Mahony .....	do .....	do .....	August 2, do .....	Forty days.
2290	Thomas Rooney .....	do .....	do .....	do 3, do .....	168 do
2291	Daniel Salmon.....	do .....	do .....	.....	Until August 14, 1848.
2292	Charles Lee .....	do .....	do .....	.....	do September 5, do
2293	Thomas Martin .....	do .....	do .....	.....	do do 15, do
2294	Thomas Fullam .....	do .....	do .....	.....	do do 18, do
2295	John Hammond.....	Quebec .....	Burglary and larceny.....	August 10, 1848.....	Three years.
2296	Thomas Fitzpatrick.....	Midland .....	Military.....	do 14, do .....	Thirty days.
2297	John O'Gan.....	do .....	do .....	do do do .....	do do
2298	William Birkett.....	do .....	do .....	do 15, do .....	Forty do
2299	John Kirk .....	Montreal.....	Stealing a mare.....	do 14, do .....	Three years.
2300	Joseph Goulet .....	do .....	Arson.....	do do do .....	do do
2301	Joseph Bonoyer.....	do .....	Horse-stealing .....	do do do .....	do do
2302	Thomas Green.....	London .....	Military.....	July 15, do .....	168 days.
2303	George Grantham.....	Midland .....	do .....	.....	Until September 29, 1848.
2304	William Horsey.....	do .....	do .....	.....	do do 22, do
2305	Edward Hills .....	do .....	do .....	.....	do do do do
2306	John Little.....	do .....	do .....	.....	do October 2, do
2307	Mark Kent.....	do .....	do .....	.....	do September 14, do
2308	Robert Collins.....	do .....	do .....	August 28, 1848.....	Forty days.
2309	Richard Genmyn .....	do .....	do .....	do do do .....	do do
2310	William Danleray .....	do .....	do .....	do 29, do .....	do do
2311	Gonzague Duval.....	Three Rivers .....	Larceny.....	July 18, do .....	Three years.
2312	Thomas Spiers.....	Home .....	Military.....	August 28, do .....	Four lunar months.
2313	John M'Creanor.....	do .....	do .....	July 11, do .....	Six do do
2314	Patrick Nowlan.....	Midland.....	do .....	September 5, do .....	168 days.
2315	Bartholomew Hart.....	St. Francis .....	Arson.....	August 31, do .....	Ten years.
2316	Edward Simons .....	Midland .....	Military.....	.....	Until September 16, 1848.
2317	Patrick Riley .....	do .....	do .....	September 9, 1848.....	Twenty days.
2318	John Lewis.....	do .....	do .....	.....	Until September 19, 1848.
2319	John White .....	do .....	do .....	.....	do do do do
2320	George Dixon .....	do .....	do .....	.....	do do do do
2321	James Duff.....	do .....	do .....	September 16, 1848.....	Thirty-nine days.
2322	Daniel Salmon .....	do .....	do .....	do do do .....	Forty days.
2323	Joseph Rand.....	do .....	do .....	do 23, do .....	250 do
2324	Henry Clarke.....	do .....	do .....	.....	Until October 4, 1848.
2325	Charles Curtis.....	do .....	do .....	.....	do November 6, do
2326	Patrick Ryan .....	do .....	Larceny .....	September 27, 1848.....	Three years.
2327	Joseph O'Brien .....	do .....	do .....	do 29, do .....	do do
2328	George Henderson.....	do .....	Manslaughter .....	do do do .....	do do
2329	William Mitchell.....	do .....	Larceny .....	do do do .....	do do

D. Æ. MACDONELL,  
Warden, P. P.

PROVINCIAL PENITENTIARY,  
1st October, 1848.

Appendix  
(T.T.T.T.)  
4th May.

Appendix  
(T.T.T.T.)  
4th May.

**B.**

RETURN of CONVICTS discharged from the PENITENTIARY, during the year ending 1st October, 1848.

No.	Name.	Age.	Height.	Complexion.	Eyes.	Hair.	District.	Crime.	When Sentenced.	Term.	Unexpired.	When Discharged.	Remarks.
480	John Young	24	5 8	Sallow	Grey	Brown	Home	Burglary	November 20, 1840	14 years	6 11 13	December 7, 1847	Pardoned.
555	George Morton	29	5 8	Mulatto	Brown	Black	Niagara	Larceny and Horse stealing	May 12, 1842	0 do		May 12, 1848	Expiration of Sentence.
618	John Dixon	35	5 6 1/2	Dark	Grey	Brown	London	Felony	October 8, do	5 do		October 8, 1847	do
619	Henry Sinclair	24	5 8 1/2	do	Hazel	do	do	do	do do	5 do		do do	do
633	Theob. Vincent	34	5 8	Fresh	Grey	Auburn	Home	Larceny	November 4, do	5 do		November 4, do	do
634	William Day	23	5 9	Sallow	Hazel	Brown	Home	Horse stealing	do 8, do	5 do		do 8, do	do
696	Gabriel Wright	28	5 11 1/2	Dark	do	do	Newcastle	Larceny	January 28, 1843	7 do	1 9 23	March 5, 1848	Pardoned.
736	William Jones	33	5 6 1/2	Florida	Grey	do	Midland	Larceny	March 31, do	5 do		do 31, do	do
708	William Jordan	18	5 3 1/2	Mulatto	Hazel	do	Home	Killing an ox	February 25, do	5 do		do 25, do	do
752	Abram Sero	19	5 7 1/2	Fresh	Grey	do	Johnstown	Killing a cow	April 27, do	5 do		do 27, do	do
779	John Kelroe	25	5 6 1/2	Dark	Blue	do	Gore	Larceny	May 26, do	5 do		do 26, do	do
780	Patrick Clark	22	5 6 1/2	Dark	Blue	do	Dalhousie	Arson	do do	10 do	4 10 28	do do	Pardoned.
833	A. J. Long	23	5 8 1/2	Fair	Hazel	do	do	do	do do	10 do	4 10 28	do do	do
834	Sarah Gillies	19	5 4	Fair	do	do	do	do	do do	5 do		do do	do
898	Jason Brown	29	5 5 1/2	Dark	do	Light brown	London	Larceny	October 3, do	4 do		October 3, do	Expiration of Sentence.
913	James Wiles	23	5 9	do	do	Dark do	Talbot	Larceny	do 9, do	5 do		do 9, do	do
916	Court. Culp	25	5 9	Fresh	do	do	Gore	Horse stealing	do 21, do	5 do		do 21, do	do
927	Peter Williams	24	5 9	Dark	Blue	Fight do	Niagara	Stealing cattle	do do	5 do		do do	do
1049	John H. Freeland	25	5 3 1/2	do	Grey	do	do	Larceny	January 26, 1844	6 do	0 8 15	February 5, 1848	do
1051	John Murphy	29	5 7 1/2	do	Hazel	do	Home	Larceny	May 30, do	5 do	1 6 18	November 12, 1847	do
1084	John Hoyle	38	5 8 1/2	do	Grey	Dark brown	Bathurst	Arson	do 25, do	5 do		do 25, do	Died.
1123	George Ramsden	30	5 6 1/2	Fair	do	do	Newcastle	Manslaughter	July 8, do	4 do		July 8, 1849	Expiration of Sentence.
1144	Leh. B. Harris	37	5 9	Dark	Hazel	do	Niagara	Larceny	September 9, do	3 do	1 10 9	October 30, 1847	Pardoned.
1145	John Keef	30	5 7	Fresh	do	do	do	do	do do	3 do		do do	do
1148	John Dorasbye	32	5 6 1/2	Dark	Grey	do	do	do	do do	3 do		do do	do
1159	Ruben Secard	25	5 10	Swarthy	do	Black	Eastern	do	do 7, do	3 do		do 7, do	do
1177	Michael Conlan	22	5 6 1/2	Fair	Grey	Brown	London	do	do 24, do	3 do		do 24, do	do
1180	William Miller	21	5 4 1/2	Dark	do	do	Midland	do	do do	3 do		do do	do
1181	Francis Paul	22	5 7	do	Hazel	do	Quebec	do	do do	3 do		do do	do
1184	Sarah Molloy	21	5 2 1/2	Fair	Light blue	do	do	do	do do	3 do		do do	do
1186	Jos. Cavanagh	16	4 11	do	Grey	Fair	Home	do	do 23, do	3 do		do 23, do	do
1188	Julia Dechamp	48	5 1 1/2	Dark	Dark brown	Dark brown	Montreal	do	do do	3 do		do do	do
1189	Catherine Sexton	42	5 0	Fair	do	do	do	do	do do	3 do		do do	do
1190	Catherine O'Neill	22	4 9	Fair	Blue	do	do	do	do do	3 do		do do	do
1191	Philip Kearney	18	5 6 1/2	Sallow	Hazel	do	do	do	do do	3 do		do do	do
1192	Frederick Bremerman	19	5 6	do	do	Dark Brown	do	do	do do	3 do		do do	do
1193	John Jones	19	5 1 1/2	Dark	do	Brown	do	do	do do	3 do		do do	do
1194	George Smith	19	5 4	do	do	do	do	do	do do	3 do		do do	do
1195	R. M. Kanor	26	5 1 1/2	Mulatto	do	do	do	Larceny	do do	3 do		do do	do
1196	Ann Crawley	19	5 0	Brown	Dark brown	Brown	do	Assault to do bodily harm	do 26, do	3 do		do 26, do	do
1197	Am. M. Naught	25	5 0 1/2	Black	Black	Black	do	do	do do	3 do		do do	do

Appendix  
(T.T.T.T.)  
4th May.

Appendix  
(T.T.T.T.)  
4th May.

RETURN of CONVICTS discharged from the PENITENTIARY, &c.—(Continued.)

No.	Name.	Age.	Height.	Complexion.	Eyes.	Hair.	District.	Crime.	When Sentenced.	Term.	Unexpired.	When Discharged.	Remarks.
1335	Timothy Wilson.....	30	5 2	Sallow	Grey	Dark Brown	Home	Larceny	March 9, 1845	3 years	3 yrs. ms. dys.	March 9, 1848	Expiration of Sentence.
1336	Joseph Lindsay.....	24	5 8	Dark	Blue	Brown	do	do	do	do	do	do	do
1337	Joseph Smith.....	19	5 9 1/2	Fair	Grey	Sandy	do	Burglary	April 7, 1845	do	do	April 7, 1848	do
1338	James Henry.....	25	5 11 1/2	Dark	Blue	Brown	do	Larceny	do	do	do	do	do
1354	A. H. Moughbury.....	24	5 8	do	Hazel	do	Newcastle	do	July 1, 1845	do	do	do	do
1355	Matthew Ryan.....	21	5 4	do	do	do	do	do	do	do	do	do	do
1357	Eliza Quinn.....	22	5 6	do	do	do	Gore	do	do	do	do	do	do
1361	John Finlay.....	17	5 3	Florid	Blue	do	Home	do	June 5, 1845	do	do	do	do
1362	Edward Finlay.....	22	5 5 1/2	Fair	do	do	do	do	do	do	do	do	do
1375	Narcisse Ayot.....	21	5 8 1/2	Swarthy	Hazel	do	Montreal	do	July 12, 1845	do	do	do	do
1376	John Finlayson.....	19	5 4	Dark	Grey	do	do	do	do	0 6 9	do	January 7, 1848	Pardoned.
1377	Ellen Mills.....	23	5 4	Fair	do	do	do	do	do	do	do	do	Expiration of Sentence.
1378	Bridget Clements.....	48	5 3	Dark	Blue	do	do	do	do	do	do	do	do
1379	James Brennan.....	28	5 8	do	Grey	do	do	do	do	do	do	do	do
1399	Piacle Chaynon.....	24	5 7 1/2	Fair	do	do	do	Stealing a Cow	do	do	do	do	do
1400	James Quinden.....	81	5 8 1/2	Dark	do	do	do	Perjury	August	do	do	do	do
1401	James Humphreys.....	69	5 6 1/2	Fair	do	Grey	do	Sealing from a Church	do	do	do	do	do
1389	Daniel Hendericks.....	48	5 4	do	do	Brown	Quebec	Manslaughter	do	do	do	do	do
1429	John Robinson.....	30	5 8	Black	Hazel	Black	Niagara	Assault with intent to commit Rape	do	do	do	do	do
1490	John Smith.....	45	5 6 1/2	Fresh	Grey	Brown	do	Larceny	September 16, 1845	do	do	September 16, 1848	do
1443	George Hey.....	19	5 8 1/2	Black	Hazel	Black	Western	Misdemeanor	do	do	do	do	do
1499	William M'Connell.....	92	5 10 1/2	Dark	Blue	Brown	Montreal	Larceny	do	do	do	do	do
1503	Patrick Carl.....	21	5 6	Fair	Grey	do	do	do	October 24, 1845	do	do	October 30, 1847	Pardoned.
1440	John Dyas.....	35	5 10	Sandy	do	do	do	do	do	1 0 6	do	do	do
1569	Ann Law.....	28	5 4 1/2	Fair	Blue	Black	Midland	do	September 27, 1845	do	do	September 27, 1848	Expiration of Sentence.
1614	Paley Wheeler.....	18	5 7	Fair	Hazel	Brown	Home	do	March 4, 1846	do	do	do	Pardoned.
1631	Matthew Udell.....	42	5 7	Fresh	do	do	Bathurst	Horse stealing	May 14, 1845	do	do	do	do
1689	Thomas M'Hugh.....	25	6 0 1/2	Dark	Hazel	Dark	Home	Forgery	June 6, 1845	do	do	do	Died.
1700	John Tearney.....	24	5 6 1/2	Sallow	Grey	Brown	Montreal	Larceny	August 10, 1845	do	do	do	Pardoned.
1761	Michael Tyburn.....	38	6 0	Fresh	do	do	Midland	Military	do	do	do	do	Expiration of Sentence.
1772	Elias Moss.....	40	5 8 1/2	Dark	Brown	Black	do	do	October 27, 1845	do	do	do	do
1780	Michael Sheehan.....	30	5 7 1/2	Fair	do	do	Home	Larceny	do	do	do	do	Died.
1829	John Holmes.....	36	5 9 1/2	Fair	Blue	Light brown	Colborne	Rape	do	do	do	do	Pardoned.
1831	Edward Turner.....	38	5 8 1/2	Black	Brown	Black	Niagara	Military	April 23, 1847	6 months	do	do	Expiration of Sentence.
1840	Abraham Shepard.....	22	5 11	Fair	Blue	Brown	do	Horse stealing	January 7, 1845	do	do	do	Died.
1860	Richard Jones.....	40	5 9 1/2	do	do	Light	Johnstown	Military	April 26, 1845	do	do	do	do
1879	William Freeknall.....	27	5 9	Swarthy	Brown	Brown	Midland	do	do	do	do	do	Expiration of Sentence.
1887	Martin Hughes.....	39	5 7	Fair	Blue	Auburn	Niagara	do	June 9, 1848	12 mos.	do	do	Removed.
1899	Edward Harris.....	23	6 0	Swarthy	do	Brown	do	do	do	do	do	do	Expiration of Sentence.
1900	Edward Lees.....	27	5 8	Dark	Grey	do	do	do	do	do	do	do	do
1919	William Powers.....	38	5 10	Fair	Brown	do	do	do	do	do	do	do	do

Appendix  
(T.T.T.T.)  
4th May.

Appendix  
(T.T.T.T.)  
4th May.

RETURN of CONVICTS discharged from the PENITENTIARY, &c.—(Continued.)

No.	Name.	Age.	Height.	Complexion.	Eyes.	Hair.	District.	Crime.	When Sentenced.	Term.	Unexpired.	When Discharged.	Remarks.
1920	John Siddles	36	5 9½	Fair	Grey	Brown	Niagara	Military	July 5, 1847	4 months	yrs. ms. dys.	October 24, 1847	Expiration of Sentence.
1921	Thomas Cliff	36	5 10½	do	Blue	do	do	do	June 28, do	1 year	do	June 27, 1848	do
1926	William Jones	40	5 6½	Swarthy	Hazel	do	Midland	do	July 7, do	108 days	do	December 20, 1847	do
1929	Frs. Dupontean	60	5 6	Fair	Blue	do	Quebec	Malicious shooting	August 10, do	14 years	13 0 0	August 10, 1848	Pardoned.
1932	John Webster	37	5 9½	Fresh	Hazel	do	Midland	Military	.....	Until October 19, 1847	do	.....	Expiration of Sentence.
1939	James Scott	28	5 7	Fair	Brown	Black	do	do	.....	Until November 3, 1847	do	.....	do
1934	Thomas Dugdall	28	5 9	do	do	do	do	do	.....	Until December 4, 1847	do	.....	do
1935	George Camp	26	5 7½	do	do	do	do	do	.....	Until May 23, 1848	do	.....	do
1944	Peter Behan	42	5 9	Fresh	Blue	Brown	Niagara	do	.....	do	do	.....	do
1946	George Gilchrist	25	5 10	Light	Brown	Dark Brown	Midland	do	September 1, 1847	148 days	do	February 14, 1848	do
1947	William Doyle	24	5 10½	Fair	Grey	Light Brown	do	do	do 4, do	30 do	do	October 3, 1847	do
1949	William Griffith	29	6 0	Sandy	Blue	Auburn	do	do	.....	Until October 18, 1847	do	.....	do
1951	George Cox	20	5 10	Fair	Grey	Sandy	do	do	September 14, 1847	6 months	do	.....	do
1952	Richard Adcock	27	5 11	do	do	Light	do	do	.....	.....	do	.....	do
1953	Thomas Pallet	26	5 6	do	Brown	do	do	do	September 22, 1847	1 year	do	.....	do
1954	William Dowdall	29	5 9½	Dark	Hazel	Brown	do	do	.....	Until June 8, 1848	do	.....	Undersentences of transportation. Removed.
1955	Charles Williamson	26	5 8½	Fresh	Grey	do	do	do	September 27, 1847	30 days	do	.....	Expiration of Sentence.
1956	William Burrows	24	5 7	Fair	Blue	do	do	do	.....	Until November 2, 1847	do	.....	do
1957	J. Devin	26	5 8½	Sallow	do	do	do	do	.....	Until November 11, 1847	do	.....	do
1958	Thomas Baird	31	5 9½	Dark	Hazel	do	do	do	.....	Until November 12, 1847	do	.....	do
1959	Henry Clark	28	5 8	Swarthy	Brown	do	do	do	.....	Until November 25, 1847	do	.....	do
1960	John Thorp	30	5 8	Sallow	Blue	do	do	do	.....	Until November 25, 1847	do	.....	do
1961	James Perkins	20	5 9	Fair	do	do	do	do	.....	Until April 18, 1848	do	.....	do
1962	Patrick Gishoen	25	5 9½	Sallow	Hazel	do	do	do	do do 27, do	do	do	.....	do
1963	William Grady	22	5 7	Fresh	do	do	do	do	do August 3, do	do	do	.....	do
1964	Henry Richardson	28	5 8	Sallow	Brown	do	do	do	.....	do	do	February 25, 1848	Pardoned.
1965	David Small	27	5 11½	Fair	Grey	Fair	do	do	September 29, 1847	30 days	do	.....	Expiration of Sentence.
1967	John Boyd	28	5 6½	Sallow	do	Brown	do	do	.....	Until November 8, 1847	do	.....	do
1971	Edward Simons	27	5 9	Swarthy	Blue	do	do	do	.....	Until November 14, 1847	do	.....	do
1973	Robert Oakes	27	5 11½	Fair	do	do	do	do	October 11, 1847	10 days	do	.....	do

Appendix  
(T.T.T.T.)  
4th May.

Appendix  
(T.T.T.T.)  
4th May.

RETURN of CONVICTS discharged from the PENITENTIARY, &c.—(Continued.)

No.	Name.	Age.	Height.	Complexion.	Eyes.	Hair.	District.	Crime.	When Sentenced.	Term.	Unexpired.	When Discharged.	Remarks.
1974	Richard Scotcher.	30	5 6½	Fair	Grey	Brown	Midland	Military	October 13, 1847.	40 days.	.....	November 20, 1847.	Expiration of Sentence.
1975	John White.	38	5 7	Swarthy	Brown	Black	do	do	do do	do	.....	do do	do
1948	W. Savelhall.	29	5 7½	Fresh.	Grey	Brown	do	do	do do	Until November 14, 1847.	.....	do do	do
1986	W. Anderson.	30	5 9	Sallow	Brown	do	do	do	October 19, 1847.	29 days.	.....	November 16, 1847.	do
1987	Patrick Lawlor.	25	5 10½	Fresh.	Grey	do	do	do	do do	29 do	.....	do do	do
1988	George Daniels	24	5 9	Florid	do	Light	do	do	do do	39 do	.....	do do	do
1989	Chris. Morrels.	37	5 7½	Fair	Hazel	Brown	do	do	do do	Until November 17, 1847.	.....	do do	do
1990	Denis Keenan.	29	5 9½	Fresh.	Grey	do	do	do	.....	Until December 3, 1847.	.....	do do	do
1991	William Christelow.	24	5 11½	Florid	Brown	do	do	do	.....	Until April 6, 1848.	.....	do do	do
1992	Thomas Seeger	27	6 0	Sallow	do	do	do	do	.....	do do do	.....	do do	do
1997	John Gibbons.	26	5 8	Swarthy	Blue.	do	London.	do	.....	do do do	.....	do do	do
1998	James Houghton.	25	5 10	Fair	Brown	do	do	do	.....	do do do	.....	do do	do
1999	Andrew Doyle.	28	5 9½	do	do	do	do	do	.....	do do do	.....	do do	do
2000	James Penfield.	23	5 7	Fresh.	Hazel	do	do	do	.....	do do do	.....	do do	do
2001	George Pottle.	28	5 8½	do	do	Auburn	do	do	.....	do do do	.....	do do	do
2002	John Flude.	26	5 8½	Swarthy	Brown	do	do	do	.....	do do do	.....	do do	do
2012	Thomas Fitzpatrick.	21	5 7½	Fair	Blue.	Brown	Midland	do	November 6, 1847.	7 days.	.....	do do	do
2018	Hugh Robinson	20	5 6½	do	Hazel	do	do	do	do do	7 do	.....	do do	do
2014	John Law.	29	5 9	Fresh.	Brown	do	do	do	do do	7 do	.....	do do	do
2015	William Smith.	29	5 6½	Sallow	Hazel	Auburn	do	do	do do	7 do	.....	do do	do
2016	John Garrod.	28	5 8½	do	Brown	do	London.	do	.....	Until April 6, 1848.	.....	do do	do
2017	Stephen Clout.	35	5 8	Fresh.	Blue.	do	Home	do	do do	do do	.....	do do	do
2018	E. M'Donnel	21	5 9	Fair	Hazel	do	London.	do	.....	do do do	.....	do do	do
2020	John Munro.	25	5 9½	do	Grey	do	Midland.	do	.....	Until March 30, 1848.	.....	do do	do
2021	William Perry.	20	5 9½	Fresh.	Brown	do	do	do	.....	do do do	.....	do do	do
2022	Henry Showler.	24	5 9	Fair	do	do	do	do	.....	Until December 19, 1847.	.....	do do	do
2023	John Bearman.	21	5 7	Sallow	Hazel	do	Niagara	do	.....	Until April 17, 1848.	.....	do do	do
2024	Thomas Fullan.	24	5 10	do	Blue.	do	Midland	do	.....	do do do	.....	do do	do
2026	William Duncan.	16	5 2	Fair	do	Light	Home	Larceny.	October 27, 1847.	3 years.	.....	do do	do
2028	William M'Guinnis.	26	5 8½	do	do	do	Midland	Military	.....	Until November 23, 1847.	.....	August 16, 1848.	Pardoned.
2029	Robert Clarke.	29	5 9½	Swarthy	Hazel	Brown	do	do	.....	Until December 15, 1848.	.....	do do	Expiration of Sentence.
2030	James Duff.	86	5 8½	Fair	Blue.	Auburn	do	do	.....	Until November 17, 1847.	.....	do do	do
2031	Patrick M'Donough.	37	5 9	Sallow	do	do	do	do	.....	Until November 24, 1847.	.....	do do	do



Appendix  
(T.T.T.T.)  
4th May.

Appendix  
(T.T.T.T.)  
4th May.

RETURN of CONVICTS discharged from the PENITENTIARY, &c.—(Continued.)

No.	Name.	Age.	Height.	Complexion.	Eyes.	Hair.	District.	Crime.	When Sentenced.	Term.	Unexpired.	When Discharged.	Remarks.
2032	Alexander Killeen.....	29	5 7	Fresh.....	Hazel.....	Brown.....	Midland.....	Military.....	.....	Until No vember 24, 1847.....	Yrs. ms. dys. vember 24, 1847.....	.....	Expiration of Sentence.
2033	J. Ward.....	29	5 7	Swarthy ...	do.....	Light brown..	do.....	do.....	.....	Until No vember 24, 1847.....	do.....	.....	do
2036	John Kelly.....	22	5 7½	Fair.....	Grey.....	Brown.....	do.....	do.....	.....	Until No vember 29, 1847.....	do.....	.....	do
2037	John Lowe.....	29	5 8½	do.....	Brown.....	do.....	do.....	do.....	.....	Until No vember 29, 1847.....	do.....	.....	do
2038	Richard Tomlinson.....	30	5 7½	Sallow.....	do.....	do.....	do.....	do.....	.....	Until No vember 29, 1847.....	do.....	.....	do
2039	Alfred Nichols.....	30	5 10	Fair.....	Hazel.....	do.....	do.....	do.....	.....	Until No vember 31, 1847.....	do.....	.....	do
2040	William Smith.....	29	5 9½	Sallow.....	do.....	Auburn.....	do.....	do.....	.....	Until No vember 31, 1847.....	do.....	.....	do
2041	James Maysat.....	26	5 7	Fair.....	Brown.....	Brown.....	do.....	do.....	.....	Until No vember 1, 1847.....	do.....	.....	do
2042	John Dillon.....	31	5 9	Sallow.....	Blue.....	Light.....	do.....	do.....	.....	Until No vember 1, 1847.....	do.....	.....	do
2043	Edward Shannon.....	21	5 8	Fair.....	do.....	Brown.....	do.....	do.....	.....	Until No vember 1, 1847.....	do.....	.....	do
2046	George Noble.....	29	5 5½	Fresh.....	Grey.....	do.....	Gore.....	Rape.....	November 15, 1847.....	7 years.....	5 8 29 January 9, 1848.....	.....	Pardoned.
2051	John Ward.....	28	5 10	Sallow.....	do.....	do.....	Midland.....	Military.....	.....	Until De cember 6, 1847.....	do.....	.....	Expiration of Sentence.
2052	Nicholas Shine.....	24	5 6	Fair.....	Blue.....	do.....	do.....	do.....	.....	Until De cember 8, 1847.....	do.....	.....	do
2053	George Combe.....	30	5 6	Sallow.....	Brown.....	do.....	do.....	do.....	.....	Until De cember 20, 1847.....	do.....	.....	do
2054	William Gumford.....	32	5 8	Swarthy ...	do.....	do.....	do.....	do.....	.....	Until Ja nuary 9, 1848.....	do.....	.....	do
2055	C. Hird.....	30	5 6½	Fair.....	Grey.....	Auburn.....	do.....	do.....	.....	Until De cember 11, 1847.....	do.....	.....	do
2056	William McGinnis.....	26	5 8½	do.....	Blue.....	Light.....	do.....	do.....	.....	Until De cember 13, 1847.....	do.....	.....	do
2057	William Thompson.....	32	6 0	Sallow.....	Grey.....	Brown.....	do.....	do.....	.....	Until De cember 14, 1847.....	do.....	.....	do
2058	William Greaves.....	27	6 0½	Fair.....	Hazel.....	Auburn.....	do.....	do.....	.....	Until Ja nuary 14, 1848.....	do.....	.....	do
2059	William Burrows.....	25	5 7½	do.....	Grey.....	Brown.....	do.....	do.....	.....	Until Ja nuary 14, 1848.....	do.....	.....	do
2060	Francis Marris.....	27	5 7½	Fresh.....	Blue.....	do.....	do.....	do.....	.....	Until De cember 17, 1847.....	do.....	.....	do
2061	Robert Haney.....	34	5 8½	Fair.....	Brown.....	do.....	do.....	do.....	.....	Until Ja nuary 17, 1848.....	do.....	.....	do
2062	John Lewis.....	29	5 7½	Sallow.....	do.....	do.....	do.....	do.....	.....	Until Ja nuary 17, 1848.....	do.....	.....	do

RETURN of CONVICTS discharged from the PENITENTIARY, &c.—(Continued.)

No.	Name.	Age.	Height.	Complexion.	Eyes.	Hair.	District.	Crime.	When Sentenced.	Term.	Unexpired.	When Discharged.	Remarks.
2063	Charles Reed	32	5 8	Fresh	Hazel	Auburn	Midland	Military		Until January 18, 1848	yrs. ms. dys. January 18, 1848		Expiration of Sentence.
2064	John Ward	30	5 7½	do	Brown	Brown	do	do		Until January 21, 1848	January 21, 1848		do
2065	William Peters	28	5 7½	Fair	Light Hazel	do	do	do		Until January 21, 1848	January 21, 1848		do
2066	William Fordeyce	22	5 6	do	Hazel	do	do	do		Until December 23, 1847	December 23, 1847		do
2067	Thomas Lyons	32	5 7½	Sallow	do	do	do	do		Until December 27, 1847	December 27, 1847		do
2068	Thomas Winstanley	28	5 6½	Fair	Blue	Light	do	do		Until December 27, 1847	December 27, 1847		do
2069	John Gravatt	27	5 9	Swarthy	Hazel	Brown	do	do		Until January 27, 1848	January 27, 1848		do
2070	Robert Robinson	39	5 6	Fresh	Brown	do	do	do	December 21, 1847	20 days	January 9, 1848		do
2071	Peter O'Donnell	25	5 7½	Fair	Blue	Auburn	do	do		Until December 31, 1847	December 31, 1847		do
2072	George Doyle	24	5 10½	do	Grey	do	do	do		Until January 3, 1848	January 3, 1848		do
2073	William Jones	21	5 6½	Swarthy	Hazel	do	do	do		Until January 3, 1848	January 3, 1848		do
2074	William Barker	27	5 7	Fair	Blue	Light	do	do		Until January 3, 1848	January 3, 1848		do
2075	Nicholas Kegan	22	5 11	do	Black	Black	do	do		Until January 3, 1848	January 3, 1848		do
2076	William Taylor	28	5 6	do	Brown	Brown	do	do	December 29, 1847	19 days	January 15, 1848		do
2077	Richard Tisley	38	5 9	Sallow	Hazel	do	do	do	do	19 do	do		do
2078	Alexander Killeen	29	5 11	Dark	do	do	do	do		Until January 27, 1848	January 27, 1848		do
2079	William Griffith	29	5 6	Fresh	Blue	Auburn	do	do		Until March 19, 1848	March 19, 1848		do
2080	Donald Dennis	22	5 6½	Swarthy	Brown	Brown	do	do		Until February 10, 1848	February 10, 1848		do
2081	Samuel Bateman	24	5 6½	Fair	Blue	Auburn	do	do		Until January 10, 1848	January 10, 1848		do
2082	George Coates	30	5 6½	do	Hazel	Brown	do	do		Until January 10, 1848	January 10, 1848		do
2083	John White	38	5 7	Swarthy	Brown	Dark	do	do		Until February 11, 1848	February 11, 1848		do
2086	Henry Johnson	33	5 9	Florid	Hazel	Auburn	do	do		Until January 19, 1848	January 19, 1848		do
2087	William Wilton	22	5 10	Fair	Blue	Brown	do	do		Until February 7, 1848	February 7, 1848		do
2088	John Blain	20	5 8½	do	do	do	do	do		Until February 7, 1848	February 7, 1848		do

Appendix (T.T.T.T.)  
4th May.

Appendix (T.T.T.T.)  
4th May.

Appendix  
(T.T.T.T.)  
4th May.

Appendix  
(T.T.T.T.)  
4th May.

RETURN of CONVICTS discharged from the PENITENTIARY, &c.—(Continued.)

No.	Name.	Age.	Height.	Complexion.	Eyes.	Hair.	District.	Crime.	When Sentenced.	Term.	Unexpired.	When Discharged.	Remarks.
2117	John Drew	20	5 7	Sallow	Blue	Brown	Midland	Military		Until April 30, 1848	3 yrs. 3 mos. dys.		Expiration of Sentence.
2118	George Coates	30	5 6	do	Grey	do	do	do		do	February 27, 1848		do
2119	William Brown	30	5 9½	Sandy	Blue	do	do	do		Until February 22, 1848	do		do
2120	Archibald Brown	28	5 7	Swartly	Brown	Auburn	do	do		Until February 22, 1848	do		do
2121	Robert Adjay	28	5 6½	Fair	do	do	do	do		Until February 22, 1848	do		do
2122	Thomas Fullan	26	5 11	do	Blue	Brown	do	do		Until March 24, 1848	do		do
2123	Robert Torrens	30	5 6½	do	Brown	do	do	do		do	13, do		do
2124	Henry Showler	24	5 9	do	do	do	do	do		do	25, do		do
2125	Thomas McDonnell	28	5 7	do	Blue	do	do	do		do	do		do
2126	Thomas Large	28	5 9	Sallow	Brown	Dark	do	do		do	do		do
2127	Henry Wilson	23	5 5½	do	Blue	Brown	do	do		do	February 20, 1848		do
2128	William Cromie	28	5 8½	do	Hazel	Dark	do	do		Until February 28, 1848	do		do
2129	F. Lovelock	30	5 7	Swartly	Brown	Brown	do	do		Until March 4, 1848	do		do
2130	Henry Woodly	32	5 7	Fair	Dark Brown	do	do	do		do	6, do		do
2131	William Doyle	25	5 10½	do	Grey	Light Brown	do	do		do	9, do		do
2132	Bryant Connor	27	5 7½	do	Light Brown	Dark	do	do		do	9, do		do
2133	Thomas Fitzpatrick	21	5 7¼	do	Blue	do	do	do		do	March 17, do		do
2137	George Coates	30	5 6	Sallow	Grey	Brown	do	do		do	April 19, do		do
2138	William Smith	29	5 7	do	Hazel	Auburn	do	do		do	22, do		do
2139	Henry Clark	28	5 8	do	do	Brown	do	do		do	June 4, do		do
2140	William Webb	27	5 7	Fresh	Blue	do	do	do		do	April 21, do		do
2141	S. Brown	29	5 7	Fair	do	do	do	do		do	March 23, do		do
2142	John Lewis	29	5 7½	Sallow	do	do	do	do		do	do		do
2143	Peter Considine	30	5 7¼	Fair	Brown	do	do	do		do	do		do
2147	James M'Henry	20	5 6	Fresh	Hazel	do	do	do		do	April 10, do		do
2149	Thomas Fitzpatrick	21	5 7½	Fair	Blue	Brown	do	do		do	March 27, do		do
2150	Francis Morris	27	5 7½	Fresh	do	do	do	do		do	do		do
2151	James M'Entree	32	5 9½	Pock pitted	Grey	do	do	do		do	do		do
2152	Thomas Martin	20	5 9	Fair	Blue	do	do	do		do	do		do
2153	James Ryley	25	5 7	Sallow	Grey	do	do	do		do	April 1, do		do
1890	Thersy Jones	21	5 1½	Brown	do	do	Home	Arson	May 23, 1847	3 years	do	September 25, 1848	Pardoned.
2154	Thomas Gallagor	27	5 9	Fair	Blue	do	Midland	Military		Until April 1, 1848	do		Expiration of Sentence.
2155	Edward Simon	27	5 9	Light	Grey	do	do	do		do	May 5, do		do
2156	William Marsden	30	5 8	Fair	Blue	Light	do	do		do	April 8, do		do
2157	William Thompson	33	5 11½	do	do	Dark	do	do		do	do		do
2159	Damer Keating	28	5 7	do	Dark	do	do	do		do	do		do
2160	William Crowe	28	5 8½	Sallow	Hazel	Auburn	do	do		do	do		do
2161	Robert Oakes	27	5 11½	Fair	Blue	Dark	do	do		do	do	April 30, 1848	do



Appendix  
(T.T.T.T.)  
4th May.

Appendix  
(T.T.T.T.)  
4th May.

RETURN of CONVICTS discharged from the PENITENTIARY, &c.—(Continued.)

No.	Name.	Age.	Height.	Complexion.	Eyes.	Hair.	District.	Crime.	When Sentenced.	Term.	Unexpired.	When Discharged.	Remarks.
2255	William Hallam.....	27	5 10½	Fresh.....	Grey.....	Brown.....	Midland.....	Military.....	.....	Until July 1, 1848.	.....	.....	Expiration of Sentence.
2257	John M'Cann.....	36	5 6½	do.....	Hazel.....	Dark.....	do.....	do.....	.....	do.....	.....	.....	do
2260	Hugh Monaghan.....	32	5 9	do.....	Grey.....	do.....	do.....	do.....	.....	do.....	.....	.....	do
2261	John Andrews.....	22	5 11½	Sallow.....	Brown.....	do.....	do.....	do.....	.....	do.....	.....	.....	do
2264	Robert Collins.....	36	5 6½	Fair.....	Blue.....	Light.....	do.....	do.....	.....	do.....	.....	.....	do
2265	James Brue.....	35	5 11	Dark.....	Black.....	Black.....	do.....	do.....	.....	do.....	.....	.....	do
2274	Patrick Considine.....	31	5 7	Fresh.....	Hazel.....	Dark.....	do.....	do.....	.....	do.....	.....	.....	do
2275	William Croine.....	29½	5 8	Dark.....	Grey.....	Light Brown.....	do.....	do.....	.....	Until August 20, 1848.....	.....	.....	do
2277	William Brown.....	30	5 9½	Swartly.....	Blue.....	Brown.....	do.....	do.....	.....	Until August 22, 1848.....	.....	.....	do
2281	John Davies.....	22	5 10	Fair.....	Grey.....	Light Brown.....	do.....	do.....	.....	Until August 29, 1848.....	.....	.....	do
2282	Joseph Hunt.....	32	5 11	Sallow.....	Blue.....	do.....	do.....	do.....	.....	Until August 29, 1848.....	.....	.....	do
2283	Pierre Lemage.....	22	5 7½	do.....	Hazel.....	Brown.....	Quebec.....	Larceny.....	.....	3 years.....	.....	.....	do
2287	William Taylor.....	28	5 6	do.....	Brown.....	do.....	Midland.....	Military.....	.....	Until August 6, 1848.....	.....	.....	Paroled.
2289	James Mahony.....	20	5 6	Fresh.....	Hazel.....	Dark.....	do.....	do.....	.....	do.....	.....	.....	Expiration of Sentence.
2291	Daniel Salmon.....	30	5 6	Sallow.....	Grey.....	Brown.....	do.....	do.....	.....	Until August 14, 1848.....	.....	.....	do
2292	Charles Lee.....	29½	5 8½	Fair.....	Blue.....	Light.....	do.....	do.....	.....	Until September 5, 1848.....	.....	.....	do
2293	Thomas Martin.....	20½	5 6½	Sallow.....	Grey.....	Light Brown.....	do.....	do.....	.....	Until September 15, 1848.....	.....	.....	do
2294	Thomas Fullam.....	24	5 10	do.....	Blue.....	Dark.....	do.....	do.....	.....	Until September 18, 1848.....	.....	.....	do
2296	Thomas Fitzpatrick.....	22	5 8	Fair.....	do.....	Brown.....	do.....	do.....	.....	30 days.....	.....	.....	do
2297	John Ogan.....	28½	5 11	Swartly.....	do.....	do.....	do.....	do.....	.....	do.....	.....	.....	do
2298	William Birkett.....	19½	5 6	Fair.....	Grey.....	do.....	do.....	do.....	.....	40 do.....	.....	.....	do
2304	William Horsey.....	26½	5 8½	Sallow.....	Blue.....	do.....	do.....	do.....	.....	Until September 22, 1848.....	.....	.....	do
2305	Edward Hills.....	26½	5 7	Fresh.....	Grey.....	do.....	do.....	do.....	.....	Until September 22, 1848.....	.....	.....	do
2307	Mark Kent.....	29½	5 8	Sallow.....	do.....	Light Brown.....	do.....	do.....	.....	Until September 14, 1848.....	.....	.....	do
2316	Edward Simons.....	27	5 9	Light.....	do.....	do.....	do.....	do.....	.....	Until September 16, 1848.....	.....	.....	do
2317	Patrick Riley.....	37	5 10	Fresh.....	Blue.....	Brown.....	do.....	do.....	.....	Until September 29, 1848.....	.....	.....	do

Appendix  
(T.T.T.T.)  
4th May.

Appendix  
(T.T.T.T.)  
4th May.

RETURN of CONVICTS discharged from the PENITENTIARY, &c.—(Concluded.)

No.	Name.	Age.	Height.	Complexion.	Eyes.	Hair.	District.	Crime.	When Sentenced.	Term.	Unexpired.	When Discharged.	Remarks.
2318	John Lewis.....	29	5 7½	Sallow .....	Brown.....	Brown.....	Midland.....	Military .....	.....	Until September 19, 1848.....	Yrs. ms. dys. September 19, 1848.....	.....	Expiration of Sentence.
2319	John White.....	39½	5 6	Swarthy .....	do .....	Dark.....	do .....	do .....	.....	Until September 19, 1848.....	.....	.....	do do
2390	George Dixon.....	27	5 6½	Fair .....	Grey.....	Auburn .....	do .....	do .....	.....	Until September 19, 1848.....	.....	.....	do do
1981	George Midgely.....	25	5 7	Sallow .....	Blue.....	Brown.....	do .....	do .....	.....	Until September 29, 1848.....	.....	.....	do do
2303	George Grantham.....	28	5 8½	Dark .....	do .....	Light Brown.....	do .....	do .....	.....	Until September 29, 1848.....	.....	.....	do do
1595	Jacques Cadeaux.....	32	5 7½	Florid .....	Hazel .....	Brown.....	Montreal.....	Horsestealing.....	February 14, 1846.....	3 years.	0 4 18	September 29, 1848.....	Pardoned.
1482	Alexander Williams.....	32	5 7	Black.....	do .....	Black.....	Home .....	Larceny.....	September 4, 1845.....	3 do	.....	do 4, do .....	Expiration of Sentence.
1445	James Chapman.....	28	5 9½	Sandy.....	Grey.....	Brown.....	London.....	Enticing Soldiers to Desert.	do 19, do .....	3 do	.....	do 19, do .....	do do
1449	John Woodhall.....	27	5 8½	Fresh.....	do .....	do .....	do .....	Felony.....	do do do .....	3 do	.....	do do do .....	do do
1447	John Crow.....	16	5 2½	Mulatto.....	Hazel .....	Black.....	do .....	Larceny.....	do do do .....	3 do	.....	do do do .....	do do
1449	Lewis Burwell.....	28	5 7	do .....	do .....	do .....	do .....	do .....	do do do .....	3 do	.....	do do do .....	do do
1450	Samuel White.....	38	5 6½	Black.....	do .....	do .....	do .....	do .....	do do do .....	3 do	.....	do do do .....	do do

D. Æ. MACDONELL,  
Warden, P. P.

PROVINCIAL PENITENTIARY,  
1st October, 1848.

C.

RETURN of CONVICTS remaining in the PENITENTIARY, 1st October, 1848.

No.	NAME.	DISTRICT.	CRIME.	WHEN SENTENCED.	TERM.
460	William Farnsworth	Western	Arson		Under Sentence of Transportation.
468	Jesse Tillotson	London	Murder		do do do
481	William Walsh	Home	Burglary	November 20, 1840	Fourteen years.
482	James Brown	Western	Rape		Under Sentence of Transportation.
552	James Henesy	Prince Edward	Manslaughter	May 11, 1842	Ten years.
614	Patrick O'Riley	Midland	do	October 8, do	Seven do
624	Samuel Moore	Western	Felony		For Life.
625	Patrick Kelly	do	do		do
626	Barnard Fashee	Midland	Burglary	November 2, 1842	Fourteen years.
640	Thomas Smith	Home	Arson	do 4, do	Seven do
652	James Maddins	Newcastle	Murder	do 12, do	Fourteen do
660	Wallingford Saunders	Home	do	do 16, do	For Life.
662	Joseph Jolie Glavise	Newcastle	do	do 17, do	do
735	Hiram Haynes	Home	Rape	April 20, 1843	Fourteen years.
747	Timothy Conway	Niagara	Murder		For Life.
758	Paschal Massion	Eastern	Manslaughter	May 15, 1843	Seven years.
774	George Sper	Gore	Rape	do 11, do	Fourteen do
786	Murdoch M'Lennan	Eastern	Murder		For Life.
804	Hugh Cameron	Montreal	do	May 30, 1843	Fourteen years.
866	Octave Desjardine	do	Burglary	August 28, do	Seven do
867	André Desormeau	do	Horse stealing	do do do	do do
564	James Johnson	Niagara	Larceny (5 indictments)	May 15, 1842	Six years & eight months.
882	John B. Wickham	London	Felony (2 convictions)	October 3, 1843	Five years.
899	William M'Alister	Gore	Arson	do 9, do	Seven do
914	Silas Green	Niagara	Stealing cattle	do 21, do	Five do
915	George Highgate	do	do do	do do do	do do
922	George Tooth	Montreal	Larceny	do 30, do	Seven do
936	Grace Marks	Home	Murder		For Life.
945	Michael Hoary	Midland	Larceny	January 5, 1844	Seven years.
946	Samuel Brown	do	do	do do do	do do
962	Cortland Travers	Gore	Sodomy	November 13, 1843	do do
969	Mary Derrick, alias Gibson, Young & Graham	Midland	Larceny	April 11, 1844	Five do
981	Terence Riley	Niagara	Felony	do 6, do	do do
982	John H. DeWitt	do	Arson		For Life.
984	Thomas D. M'Cormick	do	Felony	April 6, 1844	Five years.
992	James Burns	Gore	do	do 15, do	do do
999	Peter Stephens	Home	Larceny	January 26, do	Six do
1000	William Davis	do	Felony	do do do	Seven do
1001	Samuel Beason	do	do	do do do	Nine do
1031	John Brown	Montreal	Larceny	May 9, do	Five do
1032	Cyrille Aubes	do	Burglary	March 9, do	do do
1033	Benoni Lescard	do	Robbery	do do do	do do
1041	William M'Gee	London	Larceny	May 23, do	Nine do
1085	James Shilston	Simeoe	Rape	July 2, do	Fourteen do
1106	Leon Derome	Quebec	Robbery	do 19, do	Seven do
1118	Jared F. Blanchard	St. Francis	Felony and Arson	August 29, do	Fourteen do
1135	Jacob Dunkin	Gore	Horse stealing and Assault with intent to commit Rape	September 19, do	Nine do
1152	John Harris	Brock	Burglary	October 12, do	Six do
1153	David Foster	do	do	do do do	do do
1154	Eleazer Davis	do	do	do do do	do do
1155	Henry Purdy	do	Conspiracy	do do do	do do
1156	Peter Dannee	do	do	do do do	do do
1157	Isaac Dardy	do	Horse stealing	do do do	Five do
1158	William Smith	do	do do	do do do	do do
1161	Oliver Barnham	London	do do	do 7, do	do do
1162	Isaac Duncan, alias Duncorave	do	do do	do do do	do do
1163	Thomas D. Halpin	do	Forgery	do do do	do do
1166	John Chipman	Western	Horse stealing	September 27, do	do do
1173	James Moore	Midland	do do	October 24, do	Six do
1174	Joseph Christmas	do	do do	do do do	do do
1175	John Norris	do	Larceny	do do do	do do
1176	Robert M'Kibbon	do	do	do do do	do do
1185	William Noble	Home	Horse stealing	do 30, do	Five do
1205	Ephraim Hart	Midland	Larceny	November 21, do	Nine do
1264	Robert Carroll	London	Manslaughter	April 21, 1845	Five do
1265	Uriah Maule	do	Larceny	do do do	Seven do
1266	Joseph Maule	do	do	do do do	Four do
1268	Francis Mathers	Quebec	do	do 30, do	Seven do
1269	John Mathers	do	do	do do do	do do
1270	Pierre Charbonair	do	do	January 18, do	do do
1286	Amable Chartier	Montreal	do	February 15, do	Five do
1287	Henry Parlow	do	Arson	do do do	Seven do
1289	Ambrose B. Dieblois	do	Forgery	do 1, do	Fourteen do

Appendix  
(T.T.T.T.)

Appendix  
(T.T.T.T.)

RETURN of CONVICTS remaining in the PENITENTIARY, &c.—(Continued.)

No.	NAME.	DISTRICT.	CRIME.	WHEN SENTENCED.	TERM.
1303	Lewis Jackson	Midland	Burglary	May 17, 1845	Four years.
1306	Jean Couvillon	Three Rivers	Larceny	February 15, do	Seven do
1310	Samuel Perry	Western	do	April 28, do	Four do
1323	Charles Green	Niagara	do (two indictments)	May 29, do	Six do
1329	William M' Craiken Everingham	do	Larceny and forgery	do do do	do do
1332	Henry Bird	do	Burglary and larceny	do do do	Nine do
1344	Samuel Haight	Gore	Larceny	June 18, do	Five do
1348	Joseph Goss	Victoria	Stabbing with intent to kill		For Life.
1353	Samuel Rogers	London	Rape		do
1359	John Smith Carver	do	Robbery	July 7, 1845	Seven years.
1360	Patrick Martin	Gore	Rape	do do do	do do
1363	James Gillmore	Home	Stealing two cows	do 4, do	Four do
1365	James Parker	do	Burglary	April 7, do	Six do
1381	Solomon Erwood	Montreal	Larceny	July 14, do	Seven do
1390	William Chapman	Quebec	Robbery	August 9, do	Five do
1391	Eleonore Galemean alias Martin	do	do	do do do	do do
1402	Dennis Collett	Montreal	Breaking into a shop and larceny therein	do 15, do	do do
1403	Dennis Chagnon	do	Larceny	do do do	do do
1404	Carolus Leprage (Chas. Leprage)	do	Arson	do do do	Fourteen years.
1417	Charles Cummings	St. Francis	Felony and larceny	do 27, do	Seven do
1427	Asel Annis	Niagara	Larceny (two convictions)	September 16, do	Six do
1428	Martin Connors	do	do	do do do	Four do
1431	Michael Brien	do	Horse stealing	do do do	Five do
1433	William Humbert	Home	Larceny	do 4, do	do do
1441	Andrew Laffler	Western	Felony	do 12, do	do do
1442	George Williams	do	do	do do do	do do
1453	James M'Kenna	Prince Edward	Larceny	October 4, do	Three do
1456	Patrick Donelly	Gore	Arson		For Life.
1457	Washington Cain	do	Killing swine	October 1, 1845	Three years.
1458	Daniel M'Carthy	do	Larceny	do do do	do do
1459	William Pilston	do	do	do do do	do do
1472	Frances Lyons	Home	Manslaughter	do 30, do	do do
1473	John Hughes	do	Larceny	do do do	do do
1474	John Quinlan	do	do	do do do	do do
1475	Margaret Mullin	do	do	November 1, do	do do
1476	David Franks	do	Stealing oxen	October 31, do	do do
1477	Ebenezer Hurms	do	do do	do do do	do do
1478	Alexander Smith	do	Horse stealing	do do do	do do
1479	John Henberry	do	Stealing a cow	do do do	do do
1484	Thomas Condon	Dalhousie	Larceny	do 20, do	do do
1486	James Kane	Montreal	do	do 21, do	do do
1487	John Burke	do	do	do 22, do	do do
1489	Pierre Gagnon	do	Stealing a mare	do do do	do do
1490	Louis Blanche	do	Larceny	do do do	do do
1492	Antoine Beauché	do	do	do do do	do do
1493	François Bernard	do	do	do do do	do do
1494	John Towvey	do	do	do do do	do do
1498	James Macnamara	do	do	do 24, do	do do
1500	Malcolm Campbell	do	do	do do do	do do
1501	Cyrelle Brabant	do	do	do do do	do do
1502	Wm. Finnemore alias Gilbert Finnemore	do	do	do 30, do	do do
1513	Jeremiah Damien	Midland	do	November 21, do	do do
1515	Ephraim Nickerson	Newcastle	Horse stealing	October 30, do	Five do
1517	John Jacques	Talbot	Larceny	November 20, do	Three do
1526	Horace Deny	Newcastle	Rape		For Life.
1536	Isaac Hall	Midland	Larceny	January 8, 1846	Three years.
1537	Charles Carpenter	do	do	do do do	do do
1540	Robert Peters	Bathurst	do	do 6, do	do do
1559	Mary Ann Shadbolt	Midland	do	April 9, do	do do
1566	James M' Martin	Home	Shooting with intent to do grievous bodily harm		do do
1567	Thomas Allsop	do	Horse stealing	January 9, do	do do
1568	Ralph Smith	do	Cattle stealing	March 4, do	do do
1570	Joseph Paul	Midland	Horse stealing	do do do	do do
1572	Bridget Donnelly	do	Larceny	April 23, do	Five do
1577	Henry Johnson	Niagara	Burglary	do do do	Three do
1578	Henry Burgess	do	Felony	do 24, do	do do
1579	David Broom	do	Larceny	do 14, do	Ten do
1581	Henry Smith	Three Rivers	do	do 14, do	Three do
1582	Joseph Briche alias Bendit	do	Burglary	January 19, do	do do
1585	John Quaigan	do	Larceny	April 27, do	do do
1586	Joseph M'Intyre	Quebec	Larceny	do 30, do	do do
1586	Joseph M'Intyre	Montreal	Stealing a cow	January 19, do	do do
1587	Felix Desormeau	do	Larceny	do do do	do do
1588	Elizabeth Char. Reville	do	do	do do do	do do
1589	Eliza Wilson	do	Stealing from the person	February 14, do	do do
1590	Eusebe Lamay Antoine Masson	do	Larceny	do do do	do do

4th May.

4th May.



Appendix  
(T.T.T.T.)

RETURN of CONVICTS remaining in the PENITENTIARY, &c.—(Continued.)

Appendix  
(T.T.T.T.)

No.	NAME.	DISTRICT.	CRIME.	WHEN SENTENCED.	TERM.
1927	William Caldwell	Quebec	Larceny	August 10, 1847	Seven years.
1928	Ignace Marquis	do	do	do do do	do do
1937	George Aitchwick	Montreal	do	do 14, do	Three do
1938	Joseph Mercier	do	House breaking	do do do	do do
1939	James M'Lean	do	Stealing a mare	do do do	do do
1940	Francois X. Brunelle	do	Carnally knowing a female under 12 years of age	do do do	do do
1941	William Lellis	do	Embezzlement	do do do	do do
1966	Joseph Couvier	Western	Horse stealing	September 15, do	do do
1968	Daniel Anderson	London	Felony	do 27, do	Four do
1969	Charles Murphy	do	do	do do do	Three do
1970	Alfred Washington	Niagara	Horse stealing	do 22, do	do do
1972	John Simpson	Johnstown	Larceny	October 6, do	Five do
1976	Benjamin Groat	Gore	do	do 8, do	Three do
1977	Robert Smith	do	do	do do do	do do
1978	Charles Dogherty	do	Arson	do do do	Seven do
1979	Thomas Welsh	do	Larceny	do do do	Three do
1980	Douglas M'Donald	Midland	Military		Until January 16, 1849.
1982	James Trotter	do	do		do September 28, do
1983	James Walsh	do	do		do do do
1985	Patrick M'Donough	Victoria	Larceny	October 15, 1847	Three years.
1993	William Greenwood	Midland	Military		Until February 27, 1849.
1994	John Grant	Simcoe	Horse stealing	October 21, 1847	Three years.
1995	James Campbell	Newcastle	do do	do 23, do	do do
1996	James Graydon	do	Arson	do do do	Seven do
2003	Timothy Burke	Midland	Murder		For Life.
2004	Mary Burke	do	do		do
2005	Jacques St. Jean	Montreal	Larceny	October 25, 1847	Three years.
2006	John M'Kron, alias C. Carroll	do	do	do 26, do	do do
2007	Richard Lane	do	do	do do do	do do
2008	James Howard	do	do	do do do	do do
2009	John Carroll	Quebec	do	do 30, do	do do
2010	James C. O'Neil	do	Uttering counterfeit coin	do do do	do do
2011	Ann Anderson	do	Larceny	do do do	Four do
2019	William Murray	London	Military		Until May 16, 1849.
2025	Hannah Gormley	Home	Larceny	October 1, 1847	Three years.
2027	Thomas Birchall	do	Manslaughter	do 27, do	do do
2034	Abigail Somers	Midland	Larceny	November 19, do	do do
2035	Elisha Rodes	Johnstown	do	do do do	do do
2044	George M'Kilkin	Gore	Horse stealing	do 23, do	Five do
2045	George Speirs	do	Sheep do	do do do	Three do
2047	George Beadle	do	Rape		For Life.
2048	Robert Fenier	Talbot	Larceny	November 20, 1847	Four years.
2049	Ezra Cronk	do	do	do do do	do do
2050	Bridget Cain	do	do	do do do	Three do
2084	James Woodcock	Midland	do	January 7, 1848	do do
2085	David Woodcock	do	do	do do do	do do
2093	William Forsythe	Ottawa	do	do 5, do	do do
2111	George Ferguson	Bathurst	do	do 6, do	Five do
2134	John Ross	Quebec	Burglary	February 10, do	Three do
2136	Pierre Simard	do	Felony	do do do	do do
2137	Thomas Simard	do	do	do do do	do do
2144	Thomas Liles	Midland	Military		Until March 14, 1849.
2145	Solomon Pezey	do	do		do do do do
2146	James Stokes	do	do		do do 6, 1850.
2148	Peter M'Donald	Wellington	Assault of rape	November 16, 1847	Three years.
2158	Michael Conlan	Midland	Larceny	April 7, 1848	Seven do
2162	John Gilchrist	Dalhousie	do	do 8, do	Three do
2163	Richard Paul	do	do	do do do	do do
2164	James Keegan	Huron	Assault with intent to commit felony	do 6, do	do do
2167	Patrick Kilgun	Newcastle	Larceny	do do do	do do
2172	John Stewart	Home	do	March 13, do	do do
2177	Edward Beausoleil	Montreal	do	January 11, do	do do
2178	Michael Halligan	do	Burglary	do do do	do do
2179	David Girton	do	Larceny	do 12, do	do do
2180	William C. Tate	do	do	March 19, do	do do
2181	Lyman Jones	do	Stealing a heifer	February 15, do	do do
2182	William Alexander	do	do a gelding and felony	do do do	Four do
2183	Richard M'Neir	do	Larceny (two indictments)	January 14, do	Seven do
2184	John Cameron	do	do	do 18, do	do do
2185	Joseph M'Mullin	do	do	do do do	do do
2186	James Wright	do	Burglary	do 19, do	do do
2187	James O'Donnell	do	Sacrilege	February 15, do	do do
2188	Godefros Cere	do	Rape	March 18, do	Fourteen years.
2189	James Goodwin	do	Manslaughter		For Life.
2190	James Carroll	do	Felony		do
2191	Jacob Price	Niagara	Larceny	April 7, 1848	Three years.
2192	Thomas Rain	do	Bestiality	do 14, do	do do
2201	Thomas M'Crennor	Home	Military		Until January 1, 1849.
2202	James Bradshaw	do	do		do do 10, do
2203	Edward Grinsby	do	do		do December 18, do

4th May.

4th May.

Appendix  
(T.T.T.T.)

Appendix  
(T.T.T.T.)

RETURN of CONVICTS remaining in the PENITENTIARY, &c.—(Continued.)

4th May.

4th May.

No.	NAME.	DISTRICT.	CRIME.	WHEN SENTENCED.	TERM.
2204	Thomas Bradshaw.....	London.....	Military.....	.....	Until January 17, 1850.
2207	Julia Tooney.....	Montreal.....	Larceny.....	January 11, 1848...	Three years.
2208	Bridget Burke.....	do.....	do.....	do 14, do...	do do
2209	Margaret Smith.....	do.....	Stealing from the person.....	April 29, do...	do do
2210	Thomas Penwarden.....	do.....	do.....	do do do...	do do
2212	Thomas M'Clure.....	Three Rivers...	Stealing a cow.....	January 17, do...	do do
2213	John <i>alias</i> Jean Petit...	do do...	Sheep stealing.....	February 1, do...	do do
2214	Robert Hen. Monroe...	Johnstown.....	Obtaining goods falsely.....	April 29, do...	do do
2215	James Dallis.....	do.....	Forgery.....	do do do...	Four do
2217	William Shields.....	Niagara.....	Military.....	.....	Until October 8, 1848.
2220	Robert Smith.....	Home.....	do.....	.....	do April 3, 1849.
2221	George Terry.....	do.....	do.....	.....	do do do
2222	Thomas Ebbs.....	Gore.....	Larceny.....	April 12, 1848...	Three years.
2223	John House.....	do.....	Felony.....	do 29, do...	do do
2224	Mark O'Hara.....	do.....	do.....	May 4, do..	do do
2225	William War. Reynolds	do.....	Assault with intent to commit rape.....	do 6, do...	One do
2230	John Smith, <i>alias</i> John H. Robinson.....	do.....	Larceny.....	April 12, do...	Five do
2234	Lau. Van Bushkirk.....	Brock.....	Felony.....	May 10, do...	Three do
2235	William Heyes.....	Dalhousie.....	Shooting with intent to murder.	do 11, do...	Seven do
2237	John Blain.....	Midland.....	Military.....	.....	Until November 12, 1848.
2240	Alfred Carter.....	London.....	Burglary.....	May 17, 1848...	Seven years.
2241	Patrick Glasheen.....	Midland.....	Military.....	June 2, do...	Two do
2243	James Duggan.....	London.....	do.....	May 3, do...	168 days.
2244	John Mahoney.....	do.....	do.....	do do do...	Twelve lunar months.
2245	Josiah Horton.....	do.....	do.....	do 8, do...	Two years.
2250	John Fury.....	Home.....	Forgery.....	June 6, do...	Three do
2251	Thomas Wheeler.....	do.....	Manslaughter.....	do do do...	do do
2252	Mark Long.....	do.....	Larceny.....	do do do...	do do
2253	Orrin Ray.....	do.....	Assault with intent to rape.....	do do do...	do do
2254	Benjamin Stanton.....	Victoria.....	Horse stealing.....	do 8, do...	Four do
2256	Joseph Bodrie, <i>alias</i> Beaudret.....	Newcastle.....	Larceny.....	do 10, do...	Five do
2258	Thomas Gallagher.....	Midland.....	Military.....	.....	Until November 29, 1848.
2259	William Morton.....	do.....	do.....	.....	do do do do
2262	Jonathan Ward.....	do.....	do.....	June 21, 1848...	365 days.
2263	John Monroe.....	do.....	do.....	do do do...	168 do
2266	John Ward.....	London.....	do.....	do do do...	168 do
2267	William Shutts.....	do.....	do.....	do do do...	365 do
2268	Philip O'Brien.....	do.....	do.....	do do do...	365 do
2269	Ann Irvine.....	Midland.....	Larceny.....	July 6, do...	Three years.
2270	Henry Chalcraft.....	do.....	Military.....	do do do...	336 days.
2271	Edward Lees.....	do.....	do.....	do 11, do...	333 do
2272	Hugh M'Donald.....	do.....	do.....	do do do...	333 do
2273	Alexander John.....	Johnstown.....	Felony.....	do 7, do...	Three years.
2276	Neil M'Alie.....	Newcastle.....	Larceny.....	do 5, do...	do do
2278	John M'Gaughey.....	Midland.....	Military.....	do 4, do...	252 days.
2279	Thomas Fenas.....	Wellington.....	Murder.....	.....	For Life.
2280	John Stock.....	Midland.....	Military.....	.....	Until October 10, 1848.
2284	Boniface Vandal.....	Quebec.....	Larceny.....	July 10, 1848...	Three years.
2285	Eustache Chalfer.....	Montreal.....	do.....	do 11, do...	do do
2286	John M'Fee.....	do.....	do.....	do do do...	do do
2288	William Webb.....	Midland.....	Military.....	do 29, do...	168 days.
2290	Thomas Rooney.....	do.....	do.....	August 3, do...	168 do
2295	John Hammond.....	Quebec.....	Burglary and Larceny.....	do 10, do...	Three years.
2299	John Kirk.....	Montreal.....	Stealing a mare.....	do 14, do...	do do
2300	Joseph Goulet.....	do.....	Arson.....	do do do...	do do
2301	Joseph Bonoyer.....	do.....	Horse stealing.....	do do do...	do do
2302	Thomas Green.....	London.....	Military.....	July 15, do...	168 days.
2306	John Little.....	Midland.....	do.....	.....	Until October 2, 1848.
2308	Robert Collins.....	do.....	do.....	August 28, 1848...	Forty days.
2309	Richard Genmyn.....	do.....	do.....	do do do...	do do
2310	William Danleray.....	do.....	do.....	do 29, do...	do do
2311	Gonz-aque Duval.....	Three Rivers...	Larceny.....	July 18, do...	Three years.
2312	Thomas Spiers.....	Home.....	Military.....	August 28, do...	Four lunar months.
2313	John M'Creanor.....	do.....	do.....	July 11, do...	Six do do
2314	Patrick Nolan.....	Midland.....	do.....	September 5, do...	168 days.
2315	Barth. Hart.....	St. Francis.....	Arson.....	August 31, do...	Ten years.
2321	James Duff.....	Midland.....	Military.....	September 16, do...	Thirty-nine days.
2322	Daniel Salmon.....	do.....	do.....	do do do...	Forty do
2323	Joseph Rand.....	do.....	do.....	do 23, do...	250 do
2324	Henry Clarke.....	do.....	do.....	.....	Until October 4, 1848.
2325	Charles Curtis.....	do.....	do.....	.....	do November 6, do
2326	Patrick Ryan.....	do.....	Larceny.....	September 27, 1848...	Three years.
2327	Joseph O'Brien.....	do.....	do.....	do 29, do...	do do
2328	George Henderson.....	do.....	Manslaughter.....	do do do...	do do
2329	William Mitchell.....	do.....	Larceny.....	do do do...	do do

D. E. MACDONELL,

Warden, Provincial Penitentiary.

PROVINCIAL PENITENTIARY,  
October 1, 1848.

D.

RETURN of the PROPERTY of the PROVINCE on hand at the PROVINCIAL  
PENITENTIARY, 1st October, 1848.

BLACKSMITH'S SHOP.	PURCHASED.			PENITENTIARY.		
	£	s.	d.	£	s.	d.
English iron, 4 tons, 15 cwt., at 15s.....	71	5	0			
Crown do 4 cwt., 2 qrs., at 19s.....	4	5	6			
Sheet do plate, 18 cwt., at 27s. 6d.....	24	15	0			
Cast steel, 62 lbs., at 10d.....	2	11	8			
Blister do 10 lbs., at 8d.....	0	6	8			
1600 bushels stone coals, at 1s. 3d.....	100	0	0			
1400 do charcoal, at 30s.....	21	0	0			
10 door bolts, 160 lbs., 95 levers, 941 lbs., at 6d.....				28	17	2
65 Hinges, 1165 lbs., 26 eyes, 180 lbs., at 6d.....				33	12	6
32 bolts, 280 lbs., at 6d.....				7	0	0
Bolts and nuts, 90 lbs., at 1s. 3d.; do do 180 lbs., at 1s.....				14	12	6
Shop doors, 550 lbs., and nooses for railing, 334 lbs., at 6d.....				22	2	0
12 do half do, 484 lbs. each, at 6d.....				145	4	0
1 turning lathe and 2 faces.....				17	10	0
5 chincks, 10s. each; 5 borers, 3s. 9d. each.....				3	8	9
47 chassing tools, at 1s. 3d.; 11 rests, at 5s.....				5	13	9
2 saws and 1 spindle, 10s.; 11 dogs, at 1s. 3d.....				1	3	9
3 emery wheels, 6s. 3d.; 2 sleigh wrenches, 7s. 6d.....				0	13	9
31 drills, 19s. 4.; 2 gauges, 5s.....				1	4	4
7 large and small stocks and dies, plates and taps.....				20	0	0
3 rimmers, 15s.; 8 wrenches, at 2s. 6d.....				1	15	0
8 bench vices, at 40s.; 10 pairs bellows, at 80.....	56	0	0			
12 anvils, at 80s.; 8 sledges, at 10s.....	52	0	0			
32 hammers, at 6s. 3d.; 2 drill machines, at £6.....				16	0	0
5 pairs callipers, at 2s. 6d.; 3 try squares, at 5s.....				1	7	6
50 cold chisels, at 1s. 3d.; 91 files, at 1s. 3d.....	5	13	9	3	2	6
15 water troughs, at 20s.....				15	0	0
15 anvil blocks, £5 12s. 6d.; 12 coal boxes, at 3s. 9d.....				7	17	6
11 tool boxes, at 2s. 6d.; 1 punching block, 60s.....				4	7	6
1 iron cutting tool, 7s. 6d.; 2 writing desks, 15s.....				1	2	6
2 grindstones and frames, 20s.....	0	15	0	0	5	0
35 wash tubs, at 1s. 3d.; 10 water pails, at 2s. 6d.....				3	8	9
2 riveting levers, 5s.; 1 stamp, 2s. 6d.; 4 pairs shears, at 20s.....				4	7	6
2 stakes, at 15s.; 2 do, 10s.; 2 swedges, 20s.....				3	0	0
2 stove stakes, 10s.; 5 drawers, 2s. 6d.; 2 do punches, 2s. 6d.....				1	7	6
1 stove pipe and tinsmith's tools.....				2	5	0
1 bevel, 5s.; 2 pairs small bellows, 5s.....				0	10	0
4 soldering irons, at 2s. 6d.; 7 stools, at 1s. 3d.....				0	18	9
2 braces, 15s.; 4 drill do, at 7s. 6d.....				2	5	0
7 emery sticks, 5s.; 6 drilling heads, at 2s.....				0	17	0
1 hand rimmer, 2s. 6d.; 1 lentral, 2s. 6d.....				0	5	0
4 spindles, at 3s. 9d.; 32 cast steel drills, and 2 rimmers, 20s.....				1	15	0
2 wrenches, at 2s. 6d.; 1 nut and screw block, 30s.....				1	15	0
2 pairs iron cutting shears.....				12	0	0
1591 lbs. punches, swedges, &c., at 1s. 3d.....				99	8	9
7 shop door locks, at 30s.....				10	10	0
112 cell door do, unfinished, at 17s. 6d.; 26 do finished, 20s.....				124	0	0
1 lodge lock, 40s.; 1 lock unfinished, 20s.....				3	0	0
56 lbs. brass castings, at 2s.; 1 iron ladle, 12s. 6d.....	0	12	6	5	12	0
8 new shovels, at 3s. 6d.; 4 old do, at 1s. 3d.....	1	13	0			
3 black lead pots, at 15s.; 4 old do, at 3s. 6d.....	2	19	0			
Patterns, coarse boxes, sand, and tubs for castings.....				10	0	0
50 lbs. old copper and brass, at 9d.; 27 lbs. zinc, at 1s.....	3	4	6			
2 riddles, 5s.; 1 sett horse-shoeing tools, 20s.....				1	5	0
1 sett ox-shoeing tools, 7s. 6d.; 1 frame for shoeing oxen, 25s.....				1	12	6
1 patent beam and weights.....	1	5	0			
5 steel letters, 5s.; 1 coal barrow, 6s. 3d.....				0	11	3
2 oil cans, 2s. 6d.; 2 water barrels, 5s.....				0	7	6
5 circular patterns, 20s.; 3 axes, 15s.....				1	15	0
7 pairs bullet moulds, at 1s.; 43 new files, at 1s. 3d.....	2	13	9	0	7	0
1 horse rasp, 3s. 9d.; tacks, nails, and solder, 7s. 6d.....	0	11	3			
2 drilling stock, at 20s.; 2 cast iron plates, 15s.....				2	15	0
3 drilling frames, 20s.; 1 iron jack, 7s. 6d.....				1	7	6
20 pairs shackles, at 2s. 6d.; 40 pairs horse shoes, at 1s. 3d.....				5	0	0
26 pairs ox shoes, at 1s. 3d.; 4 new picks, at 6s. 3d.....				2	17	6
4 hammers, at 5s.; 1 tin stove, 8s. 9d.....				1	8	9
38 lengths stove pipe, at 7d.; 3 elbows, at 9d.....				1	6	0
1 box sheet iron, 22s.; 1½ box tin, at 50s.....	4	17	0			
110 lbs. wire, at 6d.; 36 lbs. coarse, at 6d.....	2	15	0	0	18	0
105 lbs. old carriage springs, at 3d.....	1	6	3			
20 cwt. old scrap iron, at 4s.....	4	0	0			
Carried forward.....	£364	9	10	660	16	3

Appendix  
(T.T.T.T.)

4th May.

RETURN OF THE PROPERTY OF THE PROVINCE, &c.—(Continued.)

Appendix  
(T.T.T.T.)

4th May.

	PURCHASED.			PENITENTIARY.		
	£	s.	d.	£	s.	d.
<b>CARPENTER'S SHOP.</b>						
<i>Brought forward</i> .....						
7 sets bench planes, £9 10s.; ½ do hollows, 45s. ....	364	9	10	660	16	3
17 moulding planes, £3; 4 pairs match planes, 20s. ....	11	15	0			
13 bead planes, 50s.; 23 try squares, 50s. ....	5	0	0	3	0	0
1 astragal, 3s. 6d.; 22 draw knives, 39s. ....	5	0	0	1	17	0
6 rabbit planes, 7s. 6d.; 13 plough planes and bits, 45s. ....	1	19	0	0	3	6
45 jointers and trying planes. ....	2	12	6	1	2	6
38 handsaws, and 9 tenon do .....	11	10	0	6	15	0
22 screw drivers, 34s.; 4 braces and bits, 52s. 6d. ....	16	9	0			
15 axes and 9 adzes, £8 2s. 6d.; 8 spokeshaves, 20s. ....	3	0	0	1	16	6
7 mortice gouges and 36 common do, 45s. ....	8	2	6	1	0	0
2 fillasters, 12s. 10d.; 5 comp. saws and 2 saw sets, 10s. ....				2	5	0
12 carving tools and floats, 14s.; 13 rasps and files, 20s. ....	0	11	6	0	11	4
1½ set mortice chisels, 23s.; 27 augers, 52s. ....	1	0	0	0	14	0
6 whip saws, 4 cross cut do. ....	3	15	0			
26 gouges, 24s.; 53 firmer chisels, £3 .....	9	10	0			
18 socket chisels, 27s.; 2 raising planes, 10s. ....	4	4	0			
1 turning lathe and tools, 72s.; 4 screw taps, 30s. ....	1	7	0	0	10	0
7 framing squares, 55s.; 20 mallets, 22s. ....	3	0	0	2	2	0
1 iron cramp, 15s.; 6 sash planes, 52s. ....	2	15	0	1	2	0
6 panel squares, 30s.; 4 dado do, 12s., 10s. ....	2	2	0	3	7	0
5 dozen gimblets, 20s.; 24 brad awls, 3s. ....	1	3	0	0	10	0
21 scratch awls, 11s.; 14 bevels, 12s. ....				1	3	0
40 hammers, £5 6s.; 22 oil stones and 22 cans, 33s. ....	5	4	0	1	15	0
9 chalk lines, 4s. 6d.; 6 pairs compasses, 12s. ....	0	16	6			
2 pairs pincers, 4s.; 30 pairs hand screws, 45s. ....	0	4	0	2	5	0
6 hollows and rounds, 24s.; 5 cold chisels, 3s. 4d. ....				1	7	4
4 trammels, 10s.; 3 floor gouges, 5s. ....				0	15	0
1 pair 2 inch match planes, 17s. 6d.; 1 pair ½ inch do, 5s. ....	0	17	6	0	5	0
4 pairs 1½ inch match planes, £3.; 6 screw wrenches, 12s. ....	2	10	0	1	2	0
2 grindstones, 42s. 6d.; 2 glue kettles, 6s. ....	1	16	0	0	12	6
29 work benches. ....				17	10	0
2 desks and 1 chest, 34s.; 5 cupboards, 62s. ....	1	4	0	3	12	0
1 lock, 4s.; 1 shackle box, 3s.; 1 dirrel box, 7s. 6d. ....	0	4	0	0	10	6
656 lbs. cut nails, at 2½d.; 420 lbs. wrought do at 4d. ....	13	16	8			
380 lbs. spikes, at 4d. ....	6	6	8			
20 papers screws, at 4s.; 7 papers brads, at 1s. ....	4	7	0			
1474 feet clear inch boards, at 49s. 9d. ....	36	13	8			
3020 feet 1½ inch plank, at 49s. 9d. ....	7	10	3			
15412 feet 2 inch plank, at 60s. ....	46	4	9			
10200 feet common boards, at 37s. ....	18	17	5			
14589 feet 1½ inch plank, at 45s. ....	32	16	7			
443 feet oak timber, at 10d. ....	18	9	2			
10498 feet 2 inch oak plank, at 70s. ....	36	14	10			
44 cart tongs, at 2s. ....	4	8	0			
5100 feet hardwood scantling, at 80s. ....	20	8	0			
180 feet 2 inch basswood plank, at 45s. ....	0	8	0			
8 panel doors and 32 window frames .....	6	15	0	7	18	0
42 pairs sashes and 4 fan-lights. ....	2	10	0	4	18	0
31 wash tubs. ....	1	18	6	3	2	0
Watchmaker's tools. ....	2	10	0	8	15	0
<b>COOPER'S SHOP.</b>						
2 axes and 3 adzes, 18s.; 1 round shave, 3s. ....	0	18	0	0	3	0
1 brace and bit, 3s. 6d.; 3 jointers, 12s. 6d. ....	0	4	0	0	12	0
1 level plane, 3s.; 8 spokeshaves, 16s. 6d. ....	0	4	0	0	15	6
1 pair compasses, 2s.; 6 draw knives, 14s. 6d. ....	0	2	0	0	14	6
2 stock awls, 5s.; 2 handsaws, 9s. ....	0	9	0	0	5	0
1 jack plane, 3s. 6d.; 1 oil stone, 1s. 6d. ....	0	3	0	0	2	0
3 drivers, 3s.; 2 anvils, 10s. 6d. ....	0	10	6	0	3	0
4 hammers, 7s. 6d.; 7 cold chisels and 3 jointers, 8s. ....				0	15	6
2 fos. and 3 sets, 5s.; 1 gouge, 1s. ....				0	6	0
2½ cwt. hoop iron, at 19s. 6d.; 10 lbs. wire, 8s. 4d. ....	2	17	1			
2 crozers, 1s. 6d.; 1 compass saw, 1s. 3d.; 1 bevel, 2s. 3d. ....				0	3	9
2 files .....	0	3	6			
<b>PAINTER'S SHOP.</b>						
13 paint brushes and 2 panel do, 50s. ....	2	10	0			
1 diamond, £2.; 2 putty knives and 2 pallet do, 5s. 6d. ....	2	5	6			
8 tin measures, 6s.; 3 paint flags and 2 mullers, 7s. 6d. ....				0	13	6
1 paint mill, 25s.; 4 cans, 10s.; 22 pots, 26s. ....	1	5	0	1	16	0
2 sieves, 3s. 6d.; 2 strainers, 3s.; 1 turpentine can, 1s. 6d. ....	0	3	0	0	5	0
1 pair scales, 12s. 6d.; 2 roller pins, 1s.; 6 paint tools, 7s. 6d. ....	0	7	6	0	13	6
7 graining tools, 50s.; 1 stone jug, 3s. 6d. ....	2	13	6			
7 boxes glass, £9 16s.; 200 lbs. white lead, at 4½d. ....	13	11	0			
Sundry quantities of paints. ....	1	8	0			
<i>Carried over</i> .....	£758	10	5	752	10	8

RETURN OF THE PROPERTY OF THE PROVINCE &c.—(Continued.)

4th May.

4th May.

	PURCHASED.			PENITENTIARY.		
	£	s.	d.	£	s.	d.
<b>TAILOR'S SHOP.</b>						
<i>Brought over</i> .....	758	10	5	752	10	8
65½ yards tweed, at 5s.....	16	8	9			
54½ yards factory cotton, at 9d.; 56 yards do, at 7d. ....	3	13	6			
14 yards drill, at 1s. 5d.....	0	19	10			
4 work benches, £6; 2 cutting boards, 50s. 6d. ....				8	10	6
1 cupboard, £3; 2 shelves, 30s. 6d. ....				4	10	6
1 clothes horse, 6s. 3d.; 24 pairs scissors .....	1	12	0	0	6	3
1 pair shears, 12s. 6d.; 4 tailor's irons, 22s. 6d.....	1	15	0			
1 writing desk and stand .....				0	7	6
6 sleeve boards, 6s.; 24 thimbles, 2s. 6d. ....	0	2	6	0	6	0
1 large box, 12s. 6d.; 2 water buckets, 4s. 6d.....				0	17	0
2 tin cups, 1s.; 1 wood box, 6s. 3d. ....				0	7	3
<b>SHOEMAKER'S SHOP.</b>						
180½ lbs. sole leather, at 1s.....	9	0	6			
94½ lbs. upper leather, at 1s. 8d.....	7	17	11			
8 lbs. calf skin, at 3s. 9d.....	1	10	0			
3 binding skins, at 2s. 6d.....	0	7	6			
16½ yards canvass, at 1s. 6d.....	1	4	9			
43½ do harness leather, at 1s. 3d. ....	2	14	4			
Lasting tacks, 2s. 6d.; 15 hammers, 12s. 6d.....	0	15	0			
14 pairs pincers, 17s. 6d.; 12 rasps, 5s.....	1	2	6			
Sharpening stones, 3s.; 14 shoe knives, 8s. 9d.....	0	11	9			
7 lbs. thread, 21s. 6d.; 148 lasts, £4 18s. 8d. ....	6	0	2			
Awls, 6s. 7d.; files, 1s. 4d.; lap stones and sprigs, 11s. 9d. ....	0	19	8			
5 aprons, 2s. 6d.; scales and weights, 10s.....	0	12	6			
Hand leathers and clams, 10s. 7d.; shoe benches, £1 12s. 11d. ....				2	3	6
Strap leathers, 5s.; boot cramps and trees, 14s. ....				0	19	0
40 instep leathers, 13s. 4d.; do do, 7s.....				1	0	4
Last hooks and peg floats, 13s. 1d.; cutting boards, 2s.....				0	15	1
Bench and cupboard, 6s. 2d.; wood horse, 1s.....				0	7	2
Axe, 6s.; wash bason, 6d. ....	0	6	0	0	0	6
Inkstand and size stick.....				0	4	2
Punch, 1s.; saw, spoke-shave, &c., 5s. 11d.....	0	6	11			
<b>STONE SHED AND YARD.</b>						
4190 lbs. cast steel tools, at 1s. 6d.....				314	5	0
92 cast steel bush hammers, at 15s.....				69	0	0
2850 lbs. mason's and mash hammers, at 6d.....				72	0	0
112 mason's and plasterer's trowels, at 2s.....	11	4	0			
290 stone cutter's mallets, at 1s. 6d.; 118 straight edges, at 4d.....				23	14	4
145 squares, at 2s.; 42 plumb lines, at 6d.....				15	4	0
238 gauges, at 1d.; 19 levels, at 5s. ....				5	14	10
30 bevets, at 1s. 6d.; 92 shovels, at 1s.....	4	12	0	2	5	0
16 mortar hods, at 1s. 6d.; 50 mortar boxes, at 10d. ....				3	5	8
18 wood and handsaws, at 3s.; 14 axes, at 2s. 6d. ....	2	14	0	1	15	0
8 augers, at 1s. 8d.; 10 draw knives, at 2s.....	1	13	4			
5 wood horses, at 1s.; 8 grindstones, at 2s. 6d.....	1	0	0	0	5	0
19 mason's lines, at 3d.; 60 turning tools, at 1s.....	0	4	9	3	0	0
9 writing desks, at 2s. 6d.; 51 wash-hand tubs, at 10d.....				3	5	0
5 lime sieves, at 7s. 6d.; 7 compasses, at 1s. 6d.....	1	13	0	0	15	0
45 wheel-barrows, at 2s. 6d.; 15 brick axes, at 1s.....	0	15	0	5	12	6
5 turning lathes, at 10s.; 8 planes, at 1s.....				2	18	0
10 lathing hammers, at 1s.; 29 pails, at 1s. 3d.....	0	10	0	1	16	3
23 cwt. 2 qrs. quarry picks, drills, &c., at 8d.....				87	14	8
500 bushels road metal, at 7s. per 100; 100 bushels mortar, at 8d. ....				5	1	8
2000 bushels sand, at 9s. per 100; 2000 bushels lime, at 5d.....	9	0	0	41	13	4
150 bushels hair, at 1s.; 152 scaffold poles, at 1s. 3d.....	17	0	0			
23,000 feet scaffold plank, at 20s.....	23	0	0			
28 cwt. 2 qrs. rope for scaffold—3192 lbs., at 3d.....				39	18	0
5 horse carts, at 40s.; 6 ox carts and trucks, at 50s. ....				25	0	0
3 ox sleighs, at 10s.; 1 timber carriage, 45s. ....				3	15	0
2 setts shear poles, blocks and tackle.....	10	0	0			
40 lbs. gunpowder, at 9d.....	1	10	0			
2 iron cranks, at £6 10; 1 do, at £2.....	15	0	0			
11 tin cups, 2s. 9d.; 1 melting pot and ladle, 5s.....	0	5	0	0	2	9
982 ledgers and foot legs, at 9d.....	14	6	6			
100,000 bricks, at 33s. 6d. ....	167	10	0			
12 scaffold horses, at 5s.; 62 toise rubble stone, at 8s. 9d.....				30	2	6
12,500 feet cut stone, at 1s. 3d. ....				781	5	0
90 cords hardwood, at 7s. 6d.....	33	15	0			
40 cords pine, at 6s. 9d.....	13	10	0			
5 ladders.....				10	0	0
<i>Carried forward</i> .....	£1145	14	1	2922	13	11

RETURN OF THE PROPERTY OF THE PROVINCE, &c.—(Continued.)

4th May.

4th May.

STORE ROOM.	PURCHASED.			PENITENTIARY.		
	£	s.	d.	£	s.	d.
<i>Brought forward</i> .....	1145	14	1	2922	13	11
972 yards home made flannel, at 1s. 3½d.....	62	15	6			
45 yards brown linen, at 7d.; 50 yards swans' down, at 1s. 4d.....	4	12	11			
30 yards fustian, at 1s. 4d.; 50 yards blue stripe, at 7½d.....	3	11	3			
94½ yards check, at 8d.; 21 yards duck, at 11½d.....	4	3	1			
20 yards orleans, at 1s. 4d.....	1	6	8			
16 lbs. black thread, at 3s. 4d.; 5 lbs. whitey brown, at 2s. 6d.....	3	5	10			
10 gross vest buttons, at 1s. 3d.; 2 do jacket do, at 1s.....	0	14	6			
25 gross trowsers buttons, at 10d.; 1½ dozen diaper towels, at 7d.....	1	11	4			
1 piece girth web, 8s. 6d.; 12 pairs men's socks, at 9d.....	0	17	6			
21 pairs women's cotton hose, at 10½d.; 2 pairs wollen do, at 1s.....	1	0	4			
5 cotton shawls, at 2s. 6d.; 4 plane irons, at 1s. 3d.....	0	17	6			
1 broad axe, 15s.; pasteboard, 7d.....	0	15	7			
1 dozen stay laces, 9d.; 7 papers black lead, at 4d.....	0	8	4			
2 bunches darning cotton, 3s.; 26 papers needles, at 4d.....	0	11	8			
35 papers tailor's needles, at 6d.; 4½ dozen tapes, at 2s.....	1	6	6			
6 rolls black tape, 1s. 6d.; 1 piece galloon, 3s. 6d.....	0	5	0			
1½ dozen spoons, at 2s.; 29 thimbles, 3s.....	0	6	0			
4 gross shirt buttons, at 10d.....	0	3	4			
20 fine combs, at 5d.; 6 dozen coarse, at 3s. 6d.....	1	9	4			
100 mason's rules, at 6d.; ¼ skin parchment, 5s. 6d.....	0	5	6	2	10	0
3 packages Bibles, 200 copies.....	45	0	0			
42 R. C. Testaments, at 1s. 3d.; 4 Protestant Bibles, at 2s. 6d.....	3	2	6			
3 pairs scissors, at 1s. 6d.; 9 yards silecia, at 9d.....	0	11	3			
10½ lbs. lamp wick, at 1s. 6d.; 2 pairs scales and weights, 7s. 6d.....	1	3	7			
1 pair blankets, 12s. 6d.; 1 pane glass, 1s. 9d.....	0	14	3			
2 oz. sewing silk, 4s.; pens, 2s. 6d.....	0	6	6			
40 lbs. sugar, at 6d.; ½ barrel barley, at 35s.....	1	17	6			
½ barrel flour, 12s. 6d.; 13 pairs shoes, at 6s. 6d.....	0	12	6	4	4	6
10 dozen hankerchiefs, at 5s. 6d.; 15 thrashers, at 1s. 3d.....	3	13	9			
22 caps at 1s. 10d.; 6 pairs cotton drawers, at 2s. 6d.....	2	0	4	0	15	0
7 pairs cotton socks, at 10d.; 26 shirts, at 3s. 6d.....	0	5	10	4	11	0
5 fustian pea-jackets, at 7s.; 4 round do, at 5s.....				2	15	0
2 pairs trowsers, at 6s.; 2 pieces gambroon, at 5s.....				1	2	0
15 cotton drill waistcoats, at 3s. 9d.....				2	16	3
26 aprons, at 9d.; 3 pairs braces, at 6d.....				1	1	0
100 lbs. wire, at 5d.; 6 door mats, at 5s.....	2	1	8	1	10	0
2 coal grates, 50s.; 2 coal scuttles, 10s.....	3	0	0			
1 brass kettle.....	2	0	0			
<b>PLUMBER'S STOCK.</b>						
3 pails, 7s. 6d.; 10 wash tubs, 12s. 6d.....				1	0	0
Gluc, lamp-black, borax and speltre.....	0	12	0			
87 lbs. old copper, at 9d.; 5 cwt. old lead, at 30s.....	10	15	3			
8 augers, 17s. 6d.; 1 furnace, 12s. 6d.....	1	10	0			
1 hand axe, 7s. 6d.; 3 sheet-iron stoves, &c., £4.....	0	7	6	4	0	0
7 hand hammers, 35s.; 3 hand saws, 15s.....	0	15	0	1	15	0
1 pair steelyards, 60s.; 3 screw drivers, 4s. 6d.....				3	4	6
2 pairs nippers.....	1	2	6			
10 lbs steel chisels, at 1s. 6d.; 12 lbs. do drills, at 1s. 6d.....				1	13	0
9½ round bits, £2 5s.; turning tools, £3.....				5	5	0
Sand and casting boxes, 30s.; slide-rest, £5.....				6	10	0
Wood patterns.....				15	10	0
20 lbs. cast steel, at 10d.; 10 lbs. sheet copper, at 2s. 6d.....	2	1	8			
10 cwt. 1 qr. 4 lbs. best iron.....	10	5	8			
6 bench vices, £17 8s. 7d.; stock, dies and taps, £15.....	17	8	7	15	0	0
Plumber's tools, £3; valves for water-closets, £16.....				19	0	0
1 pair forge bellows, £8 10s.; smith's tools, £5.....	8	10	0	5	0	0
40 lbs. grain tin, at 2s.; 50 lbs. solder, at 2s.....	4	0	0	5	0	0
5 cwt. 0 qr. 19 lbs. sheet lead, at 42s. 6d.; 1 spade.....	11	2	3			
1 lifting pump.....				40	0	0
Patent lead pipe, 2 cwt. 0 qr. 15 lbs.....	7	1	3			
12 brass gratings for sinks.....				1	4	0
12 stench traps, £7 10s.; drilling machine, £10.....				17	10	0
4 drill stocks, £1; 1 anvil, £3 15s. 10d.....	8	15	10	1	0	0
1 grindstone, 10s.; 10 leather aprons, 25s.....	1	15	0			
7 boxes tin, £17 10s.; 4 water-closets, £30.....	17	10	0	30	0	0
2 dozen files, £3 8s.; wash bason and pails, 4s.....	8	8	0	0	4	0
Bench tools, £3; desk and stool, 12s. 6d.....				3	12	6
6 1½ inch brass cocks, £6 15; 10 lbs. tins nails, 15s.....	7	10	0			
28 lbs. brass castings, £2 16s.; 2 cwt. rivets, £5 6s.....	2	16	0	5	6	0
3 cutters and rimmers.....				1	10	0
<b>MATRON'S ROOM.</b>						
Knives and forks, 9s. 9d.; spoons, 2s. 6d.....	0	12	3			
Knife-box, canisters, steps, barrow, ash-box and jug.....	0	0	6	0	9	6
5 clothes lines, 2s. 6d.; 1 saucepan, 1s. 6d.; dust-pan, 1s.....	0	1	6	0	3	6
<i>Carried over</i> .....	£1415	12	2	£2527	15	8

Appendix  
(T.T.T.T.)

RETURN OF THE PROPERTY OF THE PROVINCE, &c.—(Continued.)

Appendix  
(T.T.T.T.)

4th May.

4th May.

MATRON'S ROOM.—(Continued.)

	PURCHASED.			PENITENTIARY.		
	£	s.	d.	£	s.	d.
<i>Brought over</i> .....	1415	12	2	2527	15	8
Black lead and shoe brushes, 4s.; footstool, 2s. 6d.....	0	4	0	0	2	6
30 bonnets, at 1s.; 27 shawls, at 3s. ....	4	1	0	1	10	0
30 pails, 30 piggins, and 30 tubs. ....				4	17	6
35 bed boards, at 2s.; window blind, 6d .....				3	10	6
30 beds, 60 pillows, and 2 hair do .....				3	19	0
100 blankets, at 3s. 9d.; 20 quilts, at 1s .....	19	15	0			
5 iron bedsteads, at 40s.; 3 hair mattresses, at 20s .....				13	0	0
55 benches, at 1s.; 25 stools, at 1s. 6d .....				4	12	6
6 tables, at 2s.; 5 chairs, at 2s. 6d.; 1 desk, 3s .....				1	7	6
1 cupboard, 6s.; 1 basket, 1s.....				0	7	0
21 flannel shifts, at 2s. 6d.; 58 cotton do, at 1s. 6d.....				6	19	6
56 blue wrappers, at 3s.; 59 white do, at 2s. ....				14	6	0
80 towels, at 4d.; 75 sheets, at 1s. 3d. ....				6	0	5
55 check aprons, at 9d.; 55 linen do, at 9d.....				4	2	8
62 petticoats, at 2s.; 20 flannel do, at 2s. 6d. ....				8	14	0
125 pairs stockings, at 2s.; 110 caps, at 4d .....				14	6	8
110 neckerchiefs, at 4d.; 60 pocket do, at 2d .....				2	6	8
66 pillow slips, at 4d.; 30 pairs stays, at 3s.....				5	12	0
30 pairs shoes, at 2s. 6d.; 7 pairs boots, at 3s.; 1 pair cloth do, at 3s.....				4	19	0
30 pairs canvass slippers, at 2s.; 13 pairs stockings, at 9d.....				3	9	9
4 flannel handkerchiefs, at 8d.; 50 combs, at 3d.....				0	15	2
30 pairs scissors, at 6d.; 10 sets knitting needles, at 10d. ....	0	15	10			
Sleeve-boards, fire-boards, measure, rules, fire-pan, oil cans, lamp, clothes box, and brooms.....				0	15	5
1 bason and jug, 2s. 6d.; 3 pairs spectacles, at 1s. 6d.....	0	4	0			
10 yards stripe, at 1s.; 122 yards factory cotton, at 5d .....	3	0	10			
461 yards home-made flannel, at 1s. 3d. ....	29	15	5			
6 yards linen, at 9d.; 6 lbs. yarn, at 2s.; 6 lbs. thread, at 4s. ....	2	12	6			
Tape, needles, and pins.....	0	4	0			
5 stove-pans, 5s.; 5 tables, 7s. 6d.....				0	12	6
6 forms, 9s.; 5 stools, 5s.; chair and tray, 3s. 6d. ....				0	17	6
5 pails, 6s. 3d.; candlesticks and snuffers, 6s. ....				0	12	3
3 teapots, coffee can, rules of regulations .....				0	4	6
5 clothes horses, 12s. 6d.; 6 flat and 1 Italian iron, 6s. ....	0	6	0	0	12	6
44 tin cups, at 2d.; 38 plates, at 2d.; 6 dishes, 4s. ....				0	17	8
10 wash tubs, at 2s. 6d.; barrel, wash boards, and dippers .....				1	11	8
1 iron boiler, 5s.; 2 tin do, 2s.; 1 frying pan, 2s. 6d. ....	0	7	6	0	2	0
Dog-irons, gridiron, and knife-board.....				0	3	9
Pokers, shovels and tongs, 5s.; salt box, 1s.....				0	6	0
7 salt cellars, 1s. 2d .....				0	1	2
6 Testaments, at 1s.; 12 Bibles, at 2s. 6d.; 12 Prayer Books, at 1s. ....	2	8	0			
12 spelling books, at 3d.; 13 Catholic Testaments, at 1s. ....	0	15	9			
12 Catholic Prayer Books, at 1s.....	0	12	0			

KITCHEN FURNITURE, &c.

8 large and small iron boilers .....	25	0	0	1	10	0
23 cast iron stoves, £23; 13 tin do, 32s. 6d.....	23	0	0	1	12	6
500 lengths stove pipes, at 6d.; 7 pokers, 3s. 6d.....				12	13	6
3 coffee mills, £1 15s.; 1 crank, beam and scales, 90s. ....	1	15	0	4	10	0
1 pair small scales and weights. ....	2	10	0			
5 axes, 15s.; 1 shovel and poker, 5s.; 8 ash pans, 16s .....				1	16	0
6 shovels, 6s.; 2 saucepans, 4s.; 1 metal pot, 3s. 6d.....	0	13	6			
1 coffee roaster, 1s. 3d.; 3 brass hand bells, at 5s .....	0	15	0	0	1	3
30 large stove-pipe hooks.....				1	10	0
3 knives, 3s.; 1 steel, 8s. 6d.; meat fork, 1s .....	0	12	6			
38 dozen knives, at 1s. 6d.; 21 dozen forks, at 1s. 6d.; 455 spoons, at 1d .....	6	6	5			
614 tin cups, at 2d.; 750 dishes, at 3d.; 541 plates, at 2d. ....				19	0	0
23 sconces, at 6d.; 24 lamps, at 1s.; 17 dippers, at 6d.....				2	19	0
7 wash basons, at 1s.; 2 cullenders, at 1s. 6d.; 2 sets measures, 8s.....				0	18	0
Mesh, 1s. 3d.; 3 funnels, 2s. 6d.; 21 scrapers, at 9d .....				0	19	6
7 brick saws, at 4s.; 2 tin lanterns, at 1s. 3d.....	1	8	0	0	2	6
5 oil cans, 10s.; 14 globe lamps, at 4s .....				3	6	0
68 potatoe nets, at 3d.; 94 tables, at 2s. 6d. ....				12	12	0
2 chairs, 4s.; 36 stools, at 1s. 6d.; 1 desk, 25s .....				4	3	0
15 trays, at 1s. 6d.; 4 meat trays, at 1s. 6d.....				1	8	6
3 bins, at 23s.; 31 tubs, at 2s. 6d.....				7	12	6
45 coffee buckets, at 1s. 3d.; 39 soup do, at 1s. 6d. ....				5	14	0
2 baths, at 20s.; 2 barber's cases, at 2s. 6d.....				2	5	0
24 barber's chairs, at 1s. 6d.; 23 shaving cups, at 2d.....				1	19	10
25 tin cups, at 2d.; 24 shaving brushes, at 3d.....				0	10	2
25 razor strops, at 4d.; 10 pairs scissors, at 1s.....	0	10	0	0	8	4
Barber's clothes, bones, and combs .....	0	9	9	0	1	0
Bucket, clothes brush, and framed rules. ....	0	1	0	0	5	6
120 salt stands, at 1d.; 14 water puncheons, at 3s .....				2	12	0
1 leach tub, 7s. 6d.; 3 sets steps, at 7s. 6d.; inkstands, 1s. ....	0	1	0	1	10	0
1 measuring stand, 3s.; 11 white-wash and scouring brushes, 22s. ....	1	2	0	0	5	0
4 stove brushes, 4s.; 1 set triangles, 7s. 6d .....	0	4	0	0	7	6
9 punishment boxes, at 10s.; 4 measures, 8s. ....				4	19	0
<i>Carried forward</i> .....	£1545	2	2	2737	3	10

## RETURN OF THE PROPERTY OF THE PROVINCE, &amp;c.—(Continued.)

	PURCHASED.			PENITENTIARY.		
	£	s.	d.	£	s.	d.
<b>KITCHEN FURNITURE, &amp;c.—(Continued.)</b>						
<i>Brought forward</i> .....	1545	2	2	2737	3	10
4 small cupboards, at 2s.; 1 meat bench, 2s. 6d.....				0	10	6
4 dustpans, 2s.; 6 clothes pounders, at 6d.....				0	5	0
500 small brooms, at 1d.; 130 large, at 3d.....				3	14	2
587 cell wash tubs, at 6d.; 923 stools and forms, at 1s.....				60	16	6
33 forms, at 2s.....				3	6	0
512 night buckets, at 1s. 6d.; 576 piggins, at 1s.....				67	4	0
20 pairs spectacles, at 1s.; 32 razors, at 1s.....	2	12	0			
6 mats, at 2s.; 6 baskets, at 1s.; 44 barrels, at 6d.....				2	0	0
4 wheel-barrow, at 5s.; 7 stovepans, at 5s.....				2	15	0
5 wood boxes, at 2s. 6d.; 1 mangle, £3 10s.....				4	2	6
3 screens, 7s. 6d.; 46 clothes lines, 2s.....				1	10	6
250 clothes pins, at 1d.....				1	0	10
<b>BEDDING.</b>						
23 iron bedsteads, at 40s.....				46	0	0
505 bed boards, at 2s.; 15 hair mattresses, at 20s.....				65	10	0
595 bed ticks, at 2s.; 914 blankets, at 3s. 9d.....	171	7	6	53	10	0
540 bed rugs, at 1s.; 487 pillow cases, at 3d.....	27	0	0	6	1	9
294 pillow slips, at 3d.; 9 pairs sheets, at 3s.....				5	0	6
878 towels, at 3d.....				10	19	6
72 rack combs, at 3d.....	0	18	0			
72 fine combs, at 5d.....	1	10	0			
<b>CLOTHING.</b>						
488 cloth jackets, at 5s.; 521 pantaloons, at 3s. 6d.....				200	13	6
500 pairs flannel drawers, at 2s.; 500 cloth caps, at 1s.....				75	0	0
500 pairs socks, at 3d.; 60 pairs mittens, at 3d.....				7	0	0
500 suits linen clothing, at 5s.; 460 vests, at 2s.....				171	0	0
540 pairs braces, at 3d.; 830 flannel shirts, at 2s. 6d.....				110	10	0
1019 pairs socks, at 1d.; 809 handkerchiefs, at 2d.....				10	19	9
612 pairs shoes, at 5s.; 561 pairs slippers, at 2s.....				209	2	0
425 aprons, at 5d.; 90 leather belts, at 3d.....				9	19	7
<b>BOOKS, &amp;c.</b>						
380 Bibles, at 3s.; 1 pulpit do, 25s.....	58	5	0			
13 Testaments, at 1s.; 293 Prayer Books, at 1s.....	15	6	0			
120 R. C. Testaments, at 1s.; 185 R. C. Prayer Books, at 1s.....	15	5	0			
Pulpit and stool.....				2	1	0
Chaplain's Library and books of Registry.....	25	0	0			
Roman Catholic do.....	20	0	0			
Value of Roman Catholic articles of devotion.....	20	0	0			
Chaplain's room furniture.....				1	5	0
Bookbinder's press and materials.....	1	10	0	4	10	0
<b>ROPE ACCOUNT.</b>						
1440 lbs. hemp, at 2½d.....	15	0	0			
1966 lbs. rope, at 6d.; 99 lbs. packing, at 4d.....				50	16	0
50 lbs. lead lines, at 10d.....				2	1	8
49½ dozen 6 and 9 thread bed cords.....				45	17	10
46½ dozen 6 and 9 clothes lines.....				36	9	6
Value of machinery, including horse-power.....	39	0	0	12	10	0
<b>HOSPITAL.</b>						
Medicines, bottles, jars, &c.....	13	4	2			
Surgical instruments and other Hospital requisites.....	9	1	3			
Books of Registry, &c.....	7	10	0			
<b>STABLE.</b>						
4 horses, £24; 5 yoke oxen, £62 10s.....	86	10	0			
1 cow, £4; 1 cart, £2 10s.....	4	0	0	2	10	0
1 cutter, £3 10s.; 1 sleigh, £2 10s.....				6	0	0
1 light waggon, £10; 1 carriage whip, 3s.....	0	3	0	10	0	0
1 strap and 6 open bells and buffalo robes (4).....	3	10	0			
4 sets cart harness.....				2	10	0
1 set double and 1 set single carriage harness.....	6	0	0			
2 carriages, £10 and £6.....				16	0	0
5 horse covers, 30s.; 4 sursingels and 5 head stalls, 7s.....				1	17	0
<i>Carried over</i> .....	£2087	14	1	£4060	3	5



## RETURN OF THE PROPERTY OF THE PROVINCE, &amp;c.—(Concluded.)

	PURCHASED.			PENITENTIARY.		
	£	s.	d.	£	s.	d.
<b>STABLE.—(Concluded.)</b>						
<i>Brought over</i> .....	2087	14	1	4060	3	5
Brushes and curry combs, &c. ....	0	7	6			
1 saddle, 15s.; 1 jack, 3s. ....	0	15	0	0	3	0
2 carriage covers, 10s.; 2 sets pole shafts, 5s. ....				0	15	0
2 wheelbarrows, 5s.; 1 water barrel, 2s. 6d. ....				0	7	6
3 shovels, 4s. 6d.; 6 pitchforks, 6s. ....	0	4	6	0	6	0
1 hearse, £5.; 13 ox tubs, at 1s. 6d. ....				5	19	6
10 buckets, at 1s. 6d.; 6 ox yokes, at 4s. ....				1	19	0
1 apron. ....	0	5	0			
150 bushels oats, at 1s. 9d. ....	13	2	6			
<b>ARMORY.</b>						
1 horse pistol, 5s.; 2 small pistols, 5s. ....	0	10	0			
20 carbines, £30.; 33 pistols, £30. ....	60	0	0			
1 box gun caps, 3s.; cupboard and leather cases, £1. ....	0	3	0	1	0	0
<b>WARDEN'S OFFICE.</b>						
1 pair fire-irons and fender, £4 10s.; 1 walnut desk, 70s. ....	2	0	0	6	0	0
1 walnut table and cover, £3.; 2 painted cupboards, £5. ....				8	0	0
1 carpet, 15s.; 12 chairs, £4 2s.; 1 telescope, £3. ....	3	0	0	4	17	0
1 tin case and basket, 6s.; 2 pairs brass candlesticks, 15s. ....	0	15	0	0	6	0
<b>CLERK'S OFFICE.</b>						
1 settee, 7s. 6d.; 1 painted table, 5s.; 6 chairs, 15s. ....				1	7	6
1 pair brass candlesticks and 2 sconces. ....	0	7	6			
1 tin case, 3s. 6d.; 1 fender, 10s. ....	0	13	6			
1 walnut desk. ....				8	0	0
1 painted desk. ....				1	0	0
1 painted cupboard. ....				6	0	0
1 deal table and 2 boxes. ....				0	5	0
Fire and dog-irons. ....				0	7	6
Minute, letter, and account books. ....	25	0	0			
Stationery. ....	5	0	0			
<b>SUNDRIES.</b>						
2 large bells. ....				10	0	0
1 do do. ....				45	0	0
1 portable fire engine. ....	2	10	0			
1 large engine. ....				75	0	0
1 smaller engine, £40.; 1 do, £15. ....				55	0	0
1 smaller engine, £12 10s.; 1 do, £20. ....				32	10	0
2 detector clocks, £10 10s.; 1 hall clock, £2 10s. ....	10	10	0	2	10	0
6 hall chairs, £2 5s.; 1 meat safe, 5s.; 2 garden spades, 6s. ....	0	6	0	2	10	0
18 pairs handcuffs, at 2s.; 4 padlocks, 4s.; 45 staves, at 1s. ....	0	4	0	4	1	0
1 hall lamp, 15s.; 2 rattles, 5s. ....	0	15	0	0	5	0
<b>BUILDINGS.</b>						
Value of stone Cottage. ....				300	0	0
do Lime kiln. ....				20	0	0
do stone Sheds. ....				10	0	0
do Barrack buildings. ....	100	0	0			
do Land. ....	1000	0	0			
	£3314	2	7	4663	12	5

PROVINCIAL PENITENTIARY,  
1st October, 1848.

I have examined the various items included in this Return of the Property on hand at the Provincial Penitentiary, and certify that the valuation has been made as near as possible to the actual quality and condition of the various articles included therein.

D. Æ. MACDONELL,  
Warden, Provincial Penitentiary.

PROVINCIAL PENITENTIARY,  
March 27, 1849.

E.

STATEMENT Shewing the MANNER in which the CONVICTS were EMPLOYED at the PROVINCIAL PENITENTIARY, 30th September, 1848.

Stone Cutters, Masons, &c.....	112	<i>Brought up</i> .....	203
Carpenters .....	36	Quarrymen .....	7
Coopers.....	1	Bookbinder.....	1
Painters.....	2	Seamstresses.....	28
Blacksmiths .....	27	Cook .....	1
Tinsmiths.....	1	Barber .....	1
Plumbers.....	8	Labourers.....	182
Tailors.....	10	Sick.....	50
Shoemakers .....	6	Solitary confinement .....	1
<i>Carried up</i> .....	203	<i>In all</i> .....	454

PROVINCIAL PENITENTIARY,  
1st October, 1848.

F.

GENERAL ACCOUNT of DISBURSEMENTS at the PENITENTIARY during the year ending 30th September, 1848.

DATE.	No.	TO WHOM PAID.	ON WHAT ACCOUNT.	AMOUNT.		
				£	s.	d.
October 1, 1847 .....	1	George Marriott .....	Sheet iron .....	5	5	0
do 4, do .....	2	John Keef .....	Travelling allowance .....	0	15	0
do do do .....	3	J. B. Harris.....	do do .....	0	15	0
do 6, do .....	4	R. Secord .....	do do .....	0	17	6
do 7, do .....	5	John Dixon.....	do do .....	0	17	6
do do do .....	6	H. Sinclair .....	do do .....	0	17	6
do do do .....	7	Thomas Bleecher .....	do do .....	0	10	0
do do do .....	8	N. Palmer .....	Medicines.....	80	9	11
do do do .....	9	S. Pollard .....	Tools .....	38	13	8
do do do .....	10	S. E. Mackechnie .....	Woollen cloth.....	187	0	0
do 9, do .....	11	Sarah Gillies.....	Travelling allowance .....	0	15	0
do 11, do .....	12	Patrick Conlan .....	Quarrying .....	94	14	9
do do do .....	13	John Dorstye .....	Travelling allowance .....	0	10	0
do do do .....	14	Thomas Johnson .....	Scaffold poles .....	16	6	3
do do do .....	15	John M'Michael .....	Socks .....	2	11	0
do 22, do .....	16	William Johnson .....	Attending lime kiln .....	1	16	0
do do do .....	17	Thomas Cavannagh .....	Travelling allowance .....	0	15	0
do do do .....	18	Catherine Sexton .....	do do .....	0	15	0
do do do .....	19	Julia Dechamp .....	do do .....	0	15	0
do 23, do .....	20	Catherine O'Neil .....	do do .....	0	15	0
do do do .....	21	Ann Crawley .....	do do .....	0	15	0
do do do .....	22	Amelia M'Naught.....	do do .....	0	15	0
do do do .....	23	Patrick Kearney.....	do do .....	0	15	0
do do do .....	24	George Smith.....	do do .....	0	15	0
do do do .....	25	Michael Conlan .....	do do .....	0	10	0
do do do .....	26	Richard M'Keaner .....	do do .....	0	15	0
do do do .....	27	Frederick Brennan.....	do do .....	0	15	0
do do do .....	28	John Jones .....	do do .....	0	15	0
do 27, do .....	29	J. E. Dissett .....	Building stone.....	7	13	7
do do do .....	30	Phebe Martin .....	Nursing .....	1	15	0
do do do .....	31	William Millar .....	Travelling allowance .....	1	0	0
do do do .....	32	F. Paul .....	do .....	1	0	0
do do do .....	33	James Horan .....	do .....	0	15	0
do do do .....	34	Sarah Molloy .....	do .....	0	12	6
do do do .....	35	William Thomas .....	do .....	0	15	0
do 29, do .....	36	D. and J. Sadlier .....	Library books.....	20	5	2
do 30, do .....	37	James Wiles.....	Travelling allowance .....	0	15	0
do do do .....	38	W. H. M'Cormick.....	do do .....	0	15	0
		<i>Carried over</i> .....		£476	15	4

Appendix  
(T.T.T.T.)

GENERAL ACCOUNT OF DISBURSEMENTS, &c.—(Continued.)

Appendix  
(T.T.T.T.)

4th May.

4th May.

DATE.	No.	TO WHOM PAID.	ON WHAT ACCOUNT.	AMOUNT.		
				£	s.	d.
			<i>Brought over</i> .....	476	15	4
October	30, 1847	George Ramsden	Travelling allowance	0	15	0
do	do do	Ann Law	do do	0	15	0
do	do do	Patrick Carl	do do	0	15	0
do	do do	Julia Cox	Wages	6	7	4
do	do do	Theobald Vincent	Travelling allowance	0	12	6
November	7, do	Edward Vaughan	Wages	0	10	6
do	do do	Adam Menard	Travelling allowance	0	17	6
do	do do	M. Wheelan	do do	0	10	0
do	do do	William Day	do do	0	10	0
do	do do	M. Wheelan	do do	0	10	0
do	do do	Mary Baldwin	Wages	2	1	1
do	do do	E. Smith	Hospital	7	7	3
do	12, do	Jason Brown	Travelling allowance	0	15	0
do	do do	J. H. Freeland	do do	0	10	0
do	do do	Richard Nursey	do expenses	3	16	3
do	do do	John Ovens	Forage	213	18	0
do	20, do	William Armstrong	Travelling allowance	0	10	0
do	do do	Richard Robinson	Wages	8	2	9
do	do do	Matthew Clark	Laths	16	17	3
do	do do	John Watkins & Co	Hardware	500	0	0
do	24, do	J. D. Bryce & Co	Clothing	138	0	6
do	do do	William Ford	Leather	165	10	11
December	2, do	William Johnson	Travelling allowance	0	12	6
do	do do	Hugh Bryson	do do	0	12	6
do	do do	Custom House	Duty	1	15	1
do	do do	William Johnston	Lime kiln	1	0	0
do	do do	John Young	Travelling allowance	1	0	0
do	do do	John Mills	Wages	1	15	0
do	do do	James Fraser	Candles, &c	18	9	8
do	do do	Ellen M'Garvey	Nursery	4	0	0
do	do do	Thomas Overend	Lumber	124	12	7
January	4, 1848	James Barry	Digging grave	0	5	0
do	do do	John Finlayson	Travelling allowance	0	15	0
do	do do	Eliz. Smith	Hospital	10	3	8
do	do do	John Marrett & Son	Flour	1	12	6
do	do do	Martin Healy	Travelling allowance	0	15	0
do	do do	Joseph Kane	do do	0	12	6
do	do do	F. Lastarge	Clothing	2	0	0
do	12, do	Edward Boyle	Coal	233	6	10
do	do do	Armour & Co	Stationery	12	10	0
do	do do	Thomas M'Millan	Travelling allowance	0	10	0
do	do do	Peter Williams	do do	0	12	6
do	do do	Allan Macpherson	Lumber	261	3	7
do	do do	John Solway	Laying sheet iron	22	18	9
do	do do	D. Christie	Groceries	11	12	4
February	7, do	Court Culp	Travelling allowance	0	15	0
do	do do	Patrick Colan	Quarrying	206	3	5
do	do do	George Noble	Travelling allowance	0	15	0
do	do do	E. T. Barker & Co	Printing, &c	1	5	10
do	do do	William Wilson & Co	Discount	3	1	2
do	do do	James Careless	Books	12	17	6
do	do do	William Jordan	Travelling allowance	0	10	0
do	do do	News Office	Advertising	1	0	2
do	do do	Eliz. Smith	Wages	0	12	0
do	do do	James Gleeson	do	44	18	2
do	do do	George Wright	Travelling allowance	0	10	0
do	do do	Man. Coleman	do do	0	12	6
do	do do	Timothy Wilson	do do	0	12	6
do	do do	Joseph Lindsay	do do	0	12	6
do	do do	John Warden	Charcoal	6	4	6
do	do do	Church Depository	Books	0	15	0
do	do do	R. Smith	Charcoal	22	7	11
do	do do	John Leonard	do	5	13	3
do	do do	E. R. Filree	Books	4	16	0
do	do do	Ella M'Garvey	Nursery	6	17	6
do	do do	Patrick Conlan	Quarrying	130	5	4
do	do do	John Bryant	Lime kiln	1	6	0
do	do do	Argus Office	Advertising	5	2	9
do	do do	C. H. Linter	Digging grave	0	7	6
do	do do	William Jones	Travelling allowance	0	12	6
April	3, do	William Brown	do do	0	15	0
do	do do	W. F. Jones	do do	0	15	0
do	do do	John Dyer	do do	0	15	0
do	do do	Mary Macheaux	do do	0	10	0
do	do do	John Kelly	do do	0	10	0
do	do do	Robert Serogger	do do	0	10	0
do	do do	James Wilson	do do	0	10	0
do	do do	Edward Jackson	do do	0	10	0
do	do do	Herald Office	Advertising	6	14	9
do	do do	Eliz. Smith	Hospital	5	16	8
			<i>Carried forward</i> .....	£2735	4	5

Appendix  
T.T.T.T.)

GENERAL ACCOUNT OF DISBURSEMENTS, &c.—(Continued.)

Appendix  
(T.T.T.T.)

1st May.

4th May.

DATE.	No.	TO WHOM PAID.	ON WHAT ACCOUNT.	AMOUNT.		
				£	s.	d.
			<i>Brought forward</i> .....	2735	4	5
April 6, 1848	119	Joseph Smith	Travelling allowance	0	12	6
do 15, do	120	Sophia Keough & Co.	Nursing	2	13	1
do do do	121	Hendry & Co.	Rations	2043	8	11
do do do	122	Thomas Henry & Co.	Oil	107	13	5
do do do	123	Hendry & Co.	Interest	28	8	6
do 16, do	124	Charles Monnet	Travelling allowance	0	15	0
do 17, do	125	Martin Keely	Wages	44	16	9
do do do	126	James M'Carthy	do	46	1	0
do 18, do	127	James Henry	Travelling allowance	0	12	6
do 19, do	128	Lim. Ferries	Charcoal	31	14	5
do do do	129	Ellen M'Garvey	Nursing	1	1	3
do do do	130	Edward M'Connell	Charcoal	15	2	0
do 21, do	131	H. Westfield	Travelling allowance	0	17	6
do do do	132	J. R. Thompson	do do	0	17	6
do 22, do	133	J. B. Nantell	do do	0	15	0
do 24, do	134	Edward Revel	Sand	94	12	6
do do do	135	John Hicks	Travelling allowance	0	15	0
do 25, do	136	John M'Kanna	do do	0	10	0
do do do	137	George Willax	do do	0	10	0
do 26, do	138	A. Sero	do do	0	15	0
do do do	139	John Ovens	Forge	343	12	0
do do do	140	Johnson Day	Bricks	443	18	8
do 27, do	141	William Jones	Travelling allowance	1	0	0
do do do	142	D. Beatie	do do	1	0	0
do do do	143	John Beatie	do do	1	0	0
do 28, do	144	Patrick Clark	do do	0	12	6
do do do	145	John Kelro	do do	0	12	6
do do do	146	Eliza M'Gill	Soap and Candles	65	8	11
do do do	147	James Cull	Valuation	50	0	0
do 29, do	148	Robert Gaskin	Engine, &c.	12	3	9
May 3, do	149	A. Clark	Travelling allowance	0	15	0
do do do	150	Benoni Chaput	do do	0	15	0
do do do	151	John Bryant	Lime kiln	2	0	0
do do do	152	James Powell	Old copper	38	13	1
do do do	153	N. Palmer	Medicines	35	0	0
do do do	154	C. H. Linter	Digging grave	0	7	6
do 12, do	155	George Morton	Travelling allowance	0	15	0
do 13, do	156	Joel Sturges	Scaffold poles	2	14	0
do 17, do	157	George Hopkins	Travelling allowance	0	10	0
do do do	158	Edward Griffith	do do	0	10	0
do do do	159	Joseph Bruce	Wine, &c.	12	18	3
do 18, do	160	Samuel Smith	Cord wood	8	1	2
do do do	161	Alexander M'Leod	Wages	1	4	6
do 19, do	162	Patrick Conlan	Quarrying	198	14	11
do 23, do	163	Patrick O'Connor	Wages	5	8	6
do 25, do	164	Patrick Conlan	Quarrying	271	15	9
do 26, do	165	Samuel Lockwood	Charcoal	3	12	0
do do do	166	John Frawley	Travelling allowance	0	15	0
do 27, do	167	Mary Clark	do do	0	15	0
do do do	168	John Watkins & Co.	Hardware	750	0	0
do do do	169	Stephen Jacques	Travelling allowance	0	15	0
do do do	170	Jacob Nichols	do do	0	15	0
do do do	171	James Wilson	do do	0	15	0
do do do	172	Bronson French	do do	0	15	0
do do do	173	James Clinse	do do	0	15	0
do do do	174	William Wilson & Co.	Clothing	200	3	4
do 29, do	175	Patrick Conlan	Quarrying	20	15	0
June 3, do	176	John Bryant	Lime kiln	2	0	0
do 6, do	177	Edward Finlay	Travelling allowance	0	12	6
do do do	178	Thomas M'Hugh	do do	0	15	0
do do do	179	John Finlay	do do	0	12	6
do 9, do	180	P. Wheeler	do do	0	10	0
do do do	181	Eliza Smith	Hospital	4	8	1
do 10, do	182	E. J. Barker	Advertising	5	9	11
do 13, do	183	Patrick Conlan	Quarrying	109	13	8
do 17, do	184	Phil. Southwick	Travelling allowance	0	15	0
do 21, do	185	Thomas Smith	Bran	1	17	9
do 30, do	186	Patrick O'Connor	Wages	8	3	8
do do do	187	Thomas Overerl.	Shingles	1	0	0
July 1, do	188	A. H. Manbray	Travelling allowance	0	15	0
do 3, do	189	H. and C. H. Wester	Lead pipe	12	19	9
do 4, do	190	John Watkins & Co.	Discount	7	11	4
do do do	191	Eliza Quin	Travelling allowance	0	15	0
do do do	192	Eliza Smith	Hospital	2	11	2
do 7, do	193	John Ogle	Travelling allowance	0	15	0
do 10, do	194	M. H. Ryan	do do	0	10	0
do 12, do	195	N. Ayot	do do	0	15	0
do 13, do	196	Macdonald & Co.	Law charges	47	8	11
do do do	197	Herald Office	Advertising	1	8	4
do 15, do	198	B. Clemats	Travelling allowance	0	15	0
			<i>Carried over</i> .....	£7849	5	2

Appendix  
(T.T.T.T.)

GENERAL ACCOUNT OF DISBURSEMENTS, &c.—(Continued.)

Appendix  
(T.T.T.T.)

DATE.		No.	TO WHOM PAID.	ON WHAT ACCOUNT.	AMOUNT.		
					£	s.	d.
				<i>Brought over</i> .....	7849	5	2
July	15, 1848	199	James Brennan .....	Travelling allowance.....	0	15	0
do	do do	200	Ellen Mills.....	do do .....	0	15	0
do	do do	201	John Bryant .....	Lime kiln. ....	1	16	0
do	17, do	202	George Conlan.....	Lumber. ....	148	19	3
do	18, do	203	John Fraser.....	Hardware. ....	90	9	2
do	20, do	204	Ellen M'Garvey.....	Nursing. ....	8	0	0
do	21, do	205	Church Depository.....	Prayer Books .....	0	14	0
do	do do	206	James Fraser .....	Oil. ....	12	8	0
do	24, do	207	M. Asselstine.....	Flannel. ....	150	9	4
do	25, do	208	John Young. ....	Pine wood. ....	15	0	0
do	27, do	209	J. E. Dessitt .....	Building stone. ....	139	1	9
do	29, do	210	Eliz. M'Gill. ....	Candles. ....	17	7	0
do	31, do	211	William Patterson.....	Cordwood. ....	338	15	0
August	2, do	212	John Watkins & Co.....	Hardware. ....	408	4	5
do	8, do	213	William Wilson & Co.....	Clothing .....	134	15	9
do	10, do	214	D. Hendrick. ....	Travelling allowance.....	1	0	0
do	do do	215	F. Duplean.....	do do .....	1	0	0
do	do do	216	C. Lean .....	Quarrying .....	14	1	5
do	do do	217	Patrick O'Conner .....	Wages .....	5	8	6
do	12, do	218	F. Lestarge.....	Sattinet.....	4	15	3
do	do do	219	E. Revell.....	Sand. ....	27	6	8
do	14, do	220	Pli. Chagnon .....	Travelling allowance.....	0	15	0
do	do do	221	James Humpreys. ....	do do .....	0	15	0
do	do do	222	John Quindon. ....	do do .....	0	15	0
do	do do	223	Terence M'Garvey. ....	Wages .....	74	15	11
do	26, do	224	Est. George Strachan.....	Castings .....	193	0	0
do	30, do	225	J. D. Bryco & Co.....	Clothing .....	152	5	0
do	do do	226	Perce Lamage.....	Travelling allowance.....	1	0	0
do	do do	227	William Fadden.....	do do .....	0	15	0
do	do do	228	C. H. Linter. ....	Gigging grave. ....	0	7	6
do	do do	229	Eliz. Smith.....	Hospital .....	2	4	7
September	2, do	230	Alexander Williams .....	Travelling allowance.....	0	12	6
do	11, do	231	George Hay. ....	do do .....	1	0	0
do	15, do	232	C. H. Linter .....	Digging grave. ....	0	15	0
do	do do	233	John Smith.....	Travelling allowance.....	0	15	0
do	do do	234	John Robinson. ....	do do .....	0	15	0
do	do do	235	Law. White.....	do do .....	0	17	6
do	do do	236	John Woodhall .....	do do .....	0	17	6
do	do do	237	Sol. Crow. ....	do do .....	0	17	6
do	do do	238	James Chipman.....	do do .....	0	17	6
do	do do	239	Law. Burwell.....	do do .....	0	17	6
do	20, do	240	Ellen M'Garvey.....	Nursing. ....	2	0	0
do	do do	441	Eliz. Smith.....	Hospital .....	2	11	8
do	do do	242	James Skinner. ....	Tools .....	2	3	4
do	do do	243	James Skinner. ....	Wages .....	112	12	2
do	23, do	244	John Bryant. ....	Lime kiln. ....	2	0	0
do	do do	245	John Dyes.....	Travelling allowance.....	0	10	0
do	do do	246	Thersey Jones.....	do do .....	0	12	6
do	do do	247	J. E. Dessett .....	Cutting and drawing wood. ....	15	11	3
do	29, do	248	Jacques Cadeaux. ....	Travelling allowance.....	0	15	0
do	do do	249	Wash. Kane. ....	do do .....	0	15	0
do	do do	250	William Pilston .....	do do .....	0	15	0
do	do do	251	Dan. M'Carthy .....	do do .....	0	15	0
do	do do	252	Commercial Bank .....	Interest. ....	4	1	3
do	do do	253	Contingent Account .....	Postage, &c.....	8	19	11
do	do do	254	A. & F. Foster .....	Rations. ....	1458	17	9
do	do do	255	Oliphant & Co. ....	Forage .....	190	7	0
do	do do	256	H. Smith. ....	Salary .....	500	0	0
do	do do	257	F. Bickerton. ....	do .....	150	0	0
do	do do	258	Thomas Costen .....	do .....	175	0	0
do	do do	259	The Surgeon .....	do .....	185	19	11
do	do do	260	do .....	do .....	80	19	5
do	do do	261	do .....	do .....	33	6	8
do	do do	262	Rev. Mr. Rogers. ....	do .....	125	0	0
do	do do	263	Rev. Mr. M'Donell .....	do .....	125	0	0
do	do do	264	Edward Horsey .....	do .....	100	0	0
do	do do	265	do do .....	do .....	96	12	7
do	do do	266	Mary Pollard .....	do .....	72	18	4
do	do do	267	Eliz. Chase.....	do .....	43	19	3
do	do do	268	William Jones.....	do .....	112	10	0
do	do do	269	Hugh Menard.....	do .....	108	5	0
do	do do	270	W. F. Smith .....	Wages .....	97	11	6
do	do do	271	William Smith. ....	do .....	110	15	6
do	do do	272	S. Pollard. ....	do .....	96	14	4
do	do do	273	A. Ballantine .....	do .....	95	16	10
do	do do	274	John Swift.....	do .....	102	4	4
do	do do	275	Mark Harmester.....	do .....	110	15	3
do	do do	276	John Richardson. ....	do .....	111	2	0
do	do do	277	F. Little .....	do .....	108	7	1
do	do do	278	John Matthews .....	do .....	110	9	1
<i>Carried forward</i> .....£					14367	6	7

Appendix  
(T.T.T.T.)

GENERAL ACCOUNT OF DISBURSEMENTS, &c.—(Concluded.)

Appendix  
(T.T.T.T.)

DATE.	No.	To WHOM PAID.	ON WHAT ACCOUNT.	AMOUNT.		
				£	s.	d.
			<i>Brought forward</i> .....	14367	6	7
September 30, 1848 ...	279	John Hooper .....	Wages .....	98	7	0
do do do ...	280	James M'Mahon .....	do .....	36	8	3
do do do ...	281	Henry Grass .....	do .....	37	1	10
do do do ...	282	Richard Gibson .....	do .....	32	18	5
do do do ...	283	S. G. Murray.....	do .....	8	11	10
do do do ...	284	John Watt.....	do .....	63	0	0
do do do ...	285	Edward Bannister .....	do .....	63	19	3
do do do ...	286	Richard Nursey .....	do .....	63	17	6
do do do ...	287	Edward Shortis .....	do .....	63	15	9
do do do ...	288	Thomas Smith .....	do .....	64	1	9
do do do ...	289	Robert Bowers.....	do .....	63	7	0
do do do ...	290	William Martin .....	do .....	62	8	7
do do do ...	291	James Wilson.....	do .....	63	15	9
do do do ...	292	Richard Tyner.....	do .....	63	19	3
do do do ...	293	James Mills .....	do .....	63	17	6
do do do ...	294	George Fee.....	do .....	63	17	6
do do do ...	295	Thomas Herron.....	do .....	63	17	6
do do do ...	296	L. O'Neil .....	do .....	62	2	5
do do do ...	297	George Sexton.....	do .....	62	14	7
do do do ...	298	Thomas Sommerville .....	do .....	63	14	0
do do do ...	299	William Funston .....	do .....	64	1	0
do do do ...	300	John Cooper .....	do .....	63	9	8
do do do ...	301	Edward Crawford .....	do .....	63	8	9
do do do ...	302	William Waldren.....	do .....	63	15	9
do do do ...	303	Joseph Baldwin.....	do .....	63	14	0
do do do ...	304	John Thorp.....	do .....	63	19	3
do do do ...	305	James Kearns.....	do .....	63	12	3
do do do ...	306	William Crawford .....	do .....	64	0	4
do do do ...	307	John Rowe .....	do .....	52	19	7
do do do ...	308	L. Herchmer .....	do .....	35	3	6
do do do ...	309	P. O'Conner .....	do .....	10	13	6
				£ 16141	19	1

PROVINCIAL PENITENTIARY,  
1st October, 1848.

Francis Bickerton, Clerk of the Penitentiary, maketh oath that the foregoing "General Account of Disbursements at the Penitentiary, during the year ending 30th September, 1848," is correct and true in every respect (with the exception of the sum of £178 6s. 6d. overpaid on account of Messrs. Hendry & Blacklock), to the best of his knowledge and belief.

F. BICKERTON.

Sworn before me, at Kingston,  
the 27th day of March, 1849.  
Wm. Wilson, J. P.

Appendix  
(T.T.T.T.)  
4th May

Appendix  
(T.T.T.T.)  
4th May.

61.

GENERAL ACCOUNT OF RECEIPTS AND DISBURSEMENTS at the PROVINCIAL PENITENTIARY, during the year ending 30th September, 1848.

October	1, 1847	To Balance of Cash on hand.....	£	s.	d.	September 30, 1848	By Amount paid for Materials, Salaries, Wages, &c., during the year ending 30th September, 1848, as per Vouchers No. 1 to 309, transmitted herewith.....	£	s.	d.
do	do	To Amount received from the Government.....	1404	18	0	do	do	16141	19	1
do	do	do	15012	1	8	do	do	1700	0	7
do	do	Military Convicts.....	417	9	11					
do	do	Stone Shed.....	217	0	10					
do	do	Shoe Shop.....	211	8	6					
do	do	Blacksmith's Shop.....	183	11	4					
do	do	Carpenter's do.....	190	14	9					
do	do	Tailor's do.....	16	18	9					
do	do	Plumber's do.....	2	3	10					
do	do	Rope Walk.....	5	12	4					
do	do	Bindery.....	2	3	8					
do	do	Matron's Room.....	45	11	9					
do	do	Lime Kiln.....	0	12	4					
do	do	Rent Account.....	40	6	10					
do	do	Sundries.....	15	6	11					
do	do	To proceeds Sale of Old Rags.....	931	11	10					
do	do	do	4	7	11					
do	do	Ox Hide.....	1	3	0					
do	do	Calf.....	0	17	6					
do	do	do	69	9	10					
do	do	2 lots Land.....	£17841	19	8			£17841	19	8

PROVINCIAL PENITENTIARY,  
October 1, 1848.

Francis Bickerton, Clerk of the Penitentiary, maketh oath, that the foregoing "General Account of the Receipts and Disbursements at the Provincial Penitentiary, during the year ending 30th September, 1848," is correct and true in every respect (with the exception of the sum of £178 6s. 6d., over paid on account of Messrs. Hendry & Blacklock,) to the best of his knowledge and belief.

F. BICKERTON.

Sworn before me, at Kingston,  
the 27th day of March, 1849.  
W.M. WILSON, J. P.

## RETURN

TO AN ADDRESS from the Legislative Assembly to His Excellency the Governor General, dated the 19th instant, praying that His Excellency would be pleased to cause to be laid before them, "Copies of all Petitions, letters, and correspondence that may have passed between William Moore Kelly, Esq., late Collector of Customs at the Port of Toronto, and the Executive Government of this Province, since the 14th day of March, 1845, relating to his claims upon it for disbursements made by him in the execution of the duties of his said office as Collector, and of the answers thereto, together with all Reports made by the Attorney General, the Inspector General, or the Deputy Inspector General, to this date, respecting the said claims of Mr. Kelly."

By Command,

J. LESLIE,  
Secretary.Provincial Secretary's Office,  
Montreal, 25th April, 1849.

MONTREAL, 14th April, 1845.

SIR,—I have the honour to state to you, for the information of His Excellency the Governor General, that one year and eight months have now elapsed since I was summarily dismissed from the Collectorship of Toronto.

That I have been since then a constant applicant for a settlement of my accounts, to which end I have been twice at Montreal, and on the 23rd January ultimo, I presented a memorial, (see next page,) to His Excellency the Governor General, for the balance of my commission and contingencies, and have, at a very heavy expense, awaited a reply. As yet I have received none.

I have been informed that the commission claimed by me, amounting to £127 12s. 4d., has been favourably reported upon as a question of law, by Her Majesty's Solicitor General for Canada West; I trust that I may have the advantage thereof. If I don't obtain my contingencies, I will have received about fifty-four pounds to live upon from 6th January to 6th July, 1843, with the responsibility of such a Port. It cannot be possible that equitable consideration is to be denied services, and that my private resources are to be absorbed in the collection of the revenue, without a repayment.

Trusting that you will place this communication immediately before His Excellency the Governor General,

I have the honour to be,

Sir,

Your most obedient humble servant,

(Signed,) WM. MOORE KELLY.

The Hon. D. Daly,  
Provincial Secretary,  
&c., &c., &c.

To His Excellency the Right Honourable Sir Charles Theophilus Metcalfe, Baronet, one of Her Majesty's Most Honourable Privy Council, Governor General of the Provinces of British North America, &amp;c., &amp;c., &amp;c.

The Memorial of William Moore Kelly, late Collector of Her Majesty's Customs at Toronto, Esquire;

HUMBLY SHEWETH:—

That Your Excellency's Memorialist was Collector of the Port of Toronto for fifteen months, ending on the

1st August, 1843, during which period he paid into the Treasury upwards of sixteen thousand pounds.

That by his account current, furnished to the Inspector General's Department on that date, a balance of four hundred and fifty-six pounds twelve shillings and eight pence appears in his favour, consisting of the following items, viz:

Balance of commission due me to this date, having collected from 6th January to the 1st Aug. 1843, £6,201 18s. 8d.	£127	9	4
August 1st. To paid clerk 16 months' salary, from 6th April, 1842, to 6th August, 1843,.....	133	6	8
To paid deputy 6 months' do, from do to 6th October, 1842,.....	40	0	0
To paid deputy 16 months' do, from do to 6th August, 1843,.....	106	13	4
To paid office rent from do to do,.....	26	13	4
To paid for books, stationery, &c.,.....	22	10	0
	£456	12	8

That Memorialist, from the delay which has occurred in the payment to him of this balance, has been and is much embarrassed, and having inquired the cause, finds that a demur is made to its liquidation, upon grounds which he trusts that Your Excellency will be graciously pleased to overrule.

The first item (balance of commission) Memorialist understands is objected to, because he did not hold the office to the completion of the year.

Memorialist humbly begs reference to the Act 7th Will. IV, chap. 25, sec. 2, by which it will appear that every Collector shall be authorized to retain twelve pounds and ten shillings out of every hundred pounds of duties he shall collect, until such duties shall amount to the sum of one thousand pounds, and the sum of five pounds out of every hundred pounds of duties, he shall collect over and above the said sum of one thousand pounds.

Memorialist, from the 6th January to the 1st August, 1843, collected and paid into the Treasury duties amounting to £6,201 18s. 8d., the commission upon which, calculated pursuant to the Act, justifies Your Excellency's Memorialist in the charge of the balance above stated, leaving a surplus collection of £1,701 18s. 8d., for which Memorialist receives no compensation.



Appendix  
(V.V.V.V.)  
7th May.

Memorialist humbly represents that his not having concluded his year as Collector was not his own act, but the will of the Government, without any reference to his convenience, or the ruinous consequences to Your Excellency's Memorialist.

That in relation to the contingencies comprising the remaining items of the balance, Memorialist respectfully refers to the report of Malcolm Cameron, Esquire, upon the contingencies of Memorialist's office, page 61 of his Report as Commissioner of Customs, as follows:

Mr. Kelly pays Mr. Laing, a clerk or book-keeper,.....	£100	0	0
Also a portion of the seizures.			
Mr. Roy, the deputy, and a tide-waiter,	140	0	0
Office rent,.....	20	0	0
	<hr/>		
	£260	0	0

"So that it is self evident that the Collector could not do the business and live, but for the seizures, which are uncertain, and will, if the duty is lowered, be less. The books are very well kept,—the manifests are regularly fyled, with the number of packages, and signed by the captains of vessels."

That it will be evident to Your Excellency, from Mr. Cameron's report as quoted, that it was that gentleman's opinion that these expenses should be borne in some shape upon the revenue, and not by Memorialist. If Mr. Cameron's report and opinions were summarily acted upon, to the manifest injury of Memorialist in one instance, he trusts to Your Excellency's sense of justice, and humanity of character, that Mr. Cameron's report tending to Memorialist's benefit, if not as promptly, may now at least, meet with attention in the other.

Memorialist would further solicit attention to the fact, that it has since been found necessary to afford a staff to his successor at the Port of Toronto, consisting of a surveyor, his clerk, and three tide waiters, chargeable upon the revenue.

That the duties have since increased Memorialist admits, but he doubts not that the Government have provided adequate assistants, and are prepared to add thereto, should the increase of the revenue still further demand it; thus the principle is established, that a staff, where required, is admitted to be chargeable upon the revenue.

Your Excellency's Memorialist has charged for a staff absolutely required to carry on the duties of the Port during his incumbency, and which was considered only as such by the Commissioner, Mr. Cameron, who recommends in his report that the expense should be borne upon the revenue, indirectly, if not absolutely.

"So that it is self evident that the Collector could not do the business and live, but for the seizures, which are uncertain, and will, if the duty is lowered, be less."

That Memorialist humbly prays that Your Excellency will be graciously pleased to direct that the balance, as stated, may be paid to Memorialist, and charged upon the revenue collected for that period.

And, as in duty bound, Memorialist will ever pray.

(Signed,) WILLIAM MOORE KELLY.

Kingston, 27th January, 1845.

INSPECTOR GENERAL'S OFFICE,  
Montreal, 19th March, 1845.

Report of the Inspector General of Accounts to a Committee of the whole of the Honorable the Executive Council.

No. 76.

MAY IT PLEASE YOUR HONOURS,

On the Memorial of William Moore Kelly, Esquire, preferring claims against Government, as late Collector

Appendix  
(V.V.V.V.)  
7th May.

of the Customs of the Port of Toronto, for a balance of commission, and for various contingent expenses incurred by him, from 6th April, 1842, to 1st August, 1843.—amounting to, currency, £456 12s. 8d.

The first item is for balance of commission, £127 9 4

As asserted by Mr. Kelly, to be due to him under his construction of the 2nd section of the Act of Upper Canada, 7 Will. IV, c. 25, which provides, "that every Collector may retain £12 10s. out of every £100 of duties he shall collect, until such duties shall amount to the sum of £1,000, and £5, out of every £100 of duties he shall collect over and above the said sum of £1,000."

The 3rd section provides, "that no Collector shall be authorized to retain a sum exceeding £300, on the amount of duties by him collected in any one year."

Mr. Kelly maintains that as his collections between 6th January and 1st August, 1843, amounted to £6,201 18s. 8d., he was entitled, according to the rates established by the above cited 2nd section of the Act, to the utmost sum allowed in any one year, or..... 300 0 0

He is allowed, in the examination of his accounts the proportion of £300, per annum, for the period from 6th January to 1st August, or..... 172 10 8

And the balance now claimed by Mr. Kelly, of..... 127 9 4 was paid to his successor for the remainder of the year. The whole sum appropriated by law for the commission of the Collector being thus disposed of.

It is understood that the opinion of the Crown Law Officer has been taken on the construction of the clause of the Act in question; a reference thereto is requested. Mr. Kelly was appointed Collector at Toronto on the 6th April, 1842; his predecessor, Mr. Manahan, was allowed £75, for the first quarter of that year, and Mr. Kelly, £225, for the other three quarters.

The remaining items claimed by Mr. Kelly are;—

For salary paid to a clerk, from 6th April, 1842, to 6th August, 1843,.....	133	6	8
For do to a deputy for 6 months, to 6th Oct., 1842,.....	40	0	0
For do to another deputy for 16 months, from 6th April, 1842, to 6th August, 1843,.....	106	13	4
For office rent, paid for the same period,	26	13	4
For books, stationery, &c.....	22	10	0

Total claimed,.....£456 12 8

These items are unauthorized, the Collector being bound by law to provide his own deputies, and no provision is made for office rent, stationery, &c.

It is to be observed that the present Collector of Toronto, Mr. Stanton, on his representation, on the opening of the season of 1844, that in consequence of the great increase of the business of that port, that it was impossible to carry on the duties of his office without further assistance being allowed to him,—under the authority of an approved Report of Council, he was authorized to employ—

Appendix  
(V. V. V. V.)

7th May.

A deputy collector, in addition to the one then provided by himself, at a salary of, £150 per annum  
 A clerk, at 100 "  
 A landing waiter, at 75 "  
 and such other persons as extra landing waiters, not exceeding three at any one time, for the purpose of boarding, examining, and superintending the unloading, &c., of vessels arriving at the port, with an allowance of 5s. for each day so employed.

Mr. Kelly's accounts are balanced by allowing him all authorized charges, including the proportion of the sum of £300, for commission as before noticed. His Memorial is annexed to this report.

(Signed,) JOS. CARY,  
 Dep. Insp. Gen.

MONTREAL, 14th March, 1845.

SIR,—In reply to the query submitted on the case of Mr. Kelly, late Collector for the Port of Toronto, I have the honour to report my opinion as follows:—

The second and third clauses of the Statute of Upper Canada, 7 Will. IV, ch. 25, taken together, appear to me to declare in effect that the emolument to be, for each year's service, allowed to a Collector, shall not exceed £300, and thus to limit the payment to be made out of the public funds for a year's service of a Collector.

Consequently it appears to me that no Collector can be entitled to the full amount of £300, for any period less than a year's service.

It is true that in order to obtain this allowance the Collector is authorized to deduct a percentage on the duties collected by him, at the rate of 12½ per cent on the first £1000, and 5 per cent on the amount of duties subsequently received until the sum retained reaches the limit of £300.

But I do not think that the effect of this mode of payment is to alter the character of the allowance as a remuneration by the year. It appears to me the larger percentage on the first £1000, is authorized in order to secure a reasonable annual allowance to those Collectors at smaller ports, who must attend during the whole year.

A contrary construction must lead to a violation of the spirit of the law, viz., that a year's service as a Collector should only cost the public £300, or to the practical absurdity that a Collector, holding office for a part of the year, and then being removed, might receive the full sum allowed for the year, and leave nothing for his successor during the residue of the year.

Assuming that, at the Port of Toronto, the percentage of the Collector would be £300, I am of opinion Mr. Kelly is entitled to a part of it proportioned to the time he held the office, and no more.

I have the honour to be,  
 (Signed,) WM. H. DRAPER.

The Honble.  
 Inspector General,  
 &c. &c. &c.

SECRETARY'S OFFICE,  
 Montreal, 18th April, 1845.

Sir,—I am commanded by the Governor General to inform you, that His Excellency in Council has had under his consideration your Memorial of the 27th January last, and your letter of the 14th instant, preferring a claim as late Collector of Customs at the Port of Toronto, for a balance of commission, and for various contingent expenses, which you state you incurred from 6th April, 1842, to the 1st August, 1843, amounting to £456 12s. 8d.

Appendix  
(V. V. V. Y.)

7th May.

In reply I am to inform you, that His Excellency in Council is advised that your accounts, as Collector, are balanced by your having been allowed all authorized charges, and he therefore cannot entertain your present application.

I have, &c.  
 (Signed,) D. DALY,  
 Secretary.

W. Moore Kelly, Esquire.

MONTREAL, 19th August, 1845.

SIR,—I have the honour to acknowledge your letter of the 18th April, in reply to my Memorial of the 27th January last, and I have deferred taking further action in relation to the subject matter thereof, in the expectation of receiving a favourable reply to a Memorial I had the honour of placing before His Excellency on the 19th of April last; in the absence of which reply, I again respectfully request that you will move His Excellency to the reconsideration of my claim for contingencies, and at as early a date as may suit His Excellency's convenience.

In allusion to your letter I have to remark that all "authorized charges" were not allowed to me as therein stated, a sum of £127 12s. 4d. being an item of my account which is part of the percentage on my collection, as allowed by the Provincial Act of Parliament, 7th Will. IV, chap. 25; and upon the payment of which to me the official legal opinion of the Solicitor General West has been given favourably.

The books of my office were paid for by me, and transmitted to the Inspector General, pursuant to the commands of His Excellency, per letter of Mr. Assistant Secretary Hopkirk, of 6th October, 1843; it must certainly be conceded to me that payment of their cost is not unjust, but imperative to the ends of justice.

The contingencies claimed by me are conceded in principle under the present arrangements for the collection of Customs throughout the Province, and I humbly submit to His Excellency the Governor General, that under the circumstances of my dismissal, the payment to me of my contingencies, based upon the rules now laid down, may with much propriety be conceded.

I trust, Sir, that His Excellency will consider this application favourably; I am unwilling to appear thus importunate, but I have been deeply injured in mind and circumstances, by the manner in which I have lost my situation, and I am thrown completely on the world thereby, and with a loss of confidence undeserved on my part.

I have the honour, &c.,  
 (Signed,) WM. MOORE KELLY.

The Honourable D. Daly,  
 Provincial Secretary,  
 &c., &c., &c.

CUSTOMS,

MONTREAL, 1st November, 1845.

In the matter of *W. Moore Kelly*, formerly Collector of Toronto.

(Items of Account.)

I have carefully perused the several papers relating to the items in the accounts furnished by Mr. Kelly, not admitted by the Government. The first item is the amount of commission to which he was entitled for his service as Collector of the Port of Toronto, from the 6th January, 1843, to the 1st August same year, during which period, for the proper understanding of the subject, it being a matter of commission, it is necessary to mention that he collected £6201 18s. 8d. Mr. Kelly claims £300.

Appendix  
(V.V.V.V.)

7th May.

This has been objected to, on the grounds of his having served only to 1st August, and £172 10s. 8d. only of the above sum is admitted, being for seven months at the rate of £300 per annum. These different views of the subject probably arise in the one party looking upon the remuneration or allowance as a salary of a certain and fixed amount per annum.

In the absence of any agreement as to salary, commission, and time, the law regulating the position and emoluments of Collectors must be the rule. I have referred with great care to the law relating to this subject, and find by reference to the Acts of Upper Canada that no mention is made of salary, and that the commission or allowance to Collectors was established by the 4th Geo. IV, cap. 11, and the 7th Will IV, cap. 25. The 8th section of the former Act enacting "that every Collector shall be authorized to retain fifty pounds per centum on the amount of duties by him collected until the same amounts to £100 per annum, and no more." The first section of the latter Act repeals the above so far as the same applies to Collectors who shall collect one thousand pounds of duties and upwards in any one year. The collections at Toronto were £1000 and upwards, so that this law did not apply to it. And we have then for our guidance in the matter the Act of Will. IV, cap. 25, only. And the commission or allowance to the Collector of this Port is established and fixed by the second section of the Act in the following words: "That every Collector shall be authorized to retain twelve pounds and ten shillings out of every hundred pounds of duties he shall collect, until such duties shall amount to the sum of one thousand pounds, and the sum of five pounds out of every hundred pounds he shall collect over and above the said sum of one thousand pounds." The amount of this commission to be retained being limited by the next section, "that no Collector of Customs shall be authorized to retain a sum exceeding three hundred pounds on the amount of duties by him collected in each year, anything in this Act contained to the contrary notwithstanding." The operation and result of which, in Mr. Kelly's case, (the Collector in 1843,) would be as follows:—

12½ per cent. on every hundred pounds, until the duties amount to £1000.....	£125	0	0
And 5 per cent. on all sums collected above the £1000, which, on the amount of his collections.....	£6200	0	0
Less the £1000 at 12½ p. c.....	1000	0	0
	£5200	0	0
	at 5 p. c. is	260	0
		0	0
	£385	0	0

But the third section of the Act provides,  
"that no Collector shall be authorized  
"to retain a sum exceeding £300, as  
"the amount of duties collected by  
"him in each year," consequently deduct the excess.....

	85	0	0
	£300	0	0

The former, distinctly, and without reservation of any kind, giving a commission of 12½ per cent. on first £1000 collected, and 5 per cent. on all after, which amount Mr. Kelly, in the words of the Act, "was authorized to retain."

I find no other Act of Upper Canada relating to the subject, and it must be remarked that though no Collector of Customs shall be authorized to retain a sum exceeding three hundred pounds on the amount of duties by him collected in each year, yet

Appendix  
(V.V.V.V.)

7th May.

the law does not provide, assuredly not directly, neither, I respectfully submit, by implication, that Collectors are to serve the year out for this allowance, nor is the circumstance of a Collector giving up his office before the expiration of the year, having retained his full allowance provided for—nor on the other hand, is there any provision for a Collector going out of office before the expiration of the year, having made no collections, and consequently having nothing to retain for himself. And I am of opinion that a Collector going out of office before the expiration of the year, having made no collections, would have no legal claim upon the Government for remuneration; that is to say, if Mr. Kelly had made no collections up to the period of his retirement from office, there existed no fund out of which he could have been paid for his services, from 6th January to 1st August, nor do I think that he would have received one shilling for his services under those circumstances; and it would manifestly be unjust to consider the commission in the light of salary in the latter case, *i. e.* when a Collector goes out of office before the expiration of his year, and pay him *pro rata*, whilst the Government were not in a position to apply the rule in the former case, *i. e.* where a Collector goes out of office before the expiration of the year, not having collected enough money to entitle him to an allowance of his full £300, or *pro rata* for the time served. Such being the case, the sum authorized to be retained cannot be considered as an annual salary, and *pro rata* for periods of the year, the fact being, that Collectors retained the said sum out of their first collections, which, as far as the Port of Toronto was concerned, was earned before the expiration of the year.

It appears that Mr. Kelly's own case upon entering office is considered to form a precedent for paying the Collector *pro rata*, according to the time served. But the analogy, I respectfully submit, is imperfect, too much so, to admit of its being allowed to form a precedent. In the one case (Manahan,) Kelly's predecessor, goes out of office of his own free will, and to suit his own purpose; by reference to his accounts, it will be seen that his collections were £149 15s. 8d. for the year up to the time of his going out of office, which would entitle him, according to law, to £17 7s. 2d.; the papers before me give no explanation of the circumstances under which he received the sum of £75, as stated, but it must, I apprehend, have been a matter of arrangement between consenting parties. If, otherwise, a Collector receiving £75 where he was entitled to £17 only, is, by no means, so likely to raise the question which is now under consideration, as a Collector receiving £172 10s. 8d. only, when claiming £300. Further, Mr. Kelly goes out of office, not like his predecessor, of his own free will, and to suit his own convenience, but against his will, and to his great loss and inconvenience. So that the one (Manahan) receives £75 where he should only have £17, and goes out of office of his own free will and accord, the other (Kelly) receives £172 10s. 8d. where he, in his opinion, should have received £300, and goes out of office against his will; surely there is but little analogy in the two cases. It is to be observed that the 2nd section of the Act fixes the rate of commission, and the 3rd sect. the limitation, which is to the effect that no one Collector can receive more than the sum of £300 in a year; then it may be said if Mr. Kelly serves 6 months and takes £300, what is left for his successor? The reply is that his successor is sure of his £300 for his services for the year commencing on the day he enters office, and so on if other changes took place; the only restriction on the amount of commission being "that no Collector of Customs shall be authorized to retain a sum exceeding three hundred pounds on the amount of duties by him collected in each year."

Again it may be said that according to this rule the Government would pay the sum of £600 for the per-

Appendix  
(V.V.V.V.)

7th May.

formance of the duties of Collector for the Port of Toronto for the period of eighteen months, notwithstanding the restriction. And in truth there is no limit to the amount which shall be paid for the performance of the duty of Collector, nor does the law appear to contemplate any restriction of any nature other than the amount of commission to be received by one Collector in one year; consequently, I can entertain no doubt as to Mr. Kelly's being fully authorized to retain the sum of three hundred pounds, and am of opinion that he is justly entitled to the first item of his account, viz: £127 9s. 4d.

Touching the other items of Mr. Kelly's account, the papers before me state the expenditures to be unauthorized, and further I cannot find any authority under or by which the Collector makes the charges. But as it appears that the books of account were, by order of the Government, delivered into the hands of the Inspector General, and that this delivery was made before the expiration of the year and before the books were used up, I incline to the opinion that as the Government took the books in that state from the officer, he should in fairness be allowed the cost of the same, and respectfully recommend that this item of £22 10s., for books and stationery, be admitted.

The item for office rent, £26 13s. 4d. is, like the preceding item, not only unauthorized, but really inadmissible, inasmuch as it is well understood that this is an expense (under the regulations which then obtained) to be borne by the Collector, in consideration of the fees, then allowed by law to be taken on the entries; further, the expense of an office is the same whether there is an increase in the business of the Port or otherwise, consequently the increase in the business of the Port is not sufficient reason to charge rent of office, and I cannot recommend that this item of the account be admitted.

The remaining three items of the account consist of charges for the services of subordinate officers (clerk and deputy collector,) amounting to the sum of £280, viz: a clerk for 16 months, and deputy for 22 months, which would be at the rate of £100 per annum, for a clerk, and £80 per annum for a deputy; these items of expenditure, are, like the preceding, unauthorized, but differ in character widely from the preceding, inasmuch as their necessity grew out of the increase of the business of the Port, and further the incurring of this expense could result in no pecuniary benefit to the Collector, who, under the then system, had no interest, after he had taken sufficient to pay him his £300 commission, which the sum of £4600 would do; so that the expenditure entered into to endeavour to collect properly the rest of the revenue was solely for the pecuniary advantage of the revenue. And in taking this view of the case, the inquiry should rather be directed to the necessity and propriety of the expenditure, than to the authority under which it was entered upon. On the necessity of the Government bearing the expenditure, Mr. Kelly quotes from the report which contained the several charges against him, to shew that the expenditure was necessary and proper for the Government to bear. And it appears by the papers before me that the necessity of this expenditure was admitted, and further that the propriety of its being borne by the Government, was admitted, for we find Mr. Kelly's successor, Mr. Stanton, applying for authority to make the expenditure, and the Government authorizing him to expend £325 per annum for that purpose, and further giving authority to employ other persons as landing waiters, as required, not exceeding three at any time, at the rate of 5s. per diem: all which was done.

When this is considered, it is clear that the error committed by Mr. Kelly was omitting to procure the authority, but in my humble opinion his error would have been of a far more serious character, had he also

Appendix  
(V.V.V.V.)

7th May.

omitted to obtain the assistance of these subordinate officers, and suffered the revenue to be lost in consequence of such omission, and I hardly think that the want of authority to do what all parties appear to agree was so very necessary to be done for the safety of the revenue, would have been received as sufficient excuse for neglecting it. It may be said that, sanctioning expenditures of this nature may be considered as a precedent, and lead to abuses in the Department, but I think there are not grounds for such apprehensions in the present effective and systematic state of the Department; and further it must be borne in mind, that it would always be incumbent upon an officer to justify and shew the necessity of the expenditure, for the benefit of the public service, and if he does that satisfactorily, surely he would be supported in it. Under which circumstances, appearing as it does to me for the above reasons, that though the expenditure of £280 for the services of subordinate officers was unauthorized, nevertheless the same being necessary for the safety of the revenue, and having been made to its advantage, I think it should be borne by the country, and respectfully recommend that His Excellency may be pleased to cause this item of account to be admitted.

(Signed,) J. W. DUNSCOMB,  
Com. of Customs.

SECRETARY'S OFFICE,  
Montreal, 21st November, 1845.

SIR,—I am commanded by the Governor General to inform you, that His Excellency in Council has had under consideration your letter of the 20th August last, renewing your claims against the Government, as late Collector of Customs at the Port of Toronto, for a balance of commission, and for various contingent expenses, amounting to £456 12s. 3d.

His Excellency, having again taken the subject into his consideration, is advised to adhere to the decision he has already arrived at, namely, that the state of the law, at the time you entered and continued in office, does not bear you out in your claim and charges, and he therefore cannot grant your application.

With reference, however, to your claim for payment of the sum of £22 10s. for books and stationery, I am to state that, as it appears that the books of accounts were delivered by you to the Inspector General, by order of the Government, before the expiration of the year, and before the books were finished, His Excellency has been pleased to direct the amount in question to be paid to you, and a warrant has accordingly issued in your favour for that sum, which you can receive on application at the office of the Hon. the Executive Council.

I have, &c.

(Signed,) D. DALY,  
Secretary.

Wm. Moore Kelly, Esq.

MONTREAL, 7th September, 1847.

SIR,—I have the honour to refer you to my letter of the 17th ultimo, enclosing a Petition to His Excellency the Governor General, for the contingencies paid by me on account of the public service during my incumbency of the office of Collector of Her Majesty's Customs at the Port of Toronto, and for the balance of commission legally due me.

Under the Act 7 William IV. cap. 25, it is provided.

II. "And be it further enacted by the authority aforesaid, That every Collector shall be authorized to retain twelve pounds and ten shillings out of every hundred pounds of duties he shall collect until

Appendix  
(V.V.V.V.)

7th May.

“such duties shall amount to the sum of one thousand pounds, and the sum of five pounds out of every hundred pounds of duties he shall collect over and above the said sum of one thousand pounds.”

III. “Provided always and be it further enacted by the authority aforesaid, That no Collector of Customs shall be authorized to retain a sum exceeding three hundred pounds on the amount of duties by him collected in each year, any thing in this Act contained to the contrary notwithstanding.”

It appears that for the first one thousand pounds collected, the Collector can retain £125, and for every succeeding hundred, 5 per cent until the percentage amounts to £300, and then the commission ceases. It is clear that the remuneration of a Collector is a commission, from the fact that if a Collector be in office for a month, or even 12 months, and collects nothing, he receives nothing. From the 6th January to 1st August I collected and paid into the Treasury £6,201 18s. 8d. I have received only £172 10s. 8d, whereas, according to the above Act, I should have had £300. The question I am desirous of having decided by His Excellency in Council now, is, am I legally entitled to the difference between £172 10s. 8d. and £300, amounting to £127 9s. 4d.?

I have the honour, &c.,

(Signed,) WILLIAM MOORE KELLY.

The Honourable D. Daly,  
Provincial Secy.  
&c., &c., &c.

*The Right Honourable The Earl of Elgin and Kincardine, Governor General of British North America, &c. &c. &c.*

The Petition of William Moore Kelly, late Collector of Her Majesty's Customs at the Port of Toronto,

HUMBLY SHEWETH:

That on the 6th April, 1842, Your Petitioner was appointed Collector of Customs at the Port of Toronto.

That on the 31st July, 1843, Your Petitioner was summarily dismissed from the said office, without having received the slightest intimation that any charges had been preferred against him, or without having been afforded the justice of an investigation and inquiry into said charges.

That Your Petitioner, being conscious of integrity and efficiency to the discharge of his office, did not calculate upon being dismissed from it, or, in the contingency of his removal being deemed expedient, he conceived that he would at least be allowed the benefit of Lord Glenelg's despatch to Sir Francis Bond Head, dated 5th April, 1837, in which His Lordship states “that he was not aware of so much as a single instance in which a public officer had been dismissed, as a punishment and on the ground of misconduct, without the most explicit disclosures to him of the circumstances upon which his dismissal was grounded;” nevertheless, in direct contradiction to this despatch, and in opposition to every principle of British practice, the first intimation received by Your Petitioner that any charges had been preferred against him, was conveyed in the following letter:

SECRETARY'S OFFICE,  
KINGSTON, 31st July. 1843.

SIR,—I have the honour, by command of the Governor General, to acquaint you that His Excellency has had under his consideration a Report of Malcolm Cameron, Esquire, Commissioner of Inquiry, on the manner in which the duties of your office as Collector of Customs

at the Port of Toronto have been conducted, and that His Excellency regrets to find that the irregularities have been of so grave a character, as to render it incompatible, with a due regard to the public interest, to permit you to continue to hold the office.

I am therefore to acquaint you that His Excellency has been pleased to remove you from the said office, and that you are discharged from hereafter performing its duties.

I am Sir, &c.,

(Signed,)

S. B. HARRISON.

Wm. M. Kelly, Esq.,  
Collector of Customs,  
Toronto.

That Your Petitioner, having obtained a copy of the Report, waited upon His Excellency the late Lord Metcalfe, and represented to His Lordship the great injustice which had been entailed on Your Petitioner by this summary dismissal from his office, without inquiry or investigation, and on the strength of a Report false in every material point. His Excellency evinced considerable surprise when the falsity of the Report was brought in question, and assured Your Petitioner that an investigation should be set on foot, and in the event of the truth of Your Petitioner's statement being made evident, the injustice done should forthwith be remedied.

Your Petitioner accordingly drew up a reply to the charges preferred against him; subsequently the reply to the charges, as drawn up by Your Petitioner, was, by command of His Excellency the Governor General, referred to the Inspector General for his Report thereon; he however objected to comply with His Excellency's instructions, until Your Petitioner should have delivered up his books; this obstacle having been removed, the case was again referred to the Inspector General, on the 11th November, 1843, by Mr. Secretary Daly, in obedience to the instructions of His Excellency. The reply of the Inspector General was received on the 13th November, from which Your Petitioner makes the following extract: “In reply to your letter of the 11th instant, I have the honour to state, for the information of His Excellency the Governor General, that I can see no reason whatever for entering into any further investigation with regard to the conduct of Mr. W. M. Kelly, as Collector of Customs at the Port of Toronto.”

In this manner Your Petitioner would not only be deprived of an office of considerable trust and emolument, but the intention of His Excellency the late Lord Metcalfe, to afford him an opportunity of vindicating his character from the grave charges preferred against him, would be defeated.

Shortly afterwards the Inspector General withdrew from the public service, and the case was of necessity referred to the Deputy Inspector General (Mr. Cary,) from whose Report Your Petitioner extracts the grave charges, with the remarks of the Deputy Inspector General thereon.

#### 1st Charge.

“There was no system of doing business in Mr. Kelly's office.”

It may be observed that it appears the same form of keeping the books continued at the time this charge was made that prevailed in 1842, and noticed in terms of approbation in Mr. Cameron's Report, as printed at page 61.

#### 2nd Charge.

“No account was opened in Mr. Kelly's books for harbour dues, and the entries were made in the blotter, ‘several small craft,’ with no names, dates, or particulars.”

Appendix  
(V.V.V.V.)

7th May.

Appendix  
(V.V.V.V)

7th May.

The harbour dues, as well as tonnage duties, appear to be entered as regularly as the case would appear to admit, on the blotter from which the accounts were made up.

*3rd Charge.*

“There was no account for moneys received for auction dues or auction licenses.”

Mr. Kelly asserts that the sums received on these accounts were, on the day of receipt, entered on the blotter or day book, as all other sums received, and at the end of the quarter, posted to separate accounts.

This appears to have been the system in preceding years. As before observed, no particular form of accounts or books were required of the Collectors, each being left to adopt their own form.

*4th Charge.*

“All the goods received since the 5th July were entered on a few sheets of paper sewed together.”

The necessity for resorting to a few sheets of paper to make the entries, while a new book was in preparation, appears to be satisfactorily accounted for by Mr. Kelly.

*5th Charge.*

“Certain sums received from Mr. Strange were kept back, or borrowed from one period to another.”

There does not appear any irregularity in this transaction; the money was not received until after the close of the quarter ended 5th April, and could not consequently be credited in the accounts of that quarter.

*6th Charge.*

“The sums credited to Government by Mr. Kelly, for the steamers Britannia, Gore, and America, do not correspond with the sums entered in Mr. Be-thune’s books as paid for those steamers.”

The answers and explanations to this charge are satisfactory, Mr. Kelly appearing to have accounted for all he received on account of these steamers.

*7th Charge.*

“Harbour dues were collected in an imperfect manner;” and

*8th Charge.*

“The sums paid by Robertson, Ogilvie, and Brown, for harbour and tonnage dues on the Sir Francis Bond Head, was omitted to be credited to Government.”

There does not appear any grounds for these charges.

*9th Charge.*

“Several sums enumerated in Mr. Cameron’s Report were not deposited at the Bank to the credit of the Receiver General, but were borrowed.”

This charge does not appear to be sustained; Mr. Kelly shows that his moneys were paid to the credit of the Receiver General, at the Bank.

By this Report your Petitioner finds himself entirely relieved of the grave charges upon which his removal was grounded.

That although the reports and comments of the Commissioner of Inquiry, in whatever points supposed available for the purpose, were promptly acted upon to the detriment of Your Petitioner, yet these portions of the same reports and comments which bear unequivocal testimony in his favour, have been in a great measure suppressed or passed over in silence.

Your Petitioner makes the following extract from page 61 of the Commissioner’s Report: “The mo-

neys received are regularly deposited in the Bank.”  
 “Mr. Kelly pays a clerk or book-keeper... £100 0 0  
 “ “ a deputy and tide waiter 140 0 0  
 “ “ office rent..... 20 0 0  
 £260 0 0

“So that it is self evident that the Collector could not do the business and live, but for the seizures, which are uncertain, and will, if the duty is lowered, be less. The books are very well kept, the manifests are regularly fyled, with the number of packages, and signed by the captains of vessels.”

Your Petitioner also begs to make the following statement:

Amount collected on ac. Customs duties £14442 6 3  
 Allowed for collection..... 397 0 3  
 From which deduct as above,  
 stated by Commissioner  
 of Inquiry ..... 346 13 4

Leaves a balance of... £50 6 11 for collecting £14,442 6s. 3d. and for 16 months services, to which add £150, allowance for permits, makes the gross sum of £200 16s. 11d. being at the rate of £150 5s. 2d. per annum, while the income of Your Petitioner’s successor, the following year, amounted to £500, without any deduction. Your Excellency’s Petitioner therefore claims the above amount..... £346 13 4  
 And balance of commission legally due under Provincial Act, 7th Will. 4, c. 25 127 9 4  
 £474 2 8

Your Petitioner begs to direct Your Excellency’s attention to the facts that the repayment by Government of the necessary disbursements, already recapitulated, is indirectly at least recommended in the report of the Commissioner of Inquiry, and that even assuming (which Your Petitioner trusts he not by any means been established) that want of system and irregularity were prevalent in his office, a very plausible excuse might be adduced in the following quotation from pages of said report of the Commissioner of Inquiry; “The next subject which engaged the attention of the undersigned, was the manner of keeping the books, which he found as various as the characters and education of the Collectors, no forms of accounts nor books of any kind, nor instructions on the subject having ever been furnished them, and many of them never having received any directions by which to be guided but a few remnants of torn statutes, handed to them by their predecessors when they took office.”

Your Petitioner respectfully submits that had the investigation to which in all justice he was entitled, taken place before, instead of being ordered after his dismissal, that event would not have occurred, and Your Petitioner would at this moment be in the enjoyment of a situation of considerable trust and emolument, (Your Petitioner’s successor receives £500 per annum and allowances), and he would have been spared a considerable amount of anxiety and mental suffering, added to the total ruin entailed upon him by the stigma of untrustworthiness which for some time attached to his name, as one suddenly and ignominiously dismissed from the public service.

In conclusion, Your Petitioner, having shown to Your Excellency that he was dismissed from his office without inquiry or investigation, on charges since satisfactorily proved to have been unfounded, and that Your Petitioner, on the testimony of the Commissioner, disbursed £346 13s. 4d. on account of the public service, and that he is legally entitled to £127 9s. 4d. on account of commission, trusts that Your Excellency

Appendix  
(V.V.V.V)

7th May.

Appendix (V.V.V.V) 7th May.

will be graciously pleased to direct that the amounts as stated may be paid to Petitioner.

Your Petitioner therefore humbly prays Your Excellency to take his case into favourable consideration, and to grant him that redress which, in Your Excellency's own sense of justice, may be deemed expedient.

And, as in duty bound, Your Petitioner will ever pray.

(Signed,) WM. MOORE KELLY.

Montreal, 17th September, 1847.

ATTORNEY GENERAL'S OFFICE (WEST,) Montreal, 17th November, 1847.

SIR,—In the case of Wm. Moore Kelly, referred to me, I have the honour to report, that in 1845, when I held the office of Solicitor General, I was called upon for an opinion by the Honourable the Inspector General, which I gave. To that opinion I still adhere.

I have, &c.

(Signed,) HENRY SHERWOOD.

To the Hon. D. Daly, Provincial Secretary.

MONTREAL, 20th February, 1845.

SIR,—I am of opinion that by the 7th Will. IV, cap. 25, Mr. Kelly is entitled to receive at the rate of £12 10s. out of every £100 of duties he collected, until they amounted to £1000, and then £5 for every £100 thereafter, provided that the amount of percentage did not exceed £300 in the course of any one year.

He would have been justifiable, I think, in retaining this percentage out of the first moneys he received, and not having done so to the extent he was entitled to by law, I conceive he has now a right to claim the balance. Whether he was only retained in office for six months of the year for which he claims, in my opinion makes no difference, so long as the percentage amounted to £300 for the portion of the year he served.

I have, &c.

(Signed,) HENRY SHERWOOD.

The Honourable The Inspector General.

SECRETARY'S OFFICE, Montreal, 9th Dec., 1847.

SIR,—I am commanded by the Governor General to inform you, that His Excellency has had under his consideration in Council, your letter of 9th September last, applying for the balance of commission due to you as late Collector of Customs at the Port of Toronto, and also for the payment of certain expenses incurred by you in carrying on the business of that office.

His Excellency has been pleased to sanction your claim to the balance of commission, having been advised that you are legally entitled to it, and he has accordingly directed a warrant to issue in your favour for the sum of £127 9s. 4d., that sum being the difference between £172 10s. 8d., (the amount you have already received), and £300, to which you appear to have been entitled.

The warrant will be delivered to you at the office of the Hon. Inspector General.

His Excellency has been pleased to reserve your

Appendix (V.V.V.V) 7th May.

claim for the expenses incurred by you in carrying on the business of your late office for further consideration.

I have, &c.

(Signed,) E. A. MEREDITH, Asst. Secretary.

W. Moore Kelly, Esq., 18, Little St. James Street, Montreal.

MONTREAL, 11th February, 1848.

SIR,—I have been duly honoured with Mr. Assistant Secretary Meredith's letter of the 9th December, by which I am informed, "That His Excellency has been pleased to reserve your claim for the expenses incurred in carrying on the business of your late office, for further consideration."

In my petition to His Excellency the Governor General, under date of the 17th September last, (to which I beg reference), I have detailed the injury sustained by me on account of my summary dismissal from office, and have shewn that the repayment of the disbursements claimed, are indirectly at least recommended in page 61 of the report of the Commissioner of Inquiry, from which I again make the following extract:—

" Mr. Kelly pays a clerk or book keeper ...	£100 0 0
" " a deputy and tide waiter	140 0 0
" " office rent.....	20 0 0
	£260 0 0

" So that it is self evident that the Collector could not do the business and live, but for the seizures, which are uncertain, and will, if the duty is lowered, be less,"—my claim for contingencies therefore according to the Commissioner's Report stands thus,—

Payment for contingencies 16 months at	
£260 per annum.....	£346 13 4

My case having been so frequently before the Government, and favourably recognised, as I have reason to believe it to be by the Executive, I feel it to be unnecessary to urge the further consideration of my claim upon the attention of His Excellency in Council, than that those expenses were unavoidably incurred, and were absolutely necessary for the due discharge of the duties of the office.

I have, &c.,

(Signed,) WM. MOORE KELLY.

The Honourable D. Daly, Provincial Secretary, &c., &c., &c.

SECRETARY'S OFFICE, MONTREAL, 18th February, 1848.

SIR,—I am commanded by the Governor General to inform you that His Excellency has had under consideration in Council, your letter of the 11th instant, renewing your claim to be reimbursed certain expenses incurred by you in carrying on the business of your late office of Collector of Customs at Toronto—amounting to £346 13s. 4d.

His Excellency in Council finds that on your accounts as Collector of Customs being audited, these expenses were disallowed as being unauthorized; but that charges for similar services have since been allowed in the contingent accounts of the present Collector, as being requisite for the efficient conduct of his office, and His Excellency is of opinion that the same

Appendix  
(V.V.V.V.)  
7th May.

necessity which now exists for procuring the services in question, existed also at the time you held that office.

Under these circumstances, His Excellency considers that you are entitled to be reimbursed the expenses in question, and has therefore been pleased to direct that, for that purpose, the sum of £346 13s. 4d. be included in the Estimates to be laid before Parliament at the ensuing session.

I have, &c.,

D. DALY,  
Secretary.

W. Moore Kelly, Esq.

MONTREAL, 14th April, 1848.

SIR,—I have the honour to request that you will direct the issue of a warrant in my favour, in accordance with a letter, which I had the honour to receive, addressed to me by command of His Excellency the Governor General, and dated 18th February, 1848,—informing me that allowance would be made for certain contingent expenses, amounting to the sum of £346 13s. 4d. incurred in the management of my office, when Collector of Customs for the Port of Toronto.

I have the honour, &c.,

(Signed,) WM. MOORE KELLY.

The Honorable  
R. B. Sullivan,  
Provincial Secretary,  
&c., &c., &c.

SECRETARY'S OFFICE,  
MONTREAL, 19th May, 1848.

SIR,—I am commanded by the Governor General to inform you that His Excellency has had under his consideration in Council, your letter of the 14th ultimo, requesting the issue of a warrant in your favour for the sum of £346 13s. 4d., being the amount of certain contingent expenses incurred by you as Collector of Customs at Toronto, and which was directed by His Excellency in Council to be placed in the Estimates to be laid before Parliament at its late session, as communicated to you by Mr. Secretary Daly, on the 18th February last.

I am directed to acquaint you that His Excellency cannot authorize the payment of this sum to be made to you, until a vote of the Legislative Assembly sanctioning the same shall have been obtained, and His Excellency does not think it necessary to consider the propriety of recommending your claim to the favourable consideration of that Body, until the time for preparing the Estimates to be laid before them at their next Session, shall have arrived.

I have, &c.,

(Signed,) R. B. SULLIVAN,

W. Moore Kelly, Esqr.,  
Montreal.

MONTREAL, 22nd August, 1848.

SIR,—I have the honour to request you will lay the enclosed Memorial before His Excellency the Governor General.

When I was honoured with the communication from the Provincial Secretary, under date 18th February, 1848, informing me that His Excellency considered I was entitled to be reimbursed the amount claimed for expenses incurred, as detailed in my Memorial, I understood the faith of the Government was pledged to

the payment of that sum, and, under that impression, I entered into engagements which must involve me in considerable embarrassments, if the payment of the amount is any longer deferred.

With reference to the communication I had the honour to receive from you on the 19th May last, I beg to state that I have strong reason to believe that the amount of my claim for £346 13s. 4d. was included in the gross Estimates laid before the House, during its late Session, and, to cover which, a vote of credit to the extent of £140,000 was sanctioned by the Legislative Assembly.

Under these circumstances, I have respectfully to request you will bring my case under the notice of His Excellency, at your earliest convenience.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed,) WM. MOORE KELLY.

The Honorable  
R. B. Sullivan,  
Provincial Secretary,  
&c., &c., &c.

*To the Right Honourable the Earl of Elg. and Kincardine, Governor General of British North America, &c., &c., &c.*

The Petition of William Moore Kelly,

HUMBLY SHEWETH:

That Your Petitioner respectfully begs leave to recall to the notice of Your Excellency, that on the 11th February last, he renewed his application for the reimbursement of certain moneys expended by him on account of the public service, during the period he held the office of Collector of Customs at the Port of Toronto.

That Your Petitioner in that application inserted an extract from the Report of the Commissioner of Inquiry in his case, distinctly admitting the necessity of the outlay in question, to which extract your Petitioner again ventures to direct the notice of Your Excellency:

" Mr. Kelly pays a clerk or book-keeper...	£100 0 0
" " deputy and tide waiter.	140 0 0
" " office rent.....	20 0 0
	<hr/>
	£260 0 0

" So that it is self evident that the Collector could not do the business and live, but for the seizures, which are uncertain, and will, if the duty is lowered, be less."

That in reply to his application of the 11th February, Your Petitioner received a communication, dated on the 18th of said month, to the following extract from which Your Petitioner would also respectfully direct the attention of Your Excellency:

" His Excellency in Council finds that on your accounts as Collector of Customs being audited, those expenses were disallowed as being unauthorized; but that charges for similar services have since been allowed in the contingent accounts of the present Collector, as being requisite for the efficient conduct of his office, and His Excellency is of opinion that the same necessity which now exists for procuring the services in question, existed also at the time you held that office.

" Under these circumstances, His Excellency considers that you are entitled to be reimbursed the expenses in question, and has therefore been pleased to direct, that for that purpose the sum of £346 13s. 4d. be included in the Estimates to be laid before Parliament at the ensuing Session."

Appendix  
(V.V.V.V.)  
7th May.



Appendix  
(V. V. V. V.)

7th May.

That in accordance with this intimation, the amount of Your Petitioner's claim for reimbursement, as thus recognised, would have been detailed in the Estimates laid before Parliament at its late Session,—but with a view not to impede the public business, instead of the Estimates having been submitted in detail, as customary, a vote of credit for £110,000 was obtained, and Your Petitioner's claim is, as he understands, included in that sum.

That Your Petitioner, relying on the opinion expressed by command of Your Excellency, "that under these circumstances His Excellency considers that you are entitled to be reimbursed the expenses in question," considered himself justified in entering into certain arrangements, upon the faith of the recognition of his claim by Your Excellency, which he will be unable to meet if the consideration of it be again delayed; he therefore humbly and respectfully prays that Your Excellency will be graciously pleased to order the issue of a Warrant for the payment to him of the sum specified, £346 13s. 4d.

And, as in duty bound, Your Petitioner will ever pray.

(Signed,) WILLIAM MOORE KELLY.

Montreal, 22nd August, 1848.

SECRETARY'S OFFICE,

Montreal, 2nd September, 1848.

SIR,—I have the honour, by command of the Governor General, with reference to your letter of the 22nd August last, to state for your information, that the sum placed by Parliament at the disposal of the Executive Government during the last Session, was so placed for the purpose of being expended for the necessary expenses of the Government, upon the responsibility of the servants of the Crown in the Colony.

It was by no means intended that the sums which might have made up the aggregate of the estimate prepared by the late Inspector General, should necessarily be expended by the Government. It was because it was not thought advisable to ask the Legislature, under the circumstances, to vote a detailed Estimate, that a sum in gross was asked to be entrusted to the Executive, for the disposal of which an account was to be rendered to Parliament.

The claim which you set up is one of those of which, without a specific submission to Parliament, His Excellency has not been advised to direct the disbursement. The miscellaneous estimate of £16,000 was founded on the miscellaneous expenditure of the previous year, without reference to particular items, which of course were liable to be varied according to circumstances; but be this as it may, the sum granted by the Parliament, was not on the understanding that the Government was in any way bound to disburse any specific sums, which might be supposed to have been intended by the late Inspector General to form a portion of the aggregate sum granted.

I am to state, for your information, that your claim will be considered with others of a like nature, preparatory to the meeting of Parliament.

I have the honour to be, &c.

(Signed,) R. B. SULLIVAN.

W. Moore Kelly, Esq.,  
Montreal.

MONTREAL, 15th January, 1849.

SIR,—I have the honour to request that you will lay the enclosed Memorial before His Excellency the Governor General, at your earliest convenience.

I have the honour, &c.

(Signed,) W. M. KELLY.

The Hon. J. Leslie,  
Provincial Secretary,  
&c. &c. &c.

*The Right Honourable the Earl of Elgin and Kincardine, Governor General of British North America, &c. &c. &c.*

Appendix  
(V. V. V. V.)

7th May.

The Memorial of William Moore Kelly,

HUMBLY SHEWETH :

That Your Memorialist would respectfully recall to the attention of Your Excellency, that he is an acknowledged creditor upon Your Excellency's Government for reimbursement to the amount of £346 13s. 4d. of moneys expended by him on account of his department, during his tenure of the office of Collector of Customs for the Port of Toronto.

That on the 18th February last, Your Memorialist received a communication from the Provincial Secretary, in which occurs the following passage: "His Excellency in Council finds that, on your accounts as Collector of Customs being audited, those expenses were disallowed as being unauthorized; but that charges for similar services have since been allowed in the contingent accounts of the present Collector, as being requisite for the efficient conduct of his office, and His Excellency is of opinion that the same necessity which now exists for procuring the services in question, existed also at the time you held that office."

"Under these circumstances, His Excellency considers that you are entitled to be reimbursed the expenses in question, and has therefore been pleased to direct that for that purpose the sum of £346 13s. 4d. be included in the Estimates to be laid before Parliament at the ensuing Session."

That in August last, Your Memorialist made application for payment of the amount specified, and on the 2nd September he received a reply from the Provincial Secretary, from which communication Your Memorialist begs to extract the following passage:—"I am commanded to state, for your information, that your claim will be considered with others of a like nature preparatory to the meeting of Parliament."

That Your Memorialist, having suffered much embarrassment in his private affairs in consequence of the delay in the adjustment of his claim, and the difficulty under which he labours in the fulfilment of engagements which he contracted on the faith of the communication of the Provincial Secretary, already referred to, ventures again, now that the period for the reconsideration of his claim has arrived, to bring the matter under the notice of Your Excellency, feeling satisfied that your Excellency will bestow upon his application a prompt and impartial consideration.

And, as in duty bound, Your Memorialist will ever pray.

(Signed,) WILLIAM MOORE KELLY.

Montreal, 15th January, 1849.

*The Right Honourable the Earl of Elgin and Kincardine, Governor General of British North America, &c., &c., &c.*

MAY IT PLEASE YOUR EXCELLENCY :—

In the interview with which Your Excellency honoured me this day in reference to my claim for the sum of £346 13s. 4d., for disbursements made by me on account of the public service during my tenure of the office of Collector of Customs at Toronto, I stated, in answer to Your Excellency's inquiry, and quoting from memory, that the allowance for permits did not exceed £60 or £70 per annum. I find, however, on reference to my memoranda, that I inadvertently understated the amount so received, and I therefore take the earliest opportunity of rectifying my mistake. Some doubt also appeared to me to exist on the part of Your

Appendix  
(V. V. V. V.)  
7th May.

Excellency as to the accuracy of my quotation (also from memory) from the Report of the Commissioner of Inquiry.

The following extract from my memorial to Your Excellency of the 17th September, 1847, will place both matters correctly before Your Excellency.

Your Petitioner makes the following extract from "page 61 of the Commissioner's Report,—

"Mr. Kelly pays a clerk or book keeper,	£100	0	0
" " deputy and tidewaiter,	140	0	0
" " office rent,.....	20	0	0
	<hr/>		
	£260	0	0

"So that it is self evident that the Collector could not do the business and live, but for the seizures, which are uncertain, and will, if the duty is lowered, be less. The books are very well kept, the manifests are regularly syled, with the number of packages, and signed by the captains of vessels."

Your Petitioner also makes the following statement,—

"Amount collected on account of Customs duties from 6th April to 1st August, 1843,	£14,442	6	3
"Allowed for collection,.....	£397	0	3
	<hr/>		

"From which deduct, as stated by Commissioner of Inquiry,.....	346	13	4
	<hr/>		

"Leaves a balance of..... £ 50 6 11

"For collecting £14,442 6s. 3d., and for 16 months services, to which add £150, allowance for permits, makes the gross sum of £200 6s. 11d., being at the rate of £150 5s. 2d., per annum, while the income of Your Petitioner's successor, the following year, amounted to £500, without any deduction. Your Excellency's Petitioner therefore claims the above amount £346 13s. 4d."

In reply to the above Petition I was informed by command of Your Excellency, "That His Excellency in Council finds that on your accounts as Collector of Customs being audited, these expenses were disallowed, as being unauthorized; but that charges for similar services have since been allowed in the contingent accounts of the present Collector, as being requisite for the efficient conduct of his office, and His Excellency is of opinion that the same necessity which now exists for procuring the services in question, existed also at the time you held that office.

"Under these circumstances, His Excellency considers that you are entitled to be reimbursed the expenses in question, and has therefore been pleased to direct that for that purpose the sum of £346 13s. 4d., be included in the Estimates to be laid before Parliament at the ensuing session."

I humbly conceive that Your Excellency has been put in possession of the entire facts bearing on my case, and having received, on the part of Your Excellency, the distinct assurance that the amount of my claim should be inserted in the Estimates, I cannot bring myself to believe that any subsequent change in the administration of public affairs could justify the withdrawal of that assurance, a result which to me would be ruinous in every point of view.

All which is respectfully submitted.

(Signed,) WM. MOORE KELLY.

Montreal, 21st March, 1849.

SECRETARY'S OFFICE,  
30th March, 1849.

SIR,—I am commanded by the Governor General to inform you that His Excellency has had, under his consideration in Council, your memorial of the 15th

Appendix  
(V. V. V. V.)  
7th May.

January last, praying for payment of your claim to a sum of £346 13s. 4d., the amount of certain disbursements made by you when Collector of Customs at the Port of Toronto.

His Excellency finds that your claim has been repeatedly under the consideration of the Government. It embraced, originally, not only the above mentioned disbursements, but also the amount of a full year's salary for the year 1843, although you were only in office until the 31st July of that year, and the full salary allowed by law was divided proportionately between you and your successor.

It also appears that these claims were both originally disallowed, but that on a reconsideration of them, your claim for salary, amounting to £127 9s. 4d., was allowed, and paid to you, but that that for the disbursements was postponed for future consideration, and was finally allowed, subject however to the approval of Parliament, and the payment thereof was postponed until it had been submitted to, and approved by the Legislature.

His Excellency in Council, having given the subject of your claim for the amount of the disbursements in question, his attentive consideration in preparing the Estimates to be submitted to Parliament during the present Session, is unable to discover any grounds upon which it can be sustained, and he cannot therefore recommend it to the favourable consideration of the Legislature.

I have, &c.,

(Signed,) J. LESLIE.

MONTREAL, 30th March, 1849.

SIR,—I have the honour to request you will be pleased to give me copies of the Orders in Council upon which the letters addressed to me, under date of 28th February and 29th instant, are founded.

I have the honour to be, &c.,

(Signed,) WILLIAM MOORE KELLY.

The Hon. J. Leslie,  
Provincial Secretary,  
&c., &c., &c.

SECRETARY'S OFFICE,  
MONTREAL, 4th April, 1849.

SIR,—I am commanded by the Governor General to acknowledge the receipt of your letter of the 30th ultimo, applying for copies of the Orders in Council, upon which the letters addressed to you from this Department, under date the 28th February last and the 29th ultimo, were founded.

In reply, I am to acquaint you that His Excellency considers that the official intimation of the decision of the Government upon your claim, contained in the letters alluded to, is the only information with respect to it, that can with propriety be afforded to you, and he cannot therefore accede to your request to be furnished with a copy of the confidential document which you desire to obtain.

I have to acknowledge the receipt of your letter and memorial of the 2nd instant, and to inform you that the subject thereof will receive His Excellency's consideration.

I have the honour, &c.,

(Signed,) J. LESLIE.

W. M. Kelly, Esqr.,  
Montreal.

Appendix  
(V. V. V. V.)

7th May.

MONTREAL, 2nd April, 1849.

SIR,—I have the honour to acknowledge the receipt of your letter of the 30th ultimo.—

I enclose a Memorial to His Excellency the Governor General, which I respectfully request you to lay before him, and should His Excellency be pleased to submit it to the consideration of His Executive Council, I trust that he will be advised that the promise which, under the advice of His Executive Council, he was pleased to make to me, by "finally allowing" my claim, is one that cannot be revoked.

I have the honour, &c.,

(Signed,) WILLIAM M. KELLY.

The Hon. J. Leslie,  
Provincial Secretary,  
&c., &c., &c.

*To the Right Honourable the Earl of Elgin and Kincardine, Governor General of British North America.*

MAY IT PLEASE YOUR EXCELLENCY :

I have received, and have perused with the utmost astonishment, a letter of the Honble. the Provincial Secretary, addressed to me by Your Excellency's command, under date the 30th ultimo.

This letter recognises the fact already upon record in the Provincial Secretary's Office, that my claim for money paid out of pocket for the service of Her Majesty's Government was, after consideration and reconsideration, "finally allowed," and this, after the long and cruel protraction of my just hopes, I considered to be a final settlement; and in that faith I acted, never for a moment suspecting that that faith could be broken with me.

If Your Excellency will have the goodness to give this matter your attention, I humbly submit, that whether interpreted by the laws of personal honour, which bind gentlemen, or those of mercantile honour, which are essential to personal credit, this arrangement is final, and all that remains to be done by any Government, desirous of the reputation of fidelity to its contracts, is to execute it; and that no assembly of intelligent and honourable men who regarded the credit of the Province, would hesitate to enable Your Excellency to pay a claim, which, after mature consideration, you had finally allowed to be just.

Appendix  
(V. V. V. V.)

7th May.

If it was a matter between man and man, if I were dealing with a firm instead of a Government, the written acknowledgment of its factor of the "final allowing" of my claim would enable me to pursue it with effect in a Court of Law, if indeed such a thing could be, as an agreement not being kept by any one to whom the imputation of fair dealing was valuable.

I can readily, may it please Your Excellency, believe that in the grave affairs which occupy Your Excellency and the Executive Council, this matter, small in itself, but most important to me, may not have received that attention which I now entreat, and that Your Excellency and your Excellency's advisers have overlooked the injustice of reversing a judgment obtained; a judgment which was rendered to me as "final," and which if reversed on new evidence, no opportunity has been given me to sustain.

I humbly hope that Your Excellency has only to devote a few moments to the consideration of my case, to see that the faith of the Government, of which Your Excellency is the head, is pledged to the fulfilment of my claim, if Parliament vote the means, and that being "finally allowed," whether repudiated by a Government or a Parliament, those who repudiate it would repudiate any other engagement, however solemn or however extensive.

I have the honour to be, &c.,

(Signed,) WM. MOORE KELLY.

Montreal, 2nd April, 1849.

SECRETARY'S OFFICE,  
MONTREAL, 12th April, 1849.

SIR,—I have had the honour to receive and lay before His Excellency the Governor General, your letter of the 2d instant, with the memorial which accompanied it, upon the subject of my communication to you of the 30th ultimo.

His Excellency directs me to say that he sees nothing in either your letter or memorial, to induce him to depart from the decision upon your claim, communicated to you in my letter of the 30th ultimo, already referred to.

I have, &c.,

(Signed,) J. LESLIE.

W. M. Kelly, Esqr.,  
Montreal.

## R E T U R N

TO AN ADDRESS FROM THE LEGISLATIVE ASSEMBLY TO HIS EXCELLENCY THE GOVERNOR GENERAL, dated the 18th instant, praying that His Excellency would be pleased to cause to be laid before them, "Copies of all Correspondence connected with the "appointment to office and removal therefrom of Ogle R. Gowan, Esquire, as Supervisor "of Tolls West of Lachine."

By Command,

J. LESLIE,

Secretary.

PROVINCIAL SECRETARY'S OFFICE,

Montreal, 23rd April, 1849.

SECRETARY'S OFFICE,  
Montreal, 5th November, 1847.

Sir,

The several Canals on the River St. Lawrence above Lachine being now completed and in full operation, the Government have determined to place them under the charge of a Public Officer to be attached to the Inspector General's Department.

The duties of this office will be various and important. He will be expected to devise and report some general scheme for the management of these works, and the navigation of the adjoining river, with a view to foster and encourage the inland carrying trade, to facilitate the internal commerce of the country, and at the same time to raise as large a revenue as may be consistent with the prosperity of that commerce.

It will be charged with the supervision of the collectors of tolls, and the inspection of their accounts, and will collect and report such returns as may be required for commercial, statistical, or other purposes. For the performance of these and other duties of a similar nature, which will constantly arise during the season of navigation, he will be remunerated by a salary of £400 per annum, and his actual travelling expenses.

I have the honour, by command of the Governor General, to offer to you this office when established; and I am directed to convey to you the expression of His Excellency's hope that, by your acceptance thereof, the public service may have the benefit of your acknowledged energy and ability.

I have the honour to be,  
&c. &c. &c.,

(Signed,) E. A. MEREDITH,  
Assistant Secretary.

OGLE R. GOWAN, Esquire,  
M. P. P.

&c. &c. &c.

BROCKVILLE, 7th November, 1847.

Sir,

I have had the honour of receiving your communication of the 5th instant, in which you informed me that the several Canals on the River St. Lawrence above Lachine are now completed and in full operation; that the Government have determined to place them under the charge of a Public Officer whose various and important duties you therein describe, and for the performance of which duties the sum of £400 per annum, together with actual travelling expenses, will be paid, and you add that you are commanded by the Governor General to offer the office, when established, for my acceptance, and directed to convey to me the expression of His Excellency's hope that,

by my acceptance thereof, the public service may have the benefit of my acknowledged energy and abilities.

I beg, Sir, that you will convey to His Excellency my grateful acknowledgments for the flattering terms in which this offer has been directed to be made, and that you will assure His Lordship that, in consenting to accept the appointment so kindly and spontaneously offered, I trust that my humble abilities in that part of the public service in which His Excellency has been pleased to require their exercise, may be fortunate enough to meet with His Lordship's approbation.

I have the honour to be,  
&c. &c. &c.

(Signed,) OGLE R. GOWAN.

E. A. MEREDITH, Esquire,  
Assistant Secretary.

SECRETARY'S OFFICE,  
Montreal, 11th December, 1847.

Sir,

With reference to my letter to you of the 5th ultimo, upon the subject of the Canals on the River St. Lawrence above Lachine, and your reply thereto of the 7th ultimo, I have the honour, by command of the Governor General, to inform you that His Excellency has been pleased to appoint you to the office indicated in my letter, with the title of "Supervisor of Tolls on the St. Lawrence Canals "West of Lachine."

The nature and duties of the office in question have been already explained to you in my letter of the 5th ultimo.

You will have the goodness, upon receipt of this communication, to signify to me, for the information of His Excellency, your acceptance of the office above referred to, in order that the appointment may be announced in the next Official Gazette.

I have the honour to be,  
&c. &c. &c.

(Signed,) E. A. MEREDITH,  
Assistant Secretary.

OGLE R. GOWAN, Esquire,  
M. P. P.  
&c. &c. &c.

FARMERSVILLE, COUNTY OF LEEDS, U. C.,  
17th December, 1847.

SIR,

Your letter of the 11th instant has been forwarded to me from Brockville to this place, and I am obliged to forward a hurried reply, upon the only sheet of paper I can procure.

Appendix  
(W.W.W.W.)  
16th May.

I will thank you to signify to His Excellency, my acknowledgments for my appointment to the office of Supervisor of Tolls on the St. Lawrence Canals West of Lachine, and my acceptance of the appointment which it has been His Excellency's pleasure to bestow.

I have the honour to be, Sir,  
&c. &c. &c.

(Signed,) OGLE R. GOWAN.

E. A. MEREDITH, Esquire,  
Assistant Secretary.

(Copy.)

OTTAWA HOTEL,  
Great St. James Street,  
3rd May, 1848.

Sir,

If convenient, I shall feel obliged by your causing directions to be given for the issue of a warrant in my favour for my last quarter's salary as Supervisor of Canals on the St. Lawrence, which I should be glad to receive while here.

I have the honour to remain, &c.

(Signed,) OGLE R. GOWAN.

The Honourable  
FRANCIS HINKS, M. P.,  
Inspector General.

(Copy.)

SECRETARY'S OFFICE,  
Montreal, 17th June, 1848.

Sir,

I am commanded to inform you that your application for the amount of your salary as Supervisor of Tolls on the St. Lawrence Canals, and for your travelling expenses, has been considered by His Excellency the Governor General in Council.

His Excellency in Council, upon the Report of the Inspector General, and on reference to the state of the funds applicable to Public Works, and considering the necessity of reducing the charges upon that fund within the narrowest possible limits, is of opinion that the office of Supervisor of Tolls is unnecessary; and as that office has not been regularly constituted with the sanction of Parliament, or provided for by the Legislature, His Excellency is advised that the Government could not be justified in recommending to the Legislative Assembly to make that office a permanent charge upon the public finances.

I am, therefore, commanded to acquaint you, that your services as Supervisor of Tolls are no longer required.

A warrant has been issued in your favour for the payment of the salary assigned to you on your appointment, up to the 30th day of June inclusive, and also for £30 16s. 11d., the amount of your account for travelling expenses, which warrant will be delivered to you, or to your agent, on application at the office of the Hon. Inspector General.

I have the honour to be, &c.,

(Signed,) R. B. SULLIVAN.

OGLE R. GOWAN, Esquire,  
&c. &c. &c.

(Copy.)

BROCKVILLE, 21st June, 1848.

Sir,

I have just been honoured by the receipt of your letter of the 17th instant, in which you inform me that His Excellency in Council, upon the Report of the Inspector General, and on reference to the state of the funds applicable to Public Works, is of opinion that the office of Supervisor of Tolls is unnecessary.

Believing that no Administration, governed by a desire to secure the public revenue against fraud and mismanagement, would permit the collection of tolls upon the St.

Lawrence to remain without some effective and stringent supervision, I presume that the duties which hitherto devolved upon me will be transferred to other hands; and although I may, individually, have reason to complain at what appears to me a harsh, if not unwise proceeding, still I shall prefer no claim for compensation; and I trust I possess sufficient patriotism to decline advancing my individual wrongs as a ground for public accusation against, or embarrassment of, His Excellency, or his responsible Ministers.

As the decision of His Excellency in Council was predicated upon a Report from the Inspector General, I trust I shall be permitted to have a copy of the Report of that officer, if it relates to my conduct while in office, or have a distinct declaration from you, Sir, that it contains no matter reflecting upon my character or conduct in the discharge of the duties assigned to me, that it was not for malversation or improper conduct on my part that my services were dispensed with.

I have the honour to be, &c.,

(Signed,) OGLE R. GOWAN.

The Hon. R. B. SULLIVAN,  
Provincial Secretary,  
&c. &c. &c.

(Copy.)

SECRETARY'S OFFICE,  
Montreal, 29th June, 1848.

Sir,

I have the honour to acknowledge the receipt of your letter of the 21st instant, in reference to the discontinuance of the office of Supervisor of Tolls on the Saint Lawrence Canal.

I am authorized to state, in answer to your inquiries, that there has been no complaint or report before the Government from any quarter, reflecting on or relating to your character or conduct in the discharge of the duties assigned to you, but that the Government, through its present officers, conceives itself to be in possession of sufficient means to prevent fraud and mismanagement in the collection of tolls, without the additional expense of a new office, the establishment of which it does not therefore assume the responsibility of proposing to Parliament.

I think you must be aware of the fact, that in consequence of the impossibility of raising money, by way of loan, experienced by the late Government, as well as by ourselves, the current revenues of the Province have been greatly pressed upon and embarrassed by the expenses of the Department of Public Works, and that this pressure and embarrassment has been added to by the state of the commerce of the country, which has lately taken a direction not favourable to the revenues arising from tolls upon the St. Lawrence Canals.

The Government, not as a matter of choice, but of necessity, has sought to limit the outlay upon and on account of the Public Works, within the narrowest possible limits, and it is not improbable that it will be forced in the contraction of its expenditure, to dispense with the services of officers much longer in public employment than yourself. Under these circumstances, to propose to Parliament the creation of a new office, with no other justification for its establishment than that, at a very recent period, the late Administration thought it expedient to make such an addition to the public expenditure, would be a measure which the present advisers of the Government are not willing to undertake or answer for. If their declining to do so should appear harsh towards yourself, or should prove unwise in the result, they have no claim that you should decline advancing your individual wrong, or forbear from public accusation, from any apprehension of embarrassment to arise to themselves.

I have the honour to be, &c.

(Signed,) R. B. SULLIVAN.

OGLE R. GOWAN, Esquire,  
&c. &c. &c.

Appendix  
(W.W.W.W.)  
16th May.

Appendix  
(X.X.X.X.)

26th May.

Appendix  
(X.X.X.X.)

26th May.

# RETURN

TO AN ADDRESS from the Legislative Assembly to His Excellency the Governor General, of the 7th March last, praying His Excellency to be pleased to cause to be laid before the House, by the proper officer, a List of the Patents granted in Lower Canada for Lots of Land exceeding Five Hundred Acres, from the year 1795 to the year 1848, with the date of each Patent, the name of the parties to whom the said Lands have been granted, and by whom, the object for which each Patent was granted, and the conditions contained therein.

By Command,

J. LESLIE,

Secretary.

SECRETARY'S OFFICE,

Montreal, 26th May, 1849.



Appendix  
(X.X.X.X.)  
26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—(Continued.)

NAME OF GRANTEE.	No. of Acres.	Township.	Date of Grant.	By whom Granted.	Conditions.	REMARKS.
Pierre Casaguet..... Charles DuBois..... François Chateaub..... Bazille Debonneville..... Joseph Dural..... John Hartel..... Pierre Bourassa..... Samuel Bird..... William Grant and 34 Associates.....	1200 each	Tewkesbury.....	14th May, 1800.....	Robert Shore Milnes, Esq.....	The same as in ordinary Grants.	In this Grant the land is described as 127 lots, without stating the number of acres. Sup- posing each lot to contain 200 Acres, the aggregate would be 25,400 Acres, to be equal- ly divided among 35 Grantees.
John Jones and 19 Associates.....	25400	Grantham.....	14th " ".....	Ditto.....	Ditto	Here the Grant is of 108 lots, said to contain 21,600 acres, which are to be divided equally among 20 Grantees.
David Alexander Grant..... And his 38 Associates.....	21600 1200 22600	Hunterstown..... Upton.....	29th April, " 21st May, "	Ditto..... Ditto.....	Ditto Ditto	To Mr. Grant, six lots, 1200 acres, are speci- cally granted; and 113 lots, 22,600 acres, are to be equally divided among his thirty-eight associates.
George Wulff, Captain Rl. Artillery.....	1200	Tewkesbury.....	18th Sept. "	Ditto.....	Ditto	This is a grant of six lots to Captain Wulff in Tewkesbury, which had been erected a Town- ship by previous Letters Patent, dated 14th May, 1800.
Isaac Ogden..... George Hoyle..... Abraham Frioll, the younger..... Amos Hawley..... Benoni Grant..... Ebenzer Clark..... John Hoyle..... Samuel Filer..... Philip Derrick..... Johnson Taphin..... Israel Wood..... Thomas Kier..... Joseph Froot..... Charles Kilborn..... Andrew Patterson..... Abraham Frioll, the elder..... Lynnan Brunson..... Henry Emerick..... Abraham Sals..... Ephraim Hawley..... Alexander Ferguson..... Crosby Towner..... Andrew Young..... Conrad Derrick.....	1200 1000 1000 1200 1200 1200 1000 1200 1200 1200 1200 1000 1000 1000 1200 1200 800 1000 each	Stanstead.....	27th " ".....	Ditto.....	Ditto	

Appendix  
(X.X.X.X.)  
26th May.

Henry Juncken..... William Hall..... Stephen Carter..... Jean Baptiste Feuilleteau, the elder..... Jean Baptiste Feuilleteau, the younger..... Clement Bisson..... Jean Baptiste Labbé, the younger..... Joseph Lambert, the elder..... Joseph Lambert, the younger..... Augustin Lessard..... Charles Pierre Jacques..... François Fochin..... François Ferrault..... François Feuilleteau..... Réné Labbé..... François Bourton..... François Bonneville..... Michel Arnaud dit Villeneuve..... Jean Baptiste Bélanger..... Charles Fortin.....	1200 each 1000 each	Broughton.....	28th October, 1800.....	Robert Shore Milnes, Esq.....	The same as in ordinary Grants.	
Samuel Willard..... Josiah Arms..... Heughton Dickinson..... Lake Knowlton, the younger..... Jonathan Daming..... Frederick Hones..... Henry Lawrence..... Thomas Wing..... Reuben Partridge..... Joseph Gleazen..... James Bacon..... Silas Knowlton..... John Morse..... John Rutter..... Erastus Lawrence..... Joel Dickinson..... Luke B. Osgood..... Artimas Stephens..... Lemuel Stephens..... Luther Sargent..... John Arms..... Roswell Sargent..... John Osgood..... John Holbrook..... Samuel Page.....	1200 1000 800 each 1000 800 800 800 800 1000 800 each	Stukely.....	3rd November, 1800.....	Ditto.....	Ditto	
James Rankin..... Adam Kohler..... Samuel Pangbourne..... Ephraim Wheeler..... Reuben Brunson..... Henry Cosgrove..... James Liddle..... William Taylor..... John VanVleet..... Theodore Stevens..... Nathaniel Wait..... Silas Town.....	1200 1000 800 1000 each	Hereford.....	6th November, 1800.....	Ditto.....	Ditto	



Appendix  
(X.X.X.X.)  
26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—(Continued.)

NAME OF GRANTEE.	No. of Acres.	Townships.	Date of Grant.	By whom Granted.	Conditions.	Remarks.
Joseph Wheeler.....	800 each	Hereford,.....	6th November, 1800.	Robert Shore Milnes, Esq.	The same as in ordinary Grants.	
Joseph Weekes.....						
David Tryon.....						
Michael Hyer.....						
Samuel Danford.....						
Feros White.....						
Richard Deen.....						
Ephraim Wheeler, the elder.....						
James Sears.....						
Dedrick Eridc.....						
Henry Adams.....	1000 1000 800					
William Johnston.....						
Josiah Sawyer.....						
Israel Bayley.....						
Orsemus Bayley.....						
Amos Hawley.....						
Ward Bayley, the younger.....						
John Cook.....						
Royal Learned.....						
Samuel Hugh.....						
John French.....	1200 each	Eaton,.....	4th December, 1801.	Ditto.	Ditto	ditto.
Levy French.....						
Timothy Bayley.....						
Abner Osgoodé.....						
Nathan Baldwin.....						
Benjamin Bishop.....						
Jesse Cooper.....						
Abner Pavis.....						
Samuel Beach.....						
John Savage.....						
John Savage, the younger.....	1200 each	Shefford,.....	10th February, 1801.	Ditto.	Ditto	ditto.
Hezekiah Wood.....						
John Allen.....						
Simon Grigs.....						
Richard Allen.....						
Ezekiel Lewis.....						
Henry Hardie.....						
Isaac Kinneson.....						
Solomon Kinneson.....						
Peter Hayes.....						
Alexander Douglas.....						
Silas Lewis.....	1000 each					
John Lockhart Wiseman.....						
James Bell.....						
John Mook.....						
William Moffit.....						
Thaddeus Tutle.....						
Isaac Lawrence.....						
Isaac Lawrence, the younger.....						

Appendix  
(X.X.X.X.)  
26th May.

Elijah Lawrence.....	1200 each	Shefford,.....	10th February, 1801.	Ditto.	Ditto	ditto.
James Berry.....						
Abraham Kinneson.....						
John Spalding.....						
John Kitchcock.....						
John Bell.....						
Robert Lester.....						
Robert Morrough.....						
James Sheppard.....						
Joseph Barlett.....						
Joseph Bartlett, the younger.....	1200 each	Barnston,.....	11th April, 1801,.....	Ditto.	Ditto	ditto.
Clement Drew.....						
Elihu Buttolph.....						
William Kent.....						
Abraham Heliker.....						
Isaac Heliker.....						
Edward Hogan.....						
Stephen Lampman.....						
John McCarty.....						
Abraham Heliker.....						
Joseph Dolph.....	1200 each	Orford,.....	5th May, 1801,.....	Sir Robt Shore Milnes, Bart.	Ditto	ditto.
Matthew Morehouse.....						
Asahael Porter.....						
Jonathan Hart.....						
Jacob Brower.....						
Lake Knoolton.....						
Benjamin B. Searl.....						
Consider Shattuck.....						
Samuel Shattuck.....						
Benjamin Remington.....						
Seth Hoskins.....	1200 each	Newport,.....	4th July, 1801,.....	Ditto.	Ditto	ditto.
Stephen Kimball.....						
Sylvanus Holbrook.....						
Daniel Cheney.....						
Samuel Dickinson.....						
Edmund Heard.....						
Samuel Heard.....						
Longly Willard.....						
Edmund Heard, the younger.....						
Nathaniel Beaman, the younger.....						
Peter Trueman.....	1000 each	Stanbridge,.....	1st September, 1801.	Ditto.	Ditto	ditto.
John Squires.....						
William Heard.....						
William Hudson.....						
Elisha Hudson.....						
Caleb Sturtevant.....						
Hugh Finlay.....						
John Catling.....						
Hannah Keller.....						
Clark Reynolds.....						
Edward Martindale.....						
Aston Martindale.....						
Solomon Dunham.....						
Adam Schootruff.....						
John Boakes.....						
Willard Smith.....						
David Fariolo.....						
Caleb Tree.....						

Appendix  
(X. X. X. X.)  
26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

NAME OF GRANTEE.	No. of Acres.	Township.	Date of Grant.	By whom Granted.	CONDITIONS.	REMARKS.
James Martindale.....	1000 each	Stanbridge.....	1st September, 1801,	Sir Robert Shore Milnes,...	The same as in ordinary Grants.	
Mathias Kemble.....						
John Bomhower.....						
Luke Hitchcock.....						
Jacob Bomhower.....						
Griffin Reynolds.....						
Benjamin Reynolds.....						
Frederick Wheeler.....						
Thomas Wightman.....						
Matthew Sax.....						
Joseph Smith.....						
John Kniter, the younger.....						
Stephen Lampman.....						
Adam Clapper, the elder.....						
Moses Westover, the elder.....						
Peter Cyeller.....						
Peter Rosemberg.....						
Adam Clapper, the younger.....						
Henry Clapper.....						
Peter Koons.....						
Mickle Lampman.....						
Christopher Cartwright.....						
John Hogle, the elder.....						
Phillip Kreller.....						
John Ferguson, the younger.....						
Frederick Fremmerman.....						
Almond Cartwright.....						
Thomas Douglas.....						
William Barnard.....	1200 each	Brompton.....	27th November, 1801	Ditto,	Ditto.	ditto.
Samuel Barnard, the younger.....						
Samuel Child.....						
Daniel Arms.....						
Enoch Rice.....						
Ephraim Rice.....						
Levi Rice.....						
Jonathan Rice.....						
Samuel Hayford.....						
Barnabas Wilcox.....						
Samuel Bishop.....						
Joseph Pierce.....						
Roswell Bartlett.....						
Ephraim Kee.....						
Ephraim Knapp, the younger.....						
William Wakefield.....						
Jedediah Caswell.....						
Ira David Hyde.....						
Stewart Kee.....						
Samuel Terry.....						
Miles Dorman.....						
Wynnan Wakefield.....						
John Wakefield.....						

Appendix  
(X. X. X. X.)  
26th May.

David Steele.....	1200 each	Brompton.....	27th November, 1801	Ditto.	Ditto.	ditto.						
Elijah Harwood.....												
Oliver C. Sheerman.....												
Libbus Sheerman.....												
Ozias Caswell.....												
Nathan Ward.....												
Jairus Bonney.....												
Thomas Bartlett.....												
Ephraim Knapp, the elder.....												
Elmer Cushing.....							1200 each,	Shipton.....	4th December, 1801,	Ditto.	Ditto.	
George Barnard.....												
Elijah Hastings.....												
Henry Barnard.....												
Job Wetherell.....												
Stephen Barnard.....												
Levi Wetherell.....												
Job Cushing.....												
John Lester.....												
Joseph Hicks.....												
John Hicks.....												
John Brocas.....												
James Doying.....												
Daniel Doying.....												
John P. Cushing.....												
James Barnard.....												
Nathaniel Fescuden.....												
John B. LeBounty.....												
Amherst Stewart.....												
Jonathan Steele.....												
William Dustins.....												
Benjamin Leet.....												
Ephraim Magoon.....												
Charles Clarke.....												
Thomas Hill.....												
Joseph Kezer.....												
Ephraim Magoon, the younger.....												
John Robinson.....												
Theodore Barnard.....												
Thomas Ellison.....												
Benjamin Moulton.....												
Joseph Perkins.....												
David Lewiston.....												
Abner Rice.....												
William Rundlett.....												
Jonathan Smith.....												
Timothy Chamberlain.....												
David Blunt.....												
Robert Green.....												
Ephraim Blunt, the younger.....												
Amos Catlin.....												
John Martin.....												
Joseph Gmelin.....												
John McLure.....												
John Oakes.....												
James Tobyne.....												
Baptiste McLure.....												

Appendix  
(X.X.X.X.)  
26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

NAME OF GRANTEE.	No. of Acres.	Township.	Date of Grant.	By whom Granted.	Conditions.	REMARKS.
Jane Cowan, .....	1200 each	Stoke,.....	13th February, 1802, Sir Robert Shore Milnes, ...	The same as in ordinary Grants.		
James Cowan, .....						
George Cowan, .....						
Geteon Alexander .....						
William Woodworth, .....						
William Woodworth, the younger, .....						
Geraham Woodworth, .....						
Lott Woodworth, .....						
Sammuel Lowthrop, .....						
Jonathan Wood, .....						
Emanuel Hunsinger, .....						
John Campbell, .....						
Elijah Smead, .....						
Henry Welch, .....						
James Tylor, .....						
Sammuel Wright, .....						
Adam Tearing, .....						
Eliphalet Adams, .....						
Henry Crawford, .....						
Peter Stuart, .....						
Ann Stuart, .....						
Elizabeth Stuart, .....	600	Stoke,.....	15th April, 1802, ...	Ditto.	Ditto	ditto.
Mary Stuart, .....						
James Frost, .....						
Phoebe Frost, .....						
Sarah Wallen Gray, .....						
Anne Winslow Frost, .....						
Mary Ann Boutillier, .....						
William Boutillier, the younger, .....						
Ward Bailey, .....						
Mary Bailey, .....						
Isaac Winslow Clarke, .....	600	Stoke,.....	28th August, 1802, ..	Ditto.	Ditto	ditto.
Thomas Ferguson, .....						
Hannah Vankamp, .....						
James Green, .....						
Maria Green, .....						
William Green, .....						
Dorothea Isabella Green, .....						
Eliza Maria Green, .....						
Etienne Bois, .....						
William Stanton, .....						
Louis Boutillier, .....	600	Stoke,.....	28th August, 1802, ..	Ditto.	Ditto	ditto.
Charles Chambers, .....						
Catherine Raiter, .....						
Robert Chambers, .....						
Isaac Gay, .....						
Thomas Boutillier, .....						
Peter Boutillier, .....						
Anne Sopin, Boutillier, .....						

Appendix  
(X.X.X.X.)  
26th May.

Herman Best, .....	1200	Sutton,.....	31st August, 1802, ..	Ditto.	Ditto	ditto.
Patrick Conroy, .....						
Christian Wehr, .....	2000	Sutton,.....	31st August, 1802, ..	Ditto.	Ditto	ditto.
Simon McTavish, .....						
Jean Baptiste DeGrange, .....	1200 each	Chester,.....	17th July, "	Ditto.	Ditto	ditto.
Barthelemy Dubord, .....						
Pierce Headon, .....						
Thomas Dunford, .....						
John Cosetaly, .....						
Hugh Gantley, .....						
Charles Riley, the younger, .....						
Thomas Welch, .....						
Marie Josette Belcour LaFontaine, widow of Francois Cugnet, .....						
Alexandre Dumas, .....						
Reine De Boucherville, widow of Louis Fremont, .....	700	Simpson,.....	17th "	Ditto.	Ditto	ditto.
Jean-Baptiste Germaque, .....						
Charles Liard, .....						
Nicolas Seguin, .....						
Benjamin Jobert, .....						
Joseph Mansuet, .....	1200 each	Halifax,.....	7th August, "	Ditto.	Ditto	ditto.
William Donaldson, .....						
Charles Reley, the elder, .....						
Roger Henley, .....						
Matthew Droughan, .....						
William White, .....	1200 each	Inverness, .....	9th "	Ditto.	Ditto	ditto.
James O'Brien, .....						
John Neigle, .....						
William McGilivray, .....						
Nicholas Buckup, .....						
Michael Collins, .....						
John Cross, .....						
Andrew Forest, .....						
Andrew Duggan, .....						
Thomas Murphy, .....						
Joseph Valleyrand, .....	1200 each	Wolfstown,.....	14th "	Ditto.	Ditto	ditto.
John Lamb, .....						
Nicolas Montour, .....						
William Walsh, .....						
John Murphy, .....						
Luke Gaul, .....	1200 each	Leeds,.....	14th "	Ditto.	Ditto	ditto.
William Gaul, .....						
Pierce Kief, .....						
Matthew Rengan, .....						
Dennis Daly, .....						
Michel Broderick, .....	1200 each	Leeds,.....	14th "	Ditto.	Ditto	ditto.
Isaac Todd, .....						
Jerome Martineau, .....						
Peter Doucette, .....						
Peter Grenier, .....						
John Grenier, .....						
George Long, .....						
Peter Cazeau, .....						
John Bellanger, .....						
Henry Voyer, .....						

Appendix (X.X.X.X.)  
26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

NAME OF GRANTEE.	No. of Acres.	Township.	Date of Grant.	By whom Granted.	CONDITIONS.	REMARKS.
Joseph Frohisher, George Hawdon, John Penely, Louis Dubord, Samuel Hill, Ignace Couture, Louis Seguin, Thomas Lee, the elder, Thomas Lee, the younger,	1200 each	Ireland,	30th August, 1802.	Sir Robert Shore Milnes,	The same as in ordinary Grants.	
Thomas Scott, Joseph Ellison, James Murray, Samuel Wasson, Peter McKenney, Silas Cartwright, William Alkenbrank, Daniel Hill, Junior, John Schoucraft, Thomas Prentice, Francis Deal, William Wisley, Elizabeth Best, Benjamin Towner, David Clark, James Catlin, John Shaw, Pete. McCutchin, Samuel Rogers,	1200 each.	Durham,	30th " "	Ditto.	Ditto ditto.	
Jesse Penoyer, Nathaniel Coffin, Joseph Kilborne, John McCarty, Ephraim Stone, the younger, Adri Vincent, Stephen Vincent, John Lockwood, Isaac Farwell, Oliver Barker, David Jewett, Samuel Woodard, Silas Woodard, Matthew Hall, the younger, Pege Ball, Ebner Eldridge, Samuel Hall, Nathaniel Lobdel, Ebenzer Smith, Tyler Spafford, Thomas Parker,	1200 each	Compton,	31st " "	Ditto.	Ditto ditto.	

Appendix (X.X.X.X.)  
26th May.

William Lindsay, Francis Bisset, William Aycr, Moore Bell, Peter Mizner, Jessie Kelso, Andrew Patterson, the younger, Bela Ayer, James Baker, William Manson, Andrew Hinch, Richard McAlister, George Willis, Samuel Bell, Clark Town, Daniel Chandler, John Lee, Francis McAlister, the younger, Joel Clark,	1400 1200 1200 1200 1200 1200 each	Wickham,	31st August, 1802.	Ditto.	Ditto ditto.	
John Gregory, Lewis Amos, Nicholas Connolly, Thomas Connolly, John Fowler, James Green, Patrick Hagan, Simon LeFeuvre, Malcum McCallum,	1200 each 1000	Arthabaska,	30th September,	Ditto.	Ditto ditto.	
John Mervin Nooth, Charles Gravel, Joseph Delisle, the younger, Jean Baptiste Bordeleau, the son of Stephen, Augustin Anger, Jean Baptiste Durveau, Michel St. Cyr, Jenn Durveau, Jacques Garand, Joseph Hamel, Louis Papin, Gabriel Trudel, Jean Baptiste Bordeleau, the son of John, Augustin Bergeron, Joseph Allary, Thomas Leclerc, Joseph Harrois, Jean Gregoire, Jochim Delisle,	1200 each 1000 1000 1000 1000	Theford,	10th November,	Ditto.	Ditto ditto.	
Amos Lay, the younger, Peter Brewer, Ezra Hamilton, Enoch Hoskins, Amos Lay, Timothy Mills, John Strong, Chauncy Smith, Timothy Woodford,	1200 each	Ely,	13th November,	Ditto.	Ditto ditto.	

Appendix  
(X.X.X.X.)  
26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.:—Continued.

NAME OF GRANTEE.	No. of Acres.	Township.	Date of Grant.	By whom Granted.	Conditions.	REMARKS.
Matthew O'Mara, .....	1200	Aberforth, .....	22nd November, 1802	Sir Robert Shore Milnes,...	The same as in ordinary Grants.	
Elizabeth Rennie, .....	1000					
Margaret Peil, .....	800					
James Kerr, .....	1200					
Catherine Best, .....	700					
Christian Webb, the younger, .....	1200					
Sarah Morris, .....	1200					
Lewis Genevay, .....	2300					
David Alexander Grant, .....	3000					
Duncan Fisher, .....	1200					
Etiénne Deschambault, .....	700	Roxton, .....	8th January, 1803	Ditto.	Ditto	ditto.
Gilbert Miller, .....	600					
John Platt, .....	1400					
George Platt, .....	600					
Ann Platt, .....	1200					
Thomas Ainslie, .....	700					
Henry Caldwell, .....	600					
Therese Voyer, widow of Simon Kenyer, .....	800					
Sir William Grant, .....	500					
William Grant, .....	500					
Robert Lester, .....	500	Granby, .....	8th January " "	Ditto.	Ditto	ditto.
John Lees, .....	500					
Thomas Scott, .....	500					
David Beach, .....	1200					
Abijah Dunning, the elder, .....	1200					
Abijah Dunning, the younger, .....	1200					
William Fortune, .....	1200					
Eli Hawley, .....	1200					
Joseph Kellogg, .....	1100					
Israel Nichols, .....	1100					
David Bishop Warren, .....	1200 each	Buckingham, .....	26th January, " "	Ditto.	Ditto	ditto.
John Westover, the elder, .....	1200					
Arthur Wade, .....	1200					
John Wade, .....	1900					
John Nairne, .....	1200					
Charles Blake, .....	6300					
Jacob Dauford, .....	600					
Alexander Elice, .....	600					
Ann Dwyer, widow of Hugh Hogan, .....	1200					
Margaret Franklin, widow of Michael Dwyer, .....	1200					
Benjamin Wickham, .....	1500	Milton, .....	29th January, " "	Ditto.	Ditto	ditto.
Jacob Glen, .....	1200					
William Hogan, .....	1200					
Julia Hogan, .....	600					
Paul La Croix, .....	1200					
Mary McCumming, .....	600					
Thomas Radenhurst, .....	1200					
Frederick Baron Schaffalstey, .....	600					
Elizabeth Wickham, .....	1200					
John Wickham, .....	1200					

Appendix  
(X.X.X.X.)  
26th May.

Gilbert Hyatt, .....	1200 each	Ascott, .....	5th March, 1803	Ditto	Ditto	ditto.
David Moe, .....						
James Lobdale, .....						
Joseph Hyatt, .....						
Abraham Hyatt, .....						
Francis Wilcocks, .....						
Samuel Derran, .....						
John Wilcocks, the elder, .....						
Joseph Wilcocks, .....						
Ebenezer Dorman, .....						
Jonathan Ball, .....	1200 each	Bury, .....	15th " "	Ditto	Ditto	ditto.
Cornelius Hyatt, .....						
John Ward, .....						
Calvin May, .....						
John Abell, .....						
Asa Abell, .....						
John Leach, .....						
Samuel Laffin, .....						
Nathan Pratt, .....						
Jehiel Smith, .....						
Thomas Torrence, .....	1200	Hatley, .....	25th " "	Ditto	Ditto	ditto.
Lemuel Whitcomb, .....						
Henry Cull, .....						
Ebenezer Hovey, .....						
Job Chadsey, .....						
Joseph Fish, .....						
Samuel Fish, .....						
William Taylor, .....						
Joseph Ives, .....						
Emos Mix, .....						
Samuel Rexford, .....	600 each	Ditton, .....	13th May, " "	Ditto	Ditto	ditto.
Benjamin Rexford, .....						
Isaac Rexford, .....						
Joel Hall Ives, .....						
Joel Hall Ives, .....						
Chester Hovey, .....						
Alfieri Abbott, the elder, .....						
Eli Ives, .....						
Minard Harris Yeomans, .....						
Stephen Bigelow, .....						
Christopher Bably, .....						
Alexander Britancey, .....						
William Chamberlain, .....						
Ebenezer Eastman, .....						
Andrew Henry, .....						
Obadiah James, .....						
Edmond Lamb, .....						
Joseph Loret, .....						
Charles Lewis, .....						
David Marrow, .....						
Rheuben Russ, .....						
Thomas Shadrick, .....						
Ziba Tuttle, .....						

Appendix  
(X.X.X.X.)  
26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

NAME OF GRANTEE.	No. of Acres.	Township.	Date of Grant.	By whom Granted.	Conditions.	Remarks.
John Frederick Holland, .....	1200	Clinton.....	24th May, 1803.....	Ditto	Ditto	The same as in ordinary Grants.
Jouis Dequise, .....	1200					
Augustin Robitaille, .....	1200					
Joseph Larue, the son of Joseph, .....	1200					
Joseph Joseph Proux, the younger, .....	1200					
Joseph Martin, the elder, .....	1000					
Joseph Dupin, .....	1000					
Charles Dupin, .....	1000					
Joseph Vesina, .....	1000					
Pierre Delisle, the elder, .....	1000					
Patrick Langon, .....	1000					
George Casson, .....	1400					
Antoine Delcierre, .....						
Benjamin Guéreau, .....						
Pierre Gauvain, .....	1200 each					
Joseph Godin, .....						
Toussaint Goulet, .....						
Pierre Jasin, .....						
Jean Baptiste Lemaire, the younger, .....						
Jean Baptiste Lemaire, the elder, .....						
François Laquet, .....						
Joseph Paquet, .....						
Toussaint Poirier, .....						
Jean Baptiste Rose, .....						
Joseph Robert, the elder, .....						
Joseph Robert, the younger, .....						
Charles Scheffer, .....						
François Scheffer, .....						
Jean Baptiste Sauvage, .....						
George Longmore, the elder, .....	5200	Kingssey, .....	7th June, "	Ditto	Ditto	
Christina Letitia Longmore, .....	1200					
Maria Longmore, .....	1000					
George Longmore, the younger, .....	1000					
Deborah Longmore, .....	1000					
William Longmore, .....	1200					
Edward Longmore, .....	1000					
Pierre Paul Marganne De La Valtrie, .....	1200					
François Anger, .....	1200					
Joseph Anger, the son of François, .....	1200					
Pierre Anger, .....	1200					
Joseph Anger, the son of Pierre, .....	1200					
Jacques Anger, .....	1000					
Jean François Belan, .....	1000					
Joseph Belisle, the elder, .....	1200					
Joseph Belisle, the younger, .....	1200					
Jean Baptiste Matte, .....	1000					
Daniel Cameron, .....	1000					
Alexander Cameron, .....	1200					
Duncan Cameron, .....	1000					
John Cross, the elder, .....	1000					
John Cross, the younger, .....	1000					
Ann Hall, widow of Conrad Barnet, .....	600	Clifton.....	23rd July, "	Ditto	Ditto	

Appendix  
(X.X.X.X.)  
26th May.

Eleanor Prevort, late the widow Brunson	600	Potton.....	27th July, 1803.....	Ditto	Ditto	
Duncan Cameron, .....	1200					
Henry Ruiter, the elder, .....	1200					
Elizabeth Ruiter, widow of the late John Ruiter, .....	1200					
James Hughes, .....	2200	Newport.....	4th August, "	Ditto	Ditto	
Margaret Walker, .....	2000					
Nathaniel Taylor, .....						
Sarah Taylor, .....						
John Taylor, .....						
William Taylor, .....						
George Minot Taylor, .....						
Joseph Taylor, .....						
Sarah Taylor, the younger, .....						
Christopher Taylor, .....						
Elizabeth Taylor, .....						
Richard Adams, .....	1200	Stonstead.....	6th Dec, "	Ditto	Ditto	
Matthew Scott, .....	2400					
Duncan Cameron	600	Tingwick.....	23rd Jan, 1804.....	Ditto	Ditto	
Jane Cary, .....	1200					
Sarah Conroy, .....	800					
Jacob Cook, .....	600					
Edward Cartwright, the elder, .....	1200					
Richard Dillon, .....	800					
John Ferguson, the elder, .....	1000					
James Ferguson, .....	1200					
Simon Fraser Ferguson, .....	1200					
Isaac Germain, the younger, .....	600					
John McLaughlin, .....	600					
Samuel Perry, .....	800					
Sealow Watson, .....	800					
François Korman, .....	600					
James Robertson, .....	800					
John Saxton, .....	1800					
Elizabeth Cary, .....	600	Warwick.....	23rd "	Ditto	Ditto	
Joseph Cary, .....	600					
Mary Cary, .....	600					
Thomas Cary, the elder, .....	800					
Anne Cary, .....	600					
John Craig, .....	1200					
Duncan Cameron, .....	900					
George Chapman, .....	600					
Martha Ferguson, .....	800					
John Ferguson, the younger, .....	1000					
Alexander Ferguson, .....	1200					
Isaac Germain, the elder, .....	1200					
Isaac Germain, the younger, .....	600					
Philip Lanke, the elder, .....	500					
John McPherson, .....	800					
Abraham Steel, .....	1000					
John Augustus Schaleh, .....	800					
Isaac Ogden, .....	6000	Eaton.....	1st March, "	Ditto	Ditto	
Henry Caldwell, .....	12000					

Appendix  
(X.X.X.X.)  
26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

NAME OF GRANTEE.	No. of Acres.	Township.	Date of Grant.	By whom Granted.	Conditions.	REMARKS.
Nicolas Gaspard Boissault,	500	Nelson,	21st April, 1804,	Sir Robert Shore Milnes,	The same as in ordinary Grants.	
Pierre Perrault,	600					
Gabriel Elzéar Taschereau,	700					
Etienne Bois,	800	Somerset,	21st " "	Ditto.	ditto.	
Marguerite Levron, widow of François Bossus dit Lionais,	600					
Philippe Badelard,	1000					
Pierre Couture,	600					
Charles Deianaudière,	1000					
Jean Baptiste Guillof,	600					
Gamolin Launière,	700					
Jerome Martin Martineau,	700					
François Pommerau,	500					
Louis Turcotte,	500					
Jean Baptiste Volland,	500					
Pierre Vézina,	800					
Charles Arbour,	1200	Tring,	20th July, "	Ditto.	ditto.	
Claire Arbour,	600					
Louis Chabollier,	600					
Thomas Cunningham,	800					
Josephite Boucher, widow of François Dambourges,	1200					
Thérèse Voyer, widow of Simon Ecuver,	600					
Benjamin Ecuver,	600					
Peter Fraser,	1200					
Joseph Gamelin Launière,	1000					
Mary Enbiling, widow of Hugh McKay,	600					
Louis Fortier,	1200					
Louise Porthuise,	600					
Marie Joseph Porthuise,	600					
Ralph Henry Bruyeres and George Selby,	3000	Rawdon,	14th January, 1805,	Ditto.	ditto.	
Joseph Borja,	1400					
François Delisle,	1200					
Joseph Goulet,	1200					
Eustache Harnois,	1200					
Jean Larcue,	1200					
Louis Marcoux,	1200					
Augustin Martin,	1200					
Augustin Vesina,	1200					
Louis Vidal,	1200					
William Johnson Holt,	840	Hatley,	21st February, "	Ditto.	ditto.	
Esther Powell, late the Widow Holt,	900					
Michel Gaspard Aline Chartier DeLotbinière,	1200					
Joseph Emmanuel Lemoine De Longueuil,	1100					
Joseph Belhumeur,	1400					
Louis Dufresne,	1200					

Appendix  
(X.X.X.X.)  
26th May.

Nicholas Graw,	1400	Newton,	6th March, 1805,	Ditto.	ditto.						
John Harper,	1400										
François Jobert,	1300										
Robert Killingly,	1400	Onslow,	6th " "	Ditto.	ditto.						
Christian Schomph,	1400										
Robert Smith,	1600										
François Tremblay,	1800	Melbourne,	3rd April, "	Ditto.	ditto.						
John Richardson and John Forsyth,	1250										
Henry Caldwell,	1200										
Edward Bowen,	1200										
George Hamilton,	1800										
John Caldwell,	1200										
Jane Caldwell,	1200										
Martin Cannon,	1400										
John Davidson,	1200										
John Hennesey,	1200										
Matthew Lemon,	1200	Chester,	11th " "	Ditto.	ditto.						
Thomas Adolphus Simpson	1200										
John Donaldson, the elder,	1200										
Henry Donaldson,	1200	Dudswell,	30th May, "	Ditto.	ditto.						
Peter Donaldson,	1200										
John Donaldson,	1200										
Hugh Donaldson,	1200										
James Donaldson,	1200										
David Donaldson,	1200										
Jean Baptiste DeCoigne,	600						Wendover,	24th June, "	Ditto.	ditto.	
Alexander Hay,	1200										
Jean Baptiste Lefèvre,	600										
John M'Cutcheon,	500						Hallifax,	25th " "	Ditto.	ditto.	
Marguerite Monin,	700										
Marie Anne Bellesire M'Jonell,	1200										
Samuel Phillips,	1200										
John Bishop,	1200										
Naphtali Bishop,	1200										
Barnabus Barnum,	1200										
Ebenezer Barnum,	1200										
Jehiel Barnum,	1200										
Stephen Barnum, Junior,	1200										
Thomas Farland,	1300										
David Ferris,	1200										
Champion Smith,	1500	Joseph Chapdelaine,	700								
Gatherine Chapdelaine,	500										
Michel Chapdelaine,	500										
Jean Baptiste Saint Laurent,	500	Catherine Purcell,	1200								
Thomas Cook,	1200										
William Fisher Scott,	1500										
Eliza Scott,	1200	Robert Tegar Scott,	1200								
Anna Maria Scott,	1600										
Harriet Sophia Scott,	1400										
Robert Tegar Scott,	1200	Bolton John Scott,	1200								
Louisa Frances Scott,	1200										
Louis Frances Scott,	1200										
Salisbury Emma Scott,	1200	Salisbury Emma Scott,	1200								

Appendix  
(X.X.X.X.)  
26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

NAME OF GRANTEE.	No. of Acres.	Township.	Date of Grant.	By whom Granted.	Conditions.	REMARKS.					
Joachim Ontarwarmin.....	700	Durham.....	26th June, 1805	Sir Robert Shore Milnes.	The same as in ordinary Grants.	Indians of the Abenaki Tribe.					
Robert Capino, alias Robert Pinawans.....	600										
Robert Pierre John.....	650										
Agent Pierre Michel.....	650										
François Annance.....	750										
Joachim Ofantosen.....	500										
Lazare the First.....	650										
Pierre Joseph Waurinas.....	800										
Bela Elderkin.....	1200	Stausstead.....	2nd August, "	Ditto.	ditto.						
Jane Cuyler.....	1200	Farnham.....	9th Sept. "	Hon. Thos. Dunn, President.	Ditto	ditto.					
Cathalina Cuyler.....	1200										
Heth Baldwin.....	1200										
Philemon Wright.....	2600	Hull.....	3d January, 1806.	Ditto.	Ditto	ditto.					
Luther Colton.....	1200										
Edmond Chamberlain.....	1200										
Ephraim Chamberlain.....	1200										
James McConnell.....	1200										
Harvey Parker.....	1400										
Isaac Rennie.....	1200										
Philemon Wright, the younger.....	1400										
Tiberius Wright.....	1200										
Daniel Wymon.....	1000										
Alexander Audjo.....	1200						Aston.....	17th February, "	Ditto.	Ditto	ditto.
James Caldwell.....	1200										
Edward Cannon.....	600										
Jean Baptiste Destimauville.....	900										
Susan Finlay.....	1200										
Margaret Finlay.....	1200										
Elizabeth Finlay.....	1200										
Robert Finlay.....	1200										
Charles Finlay.....	1200										
George Finlay.....	1200										
William Mainland.....	1300										
James Molloy.....	1200	Auckland.....	3d April, "	Ditto.	Ditto	ditto.					
Eleanor Molloy.....	1200										
John Reid.....	1200										
Alexander Spark.....	1000										
Charles Thomas.....	500	Fleury Deschambault.....	3d April, "	Ditto.	Ditto	ditto.					
Fleury Deschambault.....	1200										
Joseph Montarville LaBruere.....	600										
Elizabeth Gould.....	1200										
George King.....	1200										
Elizabeth King.....	1200										
Azariah Pritchard.....	1200										
Richard Nevison.....	1200										

Appendix  
(X.X.X.X.)  
26th May.

Pierre Baudry.....	800	Auckland.....	3rd April, 1806.....	Ditto.	Ditto	ditto.
Charles Belan.....	800					
Pierre Clermont.....	800					
Joseph Dessain.....	800					
Joseph Laurence.....	800					
Joseph Savary.....	800					
Catherine Barbara Andrews.....	500					
Adam Graves.....	2200					
William Harris.....	1000					
John Phillips.....	500					
Anna Maria Phillips.....	500	Aston.....	3rd July, "	Ditto.	Ditto	ditto.
Angelique Susan Phillips.....	500					
Josias Wurtele.....	900					
John Neilson.....	1200					
Peter Edward Desbrais.....	1200					
Jacques Beland.....	1200					
Noel Beland.....	1200					
Louis Bourdeleau.....	1200					
Louis Bernard.....	1200					
Jean Baptiste Dubuc.....	1200					
Hyacinte Gravier.....	1200	Frampton.....	10th " "	Ditto.	Ditto	ditto.
François Le Vite.....	1200					
Louis Le Coursier.....	1000					
George Waters Alsopp.....	600					
William Cav.....	1200 } of a lot.					
Robert Cruickshank.....	1200					
William Lane.....	1200					
Gother Mann.....	5000					
François McCarty.....	1200					
John M'Kindlay.....	1200					
Garret Saxby.....	600	Acton.....	22nd July, "	Ditto.	Ditto	ditto.
William Thompson.....	600					
Joseph M. De Jonnacour.....	1200					
Robert Wood.....	600					
Martin Chenique.....	800					
Thomas Busby.....	1200					
Ephraim Sandford.....	1500					
Peter Lukin.....	1100					
David Lukin.....	1000					
Samuel Kipp, Senior.....	500					
Joseph Osborne.....	900	Bardley.....	22nd Aug. "	Ditto.	Ditto	ditto.
Daniel Robertson.....	3000					
Simon Fraser.....	2000					
William Vonteveldon.....	1200					
Augustin Larue.....	1200					
Pierre Delisle, the younger.....	1200					
Ambrose Trudel.....	1200					
Joachim Delisle, the younger.....	1200					
Jean Baptiste Vezina.....	1200					
Michel Yemin.....	100					
Louis Vidal, the younger.....	100	Chatham.....	31st Dec. "	Ditto.	Ditto	ditto.
Augustin Vezina, the younger.....	1200					
William Vonteveldon.....	1200					
Augustin Larue.....	1200					
Pierre Delisle, the younger.....	1200					
Ambrose Trudel.....	1200					
Joachim Delisle, the younger.....	1200					
Jean Baptiste Vezina.....	1200					
Michel Yemin.....	100					
Louis Vidal, the younger.....	100					
Augustin Vezina, the younger.....	1200					



Appendix (X.X.X.X.) 26th May.

Appendix (X.X.X.X.) 26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

Table with columns: NAME OF GRANTEE, No. of Acres, Township, Date of Grant, By whom Granted, Conditions, REMARKS. Includes names like John Corbel, Malcolm McCraig, and various land parcels.

Table with columns: NAME OF GRANTEE, No. of Acres, Township, Date of Grant, By whom Granted, Conditions, REMARKS. Includes names like Roswell Minor, Andrew Clow, and various land parcels.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

Table with columns: NAME OF GRANTEE, No. of Acres, Township, Date of Grant, By whom Granted, Conditions, REMARKS. Includes entries for Archibald Campbell, Dorcas Higgins, and others.

Table with columns: NAME OF GRANTEE, No. of Acres, Township, Date of Grant, By whom Granted, Conditions, REMARKS. Includes entries for Right Rev. Jacob Mountain, Isaac Winslow Clarke, and others.

Appendix (X.X.X.X.) 26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—(Continued.)

Table with columns: NAME OF GRANTEE, No. of Acres, Townships, Date of Grant, By whom Granted, Conditions, REMARKS. Includes entries for Guy C. Colebough, John Legati, Francois Victoire Malhiot, etc.

Appendix (X.X.X.X.) 26th May.

Table with columns: NAME OF GRANTEE, No. of Acres, Townships, Date of Grant, By whom Granted, Conditions, REMARKS. Includes entries for Ruggles Wright, Hannah Mendenhall, John Theodore Hoyle, etc.



Appendix (X.X.X.X.) 26th May.

Appendix (X.X.X.X.) 26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

Table with columns: NAME OF GRANTEE, No. of Acres, Township, Date of Grant, By whom Granted, Conditions, REMARKS. Includes names like James Whyte, Havelock, and various land parcels.

Table with columns: NAME OF GRANTEE, No. of Acres, Township, Date of Grant, By whom Granted, Conditions, REMARKS. Includes names like Louis Barbeau, Baptiste Desroquerie, and various land parcels.

Appendix (X.X.X.X.) 26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

Table with columns: NAME OF GRANTEE, No. of Acres, Township, Date of Grant, By whom Granted, Conditions, REMARKS.

Appendix (X.X.X.X.) 26th May.

Table with columns: NAME OF GRANTEE, No. of Acres, Township, Date of Grant, By whom Granted, Conditions, REMARKS.

Appendix  
(X.X.X.X.)  
26th May.

RETURN of Patents granted in Lower Canada, for Lots of Land, &c.—Continued.

NAME OF GRANTEE.	No. of Acres.	Township.	Date of Grant.	By whom Granted.	Conditions.	REMARKS.
Olivier Hébert, .....	832	Caxton, .....	24th January, 1839	Sir John Colborne, .....	The same as in ordinary Grants.	
Michel Bissonette, .....	832	Ditto, .....	12th March, "	Ditto, .....	Ditto, .....	Except the condition of Settlement.
Charles Bradford, .....	520	Ditto, .....	22nd June, "	Ditto, .....	Ditto, .....	Ditto, .....
Mary McDonald, .....	900	Ely, .....	7th August, "	Ditto, .....	Ditto, .....	Ditto, .....
Representatives of the late Thos. Boston, .....	500	Wendover, .....	31st "	Ditto, .....	Ditto, .....	Ditto, .....
Louis Coursolles, .....	800	Acton, .....	23rd September, "	Charles Poulet Thompson	Ditto, .....	Ditto, .....
Amable LaFontaine, .....	500	Chester, .....	28th October, "	Sir Richard D. Jackson, ...	Ditto, .....	Ditto, .....
Legal Representatives of the late J. Voyer, .....	500	Kingssey, .....	2nd December, "	Ditto, .....	Ditto, .....	Ditto, .....
François Xavier Paré, .....	787	Armagh, .....	10th "	Ditto, .....	Ditto, .....	Ditto, .....
Lieut. Col. John Maxwell, .....	1200	Lochaber, .....	10th December, "	Ditto, .....	Ditto, .....	Ditto, .....
Representatives of the late Nicholas Bultot, .....	500	Ireland, .....	26th February, 1840	Charles Poulet Thompson.	Ditto, .....	Except the condition of Settlement.
Joseph Carmel, .....	800	Wendover, .....	9th March, "	Ditto, .....	Ditto, .....	Ditto, .....
Mrs. Mann, wife of Thomas Mann, .....	500	Bulstrude, .....	14th "	Ditto, .....	Ditto, .....	Ditto, .....
Legal Representatives of Bazile Lamarque, .....	800	Ireland, .....	24th "	Ditto, .....	Ditto, .....	Except the condition of Settlement.
Legal Representatives of William Fortous, .....	636	Wentworth, .....	14th May, "	Ditto, .....	Ditto, .....	Ditto, .....
Joachim Tellier, .....	520	Caxton, .....	16th July, "	Sir Richard D. Jackson, ...	Ditto, .....	Ditto, .....
Representatives of David Grant, .....	520	Ditto, .....	22nd "	Ditto, .....	Ditto, .....	Ditto, .....
Adolphus Dame, .....	520	Ditto, .....	22nd "	Ditto, .....	Ditto, .....	Ditto, .....
Andrew Patterson, .....	520	Ditto, .....	22nd "	Ditto, .....	Ditto, .....	Ditto, .....
Representatives of Lieut. Joseph Stewart, .....	520	Templeton, .....	15th August, "	Charles Poulet Thompson.	Ditto, .....	Except the condition of Settlement.
James Fell, .....	800	Weedon, .....	17th September, "	Lord Sydenham, .....	Ditto, .....	Ditto, .....
Austin Cuvillier, .....	800	Litchfield, .....	19th October, "	Ditto, .....	Ditto, .....	Ditto, .....
Representatives of the late Juste Miville dit Dechène, .....	500	Tring, .....	19th "	Ditto, .....	Ditto, .....	Ditto, .....
François Lanctot, .....	500	Ireland, .....	7th November, "	Ditto, .....	Ditto, .....	Ditto, .....
Antoine L. Augé, .....	520	Caxton, .....	14th "	Ditto, .....	Ditto, .....	Ditto, .....
Charles J. Raymond Bourdages, .....	500	Ely, .....	24th August, 1841	Ditto, .....	Ditto, .....	Ditto, .....
Lieutenant Abraham Steel, .....	500	Bury, .....	29th December, "	Sir Richard D. Jackson, ...	Ditto, .....	Ditto, .....
Thomas Blackwood, .....	500	McNider, .....	22nd Sept., 1842	Sir Charles Bagot, .....	Ditto, .....	Except the condition of Settlement.
Philip Robin, John Robin and others, .....	1000	Cox, .....	8th October, "	Ditto, .....	Ditto, .....	Ditto, .....
John Davidson, .....	500	Leeds, .....	4th Nov., "	Ditto, .....	Ditto, .....	Ditto, .....
Representatives of the late Hon. Charles DeLéry, .....	600	Easton, .....	4th "	Ditto, .....	Ditto, .....	Ditto, .....
James McCracken, .....	1000	Marin, .....	21st March, 1843,	Ditto, .....	Ditto, .....	Ditto, .....
Legal Representatives of the late Captain John Ogilvie, .....	800	McNider, .....	10th May, "	Sir Charles T. Metcalfe, ...	Ditto, .....	Except the condition of Settlement.
William Bowron, .....	539	Godmanchester, .....	29th April, 1845.	Lord Metcalfe, .....	Ditto, .....	Ditto, .....
Legal Representatives of the late Robert Jones, .....	800	Dudswell, .....	20th June, "	Ditto, .....	Ditto, .....	Except the condition of Settlement.
Thomas C. Olin, .....	1793	Marlow and Linère, .....	19th Nov. "	Ditto, .....	Ditto, .....	And to keep the road in front of said lots in repair.
Isaac Doudreau, .....	800	Horton, .....	8th October, 1846.	Earl Cathcart, .....	Ditto, .....	Except the condition of settlement.
Joseph LeBlanc, .....	800	Ditto, .....	8th "	Ditto, .....	Ditto, .....	Ditto, .....
Marianne Hew, .....	800	Ditto, .....	8th "	Ditto, .....	Ditto, .....	Widow of Pierre Bazin,—do.
Antoine Bazin, .....	800	Ditto, .....	8th "	Ditto, .....	Ditto, .....	Except the condition of settlement.
Louis Theodoro Besserer, .....	800	Ditto, .....	8th "	Ditto, .....	Ditto, .....	Ditto, .....
Catherine Purvell, .....	1200	Halifax, .....	17th April, 1847.	Elgin and Kincardine, .....	Ditto, .....	Ditto, .....
Eliza Scott, .....	600	Ditto, .....	17th "	Ditto, .....	Ditto, .....	Ditto, .....
Anna Maria Scott, .....	800	Ditto, .....	17th "	Ditto, .....	Ditto, .....	Ditto, .....
Legal Representatives of the late James McCallum, .....	750	Hinchinbrooke, .....	23rd Oct., "	Ditto, .....	Ditto, .....	Except the condition of Settlement.
John Ryan, .....	500	Chester, .....	23rd "	Ditto, .....	Ditto, .....	Ditto, .....
Alexis LeBlanc, .....	500	Leeds, .....	14th August, 1848.	Ditto, .....	Ditto, .....	N. B.—Where settlement is dispensed with, the grant is for Militia Services.

Appendix  
(X.X.X.X.)

26th May.

There are several Patents to the British Land Company, for Tracts of Land exceeding Five Hundred Acres; but, though they are in the form of Free Grants, I apprehend that they really come under the Class of Sales; and I have accordingly excluded them from this Return, as not falling within the principle upon which it is founded. Should I be mistaken in this conjecture, and should a List of them be consequently required, it can hereafter be furnished in a separate Supplemental Return.

PROVINCIAL REGISTRAR'S OFFICE,

MONTREAL, 25th May, 1849.

I Certify that the foregoing Return has been diligently and laboriously extracted and compiled from nearly thirty ponderous Folios of the Records of Land Patents in Lower Canada; that it has been carefully examined by me, and minutely collated throughout with the Records; and that I do therefore hope and believe that it will be found to be correct and satisfactory in all essential points.

R. A. TUCKER,

*Registrar.*Appendix  
(X.X.X.X.)

26th May.



---

Montreal:

PRINTED BY LOVELL & GIBSON,

SAINT NICHOLAS STREET.

---

**SEIGNIORY OF LAUZON.****RETURN**

TO AN ADDRESS OF THE LEGISLATIVE ASSEMBLY, dated 12th March, 1849; for a detailed Statement of the Moneys annually received and paid by the Agent of the Seigniori of Lauzon, from the period at which the Crown became the Proprietor thereof, to the 20th December last, shewing the annual amount proceeding from the *Lods et Ventes, Cens et Rentes*, Mill Leases, Lands and other Property, within the said Seigniori. Also, for a Statement shewing the amount of *Cens et Rentes* leviable and payable annually in each Parish of the said Seigniori of Lauzon; the number and description of the Mills in the said Seigniori; whether any and which of the said Mills have been repaired; what amount of money has been expended in repairing the said Mills; by whose order and under whose superintendence these repairs have been made, and how the expense of these repairs has been defrayed; under whose superintendence and agency the said Mills have been, since the Crown became the Proprietor of the said Seigniori of Lauzon, and under whose superintendence and agency the said Mills are at present; in what order and condition the said Mills and other Buildings now are; how many and which of the said Mills are under Lease; what are the dates and nature of the said Leases, the names of the Securities thereto, the amount of the annual rentals for each Mill leased, when payable, whether any arrears of rent are due, to what amount, and by whom. And, for a Statement of the annual amount of Moneys received and paid by the late Commissioner or Agent of the said Seigniori of Lauzon, up to the time at which he ceased to act as such, shewing the source from which the said Revenues are derived.

By Command,

J. LESLIE,  
Secretary.SECRETARY'S OFFICE,  
Montreal, 26th May, 1849.

No. 1.

INSPECTOR GENERAL'S OFFICE, Montreal, 31st March, 1849.

SIR,

I do myself the honour to enclose a Statement of all Monies paid to the Receiver General of the Province of Canada by the Agents of the Seigniori of Lauzon, from the period at which the Crown became proprietor thereof, to 20th December, 1848, proceeding from *Lods et Ventes*, Mill Leases, and other property within the said Seigniori.

Also, a Statement of the amount paid by the Receiver General towards the expenses of repairing Mills, Dams, and Wharves within the said Seigniori during the same period; being so much of the information called for by the Address of the Honourable Legislative Assembly of 12th instant.

The foregoing contains all the information that can be given from the Records of this Office.

The further particulars required may be furnished by the Crown Lands' Office, and the Agent and Sub-Agent of the Seigniori of Lauzon.

I have the honour to be,  
Sir,  
Your most obedient Servant,

JOS. CARY,  
Deputy Inspector General.Honourable JAMES LESLIE,  
Provincial Secretary.

Appendix  
(Y.Y.Y.Y.)

26th May.

Appendix  
(Y.Y.Y.Y.)

26th May.

STATEMENT of all MONIES paid to the RECEIVER GENERAL of CANADA by the AGENTS of the SEIGNIORY of LAUZON, &c., from the period at which the Crown became Proprietor thereof to the 20th December, 1848, proceeding from *Lods et Ventas, Cens et Rentes*, Mill Leases, Lands and other Property, within the said Seignior. Required by the Address of the Honourable Legislative Assembly of 12th instant.

DATE.	RECEIPTS.	AMOUNT.		
		Currency.		
		£	s.	d.
July —, 1846 ...	From A. A. Parant, Curator to the Estate of the late Sir John Caldwell, on account of rents and profits .....	400	8	7
October —, do ...	do Pierre Paradis, Agent, on account of lods et ventes, within the Seignior, in August and September last..... £36 19 6 Less Commission .....			
				3 13 10
January —, 1847 ...	do P. Paradis, Sub-Agent, on account of rentes and dues.....	701	14	6
April —, do ...	do do do do rents .....	212	3	9
July —, do ...	do do do do seigniorial dues.....	104	19	2
October —, do ...	do do do do rents .....	140	11	7
January —, 1848 ...	do do do do dues .....	834	6	2
April 10, do ...	do do do do cens et rentes .....	100	3	6
do do do ...	do do do do lods et ventes.....	83	9	9
July 13, do ...	do do do do cens et rentes.....	19	12	1
do do do ...	do do do do lods et ventes.....	65	2	2
September 22, do ...	do Wm. Price, on account of commutation of tenure.....	300	0	0
	do L. M'Pherson, do do .....	100	0	0
November 2, do ...	do A. A. Parant, received from him.....	28	6	11
	Total, Currency.....	£3124	3	10

JOS. CARY,  
Deputy Inspector General.

INSPECTOR GENERAL'S OFFICE,  
Montreal, 28th March, 1849.

STATEMENT of the Amount paid by the RECEIVER GENERAL of the PROVINCE towards the expenses of repairing Mills, Dams, and Wharves, within the SEIGNIORY of LAUZON, from the period at which the Crown became Proprietor of the said Seignior to the 20th December, 1848. Required by the Address of the Honourable Legislative Assembly of 12th instant.

DATE.	EXPENDITURE.	AMOUNT.		
		Currency.		
		£	s.	d.
1846.....	To Wm. Burry, for his services in inspecting mills, &c.....	21	2	0
do .....	To Hon. F. W. Primrose, Agent, for repairs to mills, dams, and wharves.....	5565	4	4
1847.....	To the same, for the same service.....	659	14	6
	Total, Currency.....	£6246	0	10

INSPECTOR GENERAL'S OFFICE,  
Montreal, 31st March, 1849.

Appendix  
(Y.Y.Y.Y.)  
26th May.

No. 2.

CROWN LANDS DEPARTMENT,  
Montreal, 23rd April, 1849.

SIR,

In answer to the Address of the Legislative Assembly of the 12th ultimo, relative to the Seigniori of Lauzon, which you have transmitted to this Department, I have the honour to enclose a Report upon the same made by Mr. Pierre Paradis, the present Agent of that Seigniori. Although his Report was received on the 13th instant, seeing how incomplete it was, I delayed forwarding it under the expectation of receiving, from day to day, a full and comprehensive one from the Honourable F. W. Primrose, the late Commissioner of Lauzon, to whom a copy of the Address has been sent on the 14th ultimo.

In relation to the present Agent's inability to furnish the information required by the Legislative Assembly, I beg to state, in justification of this Department, that the late Commissioner when apprised of his power as such, being at an end, was requested to hand over to Mr. P. Paradis the whole of the documents he had in his hands connected with the administration of that Seigniori. Enclosed are copies of Mr. Primrose's Commission and of the Orders in Council appointing Mr. Paradis resident Agent, and afterwards sole Agent.

The only Mills about which the Department can give some information, are the Etchemin and St. Nicholas Mills: they are under lease for ten years from the 1st January, 1846, by Letters Patent dated, the latter the 17th September, and the former the 18th September, 1846; the rent of St. Nicholas Mill is £450, and that of Etchemin £1778 per annum, payable semi-annually.

Mr. Arthur Ross, Lessee of the St. Nicholas Mill, has not yet paid any rent since he has been in possession of the same.

Mr. R. M. Harrison, the Tenant of the Etchemin Mill, owed, on the 1st January last, above £3500; Mr. W. Henry and H. S. Dalkin, are his securities, both insolvent; Robert M'Kay, Esquire, of Montreal, is one of Mr. Ross's securities. No accounts having yet been furnished by Mr. Primrose, I cannot state what has been received by him since he is under the control of this Department.

I have the honour to be,  
Sir,  
Your obedient Servant,  
T. BOUTHILLIER.

Honourable J. LESLIE,  
Provincial Secretary,  
&c. &c. &c.

[Translation.]

OFFICE OF THE AGENT FOR THE SEIGNIORY OF  
LAUZON,

St. Henri, 9th April, 1849.

SIR,

In reply to the Address of the Honourable the Legislative Assembly, bearing date the 12th March last, which you have transmitted to me, I have the honour to report:

That from my appointment as Sub-Agent of the Seigniori of Lauzon, dated the 22d July, 1846, up to the 20th December, 1848, I received from the *Censitaires* of the said Seigniori the sum of Two thousand seven hundred and seventy-nine pounds thirteen shillings and eight pence half-penny, currency.....£2779 13 8½

as follows, that is to say:—  
For the year ending 31st December, 1845.....Nothing.

For the year ending 31st December, 1846,—

For <i>lods et ventes</i> .....	£249	8	3½	
For <i>cens et rentes</i> .....	567	5	4½	
				816 13 8

For the year 1847, up to the 31st December,—

For <i>lods et ventes</i> .....	£626	6	7	
For <i>cens et rentes</i> .....	809	5	2	
				1435 11 9

For the year 1848, to the 20th December,—

For <i>lods et ventes</i> .....	£247	8	3	
For <i>cens et rentes</i> .....	280	0	0½	
				527 8 3½
				£2779 13 8½

NOTE.—Nothing received on other revenues.

Out of which sum total, carried over, of Two thousand seven hundred and seventy-nine pounds thirteen shillings and eight pence half-penny, I paid, as Sub-Agent, before July, 1848.....£2520 12 11

And paid as Agent, from July, 1848, to the 20th December, 1848,—

For <i>lods et ventes</i> .....	98	16	4	
For <i>cens et rentes</i> .....	160	4	5½	
				£2779 13 8½

I am not aware of any lease of the Mills.

I know of no lands belonging to the Crown in the Seigniori of Lauzon but those which are unconceded, except Aubigné, opposite the City of Quebec, of which I cannot state either the extent or superficies. The Domain of Lauzon, Parish of St. Joseph, Point Levi, containing, according to a recent survey, 218 arpents 26 perches and 80 feet in superficies. A small lot of land on the north-east side of the mouth of the River Brugante or Chaudière, containing about four or five arpents in superficies. The Lauzon Wharf, Point Levi. An irregular tract of land of about 150 arpents in superficies, in which are situate the St. Nicholas Flour and Saw Mills. A piece of land 45 arpents in superficies, in the Parish of St. Henri, in which is situate the Flour Mill of the Concession of St. Felix. Three other lots in which are situate the Saw Mills of Etchemin, Parish of St. Jean Chrysostome. The Flour Mill at St. Joseph, Point Levi, and the Mill of St. Henri, River Etchemin, are each only *emplacements* of limited extent. I cannot state the amount of *cens et rentes* accruing annually, and payable in each Parish of the said Seigniori of Lauzon, having no means of arriving at an accurate result. The Seigniorial *cens et rentes* appear to amount annually to about £1400; and as there is no correct land-roll, I cannot state the amount exactly. And I believe, that on this occasion, it is a duty strictly devolving on me to inform you, that the land-roll which Sir John Caldwell had caused to be prepared by Mr. Felix Tetu, N.P., under authority of Letters Patent bearing date the 7th February, 1822, was destroyed by fire, on the

Appendix  
(Y.Y.Y.Y.)  
26th May.

Appendix  
(Y.Y.Y.Y.)

26th May

20th January, 1834, as well as the originals of the Declarations, before being completed, along with the rent-roll; so that the *cens et rentes* can only be received with uncertainty and confusion, and I do not know how an opposition or suit for *rente forcée*, as well as for exercising the right of *retrait conventionnel*, could be maintained; and that, under these circumstances, it is indispensably necessary that a new land-roll and rent-roll be prepared, so as to enforce the Seigniorial rights in a fit and proper manner.

There are four Flour Mills and three Saw Mills, which belong to the Crown; of which the St. Nicholas Saw Mill has been re-built, as well as one of the Flour Mills at St. Henri, (at present occupied by David Scott,) and the others repaired.

I am not aware by whose order and under whose superintendence these repairs have been made, neither do I know the expense of these repairs. These Mills appear to me to have been all under the superintendence of the Honourable F. W. Primrose ever since the Crown became proprietor of the said Seignior, and seem to be so still; except that the Executive confided to me the management of the Flour Mills at St. Henri solely, on the 3d July, 1848, without calling on me to transmit a statement of the accounts and leases of these Mills, which Mills I cannot take charge of, with reference to the conditions, without these documents, excepting the management of the same as conducted by me from the said 3d July, 1848. All these Mills appear to me to be in good order, but I know nothing of the state of their out-buildings and dependencies.

Neither am I aware how many and what Mills are under lease. If there are leases, I do not know the dates, the nature of the leases, the names of the securities, the annual amount of the rents of each Mill, when they are payable, what are the arrears of rent, what is the amount of the same, and by whom these rents are due, because I have no superintendence over these matters, excepting for the two Flour Mills at St. Henri, as to which I am unable to give you any precise information, for the reasons stated above.

The four Flour Mills and the three Saw Mills belonging to the Crown are as follows:—

1st. A Flour Mill and a Saw Mill at St. Nicholas, occupied by Arthur Ross, Esquire, of the City of Montreal.

2d. Two Saw Mills at St. Jean Chrysostome, occupied by Mr. Harrison.

3d. A Flour Mill at Point Levi, occupied by George Chapman, Esquire.

4th. A Flour Mill at St. Henri, occupied by David Scott.

5th. A Flour Mill at St. Henri, occupied by Pierre Boulillet.

There are also other Flour Mills, and Mills of other descriptions, which are the property of different individuals, of the conditions of which I am ignorant; nor do I know the amount of rent payable by them annually to the Crown, inasmuch as I have not been furnished with any document whatsoever showing their state and the conditions attached to them. They are as follows:—

1st. A Flour Mill at St. Anselme, which is the property of Louis Plante.

2d. A Flour Mill and Carding Mill in the same Parish of St. Anselme, the property of Siméon Goutron dit Larochelle, Esquire.

3d. A Flour Mill in the same Parish of St. Anselme, and a Saw Mill, both the property of Charles Robertson, Esquire.

4th. A Flour Mill in the Parish of St. Isidore, the property of F. X. Beaudouin.

5th. Two other Flour Mills in the Parish of St. Isidore, the property of Pierre Bussière.

6th. A Carding Mill in the Parish of St. Henri, the property of the said Bussière.

7th. A Carding Mill and a Saw Mill in the Parish of St. Isidore, the property of Jean Baptiste Turgeon.

8th. A large Saw Mill on the River Brugante, the property of Mrs. Chs. King and H. Breakey.

9th. Two Saw Mills (for the lumber trade) on the River Beauvillage, St. Nicholas, the property of Pierre Lambert.

The Seigniorial Manor-house of Lauzon was left, with its dependencies, by Sir John Caldwell in 1835 or '36, and preserved up to the time when the Seignior was sold to Government; but since that time the said Manor-house and its dependencies have been destroyed and pillaged in every possible way,—window panes, partitions, sash-frames, doors, gallery, iron-work, chimney, &c.—and are in a state of complete ruin.

The whole humbly submitted.

(Signed,) P. PARADIS,  
Agent of Lauzon.

T. BOUTHILLIER, Esquire,  
Crown Lands Department,  
Montreal.

(Copy.)

METCALFE.

Province of } VICTORIA, by the Grace of God,  
Canada. } &c.

To all to whom these Presents, &c.

KNOW YE, that confiding in the loyalty, integrity, and ability of Our beloved and faithful the Honourable Francis Ward Primrose, of the City of Quebec, Esq., We, from especial grace, certain knowledge, and mere motion, have made, constituted and appointed, and by these Presents do make, constitute, and appoint the said Francis Ward Primrose, to be Our Commissioner for the management and improvement, administration and amelioration of the Seignior of Lauzon, in Our District of Quebec, in Our said Province, and of and every the estates real and personal, moveable and immoveable, appertaining thereto, which Seignior has become and is now vested in Us, and whereof and wherein We are seized and possessed as owner and proprietor; to have and to hold the said Office of Commissioner as aforesaid, with all and every the said powers and rights appertaining to the said Office, during Our pleasure. And We have given and granted, and hereby do give and grant to Our said Commissioner full power and authority, by all lawful ways and means, to enquire into and respecting the said

Appendix  
(Y.Y.Y.Y.)

26th May.

Appendix  
(Y.Y.Y.Y.)

26th May.

Seigniori, and all and every the estates real and personal, moveable and immoveable aforesaid, and the value of the same and of every part thereof to ascertain and establish; and the said Seigniori to enter upon, manage and administer, and cause to be effectually levied by the proper officer, to be in this respect appointed, all and every the rents, issues, and profits of the said Seigniori, real and personal, moveable and immoveable; and the said Seigniori in such manner and way as may be found most expedient to improve and ameliorate, and to the ends, interests, and purposes aforesaid: We have also given and granted, and thereby do give and grant to Our said Commissioner, full power and authority when, and as occasion may require, to make and perfect, and cause to be made and perfected, in due form of law, a Land Roll or *Papier Terrier* of the said Seigniori of Lauzon; and also, to ask and demand of and from all Tenants, Lessees, Emphyteotic Lessees, *Censitaires*, Land-holders, and occupants whatsoever of the said real or immoveable estates or any part or parts thereof, and all other persons whom the same doth, shall, or may concern, all *cens et rentes, lods et ventes, alienations, fines, rents, services, dues, duties, arrearages* of rents, profits, sum and sums of money now due and payable, or hereafter to grow due and become payable to Us, upon, from, or by reason of the said Seigniori, by or from the said Tenants, Lessees, Emphyteotic Lessees, *Censitaires*, Land-holders, occupants, and persons aforesaid, or any of them, and to cause payment and satisfaction thereof, or any part thereof, to be made to Our Receiver General of Our said Province, or other person duly authorized to receive the same; and in default of payment thereof for Us and in Our name, and to Our use, by all lawful ways and means to sue for and recover the same; and also for Us, and in Our name, to institute and prosecute any action or actions, real, personal or mixed, for or in relation to the said Seigniori or any part thereof, or for or concerning any debt, duty, cause, matter, or thing arising from or connected with the same, in any Court of competent jurisdiction within Our said Province or elsewhere; and the same actions to prosecute and follow, or to discontinue and withdraw; and likewise to institute any appeal or appeals from any judgment or judgments which shall or may be given in any such action or actions, and the same to prosecute, discontinue, or withdraw; and generally in the premises to do, perform, and execute all and every matter and thing which shall and may be needful and requisite, without any other and more special authority from Us in that behalf; and moreover We do give and grant to Our said Commissioner full power and authority for Us and in Our name to grant *à titre de cens* to such person or persons as he may deem fit, and as by law are capable in this behalf, any parts or parcels of the said Seigniori which may be waste and ungranted, upon the terms and conditions prescribed by the laws and customs of that part of Our Province of Canada which formerly constituted Our late Province of Lower Canada; and other parts and parcels of the said Seigniori as in the discretion of Our said Commissioner may be judged expedient to demise and let by lease for a term of years not exceeding seven years, or at will, to such person and persons, and for such rent and rents and other considerations as by Our said Commissioner may be thought just and reasonable; subject, nevertheless, to such directions as Our said Commissioner may from time to time receive from Our Governor, Lieutenant Governor, or person administering the Government of Our said Province, touching or concerning the direction of such leases, and the amount of rent to be therein and thereby reserved to us. And We do authorize

Appendix  
(Y.Y.Y.Y.)

26th May.

and empower Our said Commissioner generally to do, transact, and perform all other acts, matters, and things which may be necessary and expedient for carrying into effect the powers and authority hereinbefore mentioned, as fully and effectually to all intents whatsoever, as if such matters and things were herein particularly expressed. And We do hereby further direct and require Our said Commissioner, in the execution of the trusts hereby confided to him, and in all things concerning the same, to observe and follow and govern himself according to such orders, sales, and instructions as he shall from time to time receive from Us, by any Warrant or Writing under Our Sign Manual, or under the Hand and Seal of Our Governor, Lieutenant Governor, or person administering the Government of Our said Province for the time being. And We do hereby require and command all Our Officers, Ministers, and loving subjects whatever, in their several and respective stations and places, to be aiding and assisting to Our said Commissioner in all things to be by him performed in the due execution of these Our Letters Patent.

Copy of a Report of a Committee of the Executive Council, dated 10th October, 1845; approved in Council on the same day.

On a letter from the Inspector General of the Queen's Domain, dated 25th September, 1845, recommending the appointment of an Agent for the Seigniori of Lauzon:

The Committee recommend that an Agent be appointed by Your Excellency for the Seigniori of Lauzon, to reside within the limits of the Seigniori of Lauzon for the collection of all the Seigniorial dues, excepting therefrom the rents of Mills and other properties under lease; with power of granting *saisine* on payment of Seigniorial dues, and the usual remission on *Lods et Ventes* paid within the delay allowed in the Seigniories belonging to the Domain of the Crown. The said Agent to pay monthly to the Receiver General all moneys by him received, and to render quarterly accounts of the same within fifteen days after 1st January, 1st April, 1st July, and 1st October in each year, and to give security for the due payment thereof; his remuneration to be ten per cent. on the gross amount of his receipts, as above.

The Committee are of opinion that it would be proper that the Agent should be subject to the orders and control of the Commissioner of the Seigniori, and bound to report all his proceedings to him, to be communicated to the Secretary of this Province for the information of Your Excellency.

As connected with the present reference, the Committee would further recommend, that the remuneration of the Commissioner of the Seigniori of Lauzon should be two and a half per cent. on the rents of the properties in the Seigniori which are under lease. This last arrangement to be for the present year only.

Certified.

(Signed,) J. JOSEPH,  
C. E. C.

To the Provincial Secretary.

Appendix  
(Y.Y.Y.Y.)

20th May.

Extract from a Report of a Committee of the Honourable the Executive Council on Land Applications, dated the 14th June, 1848; approved by His Excellency the Governor in Council on the 17th June, 1848.

Upon the complaint preferred by the Reverend Mr. Rousseau, in his letter of the first day of May last, to the Crown Lands Department, on the subject of the lands not yet conceded in the Seigniori of Lauzon :

The Committee have had under their consideration the Report of the Commissioner of Crown Lands, dated the 10th day of June instant.

The Reverend Mr. Rousseau complains of the inactivity of Mr. Primrose, who, a short time after the purchase of the Seigniori in the name of the Crown, was appointed Commissioner for the management of the same, and as such authorised to make the concessions of the lands not yet disposed of, as stated by the Commissioner of Crown Lands. By a letter of the latter officer, dated the 5th May last, Mr. Primrose had communication of the complaints preferred by Mr. Rousseau, and was called upon to give explanations thereon; and although his attention was again directed to the matter on the 1st June instant, no such explanations have yet been received.

Mr. Commissioner of Crown Lands states that there is a local Agent, Mr. Paradis; but he has only the power of collecting the Seigniorial dues, Mr. Primrose having been entrusted with the superintendence of the whole, together with the collection of the rents of the Mills.

As it is observed by the Commissioner of Crown Lands, the residence of Mr. Primrose out of the Seigniori, and his other duties as Inspector General of the Queen's Domain and Clerk of the Terrar, may, to a certain extent, have given rise to the preferred complaints. But as the administration of the Crown Domain has been transferred to the Crown Lands Department, that there appears to be no longer any necessity for a Commissioner of the Seigniori of Lauzon, there being a resident Agent; and, therefore, the Committee concur in the opinion of the Commissioner of Crown Lands, that it would seem to be but an act of justice to the *Censitaires* that the local Agent should have the necessary powers to make concessions of lands, under the immediate superintendence and control of the Department, the said concessions so to be made with a view of an early settlement of the unconceded lands, and according to such rate of *cens et rentes seigneuriales* as already existing in the vicinity.

If any license has been given to the lessees of Mills or to any other person to cut timber upon those unconceded lands, the Crown Lands Department or the local Agent will see that the intended concessions do not interfere with such license.

The Commissioner of Crown Lands further states:—

“ There is, however, no convenience to allow Mr. Primrose, as Agent, to collect as heretofore the rents of the Mills at Pointe Levy and St. Nicholas, for these Mills are more used for trade and commerce than for grinding the corn of the *Censitaires*. He has been allowed 2½ per cent. on the rents for the first year; this rate should be continued if Government approves of his collecting the same, but in that case he should pay and account for the proceeds of this Department.”

The Committee see no objection that such an arrangement should be continued till further order.

Certified.

(Signed,) J. JOSEPH,  
C. E. C.

Appendix  
(Y.Y.Y.Y.)

26th May.

No. 3.

CROWN LANDS DEPARTMENT,  
Montreal, 30th April, 1849.

SIR,

Since my letter of the 23rd instant, enclosing a copy of Mr. P. Paradis' Report on the Address of the Legislative Assembly of the 12th March last, I have received Mr. Primrose's Report on the same, a copy of which I beg to transmit herewith.

I have the honour to be,  
Sir,  
Your obedient Servant,

T. BOUTHILLIER.

Honourable JAMES LESLIE,  
Provincial Secretary,  
&c. &c. &c.

(Copy.)

QUEBEC, 21st April, 1849.

SIR,

In obedience to the order of reference of His Excellency the Governor General, bearing date the 14th ultimo, and made upon an Address of the Honourable the Legislative Assembly of this Province, praying that His Excellency would be pleased to cause to be laid before that House by the proper Officer,—

“ A detailed Statement of the Monies annually received and paid by the Agent of the Seigniori of Lauzon, from the period at which the Crown became the proprietor thereof to the 20th December last, showing the annual amount proceeding from the *Lods et Ventas, Cens et Rentas, Mill Leases, Lands, and other property within the said Seigniori.*

“ Also, a Statement showing the amount of *Cens et Rentas* leviable and payable annually in each Parish of the said Seigniori of Lauzon; the number and description of the Mills in the said Seigniori; whether any and which of the said Mills have been repaired; what amount of monies has been expended in repairing the said Mills; by whose orders and under whose superintendence these repairs have been made, and how the expense of these repairs has been defrayed; under whose superintendence and agency the said Mills have been since the Crown became proprietor of the said Seigniori of Lauzon, and under whose superintendence and agency the said Mills are at present; in what manner and condition the said Mills and other buildings now are; how many and which of the said Mills are under lease; what are the dates and nature of the said leases; the names of the securities thereto; the amount of the annual rentals for each Mill lease; when payable; whether any arrears of rent are due; to what amount, and by whom; and finally, the annual amount of Monies received and paid by the late Commissioner or Agent of the said Seigniori of Lauzon up to the

Appendix  
(Y.Y.Y.Y.)  
26th May.

" time at which he ceased to act as such, showing the source from which the said revenues are derived." I have the honour to report to you that I have stated in detail, in the Schedule to this Report annexed, under their proper heads, all the information which it is in my power to afford on the different subjects which are there referred to; in addition to which I desire to state, that the several Mills within the Seigniory were repaired by orders from His Excellency the Governor General, communicated to me as Commissioner for the management of the Seigniory, and that the said repairs were made under my superintendence and agency, and that by far the greater part of the expense of these repairs has been defrayed by Warrants issued from time to time by His Excellency the Governor General upon the Receiver General of the Province, all of them in my favour, with the exception of one which was issued direct in favour of John Thompson, Esquire; the remainder of the said expense having been defrayed out of the funds which came into my hands as such Commissioner. I have further to state that the said Mills have been, since the Crown became proprietor of the said Seigniory of Lauzon, under my superintendence and agency, except as far as that superintendence and agency was modified or changed by the communication addressed to me by the Crown Lands Department, on the 21st June, 1848, by which I was informed that, "The attention of His Excellency having been called to the inconvenience suffered by the *Censitaires* of the Seigniory of Lauzon, from the absence of authority in Mr. Paradis to grant concessions, it has been determined that as the administration of the whole of the Queen's Domain

" has been transferred to the Crown Land Department, there was no further necessity for a Commissioner, and that the resident Agent should, under the direction and control of the Department, have the necessary powers to grant concessions; but at the same time it has pleased his Excellency to reserve to you, till further orders, the collection of the Rents of the Mills at Pointe Levi and St. Nicholas." Under the express terms of this communication, I considered the Mills at Pointe Levi and St. Nicholas at present under my superintendence and agency; but it is to me a matter of uncertainty under whose superintendence and agency the other Mills have been since that communication, being ignorant whether any or what new powers may have been given to Mr. Paradis, as Sub-Agent. I have been, however, always ready, and considered myself liable to aid the Crown Lands Department in the superintendence and agency of those other Mills, whenever thereto required, or when it might appear necessary, as well as on every other matter connected with the Seigniory where my assistance might be deemed of use.

Appendix  
(Y.Y.Y.Y.)  
26th May.

I have the honour to be,  
Sir,  
Your obedient and very humble Servant,

(Signed,) F. W. PRIMROSE.

The Honourable  
The Commissioner of Crown Lands,  
&c. &c. &c.  
Montreal.

SCHEDULE.

STATEMENT of the Monies annually received and paid by the Agent of the SEIGNIORY of LAUZON, from the period at which the Crown became Proprietor thereof, (17th March, 1845,) to the 20th December, 1848; shewing the annual amount proceeding from the *Lods et Ventes, Cens et Rentes*, Mill Leases, Lands, and other property within the said Seigniory.

No. 1.—RECEIPTS and PAYMENTS by F. W. PRIMROSE, Commissioner, from 17th March to 31st December, 1845.

RECEIVED.	£	s.	d.	PAID.	£	s.	d.
Mr. R. M. Harrison, for logs .....	50	0	0	Insurance, Etchemin and St. Nicholas Mills.	6	8	2
Rent, Etchemin Saw Mill .....	125	0	0	Montreal Gazette, advertising .....	1	10	4
do St. Nicholas Grist Mill .....	50	0	0	Repairs, Lauzon Wharf .....	12	10	0
Profits, St. Henry Grist Mill .....	122	1	7	Machinery, Pointe Levi Mill .....	134	18	6
do Trait Quarré Mill .....	10	18	3	Repairs, do do do .....	14	9	6
Rent, Pointe Levi Grist Mill .....	50	0	0	Mr. P. Lambert for visiting the Seigniory,			
do Domain Farm .....	40	0	0	and making a tableau and liore censier			
do Lauzon Wharf .....	30	0	0	of the same .....	36	16	0
do Chaudière Wharf .....	10	0	0	J. Thompson, Esq., for interest on advances			
do Common .....	10	0	0	made for repairs at Etchemin Mills.....	6	10	0
				J. Thompson, Esq., for chains lost .....	2	7	1
				Commissioner for expenses in travelling.....	5	0	0
				Balance .....	277	10	3
	£497	19	10		£497	19	10

MEMO.—A. A. Parent, Esquire, Curator to the vacant Estate of the late Sir John Caldwell, having, during this year, collected what was due to the Crown for *cens et rentes* and *lods et ventes* since the 17th March, 1845, paid over to the Receiver General, as the undersigned has been informed, £356 14s. 1d. currency, as the proportion belonging to Her Majesty, having, it is presumed, first deducted his percentage of 10 per cent. The undersigned has no means of knowing the proportions of *lods et ventes* and *cens et rentes* forming this sum.



Appendix  
(Y.Y.Y.Y.)

26th May.

No. 2.—RECEIPTS and PAYMENTS by F. W. PRIMROSE, Commissioner, from 1st January, 1846,  
to 31st December, 1846.Appendix  
(Y.Y.Y.Y.)

26th May.

RECEIPTS.	£	s.	d.	PAYMENTS.	£	s.	d.
Rent, St. Henry Mill.....	50	0	0	Canadien, advertising .....	13	12	7
do Pointe Levi Mill.....	131	5	0	Mercury, do .....	8	2	2
do Domain Farm.....	20	0	0	Quebec Gazette, do .....	6	11	2
do Trait Quarré Mill.....	50	0	0	P. Cautien, fencing Domain .....	2	10	0
do Lazon Wharf .....	30	0	0	L. Sevasseur, overseeing woods .....	4	2	6
do Common.....	10	0	0	Michael Kelly, do do for 1845....	7	10	0
do Chaudière Wharf .....	10	0	0	do do do for 1846....	22	0	0
One-third profits Larochelle's Mill for 1845	37	1	2	J. Thompson, Esq., for improvement at			
To account Plante's Mill for 1845.....	8	0	0	Pointe Levi Mill .....	175	0	0
Larochelle's privilege for Carding Mill for				J. Thompson, Esq., for Smut Mill.....	25	0	0
1845 .....	4	0	0	T. Cummings, repairs Pointe Levy in 1845	5	12	6
Reugnol constitut .....	2	4	4	Mr. Bissett, for visiting Mills on two oc-			
				casions .....	3	0	0
				Montreal Gazette, printing.....	1	4	0
				Canada do do .....	2	12	6
				J. Thomson, building furnace at St. Henry.	7	15	0
				Commissioner's travelling expenses .....	5	0	0
				Balance .....	62	18	1
	£352	10	6		£352	10	6

PIERRE PARADIS, Esquire, Sub-Agent for the Seigniorship of LAUZON, appears by his returns to have received, during the same period,—

	£	s.	d.
Lods et Ventes.....	229	7	11½
Cens et Rentes.....	426	8	7
	655	15	6½
From which has to be deducted his commission, at 10 per cent.....	65	11	6
	£590	4	0½

This Balance has been paid by him into the Receiver General's hands.

No. 3.—RECEIPTS and PAYMENTS by F. W. PRIMROSE, Commissioner, from 1st January to 31st  
December, 1847.

RECEIPTS.	£	s.	d.	PAYMENTS.	£	s.	d.
Plante's Mill for 1845-6 ..	22	0	0	Schools, St. Jean Chrysostome, 1846.....	3	1	1
Larochelle's Mill for 1846 .....	68	9	11	do St. Henry, 1846.....	3	3	1
Trait Quarré Mill .....	49	0	0	Ignace Coté, fencing Domain Farm and			
Lazon Wharf.....	15	0	0	Summer road .....	10	0	0
To account rent, Etchemin Mill.....	1349	0	0	P. Cautien, Winter Roads .....	1	15	0
				W. J. Cliff, visiting and reporting on St.			
				Henry and Pointe Levi Mills .....	3	3	0
				Messrs. Barry & Lyle, do. St. Nicholas and			
				Etchemin.....	3	15	0
				Do. extra work at Pointe Levi.....	19	3	0
				Do. for Plans and Specifications.....	15	0	0
				Do. for carriage and cartage of mill-stones,			
				and building up of old ones, at Pointe			
				Levi.....	15	6	4
				Michael Kelly, for overseeing woods and			
				repairs on roads, St. Nicholas.....	22	0	0
				Tetu, Notary, for deeds .....	6	6	6
				Commissioner, travelling expenses.....	5	0	0
					112	14	4
				Balance .....	1390	15	7
	£1503	9	11		£1503	9	11

Appendix  
(Y.Y.Y.Y.)

26th May.

Appendix  
(Y.Y.Y.Y.)

26th May.

PIERRE PARADIS, Esquire, Sub-Agent for the Seigniori, appears by his returns to have received during the same—

	£	s.	d.
Lods et Ventes .....	646	5	10½
Cens et Rentes .....	946	7	0
	1592	12	10½
Deduct commission, at 10 per cent.....	159	5	3
	£1433	7	7½

This Balance has been paid by him into the Receiver General's hands.

No. 4.—RECEIPTS and PAYMENTS by F. W. PRIMROSE, Commissioner, from 1st January to 20th December, 1848.

RECEIPTS.			PAYMENTS.				
	£	s.	d.		£	s.	d.
Arthur Ross, Esq., on account Saw Logs...	25	0	0	Schools, St. Henry, 1847-8 .....	3	3	7
To account of Rents Trait Quarré Mill.....	47	10	0	do Pointe Levi, two years .....	21	15	2
	72	10	0	M. Kelly, for building a new Bridge across at Craig's Road.....	10	0	0
Balance .....	168	13	10	Do. for new Bridge over River Rouge.....	10	0	0
				Do. for woods and roads.....	22	0	0
				H. N. Patton, Esq., per repairs to Plank Road at Pointe Levi.....	8	19	4
				E. Huart, for ditches .....	0	12	0
				W. Daussault and others, for rights in Do- main Farm of Lauzon .....	127	10	0
				Enregistering sale.....	0	13	9
				Constructing Wing to protect Dam at Trait Quarré Mill .....	30	0	0
				Rouillard, for damage .....	1	10	0
				Commissioner, expenses travelling.....	5	0	0
	£241	3	10		£241	3	10

PIERRE PARADIS, Esquire, Sub-Agent for the Seigniori, appears by his returns to have received to the 31st March, 1848,—

	£	s.	d.
Lods et Ventes.....	92	15	3
Cens et Rentes.....	111	6	1
	204	1	4
Deduct commission, at 10 per cent.....	20	8	1
	£183	13	3

The above is the latest return to my office.

Appendix  
(Y.Y.Y.Y.)  
26th May.

No. 5.—STATEMENT of the Amount of *Cens et Rentes* leviable and payable Annually in each Parish of the Seignior of Lauzon.

St. Joseph of Pointe Levi.....	£ 95	3	8
St. Jean Chrysostome .....	232	13	5
St. Nicholas .....	309	13	4½
St. Henry .....	186	14	11½
St. Anselme .....	230	12	9
St. Isidore.....	333	6	6½
Currency.....	£1388	4	8½

No. 6.—STATEMENT of the Number and Description of the Mills in the Seignior of Lauzon, which belong to or pay Royalty to the Crown.

Banal Grist Mill, in the Parish of St. Joseph, Pointe Levy.

Etchemin Saw Mills, in the Parish of St. Jean Chrysostome.

Banal Grist Mill, in the Parish of St. Henry.

Banal Grist Mill and Saw Mill, in the Parish of St. Nicholas.

Banal Grist Mill, called *Traite Quarré*, in the Parish of St. Anselme.

There is also a Flour Mill at St. Anselme belonging to Simeon Larochelle, Esquire, which for a temporary privilege of grinding, pays one-third of the profits to the Seignior; and a Mill in the same Parish belonging to Mr. Plante, which for a like perpetual privilege pays one hundred bushels of grain per annum. Mr. Pierre Bussière, of St. Isidore, had likewise a temporary privilege for a small Mill there, of a like nature with that of Mr. Larochelle.

No. 7.—A STATEMENT of the Repairs done to, and the present order and condition of, the several Mills, &c. in the Seignior of Lauzon; whether under Lease or not; the dates and nature of the Leases; the names of Securities thereto; the amount of Annual Rentals, and when payable; what arrears of Rent, to what amount, and by whom due.

1st. MILL at POINTE LEVY and its Dependencies.

This Mill had some temporary repairs made to it in 1845, amounting to.....	£ 20	2	0
A new Dam was erected across the stream in 1845, to supply the stream with water, at an expense of.....	457	6	8
In 1846, the out-going Tenant was paid for bolting blocks, and certain machinery belonging to him, and which he had a right to remove...	134	18	6
In 1846, the Mill was partially re-built, and thoroughly repaired, with a new set of machinery, by contract, amounting to.....	1357	0	0
Also, Mill-stones and repairing old ones	80	6	4
Extra work .....	19	3	8
The large Store was repaired, including an entire new stone foundation, for	170	11	2
Carried up.....	£2239	8	4

Appendix  
(Y.Y.Y.Y.)  
26th May.

Brought up.....	£2239	8	4
The Wharf at the end of the Store next the river was also repaired, at an expense of.....	106	0	0
A new Bridge was erected over the Mill-stream, and the Road communicating with the Mill levelled, repaired and embanked, for.....	70	0	0
	£2415	8	4
In 1847, Jas. Thomson, Esquire, having been permitted to renounce his case, was allowed £175 for improvements to the Dwelling-house and out buildings, and £25 for a Smut Mill.....	200	0	0
Total.....	£2615	8	4

This Mill was let, by tender, to Mr. Geo. Chapman, for three years, from the 1st May, 1847, to 30th April, 1850, at a rent of £160 per annum, payable on the 30th June, and 31st December, in each year. His Securities are Robert Buchanan, and Louis Carrier, of Pointe Levy, Merchants. The parties are bound to execute a Notarial Lease when required, but this has not yet been done.

The Mill and buildings attached to it are in good order. The only complaint which has been made, is the want of some ceilings or interior clapping, to prevent the frost, which collects in winter on the walls and interior of the roof, from doing injury to the grain when it melts in milder weather.

No part of the rent of this Mill has been paid since it was last let. The amount due on the 31st December last is one year and eight months, amounting to £266 13s. 4d. currency.

2. ETCHEMIN SAW MILLS.

These Mills were completely repaired and renewed in 1845-6 at an expense of.....	£3876	3	9
Also the Gates and Wharves at the entrance of the Log Pond for.....	280	0	0
	£4156	3	9

These Mills are under lease to R. M. Harrison, Esquire, for ten years, which commenced on the 1st January, 1846, and will expire on the 31st December, 1855, at a rental of £1778 per annum. His Securities are William Henry and H. S. Dalkin, of Quebec, Merchants. The lease is by Letters Patent under the Great Seal of the Province, bearing date 18th September, 1846.

Under this Lease there was due by Mr. Harrison on the 31st December, 1848, the sum of £3985 currency, balance of three years' Rent remaining unpaid up to that date. Against this sum he claims a deduction of £382 1s. 9d. currency, amount of repairs made in 1848 in consequence of damages occasioned by an extraordinary freshet at the breaking up of the ice, to which deduction he would appear to be entitled.

The Lessee of this Mill, in consequence of severe losses and a large expenditure made by him in improvements upon these Mills, has for some months been in negotiation with the Government for a reduction of Rent, but he has as yet been unable to

Appendix  
(Y.Y.Y.Y.)  
26th May.

carry into effect the conditions upon which such reductions, to a certain amount, was proposed to be conceded to him.

These Mills are in excellent condition

3. MILL AT ST. HENRY.

This Mill was completely rebuilt in 1846 with new Machinery, by contract, at an expense of.....£1927 0 0 Cy.  
Extra..... 7 15 0

	£1934 15 0
Also a House for the Miller, for....	50 0 0
	£1984 15 0

This Mill was let by tender to Mr. David Scott for three years, from the 1st May, 1847, to 30th April, 1850, at a Rent of £110 per annum, payable on the 30th June and 31st December in each year. His Securities are Samuel P. Finch, of Quebec, Butcher, and James Henry, of Quebec, Esquire. The parties are bound to execute a Notarial Lease when required, but this has not yet been done.

Although some complaints have been made in reference to some part of the Machinery of this Mill, as either not being constructed on the best principle, or not being adapted to the style of work required, and which has induced the present tenant to make some alterations therein, this Mill may be considered in good order, requiring only some slight repairs in pointing outside which had been hastily finished by the Contractors, and to meet which a small sum has been retained out of the Contract price. Some new Mill Stones may probably be soon required, and it may be a question, considering the shortness of the Lease, whether equitably the Crown ought not to bear this expense.

No part of the Rent of this Mill has been paid since it was last let. The amount due on the 31st December, 1848, is for one year and eight months, amounting to £183 6s. 8d. currency..

The Tenant has, in consequence of expenses to which he alleges he has been improperly put, claimed from Government indemnification. It is believed that the greater part of it cannot be sustained, although it might afford a just ground for granting an extension of the Lease.

4. GRIST AND SAW MILL, AT ST. NICHOLAS.

New Machinery and a new Flame were provided by Government for the Grist Mill in 1846, under a contract, and at an expense of... £501 17 0  
A new pair of Mill-stones were also supplied, estimated at..... 45 0 0

	£546 17 0
--	-----------

Appendix  
(Y.Y.Y.Y.)  
26th May.

The Mill-stones have not yet been furnished in consequence of the Agent of the Tenant not having decided what quality he preferred, but they are about to be provided as soon as the opening of the navigation shall permit their transportation.

This Mill is in good order.

The Saw Mill has been erected solely at the expense of the Tenant, the Government not having bound itself to repair the old one. Some alteration is making in the machinery of this Mill; when completed, it will be in excellent order.

These Mills were leased to Arthur Ross, Esquire, for ten years, from the first January, 1846, to 31st December, 1855, at a rent of £450 per annum, payable on the 30th June, and 31st December, in each year. The Lease is by Letters Patent under the Great Seal of the Province, bearing date the 17th September, 1846. The Securities are the Honourable Robert Mackay, of Montreal, and John Ross, Esquire, of Quebec.

No Rent has been paid by the Tenant under this Lease, and there was due, on the 31st December, 1848, for three years rent up to that date, the sum of £1350 currency.

The Tenant claims indemnification from Government for losses alleged to have been sustained by him in consequence of the Grist Mill being stopped whilst under repair, in 1846. He is certainly entitled to be allowed a proportion of the rent whilst she was incapable of being worked, but the amount claimed is evidently unreasonable, and based upon data which are quite untenable. This matter has not yet been liquidated, but is under investigation.

5. GRIST MILL called *Trait Quarré*, at St. ANSELME.

This Mill was partially altered and repaired in 1845-6, and a pair of new Mill-stones, furnished at an expense of..... £167 0 0

It was found necessary also, to construct a new Wing to protect the Dam from being carried away, at an expense of..... 31 10 0

Currency ..... £198 10 0

This Mill was let, by tender, to Mr. Pierre Bouthillier, for ten years, from 1st January, 1846, to 31st December, 1855, at a rent of £50 per annum, payable on the 30th June, and 31st December, in each year. His Securities are François Blais, and Benoni Foire, of the Parish of St. Henry, Cultivators. The parties are bound to execute a formal Lease, if required, but no such Lease has as yet been entered into.

This Mill is in good order.

There is due, by Mr. Bouthillier, a balance of £3 10s. Od. currency, for three years' rent, to 31st December, 1848.

Appendix  
(Y.Y.Y.Y.)

26th May.

Appendix  
(Y.Y.Y.Y.)

26th May.

No. 8.—STATEMENT of the Annual Amount of Monies Received and Paid by the late Commissioner or Agent of the Seigniorie of LAUZON, up to the time at which he ceased to act as such; shewing the source from which the said Revenues are derived. The previous Accounts shew the Receipts and Payments by F. W. Primrose, Commissioner, arising from certain revenues of the Seigniorie which passed through his hands. There were issued the following Warrants towards the payment of the expenses of the repairs of the Mills and other works.

WARRANTS ISSUED.				AMOUNT EXPENDED.				
		£	s.	d.		£	s.	d.
September 10, 1845...	F. W. Primrose.....	500	0	0	On account .....	500	0	0
December 4, do ...	do .....	300	0	0	do .....	300	0	0
May 13, 1846...	do .....	1150	0	0	do .....	1150	0	0
June 2, do ...	do .....	500	0	0	do .....	500	0	0
August 28, do ...	do .....	821	0	0	Contracts, St. Henry and Pointe Levi.....	821	0	0
September 17, do ...	do .....	280	0	0	Log Pond Gates, Etchemin.....	280	0	0
October 2, do ...	do .....	821	0	0	Contracts, St. Henry and Pointe Levi.....	821	0	0
November 7, do ...	do .....	88	0	0	Wharf, Bridge and Road, Pointe Levi.....	88	0	0
do 16, do ...	do .....	821	0	0	Contracts, St. Henry and Pointe Levi.....	821	0	0
do 20, do ...	do .....	170	0	0	Contract, St. Nicholas.....	170	0	0
December 7, do ...	do .....	88	0	0	Wharf, Bridge and Road, Pointe Levi.....	88	0	0
do 11, do ...	do .....	368	2	6	Contracts, St. Henry and Pointe Levi.....	368	2	6
do 26, do ...	do .....	50	0	0	House, St. Henry.....	50	0	0
January 12, 1847...	do .....	170	0	0	Contract, St. Nicholas.....	170	0	0
do 23, do ...	do .....	238	1	10	Store and Stones, Pointe Levi .....	238	1	10
February 17, do ...	do .....	206	17	0	Contract (St. Nicholas) and Stones.....	150	0	0
March 8, do ...	do .....	452	17	6	Contracts, St. Henry and Pointe Levi.....	457	8	1½
					Retained in hand.....	62	6	4½
		7024	18	10		7024	18	10
November —, 1845...	J. Thompson .....	1514	19	6	Etchemin Mill repairs.....	1514	19	6
		£8539	18	4		£8539	18	4
NOTE.—The amount retained comprehends—								
Mill Stones for St. Nicholas .....						45	0	0
Due on Contract do .....						11	17	0
do do St. Henry.....						5	9	4½
						£62	6	4½

No. 9.—STATEMENT, shewing what proportion of the General Repairs of the MILLS in the Seigniorie of LAUZON, has been defrayed out of the Revenues of the Seigniorie, which came into the hands of the Commissioner during 1845, 1846, 1847, and 1848.

	£	s.	d.
Paid to Mr. John Lambie, on account of Labour and Materials for the repairs of the Etchemin Saw Mills, and the Dam at Pointe Levi .....	1660	2	1
Paid for Materials for ditto .....	1013	14	4
Messrs. Lamberts' Dam, Pointe Levi.....	150	0	0
Repairs, Trait Quarré Mill.....	167	0	0
	2990	16	5
Deduct first four Warrants on the other side, amounting to.....	2450	0	0
	£540	16	5

This sum to be deducted from the apparent balance in the hands of the Commissioner, on the 20th December, 1848.

E. E.

QUEBEC, 21st April, 1849.

# ANNUAL REPORT

OF THE

## NORMAL, MODEL & COMMON SCHOOLS,

### IN UPPER CANADA,

FOR THE YEAR 1848.

WITH AN APPENDIX

BY THE

## CHIEF SUPERINTENDENT OF SCHOOLS.

EDUCATION OFFICE,

TORONTO, 19th May, 1849.

SIR,

I have the honour to transmit herewith, to be laid before the Governor General in Council, my School Report for Upper Canada, for the year 1848. I have hastened to prepare this Report earlier than the period prescribed by law, in order that it may be laid before the Legislative Assembly, and ordered to be printed, previous to the close of the present Session.

The general statistics of this Report have been prepared at the expense of much labour and correspondence, and are more comprehensive and minute than those which were given in my last Annual Report, or than those contained in any other document which has been compiled in this country,—exhibiting the progress of Common Schools, and of higher Seminaries of Learning, as far as I have been able to obtain information, from 1841 to 1849. The varied and important statistics for the years 1847 and 1848, are the result of forms and regulations which have been prepared under the provisions of the present School Law, and illustrate its operations.

I have the honour to be,

Sir,

Your most obedient Servant,

E. RYERSON.

The Honourable JAMES LESLIE,  
Secretary of the Province,  
Montreal.

## CONTENTS.

## PART I.—REPORT, &amp;c.

Prefatory Letter to the Secretary of the Province.

Subjects of the Report, and Explanatory Remarks:

I. The Condition of the Schools.

II. School Moneys.

III. Attendance of Pupils at the Schools.

IV. Number of School Sections, Schools, &c.

V. Extracts from the Reports of Local Superintendents of Common Schools in Upper Canada, for the year 1848.

VI. Provincial Normal and Model School.

VII. Means employed to facilitate the operations of the School Law, and to improve the School system.

VIII. Free Schools.

IX. Statistical Report and Appendix.

X. Concluding Remarks.

## PART II.—STATISTICAL REPORT.

Table A. School Sections—Schools in operation—Moneys.

Table B. School Population—Pupils attending the Schools—Average in Summer, in Winter—of Boys, of Girls—Time School has been kept Open—Number and Classification of Pupils in the various Branches of Study.

Table C. Books used in the Schools, and modes of Instruction employed therein.

Table D. Common School Teachers—Their Religious Faith—Their average Annual Salaries—Male and Female—Certificates of Qualification—Character of Schools.

Table E. Kind, Sizes, and Condition of School-houses—Number and kind Built during the year 1848—Total School-houses—Freehold, Lease, Rented, &c.

Table F. School Visits—By Local Superintendents, Clergymen, Councillors, Magistrates and

others—Libraries, Common School, Sunday School and Public—Number of Volumes therein—School requisites, Maps, Globes, Black-boards, &c.—Colleges, Academies, Grammar and Private Schools, Students and Pupils therein, and Branches of Study.

Table G. District Model Schools—Masters and Pupils—Moneys—Miscellaneous.

Table H. Normal and Model School for Upper Canada, Receipts and Expenditure of Special Grant of £1500 in full—Of Annual Grant for 1848, and of additional £500.

## APPENDIX.

No. 1. Disposition of the Parliamentary School Grant, for the years 1847 and 1848.

No. 2. Statistical Table, exhibiting results of the operation of the present Common School Law for Upper Canada, 9 Vict., Chap. 20, since its introduction in 1846-7.

No. 3. Statistical Table (continued) exhibiting the results of the operation of the present Common School Law for Upper Canada, since its introduction in 1846-7.

No. 4. General Statistical Abstract, exhibiting the progress of Education as connected with Colleges, Academies, District Grammar, Private and Common Schools in Upper Canada, during the years 1842 to 1848, inclusive.

No. 5. Terms of Admission into the Normal School for Upper Canada.

No. 6. Circular from the Chief Superintendent of Schools to Wardens of Districts in Upper Canada, proposing to furnish each School Trustee Corporation with a copy of Second Volume of Journal of Education for Upper Canada.

No. 7. Circular from the Chief Superintendent of Schools to District Superintendents, with suggestions for filling up their Annual Reports for the year 1848.

No. 8. Address to the Inhabitants of Upper Canada on the system of Free Schools, by the Chief Superintendent of Schools.

# ANNUAL REPORT

OF THE

## NORMAL, MODEL AND COMMON SCHOOLS

IN

### UPPER CANADA, FOR THE YEAR 1848.

To His Excellency the Right Honourable JAMES, Earl of ELGIN and KINCARDINE, Governor General of Canada, &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY:

Pursuant to the provisions of the Common School Act, I have the honour to transmit to Your Excellency, to be laid before the Legislature, my School Report for the year 1848. According to the letter of the Statute, this Report will not be due until the 1st of August next; but in order that its publication may not be delayed until another Session of the Legislature, I have anticipated the prescribed time of its preparation, and made special efforts to be able to transmit it before the close of the present Session. As my Report for 1847 is only now in the course of printing by order of the Legislative Assembly, and as therefore the present Report will appear simultaneously with that for 1847, I have thought it advisable to limit the statistical part of the Report to Districts—omitting the mention and separate statistics of individual Townships. For the same reason, I think it proper to confine my remarks to a few statements and references, having discussed at considerable length in my last year's Report the several subjects involved in the system and progress of Common Schools.

#### I.—THE CONDITION OF THE SCHOOLS.

It is gratifying to observe, is in every respect in advance of that of the preceding year. This improvement is not confined to one department, or to a few Districts, but extending to every District, City, and Incorporated Town in Upper Canada, with the single exception of the City of Toronto. There is, as might be supposed, a great difference in the state of the Schools in different Districts, and a great difference in their comparative improvement; but it is an encouraging fact, that there is some improvement in them all; and that that improvement is under the heads which evince most strongly the increasing co-operation and interest of the people at large in the support of the Common Schools.

#### II. SCHOOL MONEYS.

In the year 1847 the principal part of the Special Grant of £1,500 for the establishment of the Provincial Normal School was expended, and was consequently deducted from the Legislative School Grant for the following year; so that there were £1,259 less apportioned for the support of Common Schools in the various Districts in 1848 than there had been in 1847. Yet notwithstanding this deduction in the amount available for the salaries of Teachers for 1848

is £8,470 in advance of that for 1847;—the total amount available for the salaries of Teachers in 1847 being £77,599 11s. 4½d., while that for 1848 is £86,069 2s. 3½d. As there was a reduction of £1,259 in the Legislative Grant apportioned to the several Districts in 1848 as compared with that for 1847, (a reduction which will not occur again,) it follows that the amount raised by voluntary local taxation for the salaries of School Teachers, was £9,728 more in 1848 than in 1847,—while the amount raised by local voluntary taxation in 1847 for the same purpose was £5,490 in advance of that for 1846. Of this increase of £9,728 in the total amount available for salaries of Teachers in 1848 over that of 1847, we have an increase of £2,404 under the head of District Council Assessments, and £7,324 under the head of Rate-bills—or that which the people in the several School Sections voluntarily tax themselves for the salaries of Teachers to instruct their children, over and above the amount of the School Fund—which consists of the Legislative Grant and the Municipal Council Assessments for the year. The total amount of School Rate-bills was, for 1846, £29,385 12s. 3½d.; for 1847, £30,543 10s. 5½d.; for 1848, £37,968 10s. 7½d. Thus these returns exhibit not only a large increase in the amount of moneys raised for the salaries of Teachers in 1848 over that of any preceding year, but an increase under the heads which evince the growing general interest of parents in the education of their children.

#### III.—ATTENDANCE OF PUPILS AT THE SCHOOLS.

According to the Reports of local Superintendents, the whole School population of Upper Canada in 1848 (that is of the population between the ages of five and sixteen years) was 241,102—being an increase of 10,127 over that of the preceding year. The whole number of pupils reported in attendance at the Schools in 1847 was 124,829; the whole number in attendance in 1848, was 130,738—increase of pupils in favour of 1848, 5,910. But there is a much greater difference in the average, than in the aggregate attendance of the Pupils at the Schools during these two years. The gross average attendance of Pupils in the summer of 1847 was 84,537; in the summer of 1848 it was 112,000. In the winter of 1847, the gross average attendance of Pupils was 89,991; in the winter of 1848 it was 114,800. These results furnish a gratifying illustration of the gradual and rapidly advancing progress of School instruction amongst the youthful population of Upper Canada; although it is lamentable to observe, that nearly one-half of our School population are not in attendance at School at all.



Appendix  
(Z.Z.Z.Z.)

26th May.

IV.—NUMBER OF SCHOOL SECTIONS,  
SCHOOLS, &c. &c.

In my last Annual Report I mentioned the means which had been employed to prevent the formation of small and inefficient School Sections, and to reduce the number of those already formed. It affords me pleasure to be able to remark, that while the number of School Sections reported for 1847 was 3,055, the number of School Sections reported for 1848 was 2,953—a reduction in number of 102. On the other hand, the number of Schools in operation reported in 1847 was 2,727, while the number of Schools in operation in 1848 was 2,800—increase of Schools in operation in favour of 1848, 73. It is also satisfactory to remark, that while the average attendance of Pupils at each School was, in the summer of 1847, 31, and in the winter 33; it was in the summer of 1848, 40, and in the winter 41. I have, furthermore, pleasure in stating, that while the average time of keeping open the Schools by qualified Teachers throughout Upper Canada in 1847 was  $8\frac{1}{2}$  months, it was in 1848 not less than 9 months.

It thus appears, that in respect to the average time of keeping open the Schools by legally qualified Teachers, the average attendance of Pupils in both summer and winter, the aggregate attendance of Pupils, and the amount of moneys raised by voluntary local taxation for the salaries of Teachers, the year 1848 is manifestly in advance of any preceding year. The same remark may be made in respect to the number and character of the School-houses built during the year 1848, as shown by the accompanying Statistical Table marked E; and also the increasing use of the School Books recommended by the Board of Education—those books being already used in a majority of the Common Schools of Upper Canada, and also in most of the Private Schools.

I herewith subjoin extracts from the Reports of those local Superintendents of Common Schools who have accompanied their Statistical Returns with general observations on the working of the School Law, and the state and progress of the Schools in their respective Districts.

V.—EXTRACTS FROM THE REPORTS  
OF LOCAL SUPERINTENDENTS OF  
COMMON SCHOOLS IN UPPER CA-  
NADA, FOR THE YEAR 1848.

## OTTAWA DISTRICT.

Extract from the Report of Thomas Higginson, Esquire, District Superintendent:—

“Of the state of Education in this District I would say, it is very low, especially in new settlements; still there are many Teachers, male and female, of respectable attainments, of correct morals, and persevering industry; and many Pupils possessing a much larger amount of elementary knowledge than is generally supposed. A feeling is evidently springing up on the part of parents and guardians, and the community generally, that the education of the rising generation is indispensable; and I believe if the present system would be permitted to continue, that great, important, and happy results would be achieved. That ever vacillating system of legislation with which this Province has been pestered, tends much to paralyze the effects of even the best School Law. Public opinion has no time to mature on any system until another is adopted. The great corrector of abuses, experience, becomes bewildered amidst continual

“fluctuations; and the public mind, having no time to fix on what is beneficial, or reject what is erroneous, becomes either bewildered or indifferent.”

## BATHURST DISTRICT.

Extract from the Report of the Reverend James Padfield, District Superintendent:—

“Of the 122 Teachers employed in the course of the year in this District, only 40 received certificates from the District Superintendent. It supported the rest held Visitors' certificates. The power given to Visitors to grant certificates is liable to great abuse; and in this District many persons have been authorized to teach by such certificates, who ought rather be pupils themselves than instructors of others. With respect to the character of the Schools here, they are for the most part of the second class; there are many, however, of the third. Very few only are taught by such Teachers as I should deem entitled to general certificates. On this subject, however, it appears to me that no definite idea can well be formed until a more accurate statement is furnished of the qualifications necessary for the several classes of Teachers.

“Ten new School-houses have been erected or completed in the District during the year. In most of these erections a much greater regard has been paid to the fitness of the buildings for the purpose they are intended to serve, than has heretofore been usual in many parts of this District. There is indeed yet room for improvement; but still every friend of education will rejoice at the increasing interest felt on this subject, which these buildings exhibit. The parties who projected and carried on the works deserve great credit for their exertions, and it is to be hoped they will witness the good effects of their labours in the additional advantages thus afforded to both Teachers and Scholars.”

## DALHOUSIE DISTRICT.

Extract from the Report of the Honourable Hamnett Pinhey, District Superintendent:—

“You will find on an analysis of my Annual Report, that the pecuniary remuneration actually paid by the Trustees and Parents to the several Teachers, has quadrupled the amount of the Parliamentary Grant; and I am assured that the sums appearing due to the Teachers on the 31st of December last, have in most of the Sections been paid. A very great improvement is visible as regards the efficiency of the Teachers, the acquirements of the Pupils, and scholastic discipline; the Schools are better furnished, and the children improved in appearance, dress, and address.”

## MIDLAND DISTRICT.

Extract from the Report of John Strachan, Esquire, District Superintendent:—

“It gives me pleasure to state, that the Schools in general in the Midland District are very much improved from what they formerly were, and some of them are in a most flourishing condition, though too many are inferior.

“I fondly hope that the Normal and Model Schools will have a most salutary effect, and be productive of the best consequences by means of raising the standard of Education in Common Schools, and qualifying young men to become teachers of youth.”

Appendix  
(Z.Z.Z.Z.)

26th May.

Appendix  
(Z.Z.Z.Z.)

26th May.

## VICTORIA DISTRICT.

Extract from the Report of William Hutton, Esquire, District Superintendent :—

“ We have only one of the Normal School Pupils yet in our District, (Edward Thresher,) and, though in a very remote part of the County, I am happy to say he has a very large and good School, and gives very great satisfaction. A few more of them would infuse a spirit amongst us which we much require.”

## NEWCASTLE DISTRICT.

Extract from the Report of Benjamin Hayter, Esquire, District Superintendent :—

“ It will be seen that very nearly all the Schools in the District have been open at least six months, and very many have been open twelve months,— independent of those which are always yearly Schools. A lively interest is growing daily in favour of Common School instruction, though there is doubtless still too much apathy, and some slight opposition in certain quarters to the fair trial of the Act; but it will be seen that there is an increase in the averages considerably under all the principal headings of the Report, which will test satisfactorily the relative bearings of the operations of the Act with reference to past years.”

## SIMCOE DISTRICT.

Extract from the Report of H. A. Clifford, Esquire, District Superintendent :—

“ The School-houses in this District, with only two exceptions, are log buildings, and only a few of them are provided with suitable seats and desks; some of the older ones are fast going to decay, and wherever they have been replaced by new ones, greater attention has been paid to furnishing them with proper conveniences: no ventilating apparatus has been introduced in any of them, neither do any of them contain more than one room.

“ I am happy to say, that the National School Books have been very generally introduced into this District during the past year, as you will perceive by the Report. It is true that this remark refers only to the first, second, and third reading books, and in a few instances to the fourth; but I consider that by their introduction we have made one grand step towards general improvement, for I find that amongst the Teachers who use them but one opinion of their merit prevails, viz., that the progress and improvement now made are much more rapid and substantial than before their introduction. Until the last two years the English Reader and the Scriptures, very frequently only the latter, were the only reading books to be found in many of the Schools; and though I am glad to say that the Scriptures have in no instance been discarded, still the indiscriminate use of them has in a great measure ceased, and books designed for progressive School readers now assist them in storing the children's minds with useful information.

“ With regard to the sentiments of the people on the subject of Education, I have to remark that of course they are very various, though I believe that upon the whole a better feeling exists, and more cordiality and unanimity begin to be exhibited towards the Schools. At first, almost all classes strongly objected to any direct tax upon them for promoting the objects of general education; but

“ the novelty of such a tax has now worn off, and the improbability of its being abolished having become apparent to all, less dissatisfaction and less opposition are now offered to its collection.”

Appendix  
(Z.Z.Z.Z.)

26th May.

## GORE DISTRICT.

Extract from the Report of Patrick Thornton, Esquire, District Superintendent :—

“ In forwarding this Annual Report for 1848, I am happy to have it in my power to state, that the Schools in this District generally have made considerable advances during the year. Perhaps the improvement in 1848 has equalled that of any former year since the appointment of District Superintendents. There is one thing deserves to be particularly noticed,—there is a much better spirit generally prevailing than in 1847.”

## NIAGARA DISTRICT.

Extract from the Report of Doctor D'Everards, Esquire, District Superintendent :—

“ In connexion with the accompanying Report, I have the honour to state that, during my visits among the Schools of this District the past year, I found a very marked improvement in the qualifications of the Teachers, a material increase in the numbers in attendance and in apparatus and School requisites, and a higher and more healthy tone of feeling among the people generally with reference to Education, than I have found in any previous year.

“ It is true that there are many localities where a surprising indifference with regard to their Schools still prevails, attended by a penny-wise policy and the usual accompaniments: a poor Teacher, very few and unsuitable books, an absence of almost every convenience and facility for communicating instructions with advantage, and a six months' School. But, on the other hand, a great number of Sections have shaken off the lethargy of former periods; have come to understand their real educational interests; have determined to employ Teachers of the highest order of attainments; to pay them suitable salaries; to supply the Pupils with appropriate and uniform books; to furnish the School-house with all necessary School requisites; to keep their Schools permanently open; and to place their Teachers in that respectable position in society which their merits and the importance of their vocation demand. It gives me pleasure to add, that this latter class of neighbourhoods is decidedly on the increase. In such neighbourhoods the Schools are frequently visited by Trustees, Parents, and School Visitors; the quarterly examinations are looked forward to with much interest and with high expectations by all the parties concerned; are numerously attended, and are productive of a great amount of good.

“ It is scarcely necessary to remark, that in such places School difficulties and complaints against the School Laws are rarely heard of.

“ Among the Teachers exhibiting the greatest improvement, not only in literary acquirements but in their system of teaching, and whose labours are distinguished for the greatest amount of usefulness, are those who have enjoyed a course of training in the Provincial Normal School,—an Institution which, if duly appreciated and properly sustained, is destined to render an incalculable service to our country.

Appendix  
(Z.Z.Z.Z.)

26th May.

“ Two years have now elapsed since the existing School Laws came into full operation; the party prejudices with which they were at first received, have gradually worn away, and the people have thereby been enabled to judge dispassionately of their various enactments.

“ Their general provisions are at this time tolerably well understood; their practical adaptation to the wants of the country very generally admitted; and the feeling of dissatisfaction which prevailed with reference to them in the early part of 1847, has given place to a general desire that they may, in their leading and organic features, remain unaltered.

“ That these laws are not only practical but popular with a large majority of the inhabitants of the Niagara District, the statistics in the accompanying Report compiled from the official returns of School Trustees amply prove. By referring to that document, it will be seen that upwards of  $\frac{1}{3}$  of all our children of School age have been enjoying instruction in the Public Schools the past year; that the increase in attendance at those Schools over the previous year was more than 15 per cent, and over 1846, more than 33 per cent; and that the increase in the aggregate number of months the Schools were kept open, over 1847, was 9 per cent, and over 1846 upwards of 19 per cent, while the increase in the averages and in the apparatus and School requisites was even in a greater ratio, as compared with the periods before named—these improvements taking place too without any perceptible augmentation of the total number of children in the District.

“ Although public sentiment here seems adverse to much farther legislation upon the subject at present, still, I am inclined to think that some modifications of the Statutes referred to, not interfering with their essential principles, are expected; and that such modifications might be introduced, and some additional enactments be made, which would tend to increase the efficiency of the whole School system. The number of properly qualified Teachers is not, nor is it likely to be for some time to come, proportioned to the want of the community in that respect.

“ It is believed by many that the repeal of that clause of the School Act, 9th Victoria, Chapter 20, prohibiting the granting of Licenses to alien Teachers would, under existing circumstances, afford considerable relief, and prove highly advantageous to us, without prejudicing the interests of any one; in which opinion I fully concur.

“ The conferring upon School Trustees the power to raise by tax from the ratable property of their Section, (presuming that an equitable system of assessment will be established,) a sum sufficient, exclusive of the ordinary apportionment, to pay the Teacher's salary, would be a practically useful and popular amendment. It is not suggested that the powers at present possessed by the different Municipal Bodies be transferred to Trustees, or in any respect altered, but that Trustees may have the option of levying the tax themselves, or of applying to the Council for it to be done, according as the peculiar circumstances of the respective localities may render expedient.

“ In justice to all parties, I feel bound to state, that the Free School System, whether to be applied by School Trustees or District Councils, is not approved of by every person in the Niagara District; yet the avowed opponents of the prin-

Appendix  
(Z.Z.Z.Z.)

26th May.

“ ciple constitute decidedly the smallest portion of the rate-paying community, and are composed of individuals who, with a few exceptions, have no children to educate, or who do not choose to have their children attend the Public Schools, or who have not bestowed much thought upon the subject, and of the persons under their respective influences.

“ On the other hand, the question being a new one in this country, the advocates of the system are not altogether agreed as to the extent to which the principle should be applied. One portion is in favour of compelling all those who have children (and no others) to pay towards the salary of the Teacher a sum proportioned to the number of their children, whether they send them to School or not; another portion is willing to fix a moderate rate, say from 2s. 6d. to 5s. per quarter, to be paid by each pupil, the balance of the salary, to be raised by tax upon the ratable property of the Section; and another portion, which is by far the largest portion of the whole, and comprises a considerable majority of the Freeholders and Householders of the District, believes that the principle is just, and that if it applied at all, it should be applied to its fullest extent,—that the property of the Section should educate the children of the Section, without respect to country, colour, or condition in life.

“ I think that I give the views of at least five-sixths of those best informed upon the subject, and most competent to judge, when I state that they believe the Rate-bill system, both ‘unsound in theory, and unprofitable in practice,’—that the natural effect of it is to keep children out, while the effect of the Free School system is to bring them in to the Schools.

“ The correctness of these views is amply proved by reference to the Trustees' Reports for 1847 and 1848, for the five School Sections in this District, in which the Rate-bill system prevailed during the first named, and the Free School system during the last named year.

“ The aggregate population of School age in the five Sections in 1847 was 953; the aggregate attendance during the same period was 527; in 1848 the population was 994, and the attendance 969; showing a gain in favour of the latter system of 442, or nearly 90 per cent!

“ There are many parts of the District where the Schools have attained to a high degree of efficiency, and where a thirst for reading has been created in the minds of the youth of both sexes that the small Libraries of private families in the country are not able to satisfy.

“ To meet the wants of the community in this particular, some provisions for the establishment and support of School Section Libraries would be favourably regarded and at once carried into effect.

“ The fruitfulness of the press of our enterprising neighbours in producing those corrupting works of fiction, and the extremely low price at which they are sold, make them easily available to all; while from the peculiar style in which they are written, the tendency to read them on the part of young persons is fully proportioned to the facilities for obtaining them.

“ These circumstances, if there were no other reasons, should, I humbly conceive, stimulate us to early action on the subject, and to place within

Appendix  
(Z.Z.Z.Z.)  
26th May.

“ the reach of the youth of our land, as soon as practicable, an ample supply of useful and instructive books.

“ I am of opinion that Teachers' Institutes, formed under sanction of legislative authority and encouraged by legislative aid, would prove valuable auxiliaries to our School system. In those countries where they exist, much importance is attached to them.

“ They afford excellent opportunities to Teachers for obtaining information as to improved methods of teaching; for becoming personally acquainted; and for conferring with each other upon the various matters relating to their vocation; for assimilating their views and practice, and for appearing before the public under favorable circumstances as a distinct profession.

“ It may perhaps be thought out of place for me to make any remarks touching the District Grammar Schools.

“ I would nevertheless beg leave to state, that I have long since been led to believe that those Institutions, absorbing as they do annually a considerable sum of public money, and as a general rule benefitting those only who reside in their immediate neighbourhoods, might with advantage be placed under more popular control by associating them with the District Model Schools.

“ Both, it appears to me, would be strengthened by a union of means and interests. The management being then brought more immediately into the hands of the people, and the Schools being open to Teachers, they would become more extensively known, their advantages would be more generally participated in, and their influence and usefulness would be more widely felt.”

#### TALBOT DISTRICT.

Extract from the Report of the Reverend William Clarke, District Superintendent:—

“ During the past year there have been ninety Schools in operation, which, with some few exceptions, I have personally visited and examined; and I am pleased to report, that there has been an advance on the previous year both in the time during which they have been kept open, and also in the amount and diversity of instruction communicated; several branches of study having been introduced into many Schools, which were untaught before. Still, in some Sections the cause has rather retrograded than otherwise, which may be attributed to the following reasons:—

- “ 1. Local differences and prejudices.
- “ 2. The deficiency and variety of School Books.
- “ 3. The parsimony of the people; and
- “ 4. The scarcity of well qualified and accredited Teachers.

“ The latter will at once be apparent, when I inform you that in this District there are not more than sixteen Teachers of the first class, and twenty-four of the second; while there are between fifty and sixty of the third, or least qualified class.

“ In such a state of things, it will at once be perceived that there must of necessity be some Sections suffering all the consequences arising from

Appendix  
(Z.Z.Z.Z.)  
26th May.

“ insufficient teaching. It is, however, important to observe, that there is an addition of six first class Teachers, as compared with the previous year; and in those Sections where there is cordial co-operation and a remunerating salary, Teachers of the first class are readily obtained; but where there is known antagonism and poor pay, such Teachers are of course unwilling to engage.

“ This may show that unreasonable expectations or hasty animadversions should not be indulged. Some of the third class Teachers receive certificates from School Visitors, any two of whom are authorized to give them. In some cases the employment of an insufficient Teacher is to be attributed to the Trustees themselves, who are anxious to keep the School open the prescribed time at the lowest price; while, not unfrequently, the Superintendent has to decide whether there shall be a modicum of instruction, or none at all; whether there shall be half a loaf or no bread. Only let correct principles be diffused,—let the importance of Education be pressed home upon the public mind, and then we may patiently but confidently hope that as first class Teachers are multiplied and settled among us, through the medium of that valuable Institution the Provincial Normal School, the character of our Schools will be gradually improved, and the best modes of imparting instruction will generally, if not universally, prevail.

“ Perhaps you will allow me to say, from personal observation and extensive intercourse, that there is a very general satisfaction with the leading provisions of the present law; while, at the same time, there is an almost unanimous desire for some alterations and amendments.

“ The most active and energetic promoters of Education, are very desirous that the present Rate-bill should be abolished, and that the additional amount of the Teachers' salary should be raised either by a uniform Rate-bill upon all the children, whether in attendance at School or not; or, that the whole amount for School purposes should be raised by the assessment of property, which should not only be taxed for the protection of all, but for the education of all. I have seldom met with an intelligent Trustee who has not uniformly condemned the present mode, and expressed a desire that it might be superseded by a more excellent one. Then it is also desirable that the power of Trustees should be somewhat enlarged. Great care, however, should be taken, that all moneys coming into their hands may be faithfully applied, and duly accounted for. I would further suggest the propriety of a more equitable distribution of the School money. The present system provides that each Section shall receive a sum in proportion to the number of children residing within its bounds, without any reference to the number in attendance, or the length of time the School may be open. I might point out two Sections where the number of children is equal, and of course the amount is equal also; but in one of these Sections the children attend School all the year round, while in the other only one-half attend, and that for only six months in the year.”

#### BROCK DISTRICT.

Extract from the Report of the Rev. W. H. Landon, District Superintendent:—

“ The effect of our present School system, (though in several respects imperfect), has doubtless been to double the number of Schools, while the

Appendix  
(Z.Z.Z.Z.)  
26th May.

"pupils in attendance, and the amount of instruction given, have been augmented in a much greater proportion. An increasing disposition is manifested on the part of the people, to employ a higher class of Teachers, and to give them reasonable Salaries; and by means of the Provincial Normal School, such Teachers are being multiplied, and shortly, it is reasonable to expect, the influence and value of right instruction, on right principles, will be extensively perceived throughout the country.

"Having taken much pains to ascertain what the views of the people are on the subject, I venture to assert that the School Law is not unpopular; but, on the contrary, the people almost unanimously regard it as the greatest boon ever bestowed by the Legislature, upon the people of this country. They are, however, equally unanimous in the opinion that it is susceptible of several improvements, and that some amendments are absolutely necessary. I trust you will not think me exceeding the duties of my Office, if I proceed to point out briefly, some of the required amendments which the almost unanimous voice of public opinion seems most loudly to call for.

"The part of the Act which most loudly calls for amendment, is that which provides for raising a part of the Teacher's Salary by a Rate-bill. I do not recollect of having met with so much as one intelligent Trustee in the District, who, if he expressed an opinion at all, did not condemn the present system, and pronounce it unsuited to the wants of the country. On this subject, I think I hazard nothing in asserting, that all who are capable of forming an opinion, are unanimous. With respect to what ought to be substituted in place of the present Rate-bill, the opinions appear to be somewhat divided. Some would prefer an uniform Rate-bill upon all the children residing in the School Sections, (reserving the power of the Trustees to excuse any for good reasons,) whether in attendance or not. Others, and I believe they include among them, our most enlightened and virtuous citizens, hold that the property of the country ought to be held for the education of all, no less than for the protection of all. My own opinion is, that an amendment of that part of the Act, based upon either of these principles, would be a most valuable improvement of the present system.

"Another amendment that seems to be called for, regards the power which ought to be entrusted to the Boards of Trustees. These ought to be considerably extended. They ought to be empowered by Law, to decide, in all cases, whether it were necessary to levy an Assessment upon their own School Section respectively, and to what amount; whether for building or repairing School-houses, for purchasing books and apparatus, or for paying Teachers.

"Lastly, I beg to submit, whether it would not be desirable to provide for the more equitable distribution of the School Fund. At present, each Section receives an amount in proportion to the number of children residing within its bounds, whether these children attend the School or not; and also without reference to the length of time the School is kept open; so that two School Sections in which the number of children is equal, the amount they will receive from the School Fund, will be equal, though in one, all the children may attend the School the year round, and in the other, only one-half or one-third may attend for six months only. A juster principle, it seems to me,

Appendix  
(Z.Z.Z.Z.)  
26th May.

"would be one which should offer aid to parties, from the public Fund, in proportion to the amount of local effort put forth by themselves, giving encouragement to children who actually attend the School, and withholding it from all who do not."

## WELLINGTON DISTRICT.

Extract from the Report of Alexander Allan, Esq.,  
A.M., District Superintendent:—

"In those parts of the District which are well settled, the Schools are generally in a satisfactory and improving state. In thinly settled parts, the Schools are not in so thriving circumstances. The least advanced Schools, are generally the German; and it is not an easy matter to procure qualified Teachers in that language. There are only two among them who have been educated under any improved system of education. In general, they are not qualified by previous education or by a knowledge of the English language, to attend the Normal School."

## WESTERN DISTRICT.

Extract from the Report of George Duck, Junior,  
Esq., District Superintendent:—

"The Reports of the Trustees, for 1848, will be found to contrast favourably with those of the year previous; and I should not doubt, under this system, that an annual improvement would be witnessed: but, while none deny that the present School system has scarcely had a fair trial, many of the inhabitants of this District are most clamorous for its alteration, and in the event taking place, in addition to only the probability of improvement, it would necessarily occasion incomplete Reports, until some experience in its details, had been obtained by the parties interested.

"One of the most important offices under the present Act, and which is frequently the most neglected by the parties themselves most interested, is that of the Trustees; they are generally appointed by a very small proportion of the inhabitants of a School Section, who attend the Annual School meeting for this purpose; and the unfortunate incumbents of these offices have frequently to deal with the prejudices of those who do not feel sufficient interest in the affairs of the School as to attend the meeting at which the Trustees are appointed, and who are generally most ready to cast reproach on the Trustees for any ill-success which may attend the School. I offer these remarks, being convinced that much of the blame which attends the working of the present School system, arises in a great measure from the apathy of those on whom it is intended to act; and we should not be too anxious for an alteration of the present system, expecting that all these evils will thereby be remedied before we have well considered in what manner a change could be made for the better.

That part of the present Act making it compulsory on the inhabitants to keep a School open six months in a Section, to entitle it to draw its proportion of the School Fund, is an excellent improvement on the previous law; and if the present system should be changed, I should suggest this compulsory principle could be further extended, and that at the same time greater power could be advantageously vested in the Trustees to make provision for the Teacher's salary; but I sincerely trust the principle of Free Schools will become popular in the Province; and were these institutions established, I

Appendix  
(Z.Z.Z.Z.)

26th May.

am confident many of the obnoxious portions of the Trustees' duties would be removed.

"Although much remains to be done, yet I trust I can with reason congratulate the District on a slightly increasing interest in School affairs, in some measure evinced by the parents themselves, and, above all, in their capacities as Trustees; and, although the Reports for 1848 generally were not forwarded as promptly as I could have wished, yet, in this respect, I believe they had the advantage of the year previous. To some of last year's Reports there were many useful remarks appended, and I sincerely trust succeeding years may witness an improvement progressing in a greater ratio, as it is only the want of more interest in its operations that is likely to clog the working of any system of Public Instruction.

"The Irish National Series of School Books are becoming very popular in this District; I think they will increase in favour, and gradually supply the place of the older books, as soon as the new copies are required. The most intelligent Teachers in this District generally concur in a favourable opinion of them; and they all are alive to the advantage of having a uniform system in this respect, instead of the old method of providing the children with such books as multiplied difficulties in the way of the Teacher, and defied all attempts at classification."

## CITY OF HAMILTON.

Extract from the Report of Fredrick Suter, Esquire, City Superintendent:—

"The general attendance, I grieve to say, has been such as could not have been anticipated in this progressive age. Out of a large number of persons of School age within the City limits, one-half is found under the head 'not attending School.' In the School census, 1319 are returned in that document, apparently let loose on society, without the benefit of education, freed from all restraint, and allowed to run riot, at a period too of life, when the love of order and regularity should be particularly inculcated—the value of time explained and enjoined,—and obedience, the prime law, enforced by every parent and guardian.

There is, however, one redeeming feature in this community of the most consoling description. There are several Sunday Schools numerously attended, as stated in my report. It is cheering to know that many children, who do not, or cannot attend during the week, make their regular appearance at these places of instruction. Thus the root of all knowledge will be early implanted in their young and impressible hearts; and though it is impossible to ascertain at present, yet it is pleasing to speculate how wide the branches may spread of each tender plant so cultivated, nourished by the dews of heaven, and strengthened by the power of the Infallible Teacher, till at last they bear an abundant harvest of good fruits, acceptable to our great Master.

"The Teachers employed here in Common Schools are, in the aggregate, of a superior class to those holding the same situations, even three years ago. Whatever may be wanting in their mode of conveying instruction at present, (regarding which, however, I beg to be understood I am well satisfied,) it is hoped, will be shortly supplied by the dissemination of the improvements imparted through

Appendix  
(Z.Z.Z.Z.)

26th May.

"the modern system of Normal teaching; but unless that system, it is respectfully remarked, convey quick perception of each pupil's character, and impose self-command on the Teacher; combined with the science of teaching inculcated during the term of training, it will have but in part accomplished the great benefits anticipated."

I beg leave most respectfully to claim your attention to certain remarks explanatory of my sentiments on this subject, which I take the liberty to quote from Mr. Sheriff Moodie's Treatise on "Memory:"—"Unfortunately there are vast numbers of dull Teachers, who do not observe or understand certain mental peculiarities. Every boy who has a good natural memory, and can learn his lessons mechanically, is considered by one of these Teachers, as a clever, promising boy: the boy, on the other hand, who must understand before he can remember, (for every hard gained acquisition of science, is a kind of annealing upon the mind,) gives the dull mechanical Teacher a great deal of trouble, because he demands explanations and illustrations which the unfortunate master is incapable of giving him. The ideas or facts have been chalked on his empty mind, and he can only exhibit the board to the pupil." What are the sensible deductions drawn from the above? "We need not, therefore, wonder that so many of those boys, who are considered clever at school, turn out dull matter-of-fact men; once on the great sea of the world, the man who thinks, quickly shoots a-head of the man who merely learns and remembers."

"The foregoing clearly and exactly indicates the rock against which it is a positive duty to warn every instructor of youth; and I trust, therefore, it will not be deemed impertinent to reiterate the hope that the Normal system will furnish the desideratum so requisite; that its benefits will be spread over the length and breadth of Canada, and destroy for ever the occupation of the mechanical Teacher,—more especially that modern pest, imported from the neighbouring Republic, the self-styled *par excellence*, Select School Teacher."

## VI.—PROVINCIAL NORMAL AND MODEL SCHOOL.

In my last annual Report I explained at large the system of management and instruction adopted in this most important department of Common School Education. The Model School is limited to 150 pupils; and there are, at this moment, (May, 1849) no less than 270 applications on the books, which we are not able to entertain. Arrangements will be completed in a few days, to accommodate 300 pupils in the Model School—a step which will add much to the facilities of Normal School Students, in the practice of teaching. The number of Students in the Normal School, during the last two Sessions of five months each, has exceeded 100. The last semi-annual examination of both the Normal and Model School afforded unqualified satisfaction to the numerous visitors present. Upwards of 250 Teachers (seven-eighths of whom had previously taught School), have received instruction in the Normal School; and the accounts received of their success as Teachers, since they left the Normal School, is, with very few exceptions, most gratifying, in respect both to the Salaries which they receive, and the satisfaction which they give. For Terms of Admission to the Normal School, see Appendix No. 5.

Appendix  
(Z.Z.Z.Z.)  
26th May.

### VII.—MEANS EMPLOYED TO FACILITATE THE OPERATIONS OF THE SCHOOL LAW, AND IMPROVE THE SCHOOL SYSTEM.

The most serious obstacle to the successful operations of any law which incorporates the great body of the people, in its actual administration, is the want of information. No man can administer a School Law, or appreciate a School System which he does not understand: the proper understanding of that involves considerable information; and that information must be possessed by all the administrators of the law, who, in our Common School System, embrace, at least, all the Municipal Councillors, Superintendents, Trustees, Visitors, and Teachers. Deeply impressed with the utter hopelessness of any considerable improvement in our Schools, without a wider diffusion of information on educational subjects and interests, and conscious of the inadequacy of the ordinary means to diffuse that information, I determined to incur the responsibility and labour of publishing a monthly Journal of Education. This periodical was commenced at the beginning of the year 1848: and though the amount of subscriptions received was insufficient to defray the mechanical expenses of its publication, I have had abundant testimonies and proof of its usefulness. With a view to the wider circulation and more extensive usefulness of this monthly Journal, I addressed, in October, a Circular, (which will be found in the Appendix to this Report, marked No. 6,) to the Heads of the several Municipal Councils in Upper Canada, proposing to furnish a copy of it to each of the Trustee Corporations, within their respective jurisdictions, on conditions which could easily be complied with. Several Councils responded to the proposition submitted to them, and a copy of the Journal of Education, for the year 1849, is thus furnished to each Common School Corporation, in the Bathurst, Johnstown, Midland, Prince Edward, and Niagara Districts. Several other Municipal Councils have ordered a copy for each of their own Members, or for each Township which they represent. I dare say, future years will witness the advantages conferred upon those Districts, each of whose School Corporations has been furnished with an Educational Journal.

In the course of the year, I prepared Blank School Reports for both Local Superintendents and Trustees, and transmitted them to the several Districts of Upper Canada; and in order to secure proper and judicious attention to filling them up in all their details, I addressed a Circular to District Superintendents, dated 15th December, 1848. This Circular will be found in the Appendix, marked No. 7. The advantage of this course of proceeding, during the two past years, is evinced by the comprehensiveness and fulness of the subjoined Statistical Tables.

It was my intention and wish to have made an official visit to the several Districts of Upper Canada, as I had done during the year 1847; but the uncertain state of the School Law, and of the School system itself, together with the want of the necessary legal provisions for the establishment of Common School Libraries, seemed to render such a tour quite unadvisable. But, as I have frequently stated in official communications, I think such a visit made annually to the several Districts of Upper Canada by the Chief Superintendent of Schools, would be advantageous to the progress of the School system, and that the proper arrangements should be made for it.

The law requires me to make such statements and suggestions for the improvement of the School system as I may deem useful and expedient; but as I submitted, on the 13th of October last, for the consideration of Your Excellency in Council, observations on the School Law, and draft of a short Bill to remedy its defects and to provide for the establishment of Common School Libraries—the draft of Bill containing the results of two years' experience and conversations with practical men connected with Common Schools in the several District of Upper Canada—and as I submitted, on the 23d of February, further observations and a draft of Bill adapting the School Law to the contemplated changes in the Municipal Councils, and providing for the establishment of a Provincial School of Art and Design, and for increasing the facilities of the Normal School; and as I have, moreover, on the 12th instant, submitted lengthened remarks on some of the principles and various of the provisions of the School Bill lately introduced into the Legislative Assembly, I think that any further observations in this Report on the School Law, or the School system generally, are quite unnecessary.

### VIII.—FREE SCHOOLS.

The subject of Free Schools—or Schools supported by all according to property, and to which the children of all have free access—has attracted considerable attention in some parts of Upper Canada; and Schools have been supported upon this principle in several School Sections of some Districts. This system is peculiarly adapted to rural School divisions, where all the inhabitants are interested in the Common School; and wherever it has been adopted, either in town or country, an increased efficiency of the Schools and a greatly increased attendance of Pupils have been the result. The only town in Upper Canada that has carried out this system thoroughly during the year 1848, is the Town of Niagara; and such has been the increase of Pupils in the Schools, that their number exceeds that of the whole School population of the Town—that is, the number of children over five and under sixteen years of age, and from beyond the limits of the Town; attending the Schools, is greater than the number between those ages residing in the Town not attending the Schools. The effects of this system in rural School Sections may be learned by referring to the remarks of the Superintendent of Common Schools for the District of Niagara, quoted in a former part of this Report. I may remark that this system, which has long prevailed in the New England States of America, has recently been established in some of the Western States, and has, during the last two months, been established by law throughout the great neighbouring State of New York. With the view of correcting the erroneous impressions which exist in the minds of many in regard to the nature and objects of Free Schools, and to bring the great question involved in their establishment before the Canadian Public, I prepared and published, at the commencement of the present year, 1849, an Address, which will be found in the Appendix to this Report, marked No. 8.

### IX.—STATISTICAL REPORT AND APPENDIX.

It only remains for me to refer, in order, to the Statistical Tables and Documents hereto annexed:—

TABLE A, Shows the number of School Sections and of Schools in operation during the year 1848—The Moneys received and expended—Total Annual Salary of Teachers.

Appendix  
(Z.Z.Z.Z.)  
26th May.

Appendix  
(Z.Z.Z.Z.)

26th May.

TABLE B, Shows the School population in Upper Canada, in Districts, Cities, and Incorporated Towns—Pupils attending the Schools, and their average attendance in Summer and Winter—Time the Schools have been kept open—Number and Classification of Pupils in the various branches of Study.

TABLE C, Shows the Books used, and the Modes of Instruction employed in the Schools.

TABLE D, Shows the Number of Common School Teachers, male and female, and their Religious Faith—Certificates of Qualification granted and annulled during the year, and the Character of the Schools.

TABLE E, Shows the Kind, Sizes, and Condition of School-houses—Number and kind of School-houses built during the year 1848—Total number of School Houses, Freehold, Lease, Rented, &c.

TABLE F, Shows the Number of School Visits in 1848, by Local Superintendents, Clergymen, Councillors, Magistrates and others—Common Schools, Sunday School and Public Libraries, and the number of Volumes therein—School Requisites, as Maps, Globes, Blackboards, &c.—Colleges, Academies, Grammar and Private Schools—Number of Students in them, Branches of Study, &c.

TABLE G, Relates to District Model Schools, Masters and Pupils, Moneys received and expended, &c. The attempt to establish District Model Schools has thus far proved a failure. Only one survives, and that is associated with a Grammar School. Sufficient care has not been taken by Councils in the selection of proper Teachers, and the establishment of a judicious system.

TABLE H, Contains an Abstract of the accounts relating to the Provincial Normal and Model School. Receipts and Expenditure of the Special Grant of £1500 in full up to May, 1849—Receipts and Expenditure of the Annual Grant of £1500 up to the 31st December, 1848, and of an additional £500 granted to facilitate the attendance of Students.

To the Statistical Report, I have added an Appendix, which contains the following Tables and Documents:—

No. 1. Disposition of the whole Annual School Grant for Upper Canada for the years 1847 and 1848. This Table shows that no part of the School Grant is expended for the salaries of Superintendents, any more than for the salaries of Judges.

No. 2. Statistical Table, exhibiting the results of the operations of the present Common School Law for Upper Canada (9 Vic. Chap. 20,) since its introduction in 1846-7. This Table shows the number of Schools in operation during each year, from 1845 to 1848 inclusive. The amount of assessment levied by the Municipal Council of each District for the salaries of Teachers during the years 1846, 1847, and 1848, and the amount of School Rate-bills imposed by Trustees during the same years—The gross amount available for the salaries of Teachers, and the number of Pupils attending the Common Schools in each District in Upper Canada from 1845 to 1848 inclusive.

No. 3, Is the continuation of Table No. 2, showing the number of School Visits made in each of the years 1845, 1846, 1847, and 1848, and the extent to which the Books recommended by the Board of Education have been introduced into the Schools during the years 1847 and 1848.

No. 4, Contains a General Statistical Abstract exhibiting the progress of Education, as connected with Colleges, Academies, District Grammar, Private and Common Schools in Upper Canada; from 1842 to 1848 inclusive. This Table shows a most gratifying educational progress in Upper Canada since 1842; it also shows, at the same time, that it is only during the last two years that any thing like comprehensive educational statistics has been collected.

No. 5. Copy of the Terms of Admission into the Normal School for Upper Canada.

No. 6. Circular to Wardens of Districts, proposing to furnish each School Trustee Corporation with a copy of the Journal of Education.

No. 7. Circular to District Superintendents, containing suggestions for the filling up of the blank Annual Reports forwarded to them.

No. 8. Address to the Inhabitants of Upper Canada on the system of Free Schools.

#### X. CONCLUDING REMARKS.

The various returns furnished in the Tables of the Statistical Report and Appendix above referred to, sufficiently illustrate the general, and I may add, unparalleled success of our Common School system, as I have remarked at length in my last Annual Report, in comparing the progress of Common Schools in Upper Canada and in the State of New York. These statistics evince that practical and general exertion, rather than theoretical and up-rooting legislation, is required to place the Common Schools and Common School system of Upper Canada upon a level with those of the oldest States of America. Let solid and varied information on the nature, importance, and means of universal education be widely and constantly diffused; let public attention be directed to common interests rather than party interests—to unity rather than division—to the practical rather than the speculative—to the future rather than to the past—to the moral and intellectual foundations and progress of society, the elements of its happiness and greatness, and we shall happily witness, at no distant day, the spirit of patriotism superseding the spirit of selfishness, and an entire people growing up in the principles of virtue and knowledge, the love of country and order, the spirit of enterprise and philanthropy.

I have the honour to be  
Your Excellency's  
Most obedient humble Servant,

E. RYERSON.

EDUCATION OFFICE,  
Toronto, 19th May, 1849.

Appendix  
(Z.Z.Z.Z.)

26th May.



Appendix (Z.Z.Z.Z.) 26th May.

STATISTICAL REPORTS FROM THE DISTRICTS, CITIES, AND INCORPORATED TOWNS OF UPPER CANADA, 1848.

TABLE A.—SCHOOL SECTIONS AND SCHOOLS—MONEYS.

Table with columns: SECTIONS AND SCHOOLS, No. of School Sections, No. of Schools in operation, Apportionment from the Legislative School Grant, Amount imposed by Municipal Councils, Amount received from Collector, Amount imposed by Rate Bill, Amount received from Rate Bill, Former year's Balances, &c. added to the Legislative School Grant, Total Amount available for Teachers' Salaries, Total Amount paid Teachers, Balance still unpaid, Balance reported in the Local Superintendent's hands, Total Annual Salaries of Teachers.

Appendix (Z.Z.Z.Z.) 26th May.

Appendix (Z.Z.Z.Z.) 26th May.

Table with columns: Victoria, Belleville, Newcastle, Cobourg, Port Hope, Home, Toronto, Colborne, Gore, Hamilton, Brantford, Dundas, Niagara, Niagara, St. Catharines, Talbot, Brock, Wellington, London, Huron, Western, Grand Total. Columns include: No. of School Sections, No. of Schools in operation, Apportionment from the Legislative School Grant, Amount imposed by Municipal Councils, Amount received from Collector, Amount imposed by Rate Bill, Amount received from Rate Bill, Former year's Balances, &c. added to the Legislative School Grant, Total Amount available for Teachers' Salaries, Total Amount paid Teachers, Balance still unpaid, Balance reported in the Local Superintendent's hands, Total Annual Salaries of Teachers.

Appendix (Z.Z.Z.Z.) 26th May.

\* "Amount collected by Trustees and paid Teachers." The Honourable Hannett Pinhey, District Superintendent, further adds: "The Council did not assess for Common School purposes for the year 1848; compulsory measures have been tried to an alarming extent; and it has been thought, by a majority of the Municipal Council, "advisable to humour rather than revolt so strong an opposition. You will find, on analysis of my Annual Report, that the pecuniary remuneration actually paid by the Trustees and parents to the several Teachers, have more than quadrupled the amount of the Parliamentary Grant of the School Fund to this District."

† Assumed. No report having been received from the Town of Bytown for the year 1848.

‡ Not reported.

NOTE.—It is worthy of remark, that the Report for the City of Toronto is the only one from any part of Upper Canada which exhibits a decrease in the "Total Amount available for Teachers' Salaries," as compared with the previous year (1847); and the only one which reports the peremptory closing of the Common Schools by Municipal authority. The total increase in Upper Canada, under the head of "Total Amount available for Teachers' Salaries," has amounted to nearly £10,000 for each of the years 1847 and 1848; or to about £500, on an average, for each District, since 1846. See Appendix, No. 2.

Appendix (Z.Z.Z.Z.) 26th May.

STATISTICAL REPORTS FROM THE DISTRICTS, CITIES, AND INCORPORATED TOWNS, IN UPPER CANADA, 1848.

TABLE B.—SCHOOL POPULATION—PUPILS, AND TIME OF ATTENDANCE AT SCHOOL.

Table with columns for Districts/Cities/Towns, School Population and Pupils (Summer/Winter), Months, Reading Classes, Arithmetic, and Other Branches (Grammar, Geography, History, Writing, Book-keeping, Mensuration, Algebra, Geometry, Elements of Natural Philosophy, Vocal Music, Linear Drawing, Other Studies).

Appendix (Z.Z.Z.Z.) 26th May.

Appendix (Z.Z.Z.Z.) 26th May.

Table with columns for Districts/Cities/Towns, School Population and Pupils (Summer/Winter), Months, Reading Classes, Arithmetic, and Other Branches (Grammar, Geography, History, Writing, Book-keeping, Mensuration, Algebra, Geometry, Elements of Natural Philosophy, Vocal Music, Linear Drawing, Other Studies).

Appendix (Z.Z.Z.Z.) 26th May.

\* No Report received from the Town of Bytown for the year 1848.

† Including One hundred and ninety-one Mohawk Indian children.

NOTE.—The figures in the column headed "other Studies," evidently includes the number of Pupils in Geometry, the Elements of Natural Philosophy, Vocal Music, and Linear Drawing; but, with a few exceptions, no distinction whatever has been made in the Local Superintendents' Reports under these heads.

Gross average attendance of Pupils, in Summer, 112,000—of Boys, 70,000—of Girls, 42,000.

do do do in Winter, 114,800— do 64,400— do 50,400.

N. B.—See Appendix Nos. 2 and 4.



Appendix (Z.Z.Z.Z.) 26th May

STATISTICAL REPORTS FROM THE DISTRICTS, CITIES, AND INCORPORATED TOWNS IN UPPER CANADA, 1848.

TABLE D.—TEACHERS—THEIR RELIGIOUS FAITH, SALARIES, CERTIFICATES—CHARACTER OF SCHOOLS.

Table with columns: DISTRICTS, CITIES, AND INCORPORATED TOWNS; TEACHERS (Total, Male, Female); RELIGIOUS FAITH (Church of England, Roman Catholic, Presbyterian, Methodist, Baptist, Congregational, Lutheran, Quakers, Universalist, Unitarian, Reported as Protestant, Other Persuasions, and those not reported, Total, Male and Female); SALARIES (Average Annual Salary of Male Teacher, with Board, without Board, Female Teacher, with Board, without Board); CERTIFICATES, &c. (Number granted by Superintendent, Number granted by Common School Visitors, during the year, Number annulled during the year, Total number of Qualified Teachers, Of Male, Qualified, Of Female, Qualified); CHARACTER OF SCHOOLS (Number of Good, or First Class Schools, Number of Middling, or Second Class Schools, Number of Inferior, or Third Class Schools, Number of Separate Schools).

Appendix (Z.Z.Z.Z.) 26th May.

Appendix (Z.Z.Z.Z.) 26th May.

Table with columns: Districts/Cities/Towns; Total Teachers; Religious Faith; Salaries; Certificates; Character of Schools. This table is a continuation of the data from the first table, listing specific locations like Victoria, Belleville, Newcastle, Cobourg, Port Hope, etc.

Appendix (Z.Z.Z.Z.) 26th May.

\* No Report has been received from the Town of Bytown for the year 1848.

† Not Reported.

N.B.—This Table is almost entirely new. The Religious Faith of Teachers, and their average Annual Salaries, never have been before reported.

Appendix (Z.Z.Z.Z.) 26th May.

STATISTICAL REPORTS FROM THE DISTRICTS, CITIES, AND INCORPORATED TOWNS OF UPPER CANADA, 1848.

TABLE E.—KIND, SIZES, AND CONDITION OF SCHOOL-HOUSES.

Table with columns for DISTRICTS, CITIES, AND INCORPORATED TOWNS, and various school conditions like Number of Brick School-Houses, Of Stone, Of Frame, Of Log, etc.

Appendix (Z.Z.Z.Z.) 26th May.

Appendix (Z.Z.Z.Z.) 26th May.

Table with columns for various districts like Prince Edward, Pictou, Victoria, etc., and various school conditions like Number of Brick School-Houses, Of Stone, Of Frame, Of Log, etc.

Appendix (Z.Z.Z.Z.) 26th May.

\* No report has been received from the Town of Bytown for the year 1848.

Appendix (Z.Z.Z.Z.) 26th May.

STATISTICAL REPORTS FROM THE DISTRICTS, CITIES, AND INCORPORATED TOWNS, IN UPPER CANADA, 1848.

TABLE F.—SCHOOL VISITS—LIBRARIES—SCHOOL REQUISITES—COLLEGES, ACADEMIES, AND GRAMMAR AND PRIVATE SCHOOLS.

Table F: School Visits, Libraries, School Requisites, Colleges, Academies, and Grammar and Private Schools. Columns include School Visits (By Superintendents, Clergymen, etc.), Libraries (Number of Volumes, Public, etc.), School Requisites (Maps, Globes, etc.), and Grammar and Private Schools (Number of Pupils, Branches, etc.).

Appendix (Z.Z.Z.Z.) 26th May.

Appendix (Z.Z.Z.Z.) 26th May.

STATISTICAL REPORTS FROM THE DISTRICTS, CITIES, AND INCORPORATED TOWNS IN UPPER CANADA, 1848.

TABLE G.—DISTRICT MODEL SCHOOL.

Table G: District Model School. Columns include Masters and Pupils, Amounts received from various sources (Legislative Aid, Municipal Council Assessment, etc.), Total Amount Received, Amount Paid Teachers, Total Expenditure, and Size and Description of property.

\* An approximation.—No specific Reports having been received. N. B.—See Appendix Nos. 3 and 4.

MONEYS.

MISCELLANEOUS.

Table G continued: District Model School. Columns include Amount received from Legislative Aid, Municipal Council Assessment, other sources, Total Amount Received, Amount Paid Teachers, Total Expenditure, and Size and Description of property.

\* The Model School of this District has been discontinued.

Appendix (Z.Z.Z.Z.) 26th May.

STATISTICAL REPORT FOR THE YEAR 1848.

TABLE H.—ACCOUNT OF THE RECEIPTS and EXPENDITURE of the SPECIAL GRANT of £1,500 for "procuring and furnishing suitable Buildings for the "NORMAL SCHOOL" in full up to May, 1849; and of the ANNUAL GRANT of £1,500 in support of the NORMAL SCHOOL, for the year 1848; and an ADDITIONAL £500 granted to facilitate the attendance of Students at the NORMAL SCHOOL.

SPECIAL ACCOUNT.—RECEIPTS, 1846-9.		CURRENT ACCOUNT.—RECEIPTS, 1848.		SPECIAL ACCOUNT.—EXPENDITURE, 1846-9.		CURRENT ACCOUNT.—EXPENDITURE, 1848.				
£	s. d.	£	s. d.	£	s. d.	£	s. d.			
Warrants issued by command of His Excellency the Governor General in full of "Special Grant" of £1500 (as stated in the Annual Report for 1847), under authority of the Statute 9 Vic., Chap. 20, Sec. 5.....				Total under heads of Expenditure:— Carpenters and Masons.....				1084	18	5
				Painters and Glaziers.....				183	14	3½
				Architect.....				40	14	6
				Stoves and Furniture.....				105	11	0
				Gas and Water Fittings.....				84	10	3
				Total.....				1499	8	5½
Warrants issued by command of His Excellency the Governor General on account of the current expenses of the Normal School, up to the 31st of December, 1848, under authority of the Statute 9 Vic., Chap. 20, Sec. 5.....				Total under heads of Expenditure:— Salaries and Wages.....				897	16	5
				Books, Apparatus and School requisites.....				171	15	3
				Agriculture, Chemistry and Natural Philosophy.....				65	18	3½
				Advertising and Printing.....				39	2	0½
				Repairs and Contingencies.....				109	1	2
				Gaslight, Water, Rent and Wood.....				147	2	7
				Assurance.....				23	17	0
				Total.....				1454	8	3
Additional Warrant issued by command of His Excellency to facilitate the attendance of Students at the Normal School.....				Aid granted to Students to facilitate their attendance at the Normal School for Upper Canada.....				708	17	0
Balance carried to expenditure of 1849.....								£3657	14	2½
Total.....				Total.....				£3657	14	2½

## APPENDIX TO THE ANNUAL REPORT

OF THE

# NORMAL, MODEL AND COMMON SCHOOLS, IN UPPER CANADA, FOR THE YEAR 1848.

## No. 1.—DISPOSITION OF THE ANNUAL SCHOOL GRANT FOR THE YEAR 1847.

	£	s.	d.	£	s.	d.
Total Parliamentary Grant in aid of Common Schools in Upper Canada, for the year 1847 .....	21000	0	0			
Unappropriated balance of the Annual Grant for the year 1846 added to the above.....	20	9	5	21020	9	5
Amount appropriated in aid of Common Schools in the several Districts in Upper Canada, as per Statistical Report for that year .....	19855	8	6½			
Amount appropriated in aid of Common Schools in the Cities of Upper Canada, as per Statistical Report for that year ..	650	12	1¼	20506	0	8¼
Amount deducted by authority of the Statute 9 Vic., Chap. 20, Sections 2, 5 and 36, and expended in 1846, under the authority of the 5th Section, in fitting up and furnishing suitable Buildings for a Normal School—being part of the Special Grant of £1,500 towards that object .....	500	0	0			
Balance unappropriated .....	14	8	8¾	514	8	8¾
				£21029	9	5

## DISPOSITION OF THE ANNUAL SCHOOL GRANT FOR THE YEAR 1848.

	£	s.	d.	£	s.	d.
Total Parliamentary Grant in aid of Common Schools in Upper Canada, for the year 1848 .....	21000	0	0			
Unappropriated balance of the Annual Grant for the year 1847 added to the above.....	14	8	8¾	21014	8	8¾
Amount appropriated in aid of Common Schools in the several Districts in Upper Canada, as per Statistical Report for that year (accompanying) .....	17658	0	0			
Amount appropriated in aid of Common Schools in the Cities of Upper Canada, as per accompanying Statistical Report .....	845	11	8			
Amount appropriated in aid of Common Schools in the Incorporated Towns of Upper Canada, as per accompanying Statistical Report .....	744	6	8	19247	18	4
Sums deducted under authority of the Statute 9 Vic., Chap. 20, Sections 2, 5, 35 and 36:—						
For the Normal School, being part of Special and Annual Grant, of £1,500 each, for the year 1847 .....	1600	0	0			
In support of the Model School of the Midland District for the year 1847 .....	20	0	0			
do do Johnstown do do .....	50	0	0			
do do Dalhousie do do .....	20	0	0			
Balance reserved in aid of Poor Schools in Townships not represented in any District Council, as authorised by the 6th Section of the Act.....	70	10	4¾	1766	10	4¾
				£21014	8	8¾



Appendix (Z.Z.Z.Z.) 26th May.

No. 2.—STATISTICAL TABLE exhibiting the Results of the Operations of the present SCHOOL LAW for UPPER CANADA, (9 Vict., Chap. 20.) since its introduction in 1846—7.

Table with columns: THE DISTRICTS IN UPPER CANADA, SCHOOLS, ASSESSMENTS, RATE-BILLS, GROSS AMOUNT, and NUMBER OF PUPILS. Rows include Eastern, Ottawa, Johnstown, Bathurst, Dalhousie, Midland, Prince Edward, Victoria, Newcastle, Home, and Colborne.

Appendix (Z.Z.Z.Z.) 26th May.

Appendix (Z.Z.Z.Z.) 26th May.

Table with columns: Since, Gore, Niagara, Talbot, Brock, Wellington, London, Huron, Western, Grand Total, Number of Pupils attending School in 1845, 1846, 1847, 1848, Gross amount available for Teachers' Salaries in 1845, 1846, 1847, 1848.

Appendix (Z.Z.Z.Z.) 26th May.

\* Not including the Town of Bytown, from which no Report for the year 1848 has been received.

N.B.—The year 1846 was the year of transition from the late to the present School Act, (9 Victoria, Chapter 20,) it therefore appears less favourable than the preceding year.

No. 3.—STATISTICAL TABLE (continued) exhibiting the Results of the Operations of the present COMMON SCHOOL LAW for UPPER CANADA. (9 Vic., Chap. 20.) since its introduction in 1846-7.

THE DISTRICTS OF UPPER CANADA.	SCHOOL VISITS IN 1847.						SCHOOL VISITS IN 1848.						BOOKS RECOMMENDED BY THE BOARD OF EDUCATION FOR U. C. USED IN THE COMMON SCHOOLS IN 1847 AND 1848.																															
	By Superintendents of Com- mon Schools.		By Clergymen.		By Councillors.		By Magistrates.		Other Visits.		Total Visits.		Number of Schools in operation in 1847.		Number of Schools in operation in 1848.		Bible and Testament in 1847.		Bible and Testament in 1848.		National Readers in 1847.		National Readers in 1848.		National Arithmetic in 1847.		National Arithmetic in 1848.		Lennie's English Grammar in 1847.		Lennie's English Grammar in 1848.		Kirckham's English Grammar in 1847.		Kirckham's English Grammar in 1848.		National Geography in 1847.		National Geography in 1848.		Morse's Geography in 1847.		Morse's Geography in 1848.	
	By Superintendents of Com- mon Schools.	By Clergymen.	By Councillors.	By Magistrates.	Other Visits.	Total Visits.	Number of Schools in operation in 1847.	Number of Schools in operation in 1848.	By Superintendents of Com- mon Schools.	By Clergymen.	By Councillors.	By Magistrates.	Other Visits.	Total Visits.	Number of Schools in operation in 1847.	Number of Schools in operation in 1848.	Bible and Testament in 1847.	Bible and Testament in 1848.	National Readers in 1847.	National Readers in 1848.	National Arithmetic in 1847.	National Arithmetic in 1848.	Lennie's English Grammar in 1847.	Lennie's English Grammar in 1848.	Kirckham's English Grammar in 1847.	Kirckham's English Grammar in 1848.	National Geography in 1847.	National Geography in 1848.	Morse's Geography in 1847.	Morse's Geography in 1848.														
	185	68	51	61	399	804	178	165	120	172	41	76	369	778	165	165	99	96	77	110	39	59	82	13	11	17	14	16	20	20														
Eastern.....	24	18	17	25	137	37	43	64	25	21	33	112	255	43	43	34	16	17	28	9	10	17	2	2	2	4	6	12	16															
Ottawa.....	245	165	65	186	473	198	205	240	179	93	195	561	1268	205	205	147	118	99	133	55	69	80	40	78	16	14	60	102	102															
Johnstown.....	101	67	43	67	211	489	120	212	120	27	56	318	733	120	120	107	87	101	100	51	56	58	61	3	39	12	9	23	23															
Bathurst.....	79	80	106	92	124	491	61	90	85	104	92	131	502	76	76	41	67	15	40	3	4	6	21	3	4	7	2	3	3															
Dalhousie.....	332	93	48	90	129	692	175	292	70	12	35	237	646	182	182	129	139	120	152	47	12	17	30	79	39	15	81	110	110															
Midland.....	151	49	5	27	237	469	97	174	48	10	28	226	486	97	97	67	91	59	83	28	20	30	32	24	51	42	42	56	56															
Prince Edward.....	90	46	14	52	272	475	103	95	78	9	37	317	536	113	113	63	43	62	91	54	91	11	4	45	50	3	35	39	39															
Victoria.....	119	116	28	66	363	692	171	175	204	39	84	502	1004	193	193	148	139	89	96	45	30	46	63	65	74	6	29	42	42															
Newcastle.....	198	136	74	78	561	1047	314	198	237	89	102	662	1308	314	314	217	223	65	122	30	39	79	122	54	18	18	61	61	61	61														
Home.....																																												

THE DISTRICTS OF UPPER CANADA.	Total School Visits reported in 1845.		Total School Visits reported in 1846.		Total School Visits reported in 1847.		Total School Visits reported in 1848.	
	1845	1846	1845	1846	1847	1848	1845	1846
Colborne.....	78	41	27	33	173	352	73	87
Simcoe.....	77	97	40	46	138	398	83	90
Gore.....	210	188	47	68	379	892	200	191
Niagara.....	188	124	86	118	484	1100	183	184
Talbot.....	91	31	20	43	141	326	109	91
Breck.....	113	59	40	34	172	418	148	136
Wellington.....	82	82	28	39	170	402	104	105
London.....	94	201	31	47	250	623	195	206
Huron.....	59	34	61	32	56	242	41	53
Western.....	23	108	51	49	433	604	134	149
Grand Total.....	2549	1823	882	1208	5218	11675	2727	2800

Total School Visits reported in 1845..... 6,751  
do do do 1846..... 5,925  
do do do 1847..... 11,675  
do do do 1848..... 13,835

N. B.—The School Visits reported in 1845 and 1846 are those of the District and Township Superintendents of Common Schools; no other person in those years being legally authorized School Visitors. The official visits of Clergymen, Councillors, Magistrates and others, are, therefore, only reported for the years 1847 and 1848. They exhibit a very gratifying increase and prove a very important additional agency in promoting and sustaining public interest in the Common Schools, and in encouraging both Teachers and Pupils in the discharge of their duties.

The Reports of Text Books used in the Common Schools of Upper Canada extend only to the years 1847 and 1848. No provision having been previously made for obtaining any information on the subject. By comparing the total number of Schools in which each School-Book recommended by the Board of Education is used, with the total number of Schools in operation in each year, it will be seen that the introduction of those Books has been very general, and that they are now very extensively used throughout Upper Canada.

Appendix  
(Z.Z.Z.Z.)  
26th May.

Appendix  
(Z.Z.Z.Z.)  
26th May.

No. 4.—GENERAL STATISTICAL ABSTRACT exhibiting the PROGRESS OF EDUCATION, as connected with Colleges, Academies, District, Grammar, Private, and Common Schools, in UPPER CANADA, during the years 1842 to 1848, inclusive.

SUBJECTS COMPARED.

	1842.	1843.†	1844.	1845.	1846.	1847.	1848.
Adult Population of Upper Canada, by births, from the Census Rolls.....	486055	.....	.....	622570*	.....	.....	725879
Population between the ages of five and fourteen years, from Assessment Rolls.....	141149	.....	.....	202913	204580	230975	198038
Population between the ages of five and sixteen years, from local School Reports.....	5	.....	5	5	5	6	241102
Total Colleges in Upper Canada.....	25*	.....	25*	30*	31*	32	33
Total Academies and Grammar Schools in Upper Canada, from various sources of information.....	44*	.....	60*	65*	80*	96	117
Total Private Schools in Upper Canada, from local School Reports, &c.....	.....	.....	1	3	3	3	2
Total District Model Schools in Upper Canada.....	.....	.....	.....	.....	.....	.....	2
One Normal and one Model School for Upper Canada.....	121	.....	.....	2736	2589	2727	2800
Total Common Schools in operation in Upper Canada.....	1795	.....	2610	2839	2708	2866	2960
Grand total Educational Establishments in Upper Canada.....	No	.....	2701	.....	.....	709	740
Total Students attending Colleges in Upper Canada, from various sources of information.....	do	.....	.....	.....	.....	1000	1115
Total Students attending Academies and Grammar Schools in Upper Canada, from various sources of information.....	do	.....	.....	.....	.....	1831	2345
Total Pupils attending Private Schools in Upper Canada, from various sources of information.....	do	.....	.....	.....	.....	65	256
Total Pupils attending the Normal and Model School for Upper Canada.....	Not	.....	.....	.....	.....	.....	.....
Total Students and Pupils attending the Normal and Model School in Upper Canada.....	65978	.....	96756	110002	101912	124829	130739
Total Pupils attending the Common Schools of Upper Canada, in.....	65978	.....	96756	110002	101912	131360	135195
Grand total Students and Pupils attending Colleges, District Grammar Schools, Private and Common Schools in Upper Canada.....	£41500	.....	£51714	£71514	£67906	£77599	£86069
Gross amount available for the Salaries of Common School Teachers in Upper Canada.....	No	.....	.....	2860	2925	3028	3177
Total Common School Teachers in Upper Canada.....	do	.....	.....	.....	.....	2365	2507
Total Male Common School Teachers in Upper Canada.....	do	.....	.....	.....	.....	663	670
Total Female Common School Teachers in Upper Canada.....	do	.....	.....	.....	.....	84	9
Average number of Months each Common School in Upper Canada has been kept open by a qualified Teacher.....	No	.....	7½	8	8½	8½	112000
Gross average attendance of Pupils at the Common Schools of Upper Canada, during the Summer of.....	do	.....	.....	.....	.....	46359	70000
do Boys.....	do	.....	.....	.....	.....	38178	42000
do Girls.....	do	.....	.....	.....	.....	8991	114800
do Pupils.....	do	.....	.....	.....	.....	54540	64400
do Boys.....	do	.....	.....	.....	.....	35451	50400
do Girls.....	do	.....	.....	.....	.....	.....	.....

\* An Approximation only. No specific information having been received.

† No Reports for the year 1843, in consequence of a change in the School Law.

Appendix  
(Z.Z.Z.Z.)  
26th May.

No. 5.—Copy of the Terms of Admission into the Normal School for Upper Canada; adopted 21st October, 1848, by the Board of Education for Upper Canada.

ORDERED—1. That the semi-annual Sessions of the Normal Schools shall commence on the fifteenth day of May, and the fifteenth day of November, of each year, [and if those days fall upon Sunday, the day following,] and continue for a period of five months each—to be concluded by a Public Examination, and followed by a vacation of one month.

2. That all Candidates for admission into the School must comply with the following conditions:—[1] They must be, at least, sixteen years of age; [2]—must produce a certificate of good moral character, signed by the Clergyman or Minister of the religious persuasion with which they are connected; [3]—must be able to read and write intelligibly, and be acquainted with the simple rules of arithmetic; [4]—must sign a declaration of their intention to devote themselves to the profession of School-teaching, and that their object in coming to the Normal School is to qualify themselves better for the important duties of that profession. Other Students, not Candidates for School-teaching, to be admitted without signing such a declaration of their intention to become Teachers, on paying the following fees:—For attendance at an entire Course of Lectures and Instruction for one Session, £1 10s.; for attendance on the Lectures of either Master for an entire Session, £1.

3. Upon these conditions, Candidates for School-teaching shall be admitted to all the advantages of the Institution without any charge, either for tuition, the use of the Library, or for the Books which they may be required to use in the School.

4. The Teachers-in-training shall board and lodge in the City, in such houses and under such regulations as are approved of by the Board of Education.

5. A sum not exceeding Five Shillings per week, towards defraying the expenses of board and lodging, shall be allowed for the present, to Teachers-in-training requiring assistance, on condition that they will engage to remain for a period of not less than one Session in attendance at the Normal School.

6. All Candidates for admission into the Normal School must present themselves during the first week of a Session, otherwise they cannot be admitted.

7. All applications for admission to be made to the Rev. Dr. Ryerson, Chief Superintendent of Schools, Toronto.

8. Females as well as males, are admitted to, and instructed in, the Normal School.

By order of the Board.

(Signed,) J. GEORGE HODGINS,  
Recording Clerk.

N.B.—The attendance during the last Session was as follows, viz.:—Males, 104; Females, 22.—Total, 126.

EDUCATION OFFICE,  
Toronto. 21st October, 1848.

Appendix  
(Z.Z.Z.Z.)  
26th May.

No. 6.—Circular from the Chief Superintendent of Schools to the Wardens of Districts in Upper Canada, proposing to furnish each School Trustee Corporation, within their respective jurisdictions, with a copy of the Second Volume of the "Journal of Education."

EDUCATION OFFICE,  
Toronto, 28th September, 1848.

Sir,

I have the honour, through you, to draw the attention of the Municipal Council of the District, over which you preside, to the following proposition to supply each of the Common School Sections, within its jurisdiction, with a copy of the Second Volume of the "Journal of Education" for Upper Canada, commencing with January, 1849.

If the Council will order one copy for the Trustees of each School Section in the District, or any number not less than Fifty, the order will be supplied at the expense of Three Shillings and Ninepence per copy for the year. It is, of course, known that my own personal labours and responsibilities connected with the "Journal of Education," are voluntary and gratuitous; and that every farthing of subscription received is expended in defraying the necessary mechanical expenses of the publication.

In most of the neighbouring States each Trustee is allowed a dollar for each day he devotes to the School affairs of his Section. Such an allowance in this country would add several thousand dollars to the expense of Common Schools in Upper Canada. But as our Trustees are not allowed any thing for their time and trouble, is it too much that the Trustees of each School Section should be supplied by the District in turn with a copy of the "Journal of Education"? The price of a volume of the Journal is certainly a very small acknowledgment for the services rendered by the Trustees of a School Section during a whole year, apart from the benefits of widely diffusing educational information.

Should the several Municipal Councils concur in this proposal to provide Trustees throughout Upper Canada, with the "Journal of Education" during the year 1849, I will be prepared to request the sanction of the Governor General in Council for its continuance another year.

I may observe, that copies of the present or First Volume of the "Journal of Education" will be supplied to the order of the Council (as far as the edition will go,) upon the same terms as those on which it is proposed to supply copies of the Second Volume.

The "Journal of Education" having been Nine Months in existence, its character and objects are sufficiently known. On the importance of such a publication, and of its circulation in all the School Sections—especially for one year—it would hardly be respectful to the intelligence of the Council for me to remark. Requesting to be informed how far the Council will concur in the proposal of the letter.

I have the honour to be,  
Sir,  
Your obedient Servant,

(Signed,) EGERTON RYERSON.

Appendix  
(Z.Z.Z.Z.)  
26th May

No. 7.—Copy of a Circular from the Chief Superintendent of Schools to the District Superintendent, with suggestions for filling up, in the most accurate manner possible, their Annual Reports for the year 1848.

EDUCATION OFFICE,  
Toronto, December 15, 1848.

SIR,

Several weeks since I transmitted to you blank School Reports for the current year for all the Trustees of Common Schools in your District. Though it is not the required duty of this Office to do more than prepare a general form for such Reports, I have thought it advisable to do the same this year as last—furnish a copy of such form for each Corporation of Trustees throughout the Province. I have also appended to each of those forms directions for filling them up, and have made the headings of the several columns so plain, by the introduction of explanatory words, that Trustees will not, I hope, be at a loss or liable to mistake in filling them up this year, as was said to have been the case in some instances last year. I take it for granted that you have duly distributed these blank Reports to the several Trustee Corporations of your District, with the requisite directions for their return to you early in January, correctly and properly filled up.

In addition to these blank Reports for Trustees, I have prepared and transmitted a blank District Report for yourself—the paper selected and ruled for the purpose—the printed headings attached to the sheets, and the several sheets joined together, and arranged in the form most convenient for you to fill up. It only remains for me to offer some suggestions in respect to your own Report for the current year; for in consequence of omissions and defects in the District Superintendents' Reports of last year, upwards of three months additional labour for one person was thrown upon this Office. The columns of only four of last year's local Reports were added up at all; and only two of them contained abstracts of the Reports of the several Townships mentioned; and only a few of them presented any general review or summary observations on the real or comparative state of the Schools in the respective Districts. Nevertheless, the District Reports of last year were more accurate, and vastly more comprehensive than those of any preceding year; and I regret that the Provincial Report for last year cannot be printed previous to the meeting of the Legislature, before which it must be laid—as that Report exhibits the progress which has been made in the several departments of the Common School System, the great value of the various new School Statistics which have been furnished in the last Reports of the District Superintendents, and the great importance of complete School Statistics from the several Districts.

1. The first suggestion I desire to make relates to filling up all the columns referring to each School. For instance, in some cases where there may not be reported to the District Superintendent the exact length of time a School may have been kept open, or the exact number of Pupils attending the School, he should not leave the column blank, but set down what he thinks is correct, with a remark to that effect. All such omissions reduce, or prevent getting anything like the correct average for the whole Township or District relative to the number of Pupils attending the Schools, or the time that Schools are kept open. The same remark applies to omissions

on any other subjects embraced in the Reports. The District Superintendents, from their own local knowledge, and the experience and Reports of past years, can approximate the truth respecting such items as may, in some cases, be omitted in Trustees' Reports. Attention to this suggestion on the part of both Trustees and District Superintendents, lies at the foundation of full and complete Statistical School Returns for Upper Canada.

2. My second suggestion is, that the Returns for each Township should be accurately added up, the total under each head set down, except in those columns which require the average attendance of Pupils and the average salaries of Teachers to be given; which averages should also in all cases be inserted.

3. The third suggestion is, that an abstract of the Reports for the several Townships be made at the bottom of each sheet, under the several heads contained in such sheet; and then an average under the several heads for the whole District.

4. I beg also to suggest, that the number and salaries of male and female Teachers in each Township be distinctly stated, and the average salaries of each (whether with or without board) be given; and then the average salaries of each class for the whole District. The religious faith of the Teachers should also be stated, as directed in the Book of Forms and Regulations, and provided for also in the Trustees' blank Reports.

5. In respect to the money columns of your Report, in that under the head, "Amount received from the Chief-Superintendent," should be set down what you apportioned to a School Section from the Legislative Grant, and not what you may have paid to such Section out of said Grant; and under the head, "Amount assessed by the Municipal Council," should be set down what you have apportioned to such Section from the Council Assessment of the School Fund, and not what you may have paid such Section from that source. The column headed, "Amount received from other sources," should specially include what may have been apportioned (if any) to each Section from previous years' balances of the School Fund. The column headed, "Balance still unappropriated," should embrace the balances available from all sources (including Rate-Bill, &c.), and not merely the balance of the School Fund which may be in the hands of the District Superintendent. The amount of this latter balance will be shown by the District Council Auditors' Report, which should accompany the Annual Report of the District Superintendent. I may also add, that the items which are contained in the two or three columns of the Trustees' Reports, for which there are no corresponding columns in the blank Reports for District Superintendents, can be inserted in the columns (by erasing the present and inserting the headings required) of the sheet devoted to District Model Schools—as there are but two such in Upper Canada.

6. Very little definite information was furnished by the local School Reports for last year, relative to the condition and character of School-Houses. I observe from semi-annual Reports which have been laid before the Brock and Bathurst District Councils, at their late Session, that this subject has engaged the special attention of the excellent School Superintendents of those Districts, and that their Reports, faithfully pointing out the defects in this and other departments of their Common Schools, and containing many valuable suggestions for their improvement, are being printed and circulated under

Appendix  
(Z.Z.Z.Z.)  
26th May

Appendix  
(Z.Z.Z.Z.)

26th May.

the auspices of the Councils. Should a similar course be adopted by the Superintendents and Councils of other Districts, immense benefit would result to our Common Schools generally. I hope you will furnish as definite and full information as you can in your next Annual Report on the condition of the School-Houses in your District.

7. It is important to embody all the information you can obtain as to the number and character of private and Grammar Schools and other Seminaries of Learning, and Public Libraries of different kinds in your District; as also a view of the general state of the Common Schools, and the sentiments and feelings of the people on the subject of Education, as compared with preceding years. An intimate and thorough elucidation of the Educational state of the country, together with the result of any means which may have been employed for its amelioration, is a most important step towards its further advancement.

8. I need scarcely observe how much perplexity and trouble are occasioned by any oversight or inaccuracy in local Statistical Reports; and while I have provided you with the necessary blanks, carefully prepared and arranged, I feel confident that no efforts will be wanting on your part to render your Report as correct and complete as possible; I have only to add, that as I desire to prepare the Provincial Report of Common Schools for the current year before the close of the ensuing Session of the Legislature, I have to request that you will transmit your Report by the first of next March at the latest, and as much earlier as possible. If all the School Assessments are not collected before that time, let them be reported so; but I hope you will not delay the transmission of your School Report for the current year later than the first of March.

I have the honour to be,

Sir,

Your obedient Servant,

(Signed,) E. RYERSON.

No. 8.—From the JOURNAL OF EDUCATION for Upper Canada, January, 1849.

ADDRESS to the Inhabitants of Upper Canada, on the System of FREE SCHOOLS; by the Chief Superintendent of Schools.

I beg to invite the attention of the Public Press, of District Councillors and School Trustees, of Clergy and Magistrates, and of all persons anxious for the education of all Canadian youth, to the principle on which the expense of promoting that object should be defrayed. The School Law authorises two methods, in addition to that of voluntary contribution; the method of rate-bill on parents sending children to School, and the method of assessment on the property of all, and thus securing to the children of all equal access to School instruction. The discretionary power of adopting either method, is placed by law—where I think it ought to be placed—in the hands of the people themselves in each municipality. My present object is, simply to submit to your consideration the principal reasons which induce me to think that the one of these

Appendix  
(Z.Z.Z.Z.)

26th May.

methods is better than the other, in order to secure to your children the advantages of a good education. The method which I believe you will find most efficient, has been thus defined: "A tax upon the property of all by the majority for the education of all."

1. My first reason for commending this as the best method of providing for the education of your children is, that the people who have been educated under it for two hundred years, are distinguished for personal independence, general intelligence, great industry, economy and prosperity, and a wide diffusion of the comforts and enjoyments of domestic life. The truth of this remark in reference to the character and condition of the people of the New England States, will, I presume, be disputed by none. If their system of civil government be thought less favourable to the cultivation and exercise of some of the higher virtues than that which we enjoy, the efficacy of their School system is the more apparent under circumstances of comparative disadvantage. I will give the origin of this School system in the words of the English "Quarterly Journal of Education"—published under the superintendence of the Society for the Diffusion of Useful Knowledge, and at a time when Lord Brougham was Chairman, and Lord John Russell Vice-Chairman of the Committee:—

"The first hint of this system—the great principle of which is, that the property of all shall be taxed by the majority for the education of all—is to be found in the records of the city of Boston for the year 1635, when, at a public or 'body' meeting, a School-master was appointed 'for the teaching and nurturing of children among us,' and a portion of the public lands given him for his support. This, it should be remembered, was done within five years after the first peopling of that little peninsula, and before the humblest wants of its inhabitants were supplied; while their very subsistence, from year to year, was uncertain; and when no man in the colony slept in his bed without apprehension from the savages, who not only everywhere crossed on their borders, but still dwelt in the midst of them.

"This was soon imitated in other villages and hamlets springing up in the wilderness. Winthrop, the earliest Governor of the colony, and the great patron of Free Schools, says in his journal under date of 1645, that divers Free Schools were erected in that year in other towns, and that in Boston it was determined to allow for ever £50 a-year to the master with a house, and £30 to an usher. But thus far only the individual towns had acted. In 1647, however, the Colonial Assembly of Massachusetts made provision, by law, that every town in which there were fifty families should keep a Free School, in which reading and writing could be taught; and every town where there were one hundred families should keep a school where youth could be prepared in Latin, Greek, and mathematics, for the College or University, which in 1638 had been established by the same authority at Cambridge. In 1656 and 1672, the colonies of Connecticut and New Haven enacted similar laws; and from this time the system spread with the extending population of that part of America, until it became one of its settled and prominent characteristics, and has so continued to the present day."

I will now present the character of this system in the words of those who best understand it. That great American Statesman, Daniel Webster, receiv-

Appendix  
(Z.Z.Z.Z.)  
26th May.

ed his early training in a Free School, and stated on one occasion, that had he as many children as old Priam himself, he would send them all to the Free School. Mr. Webster, in his published speech on the Constitution of Massachusetts, expresses himself on the Free School system in the following words:—

“ In this particular, New England may be allowed to claim, I think, a merit of a peculiar character. She early adopted and has constantly maintained the principle, that it is the undoubted right, and the bounden duty of Government, to provide for the instruction of all youth. That which is elsewhere left to chance, or to charity, we secure by law. For the purpose of public instruction, we hold every man subject to taxation in proportion to his property, and we look not to the question, whether he himself have, or have not, children to be benefited by the education for which he pays. We regard it as a wise and liberal system of police, by which property, and life, and the peace of society are secured. We seek to prevent, in some measure, the extension of the penal code, by inspiring a salutary and conservative principle of virtue and knowledge in an early age. We hope to excite a feeling of respectability and a sense of character, by enlarging the capacity, and increasing the sphere of intellectual enjoyment. By general instruction, we seek, as far as possible, to purify the whole moral atmosphere; to keep good sentiments uppermost, and to turn the strong current of feeling and opinion, as well as the censures of the law, and the denunciations of religion, against immorality and crime. We hope for a security, beyond the law, and above the law, in the prevalence of enlightened and well-principled moral sentiment. We hope to continue and prolong the time, when, in the villages and farm-houses of New England, there may be undisturbed sleep within unbarred doors. And knowing that our government rests directly on the public will, that we may preserve it, we endeavour to give a safe and proper direction to that public will. We do not, indeed, expect all men to be philosophers or statesmen; but we confidently trust, and our expectation of the duration of our system of government rests on that trust, that by the diffusion of general knowledge and good and virtuous sentiments, the political fabric may be secure, as well against open violence and overthrow, as against the slow but sure undermining of licentiousness.”

The Honourable Edward Everett,—late President of Harvard University; late Governor of the State of Massachusetts, and late American Ambassador to England—remarks as follows, in his Address on the “ Advantage of Useful Knowledge to working Men:”

“ Think of the inestimable good conferred on all succeeding generations by the early settlers of America, who first established the system of Public Schools, where instruction should be furnished gratis, to all the children in the community. No such thing was before known in the world. There were Schools and Colleges supported by funds which had been bequeathed by charitable individuals; and in consequence, most of the Common Schools of this kind in Europe, were regarded as establishments for the poor. So deep-rooted is this idea, that when I have been applied to for information as to our Public Schools from those parts where no such system exists, I have frequently found it hard to obtain credit, when I have declared, that there was nothing disreputable in the public opinion here, in sending children to Schools supported at the public charge. The idea of Free Schools for the whole people, when it first crossed

“ the minds of our forefathers, was entirely original; but how much of the prosperity and happiness of their children and posterity has flowed from this living spring of public intelligence.”

Appendix  
(Z.Z.Z.Z.)  
26th May.

The following extracts from the Annual School Reports of 1847 and 1848, prepared by the Secretary of the Massachusetts Board of Education, deserve special attention as well for the beauty of their language as for the nobleness of the sentiments which they express:—

“ The present year (1847) completes the second century since the Free Schools of Massachusetts were first established. In 1647, when a few scattered and feeble settlements, almost buried in the depths of the forests were all that constituted the Colony of Massachusetts; when the entire population consisted of twenty-one thousand souls; when the external means of the people were small, their dwellings humble, and their raiment and subsistence scanty and homely; when the whole valuation of all the colonial estates, both public and private, would hardly equal the inventory of many a private individual at the present day; when the fierce eye of the savage was nightly seen glaring from the edge of the surrounding wilderness, and no defence or succour was at hand; it was then, amid all these privations and dangers, that the Pilgrim Fathers conceived the magnificent idea of a Free and Universal Education for the people; and, amid all their poverty, they stinted themselves to a still scantier pittance; amid all their toils, they imposed upon themselves still more burdensome labours; amid all their perils, they braved still greater dangers, that they might find the time and the means to reduce their grand conception to practice. Two divine ideas filled their great hearts,—their duty to God and to posterity. For the one, they built the Church; for the other, they opened the School. Religion and Knowledge!—two attributes of the same glorious and eternal truth,—and that truth, the only one on which immortal or mortal happiness can be securely founded.

“ As an innovation upon all pre-existing policy and usages, the establishment of Free Schools was the boldest ever promulgated, since the commencement of the Christian era. As a theory, it could have been refuted and silenced by a more formidable array of argument and experience than was ever marshalled against any other opinion of human origin. But time has ratified its soundness. Two centuries now proclaim it to be as wise as it was courageous, as beneficent as it was disinterested. It was one of those grand mental and moral experiments whose effects cannot be determined in a single generation. But now, according to the manner in which human life is computed, we are the sixth generation from its founders, and have we not reason to be grateful both to God and man for its unnumbered blessings? The sincerity of our gratitude must be tested by our efforts to perpetuate and improve what they established.”—(Tenth Annual Report to the Board of Education, for 1847, pp. 107, 108.)

“ The Massachusetts School system represents favourably the system of all the New England states. Not one of them has an element of prosperity or of permanence, of security against decay within, or the invasion of its rights from without, which ours does not possess. Our law requires that a School should be sustained in every town in the State,—even the smallest and the poorest not being excepted;—and that this School shall

Appendix  
(Z.Z.Z.Z.)  
26th May.

“ be as open and free to all the children as the light of day, or the air of heaven. No child is met on the threshold of the School-house door, to be asked for money, or whether his parents are native or foreign, whether or not they pay a tax, or what is their faith. The School-house is common property. All about it are enclosures and hedges, indicating private ownership and forbidding intrusion; but there is a spot which even rapacity dares not lay its finger upon. The most avaricious would as soon think of monopolising the summer cloud, as it comes floating up from the west to shed its treasures upon the thirsty earth, as of monopolising these fountains of knowledge. Public opinion,—that sovereign in representative governments,—is in harmony with the law. Not unfrequently there is some private opposition, and occasionally it avows itself and assumes an attitude of hostility; but perseverance on the part of the friends of progress always subdues it, and the success of their measures eventually shame it out of existence.”—(Eleventh Annual Report, 1848, pp. 88, 89.)

“ It is a gratifying circumstance that many of our sister States, convinced by our success, have followed our example; and, at the present time, in the rich and populous County of Lancashire, in England, a movement is on foot, led on by some of the best men in the United Kingdom, whose object is to petition Parliament for a charter, empowering that county to establish a system of Free Schools, on a basis similar to ours.”—(Ib. p. 24.)

These extracts contain the testimony of the most competent witnesses as to the principles and efficiency of the Free School system; while the well known character of the New England people for self-reliance, economy, industry, morality, intelligence and general enterprise, is a sufficient illustration of the influence and tendency of the system, even under the admitted disadvantage of a defective Christianity and a peculiar form of government. What such a system of Schools has accomplished in the less genial climate of New England under such circumstances, will it not accomplish in Upper Canada under more favourable circumstances? It is worthy of remark, that in no state or city where the Free School system has been fairly tried, has it ever been abandoned. The inhabitants of New England who have tried it for two centuries, (and they are second to no people in their rigid notions of economy and individual rights,) regard it as the greatest blessing which their country enjoys, and her highest glory. Other cities, towns, and states are adopting the New England system of supporting Schools as fast as they become acquainted with its principles and operations.

2. The second ground on which I commend this system of supporting Common Schools to your favourable consideration, is its cheapness to parents educating their children. I will select the example of one District, rather better than an average specimen; and the same mode of reasoning will apply to every District in Upper Canada, and with the same results. In one District there were reported 200 Schools in operation in 1848; the average time of keeping open the Schools was eight months; the average salaries of Teachers was £45 7s. 1d., the total amount of the money available for the Teachers' Salaries, including the Legislative Grant, Council Assessment and Rate-bills, was £7,401 18s. 4d.; the whole number of Pupils between the ages of five and sixteen years on the School Registers, was

Appendix  
(Z.Z.Z.Z.)  
26th May.

9147; the total number of children between those ages resident in the District, 20,600; cost per Pupil for eight months, about sixteen shillings. Here it will be seen that more than one half of the children of School-age in the District were not attending any School. Now, suppose the Schools be kept open the whole year, instead of two-thirds of it; suppose the Male and Female Teachers to be equal in number, and the salaries of the former to average £60, and those of the latter £40; suppose the 20,600 children to be in the Schools instead of 9147 of them. The whole sum required for the salaries of Teachers would be £10,000—the cost per Pupil would be less than ten shillings—less than five shillings per inhabitant—which would be reduced still further by deducting the amount of the Legislative School Grant. Thus would a provision be made for the education of every child in the District for the whole year; there would be no trouble or disputes about Quarterly School Rate-bills; there would be no difficulty in getting good Teachers; the character and efficiency of the Schools would be as much improved as the attendance of Pupils would be increased; every child would be educated, and educated by the contribution of every man according to his means.

3. This is also the most effectual method of providing the best, as well as the cheapest, school for the youth of each School Section. Our Schools are now often poor and feeble, because a large portion of the best educated inhabitants stand aloof from them, as unworthy of their support, as unfit to educate their children. Thus the Common Schools are frequently left to the care and support of the least instructed part of the population, and are then complained of as inferior in character and badly supported. The Free-School system makes every man a supporter of the School according to his property. All persons—and especially the more wealthy—who are thus identified with the School, will feel interested in it; they will be anxious that their contributions to the School should be as effective as possible, and that they themselves may derive all possible benefit from it. When all the inhabitants of a School Section thus become concerned in the School, its character and efficiency will inevitably be advanced. The more wealthy contributors will seek to make the School fit and efficient for the English education of their own children; the Trustees will be under no fears from the disinclination or opposition of particular individuals in employing a suitable Teacher and stipulating his salary; and thus is the foundation laid for a good School, adapted to all the youth of the Section. The character of the School will be as much advanced, as the expense of it to individual parents will be diminished; the son of the poor man, equally with the son of the rich man, will drink from the stream of knowledge at the common fountain, and will experience corresponding elevation of thought, sentiment, feeling and pursuit. Such a sight cannot fail to gladden the heart of Christian humanity.

4. The Free School system is the true, and, I think, only effectual remedy for the pernicious and pauperising system which is at present incident to our Common Schools. Many children are now kept from School on the alleged grounds of parental poverty. How far this excuse is well founded, is immaterial to the question in hand; of the fact of the excuse itself, and of its wide-spread, blasting influence, there can be no doubt. Trustees of Schools are also invested with authority to exonerate poor parents, desirous of educating their children, from the payment of a School Rate-bill—an additional amount of Rate-bill being imposed on the more



Appendix  
(Z.Z.Z.Z.)  
26th May.

wealthy parents of children attending the School, in order to make up the deficiencies occasioned by the exemption of the poorer parents. Such parents are thus invested with the character of paupers; their children are educated as pauper children; while other parents, sooner than attach to themselves and children such a designation, will keep their children from the School altogether—thus entailing upon them the curse of ignorance, if not of idleness, in addition to the misfortune of poverty. Now, while one class of poor children are altogether deprived of the benefits of all education by parental pride or indifference; the other class of them are educated as paupers or as ragged Scholars. Is it not likely that children educated under this character, will imbibe the spirit of it? If we would wish them to feel and act and rely upon themselves as free men when they grow up to manhood, let them be educated in that spirit when young. Such is the spirit of the Free School system. It banishes the very idea of pauperism from the School. No child comes there by sufferance; but every one comes there upon the ground of right. The poor man as well as the rich man pays for the support of the School according to his means; and the right of his son to the School is thus as legal as that of the rich man's son. It is true, the poor man does not pay as large a tax in the abstract as his rich neighbour; but that does not the less entitle him to the protection of the law; nor should it less entitle him to the advantages provided by law for the education of his children. The grovelling and slavish spirit of pauperism becomes extinct in the atmosphere of the Free School. Pauperism and poor laws are unknown in Free-School countries; and a system of Free Schools would, in less than half a century, supersede their necessity in any country.

5. The system of Free Schools makes the best provision and furnishes the strongest inducements for the education of every youth in each School Section of the land. To compel the education of children by the terror of legal pains and penalties, is at variance with my ideas of the true method of promoting universal education; but to place before parents the strongest motives for educating their children, and to provide the best facilities for that purpose, is alike the dictate of sound policy and Christian patriotism. The Quarterly Rate-bill system holds out an inducement and temptation to a parent to keep his child from the School. The parent's temptation and difficulty is increased in proportion to the number of children he has to educate. The Rate-bill is always sufficient to tempt the indifferent parent to keep his child or children from the School; it often compels the poor man to do so, or else to get them educated as paupers. In proportion to the smallness of the School will be the largeness of the Rate-bill on each of the few supporters of it, in order to make up the salary of the Teacher; and as the School diminishes in Pupils will the Rate-bill increase on those that remain. The withdrawal of every Pupil from the School lessens the resources of the Trustees to fulfil their engagement with the Teacher, and increases the temptation to others to remove their children also. Thus are Trustees often embarrassed and perplexed—Teachers deprived of the just fruits of their labours—good Teachers retiring and poor ones substituted—Schools often closed, and hundreds and thousands of children left without School instruction of any kind. Now, the Free-School system of supporting Schools puts an end to most of these evils. A rate being imposed upon each inhabitant of a School Section according to his means, provision is at once made for the education of every child in

such Section. Every parent feels that having paid his School-rate—whether little or much,—he has paid what the law requires for that year's Common School education of all his children, and that they are all entitled by law to the benefits of the School. However poor a man may be, having paid what the law requires, he can claim the education of his children as a legal right, and not supplicate it as a cringing beggar. His children go to the School, not in the character and spirit of ragged pauperism, but in the ennobling spirit of conscious right, and on equal vantage ground with others. Each parent feeling that he has paid for the education of his children, naturally desires that they may have the benefit of it. While, therefore, the quarterly rate-bill per pupil is a temptation to each parent to keep his children from the School, the annual School rate upon property furnishes each parent with a corresponding inducement to send his children to School—relieving Trustees at the same time from all fear and uncertainty as to the means of providing for the Teacher's salary. It is not, therefore, surprising to find that wherever the Free School system has been tried in Upper Canada or elsewhere, the attendance of Pupils at School has increased from fifty to three hundred per cent. The facilities thus provided for the education of each child in a School Section, will leave the ignorant, careless, or unnatural parent without excuse for the educational neglect of his children. The finger of universal reproof and scorn pointed at him will soon prove more powerful than statute law, and without infringing any individual right, will morally compel him, in connexion with higher considerations, to send his children to School. This is the system of "compulsory education" I wish to see every where in operation—the compulsion of provision for the universal education of children—the compulsion of their universal right to be educated—the compulsion of universal interest in the School—the compulsion of universal concentrated opinion in behalf of the education of every child in the land. Under such a system, in the course of ten years, an uneducated Canadian youth would be a monstrous phenomenon.

6. The system of Free Schools may also be commended upon the ground of its tendency to promote unity and mutual affection among the inhabitants of each School division. The imposition of quarterly rate-bills is a source of frequent neighbourhood disputes and divisions. The imposition of an annual rate upon all the inhabitants of a School Section according to property puts an end to quarterly rate-bill disputes and divisions, unites the feelings as well as its interests of all in one object, and tends to promote that unity and mutual affection which a unity of object and a oneness of interest are calculated to create. The care and interest of one will be the care and interest of all—that is, to have the best School possible;—and the intellectual light of that School, like the material light of heaven, will freely beam upon every child in the School Section.

7. I think the system of Free Schools is, furthermore, most consonant with the true principles and ends of civil government. Can a more noble and economical provision be made for the security of life, liberty and property, than by removing and preventing the accumulation of that ignorance and its attendant vices which are the great sources of insecurity and danger, and the invariable pretext if not justification of despotism? Are any natural rights more fundamental and sacred than those of children to such an education as will fit them for their duties as citizens? If a parent is amenable to the laws who takes away a child's life by violence,

Appendix  
(Z.Z.Z.Z.)  
26th May.

Appendix  
(Z.Z.Z.Z.)

26th May.

or wilfully exposes it to starvation, does he less violate the inherent rights of the child in exposing it to moral and intellectual starvation? It is noble to recognize this inalienable right of infancy and youth by providing for them the means of the education to which they are entitled,—not as children of particular families, but as children of our race and country. And how perfectly does it harmonize with the true principles of civil government, for every man to support the laws and all institutions designed for the common good, according to his ability. This is the acknowledged principle of all just taxation; and it is the true principle of universal education. It links every man to his fellow-man in the obligations of the common interests; it wars with that greatest, meanest foe to all social advancement—the isolation of selfish individuality; and implants and nourishes the spirit of true patriotism by making each man feel that the welfare of the whole society is his welfare—that collective interests are first in order of importance and duty, and separate interests are second. And such relations and obligations have their counterpart in the spirit and injunctions of our Divine Christianity. There, while every man is required to bear his own burden according to his ability, the strong are to aid the weak, and the rich are to supply the deficiencies of the poor. This is the pervading feature and animating spirit of the Christian religion; and it is the basis of that system of supporting public Schools which demands the contribution of the poor man according to his penury, and of the rich man according to his abundance.

8. But against this system of Free Schools, certain OBJECTIONS have been made; the principal of which I will briefly answer.

First objection: "The Common Schools are not fit to educate the children of the higher classes of society, and therefore these classes ought not to be taxed for the support of the Common Schools."

Answer.—The argument of this objection is the very cause of the evil on which the objection itself is founded. The unnatural and unpatriotic separation of the wealthier classes from the Common School, has caused its inefficiency and alleged degradation. Had the wealthy classes been identified with the Common Schools equally with their poorer neighbours,—as is the case in Free-School countries—the Common School would have been fit for the education of their children, and proportionally better than it now is for the education of the children of the more numerous common classes of society. In Free-School cities and states, the Common Schools are acknowledged to be the best elementary Schools in such cities and states; so much so, that the Governor of the State of Massachusetts remarked at a late School celebration, that if he had the riches of an Astor, he would send all his children through the Common School to the highest institutions in the State. If the wealthy classes can support expensive Private Schools, their influence and exertions would elevate the Common School to an equality with, if not superiority over, any Private School, at less expense to themselves, and to the great benefit of their less affluent neighbours. The support of the education which is essential for the good of all, should be made obligatory upon all; and if all are combined in support of the Common School, it will soon be rendered fit for the English education of all. If persons do not choose to avail themselves of a public institution, that does not release them from the obligations of contributing to its support. It is also worthy of remark, that the Board of Trustees in each city and incorporated town in Upper Canada, has authority to establish Male and

Female Primary, Secondary and High Schools, adapted to the varied intellectual wants of each city and town; while in each country School Section, it requires the united means of intelligence of the whole population to establish and support one thoroughly good School.

Second objection: "It is unjust to tax persons for the support of a School which they do not patronise, and from which they derive no individual benefit."

Answer.—If this objection be well founded, it puts an end to School-tax of every kind, and abolishes School and College endowments of every description; it annihilates all systems of public instruction, and leaves education and Schools to individual caprice and inclination. This doctrine was tried in the Belgian Netherlands after the revolt of Belgium from Holland in 1830; and in the course of five years, educational desolation spread throughout the kingdom, and the Legislature had to interfere to prevent the population from sinking into semi-barbarism. But the principle of public tax for Schools has been avowed in every School Assessment which has ever been imposed by our Legislature, or by any District Council; the same principle is acted upon in the endowment of a Provincial University—for such endowment is as much public property as any part of the public annual revenue of the country. The principle has been avowed and acted upon by every republican State of America, as well as by the Province of Canada and the countries of Europe. The only question is, as to the extent to which the principle should be applied—whether to raise a part or the whole of what is required to support the Public School. On this point it may be remarked, that if the principle be applied at all, it should be applied in that way and to that extent which will best promote the object contemplated—namely, the sound education of the people; and experience, as well as the nature of the case, shows, that the free system of supporting Schools is the most, and indeed the only, effectual means of promoting the universal education of the people.

I remark further on this second objection, that if it be sound, then must the institutions of government itself be abandoned. If a man can say, I am not to be taxed for the support of what I do not patronise, or from which I receive no individual benefit, then will many a man be exempted from contributing to support the administration of Justice, for he does not patronise either the Civil or Criminal Courts; nor should he pay a tax for the erection and support of jails, for he seeks no benefit from them. Should it be said, that jails are necessary for the common safety and welfare, I answer, are they more so than Common Schools? Is a jail for the confinement and punishment of criminals more important to a community than a School for education in knowledge and virtue? In all good governments the interests of the majority are the rule of procedure; and in all free governments the voice of the majority determines what shall be done by the whole population for the common interests, without reference to isolated individual cases of advantage or disadvantage, of inclination or disinclination. Does not the Common School involve the common interests; and the Free School system supposes a tax upon all by the majority for the education of all.

I observe again on this second objection, that what it assumes as fact is not true. It assumes that none are benefited by the Common School but those who patronise it. This is the lowest, narrowest and most selfish view of the subject, and indicates a mind the

Appendix  
(Z.Z.Z.Z.)

26th May.

Appendix  
(Z.Z.Z.Z.)

26th May.

most contracted and grovelling. This view applied to a Provincial University, implies that no persons are benefited by it except Graduates; applied to criminal jurisprudence and its requisite officers and prisons, it supposes that none are benefited by them except those whose persons are rescued from the assaults of violence, or whose property is restored from the hands of theft; applied to canals, harbours, roads, &c., this view assumes that no persons derive any benefit from them except those who personally navigate or travel over them. The fact is, that whatever tends to diminish crime and lessen the expenses of criminal jurisprudence, enhances the value of a whole estate of a country or district; and is not this the tendency of good Common School education? And who has not witnessed the expenditure of more money in the detection, imprisonment and punishment of a single uneducated criminal, than would be necessary to educate in the Common School half a dozen children? Is it not better to spend money upon the child than upon the culprit—to prevent crime rather than punish it? Again, whatever adds to the security of property of all kinds increases its value; and does not the proper education of the people do so? Whatever also tends to develop the physical resources of a country, must add to the value of property; and is not this the tendency of the education of the people? Is not education in fact the power of the people to make all the resources of their country tributary to their interests and comforts? And is not this the most obvious and prominent distinguishing feature between an educated and uneducated people—the power of the former, and the powerlessness of the latter, to develop the resources of nature and providence, and make them subservient to human interests and enjoyments? Can this be done without increasing the value of property? I verily believe, that in the sound and universal education of the people, the balance of gain financially is on the side of the wealthier classes. If the poorer classes gain in intellectual power, and in the resources of individual and social happiness, the richer classes gain proportionally, I think more than proportionally, in the enhanced value of their property. As an illustration, take any two neighbourhoods, equal in advantages of situation and natural fertility of soil—the one inhabited by an ignorant, and therefore unenterprising, grovelling, if not disorderly, population; the other peopled with a well-educated, and therefore enterprising, intelligent and industrious class of inhabitants. The difference in the value of all real estates in the two neighbourhoods is ten if not an hundred-fold greater than the amount of School-tax that has ever been imposed upon it. And yet it is the School that makes the difference in the two neighbourhoods; and the larger the field of experiment the more marked will be the difference. Hence in Free-School countries, where the experiment has been so tested as to become a system, there are no warmer advocates of it than men of the largest property and the greatest intelligence—the profoundest scholars and the ablest statesmen.

It has also been objected, that the lands of absentees ought not to be taxed for the support of Schools in the vicinity of such lands. I answer, the inhabitants of the School Sections in which such lands are situated are continually adding to the value of those lands by their labours and improvements, and are therefore entitled to some return, in the shape of a local School tax, from such absentee landholders.

The objection that the Free School system is a pauperising system has been sufficiently answered and exposed in a preceding part of this address. Such a term is only applicable to the present rate-bill system, as I have shown; and the application of it to the Free School system is an exhibition of the sheerest ignorance of the subject, or a pitiful manœuvre of selfishness against the education of the working classes of the people. History is unanimous in the assertion, that the first race of New England pilgrims were the best educated and most independent class of men that ever planted the standard of colonization in any new country. Yet among these men did the system of Free Schools originate; by their free and intelligent descendants has it been perpetuated and extended; their universal education has triumphed over the comparative barrenness of their soil and the severity of their climate, and made their States the metropolis of American manufactures and mechanic arts, and the seat of the best Colleges and Schools in America. Nor is a page of their educational history disfigured with the narrative of a "Ragged School," or the anomaly of a pauper Pupil.

I submit then the great question of Free Schools, or of universal education, (for I hold the two to be synonymous in fact,) to the grave consideration of the Canadian public. I think it properly appertains to the inhabitants of each School municipality to decide for themselves on this subject. I desire no further Legislative interference than to give the inhabitants of each School division the power of supporting their own School as they please. Of the result of their inquiries as to the best mode of supporting their School, I have no doubt; and in that result I read the brightest hope and the greatest wealth of future Canada.

(Signed,) E. RYERSON.

EDUCATION OFFICE,  
Toronto, January, 1849.

N.B.—I have taken no notice of the objection founded upon the inequality and injustice of the assessment laws, in regard to Cities and Towns as well as country School Sections; as that objection lies against the assessment laws, and not against the principle of the Free School system; and as, I trust, the imperfection of the assessment laws will be shortly remedied by Legislative enactment.

(Signed,) E. R.

Appendix  
(Z.Z.Z.Z.)

26th May.

**REPORT.**

THE Select Committee appointed to Inquire into the Causes and Importance of the EMIGRATION which takes place annually from LOWER CANADA to the UNITED STATES; the Class and, if possible, the Number of Persons who have Emigrated during the last five years; the Fate of the Individuals and Families who have Emigrated, and the best means to prevent that Emigration for the future—have the honour to present their Report, as follows:—

Your Committee, while occupied in considering the important Questions submitted to their examination by Your Honourable House, were disturbed and retarded by the painful events of the twenty-fifth of April last; and the mass of interesting evidence collected by Your Committee, shared the fate of all the other public documents contained in the Parliament Buildings.

Your Committee have procured, however, thanks to the good will of some of the parties to whom they applied, other copies of their answers to the Questions submitted to them by Your Committee; and although they regret that it is not in their power to submit to Your Honourable House and to the Country, all the information and all the suggestions which had been originally transmitted to them; Your Committee have, nevertheless, the satisfaction of presenting to Your Honourable House, annexed to this Report, a still sufficiently voluminous Appendix, worthy of the most serious attention of the Government and of the Legislature.

It is a painful task for Your Committee to have to inform Your Honourable House, that the emigration of Her Majesty's Subjects in this Province, to places out of Her Majesty's dominions, is much more considerable than was generally believed, and threatens to become a real calamity for Lower Canada.

It is true, that when a country is sufficiently peopled, when the whole extent of its territory is in a state of cultivation, when all its agricultural, industrial, manufacturing, and commercial resources have become exhausted in nourishing an overflowing population, without any other means of existence left than begging, it is true that, under such circumstances, an emigration which has the effect of transforming families, which were a burthen to the older community into founders of a new one, is a benefit to the country thus afflicted and to mankind in general.

But in a new country, a portion only of whose territory is in a state of cultivation, whose population is no where numerous enough to present the painful spectacle of pauperism; in a country which, instead of having an excess of population to cast off, calls, on the contrary, to its assistance the strength and capital of foreign emigration; the double fact that this foreign emigration leaves in it very few settlers, and that the inhabitants themselves emigrate in great numbers to foreign countries, must arouse the attention of the Legislator, and lead him to inquire, whether all is right in the order of things which it is his duty to direct and modify? whether it is nature herself which does not offer to the inhabitant of the country, sufficient advantages to induce him to remain; or whether it is not rather society, which has neglected to turn to advantage the field which nature has afforded?

Allowing to the climate the destruction caused by the wheat-fly, to the natural movement of the population from the north to the south, and from the east to the west, and to causes more or less accidental and uncontrollable, their probable share of influence; Your Committee have still found subjects for very serious reflection on the part of the Legislature and the Executive Government in some of the other causes of this emigration, which fall more particularly within the sphere of action of one or the other of these authorities.

It would, undoubtedly, be absurd to attempt to prevent or even to discourage those inhabitants of the country who can find more accessible, better cultivated, and cheaper lands elsewhere, from seeking out of their country for that which their country denies them. Any proposition of this nature must fail before facts and the instinct of individual welfare, if it be not accompanied by practical measures calculated to make the advantages afforded by this country balance and compensate those offered by others. But Your Committee sincerely believe, that besides the still very great check arising from the attachment of the inhabitants of the country to its institutions, its societies, its manners and customs, to their fatherland, in fine, it would be possible for the Legislator to adopt efficient means of settlement, which should be alike advantageous to the settler and to the Government, whose duty it is, at all events, to ensure for every part of this Province the best possible chance in the race of rivalry, by which the different countries of America are incited to advance in population, in riches, and in material progress.

The public opinion expressed so strongly and unanimously in favour of the settlement of the Townships of Lower Canada, and the success which has already crowned some of the enterprizes carried on under the direction of associations formed by the efforts of a few priests and zealous citizens, confirm the opinion of Your Committee, that the evil, although greatly advanced, is not incurable, if the remedy be applied without delay.

The first point to which Your Committee had to direct their attention, was naturally that of ascertaining the extent, course, and progress of the emigration. The following are the most certain dates which Your Committee could gather from the different evidence submitted to them for examination:—

The emigration began principally after the insurrections of 1837 and 1838, and was then strictly confined to the District of Montreal, and to such parts of that District as had suffered the most from the depredations carried on at that period. The efforts at settlement and the construction of Railroads which were undertaken in the United States about that period, attracted and retained a great number of

Appendix  
(A.A.A.A.A.)  
29th May.

workmen who had been driven away by the want of work and the terror of the times. Some farmers, who having left their country for political reasons, had reached the States of Michigan, Ohio, and Illinois, which were then, and are still cultivated with so much activity and success, struck with the fertility of these lands, sent to their friends and relations whom they had left in Canada, exaggerated descriptions of the prosperity which awaited them there, and spared no means to induce these friends to join them. It was in the Counties of Rouville and Huntingdon, that in 1841 and the following years, the first emigrations of any importance were remarked; and as a great many families in these Counties had originally come from the Counties below Quebec, and had relations there, it is also to the same causes that the origin or perhaps the opportunity afforded for the first emigrations, which at a later period took place from that District, may be traced.

This emigration, of the agricultural population, has been constantly on the increase, as well as that of the working population of the City of Montreal, and soon after, of the City of Quebec, where the want of work consequent upon the falling off of the Lumber Trade, has been sensibly felt during the last few years; while the disastrous fires of 1845, obliged a certain number of families to emigrate immediately.

The emigration from the District of Three Rivers, has taken another course; it has depended rather upon that which is going on from the Eastern Townships by way of the Lower Canada frontier. These emigrants generally go to the Townships and thence to the United States.

A fact worthy of record is, that a great number of persons from the Counties of Yamaska and Nicolet are hired every year to go and work in the brick yards and other American manufactories; they go and return every year—about one fourth remaining behind in the States.

A considerable emigration is also going on from the Townships to the United States, but it is more than compensated by the constant emigration of farmers from the United States, the old Canadian settlements, and of Emigrants from Europe.

Many Canadian farmers, however, discouraged by the want of roads, the vexations of the large landholders, and sometimes through their own fault and want of perseverance, abandon the lands they have begun to open, and go and hire themselves as labourers to the American farmers. On the other hand, a good number of natives of the United States, Ireland, and Scotland, who have succeeded in the cultivation of their lands, sell them, (in many cases after they have exhausted the soil,) either to a new Canadian settler, or to some other emigrant from the British Isles or the United States, and with the produce of the sale they go and purchase other lands in the west. The French Canadians, on the contrary, when they succeed in their settlement, keep their lands and remain.

A considerable emigration took place last year from the City of Montreal and the Counties near the Ottawa. This year, it threatens to continue and even to increase. It is almost exclusively composed of mechanics and workmen, and of the labourers known as raftsmen.

Up to the last few years, the emigration from the District of Quebec, was confined to the City and to that part of the County of Dorchester which borders on the frontier. These emigrants went to the United

States by way of St. Johns and Albany, or by the Kennebec road. It is only for the last two years, we may say, that farmers from the Counties of Bellechasse, L'Islet, and even Kamouraska, have sold their lands with the view to purchase others in the Western States. They almost all go to Chicago by the canals and the lakes.

The first inhabitants who left these Counties for the United States, had, it is said, family connections with the settlers from the District of Montreal, who had settled in the neighbourhood of Chicago, after the troubles. It was on the return of some of them from their expedition, that they and many others decided on leaving; and as will be seen by the Appendix, this emigration which sends out of the country considerable capital and a class of farmers both respectable and in easy circumstances, threatens to increase seriously; a great number of fathers of families having already sold their property during the last winter, with the intention of leaving in the course of the summer.

It would be very difficult for Your Committee to state, even approximately, the number of persons who have emigrated to the United States, and the amount of capital thus withdrawn from the Province. As public attention has been only lately directed to this subject, Your Committee thought it merely necessary to question persons to whom they applied for information, respecting the statistics of the last five years only; their answers are in general very vague and unsatisfactory.

The answers of the Clergy of the Diocese of Montreal, as analysed and transmitted to Your Committee by the Secretary of His Lordship the Bishop of Montreal, show that one thousand families have emigrated from the Diocese of Montreal during the last five years; that about two-thirds belong to the working classes, and about one-third to the agricultural class, and that nine-tenths are of French origin.

Allowing six persons to each family, this makes an emigration of 6,000 individuals; but the fact that families only are mentioned, shows that the emigration of single individuals, and of young men from the country who go to the United States to get work, is not included in this estimate. The number of these is very great in the Diocese of Montreal, and must be greater than one-half of the above number. Supposing 4,000 to have emigrated during the same space of time, we have an emigration of 10,000 from the Diocese of Montreal in five years; giving an average of 2,000 per annum, whereof 900 in a thousand are of French and 100 of British origin.

The analysis of the answers of the Clergy of the Diocese of Quebec, transmitted by the Secretary of the association for settlement of the Townships, established at Quebec, gives the number of emigrants in detail, for several parishes; but gives no approximate number for the whole of the emigration from that Diocese, which includes the Districts of Quebec, Three Rivers, Gaspé, and part of the District of St. Francis. The parishes mentioned are 13 in number, and the total emigration is 948. To these must be added at least 205 persons, who, according to the evidence of J. N. Brossé, Esquire, Advocate, emigrated last year from the single parish of Cap St. Ignace, in the County of l'Islet, and who are not included in the statement above mentioned. Several other parishes have been omitted, which Your Committee know to have also furnished their proportion to the emigration from the country parts of the Diocese of Quebec to the number of 2,500 individuals, being equal to one-fourth of the emigration from the

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

Diocese of Montreal. The emigration of workmen from Quebec during the same period, (that is of those who have permanently settled in foreign countries, for many return after having been absent for a longer or shorter period,) must be estimated, at least, at 1,500. This would give, for the Diocese of Quebec, an emigration of 4,000 persons for the last five years; this number added to that from the Diocese of Montreal, would give a total of 14,000.

But Your Committee think this result far below the truth. According to public rumour, an emigration of from 8,000 to 10,000 souls took place during the last year only from the City of Montreal alone. Although evidently greatly exaggerated, the very supposition is sufficient to show how far the above numbers are from being correct.

The Reverend Mr. Chiniquy, in his answers (see Appendix) estimates the total of the emigration from Lower Canada to the United States, during the last five years at 70,000. Without adopting this estimate, which gives a number five times greater than that which can be inferred from the answers of the Clergy; Your Committee is struck with the force which such evidence must have, coming, as it does, from a priest, who, in the course of his noble and successful missions, has had so many opportunities of observing and appreciating the movements of the people. Perhaps the mere moving about of the population towards the back country, the emigration from the old settlements to the new ones in the Eastern Townships, the Ottawa, Saguenay, and Rimouski, the voyages made by a great number of workmen and labourers, and even of farmers, who absent themselves temporarily only, may have led Mr. Chiniquy into error, and may account for the great difference between his evidence and that of the other members of the Clergy on this point. Taking every thing into consideration, Your Committee think they do not exaggerate in stating that the whole emigration of the last five years amounted to 20,000 individuals; which gives an average of 4,000 per annum. Of this number, 2,000 may belong to the District of Montreal, 1,000 to the Districts of Three Rivers and St. Francis, and 1,000 to the Districts of Quebec and Gaspé. One-third of this emigration belongs to the class of workmen, and the remaining two-thirds to the agricultural class.

This number of 20,000 souls is already very alarming, forming, as it does, (supposing the population of Lower Canada to consist of 800,000 souls,) one fortieth part of the population. The rapid progress which this inclination to emigrate has made, and the preparations for a much more considerable emigration pointed out to Your Committee, lead them to express their fear that the number of emigrants will increase by at least one-half during the next five years, thus forming for a period of ten years an emigration of 50,000 souls, that is, one sixteenth part of the population.

As we have already observed, these losses are not compensated by the emigration from the British Isles, which only leaves a very insignificant proportion of settlers; and even the old settlers of British origin leave Lower Canada, though in a smaller proportion.

The remedies which ought to be applied to this evil, would then be equally advantageous to the two races of men who people this Province.

To find out the causes of the emigration, it must be divided into several categories, and the particular causes for the different localities, and the various

Appendix  
(A.A.A.A.A.)  
29th May.

classes of emigrants must be distinguished and separated from the general causes. We shall then see what is the fate of each class of emigrants when they reach a foreign country. It will be easy to discern what are the causes which are beyond the control of the Government, and what those are which the action of the Legislative or Executive authorities can remove, or at least considerably diminish.

THE FIRST CLASS of emigrants consists of the workmen of the Cities of Quebec and Montreal. This class is very numerous, and forms, according to the answers of the Clergy, for the District of Montreal, the two-thirds, and for Quebec more than one-half of the emigration.\* *Cause of Emigration.*—The unsettled state of trade and industry in these two Cities for several years past,—the want of manufactories to employ the workmen formerly engaged in the lumbering establishments,—the increase of wages in the United States, and their decrease here,—the want of public works, which Lower Canada strongly requires, and which would give employment. *Their lot in foreign parts.*—They find employment on the public works; the canals and railroads in the United States, the lumbering establishments of Maine, and the manufactories of the State of Vermont. Their wages are high enough, but their expenses are so heavy that they seldom save money. A great many return, but very few with money. Some, according to the evidence adduced before Your Committee, succeed, and settle in pretty good circumstances, either as workmen in the cities, or as purchasers of lands in the west, with the produce of their earnings. Unfortunately, the greater number fall into a social condition, inferior to that in which they were in Canada, and frequently perish in vice and misery. Almost all the Canadian families which one meets in the States of Maine, Vermont, and New York, are very poor.

SECOND CLASS.—Workmen who had settled in the villages and country parts. *Cause of Emigration.*—Our villages are generally small,—the farmers are clever as mechanics, and do themselves almost every thing they might require from a tradesman. The workmen who establish themselves in the country have little employment and lose courage,—the want of manufactories and works, which might keep these workmen employed. This class is not very numerous. *Their lot in foreign parts.*—The same as that of the preceding class, with this difference, that, as they are generally less skilful, they have less chance of success.

THIRD CLASS.—Persons employed as labourers or raftsmen on the Ottawa. *Causes of Emigration.*—The falling off in the lumber trade,—want of employment for the reasons above stated. *Their lot in foreign parts.*—The most deplorable. They only find employment as labourers or stokers on board of steamboats. Sometimes they find none at all, or will not accept of any; and they have recourse to unlawful means of existence. They associate with the worst class of the American population. Having already contracted bad habits in their annual visits to Bytown, Montreal, and Quebec; their morals, which had already suffered by debauchery, suffer more seriously by the loss of every principle of honesty. A great many of them are considered in the United States as the refuse of the population, and disgrace the country of their birth.

\* The emigration of workmen was given above, as being one-third of the whole emigration, because the emigration of young men from the country, in the District of Montreal, was not taken into consideration, and because the emigration from the Districts of Three Rivers and St. Francis must comprise but few workmen.

Appendix  
(A.A.A.A.A.)  
29th May.

**FOURTH CLASS.**—Young men belonging to good farmers' families. *Causes of Emigration.*—Difficulties which their parents experience in procuring lands for their children to settle on. The high rate at which the Crown lands have been kept until now. The refusal of certain Seigniors to concede the lands of their Seigniories at reasonable prices. The exactions of landed proprietors who impose even heavier conditions than the Seigniors. (See Appendix.) The want of roads and means of communication. The want of instruction, and the credibility resulting therefrom, on the part of many young men who will at all hazards roam about the world. The contagion of example. The indifference and want of forethought of certain parents who, even when they can do it with facility, do not try to procure new lands for their children, but distribute their farm to them piece-meal. *Their lot in foreign parts.*—These young men sometimes return with money; several acquire knowledge and industry; a great number settle in the United States and live respectably. The majority, however, are in an inferior position, especially when compared with the independent and honourable position they might occupy in their own country as heads of families, and belonging to that respectable and hitherto happy class of proprietors called *habitants*. They almost all hire themselves in the manufactories, or as farmers' men with the American husband-men. A great many of them, unfortunately, share the same fate as those of the preceding class.

**FIFTH CLASS.**—Poor families settled in the Seigniories. *Causes of Emigration.*—These families are forced, through debt, to emigrate, after having sold their lands and moveables, or seen them sold by the officers of the law. The bad crops in consequence of the wheat-fly, and the backward state of agriculture, and sometimes of intemperance on the part of the head of the family,—indulgences disproportionate to the means of the farmer, and which makes him run into debt with the storekeeper of the place, often greedy and unscrupulous,—the distance from the market, want of means of communication, absence of steam navigation which, by bringing the farmer nearer to the market, would enable him to turn his labours to account, and encourage him to improve his system of agriculture,—the high rate of rents imposed by some Seigniors in their new concessions, and which bear heavily on the tenants (*censitaire*); these various causes, and in many cases all these causes together, bring these families into distress, and thus force them to emigrate. *Their lot in foreign parts.*—They work on the lands of farmers of the United States, sometimes in the manufactories, and frequently at heavy, hard, and badly paid labour. When they can realize enough money by the sale of their property, to go to the Western States and purchase lands, they sometimes happen to succeed. But their prosperity is due to lessons of misfortune, to the greater energy which they shew in economising more strictly than they would do in their own country, to the improvements which they introduce in their system of agriculture, after the manner of their neighbours; and many have acknowledged, (see Appendix), that if they had made the same efforts and followed the same line of conduct when they were in Canada, they would have succeeded equally well.

**SIXTH CLASS.**—Settlers in the new Township settlements. *Causes of Emigration.*—Want of means of communication, or when such do exist, the bad state of repair and keeping up of the roads, the insufficiency of the road laws. The insurmountable difficulties resulting therefrom. "The settler can neither bring his produce to market nor procure the things necessary for cultivating his land. He must carry every thing on his shoulders, across the swamps and

waste lands belonging to the Crown, or to large neighbouring proprietors. He is isolated and unprotected. If he has taken lands from one of these large proprietors, the rate of rents, the dues and reservations which are even higher than those of the Seigniories, force him to sell. Discouraged in every way, and little disposed withal, from his character and habits, to toil alone in the desert, he abandons after a while a settlement which, with more encouragement on the one hand and more perseverance on the other, might have become more productive," (see Appendix.) *Their lot in foreign parts.*—Nearly the same as that of the preceding class.

**SEVENTH CLASS.**—Farmers in easy circumstances who sell their lands and leave for the West. *Causes of Emigration.*—Bad crops in Lower Canada for several years past; want of instruction and knowledge, especially in the art of agriculture. Want of means of communication and centres of population, and in fact of protection for the agricultural interest, which has either no market or a very bad one. Active and interested proselytism carried on by the emigrants already settled in the West, who wish to create another fatherland, by attracting their relations, friends, and fellow-countrymen. Exaggerated reports of the welfare enjoyed in these far countries. The uneasiness and restlessness of the agricultural population, resulting from the instability of the new municipal institutions. The speeches of wiseacres and extinguishers (*eteignoirs*) against every thing in the shape of progress, founded on the horror of taxation. *Their fate in foreign parts.*—They generally prosper; but it is not long enough since the greater number of them have settled in those parts to enable us to ascertain whether the change will turn out advantageous to them in the end. It is probable that, with the same efforts and the same changes in their mode of cultivation, their condition would have equally improved in their own country. From what is stated by several persons who have travelled in the West, a great number of Canadians fall victims to endemical diseases (ague and other fevers) which infect those localities, or before they become accustomed to the climate, contract infirmities which last during the remainder of their lives.

This class of emigrants has only become numerous during the last two or three years; it threatens to increase rapidly. This would indeed be a subject of regret for the Province, for those who compose this class, constitute, according to the happy expression of the Reverend Mr. Ferland, (see his answers,) "the sinews and riches of a country."

**EIGHTH CLASS.**—Young men of education belonging to respectable but poor families. *Causes of Emigration.*—No variety in the career open to young men—no army or navy which might afford to some of them a mode of life in conformity with their taste and inclinations,—the crowded state of the liberal professions, resulting from the deplorable facility with which parties are admitted who are unfit to exercise them,—the unjust preference which has until now been given to young men of one origin over those of another, and frequently to persons born out of the colony over persons born in it, in the various public departments,—the precarious state of commerce and trade, which prevents young men from entering either of these branches,—social prejudices, which fortunately are beginning to disappear, and which place those who follow these callings in a position beneath that which they ought to occupy,—up to the last few years the want of practical instruction in our colleges and educational establishments, which have improved, and which every day improve in this respect,—the difficulty which young Cana-

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

dians find in obtaining situations in commercial houses, as almost all these establishments send for their clerks from Scotland or England. *Their lot in foreign parts.*—A good number of young Canadians have succeeded in the United States both in trade and in the liberal professions. Some have entered the American army, and have behaved in such a manner as not to disgrace the blood of their ancestors. A great number of these young men, however, deprived of the salutary effect always exercised by the surveillance of their parents, and the respect for the opinion of their fellow-citizens, abandon themselves, especially in New Orleans, to excesses which ruin both their health and fortunes. Many of them perish on their arrival there, victims of the climate and yellow fever.

This class of emigrants is not, as yet, very numerous. They generally direct their course to New York or New Orleans.

MEANS WHICH OUGHT TO BE ADOPTED TO REMEDY  
THIS EVIL.

There is no one who will not, after reading the preceding remarks, agree that this emigration, as respects all classes of emigrants, is in general prejudicial both to the prosperity of the Province and the welfare of the emigrants themselves.

Every one has been alarmed at the extent of the evil and the features it threatens to assume; and every one, at the same time, has thought of a remedy for each of the causes we have just enumerated, that is for such as are not accidental or beyond our control.

These remedies may be divided into such as are direct and such as are indirect. Some of the first are easy, would occasion little expense, and are urgently required. A very little done in time is sufficient, when at a later period the same means would be of no avail. Other remedies are expensive and difficult, considering the state of our finances, and are dependant upon the undertaking of great public works or upon special legislation. The indirect means are more or less dependant upon general legislation, political economy, and the system of administration. There is also another class of means which depend on the impression which can be made on public opinion, and these play not the least important part in the work of colonization.

A remedy of the first class, both easy and direct, has already been adopted by the Government. This is the reduction of the price of Crown lands in certain parts of Lower Canada, and easier terms of payment granted to the new settlers.—The free grant of fifty acres of land to each settler who gives sufficient proof of morality and good intentions, is undoubtedly a great advantage which has already been productive of good results.—The rate of one shilling per acre for the Saguenay lands, is moderate, and Your Committee trust that the Government will not increase it in that locality, considering the great difficulties which the settlers encounter there. It is not for Your Committee to dictate to the Government the price at which the Crown lands should be sold; but Your Committee must observe, that it is a false economy, and a miscalculated speculation, to grant them in any locality on conditions which have only the effect of discouraging the settlers. The country has a great deal more to lose by the emigration of its inhabitants, and the carrying away of its capital to foreign parts, than it has to gain by the sale of a few arpents of land at the highest rates. Besides, it is

not so much the reduction of prices as the facility in the terms of payment, which will encourage the Canadian farmer to decide upon encountering the hardships of settling on wild lands. He seldom has sufficient money to pay the price of the land on purchasing it. The settlement of the seigniories only succeeded so well at first, because the seignior required no money in advance from the tenant, but was content with light annual dues, which were almost always payable in produce. The more the conditions of the sale of the Crown lands approach this system, the more favorable they will be to settlement and thereby profitable to the Province.

Four large tracts, which may be said to be situate at the four corners of Lower Canada, are now ready for settlement. The Eastern Townships, that extent of fertile land, where the climate is milder than on the borders of the river, extending between the frontier and the Seigniories in the Districts of Montreal, St. Francis, and partly in the Districts of Three Rivers and Quebec. The Rimouski territory, which comprises the uncultivated part of the vast and fertile county of the same name, and to which may be added a large extent of land in the rear of the Counties of Kamouraska and L'Islet. The Saguenay territory, which comprises the cultivable portion of that river, the Peninsula of Chicoutimi and all the space comprised between the Laurentides Mountains, the Saguenay and Lake St. Jean. The excellent crops gathered last year and the preceding year, by the new settlers, justify what has been said of the fertility of this territory and its climate, which is not colder, nor even as cold as that of the north shore of the St. Lawrence, in the District of Quebec: and lastly, the Ottawa territory, as large and fertile as any of the preceding, and where settlement has already made great progress.

These three last portions of the country have already attracted the attention of the Government which has erected them into separate Districts (as the Eastern Townships were long since by the Legislature of Lower Canada), and has taken the necessary steps to establish judicial centres in them, thereby providing one of the means which Your Committee would have suggested.

But Your Committee, in accordance with all the evidence which forms the Appendix of this Report, must remark to Your Honourable House, that in vain would the Crown Lands be offered at low rates, or even gratuitously, in vain would the greatest sacrifices be made by individuals or associations to encourage the surplus population of the Seigniories to settle on these lands, while the want of roads and means of communication, and the bad state of the existing roads, remain an unsurmountable obstacle to all progress.

Your Committee believe then that the most pressing remedy is to make roads to communicate with the territories above mentioned, and to establish a communication between the different parts of these territories. Your Committee are aware of the financial difficulties of the Province, and also that they have no power to recommend any vote of money to Your Honourable House; but they must direct the attention of Your Honourable House and of the Government, to the advantages which would result from the opening of the means of communication hereinafter mentioned:—1st. County of Dorchester.—There is a considerable emigration from this county, which is owing, principally, as it is every where else, to the want of roads and the bad state of the existing roads; even the great route leading to the United States, called the Kennebec road, which must be considered

Appendix  
(A.A.A.A.A.)  
29th May.



Appendix  
(A.A.A.A.A.)  
29th May.

as one of the main channels of communication in the Province, is greatly in need of improvement, and is interrupted in several places, by the want of bridges.

Your Committee are informed, moreover, of the bad state of the road in the Seigniorship of Joliet, leading to the Township of Frampton; from the foot of the hills known as the Mimeau hills (*côtes de Mimeau*), to the road called Ste. Marguerite, and thence to the Church at Frampton, and which is in need of repairs and improvement. The same remark may be applied to the roads along the Etchemin River, on the south-west side in the Township of Frampton, and to the road from the boundary line of Ste. Marie, between the second and third ranges of Frampton, to the River Etchemin. The improvement of these roads and the re-building of the bridge on the River Etchemin, which would not cost, in all, more than £1,500, would contribute powerfully towards the settlement of the Crown Lands in that direction.

2dly. County of Bellechasse :

The back settlements situate in this county, especially in the parishes of St. Gervais and St. Lazare, are already tolerably densely populated. A road from this last parish, through the wild lands in Buckland, would lead with very little difficulty to the flat lands of the valley of the River St. Jean; this route being too much out of the way for the population of the lower part of the county, the inhabitants of that section intend penetrating into the interior by another road, for the laying out of which steps have already been taken by the Crown Land Office, to wit, in the rear of the township of Armagh, across the section of "*la fourche du Pin*." These roads would be equally useful.

3dly. County of l'Islet :

There is in this county, about four leagues from the river, a very fine tract of uncultivated land; a road starting from the division line between the Parish of St. Jean, Port-Joli, and the augmentation of the Township of Ashford, near Lake Trois Saumons, and running easterly as far as the division line between the Township of Ashford and its augmentation, and continuing thence along this line, would open out this tract of land for settlement.

4thly. County of Kamouraska :

The continuation of the road called "the Government Road," at the back of the Township of Ixworth, as prayed for by the inhabitants of this county, in their Petitions, would contribute much towards the settlement of the Crown Lands in this direction.

5thly. County of Rimouski :

A magnificent valley, probably one of the most fertile and best watered parts of the country, extends along the rear of the existing settlements of the county of Rimouski, and towards it a considerable emigration flows every year. Four Townships are already being settled, and the active pioneers who wish to take this direction, require only the means of reaching the said valley; these Townships are the Townships of Whitworth, Viger, Macpès, and Neigett; routes leading from the roads now open to the rear, or at least as far as the second range of these new settlements, would greatly facilitate the population taking that direction.

Two roads of much greater and more general importance have already occupied the attention of the Legislature of the country; one is the road which is

to lead from Métis to Matane, along the river, passing through important lumbering and agricultural establishments in progress; the House of Assembly voted a sufficient sum, about two years ago, and the road was traced, but nothing else has yet been done. The other means of communication is intended to place the Province of New Brunswick in direct communication with the St. Lawrence, by a road leading from Lake Temiscouata to some point near to the line separating the Parishes of l'Isle-Verte and Trois-Pistoles; the Executive Council ordered this road to be constructed in the course of last summer; but it seems that nothing must be done this year. This road would be so much the more important as it would be the commencement of a most important line of communication, the construction of which now occupies the attention of capitalists of the Province of New Brunswick.

These two last great improvements are objects of the greatest anxiety on the part of the inhabitants of this fine county, and of the neighbouring counties who partly send a portion of their surplus population there; and the legislature of the country having recognized the great importance of both these undertakings, Your Committee cannot too strongly recommend their being completed. All these improvements have been successively prayed for by Petitions to the three branches of the Legislature, several whereof containing important documents have been referred to Your Committee.

The opening of these roads would cost an insignificant sum compared with the immense public works of the Province, and would have the effect of stopping the emigration which is only just commencing in the counties on the south side of the St. Lawrence, below Quebec; indeed it is the only measure which can prevent the immediate increase of this emigration. The certainty that it is intended to do something for them, and the little money which might be provisionally expended for this object, would keep in these counties a great number of farmers and labourers who intend mostly to emigrate. So urgent is the necessity of these improvements, that Your Committee hope that the Government will give them its most serious attention at an early period during the recess.

As Mr. Bossé judiciously observes in his evidence, the sale of Crown Lands, which would be made in the neighborhood as fast as the work should progress, would soon make up the money expended. It would not even be necessary to lay out much money, as most of the workmen employed would not wish for anything better than to become settlers themselves, nor the settlers for anything better than to be employed as workmen, and both would willingly give the whole or part of their labour as an instalment on the price of the lands conceded to them. This has already been offered by the inhabitants of several localities.—(See the evidence of Messrs. Bossé and Letellier.)

Your Committee believe, that the settlement of the Saguenay territory, already so happily commenced by the settlers from the parishes on the north of the River St. Lawrence, in the Counties of Saguenay, Montmorency and Quebec, will also powerfully contribute towards preventing the emigration from the south shore to foreign parts; especially as a great number of young men from the Counties of l'Islet and Kamouraska intend settling at the Saguenay, and have already taken steps for that purpose.

Your Committee recommend particularly to the favourable attention of the Government and the

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

Legislature, the projected road from Chicoutimi, across the whole peninsula as far as Lake St. Jean, and that already in part open by the enterprising and industrious inhabitants of St. Agnès and the neighbouring parishes, from Chicoutimi to Ste. Agnès, and thence in the rear of the mountains of Les Eboulements as far as St. Urbain.

Your Committee must also call the attention of Your Honourable House, to the suggestion made by all the gentlemen who have answered the questions submitted by Your Committee, to extend for a couple of years more, the privilege granted by persons settling in the Townships of the Saguenay, before the 1st of May, 1850, of paying only one shilling per acre for the Crown Lands.

Your Committee have mentioned these improvements which should be made in the District of Quebec, in the first place, not with a view to prejudice in any way the suggestions which follow and which have reference to other sections of the Province, but solely because as the emigration has only just commenced in the Counties above-mentioned, it is easier to stop or prevent it there than in localities where it has been going on for a long period. The construction at little cost, if not of all, at least of a part of the means of communication suggested, would be of the greatest advantage, provided it were undertaken at once.

In order to conclude at once this important part of the subject, Your Committee think it their duty at the same time to call to the recollection of Your Honourable House what has already often been observed, the necessity of connecting the Saguenay Territory and the South shore of the St. Lawrence below Quebec, with the remainder of the Province, by means of steam navigation. Without this, the isolated position of both these portions of the country will always prevent their making that progress which they are by nature capable of. Although this isolation is not so sensibly felt on the South shore, steam navigation from Quebec to one or several points on the North shore, will not for some time yet remunerate those who undertake it, unless the steam vessels touch during their trips at some points on the South shore. From the remark just made, it will appear that the construction of wharves and jetties, so as to form safe Harbours at different points of the South shore, will be as useful to the inhabitants of the North shore as the work done in their own localities.

This subject has already attracted the attention of the Government; explorations were made two years ago by the officers of the Board of Works, and Your Committee, without recommending in particular any of the localities explored, will content themselves with remarking, that it is of the greatest necessity that wharves should be constructed at least at one point on the North shore, and at three or four points on the South shore.

It is not only as regards the colonization of the new settlements that these improvements are called for, but also for the prosperity of the old settlements. Besides, they are intimately connected with the commercial prosperity of the whole Province, and particularly of Upper Canada, inasmuch as they would contribute much towards the improvement of the navigation of the lower part of the River St. Lawrence. The want of harbours of refuge is in great part the cause of the numerous shipwrecks which each autumn are so afflicting to humanity, cause such heavy losses to commerce, and tend to increase to so great an extent the rate of marine assurance, and

consequently of freight, and prevent the Canals along the upper part of the River St. Lawrence and the Lakes from being as productive as they might be. These numerous shipwrecks prevent the route of the St. Lawrence from attracting the Western trade, the object for which this Province has made so many sacrifices.

Your Committee regret that it is out of the power of the Committee appointed by Your Honourable House to enquire into the best means of removing the obstacles in the navigation of the Gulf and River St. Lawrence below Quebec, to make their Report, in consequence of the destruction of the evidence, maps, and plans produced before them, as they would not have failed to furnish to Your Honourable House valuable information and useful suggestions on this subject, to which Your Committee can only allude.

The Ottawa territory, so important by its Lumber trade, is not the less so by its Crown Lands: a tract of cultivable lands, in a state of progressive clearance, equal in extent to that of any other part of the country, awaits the care and labour of the husbandman, who, in furnishing the necessities of life to the workmen employed in the lumber trade, finds an advantageous and ready market for the sale of his produce.

Your Committee have learned with satisfaction, that the reduction of the price of the Crown Lands to three shillings an acre in this fertile region has greatly facilitated the establishment of settlers, and that the right of pre-emption granted to persons already settled on the Crown Lands, and the long terms of payment which have been granted them, have had the most advantageous results. Your Committee can only recommend that this system be extended and continued.

Your Committee take this opportunity to observe, that the praiseworthy efforts of the Reverend *Pères Oblats* in this part of the country, for sometime past, have greatly contributed to improve the moral and social condition of a great number of young men employed in getting out timber, and in making and conducting rafts on the Ottawa. Many of them snatched from their habits of debauchery and intemperance, which have been so fatal to this class, with what they have saved from their wages (which are generally high enough to allow them to economize when their conduct is regular,) have bought lands which they cultivate with success, and they generally become excellent settlers.

In order to prevent the emigration from this part of the country, and to cause the surplus population of the northern part of the District of Montreal, whose natural patrimony it is, to settle there, it is necessary to open new means of communication there, as in the localities already mentioned.

A road has already been commenced in the direction of the Grand Calumet. By so improving it as to render it practicable at all seasons of the year, and continuing it through Petite Nation, the Townships of Lochaber, Buckingham, Templeton, Hull, Eardly, Onslow, Bristol, Litchfield, as far as Grand Calumet, and thence to the *Iles aux Allumettes*, through the Townships of Mansfield, Hudderfield, Chichester, and Watham, more than two hundred miles in extent of the finest lands in the country will be opened to cultivation.

The Eastern Townships attracted particularly the attention of the Government during the recess preceding the present Session, with a view to their co-

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

lonization. Several new settlements have been made there under the direction of a special agency, and important means of communication have been opened. In addition to what has already been undertaken in this direction, Your Committee are informed that the improvement of several roads, and the opening of several new routes are indispensable to the work of colonization.

The cause of the emigration to the United States from the southern part of the District of Three Rivers, for instance, is the want of direct communication between these parishes and the ungranted Townships. The Board of Public Works has recommended the opening of a road from the Parish of Gentilly to the Township of Blandford, and has estimated the cost at £1800. This undertaking, which Your Committee considered to be one of the most pressing, would offer to the young men of Gentilly and the neighbouring parishes an opportunity for settling at a very short distance from their parents and friends. Settlements which can thus be made close to others, seem to Your Committee to demand a more immediate attention, because they are more practicable, require less sacrifice, and have more elements of success than those made at a greater distance.

A road leaving Drummondville on the River St. Francis, passing by Grantham and the Gore of Upton, where it would meet the St. Lawrence and Atlantic Railroad, and continued through the Townships of Milton and Granby, would cross the great post road of the Eastern Townships. This road, which is partly made, would have the effect of opening an easy communication between the River St. Francis and Yamaska, and would open to agricultural industry one of the most fertile plains in the country.

Your Committee having thus stated the most urgent and at the same time most easy means, must pass to those of the second class, which are also direct means, but connected with considerable enterprises or particular projects of legislation.

Several of the improvements to which Your Committee have just drawn the attention of Your Honourable House, are either begun or already suggested in reports of the Board of Works. Another means of communication, the possibility of which has been disputed, must now be mentioned by Your Committee. The inhabitants of the County of Quebec, by their petition referred to Your Committee, have prayed for the opening of a road from Quebec to Lake St. Jean, or from some point in the Counties of Quebec, Montmorency, or Portneuf, to Lake St. Jean or to any point in the new settlements of the Saguenay, so as to afford a direct communication, by land, between Quebec and these settlements.

Your Committee regret that they have been unable to obtain the necessary information on this important part of the subject referred to them; but they are of opinion that however great the difficulties which may appear to be in the way of this project, it is of the greatest public importance that it should be carried into effect as soon as its practicability shall have been ascertained.

Your Committee are persuaded that Your Honourable House, taking into consideration all the advantages to be derived by the young and interesting settlements on the Saguenay from their being brought into direct communication with the City of Quebec, and thereby with all the rest of the Province, will be ready to vote the necessary funds when the state of the public finances and sufficient explorations allow

the Executive Government to recommend this project to the favourable consideration of the Legislature.

There is another great national enterprise which Your Committee cannot pass over in silence, and which more than anything else will prevent the tide of emigration of Canadians to foreign parts, and will attract and retain in this Province the emigrants from the British Isles, by furnishing employment to thousands of workmen, by drawing considerable capital into the Province, by developing all the resources of the country, and enabling it to participate in those of the two neighbouring colonies of New Brunswick and Nova Scotia. The measures adopted by two branches of the Legislature, during the present Session, to facilitate the execution of the noble project of a Railroad from Quebec to Halifax, and the interest which the Government of this Province, together with that of our sister colonies, take in this measure, lead Your Committee to hope that the well understood interests of the Mother Country and its colonies will not be compromised by the indefinite postponement of an enterprise calculated to draw more closely and render more lasting the ties which bind them to each other.

One of the obstacles to the progress of new settlements, and which is most strongly insisted upon in the evidence forming the Appendix to this Report, is the bad state of the roads, for the construction of which the Government has already incurred so much expense, an expense indeed which will frequently have to be renewed, and will become a real burthen on the public chest if no other means be adopted to remedy this evil.

The Road Laws, which have become insufficient even for the old settlements, as well on account of the change that has taken place in the habits and customs of the people, as on account of the complication of these laws with the new municipal institutions which work with difficulty, and have been and for several years to come will be still subject to be greatly modified,—these Road Laws are still more difficult to enforce, and in fact remain a dead letter in the new settlements, where there is no sufficient organization,—and where the work which would fall on one settler alone could never be performed by him without taking all his time and exhausting all his resources. It has been suggested to Your Committee by several of the persons questioned, to recommend the levying of tolls on the great lines of communication made and hereafter to be made by the Government, as being the only means to provide for their repair. Your Committee think this suggestion worthy of the consideration of Your Honourable House.

The answers of the members of the Catholic Clergy in particular, hold up to public indignation, in very strong terms, the conduct of a great number of proprietors of waste lands, whose vast domains remain an unsurmountable barrier between the old and new settlements. These proprietors either remain unknown, or when they make themselves known refuse to concede, or concede only on very hard conditions, very frequently too hard to be performed. These conditions are detailed in the Appendix to this Report; and one may become convinced that they yield in nothing to the obligations formerly imposed by the hardest and most rapacious feudal systems; the expressions are different, it is true; but the facts are about the same. Besides, it is not only in this respect that these extensive proprietors are to blame; they refuse, almost in every case, to contribute towards opening roads on their lands, or towards keeping them up, or repairing them, when they have been once made at great expense. After having thrown

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

every possible obstacle in the way of the clearing of the neighbouring lands, they quietly enjoy all the advantages resulting from their improvement, and sell their property when they think its value sufficiently increased by the labour of their neighbours.

Your Committee are well aware that this is a very difficult subject to enter upon as a legislative question. The right of property is certainly sacred and inviolate: but the soil only belongs to man on condition that he shall work and cultivate it; and possession carries with it the obligation to make use of what one possesses in such a manner as not to injure others. Property should have its duties and obligations as well as its rights. It gives to the proprietor the rights of a citizen under the constitution by which we are governed; it imposes on him the obligation to contribute to the support of the State.

If the example of the Government, which is now selling the public lands at such low rates; if the efforts of good citizens for the improvement of the condition of their fellow-subjects and the prosperity of their country; if the voice of public opinion which has been raised from one end of the Province to the other; if, in fine, their own well-understood interests do not lead these great proprietors to change their system, the Legislature must have the power, and will, it is to be hoped, have the courage to remedy so great an evil.

It is urgently necessary to provide for the sale of such lands for the payment of local and municipal taxes, and for repairing and keeping up the roads in cases in which the proprietor is absent or unknown. The delay of five years, now granted by law, is much too great.

The greater part of the Patents granting these lands—those principally which granted them gratuitously for services more or less certain—must contain conditions under which, if they have not been fulfilled, or if they are not fulfilled within a certain time, the lands should be subject to forfeiture. It is the duty of the Government to see that the conditions imposed are fulfilled: and if there are not sufficient means to establish the facts or to pronounce the judgments required, a measure ought to be shortly introduced to supply such defects in our system of administration.

The abuses of which certain Seigniors are guilty, are also strongly adverted to in the Appendix.—Public attention has of late been frequently drawn to this subject, and Your Committee think it merely their duty to point out these abuses as one of the causes which contribute most powerfully towards emigration; feeling certain, as they do, that the reform, if not the abolition of the feudal tenure, will shortly occupy Your Honorable House.

Among the means of the third class, public instruction and the improvement of agriculture must occupy the first place. The latter of these objects will always be difficult to attain, so long as the first has not been completely successful. There is nothing then so deplorable as the obstacles which are thrown from every side in the way of the education law, obstacles which it is always endeavoured to disguise, and to attribute to errors or defects in the law, or to some defect in the observance of the formalities prescribed, on the part of those whose duty it is to carry it into execution. No law, however perfect, can work without the co-operation of the people, and especially without a strict determination on the part of the au-

thorities to enforce it. Those who, through any motive, create obstacles in the way of the operation of so necessary a law, are very guilty towards their country, and retard, as much as it is in their power to do so, its advancement and prosperity. Ignorance is the heaviest tax which can weigh upon a people; and the only possible cause of inferiority in the age in which we live.

The stationary position of agriculture, and the little energy shown by the farmers in some of the parishes, has been pointed out as one of the causes of their poverty and of their emigration. The Province has encouraged the establishment of Agricultural Societies for each District and each County, the principal object of which is to excite emulation by premiums and annual shows. Great efforts have also been made by the Lower Canadian Agricultural Society towards publishing an Agricultural Journal. These means have succeeded to a certain extent, but have not had that effect which model farms established in the different localities would have. The agricultural prizes are generally won by those who are least in want of encouragement; and, until instruction shall have made more progress, agricultural journals will have but very few readers. Practical demonstration, examples laid before the farmers, are the only thing which will cause them to make rapid progress. In those localities where persons in easy circumstances and well informed have made improvements on their lands, they have already been imitated by their neighbours, as far as their means would permit.

It is more easy to persuade our farmers to make alterations in what is called the routine than is generally thought, provided one takes the trouble, and adds example to instruction. A reasonable mistrust prevents them from making experiments which, with their means, might be ruinous if they were not crowned with success; but they are not, as generally represented, enemies to every species of improvement. A proof of this is found in the promptness with which they adopt, when they settle in the Eastern Townships and United States, the system of cultivation followed by the American settlers.

Persons established in the country parts, and who are rich or in easy circumstances, particularly the *Curés*, can then do much for the improvement of agriculture. Your Committee think it right here to render a well deserved testimony to the memory of a zealous and generous priest who, in the various parishes in which he performed the duties of his ministry, considerably increased by his efforts the welfare of his parishioners, both in an agricultural and in every other point of view: besides Your Committee learn with pleasure, that the example of the late Rev. Mr. Dufresne has been followed by a great number of his colleagues.

Your Committee think it also their duty to mention here, with gratitude, the interest which His Excellency the Governor General, since his arrival in this country, has taken in the different Agricultural Societies, by the liberal and active patronage which he has given them, as well as to all other philanthropic societies, encouraging them himself by his presence and by his speeches.

The zeal lately shewed by every friend of agriculture in this noble cause, will lead the Government, Your Committee hope, to take up this important subject more than ever, and to adopt the necessary measures for the establishment of model farms.

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)

29th May.

Among the numerous suggestions made to Your Committee for procuring employment to the super-abundant population, Your Committee have remarked those which have reference to the establishment of manufactures, and to the protection which should be granted to products of local industry. Without entering upon a discussion of the principles of political economy connected with this question, Your Committee remark with pleasure that important modifications to this end have been made and accepted in the draft of the Tariff presented to Your Honorable House at another period of the Session, and which has now become law. Your Committee cannot, no more than Your Honorable House, be blind to the fact that Lower Canada, by its geographical position, its wants, its natural advantages, is destined, as well as the Northern States of the American Union, to become a great manufacturing country; and all that can tend to encourage the establishment of local manufactures, provided at the same time too narrow limits be not prescribed to our commercial relations, will have the effect, not only of retaining in this country the labour and capital which are leaving it, but also that of attracting those of foreign countries.

The want of local manufactures, the fact that few public works are at present undertaken in Lower Canada, have been several times pointed out by Your Committee, in the course of this Report, as one of the most active causes of emigration, especially of the working classes.

Were some, if not all, the projects above mentioned to be realized, especially the speedy completion of the roads already begun, whether granted by the Legislature or recommended by the Board of Public Works, and mentioned in the first class of means which have been suggested, the effect would, in the opinion of Your Committee, be prompt and decisive, at least for many localities.

An undertaking frequently mentioned by the press and the Legislature, and alluded to in the answers annexed to this Report, would be the construction of Docks and Basins in the River St. Charles at Quebec, and the improvement of the Harbor of Quebec. If the Province wishes to derive any advantage from its immense Canals, and to profit by the new commercial liberties which the Home Government seems disposed to grant it in repealing the Navigation Laws, it will become necessary to improve the navigation of the St. Lawrence below Quebec, and the Port of Quebec. In case vessels of all nations should be admitted to this port, there is not the slightest doubt that this undertaking, far from being burthensome to the Province will, on the contrary, be most profitable.

With reference to the emigration of young men of education, Your Committee, in pointing out its causes, think they have sufficiently pointed out its remedy, which is entirely in the hands of the Government.

Your Committee conclude their Report by the fourth class of means suggested; those which depend upon the impression to be made on public opinion. If this impression were not already created, the information contained in this Report and the Appendix would be sufficient to do so.

Fortunately the Catholic Clergy of Lower Canada have taken in their hands the work of colonization, and will persevere in it. While the Reverend Mr. Chiniquy was commencing his praiseworthy missions in favor of temperance, the Reverend Messrs. O'Reilly and Bedard were giving an impulse to the settlement of the Canadians on the public lands.

The formation of associations among zealous citizens is a certain means of success; and your Committee cannot too highly praise a society composed of persons of means, but who having no taste nor time to clear their lands themselves, advance a capital to the poor but industrious man, who returns it in work on the land of another member of the society. Several heads of families, in easy circumstances, have entered into similar associations, and have thereby procured to their children the means of having lands already cleared, without any great trouble, and afforded assistance, at the same time, to their poorer fellow-countrymen.

The spirit of association is all powerful at the present day; and when once public opinion is directed in the right course, it triumphs over every obstacle.

Your Committee are persuaded that Your Honorable House, in adopting as speedily as possible the most urgent of the above suggestions, and in giving to all their serious consideration, will lend Your assistance to the spontaneous efforts of a great number of priests and citizens to obtain the success of a cause which must carry with it the consent and good wishes of every friend to the country, without distinction of religion, origin, or political opinion; this subject being fortunately one which interests the welfare of every one in such a manner that all parties can meet as upon neutral ground, and lay aside the enmity and discord which threaten to be the cause of so much evil to our fine country.

The whole, nevertheless, humbly submitted,

(Signed,) PIERRE J. O. CHAUVEAU,  
Chairman.

" J. C. TACHE.  
" C. F. FOURNIER,  
" R. CHRISTIE.  
" PIERRE DAVIGNON.  
" T. FORTIER.  
" F. LEMIEUX.

(Signed,) J. P. LEPROHON,  
Clerk to Committee.

LEGISLATIVE ASSEMBLY.  
29th May, 1849.

Appendix  
(A.A.A.A.A.)

29th May.

## APPENDIX.

The analysis of the letters of the Missionaries, *Curés*, and *Vicaires* in the Diocese of Montreal, gives the following information relative to the questions submitted by your Committee:—

*1st Question.*—Can you furnish any data as to the importance of the emigration which takes place from Lower Canada to foreign parts?

*Answer.*—It is difficult to obtain any certain data from which one may judge of the number of persons who emigrate to foreign parts; but there is reason to believe that it is very considerable.

*2nd Question.*—To what country do these emigrants direct their course?

*Answer.*—The greater part of the emigration is in the direction of the United States, principally towards Chicago, St. Louis, and the neighbourhood; a great number also go in the direction of Illinois and Wisconsin.

*3rd Question.*—To what class do these emigrants belong, and what is the comparative number of agriculturalists?

*Answer.*—The greater number of emigrants belong to the working class; about one-third belong to the agricultural class.

*4th Question.*—If you cannot, or have not furnished any details as to the total number of emigrants, be so kind as to furnish the details of your locality?

*Answer.*—It would appear that more than one thousand families have emigrated during the last four or five years.

*5th Question.*—What proportion of this emigration is of French origin, and what proportion is of British origin?

*Answer.*—It may be said that nine-tenths of the emigrants are of French origin, which forms the majority in Lower Canada.

*6th Question.*—Can you give a proximate and comparative statement of the emigration during the last five years, whether for the country in general or your locality in particular?

*Answered by the answer to the fourth question.*

*7th Question.*—Have you travelled in the countries towards which this emigration directs its course, and in what state have you found the emigrants?

*Answer.*—Several of those who have given the answers here analysed, have travelled in the United States. They have met Canadians in many of the States. They found some on board the steamboats in the prairies, the mills, and manufactories; but always, or almost always, in inferior situations.

*8th Question.*—What is the state of the morals, health, and prosperity of the Canadians who emigrate to foreign parts, and what is their employment and means of subsistence?

*Answer.*—It may be said that more than three-fourths of the Canadians who are in the United States belong to the working class, earning their daily bread, employed in the mills, manufactories, &c., most of them as simple labourers. All those who travel in the United States generally see the Canadians in a state of degradation really humiliating for our country. Some, it is true, gather from our neighbours better and more extensive notions on agriculture, commerce, and the branch of industry to which they have applied themselves; but all, or almost all, live in a state of demoralization which it is difficult to imagine, and which leads one to hope that effective measures will be adopted without delay to prevent so great an evil.

*9th Question.*—Can you specify the causes of this emigration, and are they the same in every locality?

*Answer.*—These causes are numerous, especially those resulting from the various situations in life, the vicissitudes of trade, the failure of the crops during the last years, private misfortunes; besides which, our political troubles began to point out the road to the first emigrants. 1st. The great decrease in the lumber trade, caused by want of protection on the part of the Home Government. This has ruined a great many Contractors, and overthrown considerable establishments which were kept up by this branch of trade. 2ndly. The want of employment on the part of a great number of young men whom this trade kept busy, and who, finding no employment from which they can derive the same advantages, seek their fortune elsewhere. 3rdly. The luxury which is spreading most deplorably in our country parts, where articles of foreign manufacture have been poured in with a profusion unheard of in this country, and which are for the most part useless to us; and especially a quantity of stuffs which our *habitans* could very well do without, as formerly, and content themselves with objects of domestic manufacture. The tendency to purchase objects of luxury on credit, encouraged by the fearful number of those who carry on trade in our country parts on a small scale, and who, encouraged as they are by the laws which protect them to the prejudice of society, and especially by the "Small Causes Act," force upon the people, by every means, the sale of their wares, and throw into debt the poor farmers and mechanics of our country parts:—the latter, not being able to pay their debts, are sued and ruined:—they lose courage, and go to foreign parts to seek their fortune. 4thly. The backward state of agricultural science; the little improvement made by most of our Agricultural Societies, who, instead of directing their efforts and employing the means of encouragement at their disposal towards improvements of the first necessity, copy in their organization and their manner of acting that which is done in very different countries from ours, and where agriculture has reached a high state of perfection, and even the luxury which from natural causes we can never attain. Improvements in our agricultural system would considerably increase the produce of our soil, require an increase of work, and consequently of employment for the young men; who, finding means of subsistence near the paternal roof, would give up the idea of leaving their country. For there is no other people more attached to their family and their country than the French Canadians.

Appendix  
(A.A.A.A.A.)

29th May.

They never like to lose sight of the steeple of their parish; and numerous causes must have been required to oblige so many Canadians to leave their country. 5thly. The very few domestic manufactures which we have, even for wants of the first necessity, especially those which we might establish by means of our numerous and excellent water-powers, and which might be kept up by the substances which the country furnishes in abundance—such as wood, iron, &c. This is due, it is very true, in the first place to the want of spirit of enterprise and association among our population, but which might also be attributed to the abuse of privilege; an abuse which destroys all industry, and which the Government ought to remedy. How many of our Seigniors of Fiefs have refused, and still refuse every day to encourage the establishment of profitable works and useful manufactures for the country, in order to retain exclusively, without profit to themselves or the public, the numerous water powers owned by them, and for which they are offered reasonable prices.

10th Question.—Has it not been represented to the inhabitants of the country, that a better fate awaits them in foreign parts?

Answer.—The inhabitants of the country parts have certainly been induced to emigrate in the hopes of a more favorable destiny in foreign parts, which, from deceitful reports, they were led to entertain; but this illusion has a little disappeared in several localities. A certain number who have returned, others who have written to their families, have made known the real state of things, which is far from being as favorable as others would make us believe.

11th Question.—Are you aware of the means for preventing this emigration?

Answer.—The means of remedying the emigration consist in adopting every step calculated to destroy its causes, some of which are pointed out in the answer to the ninth question, with this addition, that the Canadians might be employed more than they are at present on the public works, where one generally finds only strangers, from the first employé to the last workman.

12th Question.—To what localities might the excess of the population of certain parishes be directed?

Answer.—The most perfect settlements are those which are the nearest to the place from which the settlers are obtained. The Canadians, as it has been remarked in the answer to the ninth question, do not like to go far from the place of their birth. It would, therefore, be much better to commence the new settlements in the townships nearest to the populous parishes; and, for the same reason, on all the neighbouring points of the parishes formed in the seigniories.

13th Question.—How many persons in your locality have expressed a wish to settle on new lands?

Answer.—It is very difficult to answer this question with exactness; but what is very certain is, that if there were lands to be granted, of easy access, and on conditions both liberal and proportioned to the means of our population, a good number of fathers of families, still young, or of sons of families, would be found in each parish of this District, ready to settle on them. Has not a celebrated writer said, that wherever there were lands of easy access, there were always men, women, and children ready to cultivate them.

14th Question.—By what means could the Government interfere, in order to put a stop to this emigration, and support the settlement of the waste lands?

Answer.—The means which the Government might adopt to prevent this emigration are partly shewn in the answer to the ninth question: thus, let a premium be granted as an encouragement to the merchants of the country who will be the first to own vessels with which our produce may be brought to the most advantageous market, now that England has deprived us of the protective duties. It will be the means of enlivening our lumber trade, and of increasing the exportation of our ashes, our fish, and our animal oils, &c. We would besides gain thereby, by turning to our profit the costs of exportation and importation, besides commencing a small Canadian navy where a great number of our young men would find employment. Let the laws be repealed which encourage the small trade of the country parts to the disadvantage of society, a trade both ruinous and demoralizing for the farmers and mechanics. Let agriculture be encouraged by giving to the societies a management more proportionate and more appropriate to the present and immediate wants of the country, by establishing model farms, changing and improving our grain and seeds, the race of our animals, and the agricultural utensils and instruments. Let the importation of all these objects be facilitated, by taking off the taxes which raise their price too high for the poor husbandman. Let the domestic manufactures mentioned in the answer to the 9th question, be encouraged. Let the Legislature abolish the system of exclusive privilege which prevents their development. The public good, the circumstances in which we are placed, the urgency of our situation, render it a necessary duty.

It is said that a wise Government should never interfere directly with trade and industry; it would often have the effect of destroying them; but it ought strongly to help them by encouraging them indirectly, and giving them that impulse which they never would have without its support. Sometimes a Government has only to remove a few obstacles which impede the movements and the spontaneous efforts of the agricultural, industrial, and commercial classes, and these will soon do what is left.

Above all, and in the first place, what every one agrees upon, ought to have been pointed out; that is, Education. Nothing ought to be spared for this object, which has become at the present day more than ever indispensable. Every means ought to be used to endeavour to destroy the unfortunate impressions which have been made by men full of ambition and pride, dangerous enemies to their countrymen, among the ignorant class which they have made use of; some with a view to make money, and others to obtain a shameful popularity.

As to the latter part of the question, the answer would call for details which it would be presumptuous to point out to an Administration which has already done so much for the settlement of the new lands. It may perhaps be observed, however, that the greatest obstacles in the way are the Crown and Clergy Reserves. By keeping together families acquainted with each other, the settlements at a distance from inhabited places would be greatly facilitated, as the Canadians are fond of society, and like to assist one another in their work.

Let the new settlements be encouraged by giving a premium to the most industrious settler, whose clearings are the best made, and who has derived the most advantage from them. Might not this premium

Appendix  
(A.A.A.A.A.)

29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

consist in a discharge for the whole, or for a portion of the sum remaining due and owing by the industrious settler as the price of his land.

15th Question.—What principal means of communication would you recommend to be opened for this object, and if you recommend any, what would be the probable cost?

Answer.—It is not easy to answer this question. It might be observed, however, that it becomes more and more urgent to have public and easy means of communication in the northern part of the District of Montreal, in which there is no other communication than that expensive and difficult one of the Ottawa River; and the inhabitants of which are at so great a distance from the market, that they cannot dispose of their produce with advantage. It might be remarked here, that one of the greatest obstacles to the establishment of means of communication, proceeds from the fact that between the old and new settlements there are great extents of unoccupied lands, the proprietors of which are for the most part unknown or absent, and consequently cannot furnish their share of work on the roads. The Government ought then to interfere to have these intermediate lots occupied, in order that the roads may be opened and maintained.

16th Question.—Do you think the present Road-laws well calculated or sufficient for the settlement of the Townships, and if not, can you suggest any improvement in them?

Answer.—From what is known of these laws, they might be thought sufficient; it might perhaps be observed, that in the Townships and new settlements a more concentrated and expeditious power is required. This might be the subject of by-laws under a good municipal administration, more appropriate to our ideas and wants than that which exists at the present day.

The summary of the answers of the Missionaries, Curés, and Vicaires in the Diocese of Quebec, in answer to the circular of the Archbishop, gives the following information relative to the preceding questions transmitted by your Committee:—

To the 1st and 2nd.—From information obtained from the travellers whom they have met, it appears that an immense number of families proceed every year to the American Union, especially to the States of New York, Vermont, Maine, and Illinois.

To the 3rd.—The emigrants all belong to the agricultural class.

To the 4th and 6th.—

PARISHES.	PERSONS.	FAMILIES.
From Lotbinière.....	40	.....
St. Casimir.....	6	.....
St. Jean Port Joly.....	25	.....
St. Joseph.....	.....	12 to 15
St. Marie, Beauce.....	.....	A great number.
St. Grégoire.....	180 last year.....	8
Kingsley.....	.....	15
Baie du Febvre.....	12 in each year.....	.....
St. Elzéar.....	.....	A few.
St. Roch des Aulnets.....	300 during the last five years.....	.....
St. Geneviève, Batiscan.....	8	.....
St. Henry, de Lauzon.....	50 during the last five years.....	.....
St. Anné Lapocatière.....	15	.....

Appendix  
(A.A.A.A.A.)  
29th May.

Almost all of French origin.

To the 7th and 8th.—The emigrants in these parts of the American Union, are in a most alarming state of immorality and poverty; almost all employed in the most vile occupations, and in the last state of degradation.

To the 9th and 10th.—The cause which induces the greater number to emigrate, is the desire of gain, the idea of making a fortune under a government which has been represented to them as affording more protection: for others, the cause of emigration is attributed to the tyranny of large landholders against whom all cry out, and also to the too high price at which the Crown Lands are granted.

N. B.—The Reverend M. Marquis, *Vicaire* of St. Grégoire, makes the following observations:—“Several reasons may be given for the emigration to foreign parts; the two principal ones are poverty and the difficulty of settling in the Townships. The poverty of our people is caused by the bad harvests and the want of work. It would be superfluous to speak here of the bad harvests, it is a chapter which every one is acquainted with, if not in its origin, at least in its consequences. The want of work is caused by the depression of the lumber trade, and the introduction of threshing machines. A great number of persons employed every year in the lumber yards have been left without work, and consequently, without means of subsistence. For about seven or eight years, threshing-mills have been brought through our country parts, from barn to barn, and by means of which the work of two or three months is done in four or five days; a number of poor people, who earned their livelihood by this work, are now out of employment, and starving. Tired of leading a miserable life here, without any hopes of ever having a better fortune, our country people were obliged to abandon the soil which gave them birth, to seek elsewhere an existence which it refused them. They went, therefore, to the Townships, with the intention of settling there; but the difficulties they met with obliged them to continue on to the neighbouring States. The principal obstacles to the settlement of the Canadians in the Townships, are: 1st The want, or bad state of the roads. 2nd. The too high price of lands. 3rd. The oppression of large landholders. 4th. The absence of persons of education among the settlers.

“In order to have an idea of the great misery experienced by the settlers on first settling, from the want of roads, it is only necessary to remark, that during eight months of the year they are obliged to carry on their backs all the goods and provisions they are in want of; through forests more or less dense, and through *savanes* where they sink to the waist. If they have a half cwt. of potash to take to the merchant, a bushel of wheat to carry to the mill, 50 lbs. of sugar to take to market, it must be carried in their arms. Now, for a young man worn out by heavy and continual work, and by a long fast, it is a task which exceeds the limits of the strength of human nature.

“It would be easy to give the names of numbers of persons who have died in consequence of excessive fatigue undergone in making such journeys.

“What is the result? It is, that the settler not feeling strong enough to carry his produce to market, takes it to the resident merchant to whom he sells it for half price, and who in return gives him goods for which he charges four times their value.



Appendix  
(A.A.A.A.A.)  
29th May.

"In several localities, the government has opened large roads which have not a little contributed to the advancement of the settlements in the Townships; but since these roads have been made, they have neither been kept up or repaired; they are in so shocking a state that in the very middle of a Provincial road, persons have been obliged to take out of mud-holes, with poles, animals who had stuck in; this has not only happened once, but a hundred times. The misfortune is, that the government, after having opened the roads in the Townships did not take effective steps to keep them in good order.

"As to the price of lands, it is exorbitant; they are sold at 10s. 15s. and even 20s. per acre. The settler, it would seem, might at least hope to be free at this price; but no, this is not all. When, after having been cheated by the false promises of the large landholder, he will have cleared 10 to 12 arpents of land, he will be politely invited to come and pass a deed. The proprietor begins by reserving to himself, the wood, stone, mines, water-courses, besides the right of passage through the land sold, at all seasons of the year; he points out to the purchaser the mill where he must carry his grain; he leaves to the purchaser all the public and party expenses; and after all this he gives him his land for 15s. or 20s. an acre. If the settler does not feel courage enough to submit to what is required of him, he has no alternative but to pack up his things and take his household gods elsewhere. He in fact does so; but before attempting a new settlement on land where he may reasonably expect the same inconveniences, he will go and try a little life in foreign parts. No person can find fault with this. Some other proprietors absolutely refuse to sell their lands; they wait until the neighbouring lands are settled, so as to exact a higher price for theirs.

"The absence of persons of education, especially Missionaries, among the settlers, is another great obstacle to the progress of colonization. The settlers are generally uneducated; they are little capable of struggling with the harpies who devour them; nothing is easier than to dupe them; it is a necessary consequence of their ignorance. If there is not in the midst of them a disinterested person to protect them, they will find it difficult to avoid the snares laid for them on all sides by cupidity and personal interest.

"The settlers have been persuaded, that among the Americans a fortune can be made at little cost. In effect, a sober and economical young man can, in a short time, lay by a handsome sum. They receive from \$20 to \$30 per month; the misfortune is, that they earn a great deal and spend a great deal. Pleasure, luxury, and debauchery, absorb, in a few weeks, the fruit of a whole year's labour.

N. B.—Mr. Marquis has travelled through most parts of the Union.

*To the 9th and 10th.*—The Missionary at Kingsey, answers as follows:—"This emigration has, I think, two general causes affecting the whole Province, and several local causes: 1st. general cause, the difference between the pay in the United States and in Canada. 2nd. The want of manufactories and of employment for the working classes who have no skill in agriculture; this class is numerous, even in the country parts; and also the want of lands to be opened in the Seigniories: as to my own neighbourhood, the young people there are possessed with a sort of madness to go to the upper country. It is a real epidemic which seizes them. Many leave for the sake of saying, they have travelled." Poverty is

also a great cause of the emigration of families, and so is the want of employment in this locality. The inhabitants here have often been told that a better lot awaits them in foreign parts.

*To the 11th.*—Mr. Marquis, agreeing in opinion with most of the gentlemen, a recapitulation of whose letters is here made, in answer to this last question: says, that "in order to prevent emigration, the position of the settlers must be made supportable and to attain this end: 1st. Roads must be opened through the principal townships intended to be opened for settlement: 2nd. The keeping up of these roads must be provided for in an effective manner. In my opinion, the most proper way would be to establish turnpikes on every one of the provincial routes, until the lands bordering on them are occupied; for it is not reasonable to expect that the Government, after making the roads, will also undertake to maintain them: 3rdly. An end must be put to the tyranny of large landholders, by obliging them to assist in public works, by annulling the excessively burthen-some contracts dictated by them, and by obliging them to concede or sell their lands: 4thly. I will add, that for the Catholic settlers, means should be provided to establish Missionaries among them to encourage them and direct them in their labours. For the Catholic settler, a Missionary is of the greatest necessity, especially at the commencement of a settlement; he is the only man who can render them great services gratuitously. The Government, if it really wishes to see the system of colonization succeed, should assist the Missionary to establish himself as soon as possible among the settlers, not in his quality of Catholic priest, but as the leader of the settlement. The sacrifice of a few dollars or of a few arpents of land, would soon be compensated by the rapid progress of this noble work of colonization."

*To the 12th and 13th.*—Hundreds of families would be disposed to settle on the new lands. As to the inhabitants of the parishes below Quebec, they would prefer the Saguenay, but the sale of Crown lands at one shilling per acre, should be extended beyond the 1st of January, 1850.

The inhabitants of the parishes above Quebec, would follow the direction of the Eastern Townships.

*To the 15th.*—See letters of Messrs. Marquis, Bédard, Délage, and Griffith, which accompany this recapitulation.

*To the 16th.*—Every one finds the Road-laws insufficient and faulty.

Answer of Messire J. B. A. Ferland, Director of the College of Nicolet, to the questions transmitted to him:—

"I cannot offer any remarks on the four first questions which relate to the country in general. The observations I have to submit, have reference principally to the District of Three Rivers, and a part of the District of St. Francis."

*To the 5th.*—As the British race forms according to the census of 1844, only one-fourth of the population of the District of Three Rivers, its movement is scarcely perceptible. In this District, the emigration may be considered as almost entirely supplied from the ranks of the French Canadian population.

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

To the 7th, 8th, 9th, and 10th.—Among the causes of emigration, some are peculiar to certain classes of emigrants, while others are common to all classes. The general causes are: 1st. The state of poverty in which the country is at present: 2ndly. The difficulty of forming new agricultural settlements. These two causes touch and depend on each other at several points. It is acknowledged by all, that for the last two or three years, Lower Canada has been poorer than it has been for half a century. Money has disappeared; there is no credit; landed property is mortgaged; bankruptcy is the order of the day; commerce is dead and agriculture threatens to share the same fate. What is then left us? Manufactures? They have been nipped in the bud. The manufacturing of lumber from our forests? This has been the ruin of the country. I will state what is left to us; it is poverty; it is regret at having followed a wrong course; it is perhaps the future and hope. Our fathers could live in easy circumstances; the seigniories afforded them lands in abundance; the seigniorial dues were nominal; in spite of a bad system of agriculture, the virgin soil returned a hundred-fold for the seed which had been confided to it. Instead of wasting their strength and losing their morals in the lumbering establishments, their vigorous youth occupied themselves in the labours of husbandry. Luxury was yet unknown, few objects were imported from abroad; the cloths and stuffs made in the country were sufficient for the rural population. Trade, it is true, was not in a brilliant state, shin-plasters and the bankrupt law had not yet come into existence. But there was money to be seen; objects of the first necessity were not scarce, and cost little. The Canadians lived happy, strongly attached to their country, and did not feel the wish to emigrate to their neighbours the Americans. The poor as well as the rich man had his share of sunshine, and found means to feed, warm, and clothe himself; this was the age of prejudices in which people thought it possible to be satisfied with what was strictly necessary. But we, more enlightened, have altered all this. The present generation saw the brilliant era of trade commence, it may now contemplate its end and taste its sweets.

"The greater quantity of foreign merchandize Canada imports, the richer it will become. Let us create new wants; the desire of satisfying them will give an impulse to trade, and force us to produce objects for exportation." Such were the dreams of our Smiths and Says on a small scale. "Trade for ever!" was the cry of our economists; "Trade for ever!" was repeated by Old England, whose immense depôts were filled to excess with waste merchandize. Not being able to find a market for them elsewhere, she took the opportunity of swamping Canada with them. Commerce advanced with rapid strides; but it was a sickly and unnatural commerce. At the same time, a luxury without bounds, and ruinous habits were introduced among the higher classes, and thence rapidly descended to the lowest grades of society. In return for the shipments from England, Canada could only offer her promise to pay and a little wheat. The balance being constantly against her, she was obliged to find money to preserve her commercial credit. In order to obtain it, the trade ran into debt with the banks, the professional man increased his bills of costs, the Government employé got his salary doubled, the husbandman pledged his future crops and hypothecated his lands. On him, as the only producer, fell the burthen of paying the expenditure of all the other classes.

And now the picture darkens. Worn out by a system of cultivation which is always taking something away without giving anything in return, the

old lands yield only miserable crops, hardly sufficient to supply food for the labourer. It is almost impossible to open other lands in the seigniories, as the new concessions are charged with rents and reservations too burthensome for the *Censitaire*. It is useless to think of the Townships: the minions of power who have divided them among themselves want gold for their title-deeds. Besides, they cannot bear to see French Canadians settle on them.

In a time of dearth, how is the husbandman to get rid of the debts he has contracted during years of abundance? For it must be remarked, that our countrymen really plunged into debt when they had the most magnificent harvests.

"Well! England wants lumber; the vast forests of Canada are before you; make use of them and you will pay your debts." Speculators receive advances of money, and open lumbering establishments, to which the most vigorous portion of the agricultural population go and lose their taste for husbandry. From Lake Temiscaming to Lake Saint Jean all the tributaries of the St. Lawrence pour into it their tribute in the shape of innumerable and endless rafts of lumber. After some years, the markets are glutted; there is no demand for lumber; both speculators and lumber-makers fall together into the abyss of bankruptcy."

This is an outline of the course we have pursued; a wild commerce, luxury, debt, bankruptcy, misery, and emigration. It is high time to "put the ship about," and try another tack. In truth, it would be difficult to recognize in us the children of those Canadians, of whom General Murray said, after the Conquest: "They are a prudent and frugal race of men."

The second general cause of emigration is the difficulty of founding new agricultural settlements. Here I will only refer to the Districts of Three Rivers and St. Francis, Between the River St. Lawrence and the United States frontier, the cultivable lands may be divided into three belts, running parallel to the River for the length probably of 20 to 25 leagues.

The nearest belt to the St. Lawrence includes the seigniories, in which there are still lands to be had. Under the French government the seigniors were in a manner the agents of the Crown; whose duty it was to invite the settlers into their respective Districts, and to concede lands to them at almost nominal rates. The right of having grist mills and the *lods et ventes* formed the greater part of the seigniorial revenues. Since then, things have greatly altered. Assuming that they are the unconditional proprietors of the land, the seigniors only concede at high rates, and with numerous reservations. It naturally follows from this change, that young men are afraid to take the lands on these conditions, when they see numbers of old proprietors sinking under the weight of seigniorial dues, selling their lands at low prices in order to go and settle in foreign parts.

The 2d belt, which adjoins the seigniories, is 12 to 15 leagues in width. Divided among a small number of large landholders, it has become the domain of monopoly. The labourer there is made use of with admirable patience and intelligence; and when his last drop of sweat has been gathered, and his last rag torn from him, he is sent back to the seigniories, or driven towards the United States. He is at liberty to go forth at the head of his family to increase the crowd of French Canadian beggars.

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

Of the large landholders, some remain unknown and keep themselves quiet until extensive clearings have been made on their lands. They then shew themselves; and fortunate is the settler, if while the fruit of his labours is taken from him, he is not forced to pay heavy damages. Some make themselves but too well known, by the length of their deeds of concession. They sell, but they do so for a *douceur* of 15 to 20 shillings per acre. At this price, they content themselves with reserving all the lumber, quarries, mines, mill-sites, roads leading thereto, &c. &c. So that after struggling for a few years against the forest, borne down by such conditions, the poor settler is obliged to return his half-opened land.

Lastly, there are proprietors who will neither concede, nor sell, nor work, nor furnish their contribution towards any improvement. They are waiting till their unfortunate neighbours shall have become impoverished, by opening roads, doing such works as are required between neighbour and neighbour; constructing bridges, erecting school houses, building a chapel. Until then, their vast property will remain a public nuisance. It is impossible to oblige them to pay local taxes, to give air to their neighbour's clearings, to assist in making party ditches, or to keep up the roads; for they have a thousand means to shelter themselves from suits at law. And even when they are condemned, the law only allows their lands to be sold after five long years have elapsed. Altogether, this region offers to the labouring man disappointment, dejection, misery, and as an end to all these evils, emigration.

The third belt extends from these places of desolation to the frontier. It is this portion which has been thrown open by the patriotism of our Ministers to the superabundant population of the seigniories. May they succeed in attracting and establishing our fellow-countrymen there. Immense difficulties are in the way of the accomplishment of the Ministerial project. Between the old settlements and the Townships the domain of monopoly intervenes and can furnish no assistance to the hardy pioneer of civilization. Being at a distance of 25 leagues from the St. Lawrence, he will long have to submit to innumerable privations. If he wants a pickaxe, a cwt. of flour, or a bundle of straw, he will have to go 15 to 20 leagues to procure them. Hence loss of time, fatigue, exhaustion, and consequently dejection. Such will be his situation, as long as the monopolists shall not have improved the state of the land they keep uncultivated and uninhabited; and thus it happens that out of a hundred young men who left for these places last autumn, ninety have returned, disgusted with the new settlements and meditating emigration.

Connected with the general causes of Canadian emigration, there are particular causes which have an immediate action upon each description of emigrants. The emigrants may be divided into four classes, composed as follows:—

1st. Class, very numerous: families reduced to poverty by hard times, laziness, drunkenness, or thoughtlessness. They go to the Northern States to beg, or perform the vilest offices. In certain towns of Maine, New Hampshire, and Massachusetts, their reputation is such, that no honest man would dare to call himself a Canadian. Causes of the emigration peculiar to this class: hunger, nakedness, and too frequently thirst.

2nd Class, very numerous: young men who go to earn money in the Northern States. Their intention in leaving, is to return to Canada to purchase or open new lands. Many finish by settling among our

neighbours. Some hire themselves to farmers, others manufacture bricks, or are employed in the Lowell and Manchester manufactories. Peculiar causes of emigration; scarcity of money in Canada and high price of lands.

3rd Class: young men who have received an education. Finding all the liberal professions crowded with numerous candidates, they emigrate towards Missouri and Louisiana, with the view of making something by their talents and education. St. Louis and New Orleans contain a great many individuals of this class. They always succeed when sober and industrious. Peculiar causes of emigration; the small number and insufficiency of the career open to the educated youth of the country.

4th Class; numerous and important, constituting the sinews and riches of a country; farmers in easy circumstances, with large families. Many excellent fathers not wishing to allow their children to seek refuge in the towns, or to go and work in the manufactories of the United States, try and find lands for them to settle on. It is useless to think of obtaining them on easy conditions in Lower Canada. They sell their property, and with the price of their lands, they furnish their children with the means of opening settlements in the midst of the fertile plains of Wisconsin, Illinois, or Iowa. Peculiar cause of emigration; difficulty of procuring lands in Lower Canada.

*To the 11th and 14th.*—The causes of emigration being known, it is easy to point out the proper remedies for this evil which is gnawing the vitals of the country. The wisdom of our legislators will discover them; may it also find physicians who have the will and courage to apply them!

Nevertheless, if I were permitted to offer, upon this important question, my humble advice to our statesmen, I would say to them, after asking pardon for taking the liberty:—"Gentlemen, you have been called upon to replace the country in the road to prosperity; your task is difficult. The Government is on the verge of bankruptcy; trade is extinct; the impoverished and terrified population are flying to a foreign land to ask for bread and for repose. Save the country by restoring confidence in the future. Re-establish order in the public finances. The people's money has been wasted; be saving; reduce the exorbitant salaries; place useless officers on the retired list; diminish the cost of legislation. Thirty years ago, a law cost only forty pounds; now, not a single one can be obtained for less than £400, although the new ones are not better than the old. Reduce them to the former rates, and in one single Session of the Legislature, you will have saved to the country, more than £30,000. Place trade on a sounder footing; let the importations and exportations be again equally balanced. I was going to add, proscribe luxury and intemperance. But no; Messrs. Mailloux and Chiniquy will undertake that duty. At all events, lend them your assistance in their noble and patriotic crusade.

But this is not the whole of your task. Providence has liberally distributed three sources of riches to Canada; men, earth, and water. I say nothing of the air, because wind-mills are not destined to succeed in this country. Nor shall I mention fire, which it is better to leave to the management of blacksmiths and proprietors of steam-engines.

Well, gentlemen, you have in your hands three elements of prosperity; let them be used for the common good, and you will have given the death-blow to the disastrous emigration of late years, and merited the blessing of your fellow-countrymen.

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)

29th May.

The inhabitant of a northern country is active and well adapted for labour. In our country, however, thousands of hands remain unoccupied, or are obliged to seek for labour abroad. Do you wish to employ them? the earth and water will furnish you the means of turning these productive agents to account. Protect the fisheries and the coasting trade in the Gulf of St. Lawrence; establish a school of navigation, and Canada will produce good seamen as she formerly did. You will thus create a Provincial navy. The rivers offer you motive power to an incalculable extent. Take possession of this power; employ it for manufactures, which you will encourage by allowing the importation duty free of the raw material necessary to feed them, and by taxing articles of foreign manufacture when they can be produced here with advantage. The water will thus have furnished you the means of occupying usefully the one half of the hands now condemned to idleness.

The earth will afford employment to the remainder. Make use of your fine forests, but do so wisely; do not give them to speculators who nip in the bud the fruit destined to feed your children.

Agriculture will not escape your care, for agriculture is the food of the people. You will instruct and enlighten the farmer by establishing model farms. With all your books you cannot make him alter his old and ruinous practice, while he will understand and imitate the proceedings he will have seen in actual practice, and the success of which he will have seen.

It is also important to do away with the obstacles which by an infamous monopoly prevent the progress of agriculture, and to prove that you will not sacrifice the future destinies of the country to satisfy the cupidity of a few individuals. You have offered the Crown Lands at prices to suit the feeblest purses; but the useless domains of the Seigniors and large landholders forbid approach to these lands. Make these men follow your example, and the forest will be changed into fertile fields sufficient to feed a numerous population. Common sense will convince them that their individual interests will suffer, if, by exorbitant demands, they drive away settlers who offer to give value to the land, provided they are permitted to reside and bring up their families on it. If they remain deaf to these prudent counsels, there are means to bring them to reason. We ask not for laws à la Proudhon; on the contrary, we wish justice to be rendered for and against all.

When the Crown gave up its territorial rights to the seigniors and large landholders in favor of agriculture, it surely imposed certain conditions. Let the duty of seeing these conditions fulfilled, fall not upon the poor laborer, who would be laughed at by the rich man, but upon the Government, the natural protector of the feeble. If these guarantees have not, through neglect, been stipulated in favor of the settler, give him, at any rate, the means of obliging the large landholder to open his lands and pay the local taxes. When the possessor cannot be reached, allow recourse against his land, not after five years, but at the end of three months. A delay of five years is a denial of justice; for five years are the life or death of a new settlement.

Besides, as these great reservations of waste lands are a public nuisance, the Legislature evidently has the right of imposing on them a tax, which would be a slight indemnification for the damage caused by them to the general interests of the country.

5

Appendix  
(A.A.A.A.A.)

29th May.

If you apply these remedies wisely and sagaciously, as you can do, gentlemen, our fellow-countrymen will willingly remain on the paternal soil while you make the attempt; they can still bear a few years of misery for the service of their country. But if you are wanting in courage and skill at this decisive moment, in fifty years you will find no more French Canadians, unless it be on the banks of the Missouri and of the Mississippi.

Answers of Messire C. Marquis, Priest, *Vicaire* of St. Grégoire, to the preceding questions transmitted to him, annexed to the Circular of the Archbishop of Quebec:—

1st. Travellers say that Canadian families may be found settled, in great numbers, in that part of the States which borders on the frontier.

2nd. To all parts of the American Union, but especially to those on the frontier.

3rd. Those from our locality all belong to the agricultural class.

4th. Eight families left St. Grégoire last year to go and settle in the States; before that period young men only had thought of leaving the place—about 130 to 140 are absent from the Parish in each year, working with the Americans. The greater number return after a few years' absence; for if it be true that the Canadian likes his Church steeple, it is much more true of the Acadians.

5th. They are all French Canadians.

6th. The number of young men who left the parish for the United States has been about the same for each of the last five years; but families caught the emigration fever last year only. And if the prospect offered by colonization does not promise any real advantage, we must expect to see a great number leaving their native soil to seek elsewhere for a subsistence which they cannot find here.

7th. Yes; I met some as far as Virginia. There are people from St. Grégoire in the State of Missouri, at the Rocky Mountains, and it may be said in all the Northern States. I found them in a pitiable state of inferiority. A fortnight since, a man returned to us who had left the parish twenty-eight years ago. During that period he had "roamed over Africa and America," (*couru. Fricque et Mérique*), as the saying is, and has not saved a single sixpence for his old age. This week we received news from another man who had left the parish for twenty years; he is sick and reduced to the greatest misery, and lives on public charity. These are two examples out of a thousand.

8th. Their principal means of subsistence is to serve as labourers, either with private individuals or in the manufactories; some learn trades; others have managed, through their industry, to create a certain income, and do honor to the name of Canadians. Unfortunately they are very few; the ignorance under which they generally labour, will always be an obstacle to their advancement.

The Canadians are generally sought for by the Americans, for their intelligence, their activity, and their natural frankness. When they do not remain too long among the Americans, they retain sufficiently

Appendix  
(A.A.A.A.A.)  
29th May.

the principles of honesty and virtue they have received in their infancy. It is not so with those who reside several years in those localities. When once they have become acquainted with the English language, a complete revolution takes place in their morals. Not being able to occupy an honorable rank in society, they frequent persons of the lowest class, and contract the most vicious and degrading habits, such as roguery, debauchery, and drunkenness. They are employed in the hardest work, and soon waste their strength and ruin their health. They agree in saying that they would live well if they worked here as they do among the Americans.

9th.—Several reasons may be given for the emigration to foreign parts; the two principal ones are poverty and the difficulty of settling in the Townships. The poverty of our people is caused by the bad harvests and the want of work. It would be superfluous to speak here of the bad harvests, it is a chapter which every one is acquainted with, if not in its origin, at least in its consequences. The want of work is caused by the depression of the lumber trade, and the introduction of threshing machines. A great number of persons employed every year in the lumber yards have been left without work, and consequently, without means of subsistence. For about seven or eight years, threshing-mills have been brought through our country parts, from barn to barn, and by means of which the work of two or three months is done in four or five days; a number of poor people, who earned their livelihood by this work, are now out of employment, and starving. Tired of leading a miserable life here, without any hopes of ever having a better fortune, our country people were obliged to abandon the soil which gave them birth, to seek elsewhere an existence which it refused them. They went, therefore, to the Townships, with the intention of settling there; but the difficulties they met with obliged them to continue on to the neighbouring States. The principal obstacles to the settlement of the Canadians in the Townships, are: 1st The want, or bad state of the roads. 2nd. The too high price of lands. 3rd. The oppression of large landholders. 4th. The absence of persons of education among the settlers.

In order to have an idea of the great misery experienced by the settlers on first settling, from the want of roads, it is only necessary to remark, that during eight months of the year they are obliged to carry on their backs all the goods and provisions they are in want of, through forests more or less dense, and through *savanes* where they sink to the waist. If they have a half cwt. of potash to take to the merchant, a bushel of wheat to carry to the mill, 50 lbs. of sugar to take to market, it must be carried in their arms. Now, for a young man worn out by heavy and continual work, and by a long fast, it is a task which exceeds the limits of the strength of human nature.

It would be easy to give the names of numbers of persons who have died in consequence of excessive fatigue undergone in making such journeys.

What is the result? It is, that the settler not feeling strong enough to carry his produce to market, takes it to the resident merchant to whom he sells it for half price, and who in return gives him goods for which he charges four times their value.

In several localities, the government has opened large roads which have not a little contributed to the advancement of the settlements in the Townships; but since these roads have been made, they have neither been kept up nor repaired; they are in so

shocking a state that in the very middle of a Provincial road, persons have been obliged to take out of mud-holes, with poles, animals who had stuck in; this has not only happened once, but a hundred times. The misfortune is, that the government, after having opened the roads in the Townships, did not take effective steps to keep them in good order.

As to the price of lands, it is exorbitant; they are sold at 10s., 15s. and even 20s. per acre. The settler, it would seem, might at least hope to be free at this price; but no, this is not all. When, after having been cheated by the false promises of the large landholder he will have cleared 10 to 12 arpents of land, he will be politely invited to come and pass a deed. The proprietor begins by reserving to himself, the wood, stone, mines, water-courses, besides the right of passage, through the land sold, at all seasons of the year; he points out to the purchaser the mill where he must carry his grain; he leaves to the purchaser all the public expenses and those of vicinage; and after all this he gives him his land for 15s. or 20s. an acre. If the settler does not feel courage enough to submit to what is required of him, he has no alternative but to pack up his things and take his household goods elsewhere. He in fact does so; but before attempting a new settlement on land where he may reasonably expect the same inconveniences, he will go and try a little life in foreign parts. No person can find fault with this. Some other proprietors absolutely refuse to sell their lands; they wait until the neighbouring lands are settled, so as to exact a higher price for theirs.

The absence of persons of education, especially Missionaries, among the settlers, is another great obstacle to the progress of colonization. The settlers are generally uneducated; they are little capable of struggling with the harpies who devour them; nothing is easier than to dupe them; it is a necessary consequence of their ignorance. If there is not in the midst of them a disinterested person to protect them, they will find it difficult to avoid the snares laid for them on all sides by cupidity and personal interest.

To the 10th.—Yes, the settlers have been persuaded, that among the Americans a fortune can be made at little cost. In effect, a sober and economical young man can, in a short time, lay by a handsome sum. They receive from \$20 to \$30 per month; the misfortune is, that they earn a great deal and spend a great deal. Pleasure, luxury, and debauchery, absorb, in a few weeks, the fruit of a whole year's labour."

To the 11th.—In order to prevent emigration, the position of the settlers must be made supportable; and to attain this end: 1st. Roads must be opened through the principal townships intended to be opened for settlement: 2ndly. The keeping up of these roads must be provided for in an effective manner. In my opinion, the most proper way would be to establish turnpikes on every one of the provincial routes, until the lands bordering on them are occupied; for it is not reasonable to expect that the Government, after making the roads, will also undertake to maintain them: 3rdly. An end must be put to the tyranny of large landholders, by obliging them to assist in public works, by annulling the excessively burthen-some contracts dictated by them, and by obliging them to concede or sell their lands: 4thly. I will add, that for the Catholic settlers, means should be provided to establish Missionaries among them to encourage them and direct them in their labours. For the Catholic settler, a Missionary is of the greatest necessity, especially at the commencement of a settlement; he is the only man who can render them

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

great services gratuitously. The Government, if it really wishes to see the system of colonization succeed, should assist the Missionary to establish himself as soon as possible among the settlers, not in his quality of Catholic priest, but as the leader of the settlement. The sacrifice of a few dollars or of a few arpents of land, would soon be compensated by the rapid progress of this noble work of colonization.

*To the 12th.*—For St. Grégoire, Aston, Bulstrode, and Wendover would unite all the requisite conditions.

*To the 13th.*—200 at least. It would be an advantage to have an Agent at St. Grégoire, or in the vicinity.

*To the 14th.*—Same answer as to the eleventh.

*To the 15th.*—A road starting from the south-west angle of the Seigniorie of Bécancour, in the Parish of St. Grégoire, crossing the Township of Aston, along the Godfroy grand-line to the River Nicolet, or at least to the 12th range, thence turning towards the north-east to cross Bulstrode, and to join the Provincial route which crosses the 10th range of Stanfold. This road would give a shorter outlet to the inhabitants of the *Bois Francs*. It would cross several tracts of excellent lands, in which a couple of very good parishes might soon be formed. It would certainly not cost more than the Provincial road which crosses Somerset and Stanfold.

*To the 16th.*—The large landholders are in fact exempt from all expenses of vicinage, and from all expenses for public works; and a great number of them refuse to sell their lands on reasonable conditions. The shortest as well as the most infallible means of remedying the enormous existing abuses, is to impose a tax of 1½d. to 2d. on each acre of waste land in the Townships. The proprietors of waste lands should be obliged to enregister with the Clerk of the Municipal Council, or the Government Agent for the locality, their names and those of their agents, their places of residence, and the numbers of the lots of land held by them. The delay of five years granted to large landholders, after the expiration of which only, judgments rendered against them for the recovery of assessments, &c. &c., can be executed, should be reduced to three months. The Courts should be authorized to cause the timber to be sold, and then the land itself, if the proprietor does not pay the amount of his assessment for public works, or does not contribute to expenses of vicinage.

*To the 17th.*—Not being acquainted with everything concerning these road laws, I am unable to make any more detailed suggestions on this subject. The Township Missionaries will be able to satisfy you more amply than I can.

St. Grégoire, 21st March, 1849.

Answers of Messire P. J. Bedard, Priest, Missionary at Kingsey, to the preceding questions transmitted to him, annexed to the Circular of the Archbishop of Quebec:—

*To the 1st.*—The data which I possess with reference to the importance of the emigration from Lower Canada, show that it is considerable, if we may believe the travellers who go to the United States *via* Stanstead. The families who arrive there, especially

in the dead season of winter, are so numerous, that they cannot find lodgings, and are obliged to crowd together in the same houses, and often in out-buildings.

*To the 2nd.*—The families generally go towards the Manchester and Lowell manufactories. The young men take different directions.

*To the 3rd.*—For the greater part, to the laboring class, with the exception of a great many sons of good families, who leave parents in easy circumstances; they leave half-cleared lands. The want of energy on the part of the greater number, renders them incapable of continuing their settlements; all they care for is, to earn their daily bread. This answer admits of happy exceptions.

*To the 4th.*—I can only speak as to my locality. The number of emigrants in each year, is great. More than fifteen families leave every year; most of them return after one, two, three, or more years of absence. As to the young men, I can venture to say, that more than one-half emigrate, and scarcely two-thirds of them return.

*To the 5th.*—Almost all are of French origin. I do not know what is the emigration of the other races.

*To the 6th.*—I cannot answer this.

*To the 7th.*—No, never.

*To the 8th.*—I will speak from what I have heard from persons who have resided in these localities, and from what has fallen under my own observation.

The Canadians in foreign parts are mere mercenaries, in the factories, in the public works, or with private individuals who pay them heavy wages which they well earn. The incessant work wastes their strength; they die young, or become prematurely infirm. The greater part of those who return, are ruined in health. Their heavy wages give them the means of living high, and they generally do so. But it may be said that every evening sees the end of what they have earned during the day—they are in fact poor.

Their morals suffer the most. The want of education on the part of the greater number, places them in a degrading inferiority, and makes them blush at their nationality. They must needs ape their masters; but like true apes, they can only imitate their grimaces, they cannot imitate their character. They adopt their faults without adopting their virtues, while they lose all their own better qualities. They affect their independence without having their public spirit; this renders them perfect egotists, and nothing more. They have the elastic conscience of the Yankee, without his generosity. They shake off every religious restraint, and in this respect they greatly surpass the liberties the Americans allow themselves, or their indifference.

The morals of the family become also greatly affected; the children are independent of their parents, who have no more the authority either to correct or instruct them. The marriage bond has also taken another form. What is only the habitual manner of the American, degenerates into vice with his Canadian guest. The wife becomes less dependent upon her husband, who only sees in her a necessary instrument in the family, of which, so to speak, he disposes at his pleasure, instead of considering her as

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

another part of himself, as a minister, a second authority after him; she has no share in his projects or his confidence; he has all the indifference of the Yankee for her, without taking the same care of her.

*To the 9th.*—This emigration has, I think, two general causes affecting the whole Province, and several local causes: 1st. general cause, the difference between the pay in the United States and in Canada. 2nd. The want of manufactories and of employment for the working classes who have no skill in agriculture; this class is numerous, even in the country parts; and also the want of lands to be opened in the Seigniories, and the difficulty of reaching the Townships which surround the Seigniories.

In my locality it is a mania for the young men to go into the upper country. It is a sort of epidemic which seizes them. Many leave, to say they have travelled. Poverty is also one of the greatest causes of emigration, especially of families, and the want of employment in this locality.

*To the 10th.*—Yes, and often.

*To the 11th.*—The best means would be to favour colonization to whatever point of the country it might direct itself, but I think the Eastern Townships should be preferred. The great point is to know the most effective way to encourage this colonization. I give my private opinion, which is founded on the little experience I have acquired. In my opinion, 1st. Lands should be sold at cheap rates, and for annual rents during a certain period; 2dly. Manufactures and trade should be encouraged in the new settlements; 3dly. A proper Road system should be established; 4thly. Religion and education should be provided for; 5thly. The greedy covetousness of large landholders, should be repressed.

I say, 1st. Give lands at cheap rates and at annual rents. Four shillings per acre would not be an exorbitant price if it were not demanded on purchasing, but left *à consitit* as a rent, for at least twelve or fifteen years, with easy terms of payment at the end of that period. This price would be within the reach of every one, and would greatly assist the opening of lands by persons who have a little cash in hand; a laborious and industrious man might also live and make both ends meet; 2dly. Encourage manufactures, &c.; mills of every sort, foundries, &c., are absolutely required. Who is to establish them? What means should be adopted to encourage them? I leave it to the public to decide. As to commerce, this object is of the greatest importance. There should be in each Township at least one store, furnished with everything necessary for a new settlement, such as food, clothing, working instruments, &c. &c. With a manufacture of potash, to purchase from the settlers the ashes and salts in exchange for the necessaries of life, which should be furnished to them at the most moderate prices. By this means we should prevent the schemes of speculators of every sort, which are a real nuisance in a new settlement. One potash manufactory would not be sufficient. I could procure sufficient pearl-ash makers to meet any demand which might be made to me for them. The store should give a certain credit to the settler, in order that he might pay in produce; 3dly. Establish a proper Road system. Government has already disbursed at a dead loss considerable sums for the opening of communications, which, for want of being kept up, have become impracticable after a few years. To remedy this evil toll gates would be required, the revenue whereof would serve to keep up the Roads.

I speak of the long Roads through waste lands, such as those which serve as a communication between the Townships and the Seigniories. Those already opened should be repaired; others should be opened at the request of the parties interested in the different localities; toll gates should be established, or, what is still better, bridges should be erected on the large rivers instead of those inconvenient vessels, which retard the traveller and cannot be used during one fourth part of the year. It has been calculated that £2,000 to £3,000 would be required to repair the (Company's) Road from Port St. Francis and to make the bridges, both of which together would yield an annual revenue of not less than £400, taking the rate which is paid to the scows. This case may serve for the whole. 4thly. Provide for the support of religion. It is to be regretted that it is not in the power of the Legislature or of the Government to grant the two hundred acres of land asked for in each Township containing a Catholic population, for the support of the missionary. And yet this might have a happy result; it would give a great impulse to emigration towards the uninhabited townships if the Government, conjointly with the ecclesiastical authorities, could assure the people that they will be accompanied there by the priest. The priest is absolutely necessary to the prosperity of a new settlement. He is the soul of every thing; persons of education are scarce there; and where every thing has to be created in order to give an impulse to a community, it requires a man of intellect, enjoying public confidence, and self-sacrificing. The priest unites all these qualities. In a new settlement it is impossible for the people alone to maintain the priest; this should be provided for by the Government. As to education, I shall not enter upon the merits of this question; it has already been decided. 5thly. Put a stop to the greediness of the large landholders. This has reference to Townships sold under Letters Patent, or rather given away. For more than a year a great deal has been said in the public papers touching the covetousness of the large landholders in the Townships, and yet much remains to be said on this subject. There are a great many hidden extortions which it would be a pleasure to expose; but our public men know enough to have the matter at heart. It is a difficult point: let us hope that their knowledge and wisdom will not fail them.

*To the 12th.*—I will mention the Townships of Horton, Simson, Wendover, and Warwick, which belong to private individuals for the most part unknown, or who remain (purposely, I believe,) inactive. I will also mention Walton, and the greater part of the tract included in the agency of the Eastern Townships.

*To the 13th.*—More than twenty families have manifested that wish; and I have heard it stated that a great many young men who have gone to foreign parts, intend to return and take lands.

The above are my ideas, touching the subject of colonization, which the committee have under consideration. It would be desirable to turn some attention also to the Townships already settled, and which are now a prey to the large landholders, and to devise some remedy for the evil pointed out.

Answers of Messire Délage, Priest, *Curé* of the Parish of P'Islet, to the preceding questions transmitted to him, with the Circular of the Archbishop of Quebec:—

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)

29th May.

MY LORD,

Having only last week received, through your Grace, the questions proposed by a Committee of the House on the subject of Emigration, I avail myself of my first leisure moment to answer them. I regret that the numerous occupations of Lent do not allow me to give to these questions all the attention I might desire, nor to procure all the information I might require, in order to satisfy the wishes of the Committee. I will, therefore, confine myself to the following answers and reflections:—

I am unable, for want of sufficient information, to answer in a satisfactory manner to questions 1, 2, 3, 7 and 16.

*To the 4th and 5th.*—I answer, that to my knowledge only one family of French origin, and a young man, also a French Canadian, emigrated to Illinois last autumn.

*To the 6th.*—During the last five years there has been, properly speaking, no emigration of my parishioners to foreign parts. Only a few young men went to the States to earn a little money, but they soon returned.

*To the 9th and 10th.*—In my opinion, the principal cause of the emigration of our fellow-countrymen to the United States, has been the difficulty of procuring new lands, added to the uninterrupted succession of bad harvests in the old settlements, and to the hope of a milder climate, an easier cultivation, and more abundant harvests in the country to which they emigrate, and which, from certain reports, perhaps a little exaggerated, they have been led to consider in a very favorable light; and if I had leisure, I would point out especially the want of agricultural instruction, which leaves the Canadian husbandman to follow an old routine which has more than exhausted the soil. I would also state the little encouragement as yet given to agriculture, to which, in my opinion, the Legislature have not paid sufficient attention.

*To the 11th and 14th.*—The means which seems to me would be most effective in preventing emigration, would be to obtain lands from the Crown on the most advantageous conditions possible, and especially to procure easy means of communication; and if it were possible, a law should be passed, which, while it should put an end to monopoly, would, at the same time, favor the formation of societies for the purpose of clearing the new lands.

*To the 12th.*—The Saguenay appears to me to be the locality towards which the population of our parishes below, both on the south and on the north side of the St. Lawrence, might be directed with the greatest advantage; in the first place, because there is no locality behind these parishes in which it would be possible to settle a population of any extent, and it would be too expensive to procure means of communication to a population scattered over a larger extent of land; and, in the second place, because it is easy enough to go from our parishes to the Saguenay, the fertility of the lands on which, and the advantages of the climate there, are known to every one. If the facility of transport were still more increased by the construction of the wharves, which have been so long asked for by our population; I am convinced that before a few years had gone by, the excess of the population of our parishes would have gone to the Saguenay in a body.

Appendix  
(A.A.A.A.A.)

29th May.

*To the 13th.*—On the proposal which I had made to my parishioners, to form with some other parishes, a society for the purpose of settling lands on the Saguenay, one hundred and forty persons immediately presented themselves to go and settle there; but then we expected to get lands at 1s. per acre. When we learned that the Government intended to sell them at 2s. per acre, after the 1st of January, 1850, the ardor of our settlers greatly cooled down, notwithstanding the advantageous terms of credit offered by the Government. I am even afraid that nearly the one half of those who had put down their names at first, will be prevented by this increase in the price of lands, and that the greater part will turn towards the United States, from which their attention had been for a moment withdrawn by the hopes I had given them. For although emigration has hardly yet begun in my parish, it was strongly mooted at the time I drew off the attention of my parishioners by speaking to them of the Saguenay.

*To the 15th.*—The principal means of communication which I should recommend in order to facilitate the settlement of the Saguenay lands, would be,—a road from Chicoutimi, crossing the whole of the Peninsula to Lake St. John; the improvement of the road made by the inhabitants of the Saguenay from Chicoutimi to St. Agnès, and thence in the rear of the Eboulements Mountains, as far as St. Urbain; the construction of wharves at a certain distance from each other, along the south shore of the River St. Lawrence, so as to establish a more easy communication by means of the steamboats which ply between Quebec and Chicoutimi; this would connect all our parishes with both these important posts. I can say nothing as to the probable cost of these improvements.

Answers of J. N. Bossé, of the city of Quebec, Esquire, Advocate, to the preceding questions transmitted to him by the clerk:—

*To the 1st.*—I think that the Counties of Bellechasse, L'Islet, Kamouraska, and the city of Quebec, are the only parts of this District from which any emigration worthy the attention of the Government, has taken place.

*To the 2nd.*—The emigrants who leave the city of Quebec, being almost all workmen, remain in the first towns they come to in the United States, where they can find employment; those from the country, being almost all farmers, seek fertile lands and generally go and settle in the State of Illinois, where the lands appear to be cheap, and where there are already a number of Canadians.

*To the 3rd.*—I refer to my second answer.

*To the 4th.*—It is impossible for me to state the exact number of persons who left the city of Quebec last year, to go and settle in the United States. I think it considerable, however, for notwithstanding the great number of *habitants*, who, from the failure of the crops, have been induced, during the last three years, to sell their lands and establish themselves in the city, the number of electors has increased but very little during the last four years. As to the country, I know that the parish of Cap St. Ignace alone, furnished 205 persons to the emigration which takes place towards Illinois.

*To the 5th.*—All the emigrants whom I knew, were of French origin.

*To the 6th.*—I am not aware that before 1847, any *habitants* emigrated from this District to the



Appendix  
(A.A.A.A.A.)

29th May.

United States, at least in numbers of any importance.

*To the 7th.*—I have never travelled in the State of Illinois, towards which almost all the emigrants from the country parts have gone; but from several letters which I have read from Canadians who had settled there, I think they are very well off; for all agree in congratulating themselves in having left Canada, and they invite, in a very pressing manner, their relations and friends to sell their property and go and join them, giving them the most flattering hopes respecting the country in which they are.

*To the 8th.*—I can add nothing to what I have stated in my seventh answer.

*To the 9th.*—All the shipbuilders of Quebec closed their ship-yards last spring, for the vessels which they had sent to Europe had only fetched five pounds per ton, so that the workmen employed in the construction of 50 to 70 vessels, yearly, remained without work.

Few labourers have been employed in loading the vessels; for this work, now that the sailors are kept on board, is almost all performed by the crews.

The falling off in commercial business prevented the construction of the numerous buildings which had been commenced since the two large fires of Quebec. The exportation of timber was less last year than in those preceding; the workmen employed in preparing it for shipment suffered greatly; those of this class who had no work, came and added to the thousands of indigent persons who were already suffering; indeed a great number of them left Quebec on the approach of winter to go to the United States. Such are, I think, the causes of the emigration which took place, last autumn, from Quebec.

As to the emigration from the country parts, it is caused by an evil of longer standing, but which I think could be put a stop to. Every person who knows this District must have been struck, while going down from Quebec to Rivière du Loup, with the subdivision of the lands. All the parishes in this part of the country have been cleared for more than eighty years; the strip of woodland remaining in the rear of the Seigniories has been taken by the proprietors of lands in the first Concession, and is carefully kept by them for their own use. Some thousands of young men have sought an outlet in the Gulf fisheries, where they are employed during the summer, and the remainder have settled in the first Concessions, subdividing the old lands; hence the vast number of *emplacements* bounding the two and three first Concessions from the River, and the cutting up of all the old lands; hence also the decrease of the riches of the inhabitants of this side of the River, whose lands were generally four or six arpents in front, while the present proprietors have generally only one arpent in front, and sometimes less. In the parishes of St. Jean Port Joli, l'Islet, and St. Roch des Aulnets, formerly so wealthy, I do not think that twenty *habitants* could be found who own a portion of land of four arpents wide.

As long as the crops continued good, these small farms were sufficient for the wants of their proprietors; but for about ten years past the wheat crop has failed. In no one of the parishes in this part of the country has a sufficient crop been gathered to feed one half of its population, which increases every year. They had no outlet for this increase, which existed for a long time, for they were in some sort cut off from the lands behind the Seigniories, so that they were

obliged to leave the country. It was under these circumstances that two or three rich *habitants* went to see some relations they had in the State of Illinois. The flattering reports which they made, immediately spread through the whole of this part of the country, and 205 individuals emigrated from one parish alone, (as I have already said,) to Illinois.

From the transactions I have heard mentioned, I think the emigration will be considerable this year. Unfortunately it is the *habitants* in more easy circumstances who sell their property, and take with them the little cash which remained in these parishes. If the evil continues, it will certainly be incurable.

*To the 10th.*—Not being acquainted with this part of the United States, I cannot say if there be any exaggeration in the reports touching it, made by the persons who have settled there; but if the soil is as fertile and the climate as mild as I have heard it stated by respectable persons, the Canadian emigrants will be infinitely better in their new country than they are in that which they abandon.

*To the 11th.*—It would be rather late to banish the idea of emigration, which has spread in the Counties I have mentioned. Many will emigrate certainly, but I think that by opening a road in each of the parishes of the three Counties I have just mentioned, to extend into the Crown Lands as far as the American line, and by disposing without delay of the splendid lands there, the emigration would take that direction, and the idea of going to the United States would disappear in a few days.

*To the 12th.*—As I have already said in my last answer, it is to the waste lands of the Crown that the population which the country is on the point of losing, should be attracted.

Two or three leagues of road in the rear of each parish would be sufficient for the first year; as soon as those who intend to emigrate know that they can settle near their relations, they will give up the idea of going to foreign parts. It would be very difficult to give the exact number of persons who intend emigrating next summer to the United States, but as I have already stated above, it is certainly very great; I know several *habitants* personally, who have sold their lands, and are waiting for the opening of the navigation, to leave.

Not a single person has expressed to me his desire to settle on the Crown lands, for it has never been known that the Government would furnish the means of reaching them; but I think that these lands would be immediately purchased if there were roads leading to them, and I will cite a single fact in support of this opinion.

The respectable *Curé* of Kakouna has found means to obtain lands from Government in the rear of the Seigniorie of River du Loup which comprises the parish of Kakouna.

From the river towards the interior, there are now nine Concessions settled; the five last have been so for about ten years. And not a single individual from Kakouna frequents the fisheries of the Gulf, although this parish is 25 leagues nearer to Gaspé than l'Islet is.

*To the 14th.*—I think that a few thousand pounds expended in the parishes in which the evil is the greatest, would be sufficient for this year; the sale of lands which would take place as fast as the roads progressed, would furnish more than would be re-

Appendix  
(A.A.A.A.A.)

29th May.

Appendix  
(A.A.A.A.A.)

29th May.

quired to continue them and to reimburse the first expenses; Government would in a few years draw large sums from an immense territory from which it derives nothing at present. Although these roads would be costly, for at the height of land about seven or eight leagues from the river, there are mountains and *savanes*, they are nevertheless practicable; the inhabitants of l'Islet have opened one which extends as far as the River St. John, and which is good in winter. From the height of land to the American line, the lands appear magnificent. As long as the Government does not open roads to reach these lands, they will never be cleared; and the population inhabiting the seigniories will never be able to make them at their own cost, for they are becoming poorer every day.

I think that several changes might be made in this system, with advantage.

Answers of the Rev. Mr. C. Chiniquy to the above questions:—

*To the 2nd.*—It flows towards the States bordering Canada, but more particularly towards Chicago.

*To the 3rd.*—The emigrants are generally husbandmen who are obliged to sell their lands to pay their debts, and go and seek their fortune elsewhere.

*To the 4th.*—The information I have procured during my missions in all the country parts of the District of Montreal, and in a part of the District of Quebec, lead me to believe that the number of emigrants to the United States, of French origin, is rather above than under one hundred thousand.

*To the 5th.*—My observations have been confined to the French Canadian population, but I am inclined to believe that the proportion of the emigration of persons of other origins, is much less.

*To the 6th.*—I do not think that less than 70,000 Canadians have emigrated during the last five years.

*To the 7th.*—I have gone by the American route as far as Detroit. I met a great many Canadians everywhere, and the greater portion appeared to me in the most deplorable state, as well as respects their fortune as their morals.

*To the 8th.*—The Canadians in the United States are generally employed in the lowest work in the manufactories; they either become carters, or labourers.

*To the 9th.*—Its causes are various, but the most general and most deplorable is the error committed by the Government in having ceded to a few jobbers the lands which should have belonged to the people. This emigration would certainly not have taken place if the young men had been encouraged sooner to go to the Townships. The abominable acts of injustice of certain Seigniors have had no small effect in bringing on this emigration. I could point out Seigniories in which the Seignior refuses to concede lands at reasonable rates, and from which the young men emigrate, maddened as they become by being refused lands on which they might live so happily near their families and in their own fatherland.

*To the 10th.*—The emigrants send thousands of letters to their friends and relations in Canada, in which the advantages of emigration are greatly exaggerated.

*To the 11th.*—The means of preventing this emigration is, to give the Crown Lands at the lowest

rates and on the easiest possible conditions. The Seigniors should be deprived (on being indemnified) of certain odious rights, which some at least abuse; manufactures should be encouraged, in order to give employment to the poor.

*To the 12th.*—This emigration should be directed to the points nearest to the different localities. For instance, at a short distance in the rear of the large parishes of St. Esprit and St. Jacques de l'Achigan, there are magnificent lands, on which a population of several hundred thousand souls might live happily.

*To the 13th.*—An incredible number of persons in different parishes in which I am labouring, state to me every day their desire to settle on new lands.

*To the 14th.*—Lands should be given on the easiest conditions, and good roads opened everywhere through the forests to which it is desired to direct the settler.

*To the 15th.*—The missionaries at Kingsey and Sherbrooke have, I suppose, answered these questions; but I will add, that I should like to see two new roads made behind Rawdon and St. Jacques de l'Achigan, which should extend at least 4 or 5 leagues beyond the furthest settlements.

*To the 16th.*—The Granby road is excellent; but it ought to be continued.

Answers of L. Letellier, of the city of Quebec, Esquire, Notary, to the questions transmitted to him:—

*To the 1st, 2nd, 3rd, 4th, 5th, and 6th.*—I have no precise data as to this emigration which increases every year; it generally draws to the States of Maine, Vermont, New York, Ohio, Illinois, Michigan, and Wisconsin, a great number of Canadians, all of French origin, and belonging to the agricultural and working classes.

As I have only been residing at Quebec for a short time, I do not know the extent of the emigration which takes place from that city. The only details I can furnish, I have obtained from a long residence in the County of Kamouraska, and the frequent intercourse I have had with the adjoining Counties.

During the last five years, the emigration from these localities has increased to an extent which can only be ascertained from inquiries to be made on the spot. At the present moment, whole families are preparing to leave for the central States of the Union, Ohio, Indiana, Illinois; during the last year, this emigration has considerably increased.

*To the 7th and 8th.*—I have been to the United States several times, and I have seen French Canadians there in every degree of the social scale, from the lowest to the most respectable, and from the poorest to the most lucrative employment.

In general, Canadians who were servants in Canada, do not alter their position on reaching the United States, where their services are very much sought for and handsomely paid.

Workmen easily find employment there, in the workshops, the manufactories, or the public works, and always at high wages.

As to their moral character, it remains unchanged in the United States; and such of our Canadians as are immoral or debauched there, were as bad when they left Canada for the United States. It is after

Appendix  
(A.A.A.A.A.)

29th May.

Appendix  
(A.A.A.A.A.)  
29th May.

having been at school in the lumber shanties above Bytown, among persons of a debauched character, who work six months in the shanties of Upper Canada, and spend the other half year in drunkenness and other excesses, that they go to the United States where their small number, when looked upon with the microscopic eye of prejudice, causes an unfavorable judgment to be pronounced against our Canadian emigrants generally, in which the Americans do not coincide.

9.—The causes of emigration are nearly the same in every locality. With the agricultural class they proceed from the great length and severity of our winter; from the bad crops and the impossibility of an easy transport of products from the country to the towns, or to the villages; and with the working class, they must be attributed to the want of work.

10.—No other persons that I am aware of, except those who now reside in foreign parts, have represented to our *habitants* that a more favorable destiny awaits them there.

11.—I think that the means of remedying this evil would be: 1st, to give to the agricultural class a knowledge of agriculture, by opening model schools (model farms) in each locality, which would convince them that our soil is rich and fertile, but that we neglect and wear it out by a bad system of cultivation; 2dly, to open easy means of communication from the Townships to the country parts, and from the country parts to the cities, to which produce could be brought at a cheap rate; 3dly, to facilitate the emigration of our fellow-countrymen to the Townships on each side of the river, and more particularly towards the waste lands on the south of the St. Lawrence, by the clearing of which a better temperature would be secured to us by destroying the barriers which retain the warm winds which blow from the south and lose themselves in the forests.

One important point is, to facilitate the means of communicating by good roads to these waste lands of the Crown. As to the working class, the principal cause of their emigration is, that no public works have been undertaken for a very long time in the District of Quebec. Finding no work, they have gone in the direction of Upper Canada, and being employed there for want of equally competent workmen of another origin, they have proceeded on towards the United States to seek for bread, for work, and perhaps for liberty.

The opening of the Quebec and Halifax Railway, the construction of wharves and landing places on the shores of our fine River, a regular line of Steamboats plying to and from all the intermediate ports between Montreal, Quebec, and the lower part of the River, and a school of Navigation, would be the means of arresting this evil which is daily increasing, and which drives far from their native soil children who only ask to possess it, and who might so easily be retained if something like justice were rendered to this part of Canada.

12.—I am of opinion that the emigration of our surplus population to the Townships, ought to be encouraged and directed as follows, that is to say: the population on the South shore of the River towards the waste lands on that side known as the "Valley of River St. John," and the population of the North shore towards the North, on the banks of Lake St. Jean and its vicinity.

13.—Hundreds of persons in each parish are desirous of settling elsewhere, and will direct their steps

towards these lands if they are encouraged by the Government.

14.—In order to favour the settlement of these waste lands and to prevent emigration to foreign parts, the Government ought immediately to undertake the opening of roads leading from the River towards the interior, and towards the localities above mentioned, on each side of the River, and to commence without delay, some public works on both shores. This would revive a little hope among all classes.

15.—I am not aware of what the cost of these works would be, but I am persuaded that a great number of persons who wish to settle in these Townships would work on these roads on condition that their pay should be deducted wholly or in part from the price of the lands which they would like to become proprietors of.

16.—The present Road Law is insufficient for our country parts, and *à fortiori* for these new settlements, for which an office analogous to that of the late Grand Voyer, to be held by a man of integrity and knowledge, would be preferable.

To this I would add, that it is in the interest of all that the divisions of these lands should be correctly made, in order that each lot may be shown in a plan by a corresponding number. This will always ensure the advantage of avoiding the difficulties arising in the allotment of work or of taxes in road matters, and will, moreover, be always of the greatest advantage in the enregistering of hypothecs.

Answers of O. Martineau, of Ste. Anne de la Pocatière, Esquire, N.P., to the above questions:—

The subject on which I am called upon for my humble opinion being one of the highest national interest, I will merely remark, that I have so far given very little attention to this question. I will, therefore, cite principally the reasons alleged by the greater number of the farmers of these localities who emigrate to foreign parts.

I have the honor to state, therefore :

1st.—That the present crisis in money matters, and consequently the unfortunate state of commerce in this Colony, have obliged the importers in the towns to call upon their debtors, the country store-keepers, who, in order to meet their engagements, have on their part obliged their debtors, who belong almost exclusively to the agricultural class, to pay their debts without delay. This being the case, many of the latter have sold their lands, and not being able to settle with advantage in these localities, have emigrated to New Brunswick and the United States, where, as they are told by the Canadians who have already settled there, a happy and more favorable lot awaits them.

2dly.—That such Canadians, of the agricultural class, as were not suffering from this state of things, and have emigrated to the United States, have only done so in order to better their condition in life.

3dly.—That the Government, in order to prevent this emigration, and to favor the settlement of its waste lands, ought to accede to the demands for grants of money to facilitate the means of communication on the Crown Lands in the rear of our Seigniories. For in vain would the Government grant these lands on easy terms, if it do not make these grants of money; as the emigrants finding it impossi-

Appendix  
(A.A.A.A.A.)  
29th May.

Appendix  
(A.A.A.A.A.)

29th May.

ble to reach these lands, will always take another direction.

I will take the liberty of remarking here, that for nearly eight years, the inhabitants of St. Anne la Pocatière have applied at each Session of the Provincial Parliament for the trifling grant of £600 currency, to continue in the rear portion of the Township of Ixworth, and with a view to its settlement, the road known as the Government route; and that the Government has not yet taken any action in the matter.

4thly.—That the Townships of Ixworth and Ashford, according to a recent exploration, contain very advantageous arable lands throughout the whole of their depth, as far as the American territory.

5thly.—That the inhabitants of almost all the parishes composing the large and populous County of Kamouraska, have expressed at several public meetings, a desire to settle in both these Townships; and an easy means of communication would be afforded by this Government route, if it were continued as above mentioned.

6thly.—That the Government ought, moreover, to grant the Crown Lands at one shilling per acre, on the terms of payment already established, to every settler who should belong to an Association for the settlement of the Townships.

And on this principle, it is my humble opinion, from the knowledge I have of the disposition of the inhabitants of this County and of certain parishes of the County of l'Islet, that the Government will succeed in putting a stop to this Canadian emigration, which has been very considerable during the last five years, in these localities, and has withdrawn immense capital from us.

Answers of B. Maurault, of Gentilly, Esquire, to the above questions:—

The principal cause of the emigration of young Canadians from their native country which is poor, to another which is richer and which is represented to them as much richer than it really is, is owing, it cannot be denied, to the fact, that the paternal estate could not be divided and subdivided without impoverishing the father and threatening his children with the same fate, to avoid which, the latter go to a foreign country to seek their fortune. People used to say a few years ago, that it was only adventurers who left the paternal roof for Upper Canada and the United States, and this was true, for the population being small, the soil produced a great deal, and moreover, hunting and fishing could be had in abundance, so that the children of the soil were under no necessity of emigrating. But now, the cause above mentioned is not that which leads to emigration. I can see nothing but poverty which forces us to seek elsewhere sufficient wages to live upon, and make a little money to settle with.

During the last five years, not less than five hundred souls left Gentilly for the Saguenay, the Townships, the United States, and Upper Canada. Out of this number, more than one-fifth and a half went to the United States and Upper Canada, all sons of farmers or farmers themselves, or tradesmen, the latter forming about one-fourth of the emigration to the United States and Upper Canada, and the remaining three-fourths being with very few exceptions, farmers. St. Pierre les Bécquets and Bécancour can shew as large an emigration to the localities I have just mentioned.

7

Appendix  
(A.A.A.A.A.)

29th May.

How do our countrymen live in the United States and Upper Canada, and what is the state of their morals? Those who return, and I have conversed with many, say that money is more plentiful there than here, and that one lives better there. And if you ask them whether they have brought anything with them and if they intend returning, they answer, that everything is so expensive there that they like to remain here just as well, and others that they even prefer doing so. After several years' absence, they return, therefore, just as they had left, and some of them much poorer; and after having become old, and wasted their strength in the service of strangers, they return to commence clearing the lands in our Townships. If their morals have not become worse, they have certainly not improved.

Now, the means of arresting this tide of emigration of the Canadians to foreign parts, would be to procure for them the privilege of settling on the waste lands of Canada. Many of our inhabitants express a wish to go and settle in the new Townships of Ham, Winslow, Walton, &c., which the Government has been kind enough to give up to the young Canadians; several families have already gone there. But one of the greatest obstacles to the settlement of the Townships, is certainly the want of roads to get there. The road leading from Gentilly to Blandford, a distance of six leagues, and the only means of communication with the Townships of Somerset, Blandford, Stanfold, Arthabaska, and the new Townships I have just mentioned, would require speedy improvement, for before two years are past, it will be impossible to use it. This road is really dangerous, especially in the autumn and spring. I have gone over it myself very frequently, and have more than once nearly broken my neck and lost my horse in it. Only lately, the horse which carried the mail, was taken out half dead from a bad spot on this road. Seventeen or eighteen hundred pounds would, I think, be about sufficient for its improvement.

Gentilly, 20th May, 1849.

Answers of J. Joutras, Esquire, and others, of Bécancour, to the above questions, which were transmitted to them:—

To the gentlemen of the Committee appointed to enquire into the causes of Emigration, &c. &c.

GENTLEMEN,

Before answering for the second time the questions proposed to us a few weeks ago, we have to submit to you a few remarks respecting the notice issued from the Crown Lands Office on the 2d March last.

It has caused great discouragement. It imposes on the settlers a condition which it is morally impossible to fulfil. They are required to clear in four years one-tenth of the land acquired. Thus, in Mad-dington, in which the lots are of 100 acres each, and the soil what is called *savanne*, the poor settler, without any capital, must clear in four years ten acres of land on which the trees touch each other—land requiring long and costly drains, and which it is impossible to cultivate before all the stumps are extracted. And is it not a known fact, that land after the trees are cut down and burnt, cannot be cleared of its stumps in less than four years? It is then supposed that the poor settler will cut down and burn all the wood on his 100 acres during the first year. We defy any practical agriculturist to state that it is possible for the generality of settlers to fulfil this condition.

Appendix  
(A.A.A.A.A.)  
29th May.

Another source of annoyance is the interest of the purchase money which is required. If it were possible to abandon this interest, and diminish the number of acres which must be cleared, our hopes would be very great. If it be otherwise, it is much to be feared that the emigration to the United States will again follow its sad course in the Spring.

Rest assured, gentlemen, that no question excites more interest in the country parts than that which occupies your attention.

We cannot close these remarks, gentlemen of the Committee, without mentioning to you the patriotism and generosity by which Mr. Arcand is guided in the performance of his duty. It is only just to declare, that he greatly contributes to the rapid settlement of the Eastern Townships. Of this we have many proofs, and we wish to bear testimony to the fact.

#### Answers to questions.

To the 1st.—Yes.

To the 2nd.—Vermont, New Hampshire, Massachusetts, New York, and other States of the American Union.

To the 3rd.—All to the agricultural class.

To the 4th.—The average is from 40 to 50 in each year.

To the 5th.—All French Canadians.

To the 6th.—See answer to fourth question.

To the 7th.—In a pitiable state of inferiority.

To the 8th.—The Canadian has scarcely trod upon the soil of the Union before he casts off all laws, both human and divine. He learns with ease the tricks of the Americans; drunkenness and debauchery frequently complete his demoralization. He is sought for by the Yankees for his intelligence, his activity, and his natural frankness. He earns large wages. Some return with money, many with nothing. Few learn trades; much fewer still occupy positions of any respectability.

To the 9th.—The high wages paid to daily laborers in the United States. The want of roads in the Townships; the high price of lands; the insufficiency of the Road Laws, and the want of a missionary.

To the 10th.—We do not know.

To the 11th.—See answer to 16th question.

To the 12th.—The superabundant population of Bécancour and the neighbouring parishes would take the direction of Maddington, Wendover, and Warwick, if the road which crossed the Township of Bulstrode were improved.

To the 13th.—By removing the obstacles pointed out in the 9th answer.

To the 14th.—More than 200 settlers.

To the 15th.—Improve the Maddington road as far as its junction with that prayed for by the inhabitants of Aston and Bulstrode. This road is already drained.

Appendix  
(A.A.A.A.A.)  
29th May.

To the 16th.—As the principal efficient means to be adopted for the settlement of the Townships and for preventing emigration, we would suggest, 1st. That at least 200 acres of land should be granted for the use of each missionary in the Townships; 2dly. The privileges of the Crown, the Clergy, and the large landholders should be abolished; 3dly. Certain, prompt, and cheap, and, in one word, practicable, means should be furnished to small proprietors to force the large landholders to assist in making the roads, and in all other expenses of settlement; 4thly. The price of lands in the Townships should be fixed at 2s. per acre; 5thly. All waste lands should be taxed at 1d. per acre, the proceeds to be applied to public works; 6thly. A local resident agent either at St. Grégoire or Bécancour to facilitate arrangements and render them easy to our *habitants*; for it is well known that when they have to go far to transact business, this is a sufficient obstacle to discourage them.

Answers of the Rev. M. Griffiths, of the Parish of Valcartier, to the questions transmitted to him with the Circular of the Archbishop of Quebec:—

I have nothing to state until I come to the 11th question, and my answer to that question is, that the Government should make grants of land.

To the 12th.—In the parish of St. Gabriel de Valcartier, about six miles from the Church, on the north side of the River Jacques Cartier. There are some good lands in this direction, immediately adjoining the limits of the 1st, 2nd, 3rd, and 4th Concessions of the above parish, and bounded on the west by the lands of Mr. Duchesnay, Seigneur of St. Catherine.

To the 13th.—The majority of this parish, particularly such as have large families without any other means to provide for them, have expressed that wish.

To the 14th.—The Government could, in my opinion, greatly check the emigration which is going on from this locality, by permitting poor and industrious subjects to settle on these lands in the rear; and I really think that it would be a humane and charitable act on its part.

To the 15th.—The erection of a bridge on the River Jacques Cartier, close to the Church of St. Gabriel; the opening of new roads; the repairing of those which have been opened for several years, but which are in a very bad condition; for the poor inhabitants are not able, or rather, have not the means to make them passable for carts, &c. Probable cost: I think that £600, if well managed, with some manual aid on the part of the settlers, would be of great benefit to this locality—it would enable them to become good and loyal subjects.

*Suggestion of my own.*—What money might be due or in hand for the use of the Valcartier schools, might be employed, if the Government or Board of Education were willing, as an aid towards building the bridge. This would, in my opinion, be of more service to the settlers and their children, than employing it in any other manner; for, to my own knowledge, there has been nothing but trouble and discord as to the manner in which it ought to be divided.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

# PROVINCIAL PENITENTIARY.

## RETURN

TO AN ADDRESS FROM THE LEGISLATIVE ASSEMBLY TO HIS EXCELLENCY THE GOVERNOR GENERAL, dated the 30th instant, praying that His Excellency would be pleased to cause to be laid before them, "a Copy of the Reports made by the Commissioners appointed to investigate into the Conduct, Discipline, and Management of the PROVINCIAL PENITENTIARY, with the Documents transmitted by the Commissioners."

By Command,

J. LESLIE,  
Secretary.

PROVINCIAL SECRETARY'S OFFICE,  
Montreal, 30th May, 1849.

PROVINCIAL PENITENTIARY COMMISSION ROOM,  
Montreal, 20th March, 1849.

SIR,

I have the honour to transmit herewith the First Report of the Penitentiary Commission.

The Second and Final Report of the Commission will be submitted to His Excellency with the least possible delay.

I have the honour to be,  
Sir,  
Your most obedient Servant,

GEO. BROWN,  
Secretary.

Honourable JAMES LESLIE,  
Provincial Secretary.

SECRETARY'S OFFICE,  
22nd March, 1849.

SIR,

I have had the honour to receive and lay before His Excellency the Governor General, the First Report of the Penitentiary Commission, which was transmitted with your letter of the 20th instant.

I have, &c.,

JAS. LESLIE.

GEO. BROWN, Esquire,  
Secretary,  
Penitentiary Commission.

**FIRST REPORT OF THE COMMISSIONERS**  
**APPOINTED TO INQUIRE INTO AND REPORT UPON THE CONDUCT,**  
**ECONOMY, DISCIPLINE AND MANAGEMENT, OF**  
**THE PROVINCIAL PENITENTIARY.**

To His Excellency JAMES, Earl of ELGIN and KINCARDINE, Knight of the Most Ancient and Most Noble Order of the Thistle, Governor General of British North America, and Captain General and Governor in Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, and Vice-Admiral of the same, &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

The undersigned were appointed Commissioners by Your Excellency, to inquire into and report upon the conduct, economy, discipline and management, of the Provincial Penitentiary. The appointment was by Letters Patent under the Great Seal of the Province, of which the following is a copy:—

ELGIN AND KINCARDINE.

Province of } VICTORIA, by the Grace of God,  
 Canada. } of the United Kingdom of Great  
 Britain and Ireland, Queen, Defender of the Faith,  
 &c. &c. &c.

To Our trusty and well beloved Councillor the Honourable Adam Fergusson, of Woodhill, in the County of Halton, in the Province of Canada, Esquire, one of the Members of the Legislative Council of Our said Province; Narcisse Amiot, of the City of Montreal, in Our said Province, Esquire, Barrister-at-Law, and one of Our Justices assigned to keep Our Peace in and for the District of Montreal, in Our said Province; Edward Cartwright Thomas, of the City of Hamilton, in Our said Province, Esquire, Our Sheriff of Our District of Gore, in Our said Province; William Bristow, of Our City of Montreal, in Our said Province, Esquire; and George Brown, of Our City of Toronto, in Our said Province, Esquire;—

GREETING :

WHEREAS, divers Charges and Complaints have been made to Our Governor General of Our said Province, respecting the conduct, economy, system of discipline and management, of Our Provincial Penitentiary, situate in the Township of Kingston, in the County of Frontenac, in Our said Province: And whereas it has been thereupon thought expedient by Our Governor General, acting by and with the advice of Our Executive Council in and for Our said Province, that an inquiry should be forthwith made into, of, and concerning the same; and into, of, and concerning all other charges and complaints which, during the continuance of the powers hereby committed unto you, shall or may be referred to you by Our Governor General of Our said Province, acting as aforesaid, or which during the time aforesaid shall or may, by any person or persons whomsoever, be preferred before you, or any three or more

of you, or which during the time aforesaid you, or any three or more of you, in the course of the inquiry with which you are hereby charged, shall or may see fit to direct to be preferred or investigated, or which during the time aforesaid shall or may in any other manner whatsoever be lawfully brought before you, or any three or more of you; and also into, of, and concerning the whole conduct, economy, system of discipline and management, pursued in or with respect to Our said Penitentiary: And whereas, in and by a certain Act of the Parliament of Our said Province, passed in the ninth year of Our Reign, chaptered thirty-eight, and entitled, "An Act to empower Commissioners for inquiring into matters connected with the public business "to take evidence on oath," it is among other things enacted, That whenever the Governor, Lieutenant Governor, or person administering the Government of Our said Province, acting by and with the advice of the Executive Council thereof, shall cause inquiry to be made into and concerning any matter connected with the good government of Our said Province, or the conduct of any part of the public business thereof, or the administration of Justice therein, and such inquiry shall not be regulated by any special Act, it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government as aforesaid, by the Commission, to confer upon the Commissioners, or persons by whom such inquiry is to be conducted, the power of summoning before them any party or witnesses, and of requiring them to give evidence on oath, orally or in writing (or on solemn affirmation, if they be parties entitled to affirm in civil matters), and to produce such documents and things, as such Commissioners shall deem requisite to the full investigation of the matters into which they are appointed to examine, and the Commissioners shall then have the same power to enforce the attendance of such witnesses, and to compel them to give evidence, as is vested in any Court of Law in civil cases: And whereas it hath been further thought expedient by our said Governor General, acting as aforesaid, that for the better, more perfect, and more satisfactory conduct of the said inquiry, all and singular the powers and authority in and by the said Act of Parliament in such case provided, should be conferred upon you, and upon any three or more of you, acting in the execution of this Our Commission, as fully and effectually as for the purposes aforesaid the same can or may be lawfully conferred as aforesaid: And whereas, for these and divers other good causes and considerations Us thereunto specially moving, We have thought fit that such inquiry should be forthwith made as aforesaid. Now therefore know ye, that We, having and reposing great trust and confidence in your fidelity, discretion and integrity, have, by and with the advice of Our Executive Council of Our said Province, authorised and appointed, and by and with such advice, do, by these Presents, au-

Appendix

(B.B.B.B.B.)

30th May.

thorise and appoint you the said Adam Fergusson, Narcisse Amiot, Edward Cartwright Thomas, William Bristow, and George Brown, or any three or more of you, to make diligent inquiry and investigation into the premises: And for the better discovery of the truth in the premises, We do, by these Presents, give and grant to you, or any three or more of you, acting as aforesaid, full power and authority to call before you, or any three or more of you, as well the Warden and Physician of the said Penitentiary, as such and so many of the Commissioners, Officers, Clerks, Guards, and other ministers engaged in or in anywise employed about Our said Penitentiary, or in or about the management of the same, as also all such other persons as you, or any three or more of you, acting as aforesaid, shall judge necessary, by whom you may be the better informed of the truth in the premises; and to inquire of the premises, and every part thereof, by all other lawful ways, methods, and means whatsoever: And we do hereby give and grant unto you, and to any three or more of you, acting as aforesaid, full power and authority, when the same shall appear to be requisite, to administer an oath or oaths, affirmation or affirmations, as the case may require, to any person or persons whomsoever, to be examined before you, or any three or more of you, touching and concerning the premises: And We do also give and grant to you, and to any three or more of you, acting as aforesaid, full power and authority to cause as well the said Warden and Physician of Our said Penitentiary, as all and singular the Commissioners, Officers, Clerks, Guards, and other ministers of Our said Penitentiary, as well as all and singular the Officers, Clerks, and ministers of Our several Courts of Criminal Jurisdiction within Our said Province, or any part thereof, to bring and produce upon oath before you, or any three or more of you, all and singular rolls, records, orders, books, documents, accounts, papers, or other writings, of what nature or kind soever, belonging to the said Penitentiary, or to the said Warden or Physician, Commissioners, Officers, Clerks, Guards, or other ministers thereof, in such their official capacity; or to the said Courts or any of them, or to any of the said Officers of such Courts, as such Officers respectively. And Our further will and pleasure is, that you, or any three or more of you, upon due examination of the premises do, within one year from the date of this Our Commission, or sooner if the same can reasonably be, certify to Our Governor, Lieutenant Governor, or the person administering the Government of Our said Province of Canada for the time being, at Montreal, under your hands and seals, respecting all and every of your several proceedings by force of these Presents, together with what you shall find touching or concerning the premises upon such inquiry as aforesaid, and what regulations respecting such matters as aforesaid you shall think fit to recommend to be established: And We further will and command and by these Presents ordain, that this Our Commission shall continue in full force and virtue, and that you Our said Commissioners, or any three or more of you, shall and may, from time to time, proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued, from time to time, by adjournment: And We do hereby direct and appoint that you, or any three or more of you, may have liberty to certify your several proceedings, from time to time, to Our said Governor, Lieutenant Governor, or the person administering the Government of Our said Province for the time being, at Montreal aforesaid, as the same shall be respectively completed and perfected: And we hereby command, as well the said Warden and Physician, Commissioners,

Officers, Clerks, Guards, and other ministers of Our said Penitentiary, as all and singular our Justices of the Peace, Sheriffs, Mayors, Bailiffs, Constables, Officers, Ministers, and all other Our loving subjects whatsoever, that they be assistant to you, and each of you, in the execution of these Presents; giving, and by these Presents granting to you, and to any three or more of you acting as aforesaid, and that in the fullest and most ample manner all such authorities, rights, and powers in the premises, as by or under the authority of the said Act of Parliament, or by virtue of Our Prerogative, Royal or otherwise howsoever, we can or may or could or might in any wise lawfully confer upon you by virtue of these Presents or otherwise howsoever: And know ye further, that for the more regular and orderly conduct of your proceedings under the powers hereby conferred upon you, and the better execution of this Our Commission, We have made choice of you the said Adam Fergusson, to preside as President or Chairman at all meetings of Our said Commissioners, for the execution hereof at which you shall be personally present, whose services as such We require you Our said Commissioners, from time to time, to use as occasion shall require: And know ye also, that for the more regular recording of all such proceedings, We have made choice of you the said George Brown, to be Secretary to this Our Commission, whose services and assistance as such We also require you Our said Commissioners, from time to time, to use as occasion shall require.

In testimony whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said Province to be hereunto affixed: Witness, Our right trusty and right well beloved Cousin, JAMES Earl of ELGIN and KINCARDINE, Knight of the Most Ancient and Most Noble Order of the Thistle, Governor General of British North America, and Captain General and Governor in Chief in and over Our Provinces of Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, and Vice-Admiral of the same, &c. &c. &c. At Montreal, this Twenty-sixth day of May, in the year of Our Lord One thousand eight hundred and forty-eight, and in the Eleventh year of Our Reign.

(Signed,) ROBT. BALDWIN,  
Attorney General.

By Command,

(Signed,) R. B. SULLIVAN,  
Secretary.

A Copy of the following Letter of Instructions was received by each of the Commissioners:—

“SECRETARY’S OFFICE,

“Montreal, 1st June, 1848.

“SIR,

“With reference to our recent communications upon the subject of the Provincial Penitentiary, I have the honour, by command of the Governor General, to inform you, that His Excellency has been pleased to appoint you, together with  
“and \_\_\_\_\_, Esquires, as Commissioners to enquire into, and report upon the affairs of that Institution.

Appendix

(B.B.B.B.B.)

30th May



Appendix

(B.B.B.B.B.)

30th May.

“ The Commission and Documents connected therewith have been transmitted to the Honourable A. Fergusson, (named in the Commission to act as President or Chairman at all meetings of the Commissioners,) for the use of the Commissioners in general.

“ The first subject for the consideration of the Commissioners will probably be the various charges and complaints preferred against certain of the Officers, and others connected with the Institution, contained in the Documents which accompany the Commission.

“ His Excellency feels that it is almost superfluous to remind the Commissioners how necessary it is that they should, in the discharge of this delicate and difficult branch of their inquiry, exercise the most rigorous impartiality, and not allow themselves to be influenced by any other feeling than the desire of doing entire justice to all the parties concerned.

“ There is, however, another and, as regards the public, a much more important branch of the present inquiry, viz. :—The general system of Discipline and Management of the Penitentiary.

“ His Excellency trusts that the Commissioners will give this portion of inquiry, their most serious attention, with a view to their suggesting, for His Excellency's consideration, any modification in either the system of discipline or the mode of managing the affairs of the Penitentiary, which, in the opinion of the Commissioners, might conduce to secure for the Institution the confidence of the public, and to increase its efficiency and utility.

“ I am to add, that His Excellency desires that the Commissioners should lose no time in commencing the proposed investigation.

“ I have the honor to be,

“ Sir,

“ Your most obedient Servant,

(Signed,) “ R. B. SULLIVAN,  
“ Secretary.”

We assembled at Kingston on the 23d June, 1848, and entered on the duties Your Excellency was pleased to commit to us, with a deep sense of the importance of the trust, and a sincere desire to execute it faithfully and efficiently. We have been engaged in the inquiry ever since, and though the time occupied has exceeded our first anticipations, we are satisfied that the work could not have been properly accomplished by a more speedy process; and should our labours tend in any degree to shed light on the important question of Prison Discipline, to excite in the public mind of Canada a warmer interest in the subject, or to place the Penal Establishments of our country on a footing more worthy of its rising greatness, we feel that the time and labour we have devoted to the inquiry will have been well spent.

Before entering on the matters to which our attention has been more immediately directed, we conceive it may be beneficial to give a short sketch of the history of the Provincial Penitentiary from its first commencement up to a period shortly previous to the issuing of Our Commission, when dissatisfaction with the management of the Institution began to be openly expressed. We then propose to

state the proceedings of the authorities of the Penitentiary consequent on this feeling towards the management, the effect of such proceedings, and the condition of the Institution when we entered on our duties.

Following up this order, we propose to lay next before Your Excellency the result of our inquiries into the conduct of the Officers, and the past administration of the affairs of the Institution, and to close Our Report with suggestions for the future.

The first notice in the public Records of the Kingston Penitentiary, appears in the Journals of the Upper Canada House of Assembly, on the 14th January, 1832. On that day the Committee of the whole House reported a resolution in favour of granting One hundred pounds for the purpose of procuring Plans and Estimates of a Penitentiary to be erected in the Province of Upper Canada, and to enable Commissioners to collect information respecting the management of such Institutions,—which was carried,—Yeas, 23; Nays, 18. In pursuance of this vote, Mr. Jarvis, from a Select Committee, reported a Bill, on 16th January, which was then read a first time, and having subsequently passed through the usual ordeal, the Bill received the Royal Assent on 28th January, 1832.

The Honorable John Macauley and Hugh C. Thomson, Esquire, (now deceased,) were appointed Commissioners, under the Act, and they appear to have executed the task committed to them with energy and ability. In the month of June following their appointment, the Commissioners visited the Penitentiaries at Auburn, Sing-Sing, and Blackwell's Island, in the State of New York, and Wethersfield, in the State of Connecticut, all which prisons are conducted on the Auburn, or congregated system. While at Auburn they met Mr. William Powers, then Deputy Keeper of that Institution, and received much valuable information from him; and a correspondence was then opened up, which finally resulted in the removal of that gentleman to Kingston as the Superintendent of the Prison Works. The Commissioners, on 12th November, 1832, reported to the Head of the Government as the result of their inquiries, that “ the Auburn system is that which it is safer to act on in “ this Province,” and they recommended its adoption by the Legislature. Accompanying their Report were Plans of the proposed Penitentiary, and a letter explaining the system of discipline and government recommended to be adopted, with calculations in detail of the probable expense of building and maintenance, and the returns from Convict labour, all very ably executed, and from the pen of Mr. Powers.

On 19th December, 1832, the Report of the Commissioners was referred to a Select Committee, with power to report by Bill or otherwise. On 4th February, 1833, a Bill for the erection of a Provincial Penitentiary was reported, and having subsequently passed through the different stages, it received the Royal Assent on 13th February. Under this Act, John Macauley, Hugh C. Thomson, and Henry Smith, Esquires, were appointed Commissioners for building the Penitentiary, and £12,500 was appropriated to carry on the works. On 25th November, 1833, these gentlemen made their first report, from which we make the following extracts :—

“ That, in pursuance of the Act, their first object “ was to select a good site for the Prison. After

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

“ examining with great care, all the grounds in and near the Town of Kingston, it was found that no situation, combining the advantages of perfect salubrity, ready access to the water, and abundant quarries of fine limestone, could be obtained nearer the Town than Lot Number Twenty, in the First Concession of the Township of Kingston, which is about a mile west of the Town. The west half of this Lot, belonging to the heirs of the late Phillip Pember, which contains one hundred acres of land, reaching from Hatter’s Bay, on Lake Ontario, to the rear of the First Concession, was accordingly purchased for the sum of One thousand pounds. The space between the Lake and the highway is about fifteen acres in extent, of which nine or ten acres will be inclosed by the walls of the Penitentiary, and on the west side is a fine harbour, where vessels may approach within a few feet of the shore. Nothing indeed can surpass the convenience and beauty of this site, on which is found a quarry of the best limestone, amply sufficient for the construction of the buildings and walls of the proposed establishment; twenty or twenty-five acres on the front of this Lot would, perhaps, furnish all the room that is required for the buildings connected with the Penitentiary, and the Legislature might therefore (if they should see fit) direct the residue to be sold. The Commissioners are, however, of opinion that the land is worth the purchase money, and should be retained for public uses, especially as it appears to abound with quarries of the finest limestone, which it will, doubtless, be found profitable to open when Convicts are sentenced to hard labour at the Penitentiary. Probably it may become advisable to let a part of the Lot on the rear, as soon as a system of Prison discipline has been organized for the Establishment, but certainly it would not be desirable that any portion of it should be sold before the nature and value of the quarries have been fully and closely inquired into and understood.

“ The deed of conveyance for this land from the heirs of Mr. Pember to the Government, is submitted with this Report. It has been drawn up by a professional gentleman of this place, and is supposed by the Commissioners to be sufficient to secure the investment of the title to it, according to the terms of the Act, in His Majesty, his Heirs, and Successors. After having determined on the site of the intended structure, the next step on the part of the Commissioners was to select suitable assistants for building it; and with this view, two of their number proceeded in the month of June to Auburn, in the State of New York, where, after some enquiry and negotiation, they engaged Mr. William Powers, the deputy keeper of the State Prison at that place, to superintend the building of the Penitentiary at Kingston, and agreed to allow him three hundred and fifty pounds per annum, for the space of two years.

“ When it is recollected that this gentleman was the individual who furnished the plan which was submitted to the Legislature during its last Session, and which then received its approbation, the value of his services in the construction of a prison in conformity to that plan will be readily perceived. The Commissioners also engaged Mr. John Mills, of the same place, at the rate of two hundred and fifty pounds per annum, to act as master builder and general foreman of the works. They considered his assistance very important on account of his experience in this particular branch of architecture, and they are satisfied that as his general

“ knowledge of every department of mechanical labour that is carried on at the Penitentiary will enable him to act as foreman in each of those departments, a considerable saving of expense will arise from employing him in his present capacity.”

\* \* \* \* \*

“ In commencing the building, it was a matter of great and serious deliberation with the Board, whether they should proceed to do the whole by contract, or by the employment of day labourers. They at length resolved that they ought not to build the Prison by contract, and for these reasons:

“ 1st. The plan of the building was entirely novel, and no person in this country could safely be allowed to undertake it.

“ 2dly. It was very probable that alterations and improvements might suggest themselves to the mind of the Superintendent while the building was in progress, in making which, the existence of a contract might be found embarrassing.

“ 3dly. It was most important that the whole of the work should be done in the most substantial and faithful manner.

“ 4thly. It was considered that the expense of superintendence by experienced persons was unavoidable, and that when incurred, the profit that would be reaped by contractors might well be saved, for the vigilance and skill of the Master Builder, combined with the management and experience of the Superintendent, ought to realize to the public all the benefits usually obtained by means of contracts.

“ With such views, the Commissioners, in all practicable cases, have had the mechanical work performed on the spot by the day; and in order to explain in what respect savings are in this manner effected, of sums of money that would otherwise have been paid as profit to contractors, it may be stated that by the erection of a lime-kiln near the quarry, the article of lime is now provided at nearly half the cost at which it was formerly obtained by contract.”

Accompanying the Report of the Commissioners was the following Estimate of the total cost of the proposed buildings:—

“ ESTIMATE of the probable cost of erecting the Penitentiary near the Town of Kingston, made by William Powers, Superintendent, and John Mills, Master Builder:

No. 1.—Cost of South Wing.....	£10000	0	0
2.—This Wing cannot be finished without building the Rotunda, in which there will be 120 cells which will form a part of the east and west Wings, the cost of which was	7250	0	0
3.—North Wing, to contain Offices, Keeper’s Hall, Dining Hall, Chapel, Hospital, Kitchen, &c.....	6250	0	0
4.—To finish the East Wing...	5750	0	0
5.—To finish the West Wing...	5750	0	0
6.—Warden’s and Deputy’s Houses.....	2625	0	0
Carried over.....	£37625	0	0

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Brought over.....	£37625	0	0
7.—Female Department.....	2675	0	0
8.—For Shops and Avenues....	2750	0	0
9.—For levelling and paving Yard, and blasting, &c.....	5000	0	0
10.—For Yard Walls to enclose nine acres.....	7500	0	0
11.—For Temporary Shops, Tools, Machinery, &c.....	1300	0	0
	<u>£56850</u>	<u>0</u>	<u>0</u>

“ Note.—The above Estimate is made upon the supposition that the labour will be done by hired men, but should it be done by convicts, it will lessen the expense (with the exception of the three first items) one-half.

“ WILLIAM POWERS,  
“ Superintendent.

“ JOHN MILLS,  
“ Builder.

“ Kingston, 19th Nov. 1833.”

In the Session of 1833-4, a Bill “for the maintenance and government of the Provincial Penitentiary erected near Kingston, in the Midland District,” passed through Parliament, and received the Royal Assent on the 6th March, 1834.

On the 28th July, 1834, a Commission issued appointing C. W. Grant, John Macauley, John S. Cartwright, Alexander Pringle, and W. H. Gray, Esquires, Inspectors of the Penitentiary, under the Act last referred to, without remuneration; and on the 2d August, 1834, the Board was convened for the first time, and John Macauley, Esquire, was elected President. Henry Smith, Esquire, was at the same time appointed Warden of the Penitentiary, with a salary of two hundred pounds per annum.

On the 1st December, 1834, the Building Commissioners made their second and final Report to Government. In it they gave a detailed Statement of the expenditure of the £12,500 voted by Parliament; they also intimated that the buildings were so far ready as to be made serviceable, and that whenever funds were provided for clothing, bedding, &c., they will be prepared to receive prisoners. The further erection of buildings was recommended to be carried on by convict labour; and it was suggested that the duties of the Building Commissioners should be transferred to the Board of Inspectors, then recently appointed.

The Report also contains the following passage:—

“ It is proper to state, that the Superintendent, Master Builder, and Clerk, are still retained in their service by the Commissioners, until the pleasure of Parliament shall be declared respecting their ulterior proceedings. Mr. Mills, who was first employed as Master Builder and Foreman, having resigned in consequence of differences which had arisen between him and the Superintendent, an English mechanic, (Mr. Wm. Coverdale,) was engaged in his place, who has afforded great satisfaction, and to whom a salary has been assigned, less in amount by one-fifth than that which the Commissioners had been under the necessity of giving to his predecessor. The plans accompanying this Report, (marked E,) which have been executed by Mr. Coverdale, will perhaps be regarded as exhibiting no unfavorable evidence of the qualifications which he possesses for his present situation.”

This Report was signed by Messrs. Macaulay and Smith only,—the third Commissioner, Mr. Thomson, having died. The following well deserved tribute was paid to his memory, by his brother Commissioners:—

“ Since the date of their former Report, the undersigned have been deprived of the assistance of their late associate in the Commission, Hugh C. Thomson, Esq., whose premature death has been generally lamented. It is believed that the Legislature were led to introduce the Penitentiary system into the Province, in a very great measure, by the zealous and persevering exertions of that gentleman; and that if it should prove highly useful (which few can doubt) in the punishment and repression of crime, no slight share of the honor of its adoption will rest upon his name.”

In April, 1835, £3000 was placed at the disposal of the Board of Inspectors for the general purposes of the Penitentiary; and on the 27th May, 5 Convicts arrived from the Home District. They were placed for safe keeping in the Midland District Gaol, until the 1st June, when they were regularly received into the Penitentiary.

Mr. Powers, the Building Superintendent, was about this time appointed Deputy Warden, with a salary of £150.

James Sampson, Esq., M.D., was also appointed Surgeon to the Institution.

Convicts continued to arrive from this date; and on 1st October, 1835, 55 Prisoners were in confinement. The number has gone on increasing; as the following table shows:—

PRISONERS COMMITTED TO THE PROVINCIAL PENITENTIARY.

DATE.	RECEIVED.				DISCHARGED.				REMAINING 30th September.
	Male Civilians.	Females.	Soldiers.	Total.	Pardoned	Sentence expired.	Died.	Escaped.	
September 30, 1835.....	52	3	.....	55	.....	.....	.....	.....	55
do do 1836.....	41	2	.....	43	10	6	1	.....	81
do do 1837.....	61	10	.....	71	4	21	1	.....	123
do do 1838.....	105	6	.....	111	10	66	4	.....	154
do do 1839.....	64	10	9	83	24	62	3	.....	148
do do 1840.....	85	11	.....	96	15	73	2	1	153
do do 1841.....	53	6	.....	59	10	49	2	.....	151
do do 1842.....	64	7	22	93	3	76	1	.....	164
do do 1843.....	126	9	129	264	5	163	4	.....	256
do do 1844.....	139	10	116	265	31	102	3	1	384
do do 1845.....	143	14	146	303	26	174	9	.....	478
do do 1846.....	125	10	134	269	16	239	12	.....	480
do do 1847.....	100	8	146	254	22	236	8	.....	468
do do 1848.....	.....	.....	.....	.....	.....	.....	.....	.....	454

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.)  
30th May.

It was not until the winter of 1836-7, that any Chaplain was appointed; but the Rev. W. M. Herchmer, a clergyman of the Church of England, was then installed, with a salary of £150.

On the 21st January, 1837, James Nickalls, Esq., took his seat as a Member of the Board of Inspectors, in the room of the Hon. John Macaulay.

On the 6th July, 1839, Mr. Fraser took his seat as a Member of the Board of Inspectors, in the room of Mr. Gray.

Very shortly after the opening of the Prison, an unfortunate misunderstanding seems to have arisen between Mr. Warden Smith and his Deputy, Mr. Powers; and for at least four years before Mr. Powers left the Institution, (1840,) quarrels seem to have constantly existed between them. These differences were frequently before the Inspectors, in the shape of charges preferred by one officer against the other; and the Warden seems to have been invariably supported in such references by Mr. Grant, while Mr. Powers was as invariably sustained by all the other Inspectors, four in number. As a specimen of these disputes, we make the following extracts from the Minutes of the Board:—

21st February, 1837.—Present: Messrs. Pringle, Gray, and Nickalls. “A letter was laid before the Board by the Warden, containing a series of complaints against the Deputy Warden. The Inspectors direct, that in justice to the Deputy, he be furnished with a copy of said letter; and, that on his reply, the matter will be taken into consideration, and the parties heard at a future meeting.”

15th March, 1837.—Present: Messrs. Cartwright, (President,) Pringle, Gray, and Nickalls. “The Board having read the defence submitted by Mr. Powers, in answer to the charges preferred against him, are of opinion, that it is satisfactory. The Board, in thus acquitting the Deputy Warden, are of opinion, that the safety and discipline of the Prison can only be enforced by a mutual good understanding between the Warden and the Deputy, and constant anxiety on their parts to maintain proper vigilance on the part of the subordinate officers of the Institution. And they are of opinion, that the authority of the Deputy should be properly and strictly maintained, as the Police of the Establishment is greatly entrusted to him, conformably to an order of the 5th December last.”

31st March, 1837.—Present: Messrs. Cartwright, Pringle, Gray, and Nickalls. “The Warden, wishing an investigation of the charges made by him against the Deputy Warden, and that the evidence should be heard under oath, the Board have appointed Tuesday next, the 4th April, at 11, A.M. In the meantime, the Inspectors direct that the Deputy Warden be notified, and that if he require any witnesses, they may be summoned also.”

4th April, 1837.—Present: Messrs. Cartwright, Pringle, Gray, and Nickalls. The Warden states the following charges against the Deputy; 9 in number. 1st. Speaking disrespectfully of Warden. 2d. Concealing depredations of one Pope. 3d. Giving newspapers to Convicts. 4th. Holding religious disputes with M<sup>r</sup>Carthy. 5th. Reading newspapers and writing in Hospital. 6th. Taking his dog to be fed in the Penitentiary. 7th. Calling the Lieutenant Governor a tyrant. 8th. Giving leave of absence to

Girard Revel. 9th. Speaking within hearing of convicts on political subjects.

The Inspectors having heard the evidence against the Deputy Warden, decided, in effect, as follows: That as to the 1st and 2d charges, they are not proved; on the 3d. Having a religious paper read with consent of the Warden, he (Powers) is acquitted; 4th. Not proved, except that a conversation did occur, from which the Deputy properly desisted; 5th. Acquitted; 6th. Dismissed; 7th. No satisfactory evidence; 8th. No evidence; 9th. The same.

“The Board cannot dispose of this unpleasant matter without remarking on the feelings of the majority of the witnesses against the Deputy, most of them being persons who have been dismissed for offences which were detected by his vigilance, and the Board feel themselves reluctantly compelled to place little reliance on such testimony.”

“The Board would further remark, that the Deputy seems on all occasions anxious to maintain the discipline of the Prison, and that whatever mistakes he may have committed, have arisen more from an error of judgment than from any wish to neglect or prevent the orders of the Board, or the directions of the Warden: but they trust and believe, that he will for the future, avoid any religious or political discussions with any subordinate officer.”

The disputes between the Warden and Mr. Powers were not ended with this decision; and on the 14th February, 1839, Mr. Smith preferred a second series of charges against his Deputy, on which explanations and rejoinders were received by the Board from the parties.

In June, 1839, Mr. Pringle brought under the notice of his brother Inspectors a charge against the Warden of making profit to himself by the hire of a man named Brown, with a horse and team, for the use of the Penitentiary. The Warden thereupon appealed to Government; and his letter of complaint, with accompanying documents, was transmitted to the Inspectors for their observations. The following letter from the President of the Board, in reply to the Provincial Secretary, shows the state of discord in which the Institution was at this moment:—

“Kingston, July 10th, 1839.

“Sir,

“I have the honour to return herewith the application of Henry Smith, Esquire, the Warden of the Provincial Penitentiary, with the copy of the Affidavit of John Brown referred to in the said application, and, in reply, I beg to state for His Excellency's information, that the said documents were handed to Mr. Pringle for his remarks, and at the late meeting of the Board the matter was brought up, when that gentleman gave in the communication sent herewith, and on his retiring from the Board the same was read; whereupon the Board

“Resolved, That they deem it to be completely satisfactory; and that Mr. Pringle, as an Inspector, had a perfect right, and it was his duty, to make every inquiry that he might think necessary as affecting the character and conduct of any subordinate officer of the Institution, for the discipline and management of which the Inspectors are no doubt responsible.”

Appendix  
(B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

“ And it was further Resolved, ‘ That, inasmuch as the Warden appears by the Memorial to His Excellency to be apprehensive that justice will not be done him by the Inspectors in the investigation of the charges which have been preferred against him, the Inspectors would suggest the propriety of His Excellency the Lieutenant Governor’s appointing a Commission to investigate and report upon the nature and extent of the differences which have unhappily arisen between the Warden and the Deputy Warden.’

“ And with respect to so much of the Warden’s Memorial as implicates myself, I would beg to remark, that the Warden has enlarged the terms of my alleged denunciation of dismissal of himself and the Deputy Warden. The fact is, that at a late meeting of the Board, Mr. Grant proposed to dispense with the services of the Deputy Warden altogether, when after some discussion the members (Mr. Grant dissenting) came to the conclusion that if the one was to be discharged, they would recommend the discharge of the other also. In this opinion I most fully concurred, and I am very certain that I have never expressed an opinion that both of these officers ought to be dismissed; and for this good and substantial reason, that though I have great doubts as to the efficiency of the Auburn system of discipline in effecting a moral reformation in the Convict, and deterring from future crime, I am convinced that should the Institution unfortunately lose the services of the Deputy Warden before the system is more matured and established on a firmer basis, the experiment of the Penitentiary, as a means of punishment in Upper Canada, will prove a failure. The difficulties between the Warden and Deputy Warden are of that character, as to peril the best interests of the system; and as the Warden has raised an issue between himself and four of the Inspectors, it would seem to be somewhat indecorous at least that they should act as judges in their own cause, and I can with great confidence state that the majority of the Board would be most happy should His Excellency the Lieutenant Governor be pleased so far to grant the request of the Warden, as to appoint the Committee he asks for.

“ I have the honour to be,

“ Sir,

“ Your obedient servant,

“ (Signed,) JAMES NICKALLS,

“ Prest. Board of Inspectors, P. P.”

On the 10th September, 1839, the Board had the differences between Messrs. Smith and Powers again under consideration, and resolved that they would on the 1st October “ proceed to inquire into and investigate the nature of the misunderstanding existing between the Warden and Deputy Warden.”

On the 25th September the Warden’s list of charges against his Deputy was read, and witnesses ordered to be summoned for the 16th October, when the inquiry would be entered on.

Negotiations seem to have commenced about this time for the amicable removal of Mr. Powers through a pecuniary compensation to be paid him from the public chest; and on the approach of the day of trial of the differences between the Warden and his Deputy, a report got afloat that Mr. Powers had been removed from his situation, which was calculated to be injurious to him, as well in making his own de-

fence as in proving his case against the Warden. The Inspectors inquired into the matter, and the following memorandum, placed in their hands by Mr. Bickerton, the Clerk, throws light on the subject:—

“ *Memo.* Last night the Honourable C. W. Grant sent for the subscriber, and asked him if Mr. Powers had communicated the circumstance of Sir G. Arthur having discharged the Deputy Warden from his situation at the Penitentiary. I replied, he had not, and I asked him if that was the fact. He answered, it was. He then said, if Mr. Powers applied for any papers or documents belonging to the office relative to the late difference between him and the Warden, you are to withhold them, as he is now no longer an officer of this Establishment; and you may inform Mr. Powers, that if he persevere in agitating these matters, the advance salary of £150, promised to him by the Governor, I will take care it is withdrawn.

“ (Signed,) F. BICKERTON.

“ 8th October, 1839.”

The Board met on 11th October, and took the matter into consideration, and the President was requested to give written instructions on the subject to the Clerk, which he did, as follows:—

“ SIR,

“ A report having by some extraordinary means, got into circulation, that the Deputy Warden had been suspended from his duty, a report alike injurious to the individual and to the character of the Institution; and that unauthorized orders had been given that that gentleman should not have access to the books and papers thereof; I have to desire that you will communicate to Mr. Powers, that so far from his being suspended from his functions, no steps have as yet been taken by the Board in that matter, and that he do continue in the performance of his duty as Deputy Warden as heretofore, and that you will give him every facility of access to the books and papers of the Prison that he may desire, until you are directed by the orders of the Board to the contrary.

“ I remain, Sir, &c.

(Signed,) “ J. NICKALLS,  
“ President.

“ Mr. F. BICKERTON,  
“ Clerk.”

The charges preferred against the Warden by Mr. Powers were 30 in number, embracing Peculation, neglect of duty, mismanagement, and many other most serious accusations. Previous to the day when these charges were to be examined into, however, the arrangement already alluded to seems to have been effected with the Government; and we find the following minute on the subject:—

16th October, 1839.—Present: Messrs. Nickalls, Grant, Cartwright, Pringle and Fraser. “ A letter from the Warden withdrawing the charges against the Deputy Warden having been read, it was resolved; that, inasmuch as under the peculiar circumstances of this period, His Excellency the Lieutenant Governor has conceived it advisable, and has recommended, that the Deputy Warden should be relieved from his duties in the Provincial Penitentiary; it is Resolved, ‘ That the Board,

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

“ according with the views and suggestions of His  
“ Excellency, during whose pleasure these appoint-  
“ ments are held; are of opinion, that the continu-  
“ ance of Mr. Powers as Deputy Warden of this In-  
“ stitution would not be attended with the benefits  
“ which might be expected from his knowledge and  
“ experience in Prison buildings and discipline, and  
“ therefore recommend that he receive such gra-  
“ tuity, on ceasing to hold the office of Deputy  
“ Warden, as His Excellency may be pleased to  
“ direct.”

Resolved, “ That this Board have received at  
“ various times from Mr. Powers, the Deputy War-  
“ den, very useful and important suggestions rela-  
“ tive to the application of Convict labour, and al-  
“ terations in the buildings of the Institution, and  
“ are satisfied with his anxiety and competency to  
“ carry on the discipline of the Institution at all  
“ times; but the very peculiar circumstances of the  
“ country render it necessary that the Institution  
“ should be deprived of his services, and that his  
“ releasement from his present situation does not  
“ arise from any matter or thing affecting his cha-  
“ racter as an individual, or an officer of the Insti-  
“ tution.”

The matter remained in suspense, however, for several months, but, on the 1st June, 1840, Mr. Powers finally left the Penitentiary, having received a gratuity of £300 as compensation for the loss of his situation.

On the 12th September following, the services of the majority of the Board of Inspectors were also dispensed with by letter from the Provincial Secretary, of which the following is a copy:—

“ GOVERNMENT HOUSE,  
“ Toronto, 12th September, 1840.

“ SIR,

“ I have the honour to acquaint you, that the sub-  
“ ject of the Provincial Penitentiary has lately en-  
“ gaged the Governor General's attention, and that  
“ after the fullest consideration of the whole matter,  
“ His Excellency has, however, reluctantly been in-  
“ duced to conclude that the interests of the Insti-  
“ tution will be best promoted by the organization  
“ of a new Board of Inspectors.

“ Instructions will therefore be issued without de-  
“ lay for the preparation of the necessary Commis-  
“ sion for that purpose, and with a view to relieve  
“ you from your present duties as an Inspector.

“ I have the honor to be,

“ Sir,

Your most obedient humble Servant,

“ S. B. HARRISON,  
“ Secretary.

“ JAMES NICKALLS, Esquire,  
“ Kingston.”

A new Commission was immediately issued, and on the 7th October, 1840, Thomas Kirkpatrick, C. W. Grant, A. M'Donell, A. Manahan, and Henry Sadlier, Esquires, held their first meeting as a Board of Inspectors; the gentleman first named being elected President.

From the removal of Mr. Powers in June 1840, to September 1841, there was no Deputy Warden,

but at the latter date Mr. Edward Utting was appointed, under the title of Assistant Warden, with £150 per annum.

On the 25th February, 1842, George Desbarats, Esquire, took his seat as an Inspector, and on 3rd April, 1843, E. Parent, Esquire, did so also, in room of Messrs. Grant and M'Donell.

On the 10th December, 1844, J. B. Marks, and R. S. Atcheson, Esquires, were appointed Inspectors, in room of Messrs. Desbarats and Parent, resigned.

Mr. Utting seems to have been scarcely installed, when disputes broke out afresh between the Warden and his Deputy; and they were kept up with but brief cessation for 5 years. Complaints preferred by the Warden against Mr. Utting were frequently before the Board, but he failed, in the opinion of the Inspectors, to establish any serious charge against him.

In June 1843, the Reverend W. M. Herchmer resigned the Chaplaincy of the Penitentiary, and the Reverend R. V. Rogers, who had acted for sometime in the absence of Mr. Herchmer, was appointed his successor.

In the annual Report of 1843, the Chaplain urged the importance of establishing a daily School in the Penitentiary, and also that some place in the Prison should be set aside as a Chapel.

In the same Report the Inspectors brought under the notice of the Government, the necessity which had arisen from the Union of the Provinces for the appointment of a Roman Catholic Chaplain.

In the annual Report for 1844, the following passages occur in the Chaplain's letter to the Board of Inspectors:—

“ The Chaplain considers that his Report should  
“ bring into view whatever he may consider detri-  
“ mental to the moral design of the Penitentiary,  
“ and therefore, although the execution of discip-  
“ line is not within his province, yet the manner  
“ of that execution, materially affecting his depart-  
“ ment, forces itself on his attention. It must be  
“ self-evident, that either of the two extremes in  
“ the internal government most materially inter-  
“ feres with the effect of religious instruction on  
“ the mind of the governed. More than one il-  
“ lustration of this has offered itself during the  
“ past year, proving the vast importance of the  
“ character of all the Officers of the Institution.  
“ They should be temperate men, men of un-  
“ ceasing vigilance, of pure and chaste conversation,  
“ possessing great benevolence, men who fear God.  
“ Less than this they ought not to be, who are to  
“ enforce by their example those lessons in morals  
“ and religion which it is the Chaplain's office to  
“ give. Less than this, and the Penitentiary will  
“ continue to be a prison it is true, but not a  
“ School of Reform.

“ In connexion with this foregoing observation,  
“ the Chaplain desires to record his conviction of the  
“ injuries to the moral senses of the Convicts, arising  
“ from the prevailing practice of the admission of  
“ visitors,—especially to those of the females. The  
“ language of another does not fall short in its  
“ description of what has taken place among us:—  
“ ‘The throng of visitors is incessant, and becomes  
“ ‘to the prisoners a perpetual exhibition to gaze at,

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

“ to draw them from their labour, and to relieve  
“ the tediousness of confinement.”

“ One of two consequences must follow—to render  
“ the mind callous, or unnecessarily to wound it.  
“ The effect on the females is beyond measure in-  
“ jurious. Visits of every kind should be few as  
“ possible, chiefly official; but if they cannot be al-  
“ together prevented, yet allowed at such times  
“ only, when the Convicts may be seen, but not see,  
“ at breakfast or dinner.

“ The admission of boys into our Penitentiary, to  
“ be subject to the same discipline as adults, is, the  
“ Chaplain fears, not calculated to reform, but to  
“ injure. Should not some respect be paid to the  
“ peculiarities of youth, even in a place of confine-  
“ ment? Would not the desired end be more  
“ effectually secured by a judicious admixture of  
“ school, labour, and recreation?”

A Roman Catholic Clergyman having taken under  
his charge the adherents of that church in the prison,  
application was made to Government, early in 1845,  
to know how his services were to be remunerated.  
A sum of £200 was devoted to the payment of  
religious instruction, and the Inspectors left to divide  
it as they saw proper. The Board finally appor-  
tioned £125 to the Protestant Chaplain, and £75  
to the Roman Catholic Priest.

In the Annual Report for 1845, the Chaplain  
makes the following observations:—

“ In the latter Report (1844) the hope was ex-  
“ pressed, that the Protestant Convicts would be  
“ no longer debarred the privilege of a suitable  
“ Place of Worship, as the Dining Hall offers no  
“ accommodation for the administration of the Sa-  
“ craments, and but very imperfect even for the  
“ celebration of Public Worship. The Chaplain  
“ cannot but express his deep regret, that although  
“ much labour and expense have been incurred for  
“ other objects, this, which yields to none in im-  
“ portance, remains unprovided for. He dare not  
“ withhold the expression of his fear, that attention  
“ to the coercive character of the Penitentiary has  
“ been at the expense of its being considered a  
“ School of Reform.

“ I would respectfully ask, is it this prevailing  
“ feeling on the part of the Governors of the Insti-  
“ tution, which has led to the reduction of the  
“ Chaplain's Salary, at a time when the demand for  
“ his services had so greatly increased; and when,  
“ in consequence of much additional labour both of  
“ mind and body, every other Officer had received  
“ increased remuneration? The request for more  
“ time for the Convict School, and increased ac-  
“ commodation for teaching, as well as the appoint-  
“ ment of a Master, has not been thought deserving  
“ attention.

“ The boys and youths of a tender age are still  
“ subject to the same discipline as the more mature  
“ Convict; and the Chaplain would here observe  
“ on the extraordinary fact of a Convict having been  
“ lately introduced into the Penitentiary only eight  
“ years of age; and further, that, at the present  
“ moment, three Convicts are under twelve and  
“ twelve under sixteen years old.”

“ Our Library remains dependent on private be-  
“ nevolence only for its existence; though if greatly  
“ increased, it might be rendered a very useful  
“ assistant in the moral education of the prisoner.”

Appendix  
(B.B.B.B.B.)

30th May.

“ My sincere thanks to the Board are here ten-  
“ dered, for having acceded to the Chaplain's wish  
“ for excluding visitors from the Female Depart-  
“ ment.

“ Whilst giving to the present officials all that is  
“ their due, except I were to record my conviction  
“ that the class of mind needed for superintendence  
“ should be of a higher grade, I should be unworthy  
“ of the confidence reposed in me. My full im-  
“ pression is, that the Female Superintendent should  
“ bear a relative position to the Warden himself,  
“ since much must necessarily depend on her in  
“ which even that superior officer cannot with pro-  
“ priety be consulted. The Female Superinten-  
“ dent, according to my opinion, should, both in  
“ moral and social department, and in religious and  
“ secular education, be raised to such an eminence,  
“ as that the unhappy Convict may look up to her  
“ as an example, and command obedience by moral  
“ influence rather than physical force.

“ In addition to what has been done for the  
“ females, if a similar exclusion from the male Con-  
“ victs 'of idle visitors, and visitors merely from  
“ 'curiosity,' could be effected, I am persuaded the  
“ best consequences would follow to the discipline  
“ and moral well-being of the Convict.”

The merely historical portion of our narrative  
closes in 1846, as the dismissal of Mr. Utting, the  
passage of the amended Penitentiary Act, framed  
under the advice of the Warden, the reduction of  
the salaries of certain officers under that Act, and  
the consequent resignation of the entire Board of  
Inspectors, bring before us events which demanded  
and received from us strict investigation.

In the Session of 1846 a new Penitentiary Act  
was introduced and carried through Parliament.  
By its provisions the powers of the Warden were  
greatly increased; the salaries of the Chaplain, As-  
sistant Warden, Clerk and Architect, were reduced;  
while the salary of the Warden was increased from  
£300 to £500.

The Inspectors were not consulted in any way as  
to the provisions of this Act, and did not see a copy  
of it until it became law. The Bill was brought  
into the House of Assembly by Mr. Draper; but it  
having become known that Mr. Warden Smith and  
his son, Mr. Henry Smith, M.P.P., were the framers  
of it, much feeling arose in consequence.

An attempt was made by the Inspectors to get  
the Architect's salary restored by an Order of the  
Governor in Council, but without success, and Mr.  
Coverdale resigned his situation. The Members of  
the Board of Inspectors took umbrage at the dis-  
courtesy which they conceived was shown them in  
the whole proceedings as to the new Act, and ten-  
dered their resignations to His Excellency.

The following is their letter of resignation:—

Copy.—Letter from the Inspectors Provincial Peni-  
tentiary to the Provincial Secretary.

“ KINGSTON, 4th August, 1846.

“ SIR,

“ The undersigned members of the Board of In-  
“ spectors of the Provincial Penitentiary have the

Appendix  
(B.B.B.B.B.)  
30th May.

“honour to acknowledge the receipt of Mr. Assistant Secretary Hopkirk's letter of the 28th ultimo, addressed to the President of the Board, by which they are informed that His Excellency the Governor General was advised to decline acceding to their recommendation that the Architect of the Institution should continue to receive the salary heretofore paid him, the amount allotted to that officer by the late Act being quite inadequate to recompense his services; and assigns as a reason, that His Excellency was further advised that the advanced state of the Building is likely to render unnecessary so much time and attention on the part of the Architect as has heretofore been required.

“The undersigned beg you will inform His Excellency in Council, that the works now in progress, and the other works essential to the Establishment not yet commenced, are as follows:—

“The completion of the outer Wall, and the fourth angular Tower.

“The erection of permanent fire-proof Workshops for the different trades pursued in the Institution, in which the following number of Convicts are at present employed, viz.:—88 masons, 71 stone-cutters, 19 carpenters, 24 blacksmiths, with whom 113 labourers are engaged, making a total of 315, besides those employed in the wheelrights', coopers', tailors', and shoemakers' shops; and when it is taken into consideration that the Convicts are not skilful artizans, and that the utmost attention is required on the part of the keepers to keep them at work and instruct, it will not be deemed surprising that the constant surveillance of the Architect is necessary to ensure the faithful and correct performance of the several parts of the buildings, in addition to his ordinary duties of furnishing plans and specifications.

“The works still to be performed within the precincts of the Prison are,—

- “The erection of an Hospital.
- “ of a Female Prison.
- “ of the Rope Walk.
- “ of a Dining Hall.
- “ of a Prison Kitchen.
- “ of a Protestant Place of Worship.
- “ of a Catholic Chapel.
- “ of a School House.

“Uniting the four Wings of the Building by a Rotunda and a Dome in the centre; constructing 270 Cells in the West Wing and 50 Cells in the South Wing; levelling the Yard, and forming drains throughout the Yards; levelling the Road in front of the Prison to the area of the outer Wall; constructing a Wharf of 800 feet in length; add to which, the necessity of erecting Cottages on the Penitentiary ground as residences for the several Keepers and Guards, thereby securing their presence at all times of emergency out of working hours.

“The erection and completion of the Rotunda and Dome is the most difficult and important work, and will require the utmost skill and attention on the part of the Architect; and the Board of Inspectors are of opinion, that the several works enumerated cannot be completed within a less period than four years—during which time the services of an experienced Architect will be constantly required. The undersigned communicate these facts in justification of their late recommendation,

“and to assure His Excellency that his Advisers have not drawn their information from correct sources.

“They take this opportunity to remark, that the recent Act of the Legislature consolidating and amending the laws relating to the Provincial Penitentiary, has made very important changes in the working of the interior economy of the Institution, which, from the long experience some of the undersigned have had, they fear will be productive of great confusion, and subversive of the system of controul hitherto kept by the Board of Inspectors.

“The undersigned cannot be dissuaded from the opinion, that the Act operates unjustly and injuriously in reducing the salaries of the Chaplain, the Clerk, and the Assistant Warden, or Head Keeper: on the latter Officer devolves the most onerous duties of any employed in the Institution. On his appointment, the number of Convicts in the Penitentiary did not exceed 168, and his salary was £150 per annum; at present there are nearly 500 Convicts under his care and keeping, and his salary is reduced to £125; and the undersigned cannot forbear remarking upon the impolicy of lessening the influence of that Officer in the Establishment by reducing him in grade and title from Assistant Warden to the position of Keeper, while in any event of sickness or absence of the Warden, the Act charges him with the controul of the Institution: and in connection with this subject, the undersigned would further state, that the Board of Inspectors had uniformly fixed the rates of salaries and wages under its controul at the lowest possible sums.

“The unremitted attention which the Board has always paid to the affairs of the Institution, without any remuneration whatever, and often to the detriment of their private affairs, and the knowledge which they may reasonably be supposed to have obtained of the defect of the existing law, and the requirements of the new law, induced them to suppose their suggestions would have been of some service to the framers of the new law, and the undersigned were not a little surprised when they found that the Act was framed, introduced into the Legislature, and had passed both Houses, without the slightest reference to them.

“From this circumstance, and the fact that the authority of the Board of Inspectors is superseded and rendered a complete nullity by the new law, the undersigned feeling that the public will look to them for the faithful performance of the above works, which they are satisfied the partial attention of an Architect will not ensure, are induced to believe that His Excellency has no confidence in them as members of the present Board: they therefore beg you will place this communication before the Governor General, with their respectful request, that His Excellency will be pleased to relieve them from their trust.

“The undersigned have the honour,  
“ &c. &c. &c.,

“(Signed,) THOS. KIRKPATRICK,  
“ President.

“ ANTHONY MANAHAN.  
“ HENRY SADLIER.  
“ JOHN B. MARKS.

“A true copy from the Inspectors' Minute Book.  
“(Signed,) F. BICKERTON,  
“ Clerk.”

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

The history of the Penitentiary Act, referred to, is given in the evidence of Henry Smith, Esquire, M.P.P., son of the Warden, as follows:—

By the Warden:—

“Witness suggested to the Warden his (witnesses’s) intention of bringing in a new Penitentiary Act; did so in 1846, and long previously; asked the Warden’s opinion in drawing up the Bill on several points witness was not familiar with; did not introduce the Bill himself; having conversed with the Warden, witness thought it better that the Government should introduce it, and previous to the meeting of Parliament in 1846, witness wrote to the Attorney General Draper, and gave him a synopsis of the Bill, and thinks also a copy of the Bill. At the meeting of Parliament Mr. Draper returned the draft of the Bill with a good many alterations; witness approved of them, and the Bill was then introduced by Mr. Draper. No opposition was shown to the Bill by either side of the House. The Bill was introduced in blank, as regards the Salaries of the Officers; gave Mr. Draper a list of the Salaries, which he lost, and applied to witness for another; witness went to the Journals of the House of a previous Session, and filled up the blanks in a copy of the Bill, with the sums then paid to each of the Officers, with the exception of the Warden, and Chaplain, and Priest; Mr. Draper moved all the Salaries in Committee; Mr. Draper moved £500 as the Salary of the Warden, which was passed; witness then observed, that changes had been made in several of the Salaries, and went to Mr. Draper and reasoned with him on the subject; Mr. Draper insisted on the reductions he had made, and they were all carried; witness never heard of any reduction being intended until the Bill was in Committee. In the time of Lord Sydenham, the Inspectors in their annual Report to Government recommended that the Warden’s Salary should be increased; thinks there was twice a recommendation to that effect. The Warden wrote to witness, remonstrating against the reduction of Salaries, especially about the Architect’s, the Clerk’s and the Assistant Warden’s Salaries; but the Bill was then through Committee and could not be altered. Witness learned afterwards from Mr. Draper that the reason why Mr. Coverdale’s Salary was reduced, was because it had reached Mr. Draper, that the Architect was not entirely dependent on his Salary from the Penitentiary, but did work outside for various parties.

“Sent the Warden a copy of the Act after its first reading; it was sent for his own private use.”

By Commissioners:—

Q. What alterations did Mr. Draper make on the Draft of the Penitentiary Act, which you handed to him?

A. He struck out a clause that witness had inserted, giving a seat and vote to the Warden at all meetings of the Board of Inspectors. Witness, at the Warden’s suggestion, had put in a clause reducing the length of imprisonment of Convicts, according to a certain scale, on the report of the Warden as to their good behaviour, which was also struck out. Witness had also inserted a clause lengthening the imprisonment of Convicts, according to their bad behaviour, as reported by the Warden. Other alterations, but not very material, were also made, but witness has forgotten their import; there was one alteration as to the Architect being an Officer of the Penitentiary.

Q. Did the Bill pass as introduced by Mr. Draper, or were there any amendments made on it by the House?

A. Thinks there were only one or two trifling amendments; and all the blanks were filled up as Mr. Draper moved them.

Q. Did you oppose the reductions proposed by Mr. Draper on the salaries of the Clerk, Chaplain, Architect, and Assistant Warden, from your seat in the House?

A. No.

Q. When you were so much opposed to these reductions, and were probably the only Member of the House who understood the real position of these officers, why was it that you did not explain your views to the House?

A. Objects to answer that question; does not conceive he is here to give an account of his public conduct to the Commissioners.

Q. Was it understood that the copy of the Bill you sent the Warden was to be concealed from the Inspectors?

A. No; quite understood it was to be as open as any other Bill.

Q. Did any of the Inspectors apply to you for a copy of the Bill?

A. No.

By Mr. Smith:—

“There was a clause in the amended Act, giving power to the Warden to increase the sentence of a prisoner who had been previously in the Penitentiary unknown to the Court sentencing him; Mr. Draper struck this out.”

“None of the Inspectors expressed any dissatisfaction to witness with the new Penitentiary Act, except Major Sadlier, who was not satisfied with the reduction on Mr. Coverdale’s salary.

“Had a conversation with Mr. Coverdale about the reduction of his salary, after returning from Montreal; went to see Mr. Coverdale, as he had heard Mr. C. was about to resign; pressed him not to do so, and witness said he would endeavour to have his salary restored; does not recollect of applying afterwards to the Administration to increase Mr. Coverdale’s salary; he resigned immediately afterwards.”

By Commissioners:—

“Is not aware that the Kirkpatrick Board of Inspectors resigned in consequence of the passing of the Act so often referred to; understood from Major Sadlier that if Mr. Coverdale’s Salary had been restored the Inspectors would not have resigned.”

Constant misunderstandings continued to exist between the Warden and Mr. Utting, the Assistant Warden; but notwithstanding the reduction of his salary, and the importance of the office he held, by the new Act, the latter did not resign his situation; and while the resignation of the Inspectors was still before Government, the Warden removed him from his situation and preferred formal charges against him before the Inspectors. These charges were investigated by the Inspectors on 12th October, 1846, and

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

a decision pronounced on them. Only three Inspectors were present, two of whom did not feel at liberty to dissent from the step the Warden had taken in the removal of Mr. Utting, while the third disapproved of his removal. The Board, however, entertained a doubt as to whether a majority of a meeting attended only by three Inspectors could legally act, and they instructed the Warden to state the whole case to the Governor General. Mr. Smith thereupon addressed the following letter to His Excellency:—

“PROVINCIAL PENITENTIARY,

“17th October, 1846.

“Sir,

“I have the honor to forward for the consideration of the Governor General, in pursuance to the Statute 9th Victoria, chap. 4, sec. 6, a copy of the proceedings had by the Board of Inspectors, of this Institution, in the case of Mr. Edward Utting, the Head Keeper of the Penitentiary, against whom it became my duty on the 25th ultimo to prefer certain charges for misconduct, and who was consequently suspended by me until the same should be inquired into, and a final decision made respecting the same.

“The charges preferred by me against Mr. Utting were as follows:—

“1st. Pulling down a quantity of the plank fence at the north-west corner of the wall, and carrying it away without the knowledge or consent of the Warden, being contrary to the 13th section of the General Rules and Regulations of the Penitentiary, and afterwards refusing to replace it when ordered so to do.

“2d. Sending out Convicts to his private dwelling and to his lot in Union Street, for the purpose of carting cordwood and lumber, without the knowledge or permission of the Warden; being contrary to their sentence as well as to the discipline of the Institution.

“3d. For giving to some person, unconnected with the Penitentiary, a statement of the punishment inflicted upon the Convicts in the month of August last, with a view, and which has led to, the publication of false and scandalous accounts in certain Newspapers published in different parts of the Province, and bringing the Institution into disrespect.

“4th. Employing Convicts to work for his private advantage, without the permission or knowledge of the Warden, and placing them in such a position that they might have effected their escape.

“For the consideration of these charges, the Board assembled at the Penitentiary on the 12th instant, and continued their sitting, by adjournment, to the 13th and 14th instant, on which day they came to the following decision:—

“Having heard the evidence adduced by the Warden in support of the charges, as well as that offered by Mr. Utting in his defence, the Board are of opinion on the several charges, as follows:

“On the first charge, they are of opinion, that Mr. Utting caused some of the fence on the west side of the Prison to be taken down without the knowledge of the Warden. They consider, however, in doing so, Mr. Utting may have supposed

“that he had authority, from the fact that he had permission of the Warden to purchase some other old lumber which had formed part of the fence on the east side. With respect to his refusal to replace it, they consider that he virtually complied with the order, by proceeding to make good the fence in another place with other materials, the old stuff having been sawn into studs.’

“On the second charge, the Board are of opinion, that the Convicts were very improperly taken off the ground of the Institution, and thereby unnecessarily exposed to escape; they do not, however, impute any mercenary motive to Mr. Utting in doing so.’

“The third charge, the Board conceive, is not supported by any evidence which it would be safe to rely on.’

“With regard to the fourth charge, the Board are of opinion that there is no evidence to satisfy them that any work was done for Mr. Utting by Convicts, for which he has not been charged; and with regard to the latter part of the charge, they consider that the Convicts were not more exposed to an escape in collecting the pickets for Mr. Utting, than they were in pulling down the rest of the fence.

“Having thus expressed their opinion on the several charges, two Members of the Board consider that the facts of the case would not warrant them in dissenting from the removal of Mr. Utting by the Warden; the other Member present is of opinion, that the punishment of dismissal is too severe for the offence.’”

“In the examination of these charges there were three Inspectors present, but as the Board are not satisfied how far they are competent with that number to act in the affairs of the Penitentiary, according to the terms of the Statute before mentioned, and although a majority of those present concur with the Warden in the necessity of Mr. Utting’s removal from his situation, they prefer that the matter should be first submitted to the decision of His Excellency. They have to state that the cause of a full meeting of the Inspectors not having taken place in this case was occasioned by the absence of Mr. Atcheson, who has never appeared at the Board since his appointment, and the cessation of Mr. Manahan to take any share in their proceedings for some time past. Hitherto, however, the Board when composed of three Members, being a majority of the whole, have felt no hesitation in acting when called together, at their regular bi-monthly meetings.

“I cannot omit to state, for His Excellency’s consideration, the absconding of one of the Guards of this Establishment, (Robert Thompson); this man superintended nearly all the work done within the last month for Mr. Utting, and would therefore have been a material witness in substantiating the 1st and 4th charges.

“It appears that Thompson, in company with another Guard, went on the 27th ultimo, two days after the charges were preferred, to Mr. Utting’s house, where they drank some spirituous liquors, and that one of them returned in a state of intoxication.

“In order to account for the absence of Thompson, I have made every enquiry, and I learn from his wife, that he said, immediately previous to his

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

“going away, that he knew a great deal about Mr. Utting, and therefore did not like to appear as a witness against him. I beg to observe that I do not state this as evidence, although it might have been made so, had not I felt a repugnance to produce Mrs. Thompson to testify against her husband. From this, I trust it will not be deemed too great an assumption, to suppose that Thompson has been purposely kept out of the way.

“Among the Convicts sent by Mr. Utting, as stated in the second charge, were two soldiers who had been tried for desertion, and sentenced to two years imprisonment; the term of one of whose confinement does not expire until the 2d of September 1847. The sentences of some of the other Convicts so taken out, do not expire until the months of March and October 1848, so that the length of their imprisonment was a strong temptation to effect their escape. The distance from the Penitentiary to Mr. Utting's house, as well as to his Lot, is each about half a mile.

“I beg leave further to state, for His Excellency's information, that in the month of March 1845, the conduct of Mr. Utting, who then held the rank of Assistant Warden, was so improper, that I felt it my duty to prefer the following charges against him:—

“1st. Using insulting language to the Warden, when told he was absent without leave.

“2nd. Holding improper intercourse with the Convicts.

“3rd. Pampering with witnesses prior to their coming before the Board of Inspectors.

“4th. Endeavouring to subvert the authority of the Warden, and lower him in the opinion of the Convicts.

“5th. Unnecessarily dispiriting the Convicts, by using harsh and improper language to them.

“6th. Informing a Convict of the proceedings of the Board of Inspectors.

“7th. Using profane, violent, and unbecoming language, before the Keepers and Guards.

“8th. Insubordination when receiving an order from the Warden, and making an improper reply thereto.

“9th. Endangering the safety of the Institution, by informing a Convict there was a disunion among the Keepers and Guards.

“Of the 1st, 2nd, 4th, and 7th charges, he was declared by the Board to be guilty; and, as the evidence given on the other charges was principally that of Convicts, the Board did not consider them to be proved. On that account he was ordered to be admonished, and in doing so, the President of the Board informed Mr. Utting, that it was only in consideration of his family that he was not dismissed from his situation, and a minute to that effect was made.

“After the repeated complaints it has been my unpleasant duty to make against Mr. Utting, at the several times he has been reprimanded by the Board, it is hardly necessary to say, that I have ceased to have any confidence in him, and, although his duty is clearly defined in the 22nd Clause of the

before mentioned Statute, as well as in the Rules of the Institution, it has too frequently occurred that he has acted without any directions given by me, or contrary to those issued.

“I have, therefore, most respectfully to submit, for His Excellency's consideration, the necessity of removing Mr. Utting from his situation in the Penitentiary, as conducive to the proper management of the Institution.

“I have the honour to be,  
&c. &c. &c.,

“(Signed,) H. SMITH,  
“Warden.

“Honourable D. DALY,  
“&c. &c. &c.”

The statements made in this letter will come up hereafter, under the head of false representations.

The reply of the Government was in the following terms:—

“SECRETARY'S OFFICE,  
“Montreal 21st October, 1846.

“SIR,

“I have the honour, by command of the Governor General, to acknowledge the receipt of your letter of the 17th instant, forwarding a statement of the proceedings had by the Board of Inspectors of the Penitentiary in the case of Edward Utting, the Head Keeper.

“In reply, I am to acquaint you, that His Excellency having given the whole subject of the charges brought against Mr. Utting, with the opinion of the Board thereon, his most careful and attentive consideration, sees no reason to doubt that it is necessary for the preservation of due discipline in the Penitentiary, and for the public interest, that Mr. Utting be permanently removed from his late office. He therefore concurs in opinion with yourself and the majority of the Inspectors present at the investigation, as to the propriety of his immediate dismissal.

“I am to add, that the subject of the present state of the Board of Inspectors, in consequence of the resignation of some of the members, will not fail to receive His Excellency's early consideration.

“I have the honour to be,

“Sir,

“Your most obedient Servant,

“(Signed,) JAMES HOPKIRK,  
Assistant Secretary.

“H. SMITH, Esquire,  
“Warden of the  
“Provl. Penitentiary,  
“Kingston.”

A good deal of evidence was received on the subject of Mr. Utting's dismissal, some of which throws light on the affair:—

By Commissioners:—

Thomas Kirkpatrick, Esquire, states: “In instructing the Warden to refer to the Government the case of Mr. Utting, the Inspectors did not intend that he should make any state-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

"ment to the Government beyond the simple proceedings of the Board on the charges then before them; does not think the Warden ought to have introduced into his letter other charges prejudicial to Mr. Utting."

Henry Sadlier, Esquire, by Mr. Smith:—

"The majority of the Inspectors present concurred with the Warden in his removal of Mr. Utting; two of them out of three, were of opinion that the facts of the case would not warrant their dissenting from the dismissal of Mr. Utting by the Warden. The Warden was directed to make a representation on the subject to the Government. The Warden was instructed to make a fair and just representation of the facts elicited at the trial to the Government; cannot tell what representation the Warden made, as witness ceased to be an Inspector immediately after."

By Commissioners:—

Q. Was the evidence you have given to-day as to Mr. Utting's trial, founded on an inspection of the Minutes of the Board of 16th October, 1846?

A. Yes.

Q. Is that Minute signed by the Inspectors who were present?

A. No; it was the last meeting of the Board; this Minute was drawn out by Mr. Kirkpatrick on a sheet of paper, and the Warden was not present at the meeting in question, except as prosecutor against Utting; the sheet was left to be copied into the Minute Book, and has not been since signed.

Q. (Witness is shown an original draft of a Minute handed to the Commission, by the Clerk, from the records of the Institution.) Is that the sheet you refer to as having been drawn up by Mr. Kirkpatrick?

A. Thinks not; thinks this was an attempt by Mr. Kirkpatrick to reconcile the different views of the Members of the Board; believes that Mr. Kirkpatrick drew up several drafts, but that the one finally adopted was in ink, and believes that in sum and substance it was the same as the copy now in the Minute Book.

Q. Had the Warden any instructions to draw up a Minute for the Board of the proceedings of 16th October, 1846?

A. The Warden had instructions to have the document Mr. Kirkpatrick drew up copied into the Minute Book, and ready for the signature of the Inspectors.

Q. Was there any necessity for the Warden drawing up a fresh copy of the Minute, for the Clerk to copy from into the book?

A. Would conceive not; according to ordinary usage, the Minute was left ready to be copied into the book.

Q. Is the rough draft of Minute of 16th October, 1846, in the handwriting of Mr. Kirkpatrick?

A. Cannot say.

Q. Does this rough draft contain the following passage:—"Having thus expressed their opinion on the several charges, the Board consider that the

"facts of the case would not warrant them in dissenting from the removal of Mr. Utting by the Warden, though they would have considered temporary suspension as sufficient punishment for the offence, if the law had left it in the discretion of the Inspectors."

A. Yes.

By Mr. Smith:—

"Would have signed the Minute of 16th October, 1846, as it now stands in the book without any hesitation."

On 31st October, 1846, the Inspectors were relieved of their duties, and a new Board appointed in their room, consisting of Thomas A. Corbett, Esq., President; James A. M'Farlane, Esq.; George W. Yarker, Esq.; George Baker, Esq. And shortly after his removal to Kingston, James Hopkirk, Esq., was added to the number.

Some time after, two vacancies in the Board occurred, by the deaths of Mr. M'Farlane and Mr. Yarker; one of them was filled by the appointment of Henry Gildersleeve, Esq., but the other was never filled up.

All these circumstances contributed to create discord in the Penitentiary. Parties as well inside as outside the Prison, seem to have sympathized with one side or the other, and the impression that the new Board was very favourable to what has been commonly designated "the Smith influence," did not tend to harmonize matters.

One of the first steps of the new Board was to elevate Thomas Costen, a person who came to the Prison as a Watchman, and afterwards became Quarry-keeper, and finally Kitchen-keeper, to the responsible office of Head-keeper, or Deputy Warden. To the vacancy thus created in the kitchen, the Warden appointed his son, Mr. Francis William Smith, which appointment was afterwards sanctioned by the Inspectors. It has been alleged that this situation was only regarded as a stepping-stone for Mr. Smith, junior; and the Report of the Inspectors to the Governor General only a few weeks after his appointment, is referred to in proof of this. On the 12th December, 1846, the Inspectors thus addressed His Excellency:—

"The Board beg to suggest to Your Excellency, as an improvement in the management of the Penitentiary, the appointment of a Steward, an officer usually employed in receiving and dispensing the provisions furnished for the support of the Convicts, as well as in taking charge of the clothing and bedding of the Prisoners, with rank and salary commensurate with the importance and responsible character of the duties of his office."

It is certain that the duties here spoken of are precisely those of the Kitchen-keeper.

From individual complaints, the dissatisfaction with the management of the Penitentiary began to assume the character of a public clamour; the dismissed officers and their friends, no doubt, contributed to it, and charges of cruelty and mis-management in the Institution found their way into the public journals. Early in 1847 the Warden addressed the head of the Government, asking for an inquiry into the general conduct of the Institution.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Discord within the walls continued to increase, and two officers (Reid and Fitzgerald) having been dismissed, under what one party believed to be harsh circumstances, matters became daily worse. The Warden and Inspectors, however, continued to act cordially together. A crisis was at last brought on by Dr. Sampson, Surgeon of the Institution, preferring formal charges against the Warden's son, Kitchen-keeper F. W. Smith. An investigation ensued on these charges. Kitchen Keeper Smith was acquitted by the Inspectors. Dr. Sampson conceived that the decision was not according to the evidence, and appealed to Your Excellency for redress. The following correspondence explains the case:—

Proceedings in the matter of Dr. Sampson's complaint against Kitchen Keeper, F. W. Smith, preferred before the Board of Inspectors.

## No. 1.

Charges preferred by the Surgeon of Provincial Penitentiary, against Kitchen Keeper Francis W. Smith.

" 1st Charge.—Shooting arrows at the Convicts, whereby the Convict, John Abraham, lost an eye.

" 2nd Charge.—Improper conduct towards the Convicts.

" 3rd Charge.—Employing Convicts for his own benefit and amusement.

" 4th Charge.—Selling the Stores and Provisions of the Prison.

(Signed,) " JAS. SAMPSON,  
" Surgeon, P.P.

" KINGSTON, October 14th, 1847.

## No. 2.

Copy.—Letter, Warden to Board of Inspectors.

" PROVINCIAL PENITENTIARY,  
" 9th October, 1847.

" SIR,

" I beg to inform you that the Surgeon of the Penitentiary has this day preferred a charge against the Kitchen Keeper, F. W. Smith, for shooting an arrow at one of the Convicts, whereby he lost the sight of an eye. Dr. Sampson also stated to me that he had been informed that the keeper in question has on some occasions sold provisions belonging to the Institution, and received money for the same, and that he has been in the habit of employing Convicts to fish for him.

" As these charges are of so grave a character, it becomes my duty to lay them before the Board of Inspectors, in order that they may be inquired into, agreeable to the terms of the statute.

" I am, Sir,  
" &c. &c. &c.

(Signed,) " H. SMITH,  
" Warden.

" T. A. CORBETT, Esquire,  
" &c. &c. &c.  
" President of the Board of Inspectors,  
" P.P."

## No. 3.

Copy.—Letter, President Board of Inspectors to Warden.

" KINGSTON, 11th October, 1847.

" SIR,

" I beg to acknowledge the receipt of your letter of the 9th instant, relative to the charges preferred by the Surgeon of the Provincial Penitentiary against Kitchen Keeper F. W. Smith, and have to request you will be pleased to call a meeting of the Board at a very early day, for the purpose of taking the subject thereof into consideration.

" I am, Sir, &c.,

(Signed,) " THOMAS A. CORBETT,  
" President Board of Inspectors.

" HENRY SMITH, Esquire,  
" Warden,  
" Provincial Penitentiary.

" P.S.—Please say to-morrow at half-past three o'clock.

(Signed,) " T. A. C."

## No. 4.

Copy.—Decision of the Board of Inspectors upon the Charges against Kitchen Keeper F. W. Smith.

" PROVINCIAL PENITENTIARY,  
" 29th October, 1847.

" The Board met.—Present: T. A. Corbett, Esq., President; G. Baker, J. Hopkirk and Henry Gildersleeve, Esqrs.

" The evidence taken in support of the charges brought by the Surgeon against the Keeper F. W. Smith, as well as that produced by the accused, having been carefully taken into consideration, the Board came to the following decision on the same:

" ' 1st Charge.—Shooting arrows at the Convicts, whereby the Convict John Abraham lost an eye.'

" The Board considers that this more properly resolves itself into two separate charges, viz.:

" ' 1st. The general charge of shooting arrows at the Convicts; and

" ' 2nd. The causing the loss of Convict Abraham's eye by so shooting.'

" As to the former of these, 'The general charge of shooting arrows at the Convicts,' the Board, while they acquit Keeper Francis William Smith of any intention of hitting the Convicts with arrows, and consider the evidence as to the fact of any Convicts being hit as very contradictory, are fully satisfied that arrows have been shot within the walls of the Prison, at marks, &c.; both by Keeper Francis William Smith and by others of the Keepers and Guards, whereby Convicts may have occasionally been hit; and they take the present opportunity of expressing their highest disapprobation of all such practices, as leading to injure the discipline of the Prison, and their determination that none such shall for the future be permitted, under pain of

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

" the immediate dismissal of the parties who may be guilty of them. The Board have, however, ascertained that the use of arrows at all, within the Prison, has arisen from its having been considered necessary occasionally to shoot pigeons for the use of the sick, and they therefore desire, that for the future, whenever pigeons are required, they may be taken by some other method.

" With regard to the second and more serious part of the charge, viz., 'The causing the loss of Convict Abraham's eye,' the Board must entirely acquit Keeper Francis William Smith, it being distinctly shown by the statement of Abraham, at the time he sustained the injury to his eye, and on all other occasions, that the injury was caused by a splinter of wood getting into it while the Convict was employed in making baskets or brooms.

" 2nd. Charge.—Improper conduct to the Convicts. With regard to this charge, the Board are of opinion that Keeper Francis William Smith stands acquitted.

" 3rd. Charge.—Employing Convicts for his own benefit and amusement. The Board consider that Keeper Francis William Smith is fully acquitted of this charge.

" 4th. Charge.—Selling the Stores and Provisions of the Prison. With regard to this last and most serious charge, the Board most fully and entirely acquit Keeper Francis William Smith.

" The Board have however ascertained, that it has been a practice of long standing (indeed from the commencement of the Institution,) for the Kitchen Keeper occasionally to purchase provisions from vessels and waggons for the use of the Keepers and Guards; and as they consider that such practice is highly inexpedient, as giving rise to imputations of improper use of the Prison Stores, they direct that, for the future, all traffic in Provisions within the walls of the Prison be strictly and positively prohibited.

" The Board now direct, that a copy of the foregoing decision be furnished the Surgeon, and also the Keeper Francis William Smith.

(Signed,) " THOMAS A. CORBETT,  
" President.

" " GEO. BAKER,  
" " JAMES HOPKIRK,  
" " HENRY GILDERSLEEVE."

No. 5.

Copy.—Letter, Surgeon to President Board of Inspectors.

" KINGSTON, 1st November, 1847.

" SIR,

" I have to request, that the Board of Inspectors will be pleased to cause a Copy of the Evidence taken by them at the recent examination and Inquiry into the Charges preferred by me against Keeper F. W. Smith, to be furnished to me as soon as convenient.

" I have the honour to be,

" Sir,

" &c. &c. &c.,

(Signed,) " JAS. SAMPSON,

" Surgeon.

" T. A. CORBETT, Esquire,  
" Chairman."

No. 6.

Copy.—Letter, Warden to Surgeon.

" PROVINCIAL PENITENTIARY,  
" 4th November, 1847.

" SIR,

" I am directed by the Board of Inspectors to acknowledge the receipt of your letter of the 1st instant to the President, and I beg to inform you that the Board do not consider they would be justified in complying with your request, to cause a copy of the evidence taken by them at the recent examination and inquiry into the charges preferred by you against the Keeper, Francis W. Smith, to be furnished you.

" I am, Sir,

" Your most obedient Servant,

" (Signed,) H. SMITH,  
" Warden.

" JAMES SAMPSON, Esquire,  
" &c. &c. &c."

No. 7.

Copy.—Letter, Surgeon to Provincial Secretary.

" KINGSTON, 10th November, 1847.

" SIR,

" Having in the course of my daily attendance at the Provincial Penitentiary been informed that certain irregularities had been, from time to time, committed by one of the Keepers, I made a complaint of the same to the Warden, who reported the circumstances to the Board of Inspectors; by whom I was afterwards directed to make specific charges of the offences complained of, a copy of which will be found in the accompanying documents marked No. 1.

" The Board of Inspectors met on the 16th ultimo, heard the evidence in support of the charges, as well as that adduced by the defendant; and on the 29th I was furnished with a copy of their verdict, of which the accompanying document No. 2 is a copy.

" On the 1st instant, I addressed the Board, through the President, requesting a copy of the evidence taken by them on the inquiry into the charges against the Keeper; and to this request an answer was returned, a copy of which will be found in document No. 3.

" It will be perceived that the charges are of a serious nature, and such as no person should be pardoned for preferring, without good foundation for his complaint; and I fear that it may appear by the verdict of the Inspectors, that I stand in the position of a groundless accuser.

" The community is well aware of the decision of the Inspectors: but as the case was heard in a closed Court, when none but the parties immediately concerned could witness the proceedings, the public are not informed, by a knowledge of the evidence produced on the investigation, how far I was justified in making the accusation.

" I have, therefore, the honour to address you, in the hope that His Excellency the Governor Gene-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

“ral will be pleased to take the case into his consideration, and to direct the Board of Inspectors to furnish me with an authenticated copy of the evidence taken on the late inquiry into a complaint preferred by me on the 14th ultimo against Francis W. Smith, Kitchen Keeper of the Provincial Penitentiary.

“I should furthermore humbly suggest, that His Excellency would be pleased to call for, and examine the original evidence taken by the Inspectors on the said inquiry, as I cannot but consider, that should His Excellency see fit to impose on himself the trouble, the result of such a perusal might prove beneficial to the interest of the Institution.

“I have the honour to be,

“Sir,

“Your most obedient Servant,

“(Signed,) JAS. SAMPSON, M.D.,  
“Surgeon Provl. Penitentiary.

“To the Honourable  
“DOMINICK DALY,  
“Provincial Secretary.”

No. 8.

Copy.—Letter, Assistant Provincial Secretary to President Board of Inspectors.

“SECRETARY’S OFFICE,  
“23rd November, 1847.

“SIR,

“I am commanded by the Governor General to inform you, that the subject of certain charges preferred by the Surgeon of the Provincial Penitentiary, against the Kitchen Keeper of that Institution, together with the decision of the Board of Inspectors thereon, has been brought under His Excellency’s notice, and I am directed by His Excellency to request you will cause me to be furnished, for His Excellency’s information, with a copy of the evidence taken before the Board in the investigation of these charges, and upon which their Report thereon was founded.

“I have, &c.,

“(Signed,) “E. A. MEREDITH,  
“Assistant Secretary.

“T. A. CORBETT, Esq.,  
“President, Inspectors of Penitentiary,  
“Kingston.

No. 9.

Copy.—Letter, President Board of Inspectors to Provincial Secretary.

“KINGSTON, 27th November, 1847.

“SIR,

“I have the honour to acknowledge the receipt of your letter of the 23rd instant, informing me that the subject of certain charges preferred by the Surgeon of the Provincial Penitentiary against the Kitchen Keeper of that Institution, together with the decision of the Inspectors thereon, has been brought under the notice of the Governor General, and that you have been directed by His Excellency, to request that you might be furnished, for his in-

formation, with a copy of the evidence taken before the Board in the investigation of those charges, and upon which that Report was founded.

Appendix  
(B.B.B.B.B.)

30th May.

“In reply, I am in the name of the Board to refer you to the Statute 9th Vic., Chap. 4, from which, you will perceive, that although the Board of Inspectors may, to a certain extent, be considered to have been erected into a Court for the purpose of investigating any alleged improper conduct on the part of any Officer of the Institution, and to decide thereon, yet they are not constituted a Court of Record, and are consequently not required to commit to writing the evidence brought before them; although therefore, it has been customary for each Member to take notes of the evidence for his own use, such notes have not always been preserved.

“On these grounds, therefore, the Inspectors on an application being made to them by the Surgeon for a copy of the evidence, felt bound to decline acceding to his request.

“As, however, in the present instance, one of the Members of the Board was requested by the others to take notes of the evidence for reference on forming their decision, and did accordingly take pretty full notes of what was considered relevant to the case, which the Board are happy to say, have been authenticated and preserved, they will have much pleasure in complying with the Governor General’s desire to be furnished with a copy as soon as that Member can make it.

“The Board at the same time are led to conclude, both from the tenor of your letter and from statements which have reached them from other quarters, that their decision on the case in question formed a subject of complaint against them to His Excellency. And as they have been informed that it has been the uniform practice in all cases where it has been considered proper to take any notice of a complaint against a public Officer or Body, to furnish the Parties complained of with a copy of the complaint, as a matter of justice to them, and to enable them to make such remarks thereon as they may consider necessary for their justification, the Board feel assured that this equitable Rule will not be departed from on the present occasion; and therefore would, through me, respectfully request that they may be furnished with a copy of the communication which has led to their being called on to furnish the evidence in question.

“I have the honour to be,

“Sir,

“Your most obedient Servant,

“(Signed,) “THOMAS A. CORBETT,  
“Pres. of the Board of Ins. Prov. Pen.

“Honourable D. DALY,  
“&c. &c. &c.,  
“Provincial Secretary,  
“Montreal.

No. 10.

Copy.—Letter, President Board of Inspectors to Provincial Secretary.

“KINGSTON, 3rd December, 1847.

“SIR,

“Without waiting the receipt of the copy of the communication to His Excellency the Governor

Appendix  
B.B.B.B.B.)  
30th May.

“ General, which I requested in my letter of the  
“ 27th ultimo, and with which I trust I shall be  
“ speedily favoured, I have now the honour, in ac-  
“ cordance with the promise contained in that letter,  
“ to forward to you, for the information of His Ex-  
“ cellency, a copy of the Minutes of Evidence taken  
“ on the investigation of the charges lately preferred  
“ by the Surgeon of the Provincial Penitentiary,  
“ against the Kitchen Keeper of that Institution; and  
“ I am at the same time directed by the Board of  
“ Inspectors, to accompany it with copies of the  
“ charges themselves, and of the decision of the  
“ Board thereon.

“ With regard to the first charge, that of causing  
“ the loss of Convict Abraham’s eye, His Excel-  
“ lency will perceive that the only evidence in sup-  
“ port of it, is that of a discharged Convict, a negro  
“ named Henry Wilson, who is completely contra-  
“ dicted by many witnesses, both as to the spot where  
“ the Convict worked at the time he received the in-  
“ jury, and where it would have been impossible for  
“ the witness to perceive the alleged transaction had  
“ it occurred, and by the repeated statements of the  
“ injured party himself, who is proved by the evi-  
“ dence of no less than eleven witnesses, to have uni-  
“ formly stated, both at the time and subsequent to  
“ receiving the hurt, that it was caused by a splinter  
“ getting into his eye; and even the witness Wilson’s  
“ own statement, proved to have been made to the  
“ Hospital Keeper at the time, gives a very doubtful  
“ account of the matter, and it may be further re-  
“ marked that the Convict Abraham was discharged  
“ from the Penitentiary nearly six months before the  
“ charges were preferred, and that not having been  
“ brought before the Board, they had no opportunity  
“ of examining him on oath, and could therefore only  
“ form their conclusions from the statements proved  
“ to have been made by him at the time.

“ It will also be seen from the evidence, and ought  
“ therefore perhaps to be mentioned, that it was  
“ argued by the accused, not only that he never in-  
“ jured the man’s eye, but that the injury to it caused  
“ by the splinter was slight, and might have had no  
“ serious consequences, had it been properly treated;  
“ that the Surgeon, as appears from the evidence,  
“ did not see the eye till ten days or a fortnight after  
“ the Convict first applied for assistance, during  
“ which time it was treated by the Hospital Keeper  
“ as a contusion, notwithstanding the Patient’s own  
“ statement of its having been caused by a splinter.  
“ The Board, however, did not take this argument  
“ into consideration, in arriving at their conclusion.

“ The Board might have rested their decision here  
“ on the first charge, as framed by the prosecutor,  
“ but they considered it their duty to go further and  
“ to enquire into the fact, whether arrows had been  
“ fired within the walls of the Penitentiary, inde-  
“ pendent of that part of the charge which relates  
“ to the Convict’s eye; and although the testimony  
“ of nine of the witnesses would tend to show that  
“ Convicts were fired at, and hit by arrows—an equal  
“ amount of evidence was produced tending to dis-  
“ prove this. And with regard to the testimony of  
“ Terence M’Garvey, the witness on whom, from his  
“ situation in the Institution, they must otherwise  
“ have placed the most reliance, it is within the  
“ knowledge of the Board, that he could not, from  
“ the position in which he describes himself to have  
“ been at the time, have seen an arrow fired from the  
“ tailor’s shop.

“ The only conclusion, therefore, at which the  
“ Board could arrive, was, that arrows had been shot

“ at pigeons, &c. in the yard, by the Kitchen Keeper  
“ and other Officers; and as this was a practice of  
“ which the Board entirely disapproved, they gave  
“ peremptory orders for its immediate discontinuance.

“ In support of the second charge, of taking im-  
“ proper liberties with Convicts; the evidence pro-  
“ duced was that of the late Matron, but her testi-  
“ mony was so indistinct that no reliance could be  
“ placed on it, as she could neither tell when the  
“ liberty said to have been taken with female Con-  
“ victs occurred,—the name of the Convict with  
“ whom it was taken,—nor on her first examination  
“ could she mention what other officers were pre-  
“ sent; although on her re-examination she swore to  
“ the Head Keeper’s having been along with the ac-  
“ cused on the occasion referred to; and from his  
“ evidence it appears that he was, as he distinctly  
“ swears that he was along with the Kitchen Keeper  
“ both on that, and the only other occasion when he  
“ was within the walls of the Female Prison, and  
“ that not only did no such occurrence take place,  
“ but that it was impossible for it to have taken place  
“ without his having seen it; and the Board could  
“ not but place great reliance on the Head Keeper’s  
“ evidence, from the excellence of his character, and  
“ the distinct and positive manner in which it was  
“ given.

“ The Board also could not but remark, that the  
“ Matron was, by her oath of office, as well as by  
“ the rules of the Institution, bound to have reported  
“ the occurrence at the time it was said to have taken  
“ place, which on her examination she admitted she  
“ had not done.

“ Some of the witnesses have sworn to acts of an-  
“ noyance on Convicts when confined in the box;  
“ but these were disproved by the parties themselves  
“ who are said to have been aggrieved; and more-  
“ over the Board, of their own knowledge, can say  
“ that the testimony of Wilson, as to his having,  
“ when confined, seen the accused perpetrate those  
“ acts, is false, as no person on either of the galleries  
“ can be seen from the boxes; and it is moreover dis-  
“ tinctly proved by the evidence of two highly re-  
“ spectable witnesses, Samuel Pollard and George  
“ Sexton; that the perpetrator of these very acts  
“ was Fitzgerald, one of the witnesses produced in  
“ support of the prosecution, a Guard who was a con-  
“ siderable time before this investigation dismissed  
“ for improper conduct. Moreover the only evidence  
“ tending to show that the accused was guilty of  
“ such acts of annoyance, beyond that of Convicts,  
“ were those of the same Fitzgerald, and another  
“ Guard who has also been dismissed for improper  
“ conduct, and who, if the facts they state were true,  
“ were guilty of a breach of duty, as well as a viola-  
“ tion of their oath of office, for not reporting them  
“ at the time, which they do not pretend to say they  
“ did.

“ The third charge the Board considered of so  
“ frivolous a nature, that they fully acquitted the  
“ accused of any improper conduct in the matter;—  
“ the whole having been founded in the gratification  
“ of a Convict’s request to learn to make nets, and  
“ the time employed in teaching him having been  
“ when the Convict, who was a Kitchen Waiter, had  
“ finished his day’s work, and that too with the con-  
“ sent of the Head Keeper.

“ The fourth charge the Board considered as by  
“ far the most serious of the whole. But after a most  
“ patient and careful examination of it, they felt  
“ bound wholly to acquit the accused;—sufficient

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

" proof having been adduced to show that the Prison  
" Stores had in no instance been sold by the Kitchen  
" Keeper.

" It appears, however, to have been the practice,  
" from the commencement of the Institution, to per-  
" mit the officers of the Establishment to purchase  
" from waggons and boats bringing supplies to the  
" Penitentiary, such provisions as they might require  
" for the use of their families. It appears also to  
" have been the practice of the several successive  
" Kitchen Keepers from time to time, to purchase  
" provisions, in order to supply the Keepers and  
" Guards of the Institution for the convenience and  
" at the request of these officers; as such a practice  
" has however given rise to misconception, and  
" may lead to abuses, the Board thought it right to  
" direct its discontinuance.

" In the course of the investigation it was promi-  
" nently brought under the notice of the Board, and  
" strongly urged by the accused, that the prosecutor,  
" in bringing the charges forward, was actuated by  
" malicious motives, and that the whole accusations  
" took their rise in consequence of the presentation  
" to the Board of a Petition, of which I enclose a  
" copy, from the Officers of the Institution, com-  
" plaining that the irregular attendance of the Sur-  
" geon interfered with their dinner hour, and that  
" they were subjected to much inconvenience in con-  
" sequence—which Petition was written by the ac-  
" cused, by the request of his brother Officers; that  
" there was a reasonable coincidence between the  
" time when the fact of the accused having been the  
" author of this Petition came to the prosecutor's  
" knowledge, and the time when these accusations  
" relative to circumstances of an old date were first  
" brought forward; that they were supported by the  
" evidence of discharged Convicts and dismissed Of-  
" ficers of the Institution, some of whom the prose-  
" cutor had provided with situations, and for others  
" of whom he was using his influence; that he had  
" delivered letters desiring parties to come forward  
" to support his charges, &c. The Board, however,  
" considers it due to themselves to state, that they  
" thought it right to throw all such circumstances  
" entirely out of view, and, without questioning the  
" motives which had led to the preferring of the  
" charges, to go into a full and careful examination  
" of them, and to come to an impartial decision  
" thereon.

" These are the only remarks which the Board  
" have thought it requisite to accompany the docu-  
" ments now transmitted. Should it, however, appear  
" necessary for them, on the receipt of the copy of  
" the communication to the Governor General for  
" which they have applied, to add anything further,  
" they trust His Excellency will permit them to do  
" so.

" I have the honour to be,

" Sir,

" Your most obedient Servant,

" (Signed,) THOMAS A. CORBETT,  
" President Board of Inspectors,  
" Provl. Penitentiary.

" Honourable  
" D. DALY,  
" &c. &c. &c."

No. 11.

Appendix  
(B.B.B.B.B.)  
30th May.

Copy.—Letter, Assistant Provincial Secretary to  
President Board of Inspectors.

" SECRETARY'S OFFICE,  
" Montreal, 9th Dec. 1847.

" SIR,

" I have the honour, by command of the Governor  
" General, to acknowledge the receipt of your letter  
" of 27th ultimo, in reply to my communication of  
" the 23d ultimo, upon the subject of certain charges  
" lately preferred by the Surgeon of the Provincial  
" Penitentiary against the Kitchen Keeper of that  
" Institution, and in compliance with the request  
" made by you on behalf of the Board of Inspectors,  
" that they should be furnished with a copy of the  
" communication which led to their being called upon  
" to transmit the evidence referred to in my letter of  
" the 23rd ultimo, I have the honour to transmit, for  
" the information of the Board, a copy of the letter  
" from Dr. Sampson which occasioned mine of the  
" 23rd ultimo; the several documents alluded to in  
" Dr. Sampson's communication are among those  
" forwarded by you with your letter of the 3rd inst.

" I have the honour to be,

" Sir,

" Your most obedient Servant,

(Signed,) " E. A. MEREDITH.

" THOMAS A. CORBETT, Esq.,  
" President of the Board of Inspectors,  
" Provincial Penitentiary,  
" Kingston."

In the course of our proceedings, Mr. Hopkirk,  
on behalf of the Board of Inspectors, preferred cer-  
tain charges against Dr. Sampson before us. One  
of which was for refusing to appear before the Board  
of Inspectors; Dr. Sampson strove to justify his  
refusal on the ground that he had been subjected to  
a series of persecutions by the Board, that he could  
not expect justice at their hands, and that he had  
referred the whole matter between them to Your  
Excellency. To show the injustice he had received  
from the Inspectors, Dr. Sampson called Judge  
Kirkpatrick to prove that the Inspectors were not  
justified in acquitting Smith on the evidence before  
them. The evidence of this gentleman was given  
as follows (Mr. Hopkirk, on behalf of the Inspectors,  
being present):—

By Dr. Sampson:—

" Is Judge of the Midland District Court; has  
" been so between four and five years; is a Barrister  
" of Upper Canada of 14 years standing.

" Has examined the Depositions taken by the  
" Board of Inspectors of the Provincial Penitentiary,  
" on the trial of the charges preferred by Dr. Samp-  
" son against Francis W. Smith, in October, 1847;  
" has also perused the decision of the Board of In-  
" spectors thereon. In witness's opinion, the judg-  
" ment of the Board was not in accordance with the  
" evidence before them."

It was agreed, by consent of all parties, that Mr.  
Kirkpatrick should be allowed to put his reasons in  
writing for expressing the opinion he had given on  
the evidence before the Board of Inspectors, and that  
said document shall form part of the evidence in Dr.  
Sampson's defence. Mr. Kirkpatrick withdrew for  
that purpose.

Appendix

(B.B.B.B.B.)

30th May.

Resumed—

“ Witness gave in a written statement in the following words:—

“ My reasons for forming the opinion I have done (on the proceedings in the trial of Kitchen Keeper Francis W. Smith), are as follows: I consider that there is ample direct proof, uncontradicted and unimpeached, that Keeper Francis W. Smith has been guilty of improper conduct to Convicts, in shooting at them with arrows, throwing water on them, throwing water or potatoes at them, sticking pins into them, knocking the heads of Convicts together, cruelty to Convicts while confined in the box, shooting arrows at or near the Hospital to the annoyance of Convicts confined there, some of whom were in a dying state; the witnesses who prove these charges have not been contradicted, otherwise than by the testimony of persons who swear that they did not see any of the acts alluded to, committed, which is not, in my opinion, receivable to rebut direct affirmative proof.

“ On the charge for employing Convicts for his own purposes, I consider that it is directly proved, that Keeper Francis W. Smith did employ Convicts to collect his arrows and wind twine; there is also direct evidence that a Convict has been seen with him fishing, although it does not appear that such Convict was doing any act assisting said Smith.

“ On the charge for injuring Convict Abraham's eye with an arrow, and thereby causing the loss of his sight, I consider the evidence contradictory, but in my opinion it strongly preponderates towards establishing the guilt of said Smith. In support of the charge, there is the testimony of Convict Wilson, who swears he saw the arrow fired which struck Abraham in the eye, by Keeper Francis W. Smith,—that said Smith immediately went up to Abraham and spoke to him.

“ There is also the evidence of Hospital Assistant Julien, who swears to the nature of the injury which the eye received—that it was a contusion, a description of hurt which, in my opinion, could not be created by the cause alleged by Abraham.

“ On the other hand, there are the statements made by Abraham, not under oath, or before the Inspectors, that the hurt was occasioned by a splinter or shaving while making baskets.

“ The inference that I draw from this is, that Convict Abraham was under duress, and afraid that if he gave information against Keeper Smith, his comfort, while he remained in the Prison, might be prejudiced.

“ On the charge of selling Prison Stores, I consider that it is proved, and not denied that Keeper Smith sold stores in the premises, and that such stores must be taken to be the public stores until the contrary was proved, which might easily have been done, by calling any one or more of the Contractors, or other persons from whom Keeper Smith purchased these supplies, and proving by them that they were purchased and paid for by Keeper Smith for the purpose of re-selling to the Keepers and Guards. I do not see that this has been attempted, neither is it shown that these Contractors are dead, or have left the country.

“ If the stores were public, Keeper Smith should have proved that he accounted to the Treasurer or Clerk of the Institution, for the proceeds of

“ sales. In the absence of such proof, I consider Keeper Smith in the situation of a person who, shortly after a larceny is committed, is found with the thing stolen in his possession; he is bound, in order to acquit himself, to prove how the article came to his possession.”

By Mr. Hopkirk:—

“ Was not summoned to appear before the Commissioners. When Dr. Sampson asked witness to read the evidence, witness expressed a wish that he should be formally summoned; was not requested by the Commissioners to read the evidence; was requested to do so by Dr. Sampson; read over the evidence three times carefully, before forming the opinion which he has given; giving opinions on matters of law and evidence forms part of the professional duty of a Barrister, but more particularly so of a Judge; when he says such duty is more particularly that of a Judge, witness means, that it is a Judge's special duty to weigh the value and bearing of evidence, and submit it to a jury; and with reference to new trials; when witness was asked to act along with Mr. Burroughs he refused to do so, as he considered that would be giving an opinion as a Barrister; in coming before the Commission, without having previously expressed any opinion on the question, and giving his opinion on the evidence to the Commissioners, witness considers he is not acting professionally.

“ The Messenger of the Commissioners came for witness to give testimony on behalf of Dr. Sampson. There were no proceedings before any Court under witness's jurisdiction, which required witness to examine the evidence in question, has never had any similar application to the present one, made to him before. It is a well-known rule in English Law, that no Judge of the Supreme Court can be called on to give opinions on law and evidence, except by the Court of Chancery, the Sovereign, or House of Lords; does not know whether such rule applies to English Judges holding jurisdiction parallel to that of witness; cannot say if Mr. Hopkirk wished to rebut the evidence given by witness, whether any other District Judge would read over the evidence and form an opinion on it, at the request of Mr. Hopkirk, or any other person; witness sees no impropriety in what he has done, as the matters at issue could not come before any Court in which he presides; witness has been for nearly twenty years on the most intimate terms with Dr. Sampson; there is no one in Kingston, except his own family, with whom witness is more intimate; cannot say if witness and Dr. Sampson were or are of the same political party; witness has been quite independent of politics since 1844, and when he did mix with them, he was a resident in the Newcastle District; in his opinion, Mr. Thomas Kirkpatrick did not owe his appointment to the Collectorship of Customs to Judge Hagerman, nor did Dr. Sampson owe his appointment to the Inspectorship of Licenses to Judge Hagerman.

“ Witness has stated that the preponderance of evidence goes to show that Abraham lost his eye through Frank Smith's conduct. If Abraham prosecuted Smith for the injury before the Quarter Sessions, witness is of opinion that no Grand Jury could find a true bill on the evidence; if they did find a true bill, witness would ask another Magistrate to preside at the trial, and he thinks it would be the duty of that Magistrate to charge the Jury that the prosecution could not be maintained, as there was no malice in the transaction; besides,

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

“ Abraham resides in the west. If a witness is examined in Court, before the present witness, the present witness relies much upon the manner in which the first named witness gives his evidence. Witness would not be able to form quite so accurate an opinion upon evidence given in writing, as that taken *vivâ voce*, unless witness had a previous acquaintance with the character of the party whose evidence he was considering. It would depend upon the nature of the crime committed and the apparent motives which would actuate a witness, whether witness would give the same credibility to a person who had been convicted, and had undergone punishment in the Penitentiary, as he would to an unimpeached witness.

“ The evidence of a Convict undergoing his sentence, is not legal testimony; considers the evidence of such a witness as moral testimony, unless he has a deep interest at stake; in point of fact, there is no difference between the moral evidence of one Convict undergoing the last day of his sentence, and that of a Convict one day discharged. Under the English Law, a Judge is Counsel for the accused, and in all cases of reasonable doubt, his charge should give the doubt in favour of the accused. Evidence of a witness which had been completely contradicted on one point, is received with doubt on other points of the same issue, although not contradicted; cannot particularize the evidence of each witness on whose testimony he formed his opinion upon the different points of the evidence.

“ The only direct evidence of Frank Smith's having hit Abraham with an arrow, is that of discharged Convict Wilson; Wilson swore that Convict John Kelly had his face blackened by Frank Smith; John Kelly swore that his face had never been blackened, but witness received his testimony with doubt as that of a person under duress. Wilson swore as follows: ‘At the corner of Blacksmith's Shop heard Convict Ilett tell the Warden that Keeper Smith threw water on him. He complained of it. The Warden made answer to Ilett, that he should take a brickbat and knock him down; Ilett said, that would not do, it would be contrary to the rules of the Prison.’ The Warden swore directly contrary to the evidence of Wilson; witness has knowledge of the Warden and none of Wilson, and from that ground, would believe the Warden rather than Wilson; declines giving any opinion as to whether the Warden would be likely to desire a Convict to throw a brickbat at his son. In coming to his opinion upon the case of Abraham's eye, witness has said he depended much on the testimony of Hospital Keeper Julien; it appears from Julien's testimony that he treated Abraham's eye for ten days, without Dr. Sampson having seen it; Julien states that the eye continued swollen during the whole of that period; he states, that when the inflammation subsided, he saw a deep seated injury in the eye; it depends on the nature of the stroke whether a deep seated injury in the eye ought to be described as a contusion; a contusion means an outward injury; a deep seated injury in the eye might be occasioned either by an outward blow or by a splinter. Julien testifies, that ‘when the eye was opened, the sight or centre of the pupil or cornea, seemed injured;’ cannot say if a contusion would cause lividity; is not a medical man, and formed his opinion from the word contusion employed by Julien; believes it requires a great deal of study to gain an accurate knowledge of diseases of the eye; Julien appears to have been the most competent—the only competent person who gave evi-

“ dence on the case; has no knowledge of Julien's competency, except his being Hospital Keeper of the Penitentiary for 10 or 12 years; the treatment of the eye is not a separate branch of the medical profession, except in very large cities; has not seen the bow and arrow with which the injury to Abraham's eye was said to have been inflicted; thinks he would be just as competent to judge of the wound by the description of the bow and arrow given in the evidence, as the Inspectors were by seeing it, unless the Inspectors saw the wound.

“ Witness being asked on whose testimony he considered it established that F. W. Smith had been guilty of shooting at Convicts with arrows, and of cruelty to Convicts while confined in the box; says he does not feel at liberty to answer without careful reference to the whole of the evidence extending over seventy-three pages.

“ Witness gives the same answer to a question as to the employment of Convicts for F. W. Smith's private benefit, and as to the sale, by him, of Penitentiary stores.

“ Several questions being put to witness as to the evidence, he declared his inability to answer them without deliberate reference to the evidence.”

In Mr. Hopkirk's examination on the charges against the Warden, the following additional evidence was elicited:—

James Hopkirk, Esquire, by Mr. Smith:—

“ Recollects examining into certain charges preferred by Dr. Sampson against Kitchen Keeper F. W. Smith, last October. F. W. Smith was acquitted. If the same evidence had been adduced against any other Officer, witness would have returned the same verdict. It did not appear on that trial that the Warden had concealed any alleged bad practice on the part of Frank Smith; had any such thing appeared, the Board would have felt it their duty to take notice of it; has no reason to suppose any time was lost by the Warden in making known to the Board the charges preferred by Dr. Sampson: they were made known to the President of the Board the same day they were preferred. Witness took down the evidence on the trial; as near as possible the *ipsissima verba* were taken down; the whole evidence of each witness was read over to him in presence of Dr. Sampson and Frank Smith; the witness, Dr. Sampson, and Frank Smith were all asked if they were satisfied the evidence was correctly taken down; and each witness was then made to sign his deposition. Dr. Sampson, after the trial was over, but before the decision was arrived at, stated that he had been present at many an examination of witnesses, and had never seen evidence taken down more fully, more fairly, and more impartially than on that occasion. These were his very words. Dr. Sampson asked on the occasion, whether he might be sworn as prosecutor to give evidence. Witness expressed an opinion that he could not be an evidence; but it having been stated that it had been customary to admit the prosecutor to testify on such trials before the Board of Inspectors, the Board (including witness) agreed to admit Dr. Sampson's testimony. Dr. Sampson, however, stated, that as Mr. Hopkirk had objected to it, he did not wish to give evidence. Witness then told Dr. Sampson that he had merely mentioned his opinion incidentally, as an individual member of the Board, but that the Board were now unanimously of opinion that his testimony could be admitted,

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

"and that they were ready to swear him. Dr. Sampson then stated, that on consideration he did not wish to be sworn. On the close of the evidence, Dr. Sampson said, 'I wish to have it recorded on your minutes that you have refused to swear me.' He was then informed that such was not the decision of the Board, and that they were now ready to swear him. Dr. Sampson stated thereupon, that he did not wish to be sworn, as he thought it was unnecessary."

By Commissioners:—

Q. Were not Dr. Sampson and yourself at one time on very intimate terms?

A. Yes, for several years.

Q. Was he your family physician?

A. He was.

Q. Are you now on good terms with him?

A. Has no quarrel with him, but they do not speak together.

Q. Are you not under bonds to keep the peace towards him?

A. Is not.

Q. Are not others under bonds for you?

A. No; never had the slightest intention of breaking the peace towards Dr. Sampson.

Q. Was there not recently a personal altercation between you on the streets, in which the magistrates interfered?

A. As witness was passing Dr. Sampson's door, Dr. Sampson hooted at witness; and the next time witness saw him on the streets, he told Dr. Sampson that his conduct was such as no gentleman would have been guilty of, and that he was no gentleman.

Q. Were not other persons present when the affair occurred, and heard you use the language?

A. Did not at first observe who were present, but afterwards knew that others were present.

Q. You have in your direct evidence detailed several conversations which you have had with Dr. Sampson. Were those private conversations had before your disagreement with him?

A. Part of them were subsequent to witness's having some dryness with Dr. Sampson.

Q. Were not these conversations of a confidential character?

A. Does not think they were; but if so, being asked the questions on oath, witness was bound to answer them.

Q. How did Mr. Warden Smith know how to put the questions so pointedly as to the facts you had to testify about?

A. Does not know that he put the questions very pointedly; does not remember the terms of them.

Q. You have said that the tone of Dr. Sampson's conversations led you to understand that he was hostile to the Warden,—what was the nature of these conversations?

A. Cannot detail the particulars of them.

Q. You have sworn that from your conversation with Dr. Sampson you were led to believe that "his object was to affect the Warden, and more particularly Mr. F. W. Smith,"—what was the nature of that conversation?

A. Refers to various conversations in which such an impression was conveyed to witness; he stated that the Warden and Mrs. Smith were anxious to get him out of the Surgeonship, and that they had employed Frank Smith to raise a cabal against him, or words to that effect; he also said that he was keeping his office for a particular object, and witness thought it was to aid in getting up charges against the Warden.

Q. Had you anything more than suspicion for thinking so?

A. Does not recollect any words used by Dr. Sampson, on the last occasion in question, against the Warden especially, but he spoke against Frank Smith, and recollecting previous conversations, witness formed the impression he has stated.

Q. Did Dr. Sampson ever tell you his object was to affect the Warden?

A. He never did so in direct words, to the best of witness's recollection.

Q. Did he ever express a determination to be revenged on the Warden?

A. Has no recollection of his doing so.

Q. You have said that Dr. Sampson told you, "Frank Smith was a rascal and a nuisance," have you never expressed yourself to the same import though in different language?

A. Most certainly not.

Q. Have you not stated that Frank Smith should never have been an Officer of the Penitentiary, and that had you been an Inspector, at the time of his appointment, you would have opposed it?

A. No; but witness did say that he had heard a great deal of Frank Smith since he was an Officer of the Penitentiary; that he, witness, was not an Inspector at the time of Frank's appointment; that had he been so, he did not know whether he might or might not have sanctioned that appointment. And witness also stated that nothing had come to his knowledge in Frank Smith's conduct which would induce him to remove him; that it was one thing to appoint a man and another to remove him without good cause. Remembers no occasion on which he expressed an opinion of Frank Smith's appointment further than he has now stated.

Q. Do you think Dr. Sampson has been concerned in the conspiracy against the Warden?

A. Cannot tell, but has heard that discharged Convicts and Officers were in the habit of meeting at his house.

Q. Did Dr. Sampson prefer the charges against Frank Smith on which that Officer was tried by the Inspectors in October, 1847.

A. He did.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Was the investigation which ensued on the said charges, an inquiry into the conduct of Dr. Sampson as well as of Frank Smith?

A. It was not.

Q. Was there any issue before the Inspectors on that occasion which the good or bad conduct of Dr. Sampson in the slightest degree affected?

A. There was not.

Q. Did not several witnesses at that trial give evidence detrimental to Dr. Sampson on matters in no way affecting the issue of the trial?

A. Believes so; witness objected to some of the evidence offered, but did not press it to a decision by the Board, as it seemed to be the general impression of the Members of the Board, that all evidence offered should be taken and its relevancy considered before decision.

Q. Was the decision of the Inspectors to receive every sort of evidence, however irrelevant?

A. No objection was made to any evidence offered, as far as witness remembers.

Q. Did not Keeper Julien give evidence as to whether the Surgeon did justice to his patients?

A. He did.

Q. Did not Mrs. Cox give evidence as to Dr. Sampson's attention to his patients?

A. She did.

Q. Did not Convict Patrick Kelly give evidence as to the manner in which Dr. Sampson treated him, after an accident which he met with in the Penitentiary?

A. He did.

Q. Did not Martin Healy give evidence as to the manner in which Dr. Sampson treated his sore leg?

A. He did.

Q. Was not Convict M'Cormick examined solely upon the manner in which Dr. Sampson treated him for rheumatism?

A. He was.

Q. Was not Convict Patrick Carl examined about the manner in which Dr. Sampson treated his cold and swelled head?

A. He was.

Q. Was not Convict Matthew Udell examined solely upon his alleged improper treatment by the Surgeon when he had a pain in his stomach?

A. He was.

Q. Was not Mark Hermiston examined as to whether Dr. Sampson did his duty to the Convicts?

A. He was.

Q. Was not Guard Thomas Smith examined solely as to whether he had seen Dr. Sampson and his Assistant drunk?

A. Yes; and that Julien was not fit to give medicine to the sick.

Q. What had such testimony by these witnesses to do with Frank Smith's misconduct?

A. Part of Frank Smith's defence upon the charge of putting out Indian Araham's eye, was that the eye had not been properly treated, and in proof of that he endeavoured to show a general carelessness in the treatment of patients on the part of Dr. Sampson, and unfitness on the part of Julien; the Board, in coming to a decision, placed no reliance on this part of the evidence.

Q. How could the bad treatment of Abraham's eye affect the fact, whether Frank Smith did or did not inflict the wound?

A. Does not consider it affected it at all; but witness presumes that if the Board had been of opinion that Frank Smith inflicted the wound, it might have affected the decision of the Board; witness always thought that Frank Smith having placed his defence on the ground that he did not inflict the wound, the manner of its treatment was of no consequence to the issue.

Q. Were the nine witnesses in question called to establish the bad treatment of Abraham's eye?

A. They were called to establish the general careless treatment of patients by Dr. Sampson, and of unfitness by his Assistant, though some of them gave evidence on other points.

Q. Was there any attempt to show that Dr. Sampson, or Julien, had been drunk at the time of Abraham's injury and its treatment?

A. There was not.

Q. Was not the said evidence transmitted by the Inspectors to Government?

A. It was; an exact copy of it was.

Q. Were Dr. Sampson and Mr. Julien afforded an opportunity of defending themselves from the serious charges made against them through the said evidence?

A. They were never put on trial; Dr. Sampson was present and heard every word of it.

Q. Did not Dr. Sampson object to his conduct being made the subject of investigation at that time?

A. Thinks he did not make any special objection; he said, in a laughing way, "you seem to be trying "the Surgeon," and witness said, "I think we are;" he made no formal objection.

Q. What was the decision of the Board on the case?

A. They acquitted Frank Smith.

Q. Did not Dr. Sampson appeal to the Governor General against the decision of the Board?

A. He did; and requested that the original evidence might be sent down to Government, which was the reason for a full and exact copy being sent.

Q. Did you take down the evidence given on Frank Smith's trial?

A. Yes.

Q. Did you take down the testimony by desire of the Board, in accordance with the usual practice of

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

the Board to record the evidence in all such investigations?

A. Yes; it was taken down by witness, by desire of the Board, as a public record, and witness thinks it was the first case in which he had taken down the evidence for the Board.

Q. Did not a misunderstanding exist, from this date, between Dr. Sampson and the several members of the Board of Inspectors?

A. Yes; a dryness occurred very soon after Frank Smith's trial, but entirely on Dr. Sampson's part.

By Mr. Smith:—

“ Frank Smith was allowed to elicit at his trial before the Inspectors, whatever he considered favourable to himself, but witness considered a portion of what he did produce irrelevant. No objection was made to any evidence Dr. Sampson brought forward; Dr. Sampson had the right to, and did cross-examine a number of the witnesses. Only one witness swore directly that Frank Smith shot Indian Abraham; that witness did not contradict himself, but part of his evidence was disproved by other witnesses.”

Thomas A. Corbett, Esquire,—by Mr. Smith:—

“ When Dr. Sampson preferred charges against Frank Smith, the Warden made it known to the Inspectors at once.”

The depositions taken by the Board of Inspectors at the trial of Kitchen Keeper Smith will be found under Appendix A.

The effect of this enquiry into the conduct of the Warden's son, was to make a complete separation between the two parties in the Penitentiary;—those officers who gave evidence unfavourable to Smith and their friends, ranged on one side, while such as testified for him and their friends, went on the other, and a bitterness of feeling between them gradually increased. The Warden had great power in his hands, and was generally supposed to be fully sustained by the Inspectors, and, as a natural consequence, one party gladly attached themselves to what was thought his interest, while the other were (with or without cause) in fear and trembling for their situations. Several Officers who gave evidence at Smith's trial were soon after dismissed from the Penitentiary, and we now propose to show the cause of their dismissals.

#### CASE OF MRS. COX.

Mrs. Cox was Matron of the Penitentiary, with a Salary of Seventy-five pounds per annum, at the time of Kitchen Keeper Smith's trial, and gave evidence unfavourable to Smith; Mrs. Pollard, the Deputy Matron, on the contrary, gave evidence favourable to Smith. Mrs. Cox testifies that from the conduct of Mrs. Pollard towards her, in which she (Pollard) was sustained by the Warden, she found it impossible to retain her situation, and accordingly resigned on 1st November, shortly after Smith's trial. Mrs. Pollard was immediately appointed successor to Mrs. Cox.

#### CASE OF GUARD ROBINSON.

This Officer gave evidence unfavourable to Kitchen Keeper Smith; fourteen days after Smith's trial by the Inspectors a charge was preferred against Robinson, and he was brought to trial.

Richard Robinson,—preliminary examination:—

“ Was a Guard in the Penitentiary four years and a half; was dismissed in October or November last; had no quarrel with the Warden or his family up to the time of the investigation on the complaint of Dr. Sampson against Frank Smith; previous to this affair Mrs. Smith, the Warden's wife, had frequently told witness that the Warden was determined to give witness the first Keeper's situation which fell vacant. The circumstances attending witness's dismissal were as follows:— About four or five days after Frank Smith's trial, Warden came to witness and informed him that a complaint had been laid against him (witness) that he had left the outside wicket unlocked, and that the matter would be investigated on the Monday evening following; the investigation did take place before Messrs. Hopkirk, Corbett, Baker, and Gildersleeve, Inspectors, and the Warden; Mr. Costen, and Guard Bannister and Somerville, gave evidence that they found the wicket open; witness swears positively that he locked the gate carefully, and tried it; thinks that it was opened afterwards, and left so by some one; there was an inner gate which prevented persons getting into the Prison although they had passed the wicket. The Inspectors decided that witness was guilty, but that in consideration of his previous good character, as testified to by the Warden, he was forgiven for that time. About four or five days after this decision, witness was again brought before the Inspectors, on the charge of having a stove-pipe stone in the North-west Watch-tower without leave, and for the purpose of stealing it. Witness declares that the charge is utterly false; the said stone had been brought to the Tower by himself and Guard Fitzgerald with a small stove and some old pipe, to keep them warm when on duty during the previous winter, nearly a year before the charge was preferred; and the whole of these articles had lain in the Tower during the whole summer of 1847, and must have been seen by the Warden, as he was often in the Tower while they lay there. Witness brought several witnesses to prove that they had seen the stone laying in the Tower for months before the charge was brought. Before the Inspectors had decided on the case, witness became so indignant at the treatment he had received, that he lost his temper, and told the Inspectors that he had no confidence in any decision they might give; that Mr. Hopkirk used the Penitentiary as a convenience; that he often got presents from the Warden; that articles were sent him from the Penitentiary stores, and a Guard kept almost for his and the Warden's personal purposes. Witness likewise said that he knew the rest of the Inspectors to be the mere tools of the Warden. The Inspectors finally found witness innocent of the charge made against him by the Warden, as to the stove-pipe stone, but dismissed him for gross insolence to the Inspectors.”

James Hopkirk, Esquire,—by Mr. Smith:—

“ Recollects the case of Robinson, a Guard, who was discharged from the Penitentiary; he was brought before the Inspectors on the charge of stealing or improperly concealing a stove-pipe stone; thinks Robinson was found guilty of having the

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

“stove-pipe stone improperly where it was found, but acquitted of any intention to steal it. The cause of Robinson's dismissal was insolent conduct to the Board of Inspectors at the close of the investigation.”

“Guard Robinson was dismissed for insolence to the Board of Inspectors; the Warden was not present when Robinson was guilty of the impertinence for which he was dismissed, or when the Board decided on the case; the Warden had nothing to do with his dismissal. Robinson did not say in witness's hearing, when before the Board, that witness used the Penitentiary as a convenience; witness was present during the whole sitting, and had Robinson used such words, he must have heard them. Robinson did not say that witness got presents from the Warden, nor that articles were sent to witness from the Penitentiary Stores, nor that a Guard was kept almost for the Warden and witness's personal purposes; he did not say that the other Inspectors were the mere tools of the Warden.”

By Commissioners:—

“Ex-Guard Robinson gave evidence at Frank Smith's trial; thinks it was hostile to Smith; he was dismissed; the examination on Smith's case was closed on 20th October, 1847, and a decision given on 29th October. On 3rd November Robinson was brought before the Board on a complaint of Head Keeper Costin, and found guilty of leaving the wicket open, but on account of his good character, as given by the Warden and Head Keeper, he was only reprimanded. Robinson was again brought before the Inspectors on 16th November, 1847, about the stove-pipe stone affair, and was acquitted of any intention to steal it, but was dismissed for insolence to the Inspectors. The insolence for which he was dismissed was, when asked if he had anything to say before the Board proceeded to their decision, he turned round and said, ‘I have no confidence in the present Board of Inspectors after their former decision; they are collegued with the Warden and certain other Officers of the Institution;’ being interrupted, and told to make no remarks on the conduct of the Board, but to confine himself to his defence, he repeated the same words; being told that the Board would not listen to remarks of that nature, he said; ‘If I am not allowed to speak my mind of the Board here, I will appeal to another quarter,’ and immediately left the room, saying, ‘I decline saying anything further.’ Witness presumes the former decision, alluded to by Robinson, was on Frank Smith's trial, but Robinson did not say it was. The witness being called upon to produce the notes of evidence taken in the complaint of 3rd November against Robinson, says, notes were taken, but the Clerk has searched the records of the Institution, and cannot find them; presumes they were left under the care of the Warden after the trial. Witness being called upon to produce the notes of the evidence on the charge of the 16th November against Robinson, makes the same answer. Witness swore yesterday that he would not believe Robinson on his oath, from the evidence he gave before the Commissioners, as shown to witness by the Warden; alludes to what Robinson alleged to have passed between Robinson and the Inspectors. Is perfectly certain Robinson on that occasion made no other impertinent remarks other than witness has stated to-day. Has no other reason than this for discrediting any statement of Robinson's. Up to Frank Smith's trial

“Robinson bore a good character as an Officer of the Institution; does not know what his character has been since.”

Appendix  
(B.B.B.B.B.)

30th May.

Mr. Sheriff Corbett,—by Mr. Smith:—

“Guard Robinson was dismissed for impertinence; for saying ‘he had no confidence in the Board;’ the Warden had nothing to do with his dismissal; Robinson did not say to the Board that Mr. Hopkirk used the Penitentiary as a convenience, nor that Mr. Hopkirk got presents from the Warden, nor that articles were sent to Mr. Hopkirk's from the Penitentiary stores; Robinson commenced a harangue, but the Inspectors told him that was no place for such language, and did not listen to him; Robinson said he would go, then, where he could speak and be listened to, and left the room; he did not say that a Guard was kept for Mr. Hopkirk's and the Warden's personal purposes; he did not say the other Inspectors were the mere tools of the Warden.”

By Commissioners:—

Q. Did not Robinson use some disrespectful language of Mr. Hopkirk when before the Inspectors?

A. Does not remember that he did so.

Q. What was it Robinson did say?

A. He said he had no confidence in the Board.

Q. State as near as you can the precise language used by Robinson?

A. Witness asked him what he had to say, and Robinson replied that he had no confidence in the Board, and that there was a plot to get him out of the Prison; witness stopped him, and Robinson said, “Well, if you won't hear me, I'll go elsewhere,” and left the room.

Q. Do you think this is all Robinson said?

A. Yes; he may have said something more; he was very violent; witness does not remember any more that he said.

## CASE OF DR. SAMPSON.

Dr. Sampson has been Surgeon of the Penitentiary since it was opened, and up to the time when he brought the charges against Kitchen Keeper Smith he appears to have been on terms of perfect harmony with all the Officers of the Institution. About two months after Smith's trial, however, and while his appeal to Government was in abeyance, he was called to pronounce on the fitness of Convict James Brown to receive corporal punishment. He reported that Brown was “fit as to bodily health;” the Inspectors thereupon demanded a report on the Convict's mental condition, and Dr. Sampson pronounced him of “unsound mind.” About the same time, the Surgeon was called on to report on the mental condition of Convict Charlotte Reveille, which he did to the effect that she was labouring under “moral insanity.” The Inspectors did not concur in the opinion of the Surgeon, and delayed reporting the matter to Government for two months, contrary to the rules of the Institution, but desired to call in other medical advice on the cases. Your Excellency was pleased to decline acceding to the request of the Inspectors for further advice, on the ground that the report of the Surgeon of the Institution must be held conclusive.

Appendix  
(B.B.B.B.B.)  
30th May.

A long correspondence took place as to the cases of Brown and Reveille, which will be found in Appendix B. The following evidence, however, shows the nature of the proceedings:—

James Hopkirk, Esq.,—by Commissioners:—

Q. Did not Dr. Sampson, on 30th December, 1847, when called upon to certify Convict James Brown's fitness for corporal punishment, enter on the punishment book, "Fit as to bodily health?"

A. Yes.

Q. Was the attention of the Board called to the said report?

A. It was; and the Board, on the 15th January, 1848, directed the Warden to call on the Surgeon "to furnish a full and explicit report as to the health, "both mental and bodily, of the said Convict."

Q. Did not the Surgeon, by letter of 24th January, 1848, write to the Warden in the following words:—"In order to enable me to form a more correct opinion with respect to the mental state of James Brown, it would be requisite that I should be acquainted with the several amounts and descriptions of punishments inflicted for the offences committed by him (Brown), since his admission to the Prison; and I beg to submit, that instead of calling on all the Guards and Keepers to answer such questions as I might put to them touching this case, it would be more convenient if I were furnished with the names of the Officers who reported the Convicts on the various occasions of violence for which he was punished?"

A. Has no doubt he did, and that the letter now shown is the letter in question.

Q. Was not the said letter laid before the Board on the 3rd February, 1848?

A. It was, along with another letter from Dr. Sampson of 18th.

Q. Did not the Board thereupon instruct the Warden in the following terms: "It appearing from his (Dr. Sampson's) letter of 24th ultimo, that he is unable to make his report on this (Brown's) case, unless he is made acquainted with the several amounts and descriptions of punishments inflicted upon the Convict, the Warden is directed to furnish the statement required?"

A. They did.

Q. Did the Warden write to Dr. Sampson on 3rd February, 1848, as follows: "I have to inform you that your letters of the 18th and 24th ultimo, respecting the case of Convict James Brown, have been laid before the Board, and I am to say, they have directed me to lay the statements of punishments inflicted upon that Convict before you as soon as it can be prepared; although the Board is at a loss to conceive what assistance it will afford you in coming to a conclusion as to the present state of the prisoner's mind, as in neither of the cases of John Donovan and Michael Sheehan,—both of whom, before their being reported by you as insane, had been frequently punished for acts of violence,—was it deemed necessary by you to be put in possession of a similar statement to enable you to come to a decision on their respective cases?"

A. Sees a copy of a letter to this effect in the Warden's Letter Book, addressed to Dr. Sampson, but has no recollection of ever seeing it before.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Please to look at the Minute Book and say if the Inspectors authorised the Warden to express any astonishment at the request of the Surgeon?

A. Sees no such authority or feeling, stated in the Minute.

Q. Do you not consider that by the Minute of the Board, the Warden was instructed to furnish Dr. Sampson with a list of the amount and description of all punishments inflicted on James Brown, since his admission to the Prison?

A. Does consider that such were the instructions of the Board, by their Minute.

Q. Did not Dr. Sampson report to the Inspectors on 16th February, 1848, that having maturely considered his case, he is of opinion that Convict James Brown was of "unsound mind"?

A. He did.

Q. Was it not the duty of the Warden, by the Rules of the Institution, immediately thereupon to communicate the said report of the Surgeon to the Government?

A. Yes; finds there was a rule of that kind passed 18th July, 1846, by the former Board, of which witness was not a member; but, witness thinks, that in his opinion, the Warden should first communicate with the Board of Inspectors, in such cases.

Q. Is there any Rule authorizing or instructing him so to communicate with the Inspectors, before obeying the Rule of 18th July, 1846?

A. Knows of no rule, but the Board sanctioned the departure from the Rule of 18th July, 1846, in this case and Reveille's.

Q. Can you show any Minute authorizing the Warden so to break the Rule in Brown or Reveille's cases?

A. Cannot; but sees that on 24th February, the Warden laid Dr. Sampson's report of 5th February, on the case of Reveille, and his report of 16th February, on the case of Brown, before the Board; and as the Board did not find fault with him for not communicating at once with the Government, witness regards it as a sanction of the breach of the Rule by the Warden.

Q. Were the Board aware on the 24th February, that the Rule of 18th July, 1846, existed?

A. Cannot say.

Q. Was there anything to justify the Warden's postponement of action on the reports of Dr. Sampson, of 3rd and 16th February, until 24th February?

A. Knows of nothing.

Q. Did the Inspectors communicate to Government, the Surgeon's Report on Brown's case, immediately after its being brought under their notice?

A. They did not.

Q. Why?

A. Because they desired to obtain the report of the Superintendent of the Provincial Lunatic Asylum, and of the Head of the Medical Staff on Brown's case, before taking further steps.



Appendix  
(B.B.B.B.B.)

30th May.

Q. Had the Surgeon's Reports ever been appealed from in any previous cases?

A. Knows of none.

Q. Did you conceive Dr. Sampson incompetent to pronounce an opinion on Brown's sanity?

A. It appears the Board wished to have some further advice on the subject.

Q. Why did they wish further advice,—was it because they doubted the skill of Dr. Sampson or his honesty?

A. Because the Inspectors had doubts of the sanity of Brown.

Q. Did the Inspectors think their opinions superior to that of the Surgeon?

A. If they had so, they would at once have decided that Brown was sane, without reference to other Surgeons. It was because they did not consider their judgment superior to the Doctor's, that they applied for further advice, and in the meantime Brown was treated as an insane person, in the terms of the Surgeon's Report.

Q. Did the Inspectors express any opinion on the sanity of Brown?

A. The Board entered on their Minutes on 24th February, 1848, that they "do not concur in the report of the Surgeon."

Q. Had the Inspectors any medical duties imposed on them by virtue of their Office?

A. Is not aware that they had.

Q. What had they to do with concurrence in the Surgeon's Report—was not Dr. Sampson solely responsible?

A. The Inspectors conceived they had a right to inquire into anything which they might think concerned the welfare of the Institution or its inmates.

Q. Is it usual to call in additional advice upon a case in the hands of a medical man, without previously consulting with the professional man in attendance?

A. Is not aware that it is usual.

Q. Did you communicate to Dr. Sampson that you intended to apply or had applied, to Drs. Bell and Telfer, to sit upon his judgment in the case of Brown?

A. Did not.

Q. Did Dr. Bell examine the case?

A. He did not.

Q. Why?

A. Thinks Dr. Bell was never asked.

Q. Was Dr. Telfer written to on the subject?

A. He was.

Q. Did he refuse to attend?

A. He did not; he agreed to attend, provided the Asylum Commissioners consented to his absence.

Q. Did the Inspectors inform these gentlemen that their services would be remunerated?

A. Dr. Telfer was so informed.

Q. Did the Inspectors not also write to parties in the West, for evidence to show that Brown was not insane?

A. Thinks the Warden wrote.

Q. Had he the authority of the Inspectors for doing so?

A. Does not know; he mentioned the circumstance to the Board, but whether before or after writing, does not know.

Q. Is there any Minute of the Board, authorizing him to write?

A. Thinks not.

Q. Did the Board communicate with the Government, while these negotiations to prove Dr. Sampson in error, were going on?

A. They did not, prior to the second letter (of 3rd April) from Dr. Sampson.

Q. Did not Dr. Sampson address a letter to the Inspectors, on 3rd April, 1848, requesting to know if his report on the case of Brown, had been submitted for the consideration of Government?

A. He did.

Q. Did not the Board on 8th April, 1848, instruct the Warden to reply to the Surgeon, that "the Board having already done all which they consider necessary as to the cases of the Convicts (Brown and Reveille) in question, do not feel that they are called upon to take any action on this letter. The Warden will, therefore, simply inform the Surgeon that the Board have taken and will, with the approval of His Excellency the Governor General, continue to take such steps with reference to the Convicts in question, as their cases may, from time to time, render expedient?"

A. They did.

Q. What did the Inspectors refer to, when they said, they had "already done all which they considered necessary" in the case of Brown?

A. Cannot precisely say; presumes they meant they had ordered Brown to be treated as an insane person, and had taken steps to ascertain if he were really insane.

Q. What did the Inspectors refer to, when they said, "the Board have taken, and will, with the approval of His Excellency the Governor General, continue to take such steps in reference to the Convicts in question, as their cases may, from time to time, appear to render expedient?"

A. By the steps taken, they referred to the directions given by them in Minute of 18th March, in reference to Reveille being put in a separate place of confinement; that Mrs. Pollard, in accordance with the Surgeon's directions, should not attend her, and that she should be treated with the greatest kindness and forbearance. By the steps to be taken, the Board referred to the decision come to on that day, to submit the whole case to the Governor General.

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

Q. What had the steps taken in Reveille's case to do with Brown's?

A. The two cases are mentioned together in the Surgeon's inquiry and in the Minute.

Resumed,—

Q. On what day did the Inspectors first address the Government as to Brown's case?

A. The Board agreed to address the Government at their meeting of 8th April, when Dr. Sampson's second letter was under discussion, and the letter thereupon was dated the 10th April.

Q. Was not the object of that letter contained in the following clause: "Under these circumstances, the Board feel disposed, should His Excellency see no objection to such a course, to obtain the opinion of the Medical Superintendent of the Provincial Lunatic Asylum at Toronto, and of the Head of the Military Staff of Upper Canada, respecting these cases?"

A. This was the principal object of the letter, but it also explained what the Inspectors had already done in the case, and their reasons for the course adopted.

Q. Did you tell the Government in that letter, that the Surgeon's Report had been in your hands three months, and that the Rules of the Penitentiary had for so long been broken through by the matter being kept from Government?

A. No; in witness's former evidence he explained that the Board sanctioned the breach of the Rule.

Q. Did you tell the Government in that letter, that you had already applied to Drs. Telfer and Bell to give an opinion in the case of Brown?

A. No.

Q. What greater necessity was there for writing the Government on Brown's case on 10th April than there was on 24th February, when Dr. Sampson's Report first came before the Board?

A. There was no immediate necessity for action in the case when Dr. Sampson first reported, as the Convict could not be removed by land; but the navigation was about to open when his second letter was received.

Q. Did not the Board inform the Government in their letter, that "in differing from the Surgeon in their opinion as to the insanity of the Convicts in question, they would not be held as casting any doubts on that Officer's professional skill."

A. They did; and added, "it being well known that nothing is so difficult as to determine the difference between an inferior grade of mental alienation and feigned insanity, and that it required very special attention to that particular branch of the profession to enable a physician to attain any great eminence in it."

Q. Had the Inspectors given "very special attention to that particular branch of the profession?"

A. Certainly not; and this was the reason why they wished advice.

Q. Do not cases of feigned insanity occur very frequently in Penitentiaries?

A. Yes; cases have frequently occurred in this Penitentiary, which was one reason why the Board were anxious to ascertain the real state of Brown's mind.

Q. After fourteen years experience as Surgeon of the Kingston Penitentiary, was there any person in the Province so qualified by personal experience as Dr. Sampson to decide on a case of feigned insanity?

A. Thinks however good any one's opinion might be, the opinion of three professional men better than that of one. Witness has also heard Dr. Sampson give as one reason why insane Convicts should be removed to the Lunatic Asylum, the fact that he had not given particular attention to the treatment of insane persons, or words to that effect.

Q. Did Dr. Sampson ever make such a Statement as this to the Board?

A. Thinks not formally, but whether he did so to other members of the Board cannot say.

Q. Did such a statement of Dr. Sampson's influence the Board in appealing from his decision?

A. Cannot say.

Q. Was such a statement urged at the Board?

A. Cannot say.

Q. In the Inspectors' letter to the Government did they enclose certain documents, and did their letter contain a series of arguments to shew that Brown was not insane?

A. They did enclose certain documents, and their letter contained arguments to show that there were doubts of Brown's insanity; also reasons for great care being used in deciding on such cases, and recommending such Convicts for a free pardon, that being the only mode of their removal to a Lunatic Asylum.

Q. Was a copy of that letter communicated to Dr. Sampson?

A. Thinks not.

Q. Was an answer received from Government to that letter?

A. Yes; under date, 25th April, 1848.

Q. Did that answer not contain the following passage, "The Surgeon of the Penitentiary, so long as he holds Her Majesty's Commission in that office, must be considered competent to express an opinion in all matters regarding the health of the prisoners under his medical charge. He must also, in the discharge of his duty, not be considered liable to be actuated by improper motives. It is a sufficient relief from responsibility of others concerned, to produce his report which is their justification, even if they should not concur with him in opinion; while, on the other hand, His Excellency knows of no justification for others if they should happen, mistakenly, to over-rule the professional opinion of the Surgeon, and to treat as criminal acts proceeding from insanity?"

Appendix  
(B.B.B.B.B.)

30th May.

Appendix

(B.B.B.B.B.)

30th May.

A. Yes; but there was nothing in the Board's letter imputing improper motives to the Surgeon, nor was there any thing in it which could have led the Provincial Secretary to the conclusion that the Board had treated as criminal, acts proceeding from insanity; the Board were therefore at a loss to conceive how these observations had found a place in the Secretary's letter.

Q. Did not the same letter contain the following passage: "His Excellency commands me to say, that he does not see fit at present to direct investigation by other medical men; for he does not see any thing very extraordinary in the fact, that a woman who, nearly three years ago, was outrageous and violent in her conduct, and reckless of continued punishment, and moreover suffering under disease, should have become insane, or in a state not any longer to be considered a moral agent; and he cannot see the probability of the suggestion, that the outrageous and violent conduct of the prisoner has been the result of a mere scheme to procure a pardon, when the term of imprisonment is to expire in next February, and the plea of feigning madness, if it existed at all, must have been in existence from the time the prisoner was in custody in Montreal, up to the present period. Neither in the case of the Convict James Brown, does His Excellency consider it any conclusive proof of the soundness of the Convict's mind, that for the space of eight years he has exposed himself to the severities consequent upon a perpetual breach of the prison rules, even in a remote hope that he might receive a pardon as an insane person?"

A. It did, and it showed that the Secretary, who was not a medical man, came to a different conclusion, without seeing the Convicts, to that which the Inspectors arrived at, after seeing them.

Q. Did the Inspectors make any reply to this letter of the Provincial Secretary's?

A. They did at great length on 29th April.

Q. In that letter, the Inspectors state, "As to the appointment of a Commission to inquire into the mental state of the Convicts, the Board suggested that course in consequence of the urgency of the Surgeon for their removal, as expressed by a letter to them." What letter did they refer to?

A. Presumes they referred to the letter of 3rd April, in which Dr. Sampson requests to be informed "if any and what steps have been taken for the future disposal of these two insane Convicts."

Q. Had the Inspectors not determined to summon a Commission to "inquire into the mental state of the Convicts" in question, two months and a half before the receipt of that letter?

A. They had on 24th February determined to apply to Drs. Telfer and Bell to inquire into their mental state, but these gentlemen had never seen the patients.

Q. How could the Board say that a course of action taken on 24th February was in consequence of a letter received on 8th April of the same year?

A. The Board did not say so; they referred to the communication which they had made on 10th April to the Government, as to what they intended to do, if His Excellency saw no objection to it.

Q. In the case of Convict Reveille, had not the Inspectors great doubt of her sanity, in consequence of which they applied to the Surgeon, on 17th January, 1848, for a Report on her case?

A. Yes.

Q. Did not the Warden, writing under direction of the Board for such Report, state, that "their attention had been called to the mental state of this Convict, in consequence of her having, since her first reception into the Penitentiary, manifested a most violent and insubordinate temper, by destroying her bedding and clothing, and breaking every article within her reach, and latterly having attempted suicide by hanging herself?"

A. There is a letter in the Warden's Letter Book to Dr. Sampson of date 17th January, 1848, to that effect.

Q. Did the Surgeon report, in answer to said application, on 18th January, 1848, that the Convict Reveille was labouring under "moral insanity?"

A. Has no doubt he did, but does not know the date exactly.

Q. Was not the future action of the Board in the Report on Reveille precisely the same as in that of Brown?

A. To the best of witness's recollection, the cases of Reveille and Brown were mixed up together in the future action of the Board.

Following quickly after the cases of Brown and Reveille, another subject of variance arose between the Warden and Inspectors and the Surgeon.

On an exceedingly cold day in January, 1848, Dr. Sampson observed a Convict, in the open air, with a heavy iron chain on his leg; Dr. Sampson felt it his duty to warn the Warden that it was dangerous to put irons on the limbs in such extremely cold weather in the open air, and recommended their removal for the moment. The Warden referred the matter to the Inspectors, who declined adopting the suggestion of the Surgeon. The following evidence was received on the point:—

James Hopkirk, Esq.,—by Commissioners:—

Q. Did Dr. Sampson apply to the Inspectors in January, 1847, representing that iron chains should not be put on a Convict named Roberts, while the frost was severe?

A. He did not; but the Warden on 15th January, 1848, reported to the Board that the Surgeon had sent him "a verbal message, through the Hospital Keeper, respecting the necessity of taking off the irons from such Convicts, as had been placed on them as a means of restraint and punishment, with a view of preventing their limbs from becoming frost-bitten."

Q. What action did the Board take upon the matter?

A. The Warden was directed to call on the Surgeon for a written report on the subject.

Q. Did not the Surgeon explain by letter of 19th January, in consequence, as follows:—"I have to state for the information of the Board of Inspectors,

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

" that having accidentally observed a massive chain  
" of iron applied to each leg of a Convict, extending  
" from the ankle to the knee, on the forenoon of the  
" instant,—on which day the thermometer ranged  
" from 10 to 20 degrees below zero, and when it  
" might have been obvious to a common observer  
" that such applications, under these circumstances,  
" would scarcely fail to chill the limbs to a dangerous  
" extent, I took a ready means of apprising you  
" of what might be the probable effect of this  
" inadvertence" ?

A. Has no doubt he did.

Q. What was the decision of the Board, when this Report of the Surgeon's was laid before them ?

A. They did not deem it expedient to comply with the Surgeon's suggestions, for certain reasons communicated to Dr. Sampson in the Warden's letter, and which were to the following effect:—1st, That no similar report had ever been made before. 2nd, That there were only three Convicts then or for sometime past in irons. 3rd, That for 12 years it had never been found necessary to take off irons from the Convicts during winter, however severe, and that the present season was unusually mild. 4th, That difficulty, if not danger, might ensue from the Convicts knowing that they were not to be ironed in winter. 5th, That the irons averaged 9½ lbs.—that the heaviest weighed 12, and the lightest 6,—and that the Board had ascertained the irons in the District Gaol weighed from 12 to 17 lbs.; and 6th, That no case of frost-bite had ever occurred in the Penitentiary to any Convict, from being ironed.

Q. Did Dr. Sampson ever apply to the Inspectors to pass a general order against putting irons on Convicts in winter time ?

A. He did not.

Q. Did any of the six objections given by the Board apply to the special case alluded to by Dr. Sampson, viz., that of a Convict working in the open air with the thermometer from 10 to 20 degrees below zero ?

A. The Board did not consider there was anything in that case which took it out of the operation of the general rule.

Q. What induced the Inspectors to give such a deliberate decision on an imaginary application from the Surgeon, which had never any existence ?

A. Because the subject was brought under the consideration of the Board by the Surgeon's letter. It is quite a common thing to come to a general rule when a particular case is under consideration.

But an affair soon after arose, of a much more serious character than any that had preceded it. We give the documents at length, and feel that comment is unnecessary:—

No. 1.

Copy.—Report of Assistant Matron, E. Chase, to the Warden :

" Report.—C. Reveille for improper conduct towards Dr. Sampson at 10 o'clock on Tuesday night, laughing and shaking hands, making a great noise, which, in my idea, was very improper.

(Signed,) " E. CHASE."

February 19, 1848."

No. 2.

Copy.—Minute of Board of Inspectors of the Provincial Penitentiary, 24th February, 1848.

" The Board having had under consideration, the  
" Report of the Assistant Matron, against the Convict C. Reveille, and the statement made in support of that complaint, appearing to imply that in her opinion there had been undue familiarity on the part of the Surgeon of this Institution, towards the Convict in question, on the night of Friday last the 18th instant, the Board consider they are bound, in justice to that officer, to acquaint him therewith, in case he may desire to make any statement regarding it, or to call for any investigation on the subject. The Board further direct the Warden to transmit a copy of this Resolution to the Surgeon.

" Truly extracted,

(Signed,) " A. BICKERTON,  
Clerk."

No. 3.

Copy.—Letter, Warden Provincial Penitentiary to the Surgeon, with Minutes of 24th February, 1848:—

" PROVINCIAL PENITENTIARY,  
" 25th February, 1848.

" SIR,

" Agreeable to the directions of the Board of Inspectors, I beg leave to enclose the copy of a minute made by them on the 24th instant.

" I am,  
" Sir, &c. &c.

" (Signed,) HENRY SMITH,  
" Warden.

" JAMES SIMPSON, Esquire."

No. 4.

Copy.—Letter, Surgeon to President Board of Inspectors.

" KINGSTON, 26th February, 1848.

" GENTLEMEN,

" I beg leave to acknowledge the receipt of the Warden's letter of yesterday, addressed to me by your direction, with a minute of the Board of Inspectors of the 24th instant, with reference to a Report from the Assistant Matron of the Penitentiary, and I respectfully request that you will be pleased to transmit without delay a copy of these papers to His Excellency the Governor General, to whom it is my intention to address myself upon the subject.

" I have the honour to be,  
" Gentlemen,  
" Your most obedient Servant,

" (Signed,) JAS. SAMPSON,  
" Surgeon, P. P.

" To the  
" Board of Inspectors, P. P."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

No. 5.

Copy.—Letter, President Board of Inspectors to Surgeon.

“ KINGSTON, 28th February, 1848.

“ SIR,

“ I have the honour to acknowledge the receipt  
“ of your letter of 26th instant, addressed to the In-  
“ spectors of the Provincial Penitentiary, requesting,  
“ with reference to the resolution of the Board of  
“ the 24th instant, that copies of the papers might  
“ be transmitted to the Governor General, to whom  
“ you intend to address yourself on the subject.

“ In reply, I am directed by the Board to ac-  
“ quaint you that no charge of any kind was pre-  
“ ferred against you to them, the matter having  
“ arisen quite incidentally in consequence of a com-  
“ plaint made by the Assistant Matron against the  
“ Convict Reveille.

“ The Board thought it right to question the As-  
“ sistant Matron as to the particulars of the Con-  
“ vict's conduct of which she complained, when in  
“ the course of her statement it appeared that in her  
“ opinion there had been undue familiarity on your  
“ part towards the Convict.

“ The Board, under these circumstances, felt some  
“ difficulty how to act. While they did not consider  
“ it proper without further evidence to entertain a  
“ charge of that nature against an Officer of your  
“ standing in the Institution, or to arrive at any  
“ conclusion as to your conduct on the occasion re-  
“ ferred to, they felt that they would not have been  
“ acting fairly towards you had they not made you  
“ aware of what had been stated, that you might  
“ have an opportunity of requesting an enquiry into  
“ the matter should you think it necessary to do so.

“ While they therefore declined to take down in  
“ writing the statement of the Assistant Matron in  
“ which your name appeared, particularly as you  
“ were not present, and had no opportunity of put-  
“ ting any questions to her or offering any observa-  
“ tions on her statement, they considered it due to  
“ your character and position to notify you of what  
“ she had said.

“ As you have now requested that the matter  
“ may be brought under the notice of the Governor  
“ General, the Board feel that you have a right to  
“ expect from them a full inquiry into the matter ;  
“ they have, therefore, appointed Wednesday, the  
“ 1st March next, at 2 o'clock P. M. for such in-  
“ quiry and for taking the statements of such wit-  
“ nesses as it may be necessary to examine on oath,  
“ when they desire your attendance for the purpose  
“ of putting any questions or offering any observa-  
“ tions you may consider necessary.

“ As soon as the inquiry shall have been completed  
“ the Board will, as you request, transmit a copy of  
“ the whole proceedings to the Governor General,  
“ together with any opinions they may arrive at in  
“ the matter.

“ I have the honour to be,

“ Sir,

“ Your most obedient Servant,

“ (Signed,) THOMAS A. CORBETT,

“ Prest. Bd. Inspectors, P. P.

“ JAMES SAMPSON, Esquire,  
“ M. D.”

No. 6.

Copy.—Letter, Surgeon to Board of Inspectors.

“ PENITENTIARY, 3d March, 1848.

“ GENTLEMEN,

“ In obedience to your directions, as contained in  
“ your letter to me of the 28th February, I have  
“ now attended your Board.

“ It seems not to be in your recollection, that I  
“ have already appealed against a verdict you pro-  
“ nounced, as I think most unjustly, upon a case  
“ that I thought fit to bring under your notice ; and  
“ most assuredly whilst this appeal is under the con-  
“ sideration of His Excellency the Governor Ge-  
“ neral in Council, I will not enter before you upon  
“ an investigation, in which my character and con-  
“ duct is to become matter of inquiry ; and I so-  
“ lemnly protest against your proceedings in doing  
“ so.

“ You have virtually refused to permit me to  
“ place the justification of my character where alone  
“ I will seek to defend it ; and it is therefore my  
“ intention to transmit this day to His Excellency  
“ the correspondence which has passed between us  
“ on this subject.

“ I have the honour to be,

“ Your obedient Servant,

“ (Signed,) JAS. SIMPSON,  
“ Surgeon, P. P.

“ To the

“ Board of Inspectors.”

No. 7.

Copy.—Extracts from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 3rd March, 1848.

“ The Board having specially met this day to  
“ take into consideration the verbal statements made  
“ on the 24th ultimo, by the Assistant Matron, in  
“ regard to the report on the misconduct of the  
“ Convict Elizabeth C. Reveille, so far as they are  
“ applicable to the Surgeon, of which meeting that  
“ Officer had received due notice, he attended ac-  
“ cordingly, but retired immediately, after deliver-  
“ ing a letter addressed to the Board, in which he  
“ protested against enquiry in regard to his charac-  
“ ter being made by the Inspectors. As, however,  
“ the Surgeon had previously requested in his letter  
“ of the 26th ultimo, that the papers relating to the  
“ matter in question, should be forwarded to the  
“ Governor General with as little delay as possible ;  
“ the Board proceeded to take the examination on  
“ oath of the Matron and Assistant Matron, copies  
“ of which, together with all other documents rela-  
“ tive to this affair, were ordered to be forwarded  
“ as early as convenient for His Excellency's con-  
“ sideration ; and it was further ordered, that the  
“ draft of a letter to accompany these statements be  
“ prepared for the consideration of the Board at its  
“ next meeting, and that a copy of the same be fur-  
“ nished to the Surgeon.

“ A true extract.

“ (Signed,) “ F. BICKERTON,  
“ Clerk.”

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix

(B.B.B.B.B.)

30th May.

No. 8.

“ Copy of the evidence taken relative to the Assistant Matron's allegation of undue familiarity of the Surgeon of the Provincial Penitentiary towards the Convict Elizabeth Reville.”

“ Elizabeth Chase, Assistant Matron, Sworn :—

“ On the 18th ultimo, Dr. Sampson came to visit the Convict Charlotte Reville a little before 10 o'clock at night ; when he came in he spoke to her several times ; she told him she was very bad with a pain in her side, and she showed him where the pain was ; he pressed her several times about the stomach, and she said it was not there, it was lower down ;” he told her she would be better to-morrow ; he would send her some medicine, and he shook hands with her, and they were laughing for some time together and making a great noise. The Surgeon had his hand under the bed clothes when he pressed Reville. Witness does not know if that was the place where the Convict complained of pain ; she was complaining of pain there this morning. Reville told the Surgeon to move his hand lower down, and to press hard ; when he did so, she said, “ oh, how nice that is ;” then he and she would laugh together. Reville often pulls the Doctor's hand down so. From his laughing and conduct witness thinks the Surgeon had been drinking. Reville said “ what a nice man you are, Doctor, you are the only gentleman ever comes to see me ; if you had seen me some months ago you would have found what a nice woman I was.” The Doctor smiled and laughed, told her to be quiet, and she would be a nice woman again. Witness does not think the Surgeon's conduct was right ; she does not think it right for the Surgeon to put his hand where it was ; it was on the lower part of the body under the clothes. Witness does not know if his hand was on her private parts, she thought so, but could not say for certain. The Doctor and Reville were laughing at the time she said “ how very nice it was.” On the occasion, witness certainly thought his conduct most improper ; she had often thought Reville's conduct to the Surgeon disgusting ; she told the Matron so.

“ Reville did not appear to be, that morning, any worse than she is at other times. Witness never saw the Surgeon, but once, come to the women's prison at night, since she was Assistant Matron. On that occasion, that is the former one, Reville was very ill in the morning, and he said he would come again at night. The Surgeon had seen Reville on the Friday morning, the 18th ; he did not say he would come back again that night. Witness had no reason to suppose he would come. When he came at night, he asked witness how she (Reville) was ? Witness said, ‘ much as usual.’ He then went to Reville and said, ‘ you see I have come to see you again.’ Reville replied, ‘ Oh ! Doctor, how kind you are.’ The Doctor never expressed a wish that witness should leave the room when he was with Reville. He went to see no other patient that night in the Wards ; there were three or four other women sick, but not so sick as Reville.

“ Witness's reason for supposing the Surgeon the worse for liquor, was from his conduct, and smelling it on him.

“ The other Convicts talked next morning of the Doctor's conduct, and of his laughing ; saying, how

“ kind he was in shaking hands with Reville, he was more like a father to her than anything else.

“ Reville is regularly every day worse, as soon as she hears the bell, at which time the Doctor generally comes ; she strains and pretends to be worse ; she shows him stuff she pretends to throw up, but witness thinks it is her wine and arrow-root. The Doctor told Reville he would give her whatever she wanted, if she would be good. The Surgeon told the Matron that she (Reville) was to be indulged in everything she wanted. Witness has no doubt whatever, that Reville is feigning to be ill, at least making herself worse than she is ; such is every one's opinion. The Doctor says it was part cunning, part sickness, and part madness, which ailed her.

“ Reville often puts her hand in Dr. Sampson's pockets, but did not do so that night ; she will pull his hand out of his pocket, or he pulls her's, witness does not know which, as she was quite disgusted with them. There is much more familiarity between Dr. Sampson and Reville than between him and any of the other female Convicts. Witness cannot say if it has a bad effect on the discipline of the Prison.

“ Reville commences pretending to be ill, the moment the bell rings, and keeps on till she sees the Doctor ; after he goes, she stops.

(Signed,) “ E. CHASE.”

Mary Pollard, Matron, Sworn :—

On the night of Friday the 18th February, the Doctor was in the women's ward  $\frac{1}{2}$  before 10 o'clock exactly ; witness looked at her watch. She did not see him there, but heard him talking very loud ; she listened, and heard Reville tell the Doctor where to put his hand ; heard her tell him to put it lower ; heard nothing more between Reville and the Surgeon, except a great deal of laughing—very loud laughing. He came up afterwards to the Hospital. Witness mentioned that a blister on another female Convict, had not risen, but the Doctor did not examine it. There was nothing improper in the Doctor's conduct to witness or to any other female Convict in Hospital. Witness considered the Doctor very much the worse of liquor. Had witness been sick, and not in the Penitentiary, and the Doctor had come to see her, she should have considered him not in a fit state to visit her as a Surgeon. Witness has several times seen him in a similar state ; that is, the worse of liquor, when he has come of an evening to see Reville. It is not usual for the Doctor to come at night, unless sent for. Never knew him on any other occasion, to come at night, unless he left word in the forenoon that he would be back at night ; or unless he was sent for.

“ Witness is not aware that he was expected back on Friday evening ; she was very much astonished to see him there at night. Reville was not more than usually sick ; she pretended to be mad. Witness has not lately seen any unusual familiarity between the Doctor and Reville, as she, (witness,) by Surgeon's orders, have been precluded from having any communication with Reville. This has been for the last five weeks, during which time she never saw her until the day before yesterday, when she went to see her in consequence of the Assistant Matron's absence. The Assistant Matron came up that evening, the 18th February, as soon as the Doctor left, and told witness

Appendix

(B.B.B.B.B.)

30th May.

Appendix

(B.B.B.B.B.)

30th May.

“ what had passed between him and Reveille. The Assistant Matron told her Dr. Sampson’s conduct was very bad indeed—very unbecoming as a gentleman—particularly as a Surgeon, towards a Convict woman. Witness asked what had been the matter between the Surgeon and Reveille: Assistant Matron explained the position in which they were; that Reveille was so pleased with the way he handled her, that she said he was a very nice gentleman, and his hands felt very nice. From the description Mrs. Chase gave, witness was led to believe the Doctor’s conduct had been very indelicate; very gross indeed. Never heard Mrs. Chase expressly say the Doctor had his hands on Reveille’s private parts, but from what she said, witness inferred that such was the case, and that such was the Assistant Matron’s meaning and impression. The laughing between Reveille and the Doctor was heard by the Convict women generally, both in the little Ward where Reveille was, and now is, and in the large Ward. Witness considers that the familiarity of the Doctor with Reveille has a very bad effect on the discipline of the Institution. The other Convicts are continually remarking how very different his conduct to her is, to his behaviour to others, and how he shakes hands with her. Witness has, herself, observed a very great difference in his conduct towards Reveille and to the other sick female Convicts. He is very kind to her; he is not particularly kind to the others. He often speaks harsh to them; but witness has no doubt they deserve it. The Surgeon stated his reason for wishing witness not to go near Reveille, was, that Reveille had taken an antipathy to her, and that she had better stop away from her. The Surgeon gave orders that Reveille should have what she pleased, and do as she liked.

Witness thinks Reveille feigns indisposition. In the morning about 11 o’clock, before the Doctor comes, Reveille generally gets worse. As soon as he is gone, they hear nothing of Reveille’s illness. It has been remarked in the Prison, that it was a pity the Warden had not had the bell muzzled, as if so, she would probably be better. Witness considers that the treatment ordered by Dr. Sampson to Reveille, and his conduct to her, has a very prejudicial influence on the discipline of the Institution.

“ Witness has heard the Doctor tell Reveille that he believed Reveille’s ailment was hemorrhage; this was about three months ago, she had a discharge at the time, but not to any great extent. Witness has reason to believe that with reference to this disease Reveille made the Doctor believe she was worse than she was. Witness stated this from having seen certain things done by Reveille for the purpose.

(Signed,) “ M. POLLARD.”

“ I certify the foregoing to be true copies of the evidence of the Matron and Assistant Matron of the Provincial Penitentiary, taken before the Board, on the 3rd March, 1848.

(Signed,) “ THOMAS A. CORBETT,

“ President, Board of Inspectors,  
“ Provincial Penitentiary.”

No. 9.

Copy.—Letter, President Board of Inspectors to Provincial Secretary.

“ KINGSTON, 8th March, 1848.

“ Sir,

“ I have the honour, by directions of the Board of Inspectors of the Provincial Penitentiary, to forward herewith, for the consideration of His Excellency the Governor General, the correspondence and proceedings of which the accompanying documents are copies.

“ By the 2nd clause of the Statute, 9 Victoriae chap. 4, it is the duty of the Board, among other things, to examine and enquire into all matters connected with the government, discipline, and police of the said Penitentiary—the punishment and employment of the Prisoners therein confined;” in the exercise of which duty a report of bad conduct on the part of one of the female convicts came under their notice; and in the enquiry which was made into the same, it was stated by the Assistant Matron to the Board, that there had been, in her opinion, undue familiarity on the part of the Surgeon of the Institution towards the Convict in question.

“ The Board, however, did not think it fair or just to the Surgeon to act upon the statement made, as he was not present on that occasion; and they therefore directed the Warden to communicate to that Officer a copy of the Minute made in consequence of what had been stated to them by the Assistant Matron; and they subsequently received from him a letter, stating that it was his intention to bring this affair under the consideration of His Excellency.

“ The Board, therefore, directed a reply to be made to the Surgeon, informing him that as he was not present on the said occasion, they had not thought it right to take the evidence in writing, and that they had come to no conclusion in the matter; but that they had appointed the 1st instant as the day on which they would meet to investigate it, and directed the Surgeon to attend accordingly.

“ In consequence of the death of the husband of the Assistant Matron, a principal witness in the case, the meeting of the Board was postponed until the 3rd instant, when the Surgeon attended, and handed in a letter, refusing to submit to any investigation respecting his conduct, and protesting against the proceedings of the Board; and he immediately retired, and instantly drove away from the Penitentiary, so that the Board had no opportunity of recalling him.

“ By the 3rd clause of the Statute before mentioned, it is enacted, “ that it shall be the duty of the said Inspectors to enquire into any improper conduct which may have been alleged to have been committed by any of the Officers or other persons employed in the said Penitentiary;” yet, notwithstanding this positive enactment, the Surgeon protested against the exercise of the power so vested in the Board; and they felt that if the Surgeon were permitted to call in question their authority, every other Officer in the Establishment might adopt the same course, by which the office and duties of the Inspectors would become a mere nullity, and would lead to a state of things subversive of the discipline and destructive to the best interests of the Penitentiary.

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

“ The Board did not conceive that they were bound to make any distinction in regard to the rank of an Officer, from the highest to the lowest, whenever his conduct became the subject of legitimate consideration; and so long as they were intrusted with the management of the Institution, they felt that they were bound, fearlessly and independently, to execute the trust assigned to them by the statute.

“ Under the circumstances, however, if the appeal made to the Governor General, while the Board came to no resolution on the impropriety of the Surgeon's conduct, in refusing to submit to their authority, a matter which they thought would be more properly left to His Excellency's decision; they considered it imperative on them to take the evidence of the Matron and Assistant Matron on oath, as to the alleged undue familiarity on the part of that Officer towards the Convict; as without a transcript of their statements, which the Board had on a former occasion declined to take in writing in the absence of the Surgeon, His Excellency would have been unable to form an opinion, either as to the correctness of the proceedings of the Board in this case, or the truth of the alleged undue familiarity on the part of the Surgeon.

“ Having, as before stated, taken the declarations of the Matron and Assistant Matron on oath, the Board herewith transmit full copies of the whole proceedings for the information of the Governor General; but have thought it advisable, pending the appeal to His Excellency, to come to no conclusion on the matter.

“ The Board, notwithstanding the Surgeon's having refused to acknowledge their authority, and having no desire to conceal any of these proceedings from him in this case, have thought proper to direct the Warden to furnish that Officer with a copy of this letter.

“ I have the honour to be,  
“ &c. &c. &c.

(Signed,) “ THOMAS A. CORBETT,  
“ President, Board Inspectors,  
“ Provincial Penitentiary.

“ Honourable D. DALY.”

No. 10.

Copy.—Letter, Surgeon Provincial Penitentiary to Provincial Secretary.

“ KINGSTON, 9th March, 1848.

“ Sir,

“ I received yesterday a letter from the President of the Board of Inspectors of the Provincial Penitentiary, enclosing the copy of a report which these gentlemen have thought proper to lay before His Excellency the Governor General, deeply affecting my character.

“ I am not informed by the Board what is the nature of the evidence they have thought fit to take on the subject in question; but I am very anxious that His Excellency would be pleased to afford me the earliest opportunity of meeting these charges before a competent tribunal.

Appendix  
(B.B.B.B.B.)  
30th May.

“ The matter at issue relates to a female Convict whom I visited on the night of the 18th February last. I had some time previous reported her insane, and recommended her removal to a Lunatic Asylum, when it could be done with safety. I was in constant attendance on her for serious bodily infirmities, and I feared her death might take place on that day.

“ A recent order of the Board directed me to consider all Convicts reported insane, as upon my list; and under these circumstances the Board had, I conceive, no right to receive any communication whatever, respecting such Convicts, whether of complaint or otherwise, except through me; much less to receive and make Minutes of such case when I was not present; and their having done so in this instance, was in my opinion uncalled for, and improper interference with my professional duties and responsibility.

“ I have acted as Surgeon to the Penitentiary, for nearly fourteen years, and during all this time have endeavoured to fulfil my duty to the utmost, and especially in aiding to carry out its discipline by attention to the directions conveyed to me; and yet it is now attempted to be showed that I refuse to obey the orders of the Board. The present is not a question as to enforcing the Prison discipline, but an attempt to bring my character and conduct under a judgment. I am prepared to prove, when an opportunity is afforded me, in which I can neither expect justice nor impartiality; and it is for this reason, alone, I have declined submitting to it.

“ I have the honour to be,

“ Sir,

“ Your most obedient Servant,  
(Signed,) “ JAS. SAMPSON,  
“ Surgeon P.P.

“ To the Hon. D. DALY,  
“ Provincial Secretary.”

The foregoing Documents exhibit the case as we found it on our arrival at Kingston. We thought it right to re-examine Mrs. Chase and Mrs. Pollard; and we found a material difference between their depositions before us, and those given by them before the Inspectors. Their testimony, to us, was as follows:—

Elizabeth Chase—by Commissioners:—

Is Assistant Matron of the Penitentiary; went to the Institution, in this capacity, on the 15th of November, 1847; obtained the situation through Mr. Sheriff Corbett; has no idea on what subject witness has been brought here; recollects of giving evidence before the Inspectors, as to the matter of Dr. Sampson and Convict Reveille; has never seen or heard read the evidence she then gave, since the day it was given; has never been spoken to by any one on that subject, since witness gave her evidence; has a distinct recollection of the circumstances which occurred on the night of the affair alluded to. The way in which the affair became public, was as follows:—Mrs. Smith, the Warden's wife, sent for witness on the night in question, after the Surgeon had left, and asked witness what the noise she had heard was caused by; witness said it was Dr. Sampson and Convict Reveille; Mrs. Smith said, she (witness) must report the circumstance to the Warden, and desired her to go into the Warden's bed-room and do so; witness refused to go, as the Warden was in bed; next morning Mrs. Smith and the Warden both told witness that she must make



Appendix  
(B.B.B.B.B.)  
30th May.

a written Report of the circumstance; witness did so make a written Report of the circumstance, and the matter came in this way, before the Inspectors; witness would have made a report whether the Warden had told her to do so or not. Witness being shewn a written Report, with her name attached to it, says, this is the Report she made of the matter; the affair happened on the 18th February last; the Surgeon visits the Prison daily, in the forenoon; Dr. Sampson visited the Penitentiary on the forenoon of the 18th February; he then saw Convict Reveille; does not know what was the matter with this Convict, she vomited blood; has seen Reveille vomit blood every day for a week; she discharged blood in her urine; she did so constantly, with slight interruptions; altogether she was a most disgusting person; her clothes were exceedingly filthy; she made herself quite a beast; the Doctor saw all this and used to be quite disgusted with her. Reveille was worse some days than others; she said she was worse than usual on the morning in question. Dr. Sampson had seen her in the morning; does not know whether she told the Doctor she was worse; Reveille was lively enough in the afternoon and evening. A little before 10 in the evening, Dr. Sampson came to see Reveille again; he rang the bell of the women's apartment, and witness got up and let him in; when he came in, Dr. Sampson said, "how is Reveille?" witness said, she thought she was better; witness then walked on before the Surgeon to the small Ward where Reveille was; the Surgeon went up to Reveille's bed, and witness stood close beside him the whole time he remained; the bed stood in the open Ward in front of, and close to the doors of three Cells, but there were no women in them; in the three next Cells, there were Convicts, and in some or all of the six Cells of the upper range; these Convicts must have heard all that passed, and some of them could see all that occurred. The Doctor said when he entered, "Well, you see I have come all the way from town to see you again"; Reveille said, "what a nice gentleman you are—you are so kind." Reveille had complained in the morning to the Surgeon, of having a lump in her side; she has it now; does not know whether it was a tumour; Dr. Sampson generally felt her side; he turned down the clothes to do so on this occasion, and put his hand on her side as usual; Reveille said the pain was lower down, and took hold of his hand and pressed it down on her stomach and began laughing; the Surgeon laughed also; thinks it was not on her private parts that Reveille placed Dr. Sampson's hand; thinks it was only on the lower part of the stomach; it was not a spontaneous act on the part of the Surgeon; Reveille had hold of his hand and pressed it on the spot she complained of the pain; when Reveille withdrew her hand, Dr. Sampson did so also; Reveille then laughed loudly, and Dr. Sampson also laughed loudly; witness herself could not refrain from laughing; the Doctor had not his hand under the clothes; the clothes were turned completely down, and Dr. Sampson laid his hand openly on Reveille's stomach, over her flannels; witness saw Dr. Sampson's hand all the time it was on Reveille's body; Dr. Sampson's hand was not on Reveille's body over a minute or two, in all; Dr. Sampson went to see Convict Cook (female), the same evening; witness was not aware of this when she gave evidence before the Inspectors; witness went after the Doctor left, for medicine which he had ordered, but does not recollect whether it was for Cook or Reveille; on reflection, she thinks it was for Reveille. When the Doctor had got through, he left the Ward, and witness went with him and locked the door; Dr. Sampson walked on while witness was locking the door, and when she came up to

him at the foot of the stairs, he was standing speaking to Mrs. Pollard. Witness thinks Dr. Sampson was not longer than five minutes in the Ward where Reveille was, altogether. Witness followed Dr. Sampson towards the Surgery to get the medicine; did get the medicine, but cannot recollect from whom she got it, whether from Dr. Sampson or Mr. Jones. The laughing was very loud; witness thought at the time that it was not proper in the Surgeon to stand laughing with the Convict, in the way he did; at the time witness thought that it was indelicate for a man to place his hand so low down on any woman's stomach. Witness never saw Dr. Sampson act in the same way before; never saw him, at any time, do anything otherwise than was becoming and proper, when visiting the sick Convicts; had seen Dr. Sampson laugh and joke with Reveille before, but never in an unbecoming manner; she used to complain to him that her teeth were all rotted out, and Dr. Sampson promised her a new set; she was always telling him she would have them when she got out. Dr. Sampson used to consider Reveille insane; he treated her as insane; he would never have taken her impudence as he did, if he had not thought her insane. The other day when Dr. Yates was visiting Reveille, she showed him some blood she had vomited into a tin dish; while he was looking at it, she deliberately threw the contents of the dish in Dr. Yates's face, and his shirt, coat and vest were covered with it. Witness smelt wine on Dr. Sampson, on the night in question; thought the Doctor had been out, and probably had taken an extra glass of wine; he talked well enough. Witness thinks that if she had been sick that night, and Dr. Sampson prescribed for her and made up the medicine, she would have had no hesitation in taking the medicine. Never, at any other time, discovered on the Surgeon any appearance that he had been drinking wine or other liquor. Dr. Sampson was very indulgent to Reveille at all times; witness and Mrs. Pollard were instructed by him to humour Reveille in all her whims; expected that the Surgeon did so as a part of his treatment of the case—as a case of insanity; witness thinks Reveille is not insane. Reveille was an Episcopalian; she became a Roman Catholic last week. The Convicts remarked about Dr. Sampson's conduct next day, after the circumstances related, occurred; they said how very kind Dr. Sampson was to Reveille; never heard that any of the Convicts complained of bad treatment from Dr. Sampson. Witness thinks Dr. Sampson performed his duties efficiently and humanely. When witness was examined on this matter, before the Inspectors, Messrs. Corbett, Hopkirk, Gildersleeve, and Baker, were present, and the Warden; Mr. Hopkirk put the questions and wrote the answers down. Dr. Yates has been the Surgeon of the Penitentiary for the last few months; Reveille is as unreasonable with him as she was with Dr. Sampson, but he does not humour her as Dr. Sampson did; he gives her the go-by. Reveille is still treated as an insane person; she has a separate room and a nurse to wait on her, and has indulgences which other Convicts have not.

Mary Pollard—by Commissioners:—

" Is Matron of the Provincial Penitentiary; went  
" to the Institution as Assistant Matron on 1st May,  
" 1847; was appointed Matron on 15th November,  
" 1847. Recollects of giving evidence before the  
" Inspectors as to the visit of Dr. Sampson to Con-  
" vict Reveille on the evening of 18th February,  
" 1848. It was about half-past 9 when Dr. Samp-  
" son visited Reveille on the night in question; wit-  
" ness was getting into bed when the bell rang;  
" dressed herself again, so that she could appear be-

Appendix  
(B.B.B.B.B.)  
30th May.

“fore the Doctor. Dr. went with Mrs. Chase, and saw Convict Reveille; heard a part of what passed between Surgeon and Reveille; heard Reveille say, ‘Lower, lower, oh, that is so very nice—you are such a dear good gentleman; no one is so kind to me as you are;’ that is all witness heard. As Dr. Sampson came up the stairs, witness said to him ‘there is a Convict in the hospital, I would wish you to see.’ He went with witness to see the said Convict; Cook was her name; he spoke to Cook; he also spoke to Cane, and looked at a blister she had on; he told her to keep it on longer; after he got through, he left the hospital and witness went to bed. The Doctor was not drunk when visiting the Prison on the night in question; he was merry, as if he had taken an extra glass of wine; he talked quite coherently; he walked quite steady. Witness would never have discovered any thing unusual about the Doctor that night, but for the merry mood he was in, and from smelling wine on him; thinks the Doctor was not exactly fit to administer medicine at the moment. Witness thinks that the time from Dr. Sampson’s entering the women’s apartments to his going with witness to see Cook and Cane, after being with Reveille, was from five to ten minutes; it was full five minutes. Dr. Sampson and Reveille laughed very loudly; the women in both wards heard them.”

“Convict Reveille vomits blood, and also discharges blood with her urine. Dr. Sampson has considered her insane; he has treated her as an insane patient. Witness does not consider her insane.”

“Dr. Sampson has treated witness very disrespectfully since 18th February; he treated her with the greatest respect before that; the women noticed it, and rebelled against her in consequence; they thought that witness was about to be kicked out in consequence of her disagreement with Dr. Sampson. Dr. Sampson has been the cause of great annoyance to witness, and she considers him a very rude man to her personally, and to Mrs. Chase.”

While Mr. Hopkirk was under examination on the charges against the Warden, the following evidence on this case was elicited from him:—

James Hopkirk, Esquire—by Commissioners:—

Q. Did the Inspectors ever investigate a charge brought by Mrs. Chase, Assistant Matron, against Dr. Sampson?

A. In the course of the inquiry into the complaint of Mrs. Chase against Reveille, some part of Mrs. Chase’s evidence appeared to affect the Surgeon; and the Board resolved that it was expedient to communicate the same to Dr. Sampson, in case he should feel inclined to make any statement regarding it, or to call for an investigation into the matter.

Q. Did not the Surgeon reply, on 26th February, in the following terms:—“I beg leave to acknowledge the receipt of the Warden’s letter of yesterday, addressed to me by your directions, with a Minute of the Board of Inspectors of 24th instant, with reference to a report from the Assistant Matron of the Penitentiary; and I respectfully request that you will be pleased to transmit, without delay, a copy of these papers to His Excellency the Governor General, to whom it is my intention to address myself upon the subject?”

A. He did; and it was laid before the Board on the 28th.

Q. What course did the Board take upon it?

A. They resolved at the meeting of 28th February, that a communication should be made to the Surgeon, “explaining the proceedings of the Board in the case of Convict E. C. Reveille, and directing his attendance at 2 o’clock, P. M. on 1st March next, (afterwards changed to 3rd March,) for the purpose of inquiring into the report made by the Assistant Matron on the conduct of that Convict; and to enable him to put any questions to the witnesses it may be necessary to examine, or to offer any observations he may consider necessary.” The letter written under direction of this Minute was in the following terms:—

“Sir,

“I have the honour to acknowledge the receipt of your letter of the 26th instant, addressed to the Inspectors of the Provincial Penitentiary, requesting, with reference to the resolution of the Board of 24th instant, that copies of the papers might be transmitted to the Governor General, to whom you intended to address yourself on the subject. In reply, I am instructed by the Board to acquaint you, that no charge of any kind was preferred against you to them, the matter having arisen quite incidentally in consequence of a complaint made by the Assistant Matron against the Convict Reveille. The Board thought it right to question the Assistant Matron as to the particulars of the Convict’s conduct of which she complained; when, in the course of her statement, it appeared that in her opinion there had been undue familiarity on your part towards the Convict. The Board, under these circumstances, felt some difficulty how to act; while they did not consider it proper, without further evidence, to entertain a charge of that nature against an Officer of your standing in the Institution, or to arrive at any conclusion as to your conduct on the occasion referred to, they felt that they would not have been acting fairly towards you had they not made you aware of what had been stated, that you might have an opportunity of requesting an inquiry into the matter, should you think it necessary to do so. While they therefore declined to take down in writing the statements of the Assistant Matron, in which your name appeared, particularly as you were not present, and had no opportunity of putting any questions to her, or offering any observations on her statements, they considered it due to your character and position to notify you of what she had said. As you have now requested that the matter may be brought under the notice of the Governor General, the Board feel that you have a right to expect from them a full inquiry into the matter; they have therefore appointed Wednesday, the 1st March next, at 2 o’clock, P. M. for such inquiry, and for taking the statements of such witnesses as it may be necessary to examine on oath, when they desire your attendance for the purpose of putting any questions, or offering any observations you may consider necessary. As soon as the inquiry shall have been completed, the Board will, at your request, transmit a copy of the whole proceedings to the Governor General, together with any opinion at which they may arrive in the matter.

“I have, &c.

(Signed,) “S. A. CORBETT,  
“President, Board of Inspectors.”

Appendix  
(B.B.B.B.B.)

30th May.

Q. What took place on 1st March?

A. There was no meeting on that day, but on the 3rd March, when the Board having assembled, Dr. Sampson handed in a letter protesting against any inquiry being made into his character by the Inspectors, and immediately retired. As, however, the Surgeon had previously requested in his letter of 26th February, that the papers in question should be forwarded to the Governor General with as little delay as possible, the Board proceeded to take the examination on oath of the Matron and Assistant Matron; copies of which, together with all other documents relative to this affair were ordered to be forwarded as soon as convenient for his Excellency's consideration, and that the draft of a letter to accompany the said statements be prepared for the consideration of the Board at its next meeting; and that a copy of the same be furnished to the Surgeon.

Q. What report was it which Mrs. Chase made against Convict Reveille?

A. It was a complaint against her for misconduct towards the Surgeon.

Q. How did such a report happen to come before the Inspectors?

A. Cannot tell. The Board sometimes inquire of Officers making complaints the particulars of the alleged misconduct; but cannot recollect if it was so in this case.

Q. Can you state any other case but this, in which you inquired into the particulars of a complaint made against a Convict.

A. Remembers one case in which a Convict had threatened to throw his Keeper from the Cupola; and there were others but cannot condescend on them at the moment.

Q. Did not the consideration of all these cases come up on the Warden's report for the infliction of corporal punishment?

A. Will not be certain.

Q. Is there any mention of any such complaint except this of Reveille's in the Minute-Book?

A. Does not know that there is; and does not know that Reveille's would, had it not appeared to affect the Surgeon.

Q. How did Reveille's case affect the Surgeon?

A. Mrs. Chase's explanations appeared to imply that there was blame attachable to the Surgeon as well as to Reveille.

Q. In what way was blame attached to the Surgeon? What was it he did?

A. The Board came to no conclusion as to the Doctor's conduct; they merely stated, both in their letters to the Government and in their minute, that it appeared from the Assistant Matron's statement, that in her opinion there had been undue familiarity on the part of the Surgeon towards the Convict in question.

Q. You say that Mrs. Chase brought no charge against the Surgeon?

A. She brought none.

Q. Then did the Inspectors voluntarily put Dr. Sampson on his trial on so serious a charge as that of "undue familiarity" with a female Convict on an "incidental" statement by Mrs. Chase, that in her opinion such undue familiarity had taken place?

A. They did not put Dr. Sampson on his trial in the first instance; but Mrs. Chase having stated, in the course of the inquiry about Reveille, that she thought Dr. Sampson had shown undue familiarity; they thought it right to notify the Doctor of it, in case he wished to make any statement or call for any investigation.

Q. When the Inspectors did at last put Dr. Sampson on his trial, was it solely upon the incidental statement of Mrs. Chase?

A. The Inspectors cannot be said, properly speaking, to have put Dr. Sampson on his trial; but they notified him to attend on 3d March, when the Inspectors meant to examine witnesses as to the conduct of Convict Reveille, when he would have an opportunity of putting any questions to them or offering observations, if he considered it necessary.

Q. Did the Inspectors consider Dr. Sampson's character involved in the trial of 3d March?

A. When they sent him the notification they did not know whether his character might or might not be involved in the examination about to take place; but they were led by the verbal statements of the Assistant Matron to expect that there might be matter which Dr. Sampson would desire to explain.

Q. Had not the verbal statement of Mrs. Chase given you a previous knowledge of the character of the evidence which would probably be elicited?

A. Yes; a general knowledge.

Q. Did Mrs. Chase not detail to the Inspectors, when the matter first came up, precisely what she swore to on 3d March?

A. She made a statement very much to the same effect, but does not know if it was quite as full, and it was not on oath.

Q. Provided Mrs. Chase's statements were true, did the Inspectors think there was sufficient ground in her evidence to place a gentleman of Dr. Sampson's character and standing on trial for undue familiarity with a female Convict?

A. The Board formed no opinion, and came to no conclusion on that subject.

Q. Was it not a right which every man had at the hands of a public body, before his character was injured by the name of such a charge having been publicly made against him, that some conviction should have existed in the minds of the Court that there was at least ground for the charge?

A. There was no charge publicly made against Dr. Sampson, and they wished him to be present at the investigation of the subject as he requested the matter might be referred to the Governor General.

Q. Was it "the matter" he wished referred to the Governor General, or only copies of the documents named in his letter of 26th February?

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

A. It was merely copies of papers the Surgeon asked to be sent; but as the Assistant Matron's statement, which was the foundation of the proceedings, had not been previously taken in writing, the Board thought it right now to take it in that way, that the Government might see what had given rise to the affair.

Q. Was there anything in Dr. Sampson's letters authorizing an investigation into his conduct?

A. On the contrary, he protested against it.

Q. What right had the Inspectors to call on Dr. Sampson to take part in an investigation into the conduct of Convict Reveille?

A. Because the Inspectors considered it due to him, as the statement appeared to affect himself.

Q. Was not the inquiry of 3d March a trial of Dr. Sampson?

A. Cannot say that it was.

Q. Was it a trial of Convict Reveille?

A. Cannot say it was.

Q. What was it then?

A. It was for the purpose of taking Mrs. Chase's Statement on oath; Dr. Sampson having requested that certain papers connected with the matter should be sent to the Governor General.

Q. Would the examination of 3d March not have taken place but for the said request of Dr. Sampson?

A. Cannot say what the Board would have determined to do; but thinks it very possible that but for Dr. Sampson's letter the matter would have dropped.

Q. What papers did Dr. Sampson ask to be sent to Government?

A. The only papers he asked to be sent, were the Warden's letter of 26th February, 1848, to Dr. Sampson, minute of the Board of Inspectors of 24th February, and possibly for Report of Mrs. Chase of 19th February, but the Inspectors did not consider the case complete without Mrs. Chase's evidence.

Q. Was there any object, as regards Reveille, in finding by the proceedings of 3d March what her conduct had been on the night in question: was it proposed to punish her?

A. Thinks not.

Q. Had she been declared insane by the Surgeon for a month previous to Mrs. Chase's Report?

A. Yes.

Q. Is it usual for the Officers to report the freaks of insane Convicts?

A. Thinks not; but the Board entertained doubts of her insanity.

Q. Is not the whole tenor of the examination of 3d March as to the conduct of Dr. Sampson?

A. The greater part of it is.

Q. Is there one topic in which Reveille is spoken of unconnected with the name of Dr. Sampson?

A. There is not; but there is a good deal in reference to Reveille's conduct in Dr. Sampson's absence, and pretending to be worse when the Surgeon came.

Q. (The copy of evidence taken in the case on 3d March, which was transmitted to Government, is put into witness's hands, and he is asked) What is the title placed over the said document?

A. The words are: "Copy of the evidence taken, relative to the Assistant Matron's allegations of undue familiarity of the Surgeon of the Provincial Penitentiary towards the Convict E. C. Reveille."

Q. Does it not seem then, there was an allegation against Dr. Sampson?

A. It does seem, from that title, that there was, on the part of the Assistant Matron.

Q. Whose handwriting is that title in?

A. In Warden Smith's handwriting, and the copy is certified by Thomas Corbett, President Board of Inspectors.

Q. Was Dr. Sampson ever informed that Mrs. Chase had made an allegation against him?

A. He was, by Minute of 24th February, and also by letter of 28th February.

Resumed:—

Q. Is there anything affecting Dr. Sampson as an Officer of the Penitentiary, in the testimony of Mrs. Chase?

A. Yes, to a certain extent.

Q. What improper act does she state him to have been guilty of?

A. Refers to the whole testimony.

Q. Of what acts on the part of Dr. Sampson, did the alleged "undue familiarity" consist?

A. The testimony is there, and speaks for itself.

Early in 1848, a general expectation existed in the Penitentiary, that a Commission of Inquiry, on the affairs of the Penitentiary, would be immediately appointed; and in the month of February, Your Excellency was pleased to direct the issuing of such a Commission.

#### CASE OF Keeper GLEESON.

This Officer gave evidence at the trial of Kitchen Keeper Smith, before the Inspectors, unfavourable to the accused, and in February following he was, himself, brought to trial:—

James Gleeson—Preliminary examination:—

"Was a Keeper in the Penitentiary for nearly three years; was Keeper in the Mason and Stone-cutting Department, the whole time; went into the Institution in April, 1845; left in February last; never had any difficulty with the Warden or any other Officer, while in the Penitentiary; never was

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

“reprimanded; is a Roman Catholic; was dismissed by the Inspectors, on a charge of having received some blacking for his own use, from a Convict employed in the Stable. The Inspectors said that witness had acknowledged the offence, but witness declares this is not true; says the circumstances of the said blacking are, as follows:—The said Stable Convict came into the shed, which is under charge of witness, about the 14th or 15th of February, and put a pot of blacking on the stove to heat; the messenger of the gang was beside it, and it having caught fire, the messenger’s hands were severely burnt, and he was sent into Hospital. About 10 or 12 days after this, witness was sent for to the Office, to give information about some accounts; a Contractor, Conlan, had just sued the Warden on a disputed account for Stone. Witness was asked by Mr. Bickerton if he recollected that Mr. Conlan had expressed himself satisfied with the deductions made from his account? Witness said he recollected quite the contrary. About two days after this, witness was sent for to go before the Board of Inspectors, on the charge as to the blacking, and was dismissed the same evening. Witness thinks his dismissal was influenced by the hostility of the Warden to him, in consequence of the evidence he gave, in October previous, against his son Francis W. Smith, before the Inspectors; and also because he refused to vote for Mr. John A. M’Donald, at the request of Mr. Smith, at the general election.”

By Mr. Smith:—

“Does not know who brought the charge on which witness was dismissed; no one was sworn against witness; does not recollect of the Inspectors reading to witness the charges preferred against him.”

James Hopkirk, Esq.,—By Mr. Smith:—

“Keeper Gleeson was dismissed in consequence of his own admission that he had used some ingredients, the property of the Penitentiary, for making blacking for his own use. The fact that a Convict was burnt in making the said blacking, may have also influenced the Board in the matter. The Warden had nothing to do with Gleeson’s dismissal.”

By Commissioners:—

“Ex-keeper Gleeson gave evidence at Frank Smith’s trial in October, 1847; does not recollect if it was prejudicial to Smith. Gleeson was dismissed on 24th February, 1848, for having used materials, the property of the Penitentiary, to make boot or harness blacking for his own use. Witness thinks the case was examined, and Convict witnesses called, but not sworn; the evidence was not taken down; it did not occupy any length of time. Gleeson admitted that he had been in the habit of getting blacking or boot varnish made from materials, the property of the Penitentiary. To the best of witness’s belief, Gleeson admitted that the blacking in question, was preparing for him. Cannot tell who preferred the charges against Gleeson; it is not stated in the Minutes. Cannot say what the value of the blacking was, not great; cannot say if it was worth over or under 7½d. Has no recollection of Gleeson’s stating that many of the Officers were in the habit of using the Penitentiary varnish for their boots, when working in the yard in snowy weather. Witness’s impression is, that Gleeson intended to take the blacking outside, but he speaks entirely from memory. The complaint was, that the blacking was being made for Gleeson; it was not made; thinks the impres-

“sion as to the destruction of the blacking, was taken from Gleeson’s admission, but cannot say with any certainty; cannot say the Board came to the decision to dismiss Gleeson on the conviction that he was feloniously stealing the property of the Penitentiary; he was appropriating it to his own use. The words used in the Inspector’s Minutes, are these:—‘The Board having taken into consideration, the case of Patrick Clark, a Convict, whose hands have been severely burnt while making blacking from materials, as admitted by Keeper James Gleeson, belonging to the Institution, for his, (Gleeson’s) own private advantage; which, being in violation of the Oath of Office, and a flagrant breach of his duty, as an Officer of the Penitentiary, they now direct that he be dismissed from his situation.’ Clarke was a Convict in Gleeson’s gang, witness thinks; does not remember if Clarke was making the blacking, but thinks he was. The Stable man (a Convict) was one of the witnesses examined; cannot recollect the evidence he gave; cannot recollect if he stated that he was making blacking for the use of the Stable; is certain if the Board had had reason to suppose that such was the fact that Gleeson would not have been dismissed. Witness would not swear positively that Gleeson admitted having taken materials for blacking, on any other occasion than the one in question; thinks he said that the materials used for blacking by him, on former occasions, might or might not be the property of the Penitentiary; has no reason to believe that Gleeson said blacking had been given to him on other occasions; does not now recollect at this moment, any other reason for Gleeson’s dismissal, than his having taken the blacking; knows nothing to Gleeson’s prejudice, except this affair of the blacking. As far as witness knows, his character is good.”

By Mr. Smith:—

“Q. Were there any other reasons for Gleeson’s discharge, than those stated to the Commissioners?”

A. “None that witness recollects of.”

Q. Do you think the Inspectors were influenced in their decision, by the fact that a Convict’s hands were burned?

A. “Does not think that this was one of the reasons, but it might possibly have influenced the minds of the Inspectors.”

Thomas Costen, (Head Keeper)—By Mr. Smith:

“Remembers the dismissal of Gleeson; he was dismissed for employing a Convict in making blacking for his use, with materials, the property of the Penitentiary; made inquiry as to the circumstances at the time; did not ask him where the materials were got; the Convict’s name was Patrick Clarke.”

William Chapman—by Mr. Smith:—

“Is a Convict in the Penitentiary; recollects some blacking being made in Mr. Gleeson’s shed; there was some turpentine put into the blacking; Gleeson said he got the turpentine for Convict Burgess’ hands when they were burnt; Convict Clarke was making the blacking; the turpentine caught fire; there would have been danger of the shed being burnt down if assistance had not been at hand; Clarke got severely burnt; he was in the Hospital some time; witness worked at that time in the stable; Gleeson asked witness to come to his shed, and show him how to make blacking for

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

"his boots; he asked witness several times to go to his shed before witness went; the blacking was not being made for the Prison; does not use the same articles for harness blacking that was in that blacking; was called before the Inspectors at the time the affair occurred."

By Commissioners:—

"Was sentenced to five years imprisonment for robbery; has been nearly four years in the Prison; never was in any Prison before. Told all he had just stated to the Warden about two months ago, in this Office; only spoke to him once on the subject; the Warden wrote down what he said; at the trial before the Inspectors witness told precisely the same import as now. Clark was making the blacking, and witness was showing him how; it was being made in a tin cup; a pint cup; Mr. Gleeson owned the blacking; the materials used were bees-wax, lamp-black, mutton suet, and turpentine; does not know of his own knowledge where any of the articles came from; Mr. Gleeson was standing past while the blacking was making; had not spoken to Mr. Gleeson that morning; had not told Mr. Gleeson that blacking was being for him; the whole materials together did not exceed in value 7½d. Never made any blacking for any other Officer in the Penitentiary; never gave them any, nor varnish."

Mr. Sheriff Corbett, President Board of Inspectors—  
by Mr. Smith:—

"Keeper Gleeson was dismissed for using the materials of the Penitentiary in making blacking or varnish; and one of the Convicts had his hands burnt in making it. Gleeson admitted that he took the materials. The Warden had nothing to do with his dismissal."

Following immediately after the case of Keeper Gleeson, no fewer than three Keepers, (M'Carthy, Keely, and M'Garvey,) all of whom gave evidence at Kitchen Keeper Smith's trial unfavourable to Smith, were brought before the Inspectors on the same day. The avowed cause of this proceeding was a letter from Keeper Pollard, written at the request of the Warden, in which the three Officers in question were mentioned as knowing something against the Warden. Pollard's letter was as follows:—

Copy of Letter of Complaint of Samuel Pollard  
against Mr. Rowlands and others.

"To the Warden and Board of Inspectors,  
Provincial Penitentiary.

"March 15, 1848.

"GENTLEMEN,

"Since my connection with the Provincial Penitentiary I had often heard mention made of a combination that was making ground, which had for its sole object the desire of destroying the fame, credit, good name, and public standing of the worthy Warden of this Institution. I therefore feel it my duty to lay before your notice the following statements:

"Being desirous to obtain a situation in the Penitentiary, I waited on the Rev. — Herchmer to solicit a recommendation in my behalf for the Warden of the Institution, which in the kindest manner he

Appendix  
(B.B.B.B.B.)  
30th May.

"most readily furnished me with, at the same time directing me to the Rev. R. V. Rogers, the Chaplain, for another. I waited also on that gentleman, and on making known my desire, I was greatly surprised to hear the Reverend gentleman make use of very abusive and unchristian language towards the Warden of the Penitentiary; telling me above all things to let this be my last thoughts of entering that Institution, for I would be nothing less than a slave; I would have to bow in silent submission to the greatest tyranny exercised by the Warden. In confirmation of which, the Reverend gentleman assured me that the Head Keeper, Mr. Utting, had been used worse than a beast by the Warden. At this announcement, I replied, 'Sir.' Yes, he continued, a beast was not too strong a language to use. I little knew what a tyrant the Warden was; that he had robbed him and Mr. Coverdale of part of their salary, and put it into his own pocket. Nor was this all, for he warned me if I had any regard for my life not to enter that Institution; in proof of which, the Reverend gentleman proceeded to state that since the Warden had turned the Architect and Head Keeper away, the Convicts had become insubordinate, and he was confident they would soon revolt; in which case he would give very little for the life of the Keepers, (who were a company of brutes,) as the Convicts were determined to rid themselves of such tyrants; and there was not one, with the exception of himself, who would be able to quell them. The Reverend gentleman here remarked, that he could go amongst them without danger.

"This account of the Penitentiary so alarmed me, that I resolved to forego my desire, and think no more of a place where such scenes as the above referred to were committed. Accordingly, I returned with all haste the recommendation the Rev. — Herchmer had so kindly given me; saying, that the Chaplain had given me such an awful account of the place, that I dare not lay it before the Warden. The Reverend gentleman then, with parental kindness, desired me if at any time he could render any service not to forget to call on him.

"I beg, gentlemen, with respect to say, that the two years previous to this I had occasionally been engaged in repairs of the water-works within the walls of the Penitentiary, and often had some of the Convicts to assist; and do here most solemnly state, that I never witnessed but the utmost kindness from the Warden, not only to myself but also to the Convicts who assisted me. I could enumerate more fully, but at present I beg leave with respect to decline. In the course of two month's circumstances induced me to alter my resolution, and I accepted a situation in the Penitentiary, which, from that time to the present, I have been agreeably surprised, for I have seen no tyranny from the Warden, and much less have I found the Keepers like brutes; but deeply grieved am I to say that I have found a spirit of combination amongst some few of its Officers, growing more daring and insolent, whose object is to set at defiance the Warden of this Institution, and to trample upon any who dared to oppose their progress.

"Soon after my appointment, the Rev. R. V. Rogers wished me to take charge of the Library. I did so, as far as my limited time would allow me. The Rev. gentleman was not satisfied with my attention; wished me to devote more time. I replied that my duties would not allow me. He then said, he would petition the Board to throw off my Sunday duty, as he had not time to attend to the Li-

Appendix  
(B.B.B.B.B.)  
30th May.

“ brary himself. In a few days afterwards, he told me that the Board would not grant his request; and it was just like them; any matter that was for good, they took no heed of, but anything that done no good, would be sure to receive their support.

“ From the first day of my appointment, I heard much complaint among the Officers, that the Surgeon did not come early enough, thereby depriving them of their dinner time; and on one occasion, a Keeper informed me that he had mentioned the circumstance to the Surgeon, who replied, ‘ what the hell had he to do with his dinner.’ At length it was determined to petition your Honourable Board for redress; accordingly the petition was framed, signed, and forwarded, and I believe, worded in a respectful manner; among the signatures, was my own. A few days after this, I accidentally met the Surgeon, who abused me in a shameful manner for signing the Petition; saying, he knew it was the Steward and Warden that had made us sign it; that it should do none of us any good; and he cared not a damn for any one in the Prison—he would fix us before long. I felt convinced, from that moment, the Surgeon would not rest till he had obtained revenge for an imaginary injury; and hence I found, soon after, he brought some vexatious charges against the Kitchen Steward. Not content with this, he determined to get publicity to a species of malice and calumny, in order to excite the public, as well as the Council of the Province, to look upon the Warden and your Honourable Board as a pestilential body, to be shunned by society; and hence I found the ‘ *Chronicle and News* ’ took part in publishing, for the Surgeon, most scandalous charges and wicked lies against your Honourable Board. This grieved me; and being a subscriber, I waited upon Mr. Rowlands, in order to convince him, if possible, the cause of the Surgeon’s anger. Our conversation ran thus: ‘ He said the Warden was a bad man; that I knew nothing of him; that he had taken the Chaplain’s Salary from him; that he had turned the Head Keeper away because he was too good a man for him; that the Warden had taken half of Mr. Coverdale’s Salary from him, and used him in a most shameful manner besides. I replied, that I could not believe one word of it. He said, that was for want of knowing the man, (meaning the Warden.) However, he knew him, and he was determined to write him down; the time had come when he and the Surgeon, with one or two others, would drive the Warden out of the Penitentiary; for they would endeavour, by publishing charges against the Warden, to incite the Governor and Council to institute an inquiry into the affairs of the Prison, when there would be plenty to come forward and speak against the Warden: out he must go, nothing could save him. I said, I was sorry to see him give way to everything the Surgeon would say, and I hoped that he would not publish falsehoods; but that he would keep a respectable journal fit for any gentleman’s drawing room. He also said, that the discharged Guard Fitzgerald, the Guard Robinson, the Hospital Steward Mr. Juliens, had been to the Surgeon’s house, and sworn to things that would surprise me. I answered, ‘ Oh no; what they would say, could receive no belief from me.’ He also stated, that the Surgeon had two or three Convicts who would come forward and prove charges against the Warden. At this stage, I remarked that I could see plainly it was a conspiracy to injure the Warden; and that I was sorry to see a gentleman of the Surgeon’s standing in league with Convicts; and that such evidence would not, in my opinion, enhance his cause. In proof of which, I remarked

“ that I had Convicts under my charge, who, if the Surgeon promised to use his influence to obtain their liberty, would swear, with perfect freedom, that I had committed murder, if he required it. That I had never heard of Convicts being allowed in England, the liberty of impeaching the character of any one. Mr. Rollands then said, it did not matter; and though he knew the Surgeon was a man not to be trusted, yet it just served his purpose for writing against the Warden. I here begged him to bear no malice or hatred towards any one, but to no purpose; for he answered me that if he and the Surgeon could turn the Warden out of Office, they would. That the Surgeon had asked the Sheriff, S. A. Corbett, Esq., for all the evidence given before the Board, respecting the charges against the Kitchen Keeper; that the Sheriff would soon let him (Rowlands) have them for publication, and which would soon finish the Warden. There were also others who could tell quite enough to ruin the Warden, and that was the Keeper M’Garvey, M’Carthy, and Keely, who had told the Surgeon things the Warden little thought of. I said likely they might; but I bid him take care they were all true, in case he got himself into trouble; and that I could not see how these things could affect him, or why he should be so inveterate against the Warden, who had done him no injury. He replied, ‘ yes he had;’ for he would not give him part of the advertisements as well as the ‘ *Argus* ’ and ‘ *Whig*.’ After a few more minor remarks, we separated. All which is respectfully submitted.

(Signed,) “ SAMUEL POLLARD,  
“ Keeper.”

The three Officers referred to in this letter, were called before the Board of Inspectors, separately, on 18th March, 1848, and we proposed giving the evidence on each case.

#### CASE OF Keeper M’CARTHY.

The first of the three called before the Board was M’Carthy, and the following is the evidence as to what occurred:—

James M’Carthy—Preliminary examination:—

“ Was Keeper of the Blacksmiths in the Penitentiary nearly 15 years; was in the Institution from the commencement; was suspended on the 19th March last (Sunday morning) at 8 o’clock; got a letter, dated 10th April, intimating that he would not be paid during his suspension; was dismissed by letter of 1st June. Had no quarrels with the Warden or his son while in the Institution; had no reason to doubt, until he was suspended, that he gave perfect satisfaction to the Warden and Inspectors.”

“ The circumstances attending his dismissal from the Penitentiary were as follows:—On Saturday, 18th March last, he was sent for to go before the Board of Inspectors; he went, and found Messrs. Hopkirk, Corbett, and Gilderslieve assembled. Mr. Hopkirk asked witness if he was not the oldest Keeper in the Prison? Witness said he was; and added, that he had made the axes which cut down the trees on the very spot they were then sitting on. Mr. Hopkirk said, ‘ that was a good while ago, M’Carthy?’ Witness said it was 15 years ago come next August. Sheriff Corbett then said, ‘ the Warden gives a very good character of you, M’Carthy’ (the Warden was not present). Witness said he was obliged to the Warden, but he

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

“ had left nothing else in his power. Mr. Hopkirk then said, ‘ M’Carthy, a friend of the Warden’s ‘ has written him that you have a great many ‘ charges against the Warden.’ Witness said, he ‘ would like to know how this friend of the Warden’s could know whether he had charges against the Warden or not; and he asked Mr. Hopkirk to ‘ read the letter to him, or tell him what the charges ‘ were; and then he would give the Warden any ‘ satisfaction he required. Mr. Hopkirk said, ‘ no ‘ ‘doubt witness was telling the truth,’ and Mr. ‘ Corbett said, ‘ Certainly he was.’ Mr. Hopkirk ‘ then asked witness, ‘ if he thought the Warden a ‘ ‘fit and proper person for his situation as War- ‘ den?’ Witness said he thought he was. Mr. Hop- ‘ kirk asked witness, whether the Warden showed ‘ partiality in his conduct towards the Convicts, or ‘ if he did equal justice? Witness said, he thought the ‘ Warden acted impartially. Mr. Hopkirk then ‘ asked, if the Warden was impartial in his conduct ‘ towards the keepers? Witness said he was. Wit- ‘ ness was then asked, if the Warden was an honest ‘ man? Witness said, he thought he was. Mr. Hop- ‘ kirk then desired Mr. Corbett to swear witness. ‘ Mr. Corbett tendered the Bible to witness, but ‘ witness refused to swear. Sheriff Corbett then ‘ threatened him if he would not swear, and read to ‘ him the Clause of an Act of Parliament, giving ‘ the Inspectors the power to administer oaths to the ‘ Officers, and to dismiss them if they refused. Wit- ‘ ness said, he was well aware the Inspectors had that ‘ power. And Sheriff Corbett continuing to threaten ‘ him, he added, that he would be sorry to lose his ‘ situation, but the Inspectors might act their plea- ‘ sure, as he would not be sworn as to the truth of ‘ the answers he had given. Mr. Hopkirk then said ‘ to the other Inspectors, ‘ We have, however, to ‘ write this evening to the Governor; and as ‘ M’Carthy is so timid about swearing, we will take ‘ his statement.’ Mr. Hopkirk then wrote out a ‘ statement, embodying the replies he had given to ‘ the several questions; read it to witness, and asked ‘ him to sign it. Witness refused to sign the paper. ‘ Mr. Hopkirk then said to witness that he was a ‘ great rascal; that he regarded all he had said as ‘ lies; and that he could not believe a word he ut- ‘ tered. Witness said he was sorry Mr. Hopkirk ‘ had so poor an opinion of him; and Mr. Hopkirk ‘ remarked, ‘ Oh, I see he (meaning witness) does ‘ not understand it;’ and he read the paper to wit- ‘ ness again. Witness still refused to sign the state- ‘ ment. Witness further states that Sheriff Corbett ‘ tendered the Bible to him three times, and asked ‘ him each time to swear; witness steadily refused. ‘ Sheriff Corbett got quite angry; took up his stick, ‘ and paced the floor much excited. Finally, the ‘ Board dismissed witness to his work. Witness was ‘ suspended next morning by Head Keeper Costen, ‘ until next day at 1 o’clock. Witness went to the ‘ Prison next (Monday) morning at 10 o’clock, and ‘ saw the Warden. The Warden asked witness why ‘ he did not sign the statement? Witness said he did ‘ not wish to do so. The Warden said, it was no af- ‘ fair of his (the Warden’s); he had no hand in it; ‘ it was the Inspectors’ own act. Witness replied, that ‘ the Inspectors said otherwise; that they told wit- ‘ ness that he (the Warden) had received a letter, ‘ informing him that M’Carthy had charges against ‘ the Warden. The Warden said it was not so; that ‘ the Inspectors had received the letter themselves, ‘ and that he had nothing to do with it. Witness ‘ asked the Warden who he was to believe—him or ‘ the Inspectors—for they told a different story. ‘ Finally, the Warden told Witness that he was sus- ‘ pended until further orders; and he heard no more ‘ of the matter other than the two letters mentioned

“ at the beginning of his evidence.” And again:—  
“ On the Monday morning, when witness was sus-  
“ pended, witness met Mrs. Smith at the hall door  
“ of the North Wing. Mrs. Smith said, ‘ Why did  
“ you not do as the Inspectors wanted you, M’Car-  
“ thy; you that have been so long under the mas-  
“ ter?’ Witness said, he did not wish to swear to  
“ the statement. Mrs. Smith said, ‘ Don’t you think  
“ the master is an honest man?’ Witness said, he  
“ did not doubt but he was. Mrs. Smith then said,  
“ the Inspectors were sitting at the time; and pressed  
“ witness to go before them and sign the paper; add-  
“ ing that they (the Warden and his wife) had just  
“ received a letter from her son Henry, at Montreal,  
“ and that it was all right; there would be no inves-  
“ tigation. Mrs. Smith took witness by the arm and  
“ pulled him towards the door of the Inspector’s  
“ room, but witness refused to go in.”

By Mr. Smith:—

“ Recollects being called before the Inspectors on  
“ 18th March last, about the affair on which witness  
“ was dismissed; was asked questions by the In-  
“ spectors; will not be certain if his answers were  
“ taken down; a paper was written out by Mr.  
“ Hopkirk concerning the matter, which he said he  
“ was to send to the Governor General that evening.  
“ Witness refused to sign it. Mr. Hopkirk read out  
“ the document; and when he would not sign it,  
“ called witness a rascal or scoundrel, or something  
“ of that kind; and said he believed all witness had  
“ said was lies. Will not be certain whether he told  
“ Mr. Hopkirk that the document he had written  
“ out was true; if it had been true witness would  
“ have signed it. He could not tell if the Warden  
“ was an honest man, or fit for his situation; which  
“ was in that paper: to the best of witness’s opinion  
“ the Warden was not. Mr. Hopkirk asked witness  
“ if the Warden was an honest man, and fit for his  
“ situation; and witness thinks Mr. Corbett did so  
“ also. Witness knew the Warden and Inspectors  
“ were good friends, and ‘ to be sure’ he told them  
“ everything that would please them. Thinks the  
“ paper was read over to witness two or three times.  
“ Thinks the Warden and Inspectors all wished to  
“ have witness dismissed; certainly if they had not,  
“ they would not have dismissed him. Was dismissed  
“ by the Warden and his Inspectors. The Warden  
“ was not present during the examination; but wit-  
“ ness thinks he was not far off.”

James Hopkirk, Esquire—By Mr. Smith:—

Prior to the dismissal of Keely and M’Carthy, in  
March, 1848, witness, at their examination, took  
down accurately the answers they made to the ques-  
tions, put to them by the Board; the answers were  
read over to them before they were asked to sign  
them. They did not then state that they knew any-  
thing to the prejudice of the Warden; on the con-  
trary, they said they knew nothing against him; they  
declared that what had been taken down, was strictly  
true; never used the words, “ we have to write this  
“ evening to the Governor, and as you are so timid  
“ about swearing, we will take your statement.”  
M’Carthy was however told, that as he objected to  
be sworn, “ the Board wished him to sign the state-  
“ ment without swearing to it.” Keely and M’-  
Carthy were dismissed, because they would not sign  
or swear to what they had repeatedly declared to be  
true; and the Board thought that men who would  
act so, were not fit to be trusted in such responsible  
situations. The Board thought that they must  
either have stated what was not true, or that they  
had some secret reason for refusing to verify what  
they knew to be true; and that in either case they

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

were not to be trusted. The Warden was not present at the investigation or decision in the case. Witness never told M'Carthy on that occasion, that he was "a great rascal;" if he has sworn so, he has perjured himself, as witness has reason to believe he has done, on other occasions.

By Commissioners :—

" Ex-keeper M'Carthy, gave evidence at Frank Smith's trial, in October, 1847; his evidence, to the best of witness's recollections, was not unfavourable to Frank Smith; witness may be mistaken in this; he was one of the oldest Officers of the Penitentiary. M'Carthy was brought before the Inspectors, on 18th March, 1848; there was no complaint against him; he was brought before the Inspectors as a witness; he was brought up as a witness on an inquiry into the conduct of Warden Smith; there was no charge preferred against Warden Smith; the Inspectors wished to inquire into the Warden's conduct; they were informed that M'Carthy knew something to the Warden's prejudice, and they wished to know if such was the fact. One week previous to this investigation, viz., 11th March, 1848, the Board had written to the Government, asking that a Commission might issue to inquire into the whole affairs of the Penitentiary, to satisfy the public mind. On examining the Inspector's Letter-book, witness observes that reference was made in the Inspector's letter, to a letter from the Warden to Government, of 19th January, 1847, praying that a Commission might be appointed to inquire into the conduct of himself, and the other Officers of the Penitentiary. Has heard that a Commission was issued by the late Administration this spring, to inquire into the affairs of the Penitentiary, but had no official intimation of it; the first witness heard of such a Commission, was through a letter sent from Mr. Secretary Daly, to Dr. Sampson, which the Doctor left in the 'Chronicle and News' office, and witness saw there; it did not name the Commissioners, but stated that the Government had resolved to issue a Commission; cannot say if witness saw this previous to the 18th March; believes the late Government went out of Office early in March, previous to M'Carthy's being brought before the Board; at the time M'Carthy was before the Board, the Inspectors thought it very likely that a Government Commission would be shortly issued. The Inspectors did not know what the things were which M'Carthy knew to the Warden's prejudice; it was for the purpose of ascertaining them, that he was brought there; the knowledge that M'Carthy had such things to tell, was conveyed to the Inspectors in a letter from Keeper Pollard, addressed to the Inspectors or Warden; cannot say whether the letter came direct from Pollard to the Inspectors, or through the Warden; thinks the latter; the Warden expressed no disinclination to have the matter inquired into; on the contrary, he rather wished it; does not know who got Pollard to write this letter; presumes it was done of his own accord."

Resumed :—

" Witness explains that he has examined since yesterday, James M'Carthy's evidence on Frank Smith's trial, before the Inspectors, and the only evidence he gave on that occasion, was as to the credibility of two witnesses, Robinson and Fitzgerald, of whom, he said, he knew no reason why they should not be believed on Oath."

By Commissioners :—

" Witness is shown a letter signed 'Samuel Pollard, Keeper,' addressed to the Warden and Board of Inspectors, Provincial Penitentiary, and dated '15th March, 1848,' and says this is the letter on which M'Carthy was brought before the Board. Witness is asked to state the particular passage of this letter, which induced the Inspectors to institute an inquiry into the conduct of Warden Smith, and says, he thinks it likely, as far as his recollection serves him, that the following passage might be the one: In speaking of some conversation, he (Pollard) had with Mr. Rowlands of the 'Chronicle and News,' the latter says, Mr. Rowlands told him (the writer), there was also others who could tell quite enough to ruin the Warden, and that was the Keepers M'Garvey, M'Carthy, and Keely, who had told the Surgeon things the Warden little thought of. Thinks this must have been the principal passage which led the Inspectors to call upon M'Carthy, to know if he had anything to say; on examining the letter, says there is no other allusion made to M'Carthy, in it. Witness being asked whether the fact was not, that this inquiry into the conduct of the Warden was instituted on a report from a party, that he had been told by a second party, that he (the second party) had been told by a third party, that he (the third party) had been told by M'Carthy, things the Warden little thought of.' Says the Board considered themselves bound to inquire into anything affecting the character of any Officer of the Institution; and they did not think they would have been justified in shrinking from doing so in the case of the Warden, any more than in the case of an inferior Officer. A formal representation had been made to the Board, by one of the Officers, that certain other Officers were alleged to know something prejudicial to the character of the Warden, and the Board conceived themselves bound to inquire if such was the fact; they did not put the Warden on his trial; they merely called the parties before them, to know if there was any truth in what had been alleged; cannot say, at this distance of time, whether the Inspectors proceeded to the inquiry on a particular Clause of the Penitentiary Act, or on the general authority which they understood themselves to have; is not aware that any person called on the Inspectors to make any inquiry into the matter; has no doubt the Warden was quite willing to have the inquiry; cannot say, but supposes, from the address of Pollard's letter, that it may have communicated to the Board, through the Warden; it is not, however, so stated in the Minutes. When the Board of Inspectors examine charges against any Officer of the Institution, the habit is, that the party accused shall be present; sometimes preliminary inquiries have been made without the party accused being present; but in all cases when charges are gone into, he is present; the inquiry in question, into the conduct of the Warden, was a preliminary inquiry; there have been several other preliminary inquiries, as far as witness recollects, but he speaks from memory; has an impression that there was a preliminary inquiry into a charge against Guard Bannister, for taking out a bag of oats from the Institution, when the Board were satisfied he was not guilty; on reference to the Minutes, witness finds no mention of this inquiry, and if it is not there, it must have been omitted; to the best of witness's recollection, Bannister was not present at the whole of the inquiry, but was at a portion of it. The practice is, when a complaint is made by any one, the In-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix

(B.B.B.B.B.)

30th May.

“spectors examine him, and if they find ground sufficient for an investigation, the accused is called in and remains during the examination of witnesses on Oath. Bannister’s case occurred since the Commission sat. There was a preliminary examination in the case of Dr. Sampson and the Convict Reveille; the inquiry was into the conduct of Convict Reveille, and it turned out in the course of that inquiry, that there appeared to be matter affecting the Surgeon; this inquiry (of 24th February), as to Reveille, was not a preliminary examination into the conduct of Dr. Sampson. The Board did not proceed further with the case of Reveille, as she was said to be insane, and the matter seemed to involve the Surgeon fully as much as her. Witness cannot condescend at this moment, upon any one instance but the Warden’s, in which a preliminary examination was had on an Officer in his absence, but is of an impression that there have been such. The Warden was not present at the preliminary investigation in question; he was told he had a right to be present, but declined being so. Witness is asked what difference there is between the mode of conducting a regular examination and a preliminary examination by the Inspectors, and says there is not much difference; a regular examination is under Oath, and a preliminary one is not always so; in a regular examination, the accused is always called on to make his defence, and in a preliminary one, he is not always called upon to do so; the one is more of the nature of an inquiry, and the other of a trial. Witness is asked if he ever knew any other preliminary examination by the Inspectors, than the one in question, as to the conduct of the Warden, which was taken under Oath, and says he does not remember any other. When M’Carthy came before the Board, he was informed that the Board had received intimation that he could give some information as to some alleged improper conduct on the part of the Warden, and if so, it was his duty to make it known, which he was now called on to do; he was further told to tell the truth without fear, and that nothing he could say, would be turned to his disadvantage; that the Board were as much bound to listen to, and inquire into any alleged improper acts of the Warden, as of the lowest Officer of the Prison, and would visit such acts with the same displeasure; does not remember if M’Carthy made any reply before the Oath was tendered to him; does not recollect that M’Carthy told the Inspectors, before the Oath was tendered to him, that he had no information to give as to improper conduct on the part of the Warden; thinks no questions were put to M’Carthy before the Oath was tendered to him. When the Oath was tendered to M’Carthy, he refused to be sworn; stating that he would tell the truth the same as if he had been sworn. He was asked his reason for so declining. He said he had made a vow never to take another Oath in the Penitentiary. Believes he was reasoned with, on his refusal to be sworn. He was told that the Inspectors had the power to compel him to swear. Thinks he was told the Act gave the Inspectors this power; but cannot recollect if he was told what would be the penalty of his continuing to refuse. It is impossible for witness to recollect the precise words used, at this distance of time. He was pressed to swear. He may have been told, the Inspectors had the power to dismiss him. Dares to say he was so told. M’Carthy was not told he would be dismissed; as far as witness recollects. The Board then decided that it was not necessary to insist on M’Carthy’s being sworn at that stage of the proceedings, and began

“to question him. He was asked if he knew anything against the Warden’s character or conduct, or had stated so: and he answered, that he knew nothing whatever, against the Warden’s character or conduct; that he knew nothing wrong of the Warden, or against his character or conduct. He replied, in answer to a question, that he had never stated to any one, that he knew anything against the Warden’s character or conduct. He also added, that he never saw anything about the Warden, but what was honest and upright. Cannot say whether this last was in answer to a question, or given voluntarily. Witness gives this evidence from a memorandum taken at the time, signed with the initials of the three Inspectors present. Witness is shown the said memorandum, as found in the records of the Institution; and says, this is the document he alludes to. The said statement was taken down by witness, and read over to M’Carthy, who declared it correct. M’Carthy was then asked to swear to it, and refused to do so; he was asked to sign it, and refused; he was asked his reasons for refusing to sign, but gave none. Has no doubt he was asked more than once, to swear to the statement. Does not recollect if he was again warned of the consequences, if he still refused to swear; should think not. Either M’Carthy, Keely, or M’Garvey, (who were all examined on the same matter) asked where the Inspectors got their information. They were not told. The Board either declined to tell the one who asked the question, or gave no answer. There have been other complaints besides this, taken up by the Board, against Officers, on the written letters of complaint of other Officers. Mr. Rogers’ complaint against Keeper Pollard, is one instance, and thinks, one by Skinner, against Pollard, was another. Does not remember any other. Both of these cases have occurred subsequent to M’Carthy’s. The complainants in these two cases had the right to be present at the investigation, and were notified to be present. In M’Carthy’s case, Pollard who wrote the letter was not present, nor was he notified. Is not aware that, until informed by the Commissioners many months afterwards, Pollard was ignorant that any investigation had taken place on his letter, or that M’Carthy and Keely were dismissed in consequence of what occurred at that investigation. The Minutes show that the Inspectors regarded the inquiry as one into the conduct of the Warden. M’Carthy was not asked if the Warden was a good man for his situation. He was asked no questions beyond those witness has mentioned. Before M’Carthy left the room, he was told, that if he wished to amend the answers he had given, he might still do so, but he said it was all correct. The decision on the matter given by the Board, after examination of the three Keepers, was as follows:—‘The Board, finding from this preliminary examination, that there is nothing to warrant the inference that the information laid before them was well founded, consider it unnecessary to proceed further with the investigation. With regard to the conduct of the Keepers M’Carthy and Keely, the Board postpone coming to a final determination thereon, till Monday next, at 9 o’clock, A.M., but direct the Warden to intimate to them that they are, in the meantime, suspended until after the next meeting of the Board.’ The Board took the matter up again on 20th March, and pronounced the following verdict:—‘With respect to the case of Keely, the Board could not conceive that any honest man, whatever his scruples might be, in taking an Oath, could have any objections to putting his sig-

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

" nature to a statement which he knew to be true ;  
 " and considering that a person who, when called  
 " before them for examination as a witness, would  
 " make a statement to which he was afraid to put  
 " his name, must either be conscious that it was  
 " untrue in some particulars, or have some improper  
 " reason for refusing to authenticate it, which he was  
 " afraid to divulge ; in either of which cases he would  
 " be utterly unworthy to be intrusted with the res-  
 " ponsible situation of Keeper : considering also the  
 " general report of discipline in the gangs placed  
 " under his charge, for which he was reprimanded on  
 " the 8th October last, and the many instances of  
 " misconduct recorded against him, and further con-  
 " sidering the absolute necessity of enforcing due  
 " subordination among all who are employed in the  
 " Institution, would probably, under ordinary cir-  
 " cumstances be called upon to direct his dismissal."

" With regard to the Keeper M'Carthy, for the  
 " reasons first above stated, and also on account of the  
 " numerous complaints of negligence and inattention  
 " already existing against him, as well as from the  
 " former Board having found it necessary to direct  
 " his dismissal so soon as a suitable person could be  
 " found to take his place, and from the present Board  
 " having been called upon to reprimand him also for  
 " not maintaining due subordination in his gang, and  
 " the continual carelessness and inattention, they con-  
 " sider that although his conduct to the Board was  
 " not disrespectful, they would also probably under  
 " ordinary circumstances be obliged to direct his dis-  
 " missal. But taking into consideration that the  
 " Board have applied to His Excellency the Govern-  
 " or General for a Commission of Inquiry into the  
 " affairs of the Penitentiary, they deem it more ex-  
 " pedient, in the meantime, to suspend the two  
 " Keepers above-mentioned until an intimation of  
 " His Excellency's intentions as to the issue of a  
 " Commission shall be made known, or until the  
 " inquiries of such Commission shall be brought to a  
 " close. The Board took the matter up again on 8th  
 " April, and instructed the Warden to inform Keely  
 " and M'Carthy that they would not be paid during  
 " their suspension. Does not know whether the  
 " habit was to pay suspended Officers ; but a doubt  
 " having been raised on the subject, the Board then  
 " decided that suspended Officers were not entitled  
 " to be paid. The Inspectors did not expect that  
 " these men would be paid when they suspended  
 " them ; but they heard that Keely and M'Carthy  
 " expected to be paid, and they thought it necessary  
 " to inform them of the contrary. The opinion of  
 " the Board was, that the proper punishment of  
 " M'Carthy was dismissal ; and he would probably  
 " have been dismissed but for the approaching sitting  
 " of the Government Commission. Some of the In-  
 " spectors thought that in the circumstances, the less  
 " they meddled with the Officers of the Penitentiary  
 " the better. The Board took up the matter again  
 " on 31st May, and without any further inquiry  
 " dismissed Keely and M'Carthy. At this meeting  
 " Dr. Baker, who had been absent at the previous  
 " meetings, was present. The Board had not then  
 " received intimation that the present Commission  
 " had been appointed ; they were informed five days  
 " afterwards, (5th June,) by letter of 1st June, that  
 " such was the fact. Thinks the reason for their  
 " being dismissed was, that the Board had been in-  
 " formed that Keely and M'Carthy might compel  
 " them to pay their salaries until they were finally  
 " dismissed, and the matter had lain so long that  
 " blame might attach to the Inspectors. Remembers  
 " no other reason for their dismissal. To the best  
 " of witness's recollection, when M'Carthy and Keely  
 " were dismissed the Board had no positive intimation

" that Government was about to issue a Commission.  
 " On reference to the Inspector's Letter Book, it  
 " appears that the Inspectors had intimation from  
 " Government by letter of 25th April of their inten-  
 " tion to issue a Commission without delay, and  
 " therefore that witness was in error in his previous  
 " statement that they had no knowledge of it when  
 " M'Carthy and Keely were dismissed. There is no  
 " reason stated in the minutes for M'Carthy's and  
 " Keely's dismissal. There was a greater certainty  
 " that a Commission would be immediately issued at  
 " the time of the dismissal than at the time of sus-  
 " pension. Previous to M'Carthy's dismissal he had  
 " been reprimanded for carelessness, and thinks also  
 " for some bad work ; but otherwise, as far as wit-  
 " ness knows, his character was good ; he was one of  
 " the oldest Officers in the Prison ; never heard any  
 " thing against his honesty or veracity. Witness  
 " has sworn that he would not believe M'Carthy on  
 " his oath ; did so from certain statements transmitted  
 " by the Commissioners as having been made by  
 " M'Carthy on oath before them which witness  
 " knows to be untrue. A portion of the said state-  
 " ments, if true, would have been very prejudicial to  
 " witness. Witness has no other grounds for saying  
 " that he would not believe M'Carthy on his oath  
 " than these statements. Witness tried to have  
 " M'Carthy criminally indicted at last Assizes on  
 " account of part of the said statements, but was not  
 " successful at that time in consequence of Mr. Com-  
 " missioner Brown's having objected to testify before  
 " the Grand Jury at last Assizes as to the evidence  
 " given by M'Carthy before the Commissioners.  
 " Witness intends to repeat the application at next  
 " Assizes. If M'Carthy has not made the state-  
 " ments before the Commissioners which he is said  
 " to have made, witness could have no desire to pro-  
 " ceed against him criminally or in any other way ;  
 " nor would he have any reason for thinking that he  
 " was not to be believed on oath."

Resumed :—

" Witness explains that he now remembers an-  
 " other case wherein the Board inquired into a charge  
 " made in writing by one Officer of the Institution  
 " against another ; alludes to an entry made by Dr.  
 " Sampson in the Hospital Register on the 9th day  
 " of March, 1848, in which words were used reflect-  
 " ing on some persons in office in the Penitentiary,  
 " as being actuated by feelings of animosity and de-  
 " ceit. The Warden called the attention of the  
 " Board to the said entry. The Board summoned  
 " by letter Dr. Sampson to come before the Board  
 " and explain to whom he alluded, with the view of  
 " examining into the matter. The Doctor refused  
 " to appear. The Board did not proceed with the  
 " investigation, as they had nothing on which to  
 " proceed."

By Mr. Smith :—

Q. Did the Inspectors ever use *ex parte* evidence  
 against any Officer, or did they when they had held a  
 preliminary examination go over all the evidence  
 again ?

A. When the Inspectors found it necessary to go  
 on with an investigation, they examined the wit-  
 nesses on oath in presence of the accused.

Q. Were Keely and M'Carthy present together  
 when examined on 18th March ?

A. No, they were examined separately.

Appendix  
(B.B.B.B.B.)

30th May

Appendix  
(B.B.B.B.B.)  
30th May.

Q. When the charges and evidence were served on the Warden by the Commissioners, do you not consider they became his property?

A. I do think so.

Q. Was it a publication of those charges, when the document left the hands of the Commissioners?

A. That is a question of law which witness is not prepared to decide, but thinks it was.

Q. Were you prevented from obtaining the object you had in view in going before the Grand Jury to complain against M'Carthy?

A. I was.

Q. Was there any case pending before the Government at the time relative to M'Carthy's alleged perjury?

A. Not that witness was aware of.

Q. Do you think the charge against Dr. Sampson for publishing a decision of the Board of Inspectors when it was before the Government, analogous to that made by you against M'Carthy?

A. Does not.

Q. Was Dr. Sampson an Officer of the Penitentiary when the complaint was made against him?

A. At the time of the occurrence he was.

Q. Was M'Carthy an Officer of the Penitentiary when you endeavoured to get him indicted for perjury?

A. He was not.

Q. Was not the complaint against Dr. Sampson an act of the Board of Inspectors?

A. Yes.

Q. Had the Inspectors anything to do with the charge of perjury against M'Carthy?

A. No, it was entirely an act of witness's own as an individual.

Q. Had your appeal to the Grand Jury any object to bring the Commissioners into contempt?

A. No.

Q. Do you think the Inspectors were influenced in their dismissal of M'Carthy, Keely, and M'Garvey by the evidence these men gave at Frank Smith's trial?

A. They were not.

Q. Why was not Mr. Pollard called before the Inspectors as to his letter about the charges against the Warden in the same manner as Dr. Sampson was in the matter of the entry in the Hospital Register?

A. Because from Pollard's letter it appeared that he knew nothing of the charges personally, but mentioned other Officers who did, and who were called. In Dr. Sampson's case, it appeared that he only knew of the matter charged.

Samuel Pollard,—by Commissioners:—

Q. Did you make any complaint or lay any charge against Keepers M'Carthy, Keely, and M'Garvey, before the Inspectors or Warden?

A. No.

Q. Witness is shown a letter in his handwriting, dated 15th March, 1848, and is asked if he sent it to the Warden?

A. Yes.

Q. What was your object in sending that letter?

A. To let the Warden know what witness had heard was going on in the Town and Prison respecting himself (the Warden.)

Q. Had you any intention, in sending that letter, to call for an investigation into the conduct of any one?

A. None.

Q. Did you write that letter at the request of the Warden?

A. Wrote the part of it relating to Mr. Rogers, at the request of the Warden, the other part was written by witness voluntarily.

Q. Was not that part of your letter, referring to your conversation with Dr. Sampson, written at the suggestion of the Warden?

A. Is not positive, but thinks not.

Q. Was that part of your letter, referring to your conversation with Mr. Rowlands, written at the suggestion of the Warden?

A. Cannot say, the time is long past.

Q. How often did the Warden ask you to write; what was said about him, previously to your complying with his request?

A. To the best of witness's belief only once.

Q. How long was that one time before you wrote?

A. Cannot say.

Q. Where were you when the Warden spoke to you on the subject?

A. It was at the door of the Warden's office to the best of witness's belief.

Q. Did you ever speak to the Warden on the subjects contained in your letter of 15th March, 1848, except on the one occasion at his office door?

A. Cannot say positively, as it is nearly a year ago.

Q. Did the Warden ever speak to you on these subjects in his own apartments?

A. Cannot positively say now.

Q. Did you tell the Warden of your conversation with Mr. Rogers soon after you came to the Prison?

A. Cannot positively say.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Did you tell the Warden of the conversation you held with Dr. Sampson at the Doctor's door?

A. Cannot say now.

Witness's evidence of 2nd October, 1848, was here read aloud in presence of Mr. Smith.

Q. Did you tell the Warden of the conversation you had held with Mr. Rowlands?

A. Is not sure whether he did or not.

Q. How long was it before you wrote the letter that the Warden asked you to write down what Mr. Rogers had said?

A. It was not long.

Q. Was it a month?

A. It was.

Q. Did you bring any charge against the Warden in your letter?

A. Not to his knowledge.

Q. Was your letter written with the view of bringing the Warden to trial before the Inspectors?

A. No.

Q. Was not that letter solely as a private communication for the information of the Warden?

A. It was.

By Mr. Smith:—

“ Considers it his duty to make the Warden and Inspectors acquainted with what was going on in the Institution; had no bad feeling against M'Carthy, Keely, and M'Garvey, in reporting what he had heard against them in Kingston; all witness wrote to the Warden, on 15th March, 1848, was not for the Inspectors, and was perfectly true. Witness is asked, how it came if the said letter was for the private information of the Warden; it was directed to the Warden and Inspectors? and witness (having referred to his letter) says that he had not seen the said letter since he wrote it, and had forgotten that he addressed it to the Warden and Inspectors.”

Q. Do you now consider it a private communication to the Warden only?

A. No.

Mr. Sheriff Corbett, President Board of Inspectors,—By Mr. Smith:—

“ Recollects the case of M'Carthy and Keely. It came to the knowledge of the Board, that these men knew something against the Warden. The Board sent for them, and witness told them what they had heard, and that the Inspectors were anxious to know the truth. Witness told them to say all they knew against the Warden, and assured them it would not prejudice their situations. They declared they knew nothing against him. Mr. Hopkirk wrote out their statements; they were severally read to them, and they acknowledged that what was written was correct, but refused to verify their statements on Oath. Witness then said, if they had stated anything incor-

rect, these statements would be destroyed, and others drawn up. Both refused. M'Carthy said he had made a vow never to take another Oath in the Penitentiary. Keely gave no reason but that it might come against him at some other time. The Warden was not present at the examination of Keely and M'Carthy. Mr. Hopkirk did not, in witness's hearing, tell M'Carthy that he was a great rascal.”

By Commissioners:—

Q. Who brought it to the knowledge of the Board, that M'Carthy and Keely knew something against the Warden?

A. A letter from Pollard.

Q. Did Pollard bring that letter to the Inspectors, or did the Warden do so?

A. The Warden did so.

Q. Was there any charge made in that letter, against the Warden?

A. No; it only stated that M'Carthy, Keely, and M'Garvey, had stated outside, that they knew something against the Warden.

Q. When the question was severally put to them, did not all of these men deny that such was the case?

A. They did.

Q. What necessity was there for taking depositions on Oath, that these men knew nothing against the Warden?

A. Witness, speaking for himself, was anxious to know if there was any truth in the reports against the Warden?

Q. That is not an answer to the question. What necessity was there for swearing these men to a negative?

A. To obtain the truth.

Q. Then, did you doubt their veracity when they said they knew nothing against the Warden?

A. Never doubted their veracity until they refused to be sworn.

Q. Was not the inquiry of the Board grounded upon the information they had received, that those men had charges to make against the Warden?

A. Yes.

Q. When those men declared before the Board that they had nothing to say against the Warden, was not the object of inquiry at an end?

A. As witness said before, the Inspectors desired to find the truth.

Q. Was it not in consequence of the refusal of M'Carthy and Keely to swear to their statements, that they were dismissed?

A. They were suspended and finally dismissed, because they would not verify their statements by an Oath.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

## CASE OF Keeper KEELY.

Martin Keely,—Preliminary examination:—

“ Was Carpenter Keeper in the Penitentiary for 11 years; was suspended on 19th March last (on Sunday); was advised by letter that he would not be paid while suspended (on 10th April); and was dismissed by letter of 1st June; never had any difference with Warden; nor with any other Officer of the Institution; never had any occasion to doubt that the Warden and Inspectors were perfectly satisfied with him, up to the affair which caused his dismissal. The facts of witness's dismissal were as follows:—On Saturday, 18th March last, witness was sent for, to go to the Office immediately. Witness went, and found in the Inspector's Room Messrs. Hopkirk, Corbett, and Gildersleeve. Mr. Hopkirk said to witness he was sorry to hear there was some misunderstanding between witness and the Warden. Witness said he knew of none, and asked what Mr. Hopkirk alluded to. Mr. Hopkirk said not to mind, and that he would take down witness's statement. Mr. Hopkirk then asked witness if he intended to bring any charges against the Warden. Witness replied he did not. Mr. Hopkirk then asked him if he had observed any dishonesty in the Warden. Witness said he had never seen him steal anything. Mr. Hopkirk put his question again, and witness said he had not seen any dishonesty in the Warden. Mr. Hopkirk then asked if witness had seen the Warden display any partiality. Witness said he had not. Mr. Hopkirk then asked witness if he did not think Mr. Smith a fit and proper person to be Warden. Witness said he did. After some further questions, Mr. Hopkirk desired Mr. Corbett to swear witness. Witness refused to be sworn. Mr. Hopkirk asked witness if he would not swear to the truth of his statement; ‘or,’ added he, ‘are we to take all you have said as lies?’ Witness said he could not swear to any such statement as that elicited from him. Mr. Hopkirk asked witness to sign what he (Hopkirk) had written. Witness refused. Mr. Corbett then asked witness if he was not aware that the Board was authorized to take evidence, and that his present conduct endangered his situation. Witness said he knew this. Mr. Corbett asked why witness would neither sign nor swear to his statement. Witness said it was because he thought a few days would give more light on the subject, (alluding thereby to the charges preferred by Dr. Sampson, and to the reported issuing of a Commission to investigate the whole affairs of the Penitentiary,) and that he would not be tied up to any man. Witness then left the Office. At 8 next morning (Sunday) he was informed by Keeper Costen that he was suspended till next day, and at 10 o'clock next day (Monday 20th) witness was told by the Warden that he was suspended. Has had no explanation whatever, other than he has now given, of the cause of his suspension, and does not know why he was suspended, unless this narrative furnishes it. The answers made by witness to Mr. Hopkirk's questions were not witness's real sentiments. The reason why he did not give his real sentiments was, that he was afraid to do so: it was quite understood among the Keepers that any one who opposed the Warden's will would be got rid of on the first opportunity. Officers have been got rid of for no other apparent cause. King was thought to be one, and Fitzgerald and Robinson.”

By Mr. Smith:—

“ Recollects being before the Inspectors at the time he was suspended, on 18th March, 1848. Mr. Hopkirk wrote down a lot of stuff, and wanted witness to swear to it. When witness refused to do so, Mr. Hopkirk wanted witness to sign it, which he also refused. Mr. Hopkirk read over to witness what he had written. Mr. Hopkirk asked the questions at witness; he wrote down pretty near the answers witness gave him; never told Mr. Hopkirk that what he had written, was correct; told him that he could not swear to the answers which had been elicited from witness.”

James Hopkirk, Esquire,—By Mr. Smith:—

“ Prior to the dismissal of Keely and M'Carthy, in March, 1848, witness at their examination took down accurately the answers they made to the questions put to them by the Board. The answers were read over to them before they were asked to sign them. They did not then state that they knew anything to the prejudice of the Warden; on the contrary, they said they knew nothing against him. They declared that what had been taken down, was strictly true. Keely and M'Carthy were dismissed because they would not sign or swear to what they had repeatedly declared to be true; and the Board thought that men who could act so, were not fit to be trusted in such responsible situations. The Board thought that they must either have stated what was not true, or that they had some secret reasons for refusing to verify what they knew to be true, and that in either case they were not to be trusted. The Warden was not present at the investigation or decision in their cases. Witness never told M'Carthy on that occasion, that he was ‘a great rascal.’ If he has sworn so, he has perjured himself, as witness has reason to believe he has done on other occasions.”

By Commissioners:—

“ Ex-keeper Keely gave evidence at Frank Smith's trial before the Inspectors, in October, 1847. As far as witness recollects, thinks his evidence was very little, either prejudicial or favourable to Frank Smith. On reference to the evidence, finds he was only called to speak to the character of two witnesses, Robinson and Fitzgerald, of whom he testified that they were worthy of belief. Robinson and Fitzgerald had given evidence highly unfavourable to Frank Smith, and an attempt was being made by Smith, to break down their character. Believes Keely was 11 years an Officer of the Penitentiary. Keely was brought before the Inspectors, on 18th March, 1848, (at the same time as M'Carthy), upon the investigation which ensued on Pollard's letter. The proceedings in the case of Keely, were nearly similar to those in the case of M'Carthy. Keely refused to be sworn or to sign his statements; he was asked to do so, two or three times; he was warned of the powers the Inspectors had, in case of his refusal to swear in a similar manner as M'Carthy. Witness refers to his evidence in the case of M'Carthy. Witness is shown a statement purporting to have been made by Keely, on 18th March, 1848, before the Board of Inspectors, and signed with the initials of three Members of the Board; and says, these were the notes taken by witness, of Keely's declarations, when before the Board. Keely did not give the same reasons for refusing to swear as M'Carthy did. The only reason he gave for declining to sign or swear, was, lest it might come against him again. Witness cannot tell what Keely meant by

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix

(B.B.B.B.B.)

30th May.

“ this; thinks he gave no explanation of what he meant; thinks he was asked what he meant; did not understand Keely referred to the approaching meeting of the Commission, or to what he referred. Witness remembers nothing against Keely’s character, previous to that date. Finds, on reference to the Minutes, that there had been several charges of misconduct against him. Does not remember what they were, but the particulars were before the Board when he was suspended. The Minutes show that he was reprimanded on 8th October, 1847, for laxity of discipline, and for allowing religious disputes in his gang. This was five months before his suspension. Witness is asked if he would believe Keely on Oath; and says, he is under the impression he has seen statements, said to have been made by Keely, before the Commissioners, on Oath, which witness knew to be untrue; and if he made these statements, witness would not believe him on Oath. If witness’s impressions, as to these statements having been made, are erroneous, he knows no grounds for disbelieving Keely’s testimony on Oath. Witness did not try to get Keely criminally indicted at last Assizes, for testimony he gave before the Commissioners. Does not know if the Warden did. Witness handed to the Grand Jury, a sheet containing extracts from the evidence of certain witnesses, transmitted to Warden Smith, by the Commissioners. The contents of this sheet were copied from the evidence by Warden Smith, at witness’s request. Cannot say from the evidence of how many witnesses, extracts were given in the said sheet laid before the Grand Jury. Knows that extracts from the evidence of M’Carthy were given, and thinks also of Keely and M’Garvey and Robinson. Witness gave this sheet to the foreman of the Grand Jury, with reference only, however, to that part of M’Carthy’s evidence in which witness was alleged to have sent Penitentiary tools to be repaired. Witness marked the particular portion of M’Carthy’s evidence on which he made complaint before the Grand Jury, and he informed the foreman that he did not wish any other portion of the matter on the sheet to be noticed criminally, or even to be read. There was no other reason whatsoever for the other extracts against M’Carthy and the other witnesses being laid before the Grand Jury, but that witness had not had time to make a copy of the particular portion of which he wished to make complaint. Cannot say how long the sheet was in his possession, before he put it in the hands of the Grand Jury; is sure he had it the day before he gave it in. Did not know, however, until the same morning, that he required to put the words of complaint in writing. Thinks he was asked by the foreman to give it in in writing, and that he handed to him, in consequence, the only copy he had. Witness conceived that in some of the other extracts, perjury had been committed; has no doubt the Warden thought perjury had been committed in all of the extracts. Believes all the extracts were made on the sole ground that they contained perjury. Witness asked Warden Smith to extract every statement against witness, personally or officially, in which he conceived the witnesses had perjured themselves. Warden Smith had previously read over some of the passages to witness, from the charges transmitted to him by the Commissioners, and witness had, himself, read over the others. Witness had no authority or wish to proceed against any witness for statements prejudicial to the Board. Witness being asked why he got the extracts made, says, he wanted to see what they were, to consider them. Witness being asked if he considered that he violated the Rules of the Institu-

tion, in communicating to the Grand Jury matters connected with the Penitentiary, which were not officially before the Grand Jury, says, that he does not consider that he did so under the circumstances already explained. Is aware that the statements handed by witness to the Grand Jury were extracts of evidence taken by the Commissioners for the information of His Excellency the Governor General, and he has no doubt they had not then been decided upon by His Excellency. Witness had not then obtained the sanction of the Government for his proceedings. Witness being asked if he had stated that the Government had sanctioned his proceedings in this matter of the Grand Jury, says, that he informed the Commissioners this morning, that he had no doubt the Government had been made aware of his proceedings in the matter, and must have sanctioned them. If witness used any other words than these, this was his meaning. Has no doubt the Government must have been made aware of the matter, by the Commissioners. Has no other reason for saying so, but from supposing that Mr. Brown must have communicated on the subject, with Government. Has no knowledge that Mr. Brown did so officially or otherwise. His only reason for saying that his proceedings must have been sanctioned by Government, was, that being an Officer of Government, had the Executive disapproved of his conduct, he presumes he would have received some notification of it. The Board of Inspectors, of which witness was a Member, through witness as their organ, preferred a charge before the Commissioners against Dr. Sampson, for publishing proceedings of the Board of Inspectors, pending the decision of the Governor General in Council thereon; but in the said charge against Dr. Sampson, the following words are added: ‘and endeavouring to bring the Board into contempt with the public.’ Cannot say if the sheet was given back to witness by the Grand Jury, but thinks so. The result of Keely’s case, as to suspension and dismissal, was the same as in M’Carthy’s, though there was some slight difference in the grounds on which action was taken in the case of Keely, as stated in the Minute of 20th March, 1848. Keely was finally dismissed by the Board on 31st May, 1848.”

By Mr. Smith:—

Q. Were Keely and M’Carthy present together when examined on 18th March?

A. No, they were examined separately.

Q. When the charges and evidence were served on the Warden by the Commissioners, do you not consider they became his property?

A. I do think so.

Q. Was it a publication of those charges, when the document left the hands of the Commissioners?

A. That is a question of law which witness is not prepared to decide, but thinks it was.

Q. Were you prevented from obtaining the object you had in view in going before the Grand Jury to complain against M’Carthy?

A. I was.

Q. Was there any case pending before the Government at the time, relative to M’Carthy’s alleged perjury?

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

A. Not that witness was aware of.

Q. Do you think the charge against Dr. Sampson for publishing a decision of the Board of Inspectors when it was before the Government, analogous to that made by you against M'Carthy?

A. Does not.

Q. Was Dr. Sampson an Officer of the Penitentiary when the complaint was made against him?

A. At the time of the occurrence he was.

Q. Was M'Carthy an Officer of the Penitentiary when you endeavoured to get him indicted for perjury?

A. He was not.

Q. Was not the complaint against Dr. Sampson an act of the Board of Inspectors?

A. Yes.

Q. Had the Inspectors anything to do with the charge of perjury against M'Carthy?

A. No; it was entirely an act of witness's own, as an individual.

Q. Had your appeal to the Grand Jury any object to bring the Commissioners into contempt?

A. No.

Q. Do you think the Inspectors were influenced in their dismissal of M'Carthy, Keely, and M'Garvey, by the evidence these men gave at Frank Smith's trial?

A. They were not.

Q. Why was not Mr. Pollard called before the Inspectors as to his letter about the charges against the Warden, in the same manner as Dr. Sampson was in the matter of the entry in the Hospital Register?

A. Because, from Pollard's letter it appeared that he knew nothing of the charges personally, but mentioned other Officers who did, and who were called. In Dr. Sampson's case, it appeared that he only knew of the matter charged.

Samuel Pollard—by Commissioners:—

Q. Did you ever make any complaint, or lay any charge against Keepers M'Carthy, Keely, and M'Garvey, before the Inspectors or Warden?

A. No.

Q. Witness is shown a letter in his handwriting dated 15th March, 1848, and is asked if he sent it to the Warden?

A. Yes.

Q. What was your object in sending that letter?

A. To let the Warden know what witness had heard was going on in the Town and Prison respecting himself (the Warden).

Q. Had you any intention in sending that letter to call for an investigation into the conduct of any one?

A. None.

Q. Did you write that letter at the request of the Warden?

A. Wrote the part of it relating to Mr. Rogers at the request of the Warden; the other part of it was written by witness voluntarily.

Q. Was not that part of your letter, referring to your conversation with Dr. Sampson, written at the suggestion of the Warden?

A. Is not positive, but thinks not.

Q. Was that part of your letter, referring to your conversation with Mr. Rollands, written at the suggestion of the Warden?

A. Cannot say. The time is long past.

Q. How often did the Warden ask you to write what was said about him, previous to your complying with his request?

A. To the best of witness's belief, only once.

Q. How long was that one time before you wrote?

A. Cannot say.

Q. Where were you when the Warden spoke to you on the subject?

A. It was at the door of the Warden's office, to the best of witness's belief.

Q. Did you ever speak to the Warden on the subject contained in your letter of 15th March, 1848, except on the one occasion, at his office door?

A. Cannot say positively, as it is nearly a year ago.

Q. Did the Warden ever speak to you on the subject in his own apartments?

A. Cannot positively say now.

Q. Did you tell the Warden of your conversation with Mr. Rogers soon after you came to the prison?

A. Cannot positively say.

Q. Did you tell the Warden of the conversation you held with Dr. Sampson at the Doctor's door?

A. Cannot say now.

Witness's evidence of 2nd October, 1848, was here read aloud in presence of Mr. Smith.

Q. Did you tell the Warden of the conversation you had held with Mr. Rowlands?

A. Is not sure whether he did or not.

Q. How long was it before you wrote the letter, that the Warden asked you to write down what Mr. Rogers had said?

A. It was not long.

Q. Was it a month?

A. It was.

Appendix  
(B.B.B.B.B.)

30th May.



Appendix  
(B.B.B.B.B.)

30th May.

Q. Did you bring any charge against the Warden, in your letter?

A. Not to his knowledge.

Q. Was your letter written with the view of bringing the Warden to trial, before the Inspectors?

A. No.

Q. Was not that letter solely as a private communication for the information of the Warden?

A. It was.

By Mr. Smith:—

“ Considers it his duty to make the Warden and Inspectors acquainted with what was going on in the Institution; had no bad feeling against M'Carthy, Keely, and M'Garvey. In reporting what he had heard against them in Kingston, all witness wrote to the Warden on 15th March, 1848, was not for the Inspectors, and was perfectly true. Witness is asked how it came if the said letter was for the private information of the Warden, it was directed to the Warden and Inspectors; and witness, (having referred to his letter), says that he had not seen the said letter since he wrote it, and had forgotten that he had addressed it to the Warden and Inspectors.”

Q. Do you now consider it a private communication to the Warden only?

A. No.

Mr. Sheriff Corbett, President Board of Inspectors,—By Mr. Smith:—

“ Recollects the case of M'Carthy and Keely. It came to the knowledge of the Board that these men knew something against the Warden. The Board sent for them, and witness told them what they had heard, and that the Inspectors were anxious to know the truth. Witness told them to say all they knew against the Warden, and assured them it would not prejudice their situations. They declared they knew nothing against him. Mr. Hopkirk wrote out their statements; they were severally read to them, and they acknowledged that what was written was correct, but refused to verify their statements on Oath. Witness then said, if they had stated anything incorrect, these statements would be destroyed and others drawn up; both refused. M'Carthy said he had made a vow never to take another Oath in the Penitentiary. Keely gave no reason, but that it might come against him at some other time. The Warden was not present at the examination of Keely and M'Carthy. Mr. Hopkirk did not, in witness's hearing, tell M'Carthy that he was a great rascal.”

By Commissioners:—

Q. Who brought it to the knowledge of the Board, that M'Carthy and Keely knew something against the Warden?

A. A letter from Pollard.

Q. Did Pollard bring that letter to the Inspectors, or did the Warden do so?

A. The Warden did so.

Q. Was there any charge made in that letter, against the Warden?

A. No; it only stated that M'Carthy, Keely, and M'Garvey had stated outside, that they knew something against the Warden.

Q. When the question was severally put to them did not all of these men deny that such was the case?

A. They did.

Q. What necessity was there for taking depositions on oath, that these men knew nothing against the Warden?

A. Witness, speaking for himself, was anxious to know if there was any truth in the reports against the Warden.

Q. That is not in answer to the question—what necessity was there for swearing these men to a negative?

A. To obtain the truth.

Q. Then did you doubt their veracity when they said they knew nothing against the Warden?

A. Never doubted their veracity until they refused to be sworn.

Q. Was not the inquiry of the Board grounded upon the information they had received, that those men had charges to make against the Warden?

A. Yes.

Q. When these men declared before the Board that they had nothing to say against the Warden, was not the object of the inquiry at an end?

A. As witness said before, the Inspectors desired to find the truth.

Q. Was it not in consequence of the refusal of M'Carthy and Keely to swear to their statements that they were dismissed?

A. They were suspended and finally dismissed, because they would not verify their statements by an oath.

#### CASE OF Keeper M'GARVEY.

This case differs from the two last, inasmuch as M'Garvey signed and swore to the statement written out by the Inspectors.

Terence M'Garvey,—Preliminary examination:—

“ Was a Keeper in the Penitentiary 7 years; was dismissed on 5th June last; had no quarrels with the Warden while in the Penitentiary. Had a difficulty with Mr. Utting, the Deputy Warden, but was acquitted by the Board of Inspectors. Thinks he was not a favourite with Warden. Was under the impression that Warden wished to get quit of him, for several years before he was dismissed. Was dismissed because 2 pair of boots worth 18s. 9d. per pair were stolen from witness's shop. Witness was Keeper of the Shoemakers; is quite sure the boots were in the shop when he went to breakfast. About 20 minutes after returning from breakfast, witness missed the boots, and immediately reported the matter to the Warden. Witness made every effort to find out what became of the boots. The Warden instituted no investigation, to the knowledge of witness; believes one of the pairs has since been found. The same morning on which they disappeared, Head

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
B.B.B.B.B.)  
30th May.

“ Keeper Costen came to witness, and took him to Warden at Office door; witness explained what had occurred, to the Warden. A few days afterwards witness was brought before the Inspectors, and examined as to the loss of the boots, and as to an overcharge he was alleged to have made on some work done for Mr. Hopkirk. A few days after that again, a Guard named Wm. Martin came to witness to get him to make out a bill of the boots, charging them to himself (M'Garvey). Witness suspected some snare, and went to Mr. Bickerton to explain what was wanted. Mr. Bickerton told witness that he was to pay for the boots. Witness on that, said he would not pay for them; and he did not make out the bill, as he thought it would be an admission that he stole the boots. On Monday following witness was called before the Inspectors, and told that if he would not pay for the boots he would be dismissed. Witness refused to pay, and he was dismissed. Witness told the Inspectors he thought the whole thing was a snare to get him dismissed upon. He was dismissed for insolence, and for refusing to pay the boots. Articles had been taken from the shop before this transaction, but no noise was made about it. Two pairs of shoes were stolen only a fortnight before, reported to the Warden, and no notice taken. On witness being examined why he had said he considered the whole boot affair a snare set for him? He says, that he has no doubt the Warden and his son Frank were desirous of getting him dismissed before the Commission of Inquiry sat. Witness gave evidence against Frank Smith, on the investigation instituted on complaint of Dr. Sampson. On the 11th March last, witness was called before the Inspectors. Witness was asked, whether he had any charges to make against the Warden? Witness said he had not; but that if he were asked questions, the answers he would give might prove charges. Witness was then sworn, and Mr. Hopkirk proceeded to draw out an affidavit. Mr. Hopkirk read it and handed it to witness, and witness signed it. This affidavit was not founded on any question put to witness, or any statement he had made; it had no reference to any charges against the Warden, but had rather the appearance of being evidence to bolster up Warden's character. Witness had scarcely signed the paper, when he saw the impropriety of what he had done; he regrets it very much; he signed it thoughtlessly. There were statements made in that paper, which were not the real opinions of witness.”

By Mr. Smith:—

“ Thinks he swore before the Inspectors in 1848, that he knew of nothing against the Warden; but does not recollect the precise contents of the affidavit referred to. Mr. Corbett asked questions at witness, and Mr. Hopkirk then wrote down an affidavit for witness to sign it; but Mr. Corbett was talking to witness while Mr. Hopkirk was reading, and he did not make out its precise contents; signed it without reflection, and has regretted ever since; considers it was nothing but a snare the whole thing of having witness before the Inspectors at all, and putting questions to him. They had no charge against witness, and he had no charge against the Warden; told them that he knew things which might prove charges, but that he wished to bring no charges against the Warden. Had witness been as wide awake as others, he would not have been caught. The affidavit given to witness to sign, witness thinks was not according to his answers; did not read the affidavit; thinks the whole affair was an attempt

“ to bolster up the the Warden's character. Did not see the Warden present at the time; understands there are closets in the Board Room; he may have been in one of them.”

James Hopkirk, Esquire, by Mr. Smith:—

Keeper M'Garvey was dismissed in consequence of his refusing to pay for one or two pairs of boots which were stolen from his shop. The Board considered he had been guilty of carelessness, as it was not the first time articles had been stolen from his shop. Thinks M'Garvey admitted that he had a lock to his shop door, as well as to his cupboards. Recollects of M'Garvey's being brought before the Inspectors to say if he knew anything against the Warden; his answers were taken down in writing; he signed them and swore to them. M'Garvey was not kept in conversation by Sheriff Corbett, while witness read the depositions to him. M'Garvey did not say if certain questions were put to him, the answers might be the foundation of charges against the Warden; on the contrary, he said he had nothing to add to what had been taken down; he said his deposition was correct. The Warden was not present, and witness has no reason to believe he was concealed so as to overhear what passed.

By Commissioners:—

Ex-keeper M'Garvey, gave evidence at Frank Smith's trial before the Inspectors, in October, 1847; on reference to the evidence, he finds it was unfavourable to Frank Smith. He testified on that occasion, that he thought 'if he came forward voluntarily in a case affecting the character of Mr. F. Smith, it would have endangered his situation.' M'Garvey was brought before the Inspectors, on 18th March, 1848, on the inquiry as to the Warden's conduct, which ensued on Pollard's letter. M'Garvey was told the same thing as M'Carthy and Keely as to the cause and object of the investigation; but as he made no objections to be sworn, he was not told the power of the Board in that matter. M'Garvey was sworn and interrogated, and his answers written down by witness. The deposition was as follows:— 'Terence M'Garvey, Keeper, 'knows nothing against the Warden's character and conduct as Warden; knows nothing reprehensible which the Warden has done which he thinks the Board ought to be informed of; has no recollection of stating to any one, that he had any charge to prefer against the Warden, and knows of none. (Signed,) T. M'Garvey.' Being shown the deposition as found in the records of the Penitentiary, says this is the deposition, and it was from it he has now read the words here taken down. M'Garvey was brought before the Inspectors again, on 31st May, 1848, in consequence of two pairs of boots having been stolen from his shop; the Warden reported the matter to the Board; cannot tell the value of the boots; there was no charge against M'Garvey properly speaking, unless a charge of carelessness; he was called before the Board, and admitted that the boots had been stolen from his shop, and he was ordered to pay for them, unless they were found; had he paid for or found the boots, witness thinks no further proceedings would have been taken in the matter. M'Garvey refused to pay for the boots; and he was called before the Board at a subsequent meeting, and asked if he had found them? He said he had not: and he was then asked to pay for them? He positively refused to do so; saying he was not responsible for the articles under his

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

charge. He exhibited great indifference in the matter, and as to the loss sustained by the Institution, and was dismissed from his situation. On the same day that the Warden complained to the Inspectors about the boots against M'Garvey, witness preferred his own complaint to the Board as to the overcharge made against him personally for binding boots: that complaint was not made against M'Garvey, but merely with a view to having the charge reduced. M'Garvey was Keeper of the Shoe-shop, but witness has reason to believe that Hooper, the sailor, made the overcharge for binding. Witness was not present at the investigation, and speaks only from what he thinks he heard afterwards from some member of the Board. It has always been the habit for each Keeper to fix the price of work done in his own shop, and witness thinks he heard the binding was done in Hooper's (the Sailor's) shop, but he speaks from memory; has no reason to believe the Inspectors thought M'Garvey stole the boots: heard nothing of the kind, as far as he remembers; if the rules of the Prison had been observed, M'Garvey could not have stolen these boots; has no positive knowledge that anything ever was stolen from the Prison, but there have been suspicions of things having been stolen; things have often gone missing, but whether stolen by the officers, or given by the men to teamsters, or how got quit of, witness does not know. Thinks that if M'Garvey had paid for the boots, it would not have been a *quasi* admission that he had stolen them; if the Board had thought he had done so, the Board would have dismissed him at once; has no doubt witness was satisfied at the time, that the boots were so under the charge of M'Garvey, that they could not have been lost without carelessness or misconduct on his part. Thinks M'Garvey stated to the Board that other persons might have had access to the shop at the time when the boots were stolen: but, also, thinks he admitted that he had a lock and key to his shop, and also to his cupboards, and with proper precaution on his part, that the boots would not have been stolen. Does not remember that M'Garvey mentioned the names of others who might have had access to the shop when the boots were stolen; but he may have done so: thinks he was asked, however, if he had any suspicions of any party as having stolen the boots, and that he had said he had not; feels sure he did not say that he had suspicions of Mr. Frank Smith or of Mr. Costen as having removed or stolen the boots, as witness must have recollected it: Witness's impression is, that M'Garvey said he had left the door of the shop unlocked; cannot tell if there is any rule that the Keepers shall lock the door of their shops before going to meals; cannot tell how the loss of the boots was brought under the notice of the Warden; does not know if it was M'Garvey who reported the fact: has no recollection if the Warden mentioned to the Board who first reported the loss to him. Witness is asked whether from the manner in which the books and returns of the different shops are kept, such a loss as that of M'Garvey could have been detected if the Keeper himself concealed the loss; and says that he is not sufficiently acquainted with the details of the books to answer the question. Witness is asked if it was not the natural effect of dismissing M'Garvey for an occurrence which he might have concealed, to induce the other Keepers to conceal any similar loss sustained in their shops, and says that the effect of punishing a Keeper for an occurrence which he himself reported might have that effect on dishonest Keepers. Witness would not like to certify to the honesty of all the Keepers in the Penitentiary. Witness is under the impression that he heard from the Warden that either one or both pairs of boots

were found after M'Garvey's dismissal; does not remember where they were found, nor in whose possession, but may have been informed, though not officially; has no recollection of the fact being brought before the Board; is not aware that M'Garvey was ever informed that the boots had been found. Witness is asked whether after having dismissed a man because he would not pay for boots which had been stolen, he did not consider it was due to the dismissed officer to investigate the matter further, when the boots were afterwards found on the premises? Answers, that M'Garvey having stated at the time of his dismissal that he did not consider himself responsible for articles under his charge, and having on that ground refused to pay for the boots, witness does not think the Board was specially called upon to give him intimation when the boots were found. The matter, however, was never brought under consideration of the Board; and witness does not know what decision might have been arrived at had the matter been brought before them and fully considered. It has come to the knowledge of the Inspectors, that many articles have disappeared from the Penitentiary; said knowledge was partly gained from the Warden, and partly from Keeper Richardson and others, but witness does not recollect who the others were. Witness is asked if there has ever been a case but M'Garvey's in which an officer was called upon to pay for missing property which was under his charge? Says, he knows of no other case within his recollection. Witness is asked if any officer but M'Garvey was ever dismissed from the Penitentiary on account of property being lost or stolen when under his charge? and says he recollects no other case. Keeper M'Garvey was brought before the Inspectors on the boot affair on the very day Keely and M'Carthy were finally dismissed from the Penitentiary. M'Garvey was dismissed from the Penitentiary on the very day the Inspectors were officially informed that the Government had appointed the present Commission. Witness knew nothing against the character of M'Garvey up to the affair of the boots; he had been some years a Keeper in the Penitentiary. Witness is under the impression that he has seen statements made by M'Garvey under oath before the Commissioners, which witness knows to be untrue; and if he made those statements, witness would not believe M'Garvey upon oath; if otherwise, he had no reason for disbelieving him. Witness thinks M'Garvey's name was one of those mentioned on the paper which witness handed to the Grand Jury."

By Mr. Smith:—

Q. Did not M'Garvey say to the Board, he thought he had done quite enough in mentioning the fact that the boots had been stolen?

A. He said something to that effect; does not recollect the exact words.

Q. Did not M'Garvey say the Warden and Inspectors ought to search for the boots?

A. Does not recollect; he may have used some such expression.

Q. Would M'Garvey have been made to pay for the boots, had he not lost some articles previously?

A. Cannot say; but thinks it very likely the previous losses may have influenced the decision of the Board.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Were all the Inspectors present when M'Garvey was ordered to be dismissed ?

A. Yes; on 5th June.

Q. Was your complaint as to the overcharge for shoe-binding made at the first meeting of the Board after you got in your bill ?

A. Thinks it was.

Q. Did you make your complaint on the day in question because another charge had been entered the same day against M'Garvey ?

A. Certainly not; made no complaint against M'Garvey; only complained of the overcharge.

Q. Do you think the subsequent finding of the boots was any reason why M'Garvey should have been restored to his situation, considering his previous conduct in the matter ?

A. Thinks not; because one of the main reasons for his dismissal was his declaration, that he was not responsible for articles under his care.

Q. Was it ever ascertained how the boots were stolen, or afterwards recovered ?

A. Does not know.

Thomas Costen—by Mr. Smith :—

“ Recollects boots being lost in the shoe-shop while M'Garvey was Keeper; there was a lock on the shop door at the time; there were locks on the cupboards. Previous to the loss of the boots, Witness gave the keys of the shops to the Keepers, and desired them to lock every man his own door, but does not recollect that he mentioned specially that they should do so at meal hours. One pair of the missing boots were found shortly afterwards; it was never ascertained who took them, that witness knows of.”

Mr. Sheriff Corbett—by Mr. Smith :—

“ M'Garvey was dismissed by the Board without any interference by the Warden. The Board were very loth to dismiss him, but he would neither account for the boots which had been lost, nor pay for them. It was the second time articles had been lost from M'Garvey's shop. M'Garvey swore to his statements made before the Board, on 18th March. His answers were read over to him before he signed. Witness did not keep him in conversation while his answers were being read over to him. M'Garvey did not tell the Board, that if certain questions were put to him, they might prove charges against the Warden. Witness was never influenced in his proceedings, against any Officer, by his having given evidence against Frank Smith.”

“ M'Garvey said it was the Warden's business to look after boots that were lost. He told the Board he thought the boots had been stolen from his shop, but that he had no suspicions as to who the thief was.”

#### CASE OF GUARD KEARNS.

This Officer was also a witness at Kitchen Keeper Smith's trial, and was removed to an outside post immediately afterwards; and was, at a later moment, brought to trial before the Inspectors.

James Kearns—Preliminary examination :—

“ Gave evidence at Frank Smith's trial, last fall. Was called by Dr. Sampson, he thinks. The evidence he gave, was true, as far as it went; but witness might have given further testimony, had he been asked; was not asked at close of evidence, if he had anything further to say. Witness also gave evidence at Richard Robinson's trial, as to the stove-pipe stone in the watch-tower. Witness's evidence was in favour of Robinson.”

“ Immediately after Mr. Frank's trial, witness was removed from his situation within the Prison, to a post on the outside wooden wall, where he would have no opportunity of seeing what went on in the Prison. Witness felt this as a degradation, and it is regarded so by the Officers. A strange hand, named Rowe, who had just come into the Penitentiary, was placed in witness's situation in the Dining-hall, when witness was sent outside. A few nights after Frank Smith's trial, witness was on guard in the north-wing hall; Mrs. Smith, the Warden's wife, came to witness and said, that the Warden and she had a hard feeling against witness, since Mr. Frank Smith's trial, and recommended witness to go and speak to the Warden about it. Witness did not go to the Warden.”

By Mr. Smith :—

“ It is one reason for witness being against the Warden, that immediately after Frank Smith's trial, last fall, witness was removed from the Dining-hall, to an outside post on the board fence. Mr. Costen, the Head Keeper, has the charge of posting the Guards at the different stations; had been stationed in the Dining-hall pretty nearly all the time he had been in the Prison, up to Frank Smith's trial. Witness was not stationed in the Dining-hall all day, but used to be stationed in one or other of the shops between meals. Went very seldom on the fence; took the place of some absent Guard occasionally.”

“ Witness gave evidence at F. W. Smith's trial: answered all the questions put by Dr. Sampson, on that occasion, so far as witness recollects. Guards are in the habit of being removed from one station to another. The rule is, that Guards are under the direction of the Head Keeper, as to their posts. Sees no honour at any particular post in the Penitentiary. Considers it a degradation to be taken from an inside employment and placed at an outside post.”

James Hopkirk, Esq.—by Commissioners :—

Q. Did Guard James Kearns give the evidence at Frank Smith's trial before the Inspectors, in October, 1847 ?

A. He did.

Q. Was his evidence unfavourable to Frank Smith ?

A. It was.

Q. Was Kearns's removal from his post inside the walls, to a post on the wooden fence outside, immediately after he gave such evidence, done with the knowledge of the Board of Inspectors ?

A. Does not remember the case.

Q. Was Kearns brought before the Inspectors on 31st October, 1848 ?

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

A. He was.

Q. Who brought the complaint against him?

A. Mr. Costen.

Q. What was that complaint?

A. That he was asleep on his chair outside the partition dividing off the Roman Catholic Chapel, while service was going on.

Q. Had he any Convicts under his care at the time?

A. Does not think he had any particular Convicts under his care; he might have been there as a general Guard.

Q. Were notes of evidence taken in the matter?

A. Thinks Mr. Costen's deposition was taken.

Q. Where is that deposition?

A. The Clerk says he cannot find it among the records where it ought to be, and witness does not know what has become of it.

Q. Did you not think the complaint a very frivolous one?

A. It did not strike witness so.

Q. Is it not usual for the Warden to decide on such complaints without reference to the Inspectors?

A. Cannot say.

Q. Was Kearns reprimanded?

A. He was.

Q. Was not so slight a punishment inflicted only on consideration of Kearns' previous good character?

A. This reason is given in the Minutes, for so light a punishment and no other?

Q. Would you believe Kearns on his oath?

A. Has no reason to doubt his veracity on oath.

Q. Are you aware that Kearns gave evidence before the Commissioners?

A. Yes; witness is now aware.

Q. Were you aware that Kearns was before the Commissioners on 26th October, only five days before he was tried by the Inspectors, on Costen's complaint?

A. Was not aware of it, and is not now.

Q. Was there any other witness but Costen, who swore Kearns was asleep?

A. There was not, to the best of witness's recollection.

Q. Did not Kearns state that he was not asleep?

A. He did state that he was not asleep.

By Mr. Smith:—

"The Inspectors did not rely in the examination of the charge against Kearns, so much on the declaration of Kearns as on Costen's oath."

Thomas Costen—By Mr. Smith:—

"Kearns was in charge of the Patients in the Hospital, in absence of the Keeper, when the charge of being asleep, made by the witness against him, arose. He could not perform his duty when asleep. He was asleep at the time; witness woke him up."

#### CASE OF GUARD BANNISTER.

This case is similar to the last.

Edward Bannister—Preliminary examination:—

"Was examined at Frank Smith's trial last fall. The evidence witness gave on that occasion, was true, as far as it went. Had witness been examined further, he could have given additional evidence."

"Witness has thought the Warden, Mr. Costen, and Mr. Francis Smith, have been trying to get a catch at him, on which to dismiss him."

By Mr. Smith:—

"Witness thought, at one time, that Head Keeper Costen was watching witness in order to get a complaint against him. Does not know that the Warden ever tried to do anything to get rid of him."

Mr. Sheriff Corbett—by Mr. Smith:—

"Recollects Guard Bannister being lately reported by the Warden for allowing bread to pass through the gate, after the new rule passed, subsequent to Frank Smith's trial. The reason why the matter was not taken up, was, because the facts on which the Warden reported had been previously elicited before the Commissioners, and the Inspectors did not wish to interfere with their proceedings."

James Hopkirk, Esq.—by Mr. Smith:—

"Recollects of the Inspectors passing an order that no traffic in provisions should take place in the Penitentiary, after the trial of Frank Smith, in October, 1847. Recollects of the Warden reporting the Guard Bannister for having disobeyed that order. There was some inquiry into the matter. He was not punished, because it was not altogether proved against him; refers to a bag of oats, which Bannister was alleged to have carried out. The matter was not proved against him. He said he bought the oats outside, and the bag containing the oats, was carried inside by mistake, and brought back the moment the mistake was discovered: he said the team had only got the length of the garden corner. Recollects the Warden mentioning that in the charges brought against Frank Smith, before the Commissioners, it was alleged that Bannister had passed out bread contrary to the order in question. No inquiry was made into the conduct of Bannister, on that occasion. The reason why no inquiry was made, was because the Inspectors feared the Commissioners might think it an interference with them."

By Commissioners:—

"Has an impression that there was a preliminary inquiry into a charge against Guard Bannister, for

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

taking out a bag of oats from the Institution, when the Board were satisfied he was not guilty. On reference to the Minutes, witness finds no mention of this inquiry, and if it is not there, it must have been omitted. To the best of witness's recollection, Bannister was not present at the whole of the inquiry, but was at a portion of it. The practice is, when a complaint is made by any one, the Inspectors examine him, and if they find ground sufficient for an investigation, the accused is called in and remains during the examination of witnesses on Oath. Bannister's case occurred since the Commission sat."

Q. Did Guard Bannister give evidence before the Inspectors at Frank Smith's trial, in October, 1847?

A. He did.

Q. Was his evidence prejudicial to Frank Smith?

A. Thinks his evidence favourable to Frank Smith.

Q. Did he testify that he bought provisions from Frank Smith, within the walls?

A. Yes, but he stated that they were taken from a small heap in the Penitentiary cellar; that he supposed they were Frank Smith's; and that he understood he (F. W. S.) had received a load. He also stated that it was notorious, all the Guards and Keepers got potatoes from the Kitchen Keeper, which was greatly relied on by Frank Smith in his defence.

Q. Was not Bannister called as a witness by the prosecution?

A. He was.

Q. Are you aware that Bannister has given evidence before the Commissioners?

A. Yes.

Q. Do you think Bannister concerned in the conspiracy against Warden Smith?

A. Has no reason to think so, unless from one circumstance which has come to witness's knowledge within the last few days; and he does not know if that would show him to be in the conspiracy, or merely to have an unfriendly feeling towards the Warden.

Q. Was Bannister ever brought before the Inspectors for trafficking in provisions?

A. He was brought before the Inspectors on a charge of having taken a bag of oats from the Penitentiary, subsequent to the order passed after Frank Smith's trial.

Q. When was he brought before the Inspectors?

A. Does not remember.

Q. Was it since the sitting of the Commission?

A. Thinks it was.

Q. Who brought the complaint?

A. Thinks either the Warden or Mr. Costen; probably the former.

Q. Is there any minute of the matter in the Inspector's Minute Book?

A. There seems to be none.

Q. Were any witnesses examined?

A. Thinks none on oath.

Q. What were the circumstances of the charge?

A. As far as witness recollects, Bannister was seen carrying up a bag of oats to the gate, and he explained that he had bought the oats outside the gate, that they were taken inside on the cart, by mistake; that the moment he discovered the error, he ran after the cart and took the bag off, before the cart had got beyond the garden wall.

Q. Might not the Warden have decided on such a complaint, without reference to the Board?

A. Possibly he might.

Q. How did you testify on your examination by Mr. Smith, on 23rd October last, when such were the facts of the case, that "Bannister was not punished, because the case was not altogether proved against him?"

A. Such was witness's impression at the time of giving that evidence. Bannister's offence might, strictly speaking, have been a breach of the letter of the rule, though not of the spirit.

Q. Was Bannister brought before the Inspectors on any future occasion?

A. He was.

Q. What is Bannister's character?

A. Knows nothing against him; his character is good.

Q. Would you believe him on oath?

A. Has no reason to say that he would not.

#### CASE OF Guard WILSON.

This is a very marked case.

James Hopkirk, Esq.—by Commissioners:—

"Witness believes that Ex-Guard James Wilson, gave evidence before the Commissioners, prejudicial to the Warden; thinks Wilson is concerned in the conspiracy against Warden Smith. Wilson was brought before the Inspectors on 31st July, 1848. The Minutes contain the following entry on the subject:—'The Board having been informed that the Guard James Wilson was seen on the evening of the 24th instant, in company and in conversation with two discharged Convicts; he was called upon to explain if such was the case, and why he had committed an infraction of the rules of the Institution, and having admitted the information to be true; and further, that one of those persons was in his house on the same evening. The Board now direct that for such violation of his oath, that he be reprimanded, and that upon the next well founded complaint against him, of any dereliction of his duty, he will be immediately dismissed from his situation.' Cannot say whether it was the Warden or Mr. Costen, or who it was that brought the charge against Wilson; there is no entry of it in the book. The name

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May

of the person bringing such charges is sometimes entered in the Minutes, but not uniformly. Finds no entry on this subject, in the daily report book. Thinks Guard Sexton was examined on the charge, but does not recollect if upon oath. Wilson's admissions may have rendered it unnecessary. Thinks Frank Smith also gave evidence against Wilson on the charge. Witness's impression is, that no notes were taken of the evidence on the examination, but will not be positive. Has inquired of the Clerk, if any notes of the evidence are among the records of the Institution, and learns that the Clerk can find none. The decision of the Inspectors as to Wilson's 'violation of his oath' refers to the general Oath of Office which all the Officers of the Institution are required to take. Witness is asked if the words of the oath are as follows:—'I (A. B.) do promise and swear that I will faithfully, diligently, and justly serve and perform the Office and duties of (——) of the Provincial Penitentiary, according to the best of my abilities, so help me God, and says these are the words of the Oath, according to the Statute. Witness is asked wherein Wilson violated this Oath in the affair for which he was brought before the Inspectors? and says that he cannot conceive that a person can 'faithfully, diligently, and justly serve and perform' the duties of an Office, when he contravenes one of the Rules and Regulations made (by the authorities appointed by Law) for his guidance. Witness is asked what rule or regulation so made, Wilson contravened on the occasion in question? and says he contravened that Clause in the general Rules, which says:—'No discharged Convict is to be recognized by any Officer or other person belonging to the Institution, nor is he or she to be made known by them to any other person.' Witness is asked if he thinks this Rule prohibits conversation of every description, with every discharged Convict? and says he cannot say this, as he conceives a case might occur which would render it absolutely necessary; as for instance, an Officer might be sent by the Inspectors on an errand to a discharged Convict. Witness is asked if the words in the Rule, 'any Officer or other persons belonging to the Institution' do not include the Inspectors? and says he does not conceive they do. Witness is asked who the words 'other persons' apply to? and says he does not know who they apply to—they appear to be superfluous. Witness is asked if the said words would not apply very naturally to the Inspectors? and says he does not conceive they would, as he cannot see how the Inspectors could carry on their duty, if so restricted, as they might require to send for discharged Convicts. Witness is asked if he thinks an Inspector would violate this Rule, by pointing out one discharged Convict to another discharged Convict? and says that he thinks an Inspector by doing so, would not violate the Rule in question, as he conceives it does not apply to the Inspectors. The Inspectors are bound to pay respect to the Rules of the Institution. Witness is asked what is the object of the Rule in question? and says he did not make the Rule, and cannot say what is its object, but he can conjecture; presumes that it is intended to prevent Officers from pointing out parties as having been Convicts in the Penitentiary, and thereby injuring them. Witness thinks it has also been mentioned as an object of the Rule, to prevent Officers from keeping discharged Convicts about Kingston, in place of allowing them to go home to their friends at once, and as a general thing, this is advisable. Witness is asked if he thinks the Rule prohibits any Officer from doing a discharged Convict an act of kindness, such as purchasing from him in the ordinary course of business, procuring him a situation, or aiding him in returning to his friends? and says he considers that such acts would not involve a violation

of the spirit of the Rule, though it might of the letter of it. Witness is asked if it would be such a violation of the Rule, as to deserve reprimand? and says he thinks not. Witness is asked if the case is not that there is no crime in the fact *per se* an Officer speaking to a discharged Convict, but that the crime lies in the character of the communication? and says that in a great measure the crime depends on the character of the communication, and on the circumstances under which it is made. Witness is asked if there was anything before the Inspectors, to show the character of Guard Wilson's communication with the two discharged Convicts on which he was brought to trial? and says that he thinks on Wilson's own statement, he gave no good reason for his conversation with them, and for having had them in his house. Witness is asked if Wilson gave any explanation to the Inspectors, of how he came into their company? and says, that to the best of his recollection, he stated that he came up with them when returning from, or going to, Kingston. Witness is asked if Wilson did not explain what he was doing in Kingston, and says he is under the impression he said he had been before the Commissioners. Thinks it very likely. Wilson said the two discharged Convicts were at the same time before the Commissioners. Witness, on reference to the Daily Report Book, and to the Minute, says he finds Wilson is reported to have been before the Commissioners on the day when his associating with discharged Convicts was said to have occurred. Witness is asked if Wilson told the Inspectors what conversation had passed between himself and the discharged Convicts? and says he did mention what it was, but witness does not remember particularly its purport. Witness is asked if there was anything improper in its character? and says not, as stated by Wilson. Witness is asked if there was any evidence on the part of others, to show its character? and says he thinks not. Witness has had a discharged Convict in his employment since 1st November, 1847; does not know of his own knowledge that Officers of the Penitentiary have had discharged Convicts in their employment, but has heard so, and has no doubt of it; has no recollection of talking to any discharged Convict but Ramsden, nor of any Officer having talked to discharged Convicts; has heard that a good deal of communication has lately taken place between Officers and discharged Convicts; has heard so from various quarters; has no doubt the Warden has told witness so. Witness is asked if he ever knew an instance of an Officer being brought to trial for communicating with discharged Convicts, but that of Guard Wilson, and says he has no recollection of any other case. Has no recollection that Wilson told the Inspectors that other Officers had communicated with discharged Convicts, but he may have done so. Wilson was subsequently brought before the Inspectors again on another charge, which was preferred against him by Keeper Wm. Smith. The charge was entered upon by the Inspectors on 31st October, 1848, as would appear from the Minute of 13th November; but there is no entry of the fact on 31st October. The Inspectors were occupied with the matter on 13th November, and twice on 14th, when the final decision was given that he be dismissed. Notes were taken of the evidence in the case by witness; cannot tell what has become of them; has inquired of the Clerk, and is told that they are not to be found among the records of the Institution. The nature of the charge against Wilson was using improper language and threats against Guard Fee, on a Sabbath morning. The improper language Wilson used witness does not recollect distinctly, but it was something about twisting Fee's nose; Wilson committed no violence. Thinks high

Appendix  
(B.B.B.B.B.)

30th May

Appendix  
(B.B.B.B.B.)  
30th May.

words took place between Wilson and Fee, principally on the part of Wilson; cannot remember any violent language used by Wilson on the occasion, but those he has named. The quarrel was about the key of one of the towers. Wilson accused Fee of having taken the key of a tower which he (Wilson) conceived was his station; he demanded the key from Fee, who refused it; Wilson then said if Fee would not give up the key, he would take it by force; Wilson did not attempt to take the key by force. Thinks that in an after part of the same day Wilson got possession of the key and hid it, and that Fee found it and took it; and that Wilson, finding this, went up to Fee and said, if he would not give it up, or if he interfered with it, he would twist his nose, or break his nose, or some such threat. All this occurred on one Sunday, to the best of witness's recollection. Wilson's defence was, that it had been arranged between Fee and him, that Fee should have the one tower and Wilson the other, and that the key Fee had taken was that of Wilson's tower. Wilson brought several witnesses to swear that it was the habit for the Guards to arrange in this way, and some of them may have sworn that they were cognizant of the said arrangement between Fee and Wilson. Wilson asserted, and witness thinks he brought witnesses who swore, that Wilson had for some considerable time past invariably taken his station in the tower of which he claimed the key, and that Fee had as invariably been stationed in the other. Has no recollection that this was denied by Fee. Wilson asserted that he had complained to Head Keeper Costen, of Fee's conduct. Cannot say if it was before the threats were used; thinks Costen admitted this; does not think Wilson asserted that Costen replied, upon his complaining, that Fee and he (Wilson) must settle the matter among themselves. Thinks Costen said he had authorized no arrangements between Wilson and Fee, and that whoever came first should take what key he chose. The Inspectors did not think Fee had behaved improperly; thinks Fee stated he would not give the key up unless the Head Keeper ordered him to do so, and that it was proved by Costen that he had not been ordered to give it up. Witness is asked if Wilson, up to the time of the charge made against him for recognizing discharged Convicts, had not always borne a good character as an Officer of the Institution? and says he recollects of nothing against him, previous to that date. The decision of the Board on the affair of the key, was as follows:—'That they find it clearly proved that Guard Wilson's conduct was most improper in using the language and threats which he did on the occasion referred to, and that too without any sufficient cause of provocation, in place of appealing to a superior Officer, as he ought to have done, if he considered himself aggrieved, and they are of opinion that a person guilty of such conduct, is unfit to be entrusted with the duties of a Guard in the Institution, and therefore dismiss him.' Witness, from reading the decision, is under the impression that Wilson's appeal to Costen must have been subsequent to his using the threats against Fee. Witness is asked whether if Wilson's appeal to Costen had been prior to using the threats, the decision of the Inspectors would have been just? and says it might have been just, though not exactly for the reasons mentioned in the decision. Witness is asked if he thinks the use of the words, 'I'll twist your nose if you don't give up that key,' without being followed or accompanied by any violence by an Officer of the Institution, made him unfit to be entrusted with the duties of a Guard? and says it would depend on the circumstances in which the words were used, and the provocation given. Recollects Keeper Pollard being brought before the Inspectors on a

charge of saying in the presence of a number of Officers, that the Rev. Mr. Rogers, the Chaplain of the Institution, was a liar. There was an investigation into the matter; thinks some of the witnesses swore that Pollard said if Mr. Rogers said so, and so he is a liar. Pollard alleged that he only said, if Mr. Rogers has stated so and so it is a lie, and this statement was corroborated by other witnesses. Does not remember who they were; possibly there may have only been one witness to Pollard's version of the affair, or to either version. Pollard was not dismissed; he was called before the Board, when the Inspectors expressed to him, their serious disapprobation of his conduct. Pollard expressed his regret, and offered to make an apology, and in consequence thereof, the Inspectors refrained from inflicting any more serious punishment than a reprimand. Witness is asked if he considers the language used by Wilson to Fee, as blameable as those used by Pollard of the Chaplain? and says, the language used of the Chaplain, was worse, it being spoken of a Clergyman. Witness swore that he would have doubts of believing Wilson on oath, in consequence of testimony which he has seen as given by Wilson before the Commissioners, and which witness conceives to be untrue; has no other reason but this, for disbelieving the Oath of Wilson. Cannot be positive whether Wilson's name was on the sheet handed by witness to the Grand Jury, at last Assizes, but at any rate, had no intention to proceed against him criminally."

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Did not Wilson express regret for using the words to Fee?

A. Does not remember that he did.

Q. Have the Inspectors ever received Convict evidence since they passed the rule against doing so, on the day when Skinner's charge against Manuel and Pollard was tried?

A. Except on the recent fire inquiry they have examined no Convicts on oath; statements may have been made to the Inspectors, but not on oath.

Q. Did the Inspectors receive statements from certain Convicts prejudicial to Guard Wilson?

A. Yes, but not on oath, and the Inspectors did not act on them.

Q. How many Convicts were examined?

A. Thinks two or three.

Q. Was Wilson present?

A. No, because the matter was not proceeded with.

Q. Was Wilson informed that such statements had been made to his prejudice?

A. No.

Q. Was Wilson dismissed the following day?

A. Cannot say, but he was not dismissed on that complaint at all.

Q. Who brought the matter of the statements by the said Convicts under the notice of the Board?



Appendix  
(B.B.B.B.B.)  
30th May.

A. Has no doubt the matter was mentioned to the Board by the Warden, and that the Convicts were sent for in consequence. Speaks from memory.

CASE OF GUARD WALDRON.

Thomas Costen—Preliminary Examination of 9th August:—

"On being asked if he has anything further to add, witness says that he found Convict M'Cormick one morning, working at a window in the South-west tower, along with Mr. Waldron; on inquiring of Keeper Richardson, he found that M'Cormick had been allowed to go there, without an order from the Warden or Head Keeper, contrary to the prison rules; this was about three weeks ago. Witness reported Waldron for this transaction but not Richardson; the case will come before the Inspectors at their next meeting. Witness made a special report of the affair."

William Waldron—Preliminary Examination, of 19th August:—

"The Officers of the Penitentiary are divided into two parties—the one for, and the other supposed to be against, the Smith influence; witness is conceived to be of the latter party. Witness never was reprimanded or brought before the Inspectors; a complaint has however been made against him by Mr. Costen, and is to be tried before the Inspectors to-night; does not know the ground of the charge brought against him; was told by Warden yesterday that a charge had been laid, but the Warden said he did not remember what it was for. Witness can only recollect of one incident which could afford ground for a complaint against him. A Convict, named M'Keener, was for some days employed electioneering among the prisoners for complaints against the Surgeon; Witness challenged M'Keener for doing so, and he replied that he was authorized to do so by the Warden, Mr. Costen, and Mr. Frank. On this day fortnight, Mr. Costen said to witness he should look sharper after the men in the mortar-shed, as they were making a great deal of noise; M'Keener works in the mortar-shed; witness replied to Mr. Costen that the men were encouraged to speak; Mr. Costen asked what he (witness) meant by that? witness said he knew very well what he meant, and turned away; witness had reference to the electioneering going on under the Warden's directions."

James Hopkirk, Esq.—By Commissioners:—

"Has no recollection at this moment whether Guard Waldron has given evidence before the Commissioners, nor of having seen any evidence given by that Officer. Waldron was brought before the Inspectors on 19th August, 1848, on a charge preferred against him by Mr. Costen; the accusation was improper conduct while in charge of a gang of Convicts; there was an inquiry; has no doubt by reference to the minutes, that notes of the evidence were taken; does not know where the notes are; has searched for all notes of evidence and can find none of Waldron's case in the records of the Institution. The improper conduct alleged against Waldron was for insolence towards Mr. Costen, the Head Keeper; finds the following entry of Waldron's conduct in the daily report book of 5th August, 1848.—'Making impertinent remarks to Mr. Costen, when in the execution of his duty, in presence of James Skinner and George

\* Has been over 5 years in the Penitentiary.—a Guard.

Fee, after the roll-call at 9 o'clock this forenoon. When directing him to take charge of a gang of mortar-makers in the shed at the new Hospital, told him he had better stand down with the Convicts as they could not be seen off the scaffold, and when by themselves they had too much of their own way. He (Waldron) in a very insolent manner replied that 'they were encouraged to that:' when asked by the Head Keeper what he meant by saying so? in a very disrespectful way, turning on his heel, said, 'I know that myself.' Witness has no recollection that Costen brought any other charge against Waldron before the Inspectors, but the minutes allude to Waldron's, at the same time admitting 'his negligence in having allowed a Convict to leave his gang without permission.' Does not know if Costen brought such a charge against Waldron. Waldron explained at the trial what he meant by saying, the Convicts were encouraged to have their own way; he said he referred to Convicts belonging to the mortar-gang being employed by Frank Smith to go about collecting evidence in matters before the Commission. The Warden and Frank Smith both swore that they gave no such authority to any Convict. Waldron has been some years an Officer of the Penitentiary; his character, by an entry in the Inspectors' minutes, seems to have been generally good up to the charge in question; has no recollection of Waldron's ever being before the Inspectors on any other charge. Waldron's offence was committed on 5th August, but was not laid before the Board until the 19th; there was an intermediate meeting of the Board on the 17th; but the charge does not appear, by the minutes, to have been before the Inspectors. Is not aware that Waldron was before the Commissioners as a witness on the morning of the 19th August, being the same day on the evening of which he was brought before the Inspectors on Costen's complaint. Witness is shown the following entry in the daily report book of 28th June, 1848:—'Guard William Waldron—admitting the Convict, T. M'Cormick, into the South-west Tower, when he was on that post, about 3 P.M., without having orders from the Warden or Head Keeper for doing so. M'Cormick has been several times admitted into this Tower when Waldron has been on duty there. (Signed,) Thomas Costen, Head Keeper;' and is asked if this is not the 'negligence' spoken of as a part of the charge tried by the Inspectors on the 19th and 23rd August, 1848? and says he has no recollection of its being so, but it very likely may have been, from the terms of the minute. Witness is asked if there were any meetings of the Inspectors between the 28th June and 19th August? and witness says there were meetings on 28th June, 1st July, 31st July, and on 17th August, 1848; there is no allusion made in the minutes of any of these meetings to the said report against Waldron. Has no reason to doubt any testimony which Waldron might give upon oath; as far as witness knows he bears a very good character. It is not usual to allow complaints against Officers to remain over for weeks without being taken up by the Inspectors when there are Board meetings intervening; reports have come before the Board which they could not take up at the same sitting, but the fact should be and is usually stated in the minutes. Believes this has not always been done; the case of Wilson is one; witness at present recollects no other case; has no reason to believe that Waldron's case was ever brought before the Board previous to the 19th August, 1848. Witness is asked if he is not satisfied that Waldron's case was never before the Board previous to 19th August? and says he is satisfied that it was not, as far as his present knowledge goes."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

## CASE OF Keeper SKINNER.

This is a very remarkable case.

James Hopkirk, Esq.,—by Commissioners:—

“ Witness is not aware of his own knowledge, that Ex-keeper Skinner has given evidence before the Commissioners, but has no doubt he has. Skinner was brought before the Inspectors on 17th August, 1848, on a charge preferred against him by Keeper Pollard, that Skinner had improperly interfered with him. The Board found both parties in the wrong, and admonished them, and warned them that if any well founded complaint against either of them should be hereafter established, he would be dismissed from his situation. Skinner was brought before the Board again on the 19th August, on a charge preferred against him by Pollard, for using language against him derogatory to his character as an Officer of the Institution. There was an inquiry into the matter; it turned out that the language was used during the progress of the trial of the 17th, and the Inspectors therefore determined not to interfere in the matter. Skinner next came before the Inspectors in the matter of a complaint made by him against Pollard, of business mismanagement on the part of Pollard. This was on 23rd August; consideration of the matter was adjourned to 29th August, when it was resumed, and another charge by Skinner, against Pollard and Manuel, was included in the same inquiry. Regular depositions on oath were taken in this examination of 29th August; cannot tell what has become of them. The Clerk says they are not to be found among the records of the Institution. The result of the investigation was the following decision by the Inspectors, on 30th August, 1848:—“The Board resumed the consideration of the charges by the Master Whitesmith, James Skinner against the Keeper Samuel Pollard and Hugh Manuel, and having heard the evidence of the Architect, and taken the whole case into full consideration, they find that there has been, for a long time past, a great deal of jealousy between the aforesaid James Skinner and Samuel Pollard, which has been greatly derogatory to the interests of the Institution, and subversive of its discipline. That these two persons were on the 17th instant admonished by the Board, that if they did not conduct themselves with more propriety in future, the Board would feel it their duty to dismiss them. That on 19th instant, a complaint was again made against James Skinner for interfering with Samuel Pollard; but as it was not proved that the circumstances complained of had occurred since he was last admonished, the Board considered it unnecessary to do more than caution him again. That on the 21st instant Mr. Skinner came to the Warden and accused Mr. Pollard and Mr. Manuel of fraud, and therefore made certain allegations against them, and that on a full investigation of the same there appeared to be no ground whatever for such allegations, which the Board cannot suppose were made with the view of protecting the interests of the Institution, but solely from malice, and that the Board therefore deem it due to Messrs. Pollard and Manuel, to state that their conduct in the matter referred to by Mr. Skinner was entirely free from blame. That it further appeared from the evidence of the Master Builder, Head Keeper and others, as well as by Mr. Skinner's own admissions, that he has been in the habit of talking to Convicts about matters unconnected with their work, that he keeps no discipline among them, and that some of them have actually sworn at him, and refused to obey orders, without his reporting them, all which is in direct infringement of its discipline. The Board therefore deem it their imperative duty to direct Mr.

Skinner's immediate dismissal, and that this order be read to him in presence of the Keepers and Guards.’

“ There was no charge before the Board against Skinner. The charge preferred against Manuel and Pollard, was appropriating the property of the Penitentiary to their own use. Witness being asked why the Board could not suppose the charge to have been made with the view of protecting the interests of the Institution, but solely from malice; says, the Board came to that conclusion from the evidence. Cannot say whether Skinner would have been dismissed upon the proceedings of 29th and 30th August, had he proved his charge against Manuel and Pollard. He might possibly have been dismissed on matters which came out in the course of the trial. Does not know whether he would or not. Witness is asked if in Skinner's letter of complaint, against Manuel and Pollard, he did not explain that the chief witnesses on which his charge rested for proof, were Convicts? and says that Skinner explains the particulars of the charge he prefers in his letter, and from it, it appears that Convicts are the chief witnesses to establish the case. Witness is asked if the Inspectors did not, on the 29th August, immediately before proceeding to examine Skinner's charges, resolve to receive no Convicts' evidence, and recorded seven reasons for the step, in their Minutes? says, that after consideration of the expediency of taking Convict's evidence in such cases, they did so resolve to exclude Convict evidence in Skinner's case, and in all similar cases for the future, and did record seven reasons in their Minutes for doing so. Witness is asked if the Board did not enter on their Minutes at the same *sederunt*, that ‘the Board find it has been the custom of previous Boards to receive Convict evidence, and that they themselves have followed that custom in various cases?’ and says the Board did so. Witness knows no case in which Convict evidence was refused by the Inspectors. The Inspectors refused to receive Convict evidence in Skinner's case. Witness knows nothing against Skinner's character or credibility as a witness. Has no reason to disbelieve any statement he would make on oath. Witness is asked if he is aware that Skinner gave evidence before the Commissioners on 21st August, nine days before he was dismissed? and says he was not aware of it.”

Resumed:—

“The Secretary having produced notes of evidence taken by Inspectors, in case of Skinner against Pollard and Manuel, which, he finds, were yesterday in his (the Secretary's) possession, witness says these are the notes referred to in his evidence of yesterday. They are in witness's handwriting, and were taken by him at the time. Witness is asked if Skinner's charge was not that Manuel and Pollard had applied certain brass wheels, wooden patterns, and large lead balls, the property of the Penitentiary, to their own use, in endeavouring to find perpetual motion? and says it was for so appropriating these articles, but he cannot say if all of the articles were for the perpetual motion machinery. Witness is asked if it was not sworn at the trial, that brass wheels were in the hands of Manuel and Pollard, within the walls of the Penitentiary? and says he thinks it was so sworn. Witness is asked if there was any evidence that the said wheels were paid for to the Institution? and says there was none, but there was evidence that they were charged to one of the defendants by a Foundry in town. Witness is shown the notes of evidence, and asked to show in what part of the evidence this was proved, and says it was proved by the production of an Account for the

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

castings, but as it was not on oath, this does not appear in the Minutes. There was no proof that the brass wheels were made in the Penitentiary, and witness considered the *onus* was on Skinner to show that they were made in the Penitentiary. Witness is asked if Skinner, in his letter, did not state that he could prove by Convict evidence, that the brass wheels were made in the Penitentiary? and says that he does not so find it stated in Skinner's letter. Witness is asked, if the following passage is not in Skinner's letter: 'The information of S. Bedford is as follows: that 3 or 4 weeks time was employed on work for Messrs. Manuel and Pollard—he believes it was for a perpetual motion; the men employed, were Burr, Morrison, and Campbell, with Mr. Pollard. Mr. Pollard and Burr filed up two brass wheels about 18 and 4 inches diameter?' and witness says it is in Skinner's letter, but there is nothing here as to the making of the wheels, merely as to filing up, and witness adds that he is under the impression Pollard or Manuel admitted that the brass wheels were filed up in the Penitentiary; and witness is further under the impression that a book was produced, showing that either Manuel or Pollard, he thinks the former, was charged for the work done on them."

Q. Does it appear by the evidence, that the said filing was charged to either Pollard or Manuel?

A. Witness does not think it likely; his impression is that the book was produced.

Q. Is there any minute that such a book was produced?

A. Does not know that there is; the Inspectors were not very particular as to the formality of their proceedings.

Q. By whom was the said book professed to have been kept?

A. Is not certain, but thinks it was the Warden's book.

Q. Does not the Warden state in his evidence before the Inspectors, that he does not recollect that they were booked; they may be so, but he does not recollect, the Keepers are too much in the habit of breaking the rules as to Booking. By booking, witness means the order for the work being entered in the slop book prior to its being commenced?

A. On reference to the Warden's evidence, finds that he did so testify, but that the Warden adds that Mr. Pollard sent a bill of it the morning the wheel went out, otherwise a pass would not have been granted, and that this may have created the impression on witness's mind, that the book was produced. Witness, however, still thinks a book was produced, showing that the work was charged to either Pollard or Manuel. On now examining the Warden's Order Book, finds the following entry: 'July 13th, 1848. H. Manuel, small motion gearing to clean, 17th June.'

Q. Was the Warden's Order Book produced at the trial?

A. Witness thinks it was, and that this must have been the book he refers to, and the above the entry.

Q. Was there any proof that the bill shown for castings, from the foundry, was for the identical castings in question?

A. Thinks there was no such proof.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Was there any proof before the Inspectors, that Pollard had charged Manuel for the filing, previous to the time when Skinner stopped the brass wheels, as they were passing out at the gate?

A. The Warden swore that a bill must have been given in to the Clerk, or a permit would not have been granted.

Q. Was the Clerk, Mr. Bickerton, called to state whether a bill had been so given in?

A. He was not.

Q. Was it not sworn at the trial, that Pollard or Manuel had wooden patterns for brass castings, within the walls of the Penitentiary?

A. Yes, it was sworn that there were wooden wheels, but whether patterns or not, cannot say.

Q. Was there any proof how they came there?

A. Thinks there was not.

Q. Was there any proof that the Institution was paid for the wooden wheels or patterns?

A. Thinks not; thinks it was alleged by defendant that they were not made in the Penitentiary.

Q. Was there any evidence of the truth of this allegation?

A. Thinks not; there was no proof that they were made in the Penitentiary.

Q. Was there any evidence given before the Inspectors, that Pollard or Manuel had large leaden balls in their possession, within the walls of the Penitentiary?

A. It was alleged and not denied, that Pollard had large leaden balls in his shop.

Q. Was it shown by whom these balls were made?

A. It was shown and admitted that they were made in Pollard's shop, with his knowledge.

Q. Was it shown for what purpose these balls were made?

A. It does not appear in the evidence.

Q. Was it shown that the Warden had authorized these balls to be made?

A. Thinks not; Pollard explained, but not on oath, that he turned the balls in a lathe for the purpose of teaching his Convicts how to turn copper or brass, and that it was cheaper to teach them on lead than on anything else, as it could be melted up again, and that he was frequently in the habit of doing so.

Q. Did Pollard produce any proof of this explanation?

A. Does not think he did; he proved the turning was done openly and without any concealment.

Q. Did Pollard show, by his weekly returns of the employment of his men each day, that his men were reported to have been employed as he represented?

A. He did not.

Appendix

(B.B.B.B.B.)

30th May.

Q. Can you show that portion of the evidence which you yesterday testified, induced the Board to conclude Skinner did not make the charge with "the view of protecting the interest of the Institution?"

A. Referred to the tone of Skinner's own evidence before the Inspectors; also to the testimony by Costen and Horsey, that bad feeling had existed between Skinner and Pollard.

Q. Was there any evidence given by either of these parties or admission of Skinner's, that he (Skinner) acted from improper motives?

A. There is no direct evidence to that effect, but has no doubt the Board drew that inference.

Q. If Skinner had proved his case, would there have been any ground upon the evidence to impute improper motives to Skinner, in bringing the charge?

A. Thinks not.

Q. You swore yesterday, that even had Skinner proved his charge against Pollard and Manuel, he might possibly have been dismissed on matters which came out in the course of the trial, and which are referred to in the decision of the Board upon the case. Can you refer to the portions of evidence you then alluded to?

A. Referred to the evidence of Skinner himself and Horsey. Skinner admitted that Convicts Guard, Bedford and Briscoe, and another, all of Pollard's gang, had spoke to him on matters not referring to the business, and that he (Skinner) had not reported them to the Warden. He admitted that Bedford, Gerard, and Briscoe, spoke to him against Pollard. Horsey testified as follows:—"Skinner's Convicts do not pay him that respect which is due to a Keeper. Witness has seen them laugh and sneer behind his back; mentioned it to Skinner. Witness said although it was no duty of his, yet he could not help saying to Skinner that he regretted it, and wished to see the Convicts keep their own places. What made witness pay more attention, was from the Commissioners being round, and witness thought particular care should have been taken to keep Convicts in order. When Mr. Skinner was putting up the vane on the top of the shops, Mr. Skinner desired Convict Christmas to go up to the roof. The Convict replied, "I'll be d—d if I do." Witness was astonished. Christmas gave, as a reason for not going up, because he had been reported by Pollard, and put on bread and water. Christmas was, at that time, one of Skinner's gang. Mr. Skinner was close to him; the Convict turned right round and faced him, saying "I'll be d—d if I go up; it was about two months ago; it was as the Convicts were going to breakfast; the other Convicts turned right round and laughed. The Convict spoke quite loud and violent. Mr. Skinner was not more than the length of the Board table from him. Witness and all the other Convicts heard him; the other Convicts were round Mr. Skinner. Witness was farther from the Convict Christmas than Skinner, at the time, and distinctly heard what the Convict said."

Q. Was this evidence taken by the Inspectors as a portion of the evidence in the trial against Manuel and Pollard?

A. It was.

Q. What had Skinner's management of his Convicts to do with the charge of fraud against Manuel and Pollard?

A. Horsey was called for the defence.

Q. How could misconduct on the part of Skinner, even if true, be taken as an answer to a charge of fraud against Pollard and Manuel?

A. Mr. Horsey was called by Manuel to show that there were feelings of animosity between Pollard and Skinner, and that Mr. Skinner had passed over a flagrant piece of misconduct on the part of Convict Christmas, as witness thinks, because Christmas was hostile to Pollard.

Q. Was Christmas in any way interested in the charge before the Inspectors?

A. No.

Q. Was any proof offered, that Christmas was hostile to Pollard?

A. Nothing but what appears in Horsey's evidence.

Q. Is there any such evidence in Horsey's testimony?

A. The only such evidence, was Christmas's refusing to go up to the vane, because Pollard had reported him.

Q. Was there any proof that Skinner did not report Christmas's misconduct to the Warden, and had him punished for it?

A. Thinks not; does not think Skinner alleged that he had.

Q. Was Skinner told that he was on his own trial?

A. Does not know.

Q. Was Skinner present when Horsey gave the evidence against him?

A. Has no reason to doubt that he was.

Q. Have you any reason to know that he was?

A. Can only say that he thinks he was.

Q. Were not the Convicts whom Skinner admitted to have spoken to him, the very Convicts who Skinner alleged could have testified as to the perpetual motion affair?

A. Bedford is the only one, unless the fourth Convict, (whose name Skinner did not know) was another.

Q. Is not profane swearing by the Convicts a very frequent offence?

A. Yes, they are often reported for it.

Q. If Skinner reported Christmas, was there any evidence to show misconduct on his part, in Horsey's evidence?

A. There was a general allegation of laxity of discipline against Skinner.

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

Q. Was there any proof of such laxity of discipline?

A. Nothing beyond what appears in Horsey's evidence and Skinner's own admission.

Q. Was Skinner called upon for his own defence, before he was dismissed?

A. He was.

Q. When was he so called?

A. On the 29th August, 1848, witness thinks.

Q. Was he told on what charge he was to defend himself?

A. Does not recollect.

Q. Is there any minute of such a circumstance, in the Journals of the Board?

A. The only entry is as follows:—"The Board thereafter proceeded to the investigation of the before mentioned charges, and having heard evidence on both sides, and the explanation of the parties, adjourned to 9 o'clock to-morrow, to enable them to obtain the evidence of the Architect, who was absent on leave." Witness explains, that on reading the above Minute, he thinks that Mr. Skinner may have been called upon for his defence, on the 30th, as he could not have been on the 29th; Mr. Horsey not having given evidence at that time.

Q. Is there any entry in the Minutes, showing that Skinner was called on for his defence, on or after the 30th August?

A. There is not.

Q. Will you swear that he was called on for such defence, on or after 30th August?

A. Will not swear positively that he was, but such is witness's impression.

Q. Is there any entry in the Minutes, to show that any charge was preferred, or being tried before the Inspectors, against Skinner, during the progress of the perpetual motion investigation?

A. If by this is meant the charge preferred by Skinner against Pollard and Manuel, there is no such entry.

By Mr. Smith:—

"The Inspectors were not influenced by the evidence Pollard gave at Frank Smith's trial, in any of the subsequent proceedings in which Pollard was before them. It was not proved that Pollard's statements as to the books, were false. Witness's impression is, that his statements were corroborated, but he speaks from memory. Mr. Rogers refused to answer certain questions put to him by Mr. Pollard.

"The Board considered Skinner a very troublesome man.

"The rule as to Convict evidence was not made to deprive Skinner of the benefit of such testimony; the subject had been frequently talked of before, but the matter was never finally decided until then. There was a difference of opinion on the subject, previous to the resolutions being passed."

• • • • •

"At Pollard and Manuel's trial, Skinner had an opportunity of telling all he knew of the case. No part of Skinner's evidence was omitted in the notes of the trial. His deposition was taken into consideration, before the decision was arrived at.

"The entry in the Order Book, for the work done for Pollard and Manuel, was in June or July."

Samuel Pollard,—by Mr. Smith:—

"Witness and Manuel were brought before the Inspectors this year, on a charge of fraud. The charge was preferred by Skinner. Skinner was examined on oath, on that occasion. The fraud imputed to them was doing work for their own use, with the materials of the Institution, and not charging the same to their personal accounts. All the work alleged to have been done for Manuel and witness, was entered by the Warden in the Shop Books, before it was commenced, but not minutely described. Certain wheels and shafts were here shown to witness, and he says, these are the articles in question. It was never attempted to send out these articles from the Penitentiary, previous to a bill being sent of them to the Office. The full price of the work done on them, was charged; the brass wheels were cast at (Mason's) Kingston Foundry, and the wood patterns were made there also, and the wooden wheel also. A bill for the brass wheels was got from the Foundry. Witness is shewn a bill and asked if that was the one produced before the Inspectors? and says it was. A certified copy of it is handed in and marked Exhibit A. The work was done for Manuel, through witness.

"Witness turned some leaden balls for Manuel; he did not take them away; they were melted up again; he was charged for the labour of turning them. Skinner examined the witnesses called in the case."

By Commissioners:—

"Witness here produced the Shop Book in which the Warden's instructions for the work done on Manuel's perpetual motion, were entered."

Q. What are the words of the Warden's instructions, you have referred to in your direct evidence?

A. 29th February, 1848, S. Pollard, two small shafts, 2s. 3d. 17th June, 1848, small motion gearing to clean, 5s. 3d. There is no other entry.

Q. In the first of these entries, has not the original writing been erased and the figure 2 inserted?

A. It looks so in the book, but knows nothing of it.

Q. Has not a similar erasure occurred in the second entry?

A. Thinks not.

Q. Were these entries made in your Book, at the dates they bear?

A. The parts of the entries in the Warden's handwriting, were made at the dates they bear; the figures were not filled in for some months after?

Q. Will you swear that the entire entry of 17th June, 1848, at the foot of page 2, in your Shop Book, was made on the date it bears, with the exception of the figures 5s. 3d?

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

A. Yes.

Q. Does the Warden copy the entries into your Book, from his own Shop Book?

A. Does not know.

Q. Did you send the perpetual motion articles to the gate to be passed out?

A. No; sent them to the Warden's Office with a bill of them, according to the usual practice, before they went to the gate.

Witness is shown a bill in his handwriting, dated 25th August, 1848, containing the following items:

8 wedges for brass wheels.....	£0	0	4
2 small shafts.....	0	2	3

£0 2 7

and is asked if that is the bill sent to the Office to obtain a pass for the perpetual motion machinery?

A. Cannot positively say.

Q. Was that bill sent to the Office along with said machinery?

A. Cannot say.

Q. What was that bill made out for?

A. Supposes it was sent to the Office to get a pass, but it is so long since, that he cannot be positive.

Q. Did not the articles referred to in the items of this bill, form part of the machinery stopped by Skinner at the gate?

A. Yes.

Q. Are you in the habit of sending one bill for each job to get a pass upon, or do you send several bills for each job?

A. If the job was sent out at one time, only one bill would be made.

Q. Did not the whole of Manuel's job go to the Office at once?

A. Yes.

Q. Had you any interest in the experiment?

A. None.

Q. Did you ever turn any leaden balls, before those you made for Manuel?

A. Yes; witness has taught two Convicts to turn brass work, by making them practise upon lead.

Q. When did you begin that practice?

A. From the time witness came to the Penitentiary as a Keeper.

Q. Did Manuel order the leaden balls to be made for his use?

A. No; he asked only to know the weight of certain lead balls; they were turned for him, the weight ascertained, and the labour charged.

Appendix  
(B.B.B.B.B.)

30th May.

Q. Did not lead balls form a portion of the actual working machinery by which Manuel expected to discover perpetual motion?

A. Yes; as far as witness knows.

Q. Just such balls as you say you made for him?

A. Yes; just such balls, but perhaps not the same size.

Q. How much did you charge for turning the lead balls?

A. Thinks 5s. 3d.

Q. Did the Warden authorize you by an entry in your Shop Book, to turn the lead balls?

A. He did not; the balls were turned to show the Convicts how to do brass work.

Q. When were these balls turned?

A. Cannot tell; thinks it was in July, 1848.

Q. Had you made any charge for turning these balls, previous to the rest of the machinery being stopped at the gate?

A. Thinks he sent a bill for turning the balls, to the Office, with the machinery.

Q. Was there any work done on the brass wheels in the Penitentiary?

A. Yes; the Moulder's sand was worked off by Convict labour.

Q. Did you charge Manuel for the work done?

A. Yes.

Q. How much?

A. Cannot say; it was included in the 5s. 3d. charged for the lead balls.

Q. Do you give a weekly return to the Office, of the manner in which your men have been employed?

A. Yes.

Q. Did you ever report your men to have been engaged turning lead balls?

A. No; the men who did such work, were labourers.

Q. How did you report these men as engaged, when they were turning?

A. Their time was charged into the general work doing in the shop, as their work was done for the good of the Institution.

Q. Was the time of all these men returned as having produced 3s. 6d. per day, to the Institution?

A. Yes; in the summer.

Q. Are you a blacksmith?

A. No; knows something of it.

Q. Did you make any return to the Office, of the work ordered in February and June, until the day it went out in August?

Appendix  
(B.B.B.B.B.)

30th May.

A. Thinks not.

By Mr. Smith :—

Q. How many bills did you send up for the work done for Manuel?

A. Cannot say if there was more than one?

By Commissioners :—

Q. What were the names of the two Convicts you taught brass work, by practising on lead balls?

A. Morrison and Gilchrist; they are both here now.

Q. Were these the men who turned the balls for Manuel?

A. Morrison did the balls for Manuel.

Q. Did Convict Bedford work on the balls for Manuel?

A. No.

Q. Did Convict Crandell?

A. Thinks not; but will not be confident.

Q. Did Convict Burr?

A. He did not.

Hugh Manuel—by Mr. Smith :—

“Witness does not know if he was ever charged by Skinner with committing a fraud on the Institution. Pollard and witness were so charged together. Skinner gave testimony on oath, at the trial. He had an opportunity of stating all he knew about the matter. Witness never had the articles referred to in Skinner’s charge, in his hands, previous to the night of the trial before the Inspectors. All the work that was done on the brass wheels was rubbing the sand off them, and filing the teeth. The brass wheels were cast at the foundry in town. The wooden wheel was made at the foundry in town.”

By Commissioners :—

“The perpetual motion experiment was exclusively the property, and at the risk of witness. Pollard ordered the articles to be made at the foundry, by witness’s order. Never ordered any leaden balls to be made for him at the Penitentiary. Saw Pollard turning leaden balls in his shop one day, and asked him the weight of lead balls of 1, 2, 3 and 4 inch diameter? Pollard said he would find out the weight for witness. He was either to cast or turn the balls, and give witness the weight. Expected to pay for the time of the men making the balls. Does not know that he has paid for making the balls. Does not know if the Warden consented to the balls being made. The machinery was never set up by witness. Never saw the leaden balls. Pollard sent the articles out of the Penitentiary for witness. Does not know by whom. Does not know who got the permit. Pollard told witness a week before, that he would send them home to witness. Pollard told witness that he would charge witness for the time of the men in turning the leaden balls. He said so on the Sunday-week preceding the day when the articles were stopped at the gate.”

Francis Bickerton—by Commissioners :—

“Witness is shown a letter from Keeper Skinner to the Board of Inspectors, and is asked if that was the letter of complaint preferred by Skinner against Manuel and Pollard, after the perpetual motion machinery was stopped at the gate? and says it is. Recollects of the said machinery being sent to the gate. Witness gave a pass for it. Witness got a bill of the articles to charge Manuel for the work, before he granted the pass. Witness is asked to produce the bill in question, and exhibits an account as follows :—

“ H. Manuel,

Debtor, Provincial Penitentiary :

8 wedges for brass wheels.....	£0	0	4
2 small shafts.....	0	2	3
	£0	2	7”

“ This is the only bill witness got, on which the pass for the whole perpetual motion machinery was granted. Had this bill before the pass was granted. The date of Skinner’s complaint is 22nd August, 1848; the date of the bill is 25th August, 1848. Witness is asked how he could have granted a pass for articles previous to 22nd August, on a bill not made out until the 25th? and says he cannot tell. Witness is asked to produce the Pass he granted for the articles? and says he has searched the bundle of Passes returned for the month of August last, from the gate, and cannot find it.”

The following is Skinner’s letter of complaint against Manuel and Pollard :—

“ Provincial Penitentiary, 22d August, 1848.

To the Gentlemen of the Honourable Board of Inspectors for the time being :—

Gentlemen,

In consequence of information given me by a Convict by the name of Stephen Bedford, things very forcibly engaged my attention, in what I had seen and handled myself. At the time of the Warden’s sickness I went into Mr. Pollard’s shop, (the time I there went, to the best of my knowledge, was from 12 to 1 o’clock at noon) I saw large lead balls, they were turned; on looking round the shop saw a quantity of lead shavings under the lathe, I considered this was strange work, but named it not. The information of Stephen Bedford is as follows: That three or four weeks’ time was employed on work for Messrs. Manuel & Pollard, he believes it was for a perpetual motion; the men employed were Burr, Morrison, and Crandell, with Mr. Pollard. Mr. Pollard and Burr filed up two brass wheels about 18 and 4 inches diameter. A number of lead balls were cast of different sizes and turned in the lathe, weight about 40lb. down, he thinks about 8 or 10 in number. One new iron pot and one old do. was applied to the wheel of the lathe, one pot on each side; in both of these pots were put lead balls and pieces of lead he supposes for the trial of some experiment: the new pot fell off the lathe-wheel and broke in pieces, another Iron pot was brought at the shop by the Messenger he expected from Kingston. A wood frame was made by the Carpenters for the same work; he, the said Stephen Bedford, cut a shaft of ¾ inch Square Iron and forged 8 wedges, saw those wedges filed up by Burr, and fitted in the large wheel with shaft. This work was concealed by being removed to Mr. Pollard’s Office.

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

This gave the Convicts reason to believe that this work was doing unknown to the Warden; he being sick at the time. Mr. Manuel was daily at the shop for the time consulting with Mr. Pollard; Mr. Costen found them together at different times in the office, when they hastily removed.

Stephen Bedford further states, that Messrs. Little, Smith, and he thinks Ballantine, Keepers, has since that time had those lead balls for the use of setting of Iron work.

Evidences collected from the following persons: 1st. on or about 29th ultimo, I inquired of Wm. Smith, Keeper, if he had in his possession any lead balls, as I wanted one? He said no. On further inquiry the said Wm. Smith said that he had a large lead ball from Mr. Pollard. Question, What weight? he said 50 lb.; it was beautifully turned. It was so large that he had no means of cutting it, but returned it again to Mr. Pollard.

(Signed,) "H. SKINNER."

2d. As a further demonstration, on the 18th instant, at 50 minutes past 5 o'clock, A.M., I inquired of F. Little, Keeper, if he had any lead balls? He said no. On further inquiry, said he had a quantity of lead balls from Mr. Pollard, the size of hen eggs, and some large balls about 4½ inches diameter, showing the size by opening both hands and fingers; had them for the use of setting Irons of forges in new shops; what he did not use he returned again to Mr. Pollard.

(Signed,) "SKINNER."

"N. B.—Please allow me to make a few remarks, which I hope will not be out of place, knowing, as I do, a little about machinery:—

1st. Were those brass wheels and wood collar, &c., booked in a regular way, previous to thus being worked?

2nd. From whence came the patterns of brass wheels and two bearings, or who made them?

3rd. By whom were the brass wheels &c., cast?

4th. By whom was the wood collar made?

5th. What price has been charged or paid for turning and filing the two brass wheels, and drilling and filing up the two brass bearings?

6th. What were all those lead balls made for?

7th. Who made the patterns of lead balls, or from whom were they obtained?

8th. And lastly, please examine Hardware accounts respecting the iron pots.

(Signed,) H. S."

"P. S.—L'Assage and Gerard can give some information, if it is agreeable to you to hear them."

"Provincial Penitentiary, 1848.

"Gentlemen,—

"Some time last winter, I believe, in the month of February, I walked in the new shops over the Smith's shop, where Mr. Manuel was with his gang at work. (Much had been said, about that time, respecting perpetual motion.)

"Mr. Manuel told me he had a plan, but that he was not well acquainted with machinery. He called me at his Office and handed me a draft-board, whereon was a chalk draft or sketch of his perpetual motion—the large wheel plainly shown. In answer to some questions which I put to him, he said that it would be propelled or worked by balls applied at side of wheel, and he had no doubt of its answering; that Mr. Pollard and himself was about trying it. Other conversations took place at various times, of which I do not remember.

(Signed,) H. SKINNER."

"N. B.—I had not, at that time, the least suspicion that this was working within the walls of the Penitentiary."

#### CASE OF Keeper RICHARDSON.

This Officer gave material evidence before the Commission, and the Warden endeavoured to impeach his character.

James Hopkirk, Esq.—by Commissioners:—

Q. Did Keeper Richardson give evidence at Frank Smith's trial, in October, 1847, before the Inspectors?

A. He did.

Q. Was his evidence in favour of Frank Smith?

A. He was only called to speak to the character of Robinson and Fitzgerald, two of the witnesses for the prosecution against Smith. His testimony was favourable to the credibility of the said witnesses.

Q. Did not the evidence of Robinson and Fitzgerald, materially affect the issue of the trial?

A. Yes.

Q. Are you aware Richardson has given evidence before the Commissioners?

A. Has reason to believe so.

Q. Do you know if it was favourable or unfavourable to the Warden?

A. Has been led to believe that it was unfavourable.

Q. Do you think Richardson has been concerned in the conspiracy against the Warden?

A. Cannot say.

Q. Has the Warden ever brought any charge before the Board of Inspectors, against Richardson?

A. The Warden mentioned to witness, early in September, 1848, that he had some charge to make against Richardson, and at the next meeting of the Board, the Warden wished to bring it up, when witness (who had spoken previously to some of his brother Inspectors, on the subject), said "you had better not." The other Inspectors were of the same opinion, and the matter was not pressed to an investigation, nor any minute of it made.

Q. What was the charge?

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix

(B.B.B.B.B.)

30th May.

A. Thinks it was something about tools having gone amissing in his shop, but witness will not be positive.

Q. Did the Warden say how long the complaint as to the tools had been standing against Richardson?

A. Does not remember.

Q. There were only two meetings of the Board, in September, viz: on the 1st and 27th, at which of them did the matter come up?

A. Thinks it was at that of 27th, but it may possibly have been at that of the 1st: thinks the former.

Q. How long previous to the meeting when it came up, had the affair been known to you?

A. Perhaps a week; a short time.

Q. To which of the Inspectors had you communicated the matter?

A. To Mr. Corbett, and either to Mr. Gildersleeve or Dr. Baker.

Q. Why did you persuade the Warden not to bring up the matter before the Board?

A. Because witness understood Richardson either had been or was about to go before the Commissioners, and it might be considered an interference with them.

Q. Was there any reason why greater delicacy should have been shown as to interference with the Commissioners in the case of Richardson, than in those of Wilson, Waldron, Skinner, Watt, Kearns, Bannister, and Cooper, all of whom were before the Commissioners, and yet were each, once or oftener, tried by the Inspectors during the sitting of the Commission?

A. Cannot answer this question without a full consideration of each case. Some of the parties witness was not aware to have been before the Commissioners when they were tried by the Inspectors.

Q. But how does that affect the case, as you have just stated that you did not know whether Richardson had been before the Commissioners when the complaint against him came up?

A. Witness was aware that Richardson either had been or was about to go before the Commissioners, when the matter was before the Inspectors.

Q. Was not every Officer in the establishment in the same position either already or likely to be hereafter before the Commissioners?

A. Did not know for certainty, but has no doubt of it.

Q. Did you understand that Richardson was hostile to the Warden?

A. Had at the time the complaint was before the Inspectors, reason to believe that Richardson's evidence would be or had been hostile to the Warden.

Q. Was the Warden's charge against Richardson a grave one?

A. Cannot say. Never read the paper which the Warden tendered as to the affair.

Q. Did you consider the taking up of such complaints, an act of expediency or duty?

A. Witness personally thinks it was an act of duty to take up all such complaints under the Act.

Q. Were the papers tendered by the Warden, informal examinations of Convicts?

A. Does not know, as he did not read them.

Q. Did the Warden express any doubt of Richardson's honesty in the affair?

A. Thinks he did.

Q. Did you understand the dishonesty was to any extent?

A. Cannot tell.

Q. Was there any other charge but that of dishonesty, ever brought before the Board by the Warden, against Richardson?

A. Knows of none while witness was an Inspector, as far as he recollects; is sure there was none.

\* \* \* \* \*

Q. Has not Richardson been an Officer of the Penitentiary, nearly from its commencement?

A. He has been an Officer for a very long time.

Q. Do you know of anything against his character, previous to the affair of the tools mentioned to you by the Warden, in September of this year?

A. Does not.

Q. Would you believe Richardson on oath?

A. Has no reason to disbelieve him.

#### CASE OF GUARD WATT.

Watt gave evidence at Kitchen-keeper Smith's trial, highly favourable to Smith. When examined on the same points by us, he distinctly contradicted his previous statements. The Inspectors desired to dismiss Watt when they learnt this, but knowing the effect such a step would have had on other witnesses, we declined aiding in his dismissal at that moment.

James Hopkirk, Esq. :—

“Has reason to believe that Guard John Watt gave evidence before the Commissioners prejudicial to Frank Smith. Watt gave evidence at Frank Smith's trial before the Inspectors, in October, 1847; his evidence was favourable to Frank Smith. The Inspectors placed great reliance on Watt's evidence, in deciding upon part of the charges against Frank Smith. Watt's evidence before the Commissioners materially differed on particular points, from the evidence he gave before the Inspectors. Either Warden Smith or Frank Smith brought the discrepancy in the evidence of Watt, under the notice of the Board. Witness is asked if the Board

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

resolved to apply to the Commissioners to furnish them with a copy of the evidence given to the Commissioners by Watt, for the purpose of dismissing him from his situation? and says the following is the Minute made on the matter in the Inspector's Minute Book, on 29th August:—"The Board resolve that application be made to the Secretary of the Commission, requesting to know whether the extract of the evidence furnished by Mr. F. W. Smith was a true copy of the evidence taken before that Court, and to inform them whether such evidence was taken under oath," and that this application was made with a view of dismissing Watt, if he had given contradictory evidence on oath."

Q. Was the original entry in the Minute Book, in these words, or has the original matter been defaced and the above words interlined?

A. There has been an alteration in the entry which witness has no doubt was done when the Minutes were revised, before signature.

Q. In whose handwriting is the alteration?

A. The whole of the above entry is in the handwriting of the Clerk. A subsequent interlined addition in the same entry, is in witness's handwriting, viz: the addition of the words, "was approved and ordered to be sent."

Q. Did you instruct the Clerk to make the alteration of the entry in question?

A. Has very little doubt that the alterations were made in pencil by witness, and copied over in ink by the Clerk.

Q. What were the words of the entry as it originally stood?

A. Instead of the words as now used, "to know whether the extracts of the evidence furnished by Mr. F. W. Smith, was a true copy," the original words were, "requesting him to furnish them with a copy of the evidence taken before that Court."

Q. Did the Commissioners reply that they declined "to furnish the Inspectors with any portion of the evidence received by them?"

A. They did, by letter of 31st August, 1848.

Q. After considering the reply of the Commissioners, did not the Board on the 1st September make the following Minute in their Journals:—"The Board observe that the Commissioners have fallen into an error in supposing that the Inspectors asked to be furnished with any portion of the evidence given before the Commissioners, which they never thought of doing?"

A. They did.

Q. Was the alteration of the Minute of the 29th August, made after receipt of the letter of 31st August, from the Secretary of the Commission?

A. Thinks it must have been.

Q. Why did you, in revising the Minutes of 29th August, make one correction in pencil and another in ink?

A. Does not know.

Q. Was Watt brought before the Inspectors upon the subject of the contradictory character of his evidence?

A. He was not.

Q. Have you ever spoken to him on the subject?

A. I have not.

Resumed:—

Witness desires to explain the circumstances under which the Minute of 29th August was made. He has been considering the matter since last evening, and thinks the following is a correct statement of the facts:—That the particular part of the Minute of 29th August, relating to the application to the Commissioners, on the subject of Watt's evidence, was not prepared at that meeting (of 29th) of the Board, but a short note or jotting of what was done was taken by the Warden, and that he drafted that part of the Minute, and had it inserted in the Minute Book, and that when the Minutes were read over by witness before the Board met on 1st September, witness discovered the error and corrected it in pencil, and afterwards pointed out the correction to his brethren when the minutes were read over, who approved of it; that witness then took the Minute Book to the Clerk, who made the correction in ink, and that it was then signed by the Members of the Board. Witness has no doubt whatever, that this was the first business done at the meeting of 1st September, and before the President laid the letter of the Secretary's of the Commissioners before the Board.

"Mr. Hopkirk here informed the Commissioners that he had sealed up the original documents alluded to in the Minute of yesterday, and placed the package in the hands of Mr. Warden M'Donell, on an understanding with that Officer that the package should not be opened without the special consent of Governor General; that he had reason to believe the original draft of the Minute of 29th August, 1848, in which the alteration and interlineations occurred, is among the said documents, and that he now applies to the Court to instruct the Warden to produce the package with a view of its being opened.

"Mr. Hopkirk was then called in and the above Minute read to him, to the correctness of which he assented.

"Mr. Hopkirk also added that he was now quite willing that the Commissioners should have all the drafts of Board Minutes which may be in said package. Mr. Hopkirk then withdrew.

"The Commission having taken Mr. Hopkirk's application into consideration, resolved that it was inexpedient to interfere in the matter.

"A letter was handed in from Mr. Hopkirk on the same subject, and the Secretary was instructed to read over the decision of the Court as an answer to both of his applications."

Resumed—by Commissioners:—

Q. You have said in your explanation of this morning, that you think the facts were as you have stated. Do you swear that such were the facts, or is it only supposition?

A. Swears to the facts as positively as he can swear to anything of the kind.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

Q. Have you a distinct recollection of the facts?

A. Yes, has a distinct recollection of the facts as he could have of anything of the kind.

Q. What has been the usual practice of the Board of Inspectors, as to their Minutes—who has usually drawn them up?

A. Most commonly the routine part of them has been drawn up by the Warden or Clerk, previous to the meeting. In most instances, but not uniformly, since witness has been an Inspector, the important clauses have been drawn by witness, after having obtained the sense of the Board regarding them. Alterations have been frequently made on said drafts, before the Board broke up, at the suggestion of different members. In other cases, entire Minutes have been drawn up by witness, read to, altered and approved by the Board before they broke up. In other cases, parts of a Minute have been drawn up by witness, and part by the Warden, and submitted to the Board for approval or correction at the same meeting. It has frequently been the case that the draft of the Minutes of any meeting have not been submitted for approval at that meeting, but reserved for approval at a future sitting.

Q. When important business was transacted by the Board, have the members broken up without a draft of their transactions having been made?

A. Sometimes they have; they have given general instructions to witness or the Warden for the preparation of drafts.

Q. In such cases were drafts submitted to the Board, or regular entries in the Minute Book?

A. In most cases the drafts were submitted, but entries in the Minute Book have been submitted in this way; the practice was not very uniform.

Q. Are we to understand that the Inspectors gave general instructions to the Warden to draw up Minutes for them, on important business, stating their reasons for coming to grave determinations?

A. Yes.

Q. Has the Warden ever written such Minutes, drawn up by him in the Minute Book, before submitting them to the Board for approval?

A. Thinks that on several occasions the Clerk has inserted such Minutes in the Inspectors' Minute Book, when so drawn up by the Warden, without their having been previously submitted to the Inspectors. The Minutes were, however, always carefully read over before signature.

Q. Have the members of one Board meeting been always present when the said Minutes were read over at the next meeting?

A. They generally have, but witness will not say on every occasion.

Q. In case one or more members were absent, what was the usual course?

A. Such members present as were in attendance at the previous meeting, signed the Minutes, and the absent members signed next time they attended.

Q. Have not long intervals sometimes elapsed between the meetings of the Board?

A. Considerable intervals have elapsed, but not very frequently, since witness was an Inspector.

Q. Were not the Minutes of 29th and 30th August, 1848, submitted to the Board for signature, as written in the Minute Book, together, on the 1st September?

A. They were.

Q. Was a draft of the Minutes of the transactions of 29th August, ever submitted to the Board for approval?

A. Thinks only a part of it.

Q. Was a draft of the Minutes of 30th August, submitted to the Board?

A. Thinks a draft of the proceedings at that meeting was submitted at the same sitting and approved of.

Q. Why do you think so?

A. Because witness remembers drawing it.

Q. How did it come that a draft of the proceedings of 30th was submitted and approved of before the draft of the previous meeting was submitted?

A. Because the meeting of 30th took place at 9 in the morning, and the Minutes of 29th had not been entered into the Minute Book, and the meeting of 30th was specially to decide Skinner's case.

Q. You say the Minutes of 29th was not entered in the Minute Book at the meeting of 30th; was the draft of it not ready on the 30th?

A. Is sure it was not.

Q. How are you sure of this?

A. Knows it from recollection; is as positive of it as he can be of anything of the kind.

Q. Were all the proceedings of the 29th August written out from "a short note or jotting" by the Warden?

A. No.

Q. Was the decision as to the Debentures upon Mr. Campbell's letter drawn up from such jotting?

A. Cannot tell, but has no doubt it was part of the *pro forma* business.

Q. Was the decision of the Board upon the application to the Commissioners, as to Watt's evidence, drawn up from jottings by the Warden?

A. Has no doubt it was.

Q. Why have you no doubt; do you speak from knowledge or supposition?

A. Has stated already, that he is as certain as he can be of anything of the kind.

Q. Will you swear you did not write that portion of the Minute?

A. To the best of witness's knowledge and belief, he did not do so.

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Will you swear that a draft of that portion of the Minute was not submitted to the Board at the same meeting?

A. Will swear to it as positively as he can to anything of the kind; is certain it was not.

Q. Was the Minute as to the choice of a Kitchen keeper drawn up from jottings by the Warden?

A. It was, but cannot say if it was submitted to the Board at that meeting; thinks it was.

Q. Was the series of resolutions upon the decision of the Board as to the future rejection of Convict evidence, drawn up from jottings by the Warden?

A. It was not; it was drawn up by witness, at the request of the Board, and submitted at the same meeting for approval.

Q. Was the Minute, as to the investigation in the affair of Skinner, Pollard, and Manuel, (coming immediately after the resolution as to Convict evidence) drawn up from jottings by the Warden?

A. Does not know.

Q. Do you know of your own knowledge that the Warden took any jottings at the meeting of 29th August?

A. Saw him taking jottings at that meeting.

Q. Was a draft of the Minute of the Pollard investigation last referred to, submitted to the Board at same meeting?

A. Is as sure that it was not as he can be of any thing of the kind.

Q. Then the only portion of the Minute of 29th August which you can positively swear to as not having been submitted in draft, is the portion in which the alteration and interline occur?

A. That is the only portion of the Minute of 29th August which witness can positively swear was not submitted to the Board in draft.

Q. Did you see the letter of the Secretary of the Commission of 31st August, previous to the Board meeting of 1st September?

A. I did not.

Q. At what time of day was the meeting of 1st September held?

A. Thinks it was the evening, but is not certain.

Q. Did not Mr. Corbett communicate to you the contents of the Secretary's letter of 31st August, previous to the meeting of 1st September?

A. He may have told witness generally that the Commissioners had refused the request of the Inspectors, but the contents of the letter were not otherwise communicated to witness.

Q. Was the alteration in the Minute made with the knowledge of your brother Inspectors?

A. The alteration was made in pencil by witness, and submitted to the other Inspectors for their approval.

Q. Was their attention called to the alteration you had made?

A. Most undoubtedly it was.

Q. Did any conversation arise upon it?

A. Does not think there was much.

Q. Was Mr. Corbett present?

A. He was, witness has no doubt.

Q. Had you seen the Secretary's letter of 31st August when you took the Minute Book to Mr. Bickerton to re-write your interlineation in ink?

A. Is sure he had not seen it.

Q. Had Mr. Corbett seen it?

A. He had; witness has no doubt he had.

Q. Why did you make the correction in pencil, and not in ink?

A. Because he first wished it submitted to his brethren for approval before finally altering it.

Q. Could you not more easily have re-written the interlineation in ink yourself, than take the Book to the Clerk's Office for that purpose?

A. Possibly he might; but most of the Books are in the Clerk's hand-writing, which was the reason for going to him.

Q. Did not the same reason apply to the interlineation made by you in ink, in another clause of the same Minute?

A. It did; but thinks it was written after the Clerk had re-written the other in ink.

Q. Does not the Minute Book contain many alterations in your hand-writing?

A. There are only two corrections in witness's hand-writing, besides those of 29th August, during the two years he has been an Inspector, and these are only corrections of clerical errors.

Q. Are they in pencil or ink?

A. They are in ink.

Q. Has not the Warden made frequent corrections in the Minutes?

A. Only finds two instances during witness's incumbency.

Q. Are they in ink?

A. They are.

Q. Has any other correction than the one of 29th August been made in pencil; and re-written in ink?

A. Yes; one on 8th October, 1847. It is in the Warden's hand-writing in pencil in the margin, and the words are interlined by the Clerk. Can find no other during witness's incumbency.

Q. In what matter was this interlineation made by the Warden?

A. It is in reference to a reprimand given to Keepers Keely and M'Carthy.

Q. Do you know if that interlineation was made with the sanction of the Board?

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

A. Does not. But the words interlined are, "having called upon the Keepers for their explanation, and" which witness knows to be a correct account of the *Res gestæ* at the meeting.

Q. What is Guard Watt's character?

A. Knows nothing against him but his giving contradictory evidence on oath.

Q. If Watt gave the evidence he is said to have given before the Commissioners, would you believe him on oath?

A. I would not.

Q. Is Watt concerned in the conspiracy against the Warden?

A. Has no reason to suppose so.

Q. Did you try to get him indicted at the last Assizes?

A. He did not.

Q. Was his name in the list of alleged perjurers handed by you to the Grand Jury?

A. Thinks it was not in any list handed by witness to the Grand Jury; made no charge of perjury except against M'Carthy.

By Mr. Smith:—

"The letter of the President of the Inspectors to the Secretary of the Commission of 29th August, 1848, states that he is requested by the Inspectors 'to transmit for the information of the Commissioners extracts from the evidence taken before the Board of Inspectors, as well as extracts from that submitted by Mr. F. W. Smith as having been taken before the Commissioners, and have directed me to request that you will be pleased at your earliest convenience to acquaint them whether the latter evidence was actually given before you, and if so whether it was on oath; with a view of their immediately, on receipt of your answer, considering the propriety of their ordering Watt's instant dismissal.' No other application was ever made to the Commissioners on the same subject.

"The alteration on the Minute of 29th August was made prior to its being signed."

"The Warden has frequently shown witness rough drafts of Minutes of the Board of Inspectors, or of portions of them, before they were entered in the Minute Book. Is not aware that the Warden has ever exceeded the instructions of the Board in drawing up such Minutes. The Minutes were always read aloud before they were signed. Witness is asked to look at the Minute of the Inspectors of 8th October, 1847, and is asked if there is not an interlineation in that Minute, and if there is not a corresponding pencil memorandum in the margin, made by the Warden? and answers, there is such an interlineation and such a memorandum. Witness is asked what interlineation is made in the Minute of 3d February, 1848? and witness says, there is an addition, in the Warden's hand-writing on that date, of the words "See Warden's letter," within parenthesis. Considers this is not an alteration of the Minute, but only a reference added. Witness is

asked to say what is the interlineation of 17th August, 1848? and says the words "and estimate" are interlined in the Warden's hand-writing. Cannot tell whether these words were entered by order of the Board, but knows the words only stated what had occurred.

"Cannot say positively that these corrections were made before the Minutes were read, but has no reason to doubt they were."

"Is not aware that the Warden ever wrote a letter as from the Board, without having received instructions to do so."

Francis Bickerton—by Mr. Smith:—

"Witness is referred to the Minute Book of 8th October, 1847, and says there is an interlineation in that Minute in witness's hand-writing. Does not recollect whether witness made that interlineation in ink from the Warden's pencil memorandum in the margin before or after the Minute was signed. Should think it must have been before, or the Inspectors would not have signed it. Has no recollection of ever putting any interlineation in the Minutes after the Inspectors had signed them.

Mr. Kirkpatrick usually wrote the drafts of Minutes of the Board, of which he was President. The Warden sometimes wrote the Minutes of the Kirkpatrick Board. Witness always took the draft of those written by the Warden to Mr. Kirkpatrick for his approval, before entering them in the Minute Book."

By Commissioners:—

All the Minutes of the late Board of Inspectors were either written by the Warden or by Mr. Hopkirk. The Warden took possession of the draft Minutes when the Board rose, and usually handed them to witness to copy into the Book a day or two after. In many cases Minutes were often presented to the Inspectors cut and dry before the Board sat, that is in matters connected with the Institution. Some parts of these Minutes prepared beforehand were in the hand-writing of the Warden, and part of witness. The portions done by witness were the statistics, prisoners received, &c.; the Warden wrote such parts as related to the discipline, removal of Officers, &c. Entire Minutes may have been written out by the Warden before the Board met, but not very frequently; generally in trivial matters. When Mr. Hopkirk wrote out the draft Minutes, his original copy was handed to witness to copy into the Book. When the Warden wrote out the Minutes of the Corbett Board, the draft was not exhibited to the Inspectors before being copied into the Minute Book.

"The original Minutes of 1848 were written as follows:—

The meeting of 3d Feb'y, 1848,	by the Warden.
" 7th "	" cannot say.
" 24th "	" by the Warden.
" 28th "	" by do.
" 3d March,	" by do.
" 7th "	" by do.
" 10th "	" cannot say.
" 15th "	" by the Warden.
" 18th "	" by Mr. Hopkirk.
Second meet'g 18th "	" by do.
The meeting of 20th "	" by do.
" 8th April,	" by the Warden.
" 29th "	" by do.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

The meeting of 31st May, 1848, by the Warden.  
 " 5th June, " by do.  
 " 13th " " cannot say.  
 " 19th " " by the Warden.  
 " 21st " " by do.  
 " 24th " " the first part by  
 the Warden, the two latter paragraphs by Mr. Hop-  
 kirk.

The meeting of 28th June, 1848, by the Warden.  
 " 1st July, " by Mr. Hopkirk.  
 " 31st " " by the Warden.  
 " 17th Aug., " by do.  
 " 19th " " by do.  
 " 23d " " by do.  
 " 29th " " by do. down  
 to the paragraph commencing "The Board before  
 proceeding," &c., and Mr. Hopkirk the rest.

The meeting of 30th Aug., 1848, by the Warden.  
 " 1st Sept., " by Mr. Hopkirk.  
 " 27th " " by the Warden.  
 " 3d Oct., " by Mr. Hopkirk.

No Minute written by the Warden was ever in  
 any instance altered or amended by the Corbett  
 Board, except in the one case of 29th August, 1848.

The Minute of 29th August, as drawn up by the  
 Warden, originally stood as follows, and was so  
 copied into the Book by witness:—"Whereupon  
 the Board resolve that application be made to the  
 Secretary of the Commission, requesting him to fur-  
 nish them with a copy of the evidence taken before  
 that Court, and to inform them whether such evi-  
 dence was taken under oath." Witness, by Mr.  
 Hopkirk's instructions, afterwards expunged the fol-  
 lowing words: "him to furnish them with a copy,"  
 and interlined in lieu thereof the following words:  
 "to know whether the extract of the evidence fur-  
 nished by Mr. F. W. Smith was a true copy." Witness  
 also added after the word "oath," by direc-  
 tion of Mr. Hopkirk: "a draft of the necessary  
 letter having been prepared and submitted to the  
 Board." Mr. Hopkirk interlined the words used in  
 the first part of the above alterations in pencil, and  
 handed the latter alterations to witness on a slip of  
 paper. Both alterations were ordered by Mr. Hop-  
 kirk to be made on the same day. Mr. Hopkirk  
 gave witness these instructions while the Board were  
 sitting on 1st September; it was late in the evening,  
 by candle-light. Since witness made the alterations  
 referred to, another alteration has been made on the  
 same Minute, in ink, in Mr. Hopkirk's hand-writing:  
 after the words "submitted to the Board" Mr.  
 Hopkirk has added, "was approved and ordered to  
 be sent."

"Witness is referred to the Minute Book of 8th  
 October, 1847, and to the alterations in that Mi-  
 nute which witness testified was made by him from  
 a pencil memorandum in the Warden's hand-writing  
 in the margin. The entry, as it stood before cor-  
 rection in the Minute Book, was an exact copy of  
 the original Minute in the Warden's hand-writing.  
 Witness had no authority for making the interlinea-  
 tion, but the pencil mark; the Warden nor any of  
 the Inspectors did not explain to him that the cor-  
 rection was to be made; witness merely saw the  
 Warden's pencilling in the Book, and presuming it  
 was there for his guidance, made the correction."

By Mr. Smith:—

"Does not recollect of the Warden's having writ-  
 ten a Minute for the Board of Inspectors as to the  
 dismissal of an Officer, before he was actually dis-

Appendix  
(B.B.B.B.B.)  
30th May.

missed. In the rough drafts of Minutes handed to  
 witness to copy into the Minute Book, witness has  
 occasionally seen the writing of witness, the Warden,  
 and Mr. Hopkirk all on the same sheet."

Witness cannot tell if the rough minutes handed  
 to witness, in the Warden's handwriting, were copied  
 by the Warden from original minutes composed by  
 Hopkirk; but has known the Warden to say that he  
 had copied over Mr. Hopkirk's writing, to save  
 witness trouble. Does not know if the drafts hand-  
 ed to witness by the Warden were his composition."

The following is the correspondence referred to  
 by the witnesses in the case of Guard John Watt:

No. 1.

F. W. Smith, to Board of Inspectors.

"KINGSTON, 28th August, 1848.

"Gentlemen,

"Although no longer an Officer in the Peniten-  
 tiary, I deem it due both to myself and you to call  
 your attention to the evidence given by John Watt,  
 Guard, before the Commissioners, an extract of  
 which they have furnished me, and a copy of which  
 I beg to lay before you, which you will perceive is  
 in direct contradiction to that given on oath before  
 you on the occasion of the investigation of certain  
 charges preferred against me in October last.

"I have the honour to be, &c.  
 (Signed,) "F. W. SMITH:

"To Inspectors of Provincial Penitentiary."

No. 2.

Copy.—Letter, President Board of Inspectors, to  
 Secretary Penitentiary Commissioners.

"PROVINCIAL PENITENTIARY,  
 "29th August, 1848.

"Sir,

"I am directed by the Board of Inspectors of the  
 Provincial Penitentiary, to enclose for the informa-  
 tion of the Commissioners of Inquiry into the man-  
 agement of that Institution, a copy of a letter ad-  
 dressed to them by the late Kitchen-keeper, F. W.  
 Smith, calling the attention of the Board to the dis-  
 crepancies between the evidence given by the Guard  
 John Watt, before the Board of Inspectors, and  
 that given before the Court of Commissioners.

"The Board of Inspectors desire me to observe,  
 that while the interest of the Institution does not  
 now require them to inquire so far as Mr. F. W.  
 Smith is concerned, (he being no longer an Officer  
 of the Penitentiary) whether the evidence given by  
 Guard Watt before the Commissioners, or that given  
 by him before the Inspectors, is the correct state-  
 ment of what he knows, relative to the subject of  
 inquiry, they feel satisfied that the Commissioners  
 will agree with the Inspectors that it is their duty  
 to inquire whether any person employed in the Pri-  
 son, particularly one holding the responsible situation  
 of Guard Watt, has been guilty of giving such con-  
 tradictory statements on oath. They have therefore  
 requested me to transmit for the information of the  
 Commissioners, extracts from the evidence taken be-  
 fore the Board of Inspectors, as well as extracts from  
 that transmitted to them by Mr. F. W. Smith as  
 having been taken before the Commissioners, and  
 have directed me to request that you will be pleased,

Appendix  
(B.B.B.B.B.)  
30th May.

at your earliest convenience, to acquaint them whether the latter evidence was actually given before you; and if so, whether it was on oath, with a view of their immediately, on receipt of your answer, considering the propriety of ordering Watt's instant dismissal.

"I have the honour to be, &c.,

(Signed,) "THOMAS A. CORBETT,  
"President, Board of Inspectors, P. P.

"GEORGE BROWN, Esq.,  
" &c. &c. &c."

<p>Extract from evidence of Guard John Watt, said to have been given before the Commissioners of Inquiry:—</p>	<p>Extract from the evidence of Guard John Watt, said to have been taken before the Inspectors:—</p>
--	--

John Watt, Kitchen Guard, another Assistant Keeper, throughout Frank Smith's time.

"Is aware that Frank Smith has bought potatoes, turnips, and meal; has seen him pay for them; never saw him sell anything belonging to Penitentiary, and does not believe he did so.

"Is aware that the Officers have been in the habit of buying provisions from Mr. Frank Smith; has known (certain Officers named) to get provisions from Frank Smith; has known one or more of these men to get one or more of the following articles: potatoes, bread, turnips, peas, oats, oatmeal, and vinegar. Mr. Smith ordered Tilletson to take them from the centre Bin in the west side of the Penitentiary cellar. He gave this order because he (Frank) stated that the potatoes in that bin were his own property, purchased for the convenience of the Officers. Does not know that these potatoes were Frank Smith's property. Had no more authority than Frank's word.

"Witness has no doubt that some of the potatoes which the Officers had, were taken from the Penitentiary Stores.

"When witness saw the Penitentiary potatoes sold by F. Smith, he expected that Frank paid in the money he received, to the Office. Witness has known several of the Officers get bread; it was taken out of the Penitentiary bin. Frank Smith had no bread of his own for sale. Has known both

white and brown bread sold by F. Smith. Witness has purchased turnips from F. Smith, three or four times, a bushel or half a bushel at a time; paid Frank Smith for them; they were taken from the Penitentiary Stores. Witness, by order of Frank Smith, has sent to the stable for oats to supply an Officer. Witness has no doubt these oats were taken from the Penitentiary Stores. Witness knows that Frank Smith has had potatoes sent home for his own use, from the Penitentiary. They must have been taken from the Penitentiary Stores. Witness knows that F. Smith has had bread regularly, almost daily, from the Penitentiary Stores, ever since he came. Witness has known F. Smith get turnips from the Penitentiary; several times they were taken from the Penitentiary Stores."

No. 3.

Copy.—Letter, Secretary to President Board of Inspectors.

"Provincial Penitentiary Commissioners' Room,  
"KINGSTON, 31st August, 1848.

"Sir,

"I have to acknowledge receipt of your letter of 29th instant, in reference to certain evidence given by Kitchen-guard, John Watt, on the trial of the charges against Francis W. Smith, recently dismissed from the Penitentiary, and requesting information as to the depositions made by said Watt, before the Commissioners, with a view to his instant dismissal thereon.

"I lost no time in laying your letter, with the documents accompanying it, before the Commissioners, and I am instructed to reply as follows:—

"The Commissioners were perfectly aware of the discrepancies existing between the evidence of Guard Watt before the Inspectors, and that given by him to the Commissioners, and they regret to say that this is not the only case in which such discrepancies have appeared. The Commissioners have felt it their duty to seek for the origin of these discrepancies, and they have also sought to discover in which case the truth has been told, and they will very shortly have the honour of laying their opinion on these points before His Excellency the Governor General.

"In the meantime, I am to suggest to the Board of Inspectors, that the Commissioners are in a position to judge of the conduct of any Officer of the Penitentiary who may have come before them, and give effect to their decision; and as they view any interference with their proceedings, by the Inspectors, as unnecessary and inconvenient, they must

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

decline to furnish you with any portion of the evidence received by them.

"I have the honour to be,  
"Sir,  
"Your most obedient Servant,  
(Signed,) "GEO. BROWN,  
"Secretary.

"THOS. A. CORBETT, Esq.,  
"President, Board of Inspectors,  
"Provincial Penitentiary."

No. 4.

Copy.—Letter, Warden to Secretary.

"PROVINCIAL PENITENTIARY,  
"2nd September, 1848.

"Sir,

"I have the honour, by direction of the Board of Inspectors, to forward to you the accompanying copy of a Minute made by them yesterday, which I request you will be pleased to lay before the Commissioners.

"I have the honour to be,  
"Sir,  
"Your most obedient Servant,

(Signed,) "H. SMITH,  
"Warden.

"GEO. BROWN, Esq.,  
"&c. &c. &c."

No. 5.

Copy of a Minute of the Board of Inspectors of the Provincial Penitentiary, 1st September, 1848.

"The President then laid before the Board a letter which he had received from the Secretary of the Commissioners, in reply to the Board's application to know whether certain evidence said to have been given by the Guard John Watt, before them, had actually been so given.

"In that letter, the Secretary acquainted the Board that there are discrepancies in the evidence given before the Commissioners, not only by Guard Watt, but by other Officers of the Institution, and that the Commissioners had sought to discover the cause of these discrepancies, and in which case the truth had been told, and would shortly lay their opinion on these points, before the Governor General. That in the meantime however, they would suggest to the Board of Inspectors, that the Commissioners were in a position to judge of the conduct of any Officer of the Penitentiary who might have come before them, and to give effect to that decision, and that as 'they viewed any interference with their proceedings as unnecessary and inconvenient, they must decline furnishing the Inspectors with any portion of the evidence taken by them.'

"The Board observe that the Commissioners have fallen into an error, in supposing that the Inspectors asked to be furnished with any portion of the evidence given before the Commissioners, which they never thought of doing; they merely wished to know whether the extracts of evidence transmitted to the Board by a person who stated that it had been fur-

nished to him by the Commissioners, had really been given before them. Their reasons for making such inquiry being, in their opinion, justified by their desire to remove without delay, from a responsible office, a person who was alleged to have been guilty of giving contradictory evidence under oath, and they cannot conceive that the course they took could possibly be construed as a desire on their part to interfere with the proceedings of the Commissioners, which they have all along most scrupulously avoided.

"Although the letter of the Secretary of the Commissioners establishes the fact of the Guard Watt having given contradictory evidence on the two occasions referred to, and although the Board would, under other circumstances, conceive that every instant that he remained in his present office, whatever may have been his inducement to act as he did, was highly detrimental to the interests of the Institution, and that they ought therefore to direct his immediate dismissal; yet, in deference to the suggestion of the Commissioners, who had doubtless good reasons for making that suggestion, the Board resolve in the meantime to postpone taking any steps regarding the conduct of the Guard Watt, in the matter referred to.

"The Warden is directed to furnish the Secretary to the Commissioners, with a copy of this Minute, for their information."

We have thus gone through the principal cases of officers unfavorable to Mr. Warden Smith and his Son, being dealt with by the Inspectors; and as all of these proceedings were taken either within a few months previous to our assembling, and after Your Excellency had been appealed to with every prospect of success for a general investigation, or while our inquiries were progressing at Kingston, Your Excellency will at once perceive how much our proceedings were embarrassed, and the difficulty we had to encounter in expiscating the truth. One extract from the evidence of Mr. Hopkirk shows the remarkable fatality which followed giving evidence against Mr. F. W. Smith:—

James Hopkirk, Esq.—By Commissioners:—

Q. Were not Mrs. Cox, C. Bannister, Gleeson, Kearns, Robinson, M'Garvey, Keely, M'Carthy, Swift, and Richardson, the only officers of the Institution who gave testimony at Frank Smith's trial in October, 1847, unfavorable to Smith?

A. Cannot tell without careful reference to all the evidence.

Q. Of these ten officers, have not five been since dismissed by the Inspectors, one resigned from dissatisfaction, two twice brought before the Board on various charges, and one reported against to the Government?

A. Five have been dismissed, cannot tell on what ground; Mrs. Cox resigned; another (Bannister) was twice before the Board—once about the bag of oats, and again about having taken money at the gate; one (Kearns) was once before the Board; as to the one reported against to the Government, the Warden objects to evidence being received, as it occurred since his dismissal, and the Court upheld him.

Q. Of the eighteen witnesses—officers of the Institution—who on the same occasion gave evidence in Frank Smith's favor, viz., Little, Hooper, Nur-

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

sey, O'Neil, Baldwin, Tyner, Thorpe, Mrs. Pollard, Bickerton, Hermiston, Matthews, Costen, Thomas Smith, Watts, Sexton, Martin, Manuel, and Pollard,—is there one who is not still an officer of the establishment ?

A. These officers all gave evidence at Frank Smith's trial, but without careful perusal of the evidence, cannot distinctly say what the character of each officer's testimony was ; they are all still in the establishment.

Q. Has any one of these officers ever been brought before the Board on any charge since Frank Smith's trial, with the exception of Manuel and Pollard, and these only on the Skinner affair, on which the complainant against them was dismissed for bringing the charge ?

A. No, none of them have ; Pollard, however, was brought up a second time on the complaint of Mr. Rogers, formerly referred to.

By Mr. Smith :—

“ Wilson and Skinner are the only officers who have been dismissed by the Inspectors since the sitting of the Commission.

“ Gleeson, Keely, M'Garvey, Robinson, and M'Carthy were discharged by the Board, of which witness was a member, and Fitzgerald by the Warden, previous to the sitting of the Commission.

“ Bannister, Richardson, Kearns, Swift, Cooper, Watt, Costen, Waldron, Jones, and Horsey, gave evidence before the Commissioners, and still are officers of the Institution ; also, the Chaplain, the Surgeon, and the Clerk, of whom the Board have not the dismissal in their power.”

The effect of these proceedings on the officers of the Penitentiary was to draw the line of demarcation between the two parties more strongly than ever, and to embitter still more the hostility existing between them.

The Warden or Inspectors held the power of dismissal in their hands ; and the rules of the Prison, when the letter of them, and not the spirit, is looked to, are so stringent, that the officers composing one party felt they were liable to be removed at any moment.

On our arrival at Kingston, consequently, we found the Institution rent by internal discord, destructive of all discipline.

Before proceeding to the more immediate subjects of our inquiry, we deem it right, as the evidence of Mr. Hopkirk has been, and will be hereafter, referred to very fully, to show how far he is personally concerned in the matters at issue ; and in doing so, we shall quote his own evidence solely.

James Hopkirk, Esq.—By Mr. Smith :—

“ Recollects of an overcharge by Keeper M'Garvey for binding shoes for witness ; M'Garvey charged 15s. or 15s. 6d. for binding seven or eight pairs of children's shoes, the material having been furnished by witness ; he charged also a sufficient price for making the shoes ; made inquiry as to the value of the binding, and found that from 3d. to 4d. per pair was the proper charge ; referred the matter to the

Board, who decided, in witness's absence, to reduce the charge to 5s. or 5s. 6d. ; witness took no part in the discussion.

\* \* \* \* \*

Guard Kearns waited at witness's table on one occasion ; he came to witness's house between 5 and 6 o'clock, P.M. ; he is a waiter, and in the habit of going out to gentlemen's houses ; paid him 5s. for his services on that occasion, being his usual charge.

\* \* \* \* \*

“ Got some vegetables from the Warden's private garden in 1847, as witness's own garden was not then in use ; these vegetables principally consisted of lettuce, asparagus, and cabbage ; a head of cabbage now and then ; they were presents from the Warden or Mrs. Smith ; got raspberries also, and currants ; never got any peas, or carrots, or potatoes.

“ Witness never got any vegetables, to his knowledge, from the Convicts' garden ; got some cabbage plants from the Warden's hot-beds.

“ Witness got a few cuttings of shrubs from the Warden's garden, but not a large supply ; they were principally taken from what had been originally witness's own shrubs ; they consisted of lilacs, snowberries, roses, snowball trees, gooseberries, and currants—all cuttings ; witness had given the Warden two cart loads of shrubs in 1844, which were planted in his garden ; never got any fruit trees.

“ Witness got, last spring, under two dozen of boxes, containing green-house plants from the Warden's house ; they were a present from Mr. and Mrs. Smith ; Mrs. Smith told witness afterwards that she (Mrs. S.) had got some of these boxes and plants from Mrs. Pollard ; witness purchased in December, 1847, from Mr. Baker, several dozens of green-house plants, in pots, which Mrs. Smith agreed to keep for witness in her house during the winter ; they were returned in the spring, and the boxes above named were sent to witness with them at the same time.

“ Witness had a cow killed in the Penitentiary early in 1848 ; has not got his account yet sent in for 1848.

“ Witness hired a cart from the Penitentiary this year ; has not paid for it yet, because it has not been returned yet ; and the length of time to be charged is not yet ascertained.

“ Witness never got any garden tools, the property of the Penitentiary ; had once a garden roller, the property of the Penitentiary ; never had any garden tools, the property of the Penitentiary, repaired at the Penitentiary.

\* \* \* \* \*

“ Witness did not get a full supply of vegetables from the Penitentiary, for the year 1848 ; scarcely got any at all. Thinks, on one or two occasions, got some lettuce and cucumbers from the Warden or Mrs. Smith ; once a basket of asparagus and once a basket of raspberries. This includes, to the best of his recollection, all the vegetables got by witness from the Penitentiary, this year, having a full supply in his own garden.

“ On one occasion got 5 cords of wood from the Penitentiary. When witness came to Kingston, in December, 1846, he could find no fire-wood to pur-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

chase, on account of the absence of snow; applied to the Warden to sell him 5 cords from the Penitentiary stores. Warden declined, but agreed to lend witness 5 cords. Keeper Gleeson measured the 5 cords off, and teamsters employed by witness removed them to his house. In February following, witness delivered 5 cords to the Penitentiary, in return for what he had received, and he has Gleeson's receipt for the same, and the receipt of the owner of the wood who delivered it.

"The cord-wood returned was the best quality, better than that received. Witness never got cord-wood from the Penitentiary on any other occasion but that."

By Commissioners:—

"Witness never had any private money transactions with Mr. Warden Smith. Witness's furniture was not removed into the Penitentiary, prior to witness's removal from Kingston to Montreal; never had any furniture in the Penitentiary, but a sleigh, which is there now, as witness has no room on his own premises.

"Witness frequently corresponded with Warden Smith, privately and officially, while witness was at Montreal; not so much privately as officially. Part of witness's family resided some four or five days in the Penitentiary, when witness removed to Kingston from Montreal.

"Mr. Henry Smith, Junior, is one of witness's securities as Collector of Customs for the Port of Kingston, and Mr. John Ewart, of Toronto, is the other.

"When witness removed from Kingston to Montreal, he was indebted to the Penitentiary, principally for a carpenter's account; the whole debt was under £60.

"Shortly after he was appointed Inspector, being desirous of settling the balance of the debt, got the account made up and gave a note for it, including interest, which was retired when due.

"Several payments were made in cash on account, while witness was in Montreal; incurred no new debt to the Penitentiary while in Montreal.

"Witness paid part of the debt in hay; it was sold to the Penitentiary by Dr. Sampson, who was then acting for witness. Warden Smith wrote witness that it would have been better for witness had witness sold the hay elsewhere, as he could only give the contract price, which was, at the time, under the market value. The hay was delivered at the Penitentiary at witness's expense. The value of said hay, was £17 17s. 6d. The Warden paid (of this) £4 10s., to Dr. Sampson, on witness's account, by witness's desire, and over two pounds for cartage, and the balance was placed to witness's credit.

"Witness settled up his old account with the Penitentiary in full, by note, in March, 1847. The note was given at twelve month's date; did not pay interest on the account, there being none due on an open account, but included the year's interest on the note. The note was for £40 or £50. This sum covered the whole of witness's old balance of account; paid this note in cash, at maturity.

Appendix  
(B.B.B.B.B.)  
30th May.

"Witness gave a note, when he left Kingston for Montreal, covering the balance of his old account, for £59 odds; it was payable on demand, it never was demanded; was nearly three years in Montreal; this note was paid by the hay, £11 12s. 6d., a stove £2, the twelve month's note for £40 odds, and cash for the balance, as far as witness recollects. The Board of Inspectors never demanded payment of the £59 note, as they knew witness would pay it as soon as he could, and he did so.

"After witness's return to Kingston, and before he gave the twelve month's note, and while it was running, witness incurred a new account to the Penitentiary. The amount of this new account, up to 31st December, 1847, was somewhere about £70. Thinks it very likely that no money was paid by witness, either on the old or new account, until the note for £40 odds was retired in March, 1848, which settled the old account; this is to the best of witness's recollection. Witness has paid £49 16s. 6d. in all, on account of the new indebtedness, and he claims deductions for returns, which in his opinion will settle the balance of his account for 1847. The deductions witness claims amount to about £15, more or less.

"Witness considers that he does not now owe the Penitentiary any money, except for this year's current account. Witness has been always ready to settle his new account, the moment the deductions he claims were inquired into, but the Inspectors and Warden did not wish to enter upon it at present.

"Witness's account with the Penitentiary was opened in June, 1842; cannot say whether he has paid more than between £6 or £7 in cash, to the Penitentiary, on his indebtedness from the first, up to March, 1848. Cannot say what he has paid, without reference to his books; when he says cash, he does not include the hay and stove which were turned in. Cannot say whether the Warden regularly informed the Inspectors of what work was done for private individuals in the shops, but has occasionally seen such statements before the Board.

"Believes it was quite customary for private individuals to run yearly accounts, in witness's opinion. The Inspectors knew of this; it was the habit before witness came into Office, and no contrary order was given by the present Board.

"Mr. Thomas Kirkpatrick, President of the late Board, ran an account, which, on reference to the book, was several years unpaid. Mr. Manahan is still due an old account. Witness cannot tell how much work is done yearly for private individuals. Is not aware that any considerable loss has been sustained by this practice of running accounts.

"Witness's furniture was landed from Montreal, on the Penitentiary wharf, in May, 1847; cannot say if any Officers of the Penitentiary were employed in disembarking the said furniture; cannot say whether any Officer assisted in taking witness's furniture to his house, as he was not present the whole time. Thomas Smith did bring one load of baggage or furniture, either from the Warden's house or wharf, to witness's residence; is not aware that the Penitentiary horses were employed on this matter, except the load in question. Is not aware that any Officers have worked in witness's house, except Mr. Pollard and Mr. Skinner and James Kearns. Skinner worked for witness on two occasions, after work hours, and witness paid him for what he did. Pollard worked only once for witness, as far as he recol-

Appendix  
(B.B.B.B.B.)

30th May.

lects, part of a day, and it was charged in the Penitentiary books.

"Witness has had a loaf of brown bread from the Penitentiary, on four different occasions; they are charged in witness's account for 1847; they were charged in the account rendered to witness in the beginning of 1848.

"Witness never got any soft soap from the Penitentiary, to his knowledge, but he may have done so; is not aware whether any has been charged to his account; has had presents of pigeons from Mrs. Smith, on one or two occasions; has had no pork from the Penitentiary; has had a pound of pork from the Warden, on one or two occasions, when the Warden was killing a pig.

"Witness did not see the fire-wood measured that he got from the Penitentiary; was an Inspector when it was got; has a crow-bar, the property of the Penitentiary, at present in his possession; got it some considerable time ago, cannot say how long; cannot say if he is to pay hire for it; would think it sharp if he had to do so; got stove-pipe from the Penitentiary; never got any that was not charged to his account; never got any stove-pipe from the Warden.

"Has a garden roller, the property of the Penitentiary, in his possession now; has had it some months; cannot tell whether he is to pay hire for it or not; would think it sharp if he had to do so.

"Had no vegetables from the Penitentiary or Warden Smith, in 1846; had vegetables occasionally from the Warden, in 1847, and very seldom in 1848. Cannot tell how much the original cost of the Penitentiary gardens was, as he was not an Inspector at the time; does not know the annual expense to the public for maintaining the gardens; believes the Warden is not charged for the labour put on his garden; it is kept by Convicts; understood the Board sanctioned his so employing Convicts; alludes to the order passed by the late Board, which has been in force ever since.

"Expects to be charged for the time employed by the Officers in killing the cow, the property of witness, which was sent into the Penitentiary to be killed; knew nothing personally about the transaction.

"Has a cart, the property of the Penitentiary, now in his possession; has had it several months, since March or April, 1848; sent a note to Warden Smith for the cart; asked him to send any cart not in use; nothing was said to the Warden about paying for the use of the cart, but witness expected to pay for the use of the cart, as of course it will be deteriorated; never spoke to the Warden on the subject of the hire of the cart; it has never been asked back from witness; it was a good second-hand cart; is not aware that another cart has been made in the Penitentiary, in the room of the one in witness's possession; does not know if it is a usual practice for Penitentiaries to hire out carts or other articles, but thinks they might as well have something for idle property; is not aware whether the cart in question has been wanted while witness has had it; presumes that if it had, it would have been sent for; is not aware whether any memorandum of the transaction has been handed to the clerk, to charge witness with it, as it was not witness's business to inquire.

"Never had any garden tools, but the roller, from the Penitentiary; never borrowed, hired, or received any garden tools from the Warden: has sent garden tools into the Penitentiary to be repaired, on several occasions; some of them was repaired by Keeper M'Carthy; never had garden tools repaired in the Penitentiary, which were not charged, except it may be this year, of which he can as yet say nothing, not having got the account.

"Since the Commission has sat in Kingston, witness has written no article for any newspaper, upon Penitentiary matters. Dr. Barker of the 'British Whig,' has several times conversed with witness on Penitentiary matters, and witness has answered some of his questions. The first time he spoke to witness, was in reference to an article which alleged that the Commissioners had given insolence and annoyance to the Inspectors. Witness told Dr. Barker that they had received neither. Witness never gave any written memorandum or date, in reference to Penitentiary matters, for publication in any newspaper, directly or indirectly, since the sitting of the Commission, to the best of his knowledge and belief. Witness did write one article for the 'Whig,' and one for the 'Argus,' on Penitentiary matters, in his own defence, but it was prior to the assembling of the Commission; never gave any written memorandum to any one, on Penitentiary matters, since the Commissioners sat.

"On the same day that the Warden complained to the Inspectors about the boots, against M'Garvey, witness preferred his own complaint to the Board as to the overcharge made against him personally, for binding boots. That complaint was not made against M'Garvey, but merely with a view to having the charge reduced. M'Garvey was keeper of the Shoe-shop, but witness had reason to believe that Hooper the tailor made the overcharge for binding. Witness was not present at the investigation, and speaks only from what he thinks he heard afterwards from some member of the Board. It has always been the habit for each keeper to fix the price of work done in his own shop, and witness thinks he heard the binding was done in Hooper's (the tailor's) shop, but he speaks from memory.

Q. The plants you have testified to as having been presented to you by Mrs. Smith,—are you certain they were presented to you by her?

A. They were sent to witness by her, but Mrs. Smith has since told witness that some of them came from Mrs. Pollard.

Q. Were these plants not presented to you direct by Mrs. Pollard?

A. Not to witness's knowledge; the plants came to witness from the Penitentiary, and witness at the time understood that they were from Mrs. Smith, though he has since heard that part of them were sent to witness from Mrs. Pollard.

Q. When were you first told that Mrs. Pollard had sent you those plants?

A. Is not very positive; shortly after witness got them.

Q. What was it Mrs. Smith told you about them, that she had got the plants from Mrs. Pollard, and

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

presented them to you; or that Mrs. Pollard presented them to you direct?

A. Cannot tell which.

Q. Why did you not mention this circumstance in your direct examination, in which you state distinctly that 'they were a present from Mr. and Mrs. Smith. Mrs. Smith told witness afterwards that she (Mrs. S.) had got some of the boxes and plants from Mrs. Pollard?

A. Because the question was not particularly put to witness. The plants came as a present from Mrs. Smith, and witness's attention was not called particularly to how they came into Mrs. Smith's possession.

Q. Did not Mrs. Pollard personally ask your acceptance of these plants, and were they not sent direct to you by her, as a present from herself?

A. Recollects of Mrs. Pollard saying she could give witness a cutting of a rose and some other plants, before the plants in question were sent to witness, but has no recollection of any further conversation with her on the subject.

Q. Is the following evidence given by Mrs. Pollard before the Commissioners, true? "Witness (Mrs. Pollard) personally asked Mr. Hopkirk's acceptance of the plants; he accepted them, and witness sent them up by Thomas Smith, in the Penitentiary cart."

A. Cannot say if it is, or is not, true. Mrs. Pollard asked witness to accept some cuttings or plants, and he said he would be glad to have them, but whether these were the plants which came to witness's house, cannot say. Has no reason to suppose it untrue; it corresponds with what occurred.

Q. How could Mrs. Smith say these plants were from her?

A. Cannot tell; is certain that some of them were Mrs. Smith's property.

By Mr. Smith:—

"Witness's sleigh was stored in the Penitentiary at witness's request, as his own stable was being taken down; it was brought to the Penitentiary in spring, 1848.

"Witness owed nothing to the Penitentiary when he became an Inspector, but the balance of his old account; gave a note for it, about three months after becoming an Inspector. If the gross amount of the hay sold by witness to the Penitentiary had been credited to him, the amounts paid out of the sum on witness's account would have appeared in the books as money to him; understood the price of the hay was to include cartage; desired Dr. Sampson to receive £4.10s. out of the proceeds of the hay. Witness was residing at Montreal at the time. The longest time witness has owed any one account to the Penitentiary, since he became an Inspector, is about eighteen months. The first account commenced with witness, after his appointment as Inspector, in December 1846. Witness's account for 1847 was settled by note and cash, on 1st July, 1848. That account was not sent into witness for payment, he applied for it; had to ask for it several times before he got it. Witness's account for 1848,

is not yet rendered; does not know whether it is the custom to render such accounts as that of witness only once a year; should think such was the custom, as his own account has always been so rendered. Nothing has ever been charged to witness in the Penitentiary, at less price than to other people, to the best of witness's knowledge. In some instances, articles have been charged less than the town price, and in others more. To the best of his belief, nothing has been omitted to be charged to witness, that he got. Carefully examines his account, and if anything had been omitted, he must have known it. Witness never had any understanding with the Warden, that articles should not be charged to witness, or charged cheap. Has reason to believe the Kirkpatrick Board were aware that witness owed an account to the Penitentiary, when he left Kingston: presumes they were aware he still owed a balance when they resigned. The Warden has power to grant delay to debtors of the Penitentiary; believes so. On looking at Act, finds Warden has only power to compromise claims and grant time with security, with the sanction of the Inspectors. It would not have been for the benefit of the Penitentiary to have sued witness at that time; would have been necessitated to compromise with them, if they had.

"Has spoken to Guard Cooper about the five cords of wood witness had from the Penitentiary; it was after the Secretary of the Commission sent witness extracts of evidence given before the Commission in which witness's name was introduced. Cooper said he knew that witness had received the five cords, and that he also knew the wood had been returned. Witness has no reason to doubt the veracity of Cooper. Witness had a conversation with Guard Bannister, after getting the extract before mentioned, about the cord-wood. Bannister said he was aware that witness had got four or five cords of wood, and that they had been returned. Witness did not think it strange that Bannister made this reply, as witness asked him about the wood; cannot recollect what evidence Cooper gave before the Commissioners. Witness has no personal knowledge that any other Inspector had fire-wood or coal from the Penitentiary; has heard so.

"Witness had fresh pork from the Warden, as a present; got, two or three times, a small roasting piece; at most, three times; has sent similar presents to the Warden. Is not aware that fresh pork has been supplied to the Convicts."

Q. Was there any concealment in sending out the stove-pipes purchased by you from the Penitentiary?

A. Not that he is aware of; was not present.

Q. If the Gate-keepers allowed them to go through without a pass, did they not neglect their duty?

A. Yes.

Q. Have you ever got any second-hand stove-pipes from the Warden, or from the Penitentiary?

A. Never in his life.

Q. Have you paid the Penitentiary for the work done at the pump at your own house, by Pollard?

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

A. Yes; once it was charged 6s. 3d. when Pol-  
lard came to the house, and for the other, when Pol-  
lard did not come to the house, 1s. 3d. or 1s. 10½d.  
The same description of work was done on both oc-  
casions.

Q. Was Mr. Henry Smith, M.P.P., one of your  
sureties as Collector, before you were appointed an  
Inspector?

A. Yes; a very short time before; he had signed  
the bonds previous to either Commission issuing.

Q. How came you to ask him to be one of your  
sureties?

A. Did not ask him at all; he volunteered.

Q. Was he one of the parties you intended to  
ask?

A. No.

Q. Was your furniture landed at the Penitentiary  
by your own desire?

A. Gave orders to Mr. Greer to that effect; did  
so because less cartage and less breakage were incur-  
red, the wharf being near his own house.

Q. Do you think the Warden could, with any  
propriety, have prevented you from doing so?

A. Would have thought it very odd if he had ob-  
jected.

Q. When the messenger took the furniture to  
your house, did he bring back articles to the Peni-  
tentiary to be repaired?

A. Believes he did.

Q. Is it not the habit for the messenger to take  
home articles made or repaired at the Penitentiary?

A. Has understood it was; he has done so for  
witness, and witness has seen him taking other arti-  
cles elsewhere, which he presumed were from the  
Penitentiary to customers.

Q. Did you pay Conlan for carting your furni-  
ture?

A. Yes.

Q. Were your own horses employed in carrying  
the furniture?

A. Yes, they took the light articles.

Q. Did you ever reside in the Penitentiary in the  
Warden's House?

A. No.

Q. Was your complaint as to the overcharge for  
shoe-binding made at the first meeting of the Board  
after you got in your bill?

A. Thinks it was.

Q. Did you make your complaint on the day in  
question, because another charge had been entered  
the same day against M'Garvey?

A. Certainly not. Made no complaint against  
M'Garvey; only complained of the over-charge.

The spade, shovel, and two hoes repaired for wit-  
ness in the Penitentiary in 1847, were purchased by  
witness in Kingston from different stores; the two  
hoes from one store, the spade from another; and  
the shovel from Watkins & Co., for ready money.  
Has a Bill for the hoes from C. W. Jenkins & Co.

Has returned a garden roller, the property of the  
Penitentiary, within the last three weeks, which he  
had the use of.

In addition to the complaints against the manage-  
ment which have been so fully referred to, the large  
and increasing sums of money annually drawn from  
the Public Exchequer to sustain the Penitentiary  
attracted general attention, and in view of the  
economical administration of similar Institutions in  
the neighbouring Republic, an investigation into the  
cause of so heavy an expenditure was urgently de-  
sired. When our Commission issued, the Peniten-  
tiary had been in operation thirteen years; and  
during that period there had been drawn from the  
Public Treasury, towards the erection of Buildings  
and the maintenance of the Prisoners, £128,387  
12s. 8d.

The small amount of productive labour obtained  
from the Convicts in the thirteen years, also excited  
much notice—only £6,118 2s. 10d. having in that  
space been received in cash for the Convict labour.

#### PROCEEDINGS OF THE COMMIS- SIONERS.

Your Commission was opened at Kingston on 23d  
June, 1848; and, after due consideration, the fol-  
lowing notice was published in the newspapers:—

His Excellency the Governor General having is-  
sued a Commission to investigate divers charges and  
complaints respecting the conduct, economy, system  
of discipline, and management of the Provincial Pe-  
nitentiary, notice is hereby given that the Commis-  
sioners appointed in the said matter will sit at the  
Court House in the City of Kingston, on Monday,  
26th June, 1848, and following days, commencing  
at 10 o'clock, A.M., to receive such information and  
complaints as may be tendered.

By order of the Commissioners.

(Signed,) GEO. BROWN,  
Secretary.

Kingston, 23d June, 1848.

The mode in which we should proceed with our  
inquiries received grave consideration; and the pe-  
culiar circumstances of the Institution made this a  
matter of some difficulty. It was obvious that if,  
without previous knowledge of the affairs of the Pe-  
nitentiary or the feelings of the parties, we called  
before us the Officers of the Institution and sought  
information from them, we would not get so safely  
at the true state of the case as we would by a direct  
examination on points with which we had been pre-  
viously made partially acquainted. We therefore  
resolved to invite gentlemen residing in the neigh-  
bourhood of Kingston, and reputed to be well ac-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
20th May.

quainted with the affairs of the Institution, to meet us, and afford us such information as lay in their power, in the form of conversation, not under oath. Hoping thus to obtain at least a knowledge of the parties likely to be well acquainted with the subjects of our inquiry, we resolved that our next step should be to take evidence on oath from such parties, beyond the walls of the Penitentiary, and to follow up the information obtained from them by the evidence of the Officers of the Institution.

The difficulty then presented itself as to the manner in which the evidence could be used, should matter be elicited so far affecting any Officer as to make it necessary to put him on trial. It was obvious, from the first, that the topics coming under our notice would be of the most diversified character, and affecting in a greater or less degree many persons. It was impossible, even if it had been desirable, to bring all interested, together at one time; and to call them separately for each witness would have been an endless proceeding. After the most mature deliberation, we resolved that the fairest and most satisfactory mode was to conduct the investigation, in the first place in private, and after maturing our inquiries to draw up from the evidence formal charges against any Officer who might appear to be implicated, and furnish him with a copy of such charges and the testimony to sustain them: and should such Officer deny the allegations made to his prejudice, we determined that he should have the opportunity of re-calling the witnesses for re-examination, or summoning such additional witnesses as he might think proper, for his defence.

We conceived that this mode of proceeding was highly advantageous to the accused; for though the preliminary evidence would thus be taken in his absence, the benefit from having the testimony in writing, with time to scan every line of it, instead of cross-examining on the moment, greatly overbalanced any slight disadvantage which might attend it. The main objection to this mode of proceeding, however, was the length of time it would occupy, and to this consideration we gave full weight; but we felt strongly that in dealing with such an Institution it was most desirable that there should be no room for complaint that injustice was done to any one, and that the fullest opportunity for explanation should be afforded to all. The extensive range of inquiry which was opened to us by our instructions, including not only the past management of the Establishment in all its departments, but the system to be adopted, reformatory, industrial, financial, and disciplinary, for the future management of the Prison, made it absolutely necessary to give the whole affairs of the Institution a thorough examination, if our work was to be done effectually; and feeling that the more thorough our inquiry, the better would we be able to grapple with any existing abuses—feeling confident, also, that by proper management a large sum could be annually saved to this Province, and a much higher tone of moral feeling produced and maintained in the Prison—we became satisfied that the course thus marked out was the best: and now, that we can speak from experience, we feel assured that it was the only course by which a satisfactory result could have been obtained.

Communication with the Warden and Inspectors was opened immediately after our arrival, and we have to acknowledge the courtesy and attention with which we were received by these gentlemen. Mr. Hopkirk having been requested by his brother Inspectors to represent them in such matters of reference to the Board as the Commissioners might find needful, that gentleman and Mr. Warden Smith

Appendix  
(B.B.B.B.B.)  
20th May.

were the first persons invited to meet us for conversation on the affairs of the Penitentiary. Accordingly, at 10 A.M., on 26th June, we held a long interview with Messrs. Hopkirk and Smith, in which much passed as to the affairs of the Institution and the system of management, as well as in regard to the complaints against the Officers. The course we intended to pursue in conducting the investigation was communicated to them, with which they expressed themselves highly satisfied.

Pursuing the course we had marked out, we were favoured with interviews by the following gentlemen, and received from them much valuable information:

Honorable P. B. DeBlaquière.  
James Nickalls, Esquire, formerly President Board of Inspectors.  
Dr. Sampson, Surgeon of the Penitentiary.  
A. Manahan, Esquire, late an Inspector.  
Thomas Kirkpatrick, Esquire, late President Board of Inspectors.  
Samuel Rowlands, Esquire, Editor *Kingston Chronicle & News*.  
J. B. Marks, Esquire, late an Inspector.  
Rev. R. V. Rogers, Chaplain to the Penitentiary.  
A. Pringle, Esquire, formerly an Inspector.  
Major Sadleir, late an Inspector.  
Honorable John Macaulay, first President Board of Inspectors.  
His Lordship the Roman Catholic Bishop of Kingston.  
Rev. Angus M'Donnell, Vicar General.

The information communicated to us by these gentlemen, directed our attention to those points which most needed inquiry, and greatly forwarded our proceedings; and on the 1st July, we commenced taking all evidence under oath.

During July and August we were constantly occupied in receiving evidence or in examining the books and accounts of the Institution, the latter engrossing a large portion of the time, from the very irregular manner in which they had been kept. Serious allegations were, however, early established against Kitchen-keeper Smith, and on the 12th July he was served with formal charges. When invited to cross-examine two witnesses, who were about to leave the Province, Smith protested against our inquiring into matters already pronounced on by the Inspectors; and after the charges were transmitted to him, he refused to meet them.

We brought the matter under the notice of Your Excellency, when you were pleased to order the immediate removal of this Officer from his situation.

A few days previous to the arrival of the Provincial Secretary's letter, however, the Board of Inspectors accepted Mr. Smith's resignation, and made the following entry of the circumstance in their minutes:—

“Extract from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 23rd August, 1848:—

“The Keeper, F. W. Smith, presented to the Board, his resignation, for which step he assigned the following reasons:—

“That it has been resolved by the Commissioners now engaged in the inquiry into the management of the Penitentiary, to make him again undergo a trial for charges of which, after a full and patient investigation, he had been already acquitted.

Appendix  
(B.B.B.B.B.)  
30th May.

"That in reference to the charges, the Commissioners have resolved to receive as evidence, the testimony of discharged Convicts, and dismissed Officers of the Institution; and that in consequence of the removal of some of them to the United States, he cannot have the opportunity of cross-questioning them.

"That the Commissioners have expressed their determination to ground their report to Government on evidence taken in his absence."

"The Board accept the resignation of F. W. Smith, and direct the Warden to take necessary steps to procure a competent person to succeed him as Kitchen-keeper, and report the same for the consideration of the Board.

"A true Extract.

(Signed,) "F. BICKERTON,  
"Clerk."

Proceedings in the case of Kitchen-keeper Francis William Smith.

1.

Copy—Letter, Secretary to Keeper F. W. Smith.

"GRAND JURY ROOM, KINGSTON,  
"27th June, 1848, 2 P. M.

"SIR,

"You will please attend before the Commissioners of the Penitentiary this afternoon at 3 o'clock.

"I am, &c.

(Signed,) "GEO. BROWN,  
"Secretary.

"MR. FRANCIS W. SMITH,  
"Keeper, Penitentiary."

2.

Extract from Minutes of Commission, 27th June, 1848.

"Mr. Francis W. Smith appeared before the Commissioners at a quarter to four, and having heard the evidence of Phelan read over, he was informed that the Commissioners would recall the witness if he so desired, so as to enable him to be cross-examined. Mr. Smith denied the truth of Phelan's entire evidence, and declined to have him recalled.

"The Secretary was instructed to invite the attendance of Mr. Francis W. Smith, before the Commission to-morrow, should he desire to cross-examine Hiram B. White or James Thompson, witnesses expected to be before the Commission."

3.

Copy—Letter, Keeper F. W. Smith to Secretary.

"PENITENTIARY, 27th June, 1848.

"GENTLEMEN,

"I have the honor to state to you, that having reason to believe that it is intended to request you

to investigate certain charges made against me by the Surgeon of the Penitentiary in the month of October last; I hereby respectfully beg to remonstrate for the following reasons:

"Because—I have been already tried and acquitted by a legally competent tribunal.

"Because—I do not object to the consideration by the Commissioners of the judgment already pronounced upon me, by the Inspectors, provided it is founded on the evidence already given both for and against me.

"Because—I have it not now in my power to produce the same evidence as I formerly did—many of the witnesses having removed from Kingston to places I am ignorant of.

"Because—I have not yet learned the fact that the Government has expressed any disapprobation of the decision of the Inspectors in the case referred to, and that the examination was had and conducted strictly in accordance with the laws of the Country.

"Because—Even had a doubt existed in the minds of my judges, the Inspectors, as to my guilt or innocence, I, as the accused party, was entitled to the benefit of that doubt.

"Because—At the investigation of the charges referred to, I allowed the prosecutor the advantage of using my witnesses, for his own purposes, by examining them in chief independently of their cross-examination, being desirous that the truth and the truth only should be brought to light.

"Because it is unconstitutional to try a man twice for the same offence after a verdict has been rendered in his case.

"I have the honor to be,  
"Gentlemen,  
"Your most obedient Servant,

(Signed,) "F. W. SMITH,  
"Keeper."

"To the Commissioners appointed to investigate the management of the Provincial Penitentiary.

"28th June, 1848.

"P. S.

"Since writing the foregoing, I have received your notice, requiring my attendance before you to hear the evidence of Mr. White and James Thompson, who, you state, may have charges to make against me; I shall attend in obedience to your directions, but should their statements refer to any of the charges for which I have already been tried and acquitted, I would respectfully protest against their being listened to, for the reasons before stated.

(Signed,) "F. W. S."

4.

Copy—Letter, Secretary to Keeper Smith.

"Provincial Penitentiary, Commission Room,  
"KINGSTON, 28th June, 1848.

"SIR,

"I have to acknowledge receipt of your letter of this day, in which you protest against the Commis-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

sioners of the Penitentiary entertaining any charges against you, which were tried and pronounced upon by the Board of Inspectors in October last.

“The Commissioners have had your communication under consideration; and I am instructed to inform you, that this Commission is not a Criminal Court to try parties for offences committed against the peace and good order of the body politic, but simply a Court to inquire, on behalf of the Government, whether an important public establishment has been properly conducted, and the Officers have performed their duty, and to inquire into the present condition of every department of the Institution, without regard to the opinions or acts of others, however highly these may weigh with them.

“The course which the Commissioners intend pursuing is to collect all the information on the subject of their mission, within their power; and should reasonable evidence of misconduct on the part of any Officer of the Establishment be found, the party implicated will be informed of the several charges against him, and invited to defend himself by cross-examination of the witnesses, on whose testimony the Commissioners shall act, or by the production of other witnesses.

“I remain, &c.

(Signed,) “GEO. BROWN,  
“Secretary.

“Mr. FRANCIS W. SMITH,  
“Keeper, Provincial Penitentiary.”

CHARGES against Francis W. Smith, one of the Keepers in the Provincial Penitentiary, founded on evidence given before the Commissioners, appointed by His Excellency the Governor General, to investigate all charges and complaints respecting the conduct, economy, system of discipline and management of the Penitentiary.

I. CRUELTY TO THE PRISONERS IN THE PENITENTIARY.

II. PECULATION.

III. CONDUCT SUBVERSIVE OF THE RULES AND GOOD ORDER OF THE PRISON.

CHARGE I.

1. Throwing stones, potatoes, &c., at Convicts.
2. Hurting the religious feelings of Convicts.
3. Striking Convicts with a large key on elbow.
4. Compelling Convicts to open their mouths, under the pretence of searching for tobacco, and then throwing salt, snow, &c., into their mouths.
5. Aiding and abetting Convicts in throwing other Convicts into a water-butt.
5. Thrusting pins into Convicts.
7. Drenching Convicts with water from the fire engine.
8. Firing arrows at Convicts.
9. Sundry other acts of cruelty.

I. THROWING STONES, &c., AT CONVICTS.

Evidence:—

Martin Keely, (for eleven years an Officer of the Institution) “has seen Frank Smith throw stones, potatoes, and blocks of wood at Convicts; has seen him strike them with these articles.”

Terence M'Garvey, (for seven years an Officer of the Institution) “has seen Frank Smith throw stones or potatoes at Convicts; has seen him hit them; they were not much hurt.”

Richard Robinson, (for four and a-half years an Officer in the Penitentiary) “has known Frank Smith throw stones and potatoes at Convicts; recollects of his striking a coloured man, named Davis, in the eye, with a potato. Davis's eye was much swelled.”

James M'Carthy, (for fifteen years an Officer of the Institution) “has seen Frank Smith throw potatoes, stones, or blocks of wood at Convicts; has seen him hit Convicts; on one occasion a man was thus badly hurt.”

William Atkins, (for sixteen months a supernumerary Guard in the Penitentiary) “has seen Frank Smith throw potatoes at Convicts; has seen him hit them.”

Thomas Fitzgerald, (for four years an Officer in the Penitentiary) “has known Frank Smith to throw potatoes, stones, and such things at Convicts; has seen him hit Convicts in this way, frequently; has seen him throw a potato or a small stone right in among the Convicts when they were at their buckets.”

James Wilson, (at present a Guard in the Penitentiary) “has seen Frank Smith throwing stones, potatoes, and balls at the Convicts; has seen him hit them.”

John Richardson, (at present a Guard in the Penitentiary) “has seen Frank Smith throw potatoes when the men were mustering at their buckets; was nearly hit one evening.”

James Kearns, (at present a Guard in the Penitentiary) “has seen Frank Smith throw potatoes at Convicts; has seen him pelting the Convicts in this way, frequently; never saw him hit any one, but is sure he tried.”

John Swift, (at present a Keeper in the Penitentiary) “has seen Frank Smith pelting the Convicts, when mustered at their buckets, with potatoes and small stones.”

John Watt, (at present a Guard in the Penitentiary) “has seen Frank Smith throw potatoes at other Officers, but has no recollection of his throwing them at Convicts.”

Thomas Costen, (at present Head Keeper) “never saw Frank Smith throw stones or potatoes, or any other missile at a Convict or Convicts; never saw him throw any such things at all.”

Maurice Phelan, (for three years a prisoner in the Penitentiary: convicted of an assault with intent to kill;) “has seen F. W. Smith throw a stone, say an inch and half square, at Convict Freeland; it was in the evening when the men were mustering to their buckets; Smith was standing at the south wing door; it was flung with strength, particularly

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

at Freeland; it came very near him, but did not strike him; this took place shortly before witness was discharged."

James Brennan, (for three years a Prisoner in the Penitentiary, for larceny) "has seen Frank Smith throw potatoes and snowballs at Convicts; has seen him hit them."

Eustache Coté, (for seven years a Prisoner in the Penitentiary, for fire-raising; was twelve years of age when he committed the act, and his motive for it, he says, was to earn 7½d, given him by ———, to do the deed.) "Frank Smith has thrown potatoes at Convicts," and again, "witness has often struck Frank Smith with potatoes."

John H. Freeland, (a common school teacher at Smith's Falls, three years confined in the Penitentiary, for attempting to set fire to a mill; was pardoned) "has seen Frank Smith throw stones and potatoes at Convicts; he did so at witness twice; he did not hit witness; was going to his bucket at the time; there is no doubt that he tried to hit witness; he flung small stones the size of an egg."

## 2. HURTING THE RELIGIOUS FEELINGS OF THE CONVICTS.

Evidence:—

Maurice Phelan—"Frank Smith came to the Carpenters' Shop then, (summer of 1847,) and without any cause called witness a 'Papist b——r.' Witness made no reply, and never had any other difficulty with him. Witness spoke to his keeper, Keely, of the language F. W. Smith employed to him. John Freeland was present when Smith used this language on another occasion; thinks it was the second day after the previous occasion."

Richard Robinson—"Frank Smith was an Orangeman, but he was expelled for bad conduct. He was dismissed on account of some money transaction. Witness is an Orangeman. Frank Smith told witness he would soon have every Roman Catholic Officer turned out of the Institution. This was about a year ago. He frequently used the same language. Witness has heard Frank Smith talk of Roman Catholics in the Penitentiary as "d——d Papist b——rs," but not in the presence of Roman Catholics."

James Brennan—"Frank Smith insulted the Roman Catholics grossly on one occasion, by making an old Frenchman go round among a number of the Convicts sprinkling water, in derision of the Roman Catholic practice of sprinkling holy water."

James Wilson—"Frank Smith would often insult him, (witness,) calling him a 'd——d Papist.' Witness is a Free Church Presbyterian. When Frank called witness a Papist, witness considered it was in allusion to his (witness's) intimacy with M'Garvey, Keely, and M'Carthy."

Thomas Fitzgerald—"Frank Smith has frequently called witness a 'd——d Papist.'"

John H. Freeland—"Heard Frank Smith one day, in the Carpenters' Shop, call Convict Maurice Phelan 'a d——d Papist.' Some days after, witness heard Frank Smith call the same man 'a d——d Papist rascal,' or some such term."

## 3. STRIKING CONVICTS WITH A LARGE KEY ON THE ELBOW.

Evidence:—

Terence M'Garvey—"Has seen Frank Smith strike the Convicts with a large key on the elbow. The Convicts complained of this very much."

Richard Robinson—"Has seen Frank Smith hit the Convicts on the elbow with a large key, as they went to their cells. He frequently did so."

Maurice Phelan—"Has seen Francis W. Smith stand at the foot of the stairs when Convicts were going up to their berths, and strike the elbows of Prisoners with a heavy key. He did so often. Witness has seen this often. Smith has attempted to strike witness in this way, but he dodged. Prisoners have complained of this to Smith. Cannot name the men."

Thomas Fitzgerald—"Has known him (F.W.S.) to tip the elbows of Convicts with a large key."

John H. Freeland—"Has known Frank Smith to strike them (the Convicts) on the elbow with a large key."

James Wilson—"Has frequently seen Frank Smith striking the Convicts on the elbow with a large key, as they went to their cells."

John Swift—"Has seen Frank Smith strike the Convicts on the elbow with a large key, as they went up to their cells."

Thomas Costen—"Never saw him (F.W.S.) hit the Convicts on the elbow with a key."

## 4. THROWING THINGS INTO THE MOUTHS OF CONVICTS.

Evidence:—

James M'Carthy—"Has seen Frank Smith pretend to look for tobacco in the Convicts' mouths, and throw salt or little bits of coal, and even to spit into their mouths when they were open. Recollects Convict Brennan refusing to open his mouth to be examined, as witness thought, from fear that he (Frank) would throw something into it. Brennan was punished by being put in the Box, for so refusing to open his mouth."

William Atkins—"Has seen Frank Smith search the mouths of Convicts for tobacco, and throw salt into their mouths when they opened them."

Thomas Fitzgerald—"Has known Frank Smith make Convicts open their mouths, pretending to look for tobacco, and then throw salt or anything handy, into their mouths, and even to spit in their mouths."

James Wilson—"Has several times seen Frank Smith pretend to look into the mouths of Convicts for tobacco, and throw things into their mouths. Recollects one day, in the entrance to the dining-hall, Frank Smith asked Convict Tucey to open his mouth and let him look for tobacco. Tucey refused. Mr. Costen, who was standing past, said, 'Open your mouth sir, when you are desired;' Tucey did so; and Frank threw a ball of snow and mud into his mouth. He found no tobacco in Tucey's mouth."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

James Kearns—"Has seen Frank Smith desire a Convict, named Wilson, to open his mouth that he might search for tobacco; and when so open, saw him throw salt into Wilson's mouth."

John Swift—"Has seen Frank Smith desire a Convict, named Wilson, to open his mouth that he might search for tobacco; and when so open, saw him throw salt into Wilson's mouth."

Maurice Phelan—"Has seen Francis W. Smith catch Convicts by the head, and make them open their mouths, on the pretext of looking for tobacco, and then throw salt, potato pairings, or snow into their mouths, and laugh at it. Once saw Welch, a Convict, abused in this way, last summer; it was at the meal-table; cannot say that he threw anything into Welch's mouth; cannot name any one who had anything thrown into his mouth."

James Brennan—"Has seen Frank Smith pretend to look into Convicts' mouths for tobacco, and throw things into their mouths when open; recollects his doing so to Desjardins, a French boy, in the Blacksmiths' Shop, and to Bernard, another French boy; Smith also did this to witness on one occasion, he threw snow into witness's mouth."

John H. Freeland—"Has known Frank Smith look into Convicts' mouths for tobacco, and throw salt or snow into their mouths; has had his own mouth searched for tobacco by Frank Smith, who chucked his chin in fun."

John Watt—"Has seen Frank Smith desire Convicts to open their mouths to let him search for tobacco, and when open has seen him throw salt or snow into their mouths."

Thomas Costen—"Has no recollection of seeing Frank Smith throw salt, or snow, or anything else into the mouths of Convicts when looking for tobacco; saw him look for tobacco in their mouths frequently."

#### AIDING AND ABETTING IN THE DUCKING OF CONVICTS IN A WATER-BUTT.

##### Evidence :—

James Gleeson, (for three years an Officer in the Penitentiary :)—"Had two of his Convicts ducked over head into a water puncheon, in the wash-house in the winter time; they had gone for hot water for the grind stone; believes the first Convict was George Highgate, and the last was William Sampson. The men became hoarse in consequence, but being strong men, they took no serious harm from it; witness took no notice of the first case, but on the second occurring, he complained to Francis W. Smith, who, the Convicts told him, had ordered them to be ducked; Smith told witness it was a rule he had to duck all men who came for water before breakfast time. Witness knows that the other Keepers had the same complaint against Smith for ducking their men."

Martin Keely—"One of witness's men, named M'Mullen, came to witness one day, thoroughly drenched with water, and with his head cut, and blood running from the wound; M'Mullen told witness Frank Smith and his men had plunged him head-foremost into a water-butt, and he had received

the wound from a nail inside the cask; the man had been sent for a tackle-block when this occurred, and he had been told it was in the wash-house; it was not there, and witness presumes he was only told so to get him into the wash-house. A Convict named Coté told witness he had helped to plunge M'Mullen."

Richard Robinson—"Has known Convicts to be plunged into a butt of water by Frank Smith and his gang, in the wash-house. Recollects Convict M'Mullen complaining to witness that he had been plunged head-foremost into a butt of water by Frank Smith's orders; M'Mullen's head was cut and was bleeding; it was in the winter time. Recollects Convict Wilson reporting to witness that he had been thrown into a large hogshead of water by Frank Smith and his party; they (M'Mullen and Wilson) were both very much wet; the men were in the wash-house on duty, getting water for their Shops; witness sent Wilson to get hot water. Frank Smith had previously said to witness, jocularly,—"That d—d fellow Wilson, we must catch him to-day, and give him a ducking."

Thomas Fitzgerald—"Saw a Convict plunged into a water-butt in the wash-house by Frank Smith's men, in presence of Frank."

James Wilson—"Recollects M'Mullen being ducked in the water-butt; he said it was done by Frank Smith and his men: M'Mullen's head was much cut."

John Swift :—"Believes the kitchen or wash-house men, were in the habit, under Frank Smith's orders, of ducking Convicts head over heels, in a water butt; one of witness's men, named Conkwright, came to witness one afternoon dripping wet, and complained that he had been so ducked by Frank Smith's orders; it was in the winter time—winter before last; witness made him change his clothes."

Maurice Phelan :—"Has heard that men were plunged into water butts in the wash-house; never saw it himself; but was told by Convict M'Mullen that F. W. Smith and two Convicts plunged him in."

John H. Freeland :—"Recollects Convict M'Mullen being ducked in the water butt; witness did not see it, but M'Mullen told witness what had happened to him; M'Mullen had his head cut; M'Mullen said that Frank Smith was present when he was ducked in the wash-house."

John Watt :—"Has heard that Convicts were ducked head foremost in a water butt, in the wash-house, but never saw it; he has seen men quite wet who had been so ducked."

Thomas Costen :—"Has heard that Convicts were ducked head over heels in a water butt, in the wash-house, but never saw such a transaction; never heard of it previous to Frank Smith's trial."

#### 6. THRUSTING PINS INTO CONVICTS.

##### Evidence. :—

James Gleeson :—"Has seen Francis W. Smith often push pins, or some other sharp instrument into Convicts, for his amusement, apparently; this happened at the dining-hall, as well as on the road com-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

ing in; it was a very frequent trick of Smith's: it was certainly not done to keep the Convicts awake; this made the Convicts very angry; they sometimes laughed, and others would have resented if they dared."

Terence M'Garvey:—"Has known Frank Smith push pins, or other sharp instruments into Convicts; has seen this frequently; he did this often when Convicts were passing him to go into their cells with their buckets."

Richard Robinson:—"Has known Frank Smith to push pins into Convicts when at the meal-table; it was not to wake them up; the Convicts did sometimes get drowsy at the table; Frank Smith would pour water on their heads to wake them up. It appears to witness Smith did this to make fun; he would laugh when he did it."

James M'Carthy:—"Has known Frank Smith to push pins into the Convicts at the table, and to abuse them otherwise, frequently, at all times of the day; this was done out of fun or pure wantonness."

James Brennan:—"Has seen Frank Smith push pins and other sharp instruments into the Convicts often."

Thomas Fitzgerald:—"Has known Frank Smith to push pins into the Convicts' buttocks, as they went up the wings to their cells; this occurred often."

James Wilson:—"Has seen Frank Smith push pins into Convicts, at the dining-table, when going up to their cells, and while going along the yard; has seen him with a pin at the end of a stick thrusting it into the Convicts in this way."

Edward Bannister: (at present an Officer in the Penitentiary)—"Has seen Frank Smith push a pin into a Convict; the Convict smiled at it."

John Richardson:—"Has known Frank Smith to push what he (witness) conceived to be pins, or some sharp instrument, into Convicts as they passed him going up to their cells; has seen him do this frequently."

James Kearns:—"Has known Frank Smith to push pins into Convicts when sitting at table, or going up to their cells."

John Swift:—"Has known Frank Smith push pins into Convicts as they went to their cells in the evening; it was done for a lark."

John Cooper: (at present an Officer in the Penitentiary)—"Has seen Frank Smith on several occasions prick Convicts with pins, or some such sharp instrument: it was when the Convicts were going to their cells."

Maurice Phelan:—"Has often seen Frank Smith go round the dining-room among the Convicts, thrusting a sharp spike into them, apparently to make the Convicts laugh, and to amuse himself; witness has seen this more than fifty or a hundred times; he generally applied it to their thighs or arms."

John H. Freeland:—"Has known Frank Smith to push pins into the Convicts at the dining-table, and when the Convicts were going to their cells,"

John Watt:—"Has seen Frank Smith push pins into the Convicts when at table, and at other times."

Thomas Costen:—"Never saw Frank Smith push pins or other such sharp instruments into Convicts."

#### DRENCHING CONVICTS WITH FIRE-ENGINE.

Evidence:—

James Gleeson:—"Has seen Francis W. Smith going round the yard, playing the fire-engine; he did so under the pretext of trying the engine, but witness feels perfectly convinced it was only to amuse himself: on these occasions has seen Smith turn the flow of water on a gang of men at work, and thoroughly drench some of the men: has seen this from six to twelve times: is quite certain the wetting of the Convicts was not accidental; has seen the men run away from the water, and the flow of water turned after them, amid the laughter and amusement of all around; has seen Smith stand with the conductor in his hand watching persons approach and firing the water at them. Witness has been himself, with his gang, hunted from his work by Smith in this way, and has been individually fired at, and wetted by him.—Has seen Convicts deliberately drenched by Francis W. Smith."

Martin Keely:—"Has seen Frank Smith pour water on the Convicts from the fire engine; recollects when witness was working on a new building, with Keeper Little, and their respective gangs,—that said Smith drove the gangs away from their work by pouring water on them from the fire-engine; the Convicts were a good deal sprinkled, but most of them got off in time to escape drenching; Frank Smith evidently tried to wet them. Witness has often seen Frank Smith so throwing water at Convicts."

Terence M'Garvey:—"Has known Frank Smith to play the fire-engine on Convicts frequently; has known the Convicts to have their clothes thoroughly wet in this way; has known a gang of workmen to be driven away from their work, by the fire-engine being played on them: there was no mistake as to Smith's desire to wet the Convicts."

Richard Robinson:—"Has known Frank Smith to throw water from the fire engine, on the Convicts and Officers; has known him to drive gangs of workmen away from their work in this way; recollects a soldier, named Hylett, being thoroughly drenched in this way, by Frank Smith. Hylett took up a brick-bat and threw it at Frank Smith, and struck him on the hand; Hylett told witness he was punished for complaining to Warden, of Frank's conduct; this was about 16 or 18 months ago."

James M'Carthy:—"Has seen Frank Smith drench Convicts with water from the fire-engine; he poured water on whoever came in his way, Officers or men; has seen him hunt gangs of workmen away from their labour in this way; has seen this often; has seen him break panes of glass in the windows of shops, with water from the engine; has seen him pour water into the tailor's shop, from the fire-engine, through a broken pane of glass. The Warden saw his son drenching the Convicts in this way, on one occasion last summer, and he ordered a Con-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

vict who had been so wet, to get his clothes changed. Next day at dinner, Frank Smith asked witness if he saw what passed? witness told him he had. Frank said, 'I will give him a hungry belly for one week for this, which will teach him not to change his clothes again, when I wet him; and he added that if he had known in time, he would have sent a note to Keeper Hooper to prevent his getting dry clothes. Witness saw this man fed for several days after, on bread and water, and he (Convict) told witness he was so hungry that he would stand three dozen with the cats, for one loaf of bread.'

William Atkins—"Has often seen Frank Smith pour water on the Convicts, from the fire-engine; is sure he did it intentionally."

Thomas Fitzgerald—"Has known Frank Smith to drench Convicts with water from the fire-engine; has known him to hunt away Reid's gang from their work, with the fire-engine."

James Wilson—"Has often seen Frank Smith and his men drench the Convicts with water from the fire-engine; has seen gangs driven away from their work in this way, without a dry stitch on them; has seen the men sent up to Mr. Hooper to have their clothes changed."

Edward Bannister—"Has seen Frank Smith pour water from the fire-engine, on Clement Reid's gang when working in the quarry; the men were driven away from their work."

John Richardson—"Has had water thrown in his face, by Frank Smith, from the fire-engine."

James Kearns—"Has seen Convicts wet by Frank Smith playing the fire-engine; it might not have been intentional; has seen him fire the water through the window into the blacksmith's shop."

John Swift—"Has seen Frank Smith pour water from the fire-engine, on Convicts; saw him once drive Little's and witness's gangs away from their work in this way; it was evidently done on purpose; several of the men were drenched; an old Canadian, named Russell, was wet to the skin; witness was really sorry for the old man."

Maurice Phelan—"Has seen Francis W. Smith turn the hose-pipe of a small fire-engine, on the Convicts; recollects on one occasion when Mr. Keely's gang were putting the roof on the new building, Smith did so; Mr. Little's gang was there also, and the men were driven away from their work; some of the men were very much wet. Keely and Little were present; does not know if they complained. Witness has seen F. W. Smith play the engine on the shoemaker's and tailor's shop windows, but does not recollect positively if the windows were up; thinks they were, as it was summer time. Has seen said Smith turn the hose-pipe on a soldier of the 46th Regiment, Hylett by name; has often seen said Smith go round the yard playing the engine on the stone-cutters, apparently amusing himself."

James Brennan—"Has seen Frank Smith drench Convicts with water from the fire-engine; has seen him hunt M'Carthy and his gang from their work, by pouring water through the window, into the blacksmith's shop."

John H. Freeland—"Has known Convicts to be drenched with water from the fire-engine; has known gangs to be so driven from their work."

Eustache Coté—"Has often helped Frank to drench Convicts and Keepers too; has made Mr. Reid's gang of men run away from their work in this way." Appendix (B.B.B.B.B.) 30th May.

John Cooper—"Has seen Frank Smith pour water on a Convict, from the fire-engine; the man ran, but he caught some of the water. Witness was himself wet in this way, in presence of the Convicts; Smith laughed at it; has no doubt that in these cases Smith tried to wet the Convict and witness."

John Watt—"Has seen Frank Smith drench Convicts with water from the fire-engine, very often; has seen him stand with the hose in his hand, and fire at persons going through the yard; but generally the Convicts were not purposely wetted."

Thomas Costen—"Never saw Frank Smith wet any Convict with water from the fire-engine."

#### 8. FIRING ARROWS FROM A BOW, AT CONVICTS.

Evidence.—

James Gleeson—"Has known arrows made for Francis W. Smith in the Penitentiary; they were made by Indian Abraham and others; has seen Francis W. Smith fire arrows from a bow at Convicts; cannot say that he saw Smith hit any Convict;" and again, "Smith and other Keepers and Guards used to fire with the bow and arrow at targets, and at one another, while the Convicts were at meals; this happened very often."

Terence M'Garvey—"Has seen Frank Smith shooting arrows at Convicts; has seen him hit them."

Richard Robinson—"Knew Frank Smith to shoot at Convicts and Officers, with a bow and arrow; has known him to hit Convicts with an arrow; he hit a tailor in the eye, on one occasion; he knocked the skin off his face."

James M'Carthy—"Has known Frank Smith to shoot arrows at Convicts, from a bow; has known him to hit them."

William Atkins—"Has seen Frank Smith shooting at the Convicts with a bow and arrow; has frequently seen him hit them."

Thomas Fitzgerald—"Has seen Frank Smith shoot arrows at Convicts; has seen him hit them; has seen Convict Jones hit by Frank Smith, in this way with an arrow, in the eye."

James Wilson—"Has seen Frank Smith shoot arrows from a bow, at Convicts; has seen him hit them; recollects seeing him hit Convict Ross, a soldier."

John Richardson—"Has seen Frank Smith shooting in the yard with a bow and arrow, as well when the Convicts were at meals, as at other times."

James Kearns—"Has known Frank Smith to shoot with a bow and arrow in the yard; knew him to fire at a plate thrown up for him by a Convict."

Maurice Phelan—"Has known Francis W. Smith to shoot arrows from a large bow, at the Convicts; has seen him do so many times, at men passing across the yard."

Appendix  
(B.B.B.B.B.)  
30th May.

James Brennan—"Has seen Frank Smith shoot arrows from a bow, at Convicts; has seen him hit Convicts in this way, several times; recollects his hitting an Indian in this way, and a man who went out some time ago, and was formerly in Mr. Little's gang."

John H. Freeland—"Has seen Frank Smith shooting arrows from a bow, at Convicts."

Eustache Coté—"Has seen Frank Smith hit Convicts with an arrow from a bow; has been often hit himself by Frank Smith, in this way. Witness saw Frank shoot an arrow at Convict Abraham, when witness was in the south wing, sweeping in the galleries; Abraham clapped his hand to his eye immediately, and witness believes the arrow hit him on the eye, or a chip was struck from the wall which went into it; Abraham lost the use of his eye from the occurrence of this day; witness did not see the arrow strike Abraham's eye. Abraham told witness that night, that the injury to his eye was caused by poison he used for dying his wooden baskets. Shortly after the occurrence, Frank Smith went up to Abraham, but Abraham would not allow him to come near him; he was angry."

Thomas Costen—"Never knew Frank Smith to hit a Convict with an arrow; has known him to shoot with bow and arrow in the yard."

Also, as secondary evidence, the affidavit of Isaac Evrett, an Oneida Indian, taken before Nathan Gage, Esquire, of Brantford, C.W., and compiled from Evrett's statements, by David Thorburn, Esquire, Indian Commissioner; affidavit dated 31st July, 1848:—

Isaac Evrett, (for three years a prisoner in the Penitentiary.) "John Abraham, of the same tribe of Indians, was a Convict in the said Penitentiary for the same period, with deponent, and while there thinks in the month of February in 1847, when entering the passage to their cells, No. 18 and 19, deponent was informed by Abraham that he had that day got one of his eyes injured, from the shot of a blunt arrow from a bow, by Frank Smith, one of the Stewards of the Institution. The day it was done, saw the said Smith have in his hands a bow; shortly after, saw the Convict Abraham's head tied up with a white cotton handkerchief. Subsequent to having seen Abraham's head tied up; the said Smith shot from the bow a blunt arrow at deponent, which struck him between the shoulders, which caused deponent to say to the said Smith, 'what made him do that?' if he served him so again, that although a Convict, he would break his arrows as well as his head, as he would not be so abused. On the day that deponent and Abraham (23rd May, 1847) left the Penitentiary, at the Queen's tavern outside the Penitentiary gate, saw the said Frank Smith on the side walk walking towards them; when Abraham said to deponent to stand back, which he did, a little distance. Smith came up to Abraham, when a conversation between them took place; saw Smith hand to Abraham paper money, which Abraham received and put into his pocket. On Smith leaving, deponent inquired at Abraham what he had received? answered money; asked what it was for, to which no reply was made; both left in a steamboat the following day for home, via Hamilton; when on the boat, made frequent inquiries at Abraham, what the money was given to him by Smith, for; always evaded giving a direct answer; said at Hamilton, that he had spent nine dollars since leaving the Penitentiary, and had yet

four and one-half dollars. The sum each of them, on leaving, received, was three dollars and one-half, and knows that Abraham had no money, except the three dollars and one-half, handed to him by —; from this, the sum he must have received from Frank Smith, would be ten dollars; believes he spent many dollars in drinking, on the way; saw, at Hamilton, in Abraham's possession, four and one-half dollars. Deponent was informed by Abraham, the night the eye was injured, that Abraham saw Smith with the arrow and bow, immediately before he was struck, as well as after, when he came to himself; the said Smith desired Abraham to say it was a chip of a stone that hurt him. On Abraham replying to the said Smith, he had not been working on stones that day, but making baskets; he was then desired to say it was from a splinter in making the baskets, and that he would give him something on leaving, if he did not tell the cause of the injury, so that he would be satisfied. Deponent has no complaints to make or prefer against the Warden."

#### 9. SUNDRY ACTS OF CRUELTY.

Evidence:—

Terence M'Garvey:—"Has often seen Frank Smith use familiarity with Convicts, such as no Keeper ought to use; has seen him catch them by the hair of the head, and pull them back; some of the Convicts when so treated, would laugh, and others would be angry."

William Atkins:—"Has frequently seen Frank Smith strike Convicts with the cats in fun; some of them would laugh, and others be angry."

James Brennan:—"On one occasion Frank Smith came into the blacksmith's shop, and ordered witness to open his mouth; witnessed refused to do so, because it was not Smith's duty, it was the Keeper's duty alone to look after his own gang; M'Carthy, the Keeper, sat by and said nothing; Smith stripped witness naked to the skin to look for tobacco, as he pretended, but found none; Smith, however, reported witness for not opening his mouth, and witness was confined nine hours in the box."

James Brennan:—"Recollects seeing Frank Smith kicking a Convict, a coloured man, very brutally."

John Swift:—"A coloured man, named Johnston, was sent to the Hospital, it was said on account of a kick received from Frank Smith."

Thomas Fitzgerald:—"Has known Convicts in the box to be ill-treated by Frank Smith, has seen men in the south wing, under Frank's directions, shake about the box, and throw water in upon them through the air holes above. Has also seen Frank Smith himself thus shake about the box, and pour water in upon the Convicts in the box, and has also seen him poking at the Convicts with an arrow or small stick through the lower air holes. Recollects M'Keener and Lafleur and other Convicts being so treated: and again, witness has thrown water himself upon Convicts in the box, through the top air holes; he was ordered to do so by Frank Smith; would never have done so of his own thought or choice."

Eustache Coté:—"On another occasion (about two o'clock), Frank came to the box, and saying he would 'fix' witness, threw water on him from the

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

top of the box; witness threatened to tell his father on him, and Frank said he was only in fun; witness was kept in the box, quite wet, until six o'clock in the evening: \* \* \* witness knows it was Frank who threw the water, because he saw him through a crack in the box, and knew his voice."

James Kearns:—"Has seen Frank Smith throw water on Convicts confined in the box; he threw it on the top of the box, and it went down upon them through the air holes; has seen him do so frequently."

James Kearns:—"Has seen him (Frank Smith) carry a squirt, and pour water from it upon the Convicts, as he passed through the yard or buildings."

John Cooper:—"Saw Convict Day used most cruelly in the lodge, by Frank Smith, about a year ago; Day was white-washing in the lodge; he was standing on a table about two feet and a half high; Smith rushed at the table and knocked it from under the man, who fell on his head and was much hurt; Smith said he would make it all right with a ration of bread; Smith seemed quite delighted with the sport; Day was a very sickly man, and has died since of consumption. Bannister saw this."

James Wilson:—"On one occasion, saw Frank Smith give Conkwright brown bread, equal to six brown bread rations, to see how much he could eat; he ate it all up at once. This occurred last year."

Maurice Phelan:—"Has known prisoners punished for complaining of smallness of rations, by F. W. Smith; sometimes after looking at their rations and sometimes not."

James Gleeson:—"The Convicts often complained of the badness and shortness of the provisions; they very seldom got redress; they sometimes got punished for complaining: recollects one case in which a convict named Pat Martin said to Kitchen Keeper F. W. Smith, as he passed him in the dining hall, 'this is a small ration, Mr. Smith,' 'Mr. Smith said you'll get less to-morrow.' Next day Martin got four meals of bread and water, and on his coming to the shed, witness had to relieve him from work, as the man was totally unable to work from absolute starvation. Witness did not hear what passed in the dining-hall, but from what he heard of it, at the time, he is sure this is a correct statement of the case."

## CHARGE II.—PECULATION.

1. Selling Penitentiary Stores to the Officers of the Institution, and appropriating the proceeds to his own use.
2. Appropriating to his own use the stores of the Penitentiary.
3. Employing Convicts in making nets for his own use, the labour not being charged to him.
4. Appropriating brushes, toys, baskets, mats, &c., made by the Convicts, which were not charged to him.
5. Sundry other acts of peculation.

Appendix  
(B.B.B.B.B.)  
30th May.

### 1. SELLING PENITENTIARY STORES.

#### Evidence:—

James Gleeson:—"Has purchased two loaves of bread from Frank Smith, from the Penitentiary stores, and paid him for them; one was handed to witness from the Penitentiary bin, and the other was given to witness's Convict Messenger, whom witness sent for the loaf to F. W. Smith; the money was paid to Smith. Witness has seen potatoes in the hands of other Keepers, which they told him they bought from, and paid to F. W. Smith. Keeper Swift told witness he had bought oats from Smith."

Edward Bannister:—"The Officers were in the habit of buying provisions from Kitchen-keeper Smith. Witness has seen quantities of provisions going out regularly, from the time Frank Smith was appointed up to his trial last fall. Witness himself bought a bushel of potatoes, and a bushel of turnips from Frank Smith; they were taken from the Penitentiary stores in the cellars; got them himself from the cellar; there were several heaps of potatoes in the cellar at the time, but they were lying open and witness selected what he got from the best heap he could find; the turnips were brought from the cellar by a Convict; there was but one heap of turnips: witness paid Frank Smith for these things; when witness bought these things he understood they were taken from the Penitentiary stores, but thought that Frank Smith got supplies from the Contractors afterwards to replace them, for which he paid the Contractors direct. Smith expressed himself to this effect—it was generally understood. Witness never knew any provisions to come into the Penitentiary for Frank Smith; never heard of Frank Smith buying any articles from the Contractors. Witness has known potatoes, turnips, peas, oatmeal, oats, bread, vinegar and fire-wood, to go out of the Prison for the Officers; considerable quantities of these things have gone out during Frank Smith's time. Witness has known Mr. Bickerton, Mr. Costen, Swift, Skinner, Pollard, Watt, E. Crawford, Mills, Cooper, W. Crawford, Sexton, Kearns, and Martin, to get one or all of these things." (This witness keeps the front gate.)

James Kearns:—"Is aware that Frank Smith was in the habit of selling provisions to the Officers; witness has purchased potatoes from him four or five times; got a bushel at a time; saw them taken from the cellar of the Penitentiary; has no doubt they were from the Penitentiary stores: paid Frank Smith for them: has also had oatmeal three or four times; had 25lb each time; has no doubt the meal came from the Penitentiary bin; Watt, the Guard, weighed it; paid Frank Smith for it. Has known other Officers to get provisions in this way from Frank Smith; has known Ballantyne, Swift, Watt, E. Crawford, Mills, Tyner, O'Neil, W. Crawford, Bannister, Martin and Robinson to do so; these men have at different times had supplies of one or more of the following articles:—potatoes, turnips, oats and pork. Wm. Crawford got the pork. And again, always understood that the provisions he and the other Officers got from the kitchen, were the property of the Penitentiary, and that Frank Smith paid over the money he received to the Clerk; Frank Smith has told witness that this was the case; Frank Smith has endeavoured to persuade witness since his trial, that witness misunderstood him in this matter, and that he only meant to say, that he got money in advance from the Clerk to pay for the supply of provisions he kept on hand for the Officers; witness

Appendix  
(B.B.B.B.B.)

30th May

is quite sure this is a very different statement from what he originally made."

John Swift :—" Knows that Frank Smith was in the habit of selling provisions to the Officers ; witness has himself bought eight bushels of oats from Frank Smith ; they were got at different times, paid Frank Smith for them at the rate of from 1s. 8d. to 2s. 3d. per bushel ; these oats were got from the stable, out of the Penitentiary stores ; witness thought Frank Smith paid for such articles as he sold, to the Clerk ; has heard Frank say that this was his practice."

John Cooper : (the Front-gate Keeper, associated with Bannister,)—" Is aware that Frank Smith was in the habit of selling provisions to the Officers ; witness has himself bought potatoes from Frank Smith, at least two bushels ; they were got from the Penitentiary stores in the kitchen cellar ; paid Frank Smith for them. Witness has known Officers, at various times, to get potatoes and other articles ; recollects of Mr. Costen getting potatoes on several occasions ; also, Kearns got potatoes and oatmeal ; Bannister got potatoes ; Watt got oatmeal ; Robinson got potatoes ; Fitzgerald, also ; and Wm. Crawford and Skinner. Many of the Officers got turnips,—it was an every day occurrence. M'Garvey, Swift, and Mr. Bickerton got oats ; O'Neil got pease. Witness believes that all these articles came from the Penitentiary stores. *Never knew of any provisions coming into the Penitentiary for Frank Smith.*"

John Watt : (Kitchen-guard, or rather assistant Kitchen-keeper, throughout Frank Smith's time,)—" Is aware that the Officers have been in the habit of buying provisions from Mr. Frank Smith ; has known Mr. Bickerton, Mr. Costen, Ballantyne, Hooper, Swift, Matthews, Manuel, Little, Harmiston, Skinner, Wm. Smith, Pollard, E. Crawford, Mills, Waldron, Tyner, O'Neil, W. Crawford, Bannister, Thorp, Sexton, Kearns, Bowers and Martin to get provisions from Frank Smith ; has known one or more of these men to get one or more of the following articles :—potatoes, bread, turnips, peas, oats, oatmeal and vinegar ; has no recollection of any one getting pork. Witness has himself purchased provisions from Frank Smith ; has purchased a bushel of potatoes from him, two or three times ; perhaps oftener ; the Convict in the cellar, named Tilletson, measured them ; did not see where they were taken from ; Mr. Smith ordered Tilletson to take them from the centre bin, on the west side of the Penitentiary cellar ; he gave this order, because he (Frank) stated that the potatoes in that bin were his own property, purchased for the convenience of the Officers. Witness does not know that these potatoes were Frank Smith's property ; had no more authority for it than Frank's word. Witness has known potatoes come in specially for Frank Smith ; once or twice ; he thinks twice ; cannot recollect the time ; it was previous to Frank Smith's trial, last fall ; recollects one waggon load coming in, of potatoes, on two different occasions ; there would be 12 or 14 bushels in each waggon ; cannot tell who brought them in. The only reason for witness saying that these potatoes were Frank Smith's, is that Frank told witness so, and witness heard Frank make a bargain with the teamsters for them ; the bargains were made at the kitchen door, within the walls ; does not expect that these loads were sent in by the Contractors ; there was not much wiggling about the price ; Frank offered the man less than he asked ; he took what Frank offered ; in both instances this was the case ; cannot recollect the time of day when these transactions took place ; no one was standing near when

Appendix  
(B.B.B.B.B.)

30th May

the bargains were made ; cannot recollect whether the potatoes were in bags or open in the cart ; it was not usual for teamsters to come in with loads of provisions to try to effect a sale ; never knew of this occurring, except in these two instances ; witness did not see the money paid ; witness saw them measured ; the Convicts measured them ; the Convicts carried them down into the cellar ; there were not many potatoes in the cellar at the time, belonging to the Penitentiary ; there were none in the same bin, as Frank Smith's potatoes were put in ; there was not over a month elapsed between the two transactions ; never saw Frank Smith get potatoes at any other time ; had he got any others, witness thinks he would have heard of it. Witness has often agreed to let Officers have potatoes ; he told Tilletson to measure them, in such cases, from Frank Smith's bin. The Officers were in the habit of getting potatoes from Frank Smith, from the time Frank came to the time of his trial last fall. Witness has no doubt that some of the potatoes which the Officers had were taken from the Penitentiary stores. Witness recollects of Guard Fitzgerald picking a bushel of potatoes from out of several heaps, the property of the Penitentiary ; he took more than a bushel, and witness made him return the balance. There were some Officers who used to get a few potatoes daily ; these were taken from the Penitentiary stores. Edward Crawford and Little did so. Witness was daily in the cellar, often many times a-day ; Frank Smith's bin had not always potatoes in it ; the Penitentiary potatoes were frequently put in the same bin—Frank's bin ; not while Frank's potatoes were in it. Tilletson measured out the potatoes for the several meals ; he has done so ever since witness was in the Kitchen. When witness saw the Penitentiary potatoes sold by Frank Smith, he expected that Frank paid in the money he received, to the Office. Witness has known several of the Officers get bread ; it was taken out of the Penitentiary bin. Frank Smith had no bread of his own for sale ; has known both white and brown bread to be sold by Frank Smith. Witness has purchased turnips from Frank Smith, three or four times ; a bushel or half a bushel at a time ; paid Frank Smith for them ; they were taken from the Penitentiary stores ; Frank Smith had no turnips of his own, that witness knows of. Some of the Officers had peas from Frank Smith ; the peas were kept in the dining-hall lobby ; does not know from what source the Officers got their peas ; remembers Frank Smith buying one bag of peas containing about two bushels ; they were put in the west end of the Penitentiary peas bin ; the bin is divided into two ; part of the pease sold to the Officers must have come out of the Penitentiary stores ; Frank Smith never had but the one bag of peas to witness's knowledge ; witness would have known had Frank Smith received any others ; the bag of peas Frank bought came in on the top of a load of potatoes ; witness does not know who brought them ; did not see them paid for. Some of the Officers bought oats from Frank Smith ; witness, by order of Frank Smith, has sent to the stable for oats to supply an Officer ; witness has no doubt these oats were taken from the Penitentiary stores ; Frank Smith had no oats to witness's knowledge. Several of the Officers got oatmeal ; it was sold them out of the Penitentiary bin. Witness never knew Frank Smith get oatmeal brought for him into the Penitentiary, does not think he had. Recollects of one Officer getting half a gallon of vinegar ; it was taken from the Penitentiary cask ; Frank Smith had no vinegar. Witness, when these transactions in provisions were going on, always thought that Frank Smith paid over the money he received to Bickerton ; had he known that he did not do so, witness would have reported the matter to the Warden."

Appendix  
B.B.B.B.B.)  
30th May.

Terence M'Garvey—"Knows that the Officers were in the habit of buying stores from the Kitchen-keeper Smith; has bought stores from Smith himself; bought two bushels of oats at a time, on several occasions, and once a bushel of potatoes; has known other Officers to buy potatoes; these oats and potatoes came out of the Penitentiary stores."

Richard Robinson—"Officers were in the habit of buying provisions from Kitchen-keeper Smith. Witness has bought potatoes, ten or twelve times, from Smith; from one to two bushels each time; witness bought a bushel of turnips once; in all these cases the articles got by witness were taken from the Penitentiary stores. Has known Guard Fitzgerald to get potatoes out of the Penitentiary stores; has seen them taken out of the nets after they had been measured out for the use of the Convicts. Witness paid for part of the articles he had, to Frank Smith, and part he has not paid for yet; was asked for payment of the balance he yet owes, by Frank Smith, who said Mr. Bickerton had stopped part of his (Smith's) salary, for the provisions he had sold to the Officers."

And again—"Kitchen-keeper Costen was in the habit of getting provisions for the Officers, but in a different way from Frank Smith; Costen only bespoke them from the persons who brought in provisions for the Penitentiary, but never supplied them from the Convict's stores, after delivered. Frank Smith, on the contrary, sold the articles out of the Penitentiary cellars."

James M'Carthy—"Has heard that Frank Smith sold provisions to the Officers, but does not know anything of such transactions. Witness knew that it was against the rules of the Prison, and never received any article."

James Wilson—"Frank Smith was in the habit of selling provisions to the Officers previous to his trial last fall, but he has not done so since. Witness once got a bushel of potatoes from him; they were taken from the Penitentiary stores; witness is quite certain of this. Frank Smith charged witness 5s. for drawing up the application for the situation which he (Wilson) got in the Penitentiary, and when witness paid him for this job, they could not make change nearer than 7s. 6d., so that Frank Smith owed witness 2s. 6d. on this transaction. When witness offered to pay Smith for the potatoes, he said, 'never mind, its all right,' meaning, witness thought, that the half dollar he (Smith) owed witness, would pay for them. Witness once saw Guard Kearns pay Frank Smith 3s. for potatoes; Frank said to Kearns, 'I wish they would all pay up as you do, for I have the money to return to the Office.' Edward Crawford got potatoes daily from Frank Smith all the time witness was there, previous to Frank's trial, and when there were potatoes supplied; these potatoes came from the Penitentiary stores, and Crawford paid Frank for them, at the rate of one bushel to every eleven days; they were cooked in the Penitentiary."

Thomas Fitzgerald—"Frank Smith was Kitchen-keeper some time, while witness was in the Penitentiary; he was in the habit of selling provisions to the Officers; witness has known him to sell oats, turnips, and potatoes; witness has himself bought turnips and potatoes from Frank Smith, to the amount of £1 8s. 10d. currency, between the time Frank came to the Institution, and witness left it. Witness paid £1 4s. 2d. of this to Frank Smith, and yet owes him the balance of 4s. 8d.; witness helped himself to potatoes, by direction of Frank

Smith, out of the Penitentiary stores; the turnips were also given out of the Penitentiary stores. When witness settled his account at the Office he expected Mr. Bickerton would have deducted the 4s. 8d. from his pay, because Frank told him that his own pay was stopped at the Office, for these articles furnished to the Officers. Witness has known Bannister, the Crawfords, O'Neil, Harmiston, Costen, Richardson, Little, Watt, Mills, Tyner, and Baldwin, get provisions from Frank Smith, out of the Penitentiary stores, in the same way as witness did." And again: "No provisions came into the Penitentiary Kitchen or cellars, but those delivered by the Contractors, and the Contractors invariably sent in whole loads of articles, which were all charged in full to the Institution. Witness does not believe that Frank Smith purchased articles for the use of the Officers, and sold them out to them. It was always well understood, and witness has heard Frank say, that the provisions sold to the Officers were the property of the Penitentiary, and that he (Frank) accounted for them at the Office."

Eustache Coté—"Knows that Frank Smith sold potatoes to the Officers, from the Penitentiary stores; has himself (witness) measured out potatoes for Guard Fitzgerald, by the instructions of Frank Smith; there was only one heap of potatoes while witness was there; there were different bins, but they were all used for the Convicts alike. Witness has known Frank Smith to sell oats, potatoes, bread, and turnips, to the Keepers and Guards."

Thomas Costen—"Did not know that Frank Smith was in the habit of selling provisions to the Officers, until his trial last fall; was not aware until then that any Officer had purchased provisions of any kind from Frank Smith. Witness never bought any provisions from Mr. Frank Smith, while he (Frank Smith) was Kitchen-keeper, nor from any other Officer of the Institution; never had provisions from the Institution, since Frank Smith came to it, he believes." And again: "Witness repeats that he never knew an instance of Frank Smith selling provisions to any of the Officers." And again: "Never knew Frank Smith to purchase any potatoes from the carts in the Penitentiary; nor any peas, nor oats, nor oatmeal, nor bread, nor vinegar."

## 2. APPROPRIATING THE STORES OF THE PENITENTIARY.

### Evidence:—

James Wilson—"Frank Smith has had bread sent out of the Penitentiary for his own use regularly since witness went to the Prison. Witness has seen him take it out himself, and has seen him bring it to the lodge for Sexton, or Matthews, or Harmiston, to take home for him; has likewise known Convicts to bring bread to the lodge, from Frank Smith, to be taken home for him by these men. Witness knows this bread was for Frank Smith, and it was wrapped in his handkerchief; he has likewise seen beef and potatoes, and lettuce, and onions, and oatmeal, go out in this way for Frank Smith; he likewise gets about two quarts of milk sent home from the Penitentiary, twice a-day. It was against the rules of the Prison for these things to go out without the Warden's special order, but Frank instructed the Guards to let all articles for his use pass out without any order, and as he was their superior Officer they were bound to obey."

Appendix  
B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

Thomas Fitzgerald—"Has known Guard Sexton to take home bread for Frank Smith from the Penitentiary stores; has frequently known potatoes to be left at the lodge to be sent home for Mr. Frank."

Edward Bannister—"Has often seen provisions go out for Mr. Frank Smith; he gets a pail of milk regularly every day, and occasionally twice; he has had bread very regularly; usually a loaf at a time." And again: "Potatoes have gone out for him at least 10 times; turnips also, and oatmeal, and vinegar. These things have generally been sent to the gate for Mr. Frank, and Sexton and Harmiston take them home. Witness has seen provisions sent home to Mr. Frank's house, in the butcher's cart and in the baker's cart."

James Kearns:—"Knows that Frank Smith got provisions sent home for him, from the Penitentiary; knew him to have bread and vegetables sent home."

John Cooper:—"He (Frank Smith) has also had potatoes and vinegar."

Michael B. White:—"Recollects being told by Guard Baldwin, that he and Guard Morsey had to take milk to Francis W. Smith from the Penitentiary every night. Witness saw Baldwin have the milk in his hands one evening."

John Watt: (Assistant Kitchen-keeper)—"Knows that Frank Smith has had potatoes sent home for his own use, from the Penitentiary; has known of this occurring four or five times, not more than two bushels at a time; they were sent home in the butcher's or baker's cart, or in any chance waggon which had been in with stones: they must have been taken from the Penitentiary stores. On one or two occasions Mr. Ovens, the Contractor, gave Frank Smith the present of a bag of potatoes. Witness knows that Frank Smith has had bread regularly, almost daily, from the Penitentiary stores, ever since he came: and again, witness has known Frank Smith to get turnips from the Penitentiary several times; they were taken from the Penitentiary stores. Witness has known Frank Smith to have peas sent home for him two or three times, about a peck at a time, they were taken from the Penitentiary stores. Witness has known Frank Smith get oatmeal three or four times, from the Penitentiary stores. Witness has known Frank Smith to take vinegar two or three times; once in a half gallon jar, at other times in a glass bottle."

Thomas Costen:—"Never knew Frank Smith to have provisions sent home from the Penitentiary, except fresh pork which he got from his mother."

James Wilson:—"The Messenger, Thomas Smith, has often taken bundles of articles home in the Penitentiary waggon for Frank Smith. The guards did not know what were in these bundles; but vegetables of all kinds were frequently sent home to Frank by the messenger in the cart."

The Commissioners observe that an order was passed by the Inspectors, in October last, after their trial of F. W. Smith, that no provisions should pass the gate. Francis W. Smith is charged with having broken this rule.

Edward Bannister:—"After Frank Smith's trial, an order was passed that no provisions should go out—that no traffic within the yard should go on: no one has broken this new rule but Frank Smith, that witness recollects."

John Cooper:—"Previous to Frank Smith's trial last fall, there was no pass necessary for such things (provisions); witness was given to understand by Frank Smith that the rule only applied to manufactured articles, or articles the property of the Prison. After Frank Smith's trial a rule was passed making an order necessary for everything: Frank has had bread, potatoes and milk passed through without an order, notwithstanding the new rule: and again, Frank gets milk twice a-day from the Penitentiary; he gets bread pretty regularly, sometimes once a-day, and sometimes only two or three times a week."

James Wilson:—"Saw Convict Davis, on the 13th of this month, (July, 1848,) bring two loaves of bread to the lodge, from the Penitentiary kitchen, to be taken home to Frank Smith's house; on the 16th witness saw one loaf of bread, and on the 19th another loaf in Frank Smith's basket, concealed under bundles of lettuce; the basket was lying in the lodge ready to be taken home."

Edward Bannister:—"Saw a loaf go for him (Frank Smith) on March 9th, 11th and 16th, and on April 3rd, 4th, 6th and 8th,—made a note of these transactions; he might have had more during the same period, but these instances witness saw."

John Watt:—"Frank has continued to take it (bread) since his trial, last fall; he has only dropped getting it very recently: and again, Frank has had none of these things (potatoes, &c.) since his trial, but bread; witness has seen Frank Smith take bread for his own use, while the Baker was there, and deduct it from the quantity for which he gave the Baker credit; never saw him pay the Baker for such bread. Witness spoke to Frank Smith about the impropriety of taking bread in this way, and Frank promised to stop it; he did stop taking it; this is three, four or five weeks ago. White, the Baker, was standing past at the time."

#### MEMORANDUM AS TO NOS. 1 AND 2, CHARGE 2.

The Commissioners having procured from the Warden a certified statement of all the money paid into the funds of the Penitentiary, for provisions, &c., sold during the period Francis W. Smith has been Kitchen-keeper;—find that only the following transactions have been accounted for:—

		£	s.	d.
1846.				
Dec.	Thos. Costen,	2 bush. Pease,	0	4 6
		1 " Turnips,	0	1 5
		1 " Oats,	0	1 5
Dec.	Mr. Bickerton,	2 " Pease,	0	4 6
		1 gall. Vinegar,	0	1 3
		4 lb Candles,	0	2 6
		1 bush. Turnips,	0	1 5
		10 " Oats,	0	14 2
Dec.	Wm. Martin,	2 " Pease,	0	4 6
		½ " Salt,	0	1 3
1847.				
March.	Wm. Martin,	1 cord Wood,	0	9 0
Aug.	Sam. Pollard,	2 " " "	1	2 0
"	Mr. Bickerton,	1 gall. Vinegar,	0	1 3
Sept.	Wm. Martin,	12 bundles straw,	0	2 0
Nov.	Mr. Bickerton,	1 gall. Vinegar,	0	1 3
"	"	1 peck Potatoes,	0	0 6
1848.				
Jany.	Wm. Martin,	2 cords Wood,	0	16 9
"	S. Pollard,	3 " " "	1	13 0
"	John Swift,	1 " " "	0	8 6
Febry.	Thos. Costen,	3 " " "	1	5 6
"	F. W. Smith,	3 " " "	1	5 6

Appendix  
(B.B.B.B.B.)  
30th May

Appendix  
B.B.B.B.B.)

30th May.

3. EMPLOYING CONVICTS, MAKING NETS—LABOUR  
NOT CHARGED TO HIM.

Evidence :—

Martin Keely :—“Has seen Convicts making fishing nets for Frank Smith.”

Terence M'Garvey :—“Has seen Convicts making nets, which were said to be for Frank Smith.”

Richard Robinson :—“Has known Frank Smith to have fishing nets made for him, by Convicts, in the Penitentiary.”

James M'Carthy :—“Knew Frank Smith to get fishing nets made by the Convicts, part of three years in succession. Witness knew at least 100 lb of lead to be taken to put on them; Smith was not charged with the lead.”

Thomas Fitzgerald :—“Knows that Frank Smith had fishing nets made for him in the Penitentiary.”

John H. Freeland :—“Knew Frank Smith to have nets made at the Penitentiary.”

James Wilson :—“Knows that Frank Smith has had nets for fishing made in the Penitentiary; he gets them made now (July 1848) every day; witness saw three Convicts working at them on Saturday last (22nd July); Convicts are at work constantly on them, shut up in the old shoemaker's shop.”

James Kearns :—“Knows that Frank Smith had fishing nets made in the Penitentiary.”

John Cooper :—“Has known fishing nets brought from the kitchen to the lodge, to be sent out for Frank Smith on two occasions, there was no pass; witness has seen Guard Sexton take out another net from the Penitentiary.”

John Watt :—“Frank Smith has had fishing nets made for him by the Convicts in the Penitentiary; witness has seen three complete nets there at different times; they were made of whitey-brown thread.”

## MEMORANDUM.

The Commissioners find no entry in the books for the labour employed on these nets.

4. APPROPRIATING BRUSHES, TOYS, BASKETS,  
MATS, &c.

Evidence :—

Maurice Phelan :—“Knew a French boy, named Braban, to make shoe-brushes, small boxes, flower boxes, &c. for Francis W. Smith; was told by Braban that Smith gave him tobacco for this work. Has known Braban called out for punishment, but it was not inflicted; was told by Braban that Francis W. Smith forgave him, in consideration of the work done by him for the said Smith: again, was one afternoon taken from his work to catch grasshoppers for Francis W. Smith to fish with; spent best part of afternoon so employed: and again, was one afternoon employed in splitting fire-wood, to make torches for F. W. Smith to fish with; was told by Mr. Martin that this was the purpose they were to be put to.”

24

Appendix  
(B.B.B.B.B.)

30th May.

James M'Carthy :—“Has known Frank Smith to have fancy baskets, a bow and arrow, fancy sticks, &c. made for him in the Penitentiary, by Convict Abraham.”

James Wilson :—“Has known Leparage to make toys for Frank Smith, and he has known Braban to make brushes and other articles for him.”

John Cooper :—“Frank Smith has passed out baskets on many occasions.”

Edward Bannister :—“Articles, not provisions, have been passed through the gate on Mr. Frank Smith's pass; passed brooms in this way, for Mr. Frank himself and other Officers; these passes were sent to the office with the rest, and accepted; a large mat was once passed out for Mr. Frank without an order.”

## 5. SUNDRY ACTS OF PECULATION.

Evidence :—

Edward Bannister :—“Recollects of Frank Smith sending a bushel of pease to the gate for Mrs. M'Nider; she did not come for them; some Officer bought them and took them away.”

James Wilson :—“Frank Smith had two hogs in the Penitentiary to be fattened; they were fed with the Penitentiary oats and offal; they were taken away because a complaint was threatened about them, by some of the Guards and Keepers.”

Eustache Coté :—“Frank Smith told witness to cheat the butcher of as much meat as possible; and witness, with Smith's knowledge, used to steal meat from the cart before it was weighed; Frank would take the butcher's man to the desk on purpose, and when his back was turned, witness would snatch a piece of meat, and throw it down into the cellar; has taken a piece of meat from twenty to thirty pounds; has done this a dozen of times; the butcher's boy suspected witness of stealing the meat, and watched him very close; he used to complain that he did not get the right weight; this happened just before witness left the Penitentiary. A soldier Convict from the 24th Regt., witness thinks, also took the meat in this way, by Frank Smith's direction. Dyas, the Cook, knew well of this matter: Guard Watt also knew of it; he checked witness for doing it, and said he would not allow it; did not tell Watt that Frank Smith desired him; all the Convicts in the kitchen knew of it. Turney, Boulton or Moulton, a coloured man, and Jim Johnston, in Mr. Little's gang knew of it.”

John Watt :—“Recollects that Convict Hall was punished for stealing meat from the butcher's cart; recollects of being told by the Kitchen waiters, that Convict Coté had stolen meat from the butcher. Witness may have rebuked Coté, but does not recollect of it. Mr. Frank received the meat from the butcher the day when Coté stole from the butcher; cannot recollect the names of the waiters who mentioned this fact to him; was told of the circumstance the very day it happened; cannot say if the meat was stolen with Mr. Frank's knowledge. Has no recollection of the butcher complaining that he was not credited for the proper weight of meat.”

John Cooper :—“Has known the butcher's meat to be sent back, as witness was told by the butcher, in consequence of Guard Watt having decided that

Appendix  
(B.B.B.B.B.)  
30th May.

it was unfit for use; has known Frank Smith meet the butcher's cart on its way into town with the condemned meat, and tell the butcher's boy to take it back to the Penitentiary; the butcher has brought it back accordingly, and the meat was accepted. Has seen this frequently, and has also known the butcher's messenger, when the Guard refused to receive his meat, wait until Frank Smith came in, when it was taken from him."

John Watt—"Never knew nor heard of the meat, when rejected by witness, being brought back again and accepted; has known three or four instances in which, when witness had rejected the meat, the butcher waited till Mr. Frank Smith came, and Mr. Smith then accepted part of the meat which witness had rejected. As to meat being sent back and stopped on the way to town, by the Kitchen-keeper, and accepted,—witness further says that he has known the butcher bring meat in at breakfast time, when Frank Smith was in town at breakfast, and during a term when a rule existed that no meat should be accepted without having been inspected by the Kitchen-keeper, the butcher, instead of waiting for Mr. Smith's arrival, would drive it to Mr. Smith's house, and have it inspected there, and bring it back; has known this three or four times. The rule referred to, was in force in March, April, and May, of this year; has known the meat to come in from the butcher in the morning about 8 o'clock, twenty or thirty times in the last two years." Afterwards, he says: "In the instances alluded to, of the butcher going to Mr. Frank's house, witness would not have accepted part of that which was taken by Mr. Smith; may have told the boy the meat was bad, and could not be accepted, but has no recollection of it; would not have received the meat had it been of excellent quality, without Mr. Frank's having inspected it."

Thomas Costen—"It is the Kitchen-keeper's duty to receive it, (the butcher's meat) and in his absence, this is the duty of the Kitchen-guard. . . . "Witness never knew of any order forbidding Kitchen-guard to receive meat from the butcher. Witness recollects of meat coming in from the butcher, and seeing the waggon stand at the Kitchen door for some time, he asked Watt why it stood there? Watt said he could not receive the meat until Mr. Frank came; this happened twice; he gave some reason for it—some fault he found with the meat; this could only have been the cause. Witness has heard Watt say that he has rejected meat sent in by the butcher; that the lad took it out of the Prison to Mr. Frank's house, and brought it back again, by his orders. Watt had rejected the meat for some cause." And again: "The meat usually comes in the afternoon; never saw the meat come in before 11 o'clock. During the five years witness was Kitchen-keeper, the meat never came in before that hour; and had it come in before that hour, in Mr. Frank Smith's time, witness must have known it."

### CHARGE III.—DISORDERLY CONDUCT.

1. Behaving indecorously towards the females.
2. Taking Convicts outside the walls to fish.
3. Remitting punishment clandestinely.
4. Showing favouritism to particular Convicts.
5. Sundry acts of misconduct.

### 1. BEHAVING INDECOROUSLY TOWARDS THE FEMALES.

Evidence:—

Richard Robinson—"Once saw very indecorous conduct on the part of Frank Smith and the head Matron, Mrs. Pollard. One afternoon Frank Smith was standing at the dining-room door when Mrs. Pollard was coming towards him, through the south wing passage; Smith opened his arms and Mrs. Pollard threw herself into them, and Smith carried her off in his arms towards the dining-hall; a number of Convicts were looking on, and witness observed, 'that was pretty conduct to display before them.' Witness thinks what he said was overheard, and helped to hurry his dismissal from the Prison; this affair occurred shortly before witness was dismissed."

James M'Carthy:—"Has seen Frank Smith coming out of the women's apartments several times; on one occasion, while Mrs. Cox was there, met him coming out pretty tipsy; he said he had been down there regulating the women."

Julia Cox:—"Frank Smith behaved indecorously in the women's department on one occasion; the women were going down stairs and Smith was coming up; he put his hand on the shoulder of one of the women as she passed; he held out his finger and chirrupped to another, and he called 'there goes beauty,' to a coloured woman. Witness expressed her disapprobation, but did not report the circumstance to the Warden; Smith went away whistling. Mrs. Shaw was present."

James Wilson:—"On one occasion saw Frank Smith put his arm round the waist of one of the Convict women, and pretend to kiss her; it was on a Sunday morning, as the women came down to church; does not know the names of any of the women; this was last summer. Witness was door-keeper that day at the kitchen entrance."

Thomas Costen:—"Never knew Frank Smith to take liberties with any of the Convict women; he may have done so, but witness has no recollection of it."

### 2. TAKING CONVICTS OUT TO FISH.

Evidence:—

Maurice Phelan:—"Has known Convict Brennan to be out fishing with Francis W. Smith, and another a soldier, named Pritchard; these men have been often so employed; witness has himself seen them."

Richard Robinson:—"Has known Frank Smith to take a Convict outside the gate, to fish with him on the wharf; his name was Brennan. The man was in good health."

Thomas Fitzgerald:—"Has seen Frank Smith fishing on the wharf, with Convict Brennan, the Barber, along side of him. Brennan was an able bodied man."

John H. Freeland:—"Has seen Frank Smith fishing on the wharf, with Convict Brennan, and a man of the name of Coté assisting him; he (witness) saw them from the top of the factories."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

James Wilson :—"Has seen Frank Smith take a Convict (the Barber,) named Brennan, and a boy named Matthews out to fish with him, on the west wharf; has seen them fish together."

Eustache Coté :—"Has fished three or four times on the west wharf, while in the Penitentiary; got the hook from Frank Smith, and made the line in the Ropery; caught fish, and cooked them and eat them in the wash-house with other Convicts."

James Kearns :—"Has seen Convicts fishing with Frank Smith on the wharf; Pritchard was one of them, and Caldwell was another."

John Swift :—"Has seen Frank Smith frequently take Convicts out to fish with him; has seen him take an Indian, and a boy, Matthews, and Brennan the Barber. Witness has seen this when loading schooners with stone."

James Brennan :—"Has seen Frederick Brennan fishing on the wharf with Frank Smith; was measuring coal with Keeper M'Carthy when he saw this."

Thomas Costen :—"Has seen Convict Matthews fishing on the wharf with Frank Smith; has also seen Brennan fishing with him. These cases occurred last fall."

### 3. REMITTING PUNISHMENT, CLANDESTINELY.

Evidence :—

Maurice Phelan :—"Has known Braban called out for punishment, but it was not inflicted; was told by Braban that Francis W. Smith forgave him in consideration of the work done by him for said Smith."

James Wilson :—"Has known several instances lately, of Convicts being canvassed as to the evidence they should give before this Commission."

There is a black Convict in the Penitentiary, committed this time under the name of M'Nair, but who was formerly committed under the name of M'Keener, who has been employed for some days in getting up evidence against the Doctor. Witness on several occasions saw this man talking to Convicts, and stopped him; M'Nair said he was electioneering against the Doctor, and had been permitted to do so by Frank Smith. Witness reported this man for so electioneering, contrary to the rules of the prison on four several occasions, but he was not punished for any of these offences. Witness reported him, as the Guards usually do, to the Kitchen-keeper, who wrote the complaints down on a slip of paper; this memorandum should have been copied into the punishment-book, and read out next morning, with the Warden's prescribed punishment to each offence, but in no one of these four instances was any notice taken of witness's report. This affair of M'Nair's occurred early last month. (June.)" And again :—"Recollects of Convict Burns being punished about a fortnight ago; he had only bread and water the whole day; next day at breakfast time Frank Smith asked him what he had been punished for, although he (Frank) must have well known what it was for, as he read out the list of punishments from the book. Witness did not hear what passed between them, but he knows that Burns got an extra ration served to him at that meal."

Thomas Fitzgerald :—"Has known Frank Smith to let Convicts out of the box before their sentence was completed, and he has also known him to keep

Convicts longer in the box than their proper time; recollects of coloured Wilson being so let out of the box before his time was completed, but cannot name an instance of the other, at this moment. Witness recollects of Coté being read out one morning, to go into the box that day; Frank Smith forgave him the sentence, however, and Coté was not punished."

Eustache Coté :—"Has been a week in which he got only one full Prison ration, legally, but he got meat during the time, clandestinely. Witness has been often sentenced to the box; Frank Smith had the charge of putting the men in the box, and he favoured witness. Several times when witness was read out for the box, he was not put in it at all; once, when sentenced to it for a whole day, Frank let him out in an hour and half; and on another occasion when sentenced to three days in the box, witness was only in one day; Frank Smith forgave him the two other day's punishment."

### 4. SHEWING FAVOURITISM TO PARTICULAR CONVICTS.

Evidence :—

Thomas Fitzgerald :—"Frank Smith and the Kitchen men frequently gave extra rations to their favourites among the Convicts. Witness has often seen Convicts get extra quantities of bread, meat, and potatoes put on their plates, after the gangs had taken their seats, at the table, and especially there was favouritism on Sundays when the men had particular seats."

John H. Freeland :—"There were favourite Convicts who used to get extra rations, very commonly; the waiters used to come up, after the gangs had taken their seats, and give particular men extra supplies; sometimes the waiters did this of their own accord, and at other times it was under the directions of Frank Smith."

James Wilson :—"Has frequently seen very marked favouritism displayed by Frank Smith towards particular Convicts; one day last week, witness thinks on Tuesday, Frank Smith sent Convict Burns from the Kitchen, by another Convict, two fishes, a quantity of pork and a supply of bread; this was given to Burns, in addition to his usual ration; he was unable to eat it all, and divided it amongst his neighbours."

Eustache Coté :—"Has known the Kitchen men to give extra-rations to particular Convicts, after the gangs had taken their seats at the table, and they used to get tobacco for so favouring them. Frank Smith used frequently to give extra rations to his favourites, in the same way."

James Kearns :—"Is aware that the Kitchen waiters, under the direction of the Kitchen-keeper, used to go round the tables and serve out any potatoes which might remain over, to such Convicts as they chose."

Martin Keely :—"Has known Convicts get bread from the Kitchen-keeper between meals."

James Wilson :—"Convicts very often go to Frank Smith, between meals, and ask him for food; he gives it to his favourites and refuses it to others; has known M'Nair and Conkwright, and M'Namara, and Lescar, get provisions in this way."

Thomas Fitzgerald :—"Has known Convicts to get provisions between meals, from the Kitchen; Frank supplied his favourites when they applied, but no others; Coté, Lewis, Pritchard, and Brennan, and coloured Wilson, used to get food between meals, whenever they wanted it."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Eustache Coté:—"Could easily get provisions from the Kitchen, between meals; whenever he liked, he could go and get what he wanted, or 'hook' it; the Convicts generally could not do so; it was only Frank Smith's favourites who could do so." And again: "Was pretty comfortable at times when in the Penitentiary" (a prisoner) "was good friends with Frank Smith; he would play with witness one hour, and punish him the next; had no regular quarrel with him; gave evidence against Frank at his trial last fall; was not a willing witness; had no personal cause to speak against Frank; was subpoenaed."

#### 5. SUNDRY ACTS OF MISCONDUCT.

##### Evidence:—

Thomas Fitzgerald:—"Has frequently known Convicts complain of the bad quality and short quantity of their rations, and be punished for so complaining; Mr. Frank reported against the Convicts for so complaining, and they would be read out for punishment next morning, for speaking during meals, or standing up during meals, or some such offence."

James Kearns:—"Has known Convicts complain of the shortness and poorness of their rations, at the dinner table, very often; they were frequently punished for it, by the Kitchen-keeper; they were entered in the punishment book for getting off their seats, or speaking to their Keepers, during meal time."

Edward Utting:—"The moment F. W. Smith was permanently appointed, his conduct towards witness, which had previously been respectful, changed very much; he became disrespectful, careless, and took liberties; going to his apartment at his father's house, contrary to orders."

James Gleeson:—"Smith and other Keepers and Guards used to fire with the bow and arrow at targets and at one another, while the Convicts were at meals; this happened very often."

James Brennan:—"Frank Smith was the first person who gave witness tobacco in the Penitentiary."

Thomas Hendry, (a Contractor):—"Had much trouble in getting proper receipts from Frank Smith, for the articles he delivered to the Penitentiary; the Pass-book would often remain for a fortnight at a time in the Penitentiary, and his (witness's) messengers would often be told by Frank Smith that he had no time to give them a receipt; all witness's endeavours to get regular receipts for what he delivered, were fruitless and no reliance whatever can be placed on the general correctness of the provision Pass-books."

James Wilson:—"At the same time (during Frank Smith's trial by the Inspectors, last fall) Frank told witness that he was determined to have Guard Robinson out of the Institution, as he was an impertinent villain; and a few nights after he told witness, that he (Smith) had given Robinson pork, &c., and helped him along as much as possible, but that the villain had turned against him, and he would have him out of the place. This was said in the presence of Guard Sexton and Keeper Matthews."

Kingston, 12th August, 1848. Truly extracted from the Minutes of the Penitentiary Commission.

(Signed,) GEO. BROWN,  
Secretary.

#### SUPPLEMENT to 5.—CHARGE III.

Thomas Costen—"He (Frank Smith) is very irregular; seldom present when the Roll is called; there never was any other Officer so irregular as Mr. Frank Smith; it would not have been right to allow any other Officer to remain in the Institution, who attended so irregularly; no Officer could so do his duty properly."

##### 1.

Copy.—Letter, Secretary to Kitchen-keeper Smith.

"Provincial Penitentiary, Commission Room,  
"KINGSTON, 12th August, 1848.

"Sir,

"I herewith enclose statements of charges against you, as a Keeper of the Provincial Penitentiary, elicited by the Commissioners in their examination into the general management of the Prison.

"The Commissioners are desirous to learn from you, as soon as possible, what course you intend pursuing in reference to these charges, and by what day you will be prepared to enter on your defence.

"I remain,

"Sir,

"Your most obedient Servant,

(Signed,) "GEO. BROWN,  
"Secretary.

"MR. FRANCIS W. SMITH,  
"Keeper,  
"Provincial Penitentiary."

##### 2.

Copy.—Letter, Kitchen-keeper Smith, to Secretary.

"PENITENTIARY, 14th August, 1848.

"Sir,

"I have the honour to acknowledge the receipt of your letter of the 12th instant, accompanied by certain charges against me, and I have to request you will be good enough to inform me by whom they are preferred, in order that I may shape my defence accordingly, to such parts of them as may be necessary; this, I believe, is always accorded to an accused person, as being a matter of justice towards him.

"I do most respectfully protest against the examination of any charges against me, which has already been heard and decided upon by the Inspectors of the Penitentiary, agreeable to the 3rd Section of the Statute 9 Victoria, chap. 4, whereby they are constituted the legal tribunal to enquire into any improper conduct which may have been alleged to have been committed by any of the Officers or other persons employed in said Penitentiary, but although by the Statute of the same year, chap. 38, it does not appear that any Commission shall be ap-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

pointed for an inquiry to be made into or concerning any matter connected with the good government of this Province, otherwise than where such inquiry shall not be regulated by any special Act; yet, I shall be prepared to defend myself from any new charges that may be brought against me, in which case I shall claim the right of examining the witnesses with whose testimony you have been pleased to furnish me, as I do not conceive it would be just to permit *ex parte* statements to be used as legal evidence against me, when I am not informed if the examination was under oath; and even if so, I think that I have the right to be present for the purpose of cross-examination.

"I have the honour to be,

" Sir,

" Your obedient Servant,

(Signed,) " F. W. SMITH.

" GEO. BROWN, Esquire,  
" Secretary, Penitentiary Commission."

3.

Copy.—Letter, Secretary to Kitchen-keeper Smith.

" Provincial Penitentiary Commission Room,  
" KINGSTON, 15th August, 1848.

" Sir,

"I have to acknowledge receipt of your letter of yesterday, and having laid it before the Commissioners, I am instructed to make you the following reply:—

"There is no prosecutor who formally prefers the charges transmitted to you on the 12th instant. The Commissioners have received a vast amount of evidence on the general management of the Penitentiary, and in the course of their inquiries, the statements furnished you, were made on oath by the parties named. These statements are not *ex parte* evidence as you designate them. The Commissioners have known no party in the course of their inquiries; their whole endeavour has been to elicit truth, whether it told for or against any of the Officers of the Penitentiary; and you will find that the testimony favourable to you has been furnished with that of a different character.

"As regards your opinion of the legality of the proceedings of the Commission, it is for you to choose your own course; but it only remains for me to refer you to my letter of 28th June, and to add, that upon the *whole evidence* transmitted to you, the report of the Commissioners to Government will be founded, without reference to any previous action of the Board of Inspectors.

"You are, of course, entitled to cross-examine any of the witnesses whose testimony is used against you, and when informed of the day on which you will be prepared to enter on your defence, I will furnish you with subpoenas for such persons as you desire to call before us.

"I remain,

" Sir,

" Your most obedient Servant,

(Signed,) " GEO. BROWN,  
" Secretary.

" Mr. FRANCIS W. SMITH,  
" Kitchen-keeper,  
" Provincial Penitentiary."

25

Appendix  
(B.B.B.B.B.)  
30th May.

4.

Copy.—Letter, Kitchen-keeper to Secretary.

" PENITENTIARY, 17th August, 1848.

" Sir,

"I have the honor to acknowledge the receipt of your letter of the fifteenth instant, and I fear that my communication of the previous day was not so explicit as I intended, and therefore I have not been understood by the Commissioners.

"In that letter I have stated that I will be prepared to answer any new charges against me, but it is obviously necessary, that I should first know whether the written testimony already taken *ex parte* by the Commissioners, will be held to be evidence against me on my trial, or whether that testimony will be re-produced, and the witnesses examined *viva voce* in my presence, and with the usual liberty on my part to cross-examine them as in an ordinary Court of Justice.

"I have the honour to be,

" Sir,

" Your obedient servant,

(Signed,) " F. W. SMITH.

" GEO. BROWN, Esquire,  
" Secretary, P. Penitentiary Commission."

5.

Copy.—Letter, Secretary to Kitchen-keeper Smith.

" Provincial Penitentiary Commission Room,  
" KINGSTON, 17th August, 1848.

" Sir,

"I have received your letter of this date. The Commissioners perfectly apprehended the meaning of your former communication, and thought they had already given you the explanation you seek with sufficient explicitness.

"The evidence sent you will be used as valid testimony, and will not be re-produced *viva voce*. If you do not show that the testimony of these witnesses is incorrect, or explain it away, the report of the Commissioners will be formed upon it. But do not misunderstand your position; you are quite at liberty to re-produce these witnesses, or any others you think proper, and to examine them in the fullest manner on all the points laid to your charge, or on any other point relative to the matter at issue. You will have every assistance rendered you by the Commissioners, in the production of such witnesses as you desire to call.

"I beg to be informed, in the course of tomorrow, when you will be prepared to enter on your defence, and I remain,

" Sir,

" Your obedient Servant,

(Signed,) " GEO. BROWN,  
" Secretary.

" Mr. FRANCIS W. SMITH,  
" Kitchen-keeper,  
" Provincial Penitentiary."

Appendix  
(B.B.B.B.)

6.

30th May.

Copy.—Letter, Kitchen-keeper Smith to Secretary.

PENITENTIARY, 18th August, 1848.

“ Sir,

“ I beg to acknowledge the receipt of your letter of yesterday's date, in which you state that the written evidence sent to me will be used as valid testimony against me, and will not be re-produced *vis à voce*.

“ Are the Commissioners aware of the credibility of all the witnesses who have appeared against me? Are they sure that it is possible to procure their attendance for my defence?

“ To my knowledge several of those witnesses have left the country; one of whom, and a principal witness against me, after breaking open the shop of his late employer, has absconded to the United States.

“ Under all these circumstances, I must beg to decline entering into any defence, and therefore, leave the matter to such decision as the Commissioners may please to arrive at.

“ I have the honor to be,

“ Sir,

“ Your obedient Servant,

(Signed,) “ F. W. SMITH.

“ GEO. BROWN, Esquire,  
“ Secretary, Penitentiary Commission.”

Copy.—Letter, Secretary to Provincial Secretary.

“ Provincial Penitentiary Commission Room,  
“ KINGSTON, 19th August, 1848.

“ Sir,

“ I am instructed by the Commissioners of the Penitentiary Inquiry, to advise you that they have closed their proceedings in the matter Francis W. Smith, Kitchen-keeper of the Penitentiary.

“ On the 12th instant, the Commissioners served Mr. Smith with written charges, and a copy of the evidence in support of each charge. The charges were :—

1. Cruelty to the Prisoners in the Penitentiary.
2. Peculation.
3. Conduct subversive of the rules and good order of the Prison.

“ The evidence to sustain all these charges was most complete, and Mr. Smith has declined to enter into any defence of his conduct. He says he was tried on the same charges by the Board of Inspectors, and acquitted, and he will not plead to them again. It is true that the same ground was gone over that the Inspectors investigated, but much new matter has been added.

“ Under these circumstances, the Commissioners recommend the immediate dismissal of Francis W. Smith, from the Institution.

“ The Commissioners cannot close this communication without expressing the painful impression produced on their minds by the conduct of the Board of Inspectors, in reference to this case. The Commissioners are of opinion that the Inspectors did not investigate the charges preferred by Dr. Sampson, against Kitchen-keeper Smith, so closely as they ought to have done; that the evidence actually obtained by them did not warrant their acquitting Smith; and that the palliations voluntarily made for Smith's conduct, in their decision on two of the charges, were without just foundation.

“ I have the honour to be,

“ Sir,

“ Your most obedient Servant,

(Signed,) “ GEO. BROWN,  
“ Secretary.“ Hon. R. B. SULLIVAN,  
“ Provincial Secretary.”

## PROCEEDINGS IN THE CASE OF HENRY SMITH, ESQUIRE, WARDEN PROVINCIAL PENITENTIARY.

Having closed the evidence in the case of Kitchen-keeper Smith, we proceeded to complete the investigation in as far as Mr. Warden Smith was affected, including a thorough examination of the books and accounts. As some time was necessarily required by the Secretary to arrange the charges, transcribe the evidence, and transmit the same to the Warden, as well as to enable Mr. Smith to prepare his defence, we deemed it expedient to adjourn on the 5th September, for three weeks. The Secretary completed his task on 23rd September, and served the Warden on that day, with a copy of the charges and evidence, occupying 301 pages. We re-assembled on 29th September, and the following correspondence shows the further proceedings in the Warden's case :—

No. 1.

Copy.—Letter, Secretary to Warden.

“ Provincial Penitentiary Commission Room,  
“ KINGSTON, 23rd September, 1848.

“ Sir,

“ You will receive herewith, copy of charges preferred against you before the Commissioners of the Penitentiary Inquiry, and of the evidence in support of each charge; and as soon as you are ready, the Commissioners will be prepared to hear your defence.

“ You will have every assistance in the production of witnesses which the Commissioners can give you.

“ You will be entitled to re-produce the same witnesses, if you think proper, or any others you may require.

“ Should it be found impossible to procure the attendance of any of the witnesses who have given testimony against you, (which I do not anticipate,)

Appendix  
(B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

the evidence of such parties will only be used against you as corroborative testimony.

"I will thank you to inform me at your earliest convenience, on what day you will be prepared to enter on your defence.

"I remain,  
"Sir,  
"Your obedient Servant,  
(Signed,) "GEO. BROWN,  
"Secretary.

"H. SMITH, Esquire,  
"Warden,  
"Provincial Penitentiary."

2.

Copy.—Letter, Warden to Secretary.

PENITENTIARY, 23rd September, 1848.

"Sir,

"I beg to acknowledge the receipt of your letter of this date, accompanied by certain charges made against me. But before I shall be able to state at what time I shall be in a condition to meet them, I request you will be pleased to inform me who I am to consider as my accusers; also, whether the Commissioners intend to expunge and do away with any evidence that has been given by parties who have left the Province, or whose residence is now not known, and therefore cannot be produced; or if in such cases the testimony given against me, whether true or false, will be used by the Commissioners to my prejudice in making their report to the Government, although I may not have had the opportunity of cross-questioning the witnesses who have given such testimony.

"I also request you will be pleased to inform me of the dates (which you have given in some few instances) when the evidence was taken, and the times to which the several charges refer, to enable me to rebut the testimony given before the Commissioners; and, that you will be good enough to state the names of the witnesses who have given their evidence on oath.

"I have the honor to be,  
"Sir,  
"Your most obedient Servant,  
(Signed,) "H. SMITH.  
"Warden.

"GEO. BROWN, Esquire,  
" &c. &c. &c."

3.

Copy.—Letter, Secretary to Warden.

"Provincial Penitentiary Commission Room,  
"Kingston, 25th September, 1848.

"Sir,

"Your letter of 23rd was put into my hands yesterday afternoon, and I take the earliest opportunity of giving you the information you desire.

"In reply to your question, as to who your accuser is? I have to state, that the Commissioners were appointed by His Excellency the Governor-General, to enquire into 'divers charges and complaints,' made to our Governor-General of our said Province, respecting the conduct, economy, system of discipline, and management of our Provincial Penitentiary, 'and concerning all other charges and complaints, which, during the continuance of the powers hereby committed unto you, shall or may be referred to you, by any person or persons whomsoever,' or which you 'may see fit to be preferred or investigated;' 'and also into, of, and concerning the whole conduct, economy, system of discipline and management pursued in, or with respect to our said Penitentiary.' In performing the duties thus entrusted to them, the Commissioners have received a large amount of evidence as to the general management of the Penitentiary and its affairs; in that evidence there is much seriously affecting your conduct as an Officer of the Institution; and before submitting it to the Head of the Government, the Commissioners have deemed fit to arrange and classify the testimony personally affecting you, and give you an opportunity of offering such explanations or counter evidence as you may see fit.

"On the second point of your enquiries, I have to inform you that should it be found impossible to procure the attendance, for cross-examination, of any one or more witnesses, whose evidence has been used in the document transmitted to you, the Commissioners will take the circumstance into consideration in making their report to Government.

"The times to which the several charges refer, you will find in the evidence furnished you, as accurately as the several witnesses could testify.

"The names of the witnesses who gave evidence, which has been used in the document transmitted to you, and the dates of their examination are as follows:—

Henry Smith, Esquire,.....	Warden.....	June	26	Not Sworn.
Maurice Phelan,.....	Discharged Convict.....	"	27	Sworn.
M. B. White,.....	Formerly a Guard.....	"	28	"
Hon. John Macaulay,.....	Formerly an Inspector.....	"	30	Not Sworn.
Wm. Coverdale,.....	Formerly Architect.....	"	30	Sworn.
Edward Utting,.....	Late Deputy Warden.....	July	1	"
James Gleeson,.....	Late a Keeper.....	"	3	"
Edward Utting,.....	Recalled.....	"	4	"
Martin Keely,.....	Late a Keeper.....	"	4	"
Martin Keely,.....	Recalled.....	"	5	"
Eliza Quinn,.....	Discharged Convict.....	"	5	"
Terence M'Garvey,.....	Late a Keeper.....	"	5	"
Edward Utting,.....	Recalled.....	"	5	"
Terence M'Garvey,.....	Recalled.....	"	6	"
Richard Robinson,.....	Late a Guard.....	"	6	"
James M'Carthy,.....	Late a Keeper.....	"	6	"
Robert Seatch,.....	Storekeeper.....	"	7	"
James M'Carthy,.....	Recalled.....	"	7	"
Julia Cox,.....	Late Matron.....	"	8	"
Patrick Coulan,.....	A Contractor.....	"	8	"
John Lennon,.....	A Farmer.....	"	8	"
William Atkins,.....	Supernumerary Guard.....	"	8	"

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

				Sworn.
James Brennan	Discharged Convict	July	15	"
Catharine Coulter	Late Matron	"	17	"
David Seley	Landing Waiter	"	21	"
Thomas Hendry	A Contractor	"	21	"
James Wilson	Now a Guard	"	21	"
Thomas Fitzgerald	Late a Guard	"	22	"
John H. Ereeland	Discharged Convict	"	24	"
James Wilson	Recalled	"	24	"
Eustache Cote	Discharged Convict	"	25	"
Thomas Hems	Discharged Convict	"	25	"
Samuel Breden	A Contractor	"	27	"
John Breden	A Contractor	"	27	"
Edward Bannister	Now a Guard	"	28	"
John Richardson	Now a Keeper	"	28	"
James Kearns	Now a Guard	"	29	"
John Swift	Now a Keeper	"	29	"
John Swift	Recalled	August	4	"
John Cooper	Now a Guard	"	4	"
John Watt	Now a Guard	"	8	"
Thomas Costen	Now Head-keeper	"	9	"
William Waldron	Now a Guard	"	19	"
James Skinner	Now a Keeper	"	21	"
Rev. R. V. Rogers	Chaplain	"	30	"
Robert Allen	A Contractor	"	30	"
A. B. DeBlois	A Convict	September	1	"
William Jones	Now a Keeper	"	1	"
Dennis Chaguor	A Convict	"	2	"
John Dyas	A Convict	"	2	"
Thomas D. M'Cormick	A Convict	"	2	"
James Sampson, Esq	Surgeon	"	4	"
Samuel Mackleston	A Contractor	"	4	"
Henry Sadleir, Esq	Late Inspector	"	4	"
Hugh Cameron	A Convict	"	5	"
Edward Horsey	Architect of Penitentiary	"	5	"
Lewis Jackson	A Convict	"	5	"
Coulthard Travis	A Convict	"	5	"
James Henesey	A Convict	"	5	"
Joseph Christmas	A Convict	"	5	"
Henry Smith	A Convict	"	5	"
Richard Gibson	Now a Keeper	"	5	"
Thomas Costen	Recalled	"	5	"
William Martin	Now a Guard	"	5	"
Francis Bickerton	Clerk of Penitentiary	"	5	"
James M'Carthy	Recalled	"	5	"
Patrick Quinn	Tavern-keeper	"	5	"

" I will thank you to name a day when you will enter on your defence, at your earliest convenience, and am,

" Sir,

" Your most obedient Servant,

(Signed,) " GEO. BROWN,

" Secretary.

" HENRY SMITH, Esquire,  
" Warden Provincial Penitentiary."

No. 4.

Copy.—Letter, Secretary to Warden.

" Provincial Penitentiary, Commission Room,  
" KINGSTON, 27th September, 1848.

" Sir,

" I am very desirous of knowing, in the course of this day, when you will be prepared to enter on your defence, as the future proceedings of the Commission will be regulated by your answer, and I am detained here until I know what that answer may be.

" You will therefore oblige me by advising me on this point.

" I have the honour to be,

" Sir,

" Your most obedient Servant,

(Signed,) " GEO. BROWN,

" Secretary.

" HENRY SMITH, Esquire,  
" Warden,  
" Provincial Penitentiary."

No. 5.

Copy.—Letter, Warden to Secretary.

" PENITENTIARY, 27th September, 1848.

" Sir,

" I have to acknowledge the receipt of your letter of this date, and beg to inform you that I shall not be able to state the precise date when I shall be prepared to answer the charges made against me by the Commissioners, until the present Assizes for the Midland District have terminated, as I shall re-

Appendix  
(B.B.B.B.B.)

30th May.

quire the assistance of Counsel, all of whom are at present engaged in other professional duties.

"I am,  
" Sir,  
Your most obedient Servant,  
(Signed,) "H. SMITH,  
" Warden.  
" GEO. BROWN, Esquire,  
" &c. &c. &c."

No. 6.

Copy.—Letter, Secretary to Warden.

" Provincial Penitentiary Commission Room,  
" KINGSTON, 30th September, 1848.

" Sir,

"I was duly in receipt of your letter of 27th instant, in which you intimate that you will not be able to state the precise date when you will be prepared to answer the charges transmitted to you on 23rd instant, until the present Assizes have terminated.

"I have submitted your letter to the Commissioners, and I am now instructed to say that they cannot understand why the sitting of the Assizes should be any bar to your entering on your defence. I am also to state that the Commissioners are now ready to hear you, and to request that you will name an early day for proceeding in the matter.

"I have the honour to be,  
" Sir,  
" Your most obedient Servant,  
(Signed,) "GEO. BROWN,  
" Secretary.

" HENRY SMITH, Esquire,  
" Warden,  
" Provincial Penitentiary."

No. 7.

Copy.—Letter, Warden to Secretary.

" PENITENTIARY, 2nd October, 1848.

" Sir,

"I beg to acknowledge the receipt of your letter of the 30th ultimo, in which you request me to name the precise date upon which I shall be able to answer the charges preferred against me, and transmitted in your letter of the 23rd ultimo. In reply thereto, I have to acquaint you that it will require some time to procure witnesses and examine the testimony they can give in answer to charges and evidence contained in a volume of 301 pages, and therefore I do not think it possible to name an earlier day than the 1st proximo, for the purpose of commencing my defence, unless I should be able by the advice and assistance of my Counsel, to be ready at an earlier date, in which case I shall not fail to give you due notice thereof.

"I have the honour to be,  
" Sir,  
" Your most obedient Servant,  
(Signed,) "H. SMITH,  
" Warden.

" GEO. BROWN, Esquire,  
" &c. &c. &c."

26

No. 8.

Copy.—Letter, Secretary to Warden.

" Provincial Penitentiary Commission Room,  
" KINGSTON, 2nd October, 1848.

" Sir,

"I have to acknowledge receipt of your letter of this day, in which you state, in reply to my letter of 30th ultimo, that it will require some time to procure witnesses and examine the testimony they can give in answer to charges and evidence contained in a volume of 301 pages, and that, therefore, you do not think it possible to name an earlier day than the 1st November, for the purpose of commencing your defence, unless you should be able by the advice and assistance of your Counsel to be ready at an earlier date, in which case you will not fail to give me due notice.

"I have submitted your letter to the Commissioners, and I am now instructed to say, that as a large proportion of the charges transmitted to you, rest on the evidence of parties on the spot, or upon books and papers now in your possession, they cannot see why you should require 29 days of preparation before entering on your defence. The Commissioners are still more at a loss to know in what way legal advice can be necessary to you in answering truly, allegations upon matters of fact. They conceive that you should be prepared to enter on your defence at once; no special reason being shown for deferring your answer to any portion of the charges, they would deem you entitled to a reasonable postponement; but as to the great body of the charges, they can discover no real necessity for further delay.

"The Commissioners, however, are anxious to avoid the appearance of pressing you too closely, and they have therefore instructed me to name Monday, 9th instant, for the commencement of your defence, with the intimation, that should you not then proceed, they will conclude you have no real intention of meeting the charges, and will act accordingly.

"I have the honour to be,  
" Sir,  
" Your most obedient Servant,  
(Signed,) "GEO. BROWN,  
" Secretary.

" HENRY SMITH, Esquire,  
" Warden,  
" Provincial Penitentiary."

No. 9.

Copy.—Letter, Warden to Secretary.

" PROVINCIAL PENITENTIARY,  
" 3rd October, 1848.

" Sir,

"I beg to acknowledge the receipt of your letter of yesterday's date, wherein you state that the Commissioners have instructed you to name Monday, the 9th instant, for the commencement of my defence, and that should I not then proceed, they will conclude I have no real intention of meeting the charges, and will act accordingly.

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.)  
30th May.

"I beg most distinctly to state, that it is my intention fully to meet all and every charge preferred against me; but, that in order to do so, it is absolutely necessary that I should have a reasonable time allowed me to prepare my defence, to examine my witnesses, and to ascertain where they reside.

"Under these circumstances, and considering the mass of evidence which I have to go over, and the long series of years over which it extends, I conceive that the 1st November next is as early a day as I can with certainty name; it is therefore quite impossible for me to commence on the 9th instant; and I feel assured that if the Commissioners intend to do me justice, they will not take an unfair advantage of me by putting me on my defence before I am prepared for it; if otherwise, I must trust to the justice of the Government, who will doubtless not refuse this, my reasonable request.

"I beg also to bring to the notice of the Commissioners, that it is necessary and reasonable that I should have the assistance of my son Mr. Henry Smith, Junior, or of some other professional adviser, and that their other avocations render it impossible for them to afford me that assistance, until the termination of the Assizes now sitting.

"The Commissioners will also recollect that one of their charges against me, refers to a certain overpayment to Messrs. Hendry and Blacklock, which is at present the subject of discussion before the Court, and which will be tried at the end of the present or the beginning of the ensuing week, when my personal presence will be required. You will please also to bear in mind that the decision of this case will materially affect my defence.

"I have the honour to be,

"Sir,

"Your most obedient Servant,

(Signed,) "H. SMITH,  
"Warden.

"GEO. BROWN, Esquire,  
"&c. &c. &c."

No. 10.

Copy.—Letter, Secretary to Warden.

"Provincial Penitentiary Commission Room,  
"KINGSTON, 4th October, 1848.

"Sir,

"I have to acknowledge receipt of your letter of yesterday, in rejoinder to mine of 2nd instant. The Commissioners have taken the contents of the same into consideration, and I am instructed, in reply, simply to reiterate what I said in my last letter.

"The Commissioners can see no argument for delay in what you have advanced. The witnesses, on the great majority of the charges, are on the spot, and can be produced at any moment; and if any special difficulty in meeting any portion of the charges which delay would remove, can be shown, a postponement as to such charges will be readily granted. Your plea, that time is required by you to examine the evidence which parties can give, before producing them as witnesses, does not appear to have any force; a large proportion of the charges rest on occurrences in the Penitentiary, and can only be met by the evidence of persons now or heretofore

within the walls, so that the proper persons to prove or disprove any given allegation can be known at once.

"As to the difficulty you allege in procuring the aid of Counsel, in consequence of the Assizes now sitting, the Commissioners cannot understand how this circumstance can prevent your obtaining any advice which the case will admit of; and if you mean that the Assizes prevent your securing the attendance of Counsel to cross-examine the witnesses, I am instructed to say that the Commissioners could not consent to such an arrangement. This is not a Court of Law before which you are arraigned and are to be found guilty or innocent, on legal forms and technicalities; it is simply an inquiry to find what has been the true position of an important public Institution, and what has been your conduct as its Chief Officer; and to get at the truth on either point, the presence of legal gentlemen cannot be necessary.

"The Commissioners do not see in what way the result of the trial now pending between you and Messrs. Hendry and Blacklock can affect any of the charges which you are called upon to answer. If you should recover the money from the sureties of that firm, the facts that you over-paid them a large sum of money, and did not discover the error until it was pointed out by the Commissioners, remain as they were.

"The Commissioners must therefore adhere to their previous intimation; they do not demand that you shall come prepared with your whole case on the 9th instant, but they expect you to commence your defence then, and continue it from day to day, until closed, on the understanding that when you can show a reasonable cause for postponement, at any time, it will be granted.

"I have the honour to be,

"Sir,

"Your most obedient Servant,

(Signed,) "GEO. BROWN,

"Secretary.

"HENRY SMITH, Esquire,

"Warden,

"Provincial Penitentiary."

No. 11.

Copy.—Letter, Warden to Secretary.

"PROVINCIAL PENITENTIARY,

"4th October, 1848.

"Sir,

"I beg to acknowledge the receipt of your letter of this date, and I cannot but express my surprise that the Commissioners will not permit the attendance of Counsel on my behalf, at the examination of the charges preferred against me; as I thought from their previous proceedings they were desirous of coming at the truth only, and would therefore readily accede to any arrangement that would have this purpose in view. I therefore trust the Commissioners will re-consider their determination and consent to allow me the assistance of Counsel, which I believe has been hitherto the case on examinations

Appendix  
(B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

taken before Commissioners appointed by the Government.

" I have the honour to be,  
" Sir,  
" Your most obedient Servant,  
(Signed,) " H. SMITH,  
" Warden.

" GEO. BROWN, Esquire,  
" &c. &c. &c."

No. 12.

Copy.—Letter, Secretary to Warden.

" Provincial Penitentiary Commission Room,  
" KINGSTON, 5th October, 1848.

" Sir,

" I was duly in receipt of your letter of yesterday, in which you request that the Commissioners will re-consider their determination not to permit legal gentlemen to be present at their investigations into the affairs of the Penitentiary, or the conduct of its Officers. I have submitted your letter to the Commissioners, and am now to say that they adhere, in every particular, to their letter of 4th instant.

" I have the honour to be,  
" Sir,  
" Your most obedient Servant,  
(Signed,) " GEO. BROWN,  
" Secretary.

" HENRY SMITH, Esquire,  
" Warden,  
" Provincial Penitentiary."

No. 13.

Copy.—Letter, Secretary to Warden.

" Provincial Penitentiary Commission Room,  
" KINGSTON, 7th October, 1848.

" Sir,

" I am requested by the Commissioners to intimate to you that all evidence, in which reference to the books requires to be made, and any Convict evidence you may desire to produce in your defence, on the charges transmitted to you by the Commissioners, will be received at the Penitentiary; and that all other witnesses will be examined at the Commission Room, British American Hotel.

" Should you intend to commence your defence on Monday, with other than Convict witnesses, you will be good enough to furnish me with a list of them this afternoon, in something like the order you desire to produce them, so that subpoenas may issue for their attendance.

" The hour of meeting, each day, will be 10 o'clock.

" I have the honour to be,  
" Sir,  
" Your most obedient Servant,  
(Signed,) " GEO. BROWN,  
" Secretary.

" HENRY SMITH, Esquire,  
" Warden,  
" Provincial Penitentiary."

No. 14.

Copy.—Letter, Warden to Secretary.

" PENITENTIARY, 8th October, 1848.

" Sir,

" Having been detained at the Court House nearly the whole of yesterday, I was unable to reply to your letter of that date until now, and as I have had so short a time to prepare any part of my defence to the charges against me, I am unable at present to give you a list of the witnesses for whom I shall require subpoenas; but in order that the Commissioners may experience no delay in the business, I shall be ready (although but very imperfectly prepared) to proceed to-morrow morning with the cross-examination of such witnesses as have testified against me, in the first four charges with which I have been served, who are to be found at the Penitentiary.

" I beg to state that as I require no concealment in the investigation of these charges, it is my intention to have some of my friends present on the occasion, as the greater publicity that is given to the proceedings will be more satisfactory to the country.

" I have the honor to be,  
" Sir,  
" Your most obedient Servant,  
(Signed,) " H. SMITH,  
" Warden.

" GEO. BROWN, Esquire,  
" &c. &c. &c."

No. 15.

Copy.—Letter, Secretary to Warden.

" Provincial Penitentiary Commission Room,  
" KINGSTON, 8th October, 1848.

" Sir,

" I have just received your letter of this morning, in which you inform me that you will proceed with your defence, to-morrow morning at the Penitentiary. The Commissioners will accordingly meet at the Penitentiary at ten o'clock.

" In reference to that part of your letter in which you say, that as you 'require no concealment in the investigation of these charges, it is your intention to have some of your friends present on the occasion, as the greater publicity that is given to the proceedings will be more satisfactory to the country,' I am instructed to advise you, that the Commissioners can see no occasion for the presence of any persons unconnected with the Inquiry, and that they cannot admit of such an arrangement as you propose.

" I have the honor to be,  
" Sir,  
" Your most obedient Servant,  
(Signed,) " GEO. BROWN,  
" Secretary.

" HENRY SMITH, Esquire,  
" Warden, Provincial Penitentiary."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix

(B.B.B.B.B.)

30th May.

No. 16.

Copy.—Extract from Minutes of Commission, 9th October, 1848.

“The Commissioners were met at the Penitentiary, by Mr. Smith and Alexander Campbell, Esq., Barrister-at-Law, the latter stating that he appeared as Counsel for the former.

“Mr. Smith handed to the Secretary a letter addressed to the Commissioners, signed by himself, protesting that he was compelled by the decision of the Commissioners, to proceed with his defence against his will, not having had sufficient time afforded him for preparation, and the assistance of counsel being denied to him.”

No. 17.

Copy.—Protest of Warden against Proceedings.

“PROVINCIAL PENITENTIARY,  
9th October, 1848.

“Gentlemen,

“I appear before you in obedience to your express commands, that I should enter this day on my defence against the charges with which I have been served by you, under the penalty of your reporting to the Government that I had no defence to make, in case I had failed to do so.

“I come before you therefore, under protest that I am not fairly dealt with, in having been denied that measure of justice accorded to the lowest criminal arraigned at the bar of his country, for the commission of any crime,—who is uniformly permitted both time for his defence, and the assistance of counsel in conducting it.

“The charges against me have taken three months in their preparation, and my enemies have been for nearly a year indefatigably employed in seeking out evidence to criminate me. The testimony adduced is of the most extraordinary character, part of it hearsay evidence, part of it in reference to alleged occurrences, the particular dates of which are not stated, and which may, therefore, afterwards be alleged to have taken place at any period during the thirteen years that I have been Warden of the Penitentiary.

“The bearings of all the charges, and of the evidence adduced in support of them, on my case and on my defence, it requires time and consideration to understand.

“The witnesses are, generally speaking, persons who have no friendly feelings towards me, many of them having held offices in the Institution, from which they have been discharged for misconduct; and who in some cases truly, in others untruly, look upon me as the proximate cause of their having been so discharged. Others of the witnesses have been or still are Convicts in the Prison, who have been punished under my directions for infractions of its rules, and must naturally harbour those feelings of revenge inherent in minds constituted like theirs.

“Many of the witnesses are scattered over various parts of the Province, and even of the United States, from which they have been collected at great pains and expense; examined in my absence, and allowed again to return to their residences, with which I am unacquainted.

“The charges relate to alleged offences extending over a long series of years, the dates of such offences are but in a few instances given; and I am forced therefore to undergo the hardship of doing what is unknown in law, viz: proving negatives, and that too under peculiar disadvantages.

“Under all these circumstances, therefore, and considering the necessity which there is for me to endeavour to recall to my recollection all the particulars of transactions, the minutes of which have long since passed from my mind, as well as for endeavouring to bring to my remembrance the particular witnesses who were cognizant of such transactions, and for ascertaining what testimony their memory of them would enable them to give before you; considering also, that I must endeavour to discover what particular witnesses were about the Institution at certain periods, and where they now are, with the view of my being able to shew by them, that certain other alleged matters laid to my charge never did, because they never could, have occurred; I might reasonably have expected a more than usually large share of indulgence, both as to the measure of time and amount of assistance afforded me for my defence.

“I asked for that purpose, until 1st November, pledging myself that I would then be fully prepared. You have refused that request, and have compelled me to enter on my defence to-day, although personally aware that the hardship of obliging me to do so on so short a notice, is rendered doubly hard by the circumstance of the Assizes having been sitting during almost the whole period which has elapsed since you served me with the charges; that I have consequently been unable to obtain the assistance of legal advisers, who have necessarily been otherwise engaged; that I have myself been occupied in the preparation of a case at the suit of the Penitentiary, expected to be tried at this time, and have been several days in Court awaiting its trial; that I have been also called as a witness before you, and required to furnish you with returns and other information, relative to matters under your investigation; and that my time has been therefore necessarily, almost wholly, occupied with other matters, thus precluding the possibility of my giving that attention and calm and uninterrupted consideration to the preparation of my defence which it imperatively demanded.

“It is true that you have informed me that you do not insist on my entering on my whole defence to-day, and that you will allow me an extension of time relative to any particular point which I can show peculiarly to require it; but it is self-evident that it is impossible for me, except at the greatest disadvantage, to enter on my defence against any one charge, without being fully prepared on all, since any failure or partial failure, or omission in the defence of one, would naturally operate to my prejudice in the others, particularly where both the charges and evidence are so much blended, and where the testimony given under one head is referred to as supporting the others, as is frequently the case.

“You have also debarred me from the right of having Counsel to advise and assist me in the course of my defence, a privilege which has never before been in a free country, refused to any accused; and the depriving me of which is peculiarly oppressive under the circumstances before detailed.

“While, therefore, I am compelled by your orders, to enter into a part of my defence of the first

Appendix

(B.B.B.B.B.)

30th May

Appendix  
(B.B.B.B.B.)

30th May.

four charges this day, I protest that for the reasons and under the circumstances before stated, I do so against my will, and without having had due time for preparation, and without the assistance to which I am entitled, and that my failure therefore in rebutting all and every charge made against me, shall not be attributed to my being unable to do so, if justice were accorded to me, but to the impossibility of doing so within the time and under the disadvantage imposed on me by you...

"I have only to add, with reference to your refusal to allow publicity to be given to your proceedings in the investigation of the charges, and to permit me to have any of my friends present on the occasion, that it has hitherto been customary for Commissioners of Inquiry to conduct their investigations openly, as to satisfy the public mind that they are made fully and impartially; and that as it has been alleged that there is an impression on the part of the public, that there has been misconduct in the management of the Institution, it would have been satisfactory to me that all should have an opportunity of judging for themselves, whether such misconduct is chargeable on me.

"I have the honour to be,  
"Gentlemen,  
"Your most obedient Servant,

(Signed,) "H. SMITH,  
"Warden.

"To the Commissioners of Inquiry  
"into the management of  
"the Provincial Penitentiary."

No. 18.

Copy.—Extract from Minutes of Commission, 9th October, 1848.

"Mr. Smith and Mr. Campbell were requested to withdraw, and the Commissioners then took the Warden's letter into consideration, and resolved that it should be again taken up at an evening *sederunt*.

"The Warden was then called before the Commission, the decision of the Commission having been communicated to him, he asked that Mr. Campbell might appear as his Counsel, and that he might be allowed to have a person present to take notes of the evidence. He was instructed to put his application in writing, when he withdrew for that purpose.

"Mr. Campbell came to the door of the Commission Room and asked to be admitted as Counsel for Mr. Smith. The Secretary communicated his request to the Commissioners, which, on discussion, was refused."

No. 19.

Copy.—Letter, Warden to Secretary.

"PENITENTIARY, 9th October, 1848.

"Sir,

"I beg leave to request that you will be pleased to allow me the assistance of Counsel, for the purpose of advising me on my defence, or for taking minutes of the evidence about to be adduced in the examination of the witnesses that may be called be-

fore you during the investigation you are now about to commence.

"I have the honour to be,  
"Sir,  
"Your most obedient Servant,

(Signed,) "H. SMITH,  
"Warden.

"To GEO. BROWN, Esquire,  
"Secretary,  
"Penitentiary Commission."

"P.S.—I beg to inform you that a Counsel is now in attendance, so that the Commissioners will not experience any delay.

(Signed,) "H. SMITH,  
"Warden."

No. 20.

Copy.—Extract from Minutes of Commission, 9th October, 1848.

"A letter was shortly afterwards handed in from the Warden, asking that Counsel might be allowed to be present on his behalf, or for taking minutes of the evidence. On consideration, it was resolved, that the Warden should be allowed to have some person present, for the purpose, simply, of taking notes of the evidence, but that no Counsel should be admitted in his professional capacity, and the Secretary was instructed to write the Warden to that effect.

The Secretary submitted draft of letter in accordance, which was as follows, and was approved:—

Sir,

"I have laid your letter of this morning before the Commissioners, and I am instructed to say in reply, that you will be entitled to have a person present, simply to take notes of the evidence given by the witnesses. The Commissioners cannot consent that any Counsel shall be present in his professional capacity.

"I have, &c.,

(Signed,) "GEO. BROWN,  
"Secretary."

"The Warden was called before the Commission and asked who the person was he intended to have present to take notes? He stated that he proposed to have Henry Smith, Esquire, M.P.P. The Warden was asked if he intended to call that gentleman as a witness in his defence? and he replied that he would not do so. The Warden was then told, the Commissioners did not consider Mr. Henry Smith, Junior, a fit person to be present at the investigations, as his name was seriously connected with some of the charges; but that if he (the Warden) insisted on it, the Commissioners desiring to throw no unnecessary obstacles in his way, would not object.

"The Warden and Mr. Henry Smith, M. P. P., were then introduced, and it having been arranged that the Secretary should read out the answer to each question as he had written it, and not proceed until the witness and the Warden were satisfied that the answer was correctly written down,—the Warden proceeded with his defence."

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

It was not without deep consideration that we limited the time within which the Warden had to enter on his defence. We felt strongly that every man under accusation should be afforded the fullest opportunity of making his defence, and we were not unmindful of the sensitiveness of public opinion in Canada to anything which might be construed as harshness; but we felt, at the same time, that the public interests were not to be sacrificed to an unreasonable demand, even when sheltered by a commendable popular sympathy; and casting aside all other considerations, we determined to look only to what was just and reasonable in the premises.

It had been forced on our conviction, that the Penitentiary was then, and had been for many months, in a state of complete disorganization; that the officers and convicts were divided into two parties, one for and the other against the Warden; that the Warden and Chaplain were at open warfare; that secret caballing was constantly going on among the officers and convicts; and that extravagance and mismanagement pervaded every branch of the establishment; we, therefore, felt it desirable that not an hour should be lost in restoring order to the Institution.

We weighed with deliberation the character of the charges against the Warden, and the way in which they must be met; and the result was a firm conviction that to meet the far greater portion of them, not one day's delay could be necessary. Out of 121 transactions, or practices, or omissions of duty, which the Warden was called on to explain, we found that 109 or 111 related to occurrences within the walls of the Penitentiary, and which, if not met by the evidence of persons then connected with the Institution, could not be properly met at all; and we were further convinced, that the charges were all of so plain a character, and so easily refuted if untrue, and the witnesses on every one of them were so readily to be had, that the demand of Mr. Smith for 39 days to prepare his defence, was unreasonable and vexatious.

However much, therefore, we might have personally preferred to free ourselves from unpleasant responsibility on so delicate a point, by granting all the Warden demanded, yet in the conscientious discharge of the duty committed to us by Your Excellency, we felt that we could not comply with Mr. Smith's request; and as the Warden was only called on to commence his defence on the 9th October, and as we were prepared to grant him every facility by delay or otherwise, on probable cause shown, we feel that the most ample justice was done him.

As regards the demand of the Warden, to have his case conducted before us by Counsel, we could see no propriety in such a request. Had the Warden been an illiterate person, unfit to conduct his own case, there might have been justice in such a demand; as it was, and with the superior knowledge which he possessed of persons and facts, a legal adviser could only have aided him by raising technical objections.

The Warden was in error when he stated in his Protest that the charges against him had taken "three months in their preparation," only about one-half of that space having been so occupied.

As regards the character of the witnesses, fifty-four in number, whose testimony was used in the charges against the Warden, and the difficulty he

complains of in bringing them together, we find that they may be analyzed as follows:—

Officers of the Penitentiary.....	15	
do. formerly in the Penitentiary (re- signed) .....	4	
Parties unconnected with the Institution...	11	
	—	30
Discharged Officers.....	8	
Convicts .....	10	
Discharged Convicts .....	6	
	—	24
		54

44 of these witnesses were residing in Kingston when the charges were served, 7 more within a day's journey of Kingston, 1 in Pennsylvania, and 2 uncertain.

51 of the 54 could have been produced on forty-eight hours' notice; and the Warden was expressly assured, that should it be found impossible to procure the attendance of any of them, that circumstance would be considered by us in reporting to Your Excellency.

And as to Convict testimony, it was only used in the charges to complete the evidence of other witnesses; and even then to so small extent, that had it been expunged altogether, the charges would not have been materially affected.

It was never intended that any charge should be considered established against Mr. Smith, or any other officer, by Convict evidence.

The Warden having commenced his defence on the 9th Oct., continued it, from day to day, up to the 28th Oct., confining his attention entirely to the first four charges. He then made a halt, and the following correspondence ensued:—

No. 1.

Copy.—Extract Minutes of Commission 28th October, 1848.

"The Warden then declared that he had closed his defence on the first four charges, with the exception of re-examining Edward Utting and John H. Freeland, and producing any testimony which may become necessary in rebuttal of the evidence of these two witnesses.

"The Warden then intimated that he was not prepared to proceed further in his defence at present, and proposed that he should be allowed one week to prepare his defence on the fifth charge, with a longer or shorter space, further, before proceeding with each of the other six charges; or that he should have until 21st November to prepare his case so as to go on uninterruptedly to the close. The Warden declared that it would be impossible for him to proceed at any earlier dates.

"The Commissioners informed the Warden that they would consider his propositions, and the witnesses Utting and Freeland not being in attendance, he withdrew at 4 o'clock."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

No. 2.

Copy.—Letter, Secretary to Warden.

“Provincial Penitentiary Commission Room,  
“KINGSTON, 30th October, 1848.

“Sir,

“The Commissioners have had under consideration the two propositions you made to them on Saturday, for further delay in meeting the remaining charges preferred against you, viz: 1st, one week to prepare your defence on the fifth charge, and a longer or shorter time, further, before proceeding with each of the other six charges; on 2nd, that you should have until the 21st November, to prepare your case so as to go on uninterruptedly to the close.

“The Commissioners can see no reason for altering their opinion, so often repeated, that you are entitled to no further delay than you have already had, except for cause specially shown; you have averred no special reason for the long delay you now ask, and they feel compelled, by many considerations, to decline acceding to either of your propositions.

“At the same time the Commissioners have instructed me to say that they are anxious to remove every question of complaint on this score, and feel disposed to adjourn the investigation to 6th November, if such delay will secure your proceeding with your defence uninterruptedly to its termination.

“The Commissioners were not prepared for the demand you have now made, and they feel bound to protect themselves from its repetition at a future stage of the proceedings; and I am therefore to add that the delay they are now disposed to concede, can only be granted on the express understanding, that no similar application shall be made hereafter, except upon special causes shown.

“You will be good enough to advise me, at once, as to your decision in the premises.

“I have the honor to be,

“Sir,

“Your most obedient Servant,

(Signed,) “GEO. BROWN,  
“Secretary.

“HENRY SMITH, Esquire,  
“Warden, Provincial Penitentiary.”

No. 3.

Copy.—Letter, Warden to Secretary.  
PENITENTIARY, 30th October, 1848.

“Sir,

“I beg to acknowledge the receipt of your letter of this date, wherein I am required by the Commissioners to proceed with my defence on the 6th proximo, and to continue therein uninterruptedly until the close of it.

“I must again repeat, that it will be impossible for me to do so, owing to the necessary research I am compelled to make into the various books and documents of the office, relative to matters which have occurred a long time ago, as well as my own private

papers, extending over a term of several years, and some of which being lost or mislaid, it will become necessary to supply their deficiency by oral testimony, which it will take some time to seek for; besides which, as you are well aware, I have for the last three weeks been constantly engaged in my defence of the first four charges made against me, and have thus been precluded from making further preparation for my defence against the remainder.

“I beg to add that I shall be ready to proceed with the examination of the fifth charge, on the 6th November next.

“I have the honour to be,

“Sir,

“Your most obedient Servant,

(Signed,) “H. SMITH,  
“Warden.

“GEO. BROWN, Esquire,  
“&c. &c. &c.”

No. 4.

Copy.—Letter, Secretary to Provincial Secretary.

“Provincial Penitentiary Commission Room,  
“KINGSTON, 31st October, 1848.

“Sir,

“I had the honour on the 16th instant, to report to you for the information of His Excellency the Governor General, the state of the Inquiry into the past conduct of the Warden of the Provincial Penitentiary, and I am now instructed by the Commissioners to address you again on the same subject.

“On Saturday last, 28th instant, the Warden closed his defence on the first four of the eleven charges preferred against him; his defence upon them occupied three weeks, and the line of evidence, to the close, was not different from what I have already communicated as to the first week. During the three weeks, he recalled twenty-seven of the witnesses in support of the charges, and carried them over the same ground, though at much greater length than they had gone with the Commissioners; and he called thirty-four new witnesses, of whom twelve were Convicts; but far from answering satisfactorily any one of the twenty-eight counts comprised in the four charges; in the opinion of the Commissioners, the evidence of his own witnesses greatly strengthened the case of the prosecution.

“When the Warden had closed his case so far, he intimated to the Commissioners that he could not proceed further in his defence, without time being afforded him for preparation; and at the same time, he submitted two propositions, viz: that he should be allowed one week to prepare his defence on the 5th charge, and a longer or shorter time, additional, before proceeding with each of the other six charges; or that he should have until 21st November to prepare his case so as to go on uninterruptedly to the close.

“On mature consideration of all the circumstances, the Commissioners found no reason to alter their previous opinion, that the Warden was not justified in asking any delay in the matter; but being desirous to remove every shadow of just complaint on this score, they resolved to offer him a delay of one week, provided he would then proceed without

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

further interruption. A letter was accordingly transmitted to the Warden, on 30th instant, communicating the views of the Commissioners; but an answer was received the same day, intimating that the Warden could not proceed at earlier dates than those named by him on Saturday.

"Were the Warden's demands to be complied with, and should his defence on the remaining charges proceed no faster than on the first four, it would occupy over four months; and an earlier termination than 10 or 12 weeks could not be hoped for. But setting aside the procrastinating character of the evidence produced by the Warden, and the unreasonable time demanded for preparation, the Commissioners feel that his own witnesses have so completely established the total disorganization pervading every part of the Institution, that they could not, with justice to the public interests, entertain any propositions which would leave matters as they now are, for an extended period.

"The Commissioners are, however, unwilling to allow the Warden the opportunity of saying that he could have met all the charges against him if he had only been allowed time for preparation; and to take away every such pretext, and at the same time protect the public interests, they have resolved to suggest, for the consideration of the Head of the Government, the suspension of the Warden during the further progress of this investigation.

"Apart from the necessity of the case, the Commissioners see great public advantage in such a course. Should the Government see proper to suspend Mr. Smith and to appoint a *locum tenens*, with instructions to act under the advice of the Commissioners, they feel assured that improvements may be effected more satisfactorily, and with greater promptitude than by any other course; a stop will be immediately put to the systematic caballing and espionage among Officers and Convicts, now going on within the walls; the waste and extravagances in several departments may be at once curtailed, and while the Warden will be afforded any length of time he may desire for preparation, it is probable that the time occupied in his defence will be shortened in consequence.

"Should His Excellency act on this recommendation, the Commissioners would respectfully suggest that the gentleman temporarily appointed may be given to understand that his permanent appointment to the situation (should further action in the case of the Warden become necessary) is not to be calculated upon. It has been constantly forced on the observation of the Commissioners, that however good the rules of a Penitentiary may be, unless a man who knows his duties and has his feelings heartily engaged in them is at the head of its affairs, all will be fruitless.

"It is obvious that the views of the Commissioners could not be effectually carried out, while the present Inspectors of the Penitentiary continue to control the affairs of the Institution; and to obviate the inconvenience which may arise in consequence, it is respectfully submitted, whether the functions of the Board of Inspectors would not also be advantageously suspended during the further existence of the Commission.

"If the Government see proper to adopt the measures herein recommended, the Commissioners intend to go on, at once, with the second branch of

their inquiry, viz: the improvement of the Penitentiary system in all its branches; they propose to send a deputation of their number, to examine the practical working of three or four similar Institutions in the neighbouring States, and to embody their whole proceedings in one final report. In this way, they feel assured that their whole proceedings may be satisfactorily closed within the present year.

"I have the honour to be,

"Sir,

"Your most obedient Servant,

(Signed,) "GEO. BROWN,  
"Secretary.

"To JAMES LESLIE,  
"Provincial Secretary."

No. 5.

Copy.—Letter, Warden to Secretary.

"PENITENTIARY, 4th November, 1848.

"Sir,

"With reference to the conversation that passed between me and the Commissioners, on the 21st ultimo, I have now to request you will be pleased to inform me of the names of the witnesses whose evidence you intend to expunge in the charges made against me; or on the other hand, if it is the intention of the Commissioners to produce all the witnesses whose testimony has been taken in my absence, for the purpose of being cross-examined by me.

"I have further to request you will be good enough to inform me whether it is the intention of the Commissioners to resume the inquiry into my case, on the 6th instant, at the Penitentiary, or in the Commission Room in Kingston.

"I have the honour to be,

"Sir,

"Your most obedient Servant,

(Signed,) "H. SMITH,  
"Warden.

"GEO. BROWN, Esquire,  
"&c. &c. &c."

No. 6.

Copy.—Letter, Secretary to Warden.

"Provincial Penitentiary Commission Room,  
"4th November, 1848.

"Sir,

"I am in receipt of your letter of this day, and having submitted it to the Commissioners, I am instructed to refer you in reply to my letter of 30th ultimo, and to add, that until you declare your readiness to proceed with your defence to its close without interruption, the Commissioners will not proceed further in the matter. They will then examine Officers and Convicts at the Penitentiary, and other parties at the Commission Room, Kingston.

"The following extracts from the Minutes of the Commission of 28th ultimo will give you the further information you desire:—

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

"It was mutually agreed between the Commissioners and the Warden, that in as far as the first four charges are concerned the Warden shall dispense with re-examination of the following witnesses, viz:—Maurice Phelan, Eustache Coté, Eliza Quinn, James Brennan, Thomas Hems, M. B. White, and Henry Robinson,\* and that as regards the said four charges, the Commissioners shall not use the evidence of the said witnesses in making their report to the head of the Government.

"Edward Utting and John H. Freeland are the only other witnesses on the first four charges yet to be re-examined, and the Commissioners hope to secure their attendance on Thursday next.

"I have the honour to be,  
"Sir,  
"Your most obedient Servant,  
(Signed,) "GEO. BROWN,  
"Secretary.

"HENRY SMITH, Esquire,  
"Warden, Provincial Penitentiary."

No. 7.

Copy.—Letter, Warden to Secretary.

"PENITENTIARY, 5th November, 1848.

"Sir,

"I beg to acknowledge the receipt of your letter of yesterday's date, which reached me this day; in reply to which I have to state that I perfectly understood I was to be prepared to go through the several charges, each charge to be completed before going into the succeeding one, and so to continue without delay until the whole were investigated; for which purpose I shall be ready to proceed to-morrow morning, notwithstanding my doubts to the contrary as expressed in my letter of the 30th ult. You will no doubt recollect when I was before the Commissioners on the 28th ult., it was suggested I should cross-examine the evidence count by count, but this was abandoned on account of the frequent attendance that would be required of the several witnesses, and it was then agreed that each charge, whatever the number of counts in it, should be taken separately, with which understanding I left the Commissioners, and shall accordingly be ready to resume my defence in the manner stated without causing them any delay. I have therefore, again, to request you will be pleased to let me know, whether it is the intention of the Commissioners to re-commence to-morrow, and where they will hold their sitting, in order that I may be prepared for the same.

"I noticed among the names of the witnesses, whose evidence you intend to expunge, that of Henry Robinson, which does not appear in the charge, so that I suppose it is intended for Richard Robinson.

"I have the honour to be,  
"Sir,  
"Your most obedient Servant,  
(Signed,) "H. SMITH.  
"Warden.

"GEO. BROWN, Esquire,  
"&c. &c. &c."

\* Read Richard Robinson.

Appendix  
(B.B.B.B.B.)  
30th May.

No. 8.

Copy.—Letter, Secretary *pro tem.* to Warden.

"Provincial Penitentiary Commission Room,  
"KINGSTON, 6th November, 1848.

"Sir,

"I am in receipt of your letter of yesterday's date, in which you express your readiness to proceed forthwith with the fifth charge, and to continue without delay your defence of the remaining charges.

"I have to inform you that the Commissioners not anticipating from the tenor of your letter of 30th ultimo, that you would be prepared to comply with the stipulations which the Commissioners then required, have under their consideration matters which may probably occupy them for a day or two longer; they will lose no time, however, in acquainting you with the earliest moment at which they will be disengaged.

"The Commissioners hope that Mr. Utting and J. H. Freeland will be in attendance on Thursday next.

"I have the honor to be,  
"Sir,  
"Yours, very faithfully,

"E. CARTWRIGHT THOMAS,  
"Commissioner.

"HENRY SMITH, Esquire,  
"Warden."

The Warden resumed his defence on 10th November, and continued it until the 15th, when another interruption occurred, which the following documents explain:—

No. 9.

Extracts from Minute Board of Inspectors, 13th November, 1848.

\* \* \* \* \*

"The Board took into consideration the Warden's Report of the 31st ultimo, respecting the Gatekeeper, Edward Bannister, and he having acknowledged that he had received fees from visitors, the Board directed his removal to some other post in the Institution."

\* \* \* \* \*

"The Board proceeded with the investigation of the complaint against the Guard James Wilson, (which was commenced on the 31st ultimo,) for using improper language and threats towards Guard George Fee, and having heard the remainder of the evidence against him, as well as a portion of his defence, adjourned till to-morrow morning at eight o'clock, for the purpose of enabling the accused to produce further evidence in his favour."

No. 10.

Copy.—Minute, Board of Inspectors, Provincial Penitentiary, 14th November, 1848.

"The Board met at 8 o'clock A.M., pursuant to adjournment. Present:—Thomas A. Corbett, Esquire, President; James Hopkirk and Henry Gildersleeve, Esquires.

Appendix  
(B.B.B.B.B.)  
30th May.

"The Board having taken into consideration the Warden's report of the 31st ultimo, relative to the Gate-keeper, John Cooper, and he having acknowledged that he had put into his pocket money left by visitors on the lodge table, direct that the Head Keeper remove him to some other post in the Establishment.

"The Board proceeded with the examination of the witnesses brought forward by James Wilson, in his defence, and having completed the same, adjourned for the final consideration of the case until 3 o'clock, P.M.

"KINGSTON, 14th November, 1848.

"The Board met at 3 o'clock P.M., agreeable to adjournment. Present: T. A. Corbett, Esquire, President; Geo. Baker, James Hopkirk, and Henry Gildersleeve, Esquires.

"The Board resumed the consideration of the complaint brought by Keeper William Smith, against Guard James Wilson; and having heard the witnesses produced by him, in his defence, and taken the whole case into consideration, find it clearly proved that Guard Wilson's conduct was most improper in using the language and threats which he did on the occasion referred to, and that too, without any sufficient cause of provocation, in place of appealing to his superior Officer as he ought to have done, if he considered himself aggrieved. And they are of opinion, that a person guilty of such conduct is unfit to be intrusted with the duties of Guard in the Institution; they therefore direct his dismissal. The Head Keeper will read this decision of the Board to Guard Wilson, in presence of the other Keepers and Guards."

No. 11.

Extract from Minutes of Penitentiary Commission, 15th November, 1848.

"The Warden was called in, and his explanation was required of the circumstances which led to his having reported to the Board of Inspectors, the conduct of Guards Bannister and Cooper, in having received money from visitors; a knowledge of such conduct, on the part of the Guards in question, having been elicited upon their cross-examination before the Commissioners, in the matter of the Warden's defence.

"The Warden explained that he had reported the matter, as he did everything to the Board of Inspectors.

"The Chairman having called the Warden's attention to a pledge given to the Board, in reference to this subject; the Warden explained that he had undertaken that the witnesses should not 'suffer,' and in his opinion they had not 'suffered,' as these men had not been 'dismissed,' but had only been removed from their station at the gate.

"The Warden was then requested to retire. The Commissioners deliberated on the foregoing circumstances, and adopted the following resolutions:

"That the Warden, having given his pledge to the Commissioners that no witnesses under examination by him, should suffer any annoyance on account of anything which the said witness may disclose in evidence; has notwithstanding, and in direct violation of his pledge, reported to the Board of Inspectors

the evidence of Guards Cooper and Bannister, given before the Commissioners, and upon which report the said Guards have been removed from their position at the gate.

"The Commissioners, considering the conduct of the Warden highly culpable, decline to continue the defence of the Warden upon the remaining charges until Guards Cooper and Bannister shall be restored to their former position in the Institution; and until the restoration of the said Guards shall have been publicly notified at a general Roll-call of the Officers of the Penitentiary, upon which occasion the Commissioners purpose to be present.

Resolved,

"That the question now under consideration, be immediately referred to His Excellency in Council.

"The Warden was again summoned to attend the Board, and the foregoing resolution having been read to him, he declared that he had undertaken that the men should not be 'dismissed,' but not that they should not 'suffer any annoyance.' A written pledge was then shown to the Warden, as having been obtained from him on behalf of all witnesses, and which pledge had especial reference to the witnesses Cooper and Bannister. The Warden admitted the pledge produced, to have been signed by him; but expressed his inability to comply with the requirements of the resolution, the matter having been now referred to the Board of Inspectors.

\* \* \* \* \*

"The written pledge which had been given by the Warden, on the occasion referred to, was put in and ordered to be recorded on the Minutes, as follows:—

"I hereby engage that no witness shall suffer any annoyance for giving his answers to questions put by me before the Commissioners, except for perjury.

(Signed,) "H. SMITH,  
"Warden."

No. 12.

Copy.—Letter, President of Commissioners to President Board of Inspectors.

"Provincial Penitentiary Commission Room,  
"KINGSTON, 15th November, 1848.

"Sir,

"I have to forward for the information of the Board of Inspectors, the following resolutions which have been adopted by the Commissioners this morning.

Resolved,

"That the Warden having given a pledge to the Commissioners that no witness, under examination by him, should suffer any annoyance on account of anything which the said witness may disclose in evidence, has notwithstanding and in direct violation of his pledge, reported to the Board of Inspectors the evidence of Guards Cooper and Bannister, given before the Commissioners on the 18th of October last, and upon which report the said Guards have been removed from their position at the gate.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
50th May.

"The Commissioners considering the conduct of the Warden highly culpable, decline to continue the defence of the Warden upon the remaining charges, until Guards Cooper and Bannister shall be restored to their former position in the Institution, and until the restoration of the said Guards shall have been publicly notified at a general Roll-call of the Officers of the Penitentiary, upon which occasion the Commissioners purpose to be present.

It is further resolved,

"That the question now under consideration, be immediately referred to His Excellency in Council.

"The Warden having stated that in consequence of having referred the conduct of Guards Cooper and Bannister to the Inspectors, he had no longer the power of complying with the terms of the accompanying resolutions. I have to direct the attention of the Board of Inspectors, to the decision of the Commissioners on this subject.

"I have also to express the Commissioners' regret that the Board of Inspectors should have thought it necessary to come to any decision upon the conduct of Cooper and Bannister, with reference to the charges reported by the Warden during so important a period of the Commissioners' labours; as the Commissioners cannot but feel that the matter might have been deferred without detriment to the Institution; while the decision of the Board of Inspectors, in the opinion of the Commissioners, is calculated to deter the Officers of the Institution from giving unreserved evidence before the Commissioners.

"I have the honour to be,  
"Sir,  
"Your obedient Servant,

(Signed,) "ADAM FERGUSSON,  
"Chairman.

"To T. A. CORBETT, Esq.,  
"Chairman of the  
"Board of Inspectors."

No. 13.

Copy.—Letter, Chairman of Commission to Provincial Secretary.

"Provincial Penitentiary Commission Room,  
"KINGSTON, 15th November, 1848.

"Sir,

"I have to inform you, for the information of His Excellency in Council, of the following circumstances in reference to our proceedings as Commissioners of the Provincial Penitentiary:—

"In the course of the Warden's cross-examination of certain Guards of the Penitentiary, named Cooper and Bannister, on the 13th of October last, in his defence of the charges then under consideration, each of these witnesses was asked by him if he had ever received money from visitors of the Penitentiary? The witnesses appealed to the Commissioners whether they were obliged to enter into explanations calculated to injure themselves? and the Commissioners being desirous to afford the Warden full latitude in his defence, decided that they should make the required admissions, upon the full assurance,

both from the Warden and the Commissioners, that no witness should suffer annoyance of any kind, on account of the evidence which such witness might give.

"In the course of Monday last, these same Guards were again called by the Warden, for further cross-examination in defence, when they gave their testimony as before, very much to the satisfaction of the Commissioners, but without reference to the subject upon which they had been formerly examined. In the course of yesterday, the Commissioners were greatly surprised to learn from these Guards, that the Board of Inspectors had had their conduct under consideration, on a charge by the Warden, of having received money from visitors; and that having been found guilty upon their own evidence, the Board of Inspectors had publicly ordered that they should be removed from the station which they had long occupied, to one which the Guards generally consider to be of an inferior character.

"The Commissioners having inquired, this morning, into the circumstances of this case, have found that the foregoing statements have been fully confirmed; and an explanation from the Warden having been requested, that Officer remarked that he had felt it to be his duty to report the admissions of the Guards to the Inspectors, as he did all other matters connected with the Institution. The Warden was reminded of the pledge which he had given to the Commissioners in relation to all witnesses, and especially with reference to these particular Guards; upon which he replied that he had undertaken they they should not 'suffer' by their evidence, and he considered that they had not 'suffered,' as they had not been dismissed, but had merely been removed from one place to another. The Warden was then shewn a *written* pledge from himself, in which he had engaged that no witness should 'suffer any annoyance' on account of the evidence which he might give before the Commissioners. His reply to this was, that he considered his promise had reference only to dismissal. It may be observed that there has never been any room for difference of opinion on this subject; the witnesses have been continually informed in the Warden's presence, that they might give their evidence freely and without fear of the consequences; and the Warden has as frequently observed, that 'no notice' would be taken of their evidence as long as they abstained from perjury.

"The Commissioners have felt their position to be greatly compromised by the foregoing proceedings; and cannot resist the impression that the course which has thus been taken by the Warden and Inspectors is not only calculated to deter witnesses from giving unbiassed evidence before them, but that it has been adopted with this view and for this purpose.

"In corroboration of this opinion, the Commissioners would direct His Excellency's attention to the circumstances that the evidence which furnished the accusatory matter against Cooper and Bannister, was delivered on the 18th of October last; that no notice was taken until these persons had been further and perhaps finally examined on the charges against the Warden; and that, on the evening of the very day on which such evidence had been given, the Board of Inspectors held a meeting, at which they decided on the case of Bannister; and on the following morning at eight o'clock, they again sat on adjournment on the case of Cooper.

Appendix  
(B.B.B.B.B.)  
50th May.

Appendix  
(B.B.B.B.B.)  
30th May.

"Independently of gross impropriety on the part of the Warden, in having directly violated his solemn pledge, the Commissioners feel that they have just right of complaint that the Board of Inspectors should have entertained and decided upon the charge of the Warden without reference to the Commissioners. The Commissioners conceive that the position which, by the favour of His Excellency, they have been called upon to fulfil, rendered it but an act of courtesy on the part of the Inspectors that under the particular circumstances of this case, the Commissioners should have been consulted, at least prior to decision upon the charge; and they cannot but feel that the whole matter is calculated to lessen their usefulness, in the investigation of the important duties entrusted to them. So deeply are they convinced of the necessity of correcting the impression which these proceedings are calculated to convey, and so satisfied are they that the further investigation of the Warden's conduct will be much restricted if these impressions are not removed, that they have felt themselves justified in suspending their labours, until the Guards in question shall have been restored to their former position, or until the decision of His Excellency upon the circumstances shall be made known.

"I have to forward, for His Excellency's further consideration, a copy of the resolution which the Commissioners have adopted on this subject: also, an extract from the Minutes of the Board of Inspectors of the 13th and 14th instant.

"I have the honour to be,  
"Sir,  
"Your most obedient Servant,

(Signed,) "ADAM FERGUSSON,  
"Chairman.

"The Honourable  
"The Provincial Secretary."

No. 14.

Copy.—Letter, President Board of Inspectors to  
Chairman of Provincial Penitentiary Commission.

"PROVINCIAL PENITENTIARY,  
"16th November, 1848.

"Sir,

"I have the honour to acknowledge the receipt of your letter of last evening, relative to the cases of the Guards Cooper and Bannister, which I lost no time in bringing before the Board of Inspectors at a meeting held this morning, and I now beg leave to enclose a copy of the Resolutions at which they have arrived on the subject.

"I have the honour to be,  
"Sir,  
"Your most obedient Servant,

(Signed,) "THOMAS A. CORBETT,  
"President, Board Inspectors, P. P.

"HON. ADAM FERGUSSON,  
"Chairman,  
"Penitentiary Commission."

Appendix  
(B.B.B.B.B.)  
30th May.

Copy.—Extract from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 16th November, 1848.

"The President laid before the Board a letter from the Chairman of the Commissioners, dated yesterday, and also one from the Warden of the same date, relative to the cases of the Guards Cooper and Bannister; and the Board having taken these communications and the whole subject into their most careful consideration, they came to the following resolutions:—

"That the Warden would have been highly culpable, had he not reported to the Board of Inspectors the cases of the two Guards employed as Gatekeepers, receiving money contrary to the Statute, as well as to the Rules and Regulations of the Institution.

"That while the Inspectors deem it inexpedient to express any opinion as to the propriety of the Commissioners exacting a pledge from the Warden that no witness shall suffer any annoyance on account of any evidence given before the Commissioners, and are not altogether satisfied that the Warden was justified in giving one, and are clearly of opinion that no such pledge could be in the slightest degree binding on them; nevertheless they did, under the circumstances of the case, and in deference to the wishes of the Commissioners as communicated to them by the Warden, give full effect to the pledge, by neither dismissing nor suspending the Guards in question, notwithstanding the gross breach of the statute, and the rules of the prison, of which on their own confession they were guilty; but contenting themselves with simply directing their removal to other stations where they would not be exposed to the same temptations. And the Board consider that with a due regard to the interests of the Institution, they could not possibly have done less, since it is clear that persons who, notwithstanding the solemn oath of office taken by them, and the express enactments of the statute, could not resist the temptation of illegally accepting money, might be liable under similar temptations to be induced to connive at the forwarding of communications to and from the Convicts, which might at any moment lead to escapes, as well as to other and more fatal consequences; and under these circumstances the Inspectors could not without serious detriment to the Institution, have for a moment deferred consideration of the matter.

"The Board further conceive that to direct the removal of any Guard from one station to another in the Prison cannot possibly be construed into any annoyance, since it is in conformity with the constant practice of the Institution to do so at all times when it may be considered expedient, and since such removals are not considered as inferring any degradation; and in the present instance the Guards in question have not been lowered in their stations, as they receive the same pay, and the immediate reasons which operated with the Inspectors in directing the change in their stations were not publicly announced, nor did they receive any reprimand or even admonition.

"That in the exercise of the powers conferred on them by the law, and which so long as they hold their position of Inspectors they are bound to use in the manner which they consider most conducive to the interest of the Institution, the Inspectors neither in the remotest manner intended to interfere, nor did interfere with the proceedings of the Commissioners,

Appendix  
(B.B.B.B.B.)  
30th May.

a course which they have on all occasions most scrupulously avoided, so much so that the Board have, for the purpose of avoiding the semblance of such interference, omitted on several occasions to notice the improper conduct of some of the subordinate Officers of the Institution, in consideration of the cognizance of such conduct having transpired in the course of the inquiry before the Commissioners.

"That the Board, from their anxiety to afford the Commissioners every facility in the course of their inquiries, gave immediate directions on their arrival that the whole books and papers should be opened to them, and that every information should be afforded to them; and they likewise directed their Board Room to be placed at their disposal, and put themselves to the inconvenience of meeting when necessary at most unseasonable early and late hours, rather than hold such meetings at such times as the Commissioners were assembled, and of so causing delay or inconvenience to them.

"That in the opinion of the Board, it is the duty of the Warden to carry these orders into full effect; and they take the present opportunity of expressing their satisfaction with the manner in which he has at all times done so; and had that Officer, in defiance of their orders, directed that the Gate-keepers should return to their former stations, they would have deemed it a gross violation of his duty.

"That while the Inspectors are not aware that the powers conferred on the Commissioners authorize them to interfere directly with the discipline of the Institution, they have been at all times most ready to meet their wishes and to attend to their suggestions, where they could do so consistently with what they considered their duty. They, therefore, regret that in the present instance, a sense of that duty prevents them from permitting the Warden to direct the late Gate-keepers to return to their former stations; still less could they comply with the requirements of the Commissioners, that the restoration of the Guards shall be publicly notified 'at a general Roll-call of the Officers of the Penitentiary, upon which occasion the Commissioners propose to be present;' a course which would be bringing the authority of the Inspectors into the greatest contempt with all the Officers of the Institution; a degradation to which the Board can on no account submit.

"That a copy of these Resolutions be forwarded by the President with a suitable letter to the Secretary of the Province for the information of His Excellency the Governor General, and that a similar copy be forwarded by him to the Chairman of the Commissioners for their information.

"A true Copy."

(Signed,) "F. BICKERTON,  
"Clerk."

No. 15.

Copy.—Letter, Chairman of Commission to President Board of Inspectors.

"Provincial Penitentiary Commission Room,  
"KINGSTON, 17th November, 1848.

"Sir,

"I have the honour to acknowledge the receipt of your letter of yesterday's date, enclosing certain

29

resolutions adopted by the Board of Inspectors at a meeting held yesterday morning.

"I am, Sir,  
"Your obedient Servant,

(Signed,) "ADAM FERGUSSON,  
"Chairman.

"To A. CORBETT, Esquire,  
"&c. &c. &c."

On 20th November Mr. Smith was removed from the Wardenship of the Penitentiary, until the result of the Inquiry be known, and Donald Æ. M'Donell, Esquire, was appointed *pro tem*.

No 16.

Copy.—Letter, Chairman of Commission to Mr. Warden Smith.

"Provincial Penitentiary Commission Room,  
"KINGSTON, 21st November, 1848.

"Sir,

"I have to inform you that the Commissioners, taking into their consideration the altered position which you now occupy in relation to the Provincial Penitentiary, no longer deem it necessary to enforce their resolution of the 15th instant; so far as, by that resolution they had determined upon postponing the further prosecution of your defence until certain Guards had been re-instated in the position which they had held.

"The main object which the Commissioners had in view, in coming to the resolution referred to, was to afford an assurance of protection to the witnesses who might be summoned before them to give evidence; this assurance the Commissioners consider your interim removal from the Penitentiary will effectually guarantee; and they therefore see no longer any obstacle to the continuance of your defence, as soon as you shall have notified them that you have removed from your present residence within the walls of the Penitentiary.

"I have the honour to be,

"Sir,  
"Your obedient Servant,

(Signed,) "ADAM FERGUSSON,  
"Chairman.

"To HENRY SMITH, Senior, Esquire,  
"&c. &c. &c."

As comments have been made on the ejection of the ex-Warden from the apartments occupied by him, immediately on his removal from his office, it is necessary to explain the motives which actuated us in the line of conduct which we adopted.

The act of Parliament assigning to the Warden a residence within the walls of the Prison, and it being absolutely necessary to the safety of the Institution that he should be actually on the spot, no alternative appeared to be offered with relation to Mr. Warden M'Donell's immediate possession of the residence assigned to him by virtue of his office. Taking into consideration the relative positions of the ex-Warden and his successor, it is manifest that a joint occupancy by them of the Warden's apartments would have placed both in a most disagreeable

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

situation; one which could not fail to lead to personal disputes and collisions. The cabals amongst the Officers, which had already arisen to such a height as to be destructive of the discipline and consequently dangerous to the security of the Prison, would derive support and encouragement, even without any participation in them by Mr. Smith, from such an arrangement; and the new Warden on entering on the duties of his office, under doubly arduous and responsible circumstances, would have appeared in their eyes as holding a divided authority with his predecessor, or at all events as deprived of some portion of that almost absolute power which his predecessor formerly wielded and which the Warden of such an Institution must necessarily enjoy. We felt that our duty to the public was paramount to all private considerations, and that duty distinctly pointed out the proper course to pursue.

No. 17.

Copy.—Letter, Mr. Warden Smith to Chairman of Commission.

PENITENTIARY, 22nd November, 1848.

“ Sir,

“ I beg to acknowledge the receipt of your communication of yesterday's date which reached me this morning, and in reply thereto I have to state that having referred the matter of my immediate removal from the Dwelling-house, in the Penitentiary, to the Government, I shall not be able to remove from my present residence until I get an answer thereto. In the meantime I have to inform you that I have this day taken a house which although not altogether ready for my reception, will be so by the time I receive the reply referred to.

“ I have the honour to be,

“ Sir,

“ Your most obedient Servant,

(Signed,) “ H. SMITH.

“ Hon. A. FERGUSON,  
“ &c. &c. &c.”

No. 18.

Copy.—Letter, Chairman of Commission to Mr. Warden Smith.

“ Provincial Penitentiary Commission Room,  
KINGSTON, 26th November, 1848.

“ Sir,

“ Referring to my letter of the 21st instant, I have now to inform you that the Commissioners hope there will be no obstacle to the continuance of your defence to-morrow morning at ten o'clock, at the Penitentiary; at which hour the Commissioners intend to be in readiness.

“ I am, Sir,

“ Your obedient Servant,

(Signed,) “ ADAM FERGUSON,  
“ Chairman.

“ HENRY SMITH, Senior, Esquire,  
“ &c. &c. &c.”

Appendix  
(B.B.B.B.B.)  
30th May.

The Warden having resumed his defence on the 28th November, continued it from day to day (with one intermission of four days, at our instance) until the 19th January. The utmost latitude was allowed him as to the line of defence and the manner of examining the witnesses, and every facility was afforded him for meeting the charges. On 19th December, Mr. Smith, on an application to the Commissioners, was informed that he will be entitled to call any of the Commissioners to disprove any fact or circumstance alleged against him in the charges, in case he cannot effect the same by other witnesses.

Mr. Smith had gone through all the charges with numerous witnesses, and were hourly expecting him to close his case, when, on 19th January, he requested Mr. Commissioner Brown might be sworn. This having been done, Mr. Smith proceeded to ask a number of questions of the witness, as to the proceedings of the Commissioners and the manner in which they obtained their information, which were all quite irrelevant and were accordingly over-ruled by us. Thereupon, Mr. Smith rose and said: ‘ Now, gentlemen, since you refuse to give me the information which you promised, such as cannot be got elsewhere, I shall not pursue my defence further before you, but shall apply to another quarter,’ and then left the room.

We have no doubt that the Warden had entirely exhausted his case.

We lost no time after Mr. Smith closed, in proceeding to sift the evidence before us; and as over 1300 pages of testimony were recorded on our minutes, the task was not a light one. We have weighed the testimony with great care, and now respectfully present the charges with a digest of the evidence thereupon as the result of our deliberations:—

#### REPORT ON CHARGES PREFERRED AGAINST THE WARDEN.

##### CHARGE I.

PERMITTING IRREGULAR PRACTICES IN THE PENITENTIARY, DESTRUCTIVE OF THE DISCIPLINE NECESSARY IN SUCH AN INSTITUTION.

##### 1st. Favouritism towards particular Convicts.

Under this count several distinct points of favouritism were charged, on the evidence of a number of witnesses. It is proved and uncontradicted, that Convicts Young, Cameron, and DeBlois had particular seats in the Dining-hall, and we think it proved that they were supplied occasionally with articles of food which the other Convicts did not get. It is proved and not denied, that the Kitchen-waiters and Stable-men had particular seats in the Dining-hall; we think it is proved by the testimony of M<sup>r</sup> Garvey, Wilson, and Fitzgerald, that these men supplied themselves better than the other Convicts. Mr. Utting, Fitzgerald, Kearns, Watt, Pollard, and Convict Henry Smith, prove that extra food has been at various times given to particular Convicts at the mere will of the Kitchen-keeper, or his Convict assistants.

George Sexton testifies, that, “ the Kitchen-keeper always decided upon the complaints of the Convicts as to the insufficiency of their food. When Frank Smith thought the Convict complaining had enough of food, he refused his application; when not enough he gave him more; he was the sole

Appendix  
(B.B.B.B.B.)  
30th May.

judge of the matter. And it is proved by Head-keeper Costen, that the Kitchen-keeper sometimes gave, and at other times withheld, further supplies when complaints were made."

The Warden, in defence, called witnesses to prove generally that they had never seen any favouritism.

William Atkins, a Supernumerary Guard, thinks "there was no favouritism."

Guard Watt says, he "never knew any favouritism shown," but he himself gives instances of such.

Guard Rowe says, he "has never seen any partiality," but had been only seven months in the Prison when the Commissioners first sat.

Guard Tyner says, he "never saw any favouritism."

Mr. Costen, speaking of the table where the Kitchenmen and Stablemen sit, says, "there is not more food at these than the other tables."

Guard Martin says, he "never observed any partiality," but it afterwards appears that he has only been occasionally down in the Dining-hall for the last three years, for the purpose of keeping quietness among the Convicts.

George Sexton says, he has "never noticed that one Convict is fed better than another," but in his cross-examination he gives instances of favouritism.

Guard Thomas Smith says, he "never saw a bit of partiality," but it afterwards appears that he has not attended in the Dining-hall within the last five years.

Thomas Somerville says, "he never saw any partiality," but he was only three months a Guard in the Dining-hall, and that last winter."

It is evident that these general denials do not meet the specific cases established by the other witnesses.

The charge of favouritism in giving out clothing to discharged Convicts has not been sustained; better suits have been given at one time than another; but there is no ground to impute improper motives therein.

From these practices, we are of opinion, that a feeling has sprung up in the Prison, that the Convicts are not placed on a footing of perfect equality; and no more injurious impression could be made on men over whose minds it is sought to obtain an influence. There can be little reform in a Prison when the Convicts have not perfect confidence in the Officers, and there can be no confidence where partiality exists; even the appearance of favouritism should be studiously avoided, for no class of men can be found more sharp in discovering the failings of others than the inmates of Prisons.

## 2. GIVING FOOD TO CONVICTS BETWEEN MEALS.

Guard Kearns says:—"Convicts are often in the habit of getting extra provisions from the Kitchen between meals; some of the Convicts only can get this privilege, and it was considered a great thing to stand well with the Kitchen-keeper."

Ex-Keeper James Gleeson, "Knows that provisions were often obtained by Convicts between meals."

Keeper John Swift, "Knows that favourite Convicts could get extra rations before meals."

This testimony is fully corroborated by Wilson, Fitzgerald, Freeland, and Watt, and it is met by the defence with the statements of Head-keeper Costen, that he "never knew an instance of a Convict getting food of any kind between meals from the Kitchen or Dining-hall. Two or three times men discharged from sick-list when going out to work have got some food, but never in any other case;" and by that of Guard Sexton who says, "he has heard of such a thing, but never saw it, or knew of it from his own observation."

We are therefore of opinion, that the charge is established, and we regard it as a serious irregularity, fraught with all the moral evils adverted to under the last count, as well as destructive of discipline. The dietary and meal hours are fixed by regulations, and it must be presumed that the wants of all the Convicts are properly provided for.

## 3. PERMITTING TEAMSTERS, AND ALL OTHER PERSONS ON BUSINESS, TO GO AMONG THE CONVICTS UNACCOMPANIED BY A GUARD.

Edward Bannister (Gate-keeper,) in his preliminary examination says:—"Teamsters coming in and going out of the Penitentiary are not searched, unless they have something suspicious about them; there are teams going and coming constantly every day. Has opened the team gate one hundred and fifty times in one day; the teamsters go right in among the Convicts; they have no Guard with them, and can wander all over the yard. \* \* \* Only the names of visitors—strangers inspecting the Institution are entered in the book at the gate. Persons visiting the Warden, and those on business are not entered: nothing like the whole number of persons have their names registered."

By Mr. Smith:—

"Never heard of any Rules of the Prison for searching individuals; heard of such a rule as to wag-gons; would think it hard to search a decent man; but if there was a general rule no decent man would object to it. Witness sometimes goes into the yard with teamsters having hay, oats and straw, and sometimes shows the way to the Kitchen to others; has shown strangers down to the office; comes sometimes to the office with strangers who don't know the way; sometimes cannot get down with such strangers, being alone at the Gate. It would only require one extra Guard to enable every cart to be accompanied by a Guard into the Prison; he would take one in at a time, and any others would remain till he returned; there would be detention until the Guard could return; there is detention as it is now from the meal-hours; there is no other detention, except when the Guard at the Gate thinks too many carts are within the walls at once; this does not happen often. There is also sometimes detention with hay and oats, if Cooper or witness are absent from the Lodge, in which case such loads have to wait until a Guard comes."

"The attention of the Convicts is often taken off their work by visitors, especially if they (the Convicts) know any of them. Witness has received money from visitors when they pressed it upon him."

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

There is a rule against taking money from visitors. Has no recollection that any visitors who gave witness money, ever told witness that he knew any of the Convicts."

John Cooper, (Gate-Keeper,) in his preliminary examination says:—"The names of parties only visiting the Institution are entered in the Book at the gate; persons on business and those coming to see the Warden, are not registered. On the 2d instant (August) the wicket was opened one hundred and ten times, and the large gate sixty-three times; and as many more times when the same parties were going out. Only thirteen of them were entered on the Book. None of these one hundred and seventy-three parties were searched. A good many of these persons so passing were Convicts working outside the stone wall, who went in for water, sharpening tools, &c. Teamsters of all kinds, as a general rule, go right into the yard among the Convicts, unaccompanied by a Guard. Witness has seen over one hundred teams go in in one day."

By Mr. Smith:—

"Goes down into the Prison with Teamsters bringing oats; goes down with persons wishing to purchase stone; after the stone is cut, goes down with the teams to fetch it away; he does not mean always, but sometimes; sometimes no one goes down with teams coming for cut stone; sometimes bring strangers on business down to the Office. Witness cannot tell how many extra Guards it would take to send one with each team into the Prison, so that there would be no detention. It would require more than the one there is now. Does not know if the introduction of visitors into the Penitentiary is hurtful. Gate-keepers are not allowed to take any fee from visitors; has received fees which visitors left on the table."

For the defence James Hopkirk, Esquire, was called, when he testified as follows:—"The subject of the Convicts' getting tobacco, and getting news from outside, has often been matter of conversation with the Inspectors, but does not think any minute of the tobacco was ever made. The Inspectors were led to believe that the Convicts got the tobacco and news, but more particularly the former, from Teamsters coming into the Prison. The Inspectors also suspected that some of the Officers must have participated in the introduction of news, and that they must have been privy to the bringing in of so much tobacco. The Convicts were constantly punished for having tobacco. The introduction of newspapers into the Prison was the subject of correspondence between the Government and the Inspectors. If a trust-worthy Guard were to go down the yard with every Teamster and other visitor, it would prevent the introduction of tobacco in a great measure; two Gate-keepers could not do this without great detention to the vehicles and visitors. Witness would not think the Inspectors warranted in incurring so great an expense as would be necessary to send a Guard into the yard with every vehicle and visitor. Does not know how many vehicles enter the Prison. Thinks it would require very nearly a dozen of extra Guards if there were one hundred vehicles coming in daily. The Inspectors consider the introduction of tobacco a temporary evil, which would soon be obviated by the completion of the buildings, and the consequent exclusion of Teamsters, and other arrangements."

We are of opinion that great injury has arisen from the unrestrained manner in which persons have

Appendix  
(B.B.B.B.B.)  
30th May.

been admitted to the Penitentiary, very many abuses which will be hereafter detailed having flowed from it. The introduction of large quantities of tobacco, the dissemination of news among the Convicts, and the purloining of the property of the Institution, are among these abuses; and they have been in existence for a series of years without any attempt at reformation, as far as appears. We are of opinion that the completion of the buildings was too remote a prospect to justify the sufferance of such an evil, and that the expense of the remedy is not a good plea for the continuance of an abuse which to a great extent frustrated the primary object of the Institution. We think the Warden should have brought this subject earnestly before the Inspectors, but there is no mention in the records of the matter having ever been before them.

We are therefore of opinion that the first charge, "Permitting irregular practices in the Penitentiary, destructive of the discipline necessary in such an Institution," has been proved against the Warden on all three counts.

## CHARGE II.

BY MISMANAGEMENT OR NEGLIGENCE REDUCING THE PENITENTIARY TO A STATE OF THE UTMOST DISORDER.

1. The Convicts talk freely to one another.

Rev. R. V. Rogers, (Chaplain)—Preliminary examination:—

"The silent system is not at all carried out; the men talk and laugh in groups together through the yard, constantly; they know every thing going on outside, and the want of discipline is quite notorious and often noticed by strangers."

By Mr. Smith:—

"Cannot say how often he goes through the yard, certainly once a week; and more frequently some weeks; has seen the Convicts talking and laughing in groups frequently; is not always in the yard, but when he has been there, has seen such conduct going on constantly. Visitors have made the same remark; it is a common saying in town. Does not recollect the names of any parties who have spoken to witness of this, and if he did, he would not name them without their permission."

Ex-keeper James M'Carthy—Preliminary examination:—

"The Convicts talk constantly among themselves, and they hear pretty much all that goes on outside; you can't keep anything from them, they are so sharp."

By Mr. Smith:—

"Convicts were in the habit of talking in witness's shop when he could not help it; always reported them except when talking about their work."

\* \* \* "Thinks the Convicts learnt what was going on outside from new-come Convicts, and Soldiers, and a great part of it from the Warden's house and office; they got stories and news from the Warden's house; cannot recollect any particulars of the news which came through the Warden's house."

Appendix  
(B.B.B.B.)  
30th May.

John Cooper—Preliminary examination:—

"The Convicts talk quite freely in the Penitentiary; there is no discipline whatever in the Institution; they talk openly together, and witness is often ashamed to see them do so openly, when he is going round with visitors; they know very well what is going on outside. A Convict told witness yesterday, that he (witness) was not called up before the Commissioners on Monday, (he was summoned for that day but not called,) and asked witness what he would think if Mr. Brown brought up different orders from Montreal to finish the job."

By Mr. Smith:—

"Witness thinks the discipline very bad in the Penitentiary; sees the Convicts talking; could not say how many Convicts he has seen talking in the last six months; has seen a dozen talking together at one time in the mortar shed, and no one with them; reported the whole of them to Mr. Costen; it was this year, within three months. Sees the Convicts frequently talking; reports them when he knows their names, and has asked themselves their names and also their Keepers; cannot say how many Convicts he has reported for talking in the last three months; does not know that he has reported one; does not report every Convict he sees talking; has not always an opportunity of doing so. The Convicts learn a good deal of what goes on outside, witness thinks; does not know how they learn it; does not know if the Keepers or Guards tell them. Convicts have spoken to witness about matters not relating to their business; they have spoken about the present Commission, and witness referred them to the Warden; Cameron is one; and several others have spoken when witness was going round at night trying the cell levers; witness did not stay to see who they were."

Keeper John Swift—Preliminary examination:—

"The Convicts talk a great deal to one another; to say that the silent system is carried out is a humbug. Many of the Convicts know all that is going on outside; they get the news from the new Convicts, Soldiers and Teamsters."

By Mr. Smith:—

"The Convicts talk together in the yard; cannot say it is any fault of the Warden's that they do so talk; as far as witness knows the Convicts are punished for talking, when reported."

John H. Freeland—(a discharged Convict)—Preliminary examination:—

"There is a great deal of talking among the Convicts; if a man wanted to talk to another he could easily manage it, even although he belonged to another gang; the Convicts told their histories to one another, and the men generally knew what their fellows were in the Prison for. They knew pretty well what went on outside; news went from one to the other, and it was soon known over the whole establishment. The chance of escape was very much the topic of conversation; it is now considered almost hopeless."

By Mr. Smith:—

"The Convicts talked much when witness was at the Penitentiary; the Keeper reported those who talked when he found them out; the Convicts sometimes talked about trying to make their escapes."

Appendix  
(B.B.B.B.)  
30th May.

Mr. Utting, Keely, M'Garvey, Atkins, Fitzgerald, Wilson, and Kearns, all testify that there is a great deal of talking among the Convicts, and that they know pretty much all that goes on outside.

To meet this, the Warden brings Convicts Parker, Price, Montgomery, Crandel, Smith *alias* Johnston, M'Donagh, and Feely, all working in the Carpenter's shop, who testify that there is no talking when the Warden goes into the shop. He also elicits from Richardson, Cooper, and Fitzgerald, that they do not report every Convict they catch talking; from Keely that he always reports such cases; and from Guard Wilson, that he and other Officers speak to the Convicts about other matters than the business of the Prison.

The Warden also produced the following testimony:—

Keeper Manuel:—"Does not allow his men to stand talking in groups, but sometimes cannot help their doing so."

James Hopkirk, Esquire:—"Witness has never seen the Convicts standing laughing and talking on his visits to the Prison; if it had existed it would have attracted witness's particular attention. Witness has been a frequent visitor at the Penitentiary."

Guard Sexton:—"Has never seen Convicts laughing or talking in groups in the yard."

Mr. Sheriff Corbett:—"Visits the Penitentiary frequently; has seen the Convicts talking in a group in a building fronting the new shops; on one occasion called the Keeper, and spoke to him about it; has not seen such things constantly; never saw talking and laughing in the yard."

Head-Keeper Costen:—"Goes round the yard regularly every day; has not seen the Convicts constantly standing, laughing, and talking in groups." \* \* \* "Has reason to know that Convicts have recently been made acquainted with matters they ought not to have known."

The evidence of Mrs. Cox, Mrs. Coulter, and Mrs. Pollard, establishes that there has been a great deal of talking in the female department; the only defence being that the Matrons tried to prevent talking as much as possible: and the testimony of Convict Grace Marks, that "There has been a great improvement among the female Convicts during the last eight and nine months; they have been kept more under subjection. There have been only three or four serious quarrels in that time."

From the evidence adduced directly on this point, and from the facts which have come out accidentally in every stage of the enquiry, we are satisfied that the Convicts have had easy and continual opportunities of making evil communications to one another; and we are satisfied that the benefits to be derived from the silent system have not been realized; but, on the contrary, that prisoners not thoroughly contaminated when they arrived were exposed to very injurious influences.

Appendix  
(B.B.B.B.B.)

30th May.

## 2. THE CONVICTS GET TOBACCO CONSTANTLY BY STEALTH.

Edward Utting—Preliminary examination :—

“There was a great loss of tools, such as planes, chisels, crowbars, gimblets, and other implements; they were stolen and sold to teamsters for tobacco; tools were often found hidden in the yard; some of the Convicts were detected in making away with some of the articles and punished.”

Thomas Fitzgerald—Preliminary examination :—

“The Convicts have always a good deal of tobacco among them; twenty-two or twenty-one plugs of tobacco were found on one Convict.”

By Mr. Smith :—

“The Convicts get tobacco; witness has taken it from them frequently; cannot tell how they get it. One man had about twenty plugs of tobacco at the woodpile; part of it was found on him.”

John H. Freeland—Preliminary examination :—

“The Convicts got a deal of tobacco into their hands, one way and another; they got it from the teamsters; the men used to give them tools and bits of rope, and other things picked up about the yard for it; this was the general understanding of the way that the tobacco came in, and witness has seen Convicts with tools hidden on their persons.”

By Mr. Smith :—

“There was generally tobacco through the Prison; there were few gangs that tobacco could not be found among them; does not know how the Convicts got tobacco. Knows that they sometimes sold tools to teamsters and others for tobacco; witness has found tools hid, and has given them to the Keepers; has seen a Convict pass by with a mortice chisel, and on returning he has been without it; witness asked what had become of it, and the Convict stated that he had sold it for tobacco; Convict showed witness the tobacco; witness generally got tobacco from some of the Convicts, used very little of it.”

Mr. Hopkirk, Mr. Costen, M'Carthy, Atkins, Wilson, Kearns, Swift, Cooper, and Sexton, all agree that the Convicts constantly get tobacco in some way or other.

The defence made by the Warden is, that he always punished Convicts when tobacco was found upon them; that some of the Officers who have testified to the existence of the abuse, have themselves given tobacco to Convicts; and that that portion of the evil arising from teamsters coming in with materials for carrying on the buildings would terminate with their completion.

It is clear that punishing the Convicts on whom tobacco was found, was years ago discovered to be ineffectual to remedy the evil, and it was the duty of the Warden to have directed his earnest attention towards preventing its introduction within the walls by teamsters and strangers. We think that it was inexcusable, his waiting passively for years in the hope that the completion of the buildings would put a stop to the abuse. It was not only the constant breach of discipline which this evil produced that called for an immediate remedy, nor even the loss of property to the Institution from it; far

Appendix  
(B.B.B.B.B.)

30th May.

above these is the consideration that the whole of this tobacco was obtained by stealth, and that in their efforts to procure it, the Convicts served an apprenticeship to all the arts of petty thieving and deceit. We can find no apology, but deeper censure, for the Warden in the allegation, (were it proved) that the Keepers and Guards themselves gave tobacco to the Convicts, contrary to the rules; as the Warden himself selected the Officers and had complete control over them, and some of the Officers, against whom this charge is made, have been in the Institution almost from its commencement, without being called in question for such misconduct.

## 3. THE CONVICTS STEAL FROM THE TRADESMEN COMING IN WITH PROVISIONS.

It appears from the evidence of Keeper Swift, Guard Watt, and Convicts Chagnon and Dyas, that meat and bread have been stolen from the tradesmen's carts on several occasions; but it does not appear to have been a frequent occurrence, and though it is a proof of the exceeding laxity of discipline in the Prison that such a thing could happen, we cannot hold it as a serious charge against the Warden, and we therefore acquit him upon it.

## 4. THE CONVICTS OBTAIN INTOXICATING LIQUORS BY STEALTH.

Martin Keely—Preliminary examination :—

“Has known Convicts to be drunk in the Penitentiary. Soldier White, the Stableman, was horridly drunk one evening; Mr. Utting and all the Keepers were present; he refused to tell where he got the spirits, on examination by Mr. Utting; he was flogged with the cats for being so drunk; this was about three years ago. Recollects another Convict, named Daly, a few months afterwards being drunk; he was employed jobbing about the yard and house; he was examined next day; he refused to tell where he got the spirits; was punished by flogging with the cats; he was very drunk. Has smelt liquor on a man named O'Connor, a tailor, who was frequently employed in Warden's house and store-room.”

By Mr. Smith :—

Recollects Convict O'Connor, who used to be about the Store-room; saw him there frequently while witness was passing to the office on errands. Has reason to suppose O'Connor went into the Warden's apartments, but cannot say he ever saw him going in; never saw O'Connor intoxicated, but has heard that he smelt of liquor; witness never smelt liquor on him. Has seen Convict White drunk, and has seen him punished for it; does not know how he got the liquor; it was supposed he got it from the Warden's Kitchen, on account of his having recourse there. White would not tell where he got the liquor; recollects something about beer; cannot tell if White fed the hogs; recollects seeing him kill hogs. Recollects Convict Daly being drunk; he told witness Mrs. Smith gave the liquor to him; does not recollect if he named what the liquor was; it appears to witness it was brandy; may have told some one that it was brandy. Cannot tell if it was O'Connor's business to go to the Store-room, but he did go.

Edward Utting—Preliminary examination :—

“Has known Convicts to be drunk in the Penitentiary. By reference to his notes, says, that on

Appendix  
(B.B.B.B.B.)  
30th May.

19th December, 1843, a prisoner, named White was drunk in the afternoon; witness ordered him to be put in his cell; White refused to say where he got the spirits; witness reported the case to Warden; Warden made no inquiry to witness's knowledge, as to where White got the spirits; White received corporal punishment. Witness has had reports from Keepers that their men had smelt of liquor. Convict Daly was reported to witness as having smelt of liquor; witness examined Daly on the subject, and Daly admitted that Mrs. Smith had given him drink on the 19th December, 1843. Witness reported Daly's statement to the Warden; does not recollect whether he was punished. On 23d December, following, Daly stated to witness that Warden sent for him to the office, and told him he would flog the flesh off his back for saying that Mrs. Smith had given him liquor."

By Mr. Smith:—

"Recollects Convict White being flogged for drunkenness by the Warden's order. Witness reported the drunkenness to the Warden. White stated after he left the Penitentiary that he had got the drink in the Warden's Kitchen, but when asked about it at the time of the occurrence, he told witness that "he would not tell if witness were Jesus Christ." Never heard what the drink was; but from the smell witness judged it to be spirits. Mrs. Smith stated to witness that it must have been stale beer which was in the Warden's Kitchen for the purpose of making blacking; and she ordered her servant to fetch witness some of the beer to taste. Keepers have reported to witness that Convicts in their gangs have smelt of liquor; M'Garvey was one and Esly another. Witness never gave a Convict anything to drink any where. Recollects Daly being reported for smelling of liquor. Witness did not smell it himself, but reported it to Warden. Questioned Daly as to where he got the drink; Daly stated that Mrs. Smith gave him the liquor, on the day that M'Garvey smelt it. Knows nothing of where Convict Daly got the liquor excepting from Convict's own statement; does not recollect whether Daly was punished for this offence or not."

Terence M'Garvey—Preliminary examination:—

"Knew Stableman White, to be drunk; very drunk; it was in the evening; this was some years ago. Recollects a man in the Tailor's Shop, named O'Connor, who frequently smelt of liquor. Both of these men were in the habit of going to the Warden's apartments. Has been told by Convict Daly that Mrs. Smith had given him brandy the same evening White was drunk; witness reported him."

By Mr. Smith:—

"Recollects a man named O'Connor in the Tailor's Shop; the Tailor's Shop was close to that of witness. Understood O'Connor was in the habit of going to the Warden's house; has seen him coming out of it. Witness's Shop was in different parts of the yard at different times; his Shop was once in the North wing beside the Dining-hall; and at another time, where the Roman Catholic Chapel now is; from neither of these places could witness see the door leading to the Warden's house. Witness saw O'Connor going in and coming out of the Warden's house when about the yard, or when on errands to the Clerk's or Warden's offices; believes he has smelt liquor on O'Connor a few times—three or four times; cannot tell exactly what the liquor was; O'Connor told witness that he had such re-

Appendix  
(B.B.B.B.B.)  
30th May.

course to the Warden's kitchen, that he could get anything he wished, and witness considered he got the liquor there; does not recollect if O'Connor told witness that he got the liquor there. Witness has seen Convict Daly pretty well intoxicated; he was not drunk; he told witness he got brandy; believes he said brandy; he said Mrs. Smith gave it to him; it was at witness's shop where Daly told this to witness; does not recollect what brought Daly to the shop; there was some talk about the affair in the Keeper's Hall the same night, and witness spoke out plainly and said, Mrs. Smith was to blame, from what Daly had told witness; thinks Daly was punished for telling a lie in the matter; witness was asked about the affair in the Warden's office the following morning; does not know who reported Daly to the Warden; witness reported the matter to the Assistant Warden; did not consider it was right to punish the man if what he said was true; does not recollect who reported Daly in the book; does not recollect what punishment Daly received, nor if witness was present when he was punished; is not sure that witness did not sign the report against Daly. Has seen White, a convict, drunk; it was said he got the liquor from the Warden's house; never heard that he got drunk with stale beer; heard that White got bottles of liquor from the Warden's house, and hid them away in the stable, for his own use; it was a common subject of talk among the officers; does not know if any search was made for the liquor; did not consider that it was witness's duty to look after it; White's duty was to look after the horses; does not recollect if he attended to the Warden's hogs; thinks it was not right of the Warden to allow the Convicts to get liquor. These transactions happened three or four years ago, but cannot be positive as to the time."

James M'Carthy:—Preliminary examination:—

"Recollects of Convict White being drunk; has known Daly, a Convict, to smell of liquor; has known O'Connor to smell of liquor three or four different times; recollects another, a servant in Warden's kitchen, but forgets his name; does not know where they got the liquor, but they said they got it from the Warden's house. Daly told witness that he got Baron Grant's wine in the Warden's kitchen, and that there was plenty of it there; there was no other mode of their getting liquor but from the Warden's kitchen; the Warden knew of White and Daly being found in liquor, but witness never heard that he instituted any inquiry into how the liquor was obtained."

By Mr. Smith:—

"Recollects Convict White being drunk; he told witness that he got the liquor from Mrs. Smith in the Warden's house; does not recollect if he said what the liquor was; never heard that White got stale beer in the Warden's cook-house. Does not know if O'Connor was in the habit of going to the Warden's house; he was messenger for the Tailor's shop; O'Connor used to come on messages to witness's Shop, to get a button-hole knife made, or the like of that; could not say how often O'Connor may have been in witness's shop in a year; could not say he ever smelt liquor on O'Connor. White used to be the Stableman; he was so when he was drunk; does not know that the Stableman was in the habit of getting alops from the Warden's kitchen for the hogs; thinks that he used to do so sometimes. Recollects Daly being drunk; did not see him drunk; heard of it from a great many; he was punished for it; does not know how he got drunk; heard he got

Appendix  
(B.B.B.B.)  
30th May.

it from the Warden's apartments. Daly never told witness where he got it; does not know whether the Warden made an inquiry into it; could not say whether he would have been punished without any inquiry."

Guard Wilson testifies that he "saw Convict Welch drunk last summer," but does not know how he got the liquor. Ex-Guard Fitzgerald recollects Convicts "White, Daly, and young George Kelly, being drunk," but "cannot tell where they got the drink." John H. Freeland, "recollects of seeing Coté, Welch, Gordon, and another Convict," under the influence of liquor. Keeper Swift, "recollects White and Graham being under the influence of liquor, but does not know how they got it." Convict Cameron has had beer several times from Mrs. Smith; very often; has had wine several times; has known other Convicts often to get liquor from Mrs. Smith in the kitchen; he "has seen Travis get beer in the Warden's kitchen, and Christmas and Wilkes." Convict Henry Smith, "has had beer three or four times, by orders of Mrs. Smith, the Warden's Wife," "when witness was working in the Warden's private apartments;" "there were three or four Convicts; they were cleaning the house; they all got beer; the cleaning lasted four or five days; they had beer three times." Convict DeBlois, "got a glass of wine from Mrs. Smith," "on account of the trouble he had fixing the books."

The only witnesses called by the Warden are Keeper William Smith and Guard Crawford, whose testimony seems to establish that Welch got drunk by inhaling the fumes of the blue mortar.

We have given the testimony of several of the witnesses very fully, as there is some discrepancy in the details; it is to be remarked, that some time elapsed between the preliminary examination of many of the witnesses and their cross-examination by the Warden; and throughout the whole of the evidence, considering the length of time the events run over, we are not inclined to judge harshly in cases of mere inaccuracy.

We think it proved that a number of Convicts have received liquor while in the Penitentiary, and that in several instances the liquor came from the Warden's private apartments. It is proved that Convicts Graham, White, Daly, and Kelly, were drunk.

The Warden's defence is, that some of the Convicts in question got the liquor while working in his kitchen, and that others stole stale beer from his kitchen; the first we conceive to be no defence, and the latter is not proved. The evil seems to have sprung chiefly from the employment of Convicts by the Warden for his private purposes without the authority of Statute or Regulation; but as that subject is referred to in a later part of the charges, it is unnecessary to enter upon it now.

##### 5. THE REFORMATION OF CONVICTS IS UNKNOWN.

Rev. R. V. Rogers, (Chaplain.)—Preliminary examination:—

"Considers that as far as Reformatory results are concerned, the Institution has been a complete failure. The main reason of this, witness thinks, is the fact that the objects of such a prison have been totally misunderstood by the authorities; the Warden

and Inspectors appeared to view the prison merely as a place of security." \* \* \* "The fact is, that nothing can be worse than the present condition of the Penitentiary, as a moral school."

By Mr. Smith:—

"Witness speaks in private with the Convicts on religious and moral subjects as far as his ability admits; has made it a rule never to force his private ministrations on any Convict until he has been led to desire it, by the influence of the public services. Previous to the reduction of witness's salary he was in the habit of seeing every Protestant Convict, coming in and going out of the Penitentiary; this practice has ceased for as much as two years; witness thinks there is not a Protestant Convict in the Penitentiary for four, five, or six years, whom witness has not spoken to privately, except those who positively declined any intercourse with him; no list has been furnished to witness for a long time past by the Clerk or any one else, of Convicts coming in; not for more than a year; cannot say the exact date when witness ceased to get such lists; it is a long time ago. Some of the Convicts manifest great indifference about religious matters; witness uses his judgment as to the mode in which he shall treat each such case; has a room for speaking privately to the Convicts. Judges that the Warden and Inspectors view the Penitentiary merely as a place of detention, by the whole tenor of their proceedings; forms this opinion from his knowledge of the affairs of the Penitentiary; forms this opinion partly from the want of a chapel—of a proper school or schoolroom—of a proper library—and proper time to the Convicts for instruction; it was years before witness could get anything like a library; all his suggestions were treated with neglect; a sum of money (£30) were voted, last Session but one, by Parliament, for the purchase of books; witness thought his opinion of the indifference of the Warden and Inspectors to the moral condition of the Convicts, was strengthened by seeing handsome stone stables going up for the horses, while there was no chapel, and a handsome summer-house built at the very time witness was told there was no money to buy books. Was never questioned by the Warden, or any of the Inspectors, as to whether his office was effectually administered or not—certainly not officially questioned. Never saw the Warden, or any of the Inspectors, at chapel or school for years; it is years since the Warden has been at chapel. There was controversy between witness and the late Board of Inspectors, of which Mr. Kirkpatrick was President; several points in dispute between them were referred to the Governor in Council; thinks he received no letter from Mr. Secretary Harrison about his difficulties with the Inspectors; witness told the Board of Inspectors that he would not be bound by the second copy of the rules of the Prison which was given him; witness considered himself bound by the first copy of the rules which was given him on his appointment; the second and third set witness objected to, because they all but put aside the Chaplain's office; has done what he could to obey the original rules. Witness is shown the rules referred to, passed in 1836, on page 155 of the Minutes of the Inspectors, and says these are the rules by which witness has been guided. Witness never gave any Convict any promise that he would procure his pardon; cannot say if he ever corresponded with the friends of any Convicts as to the furtherance of his pardon; never wrote to procure the pardon of Heman Dodge; what witness wrote as to this Convict was submitted to the Warden; witness was in the habit of taking a short sketch of

Appendix  
(B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

the previous life of each Convict, but has no recollection of any rule obliging him to do so; found a copy of the rules, when he entered on his situation, among the papers of his predecessor; witness's predecessor kept a sketch of the lives of the Convicts; witness does not keep these sketches now, because the Convicts are not now sent to him for examination as they used to be, and because, by the reduction of his salary, witness has been compelled to devote the time this duty occupied to other avocations for his support; witness used to hear the complaints of Convicts as to the bad treatment they received in the Institution, and received a letter from the Warden forbidding him from doing so, and stating that witness had nothing to do with the discipline of the Prison; has written the Warden, asking if he might be informed when any of his (witness's) people were punished, that he might go and reason with them; the Warden refused witness's request; thinks he refused by letter; cannot say if the letter was written by order of the Board of Inspectors, but thinks it was; witness thought the Inspectors were authorized to purchase a library; he thought it would have been no greater abuse to buy a library than to build a costly summer-house; received a letter from the Inspectors, stating that they had no authority to purchase a library; the days witness generally comes to the Prison are Tuesdays, Thursdays, and Saturdays; Tuesday is the only one of these days the school is in operation; witness has come frequently on Friday, latterly, when the school is also in operation; has been more frequent in his attendance since his health has improved, within the last few weeks; witness is not aware that he has seen the Warden, or any Inspector, present at school, chapel, or lecture, since the first Board (Mr. Pringle's) resigned, except some five or six occasions when the Warden was present at chapel; several Convicts have told witness that the Warden had threatened them with punishment if they went to the Chaplain with complaints; has no recollection of two Convicts being flogged on account of a book lent to them by witness; witness brought in a book, entitled "Poor Man's preservation against Popery;" has no recollection of an uproar in the women's Prison about a book entitled "Romanism and Holy Scripture compared;" witness has been in the habit of giving his Protestant people books, to preserve them from the errors of Romanism; gave the book last named to the Protestant matron, but not to give to the Convicts; intended it for her personal use, not for the use of the Convicts. Brought a book into the Prison, entitled "No Peace with Rome;" has no recollection of the precise object for which it was introduced, or to whom it was given. Recollects bringing in a book, entitled "Modern Popery Unmasked." Has no doubt he has introduced "Archbishop Secker's Five Sermons upon Popery." There were books in the Institution before witness came; cannot say whether he brought it in or not, but has used "Anecdotes from Religious Tracts." Witness introduced a book entitled "A Short and Easy Method with the Deists." Witness thinks he did not give Louis St. Jean, a Roman Catholic, a religious work; being shown a French book, says he has no recollection of giving that book to St. Jean; thinks if he did give it, it must have been before there was a Roman Catholic Chaplain. Witness cannot preach a sermon or issue a Protestant work that would not hurt the feelings of a Roman Catholic, if he were a sincere one; witness does not mean that he would offend him, but would run counter to his belief; has no doubt that the works issued by witness get into the hands of Roman Catholics; just as Roman Catholic books get into the hands of his people, notwithstanding all witness's exertions to

prevent it; thinks it very likely that bickerings may ensue among the Convicts, in consequence of the distribution of these books, but has only heard of two or three such occurrences—those which the Warden has now brought to his recollection; this was the reason for witness's representing to the Board of Inspectors, more than once, that all controversial works should be withdrawn from the Prison; witness does not think the introduction of such books would prevent the moral reformation of the Convicts; does not think the introduction of such books, to the extent it has gone, has been injurious to the Convicts; witness received an order from the Board of Inspectors to withdraw all controversial books, which he obeyed to the letter; after they were withdrawn, witness found Roman Catholic controversial works in circulation; he applied to the Inspectors to order their withdrawal; they were not withdrawn; witness then went to the Inspectors, and told them that he would re-issue his Protestant works; did re-issue them, and notified the Board that he had done so. \* \* \* Witness keeps the Convicts (Protestants) supplied with books as far as he has them to give; the female Convicts have been a month without books; has often no books to give. The chastisement of the Convicts occupies part of the meal hour, and takes away so much from the time allowed for teaching; thinks there is no allowance made on this score after one o'clock; attributes the want of religious services in the Penitentiary to the fact, that by the arrangements of the Prison, the Chaplain only devotes part of his time to the duties of his office; applies this remark to all religious duties; the saying of grace at dinner might be included in the daily visit of the Chaplain; the Protestant Convicts are not guided by the spiritual advice of witness, especially of late; witness's influence has been much reduced among the Convicts; has been degraded in the eyes of his own people by a system of espionage which has been carried on upon his movements; this espionage has been carried on by the Warden through the Keepers and Guards; notwithstanding that witness pledged his word that he would write no more letters for Convicts; Keepers or Guards have gone round the Convicts to find if witness has broken his pledge, and written letters notwithstanding; Convicts have told witness that such inquiries had been made at them since he gave the pledge in question; and one man came with tears in his eyes, fearing that some evil was intended against witness; the man said Costen and Hooper had made inquiries of him within a few days of the time of conversation; witness attends to the religious duties of the soldiers the same as the civilians."

By the Commissioners:—

Witness was never at any time applied to by the Warden to see the sketch of the life of any Prisoner in the Penitentiary: witness was never asked by the Warden to show him the register of private conversations had by witness with Convicts. Witness kept his Journal for the use of the Inspectors; they were public documents—the blank books were purchased with the Penitentiary funds—and the Warden might have had access to them at any time. Convicts are prohibited from lending books to one another. It would be exceedingly difficult to prevent books passing from one Convict to another. Witness was instructed by the Inspectors through the Warden to purchase books for the use of the Convicts; did so to the amount of £30; the choice of the books was left to witness, with the restriction that there was to be no controversial works; the books when bought, were all sent to the Warden's Office; as far as witness knows, the restriction was

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

adhered to; detected one volume which contained matter that might have been objected to, named it to Warden, who said it was of no consequence. None of the books alluded to in his examination to-day, but one (the Anecdotes) were purchased with the public money, and the Anecdotes he is not certain of. They were purchased with money from private sources. Witness being shown an entry in the Minute Book of the Inspectors, page 174, says, that the rules of 1836 state that the Journals of the Chaplain shall be kept "for the information of the Inspectors."

By Mr. Smith:—

"Has no doubt that if a greater attention was and had been paid to the spiritual condition of the Convicts, there would be a greater moral effect than there now is; witness speaks of the time of his own incumbency; may have reported to the Board that a Convict had complained of having been unjustly punished; remembers now, that witness was once told by the Board that he had nothing to do with such a question."

For the defence the following witnesses were called:

Samuel Pollard,—By Mr. Smith:—

"Witness thinks the Chaplain does not pay sufficient attention to the Convicts to produce their reformation; his conduct towards the Convicts is not calculated to reform them."

James Hopkirk, Esq.,—By Mr. Smith:—

"The Inspectors were desirous that the Penitentiary should be a place of reform; but they do not consider it has been as much so as they could have wished; they have been unable to make it so. Witness has never seen anything on the part of the Warden to prevent the reform of the Convicts; the Warden has always carried out the orders of the Inspectors fully on all subjects."

Mr. Sheriff Corbett,—By Mr. Smith:—

"Witness, in many instances, looks upon the Penitentiary as a place of reformation; never gave the Chaplain reason to believe that he looks upon it only as a place of detention. Never saw anything in the conduct of the Warden tending to prevent the reform of Convicts."

Several witnesses were also called to prove that Mr. Rogers preached bitterly against the Roman Catholic Church, and that he introduced books of the same character. Without pronouncing any opinion on the truth of these allegations, we cannot see, were they established, how they can influence the question at issue—Have any Convicts been reformed? It was clearly the Warden's duty to use every proper means for the reform of the Convicts, and to prevent whatever had an opposite tendency.

Witnesses were also called to prove that Mr. Rogers was in error when he testified that the Meal and School hour was encroached on by the infliction of corporal punishment; it appears by the evidence, that since the rule ordering the Surgeon to be present at corporal punishment, an allowance has been made for the lost time. None of the witnesses have alleged that any Convicts have been reformed by the discipline of the Prison, and the Warden has not alleged that he knows of any such.

6. ARTICLES MADE BY CONVICT LABOUR AND PUBLIC STORES ARE ALLOWED TO GO OUT OF THE PRISON, WITHOUT A PERMIT FROM THE WARDEN OR CLERK, CONTRARY TO RULE.

Extract from the Rules and Regulations for the Government of the Penitentiary, 15th October 1845:

DUTIES OF THE GATE-KEEPER.

"They must allow no articles belonging to, or which have been manufactured, or repaired at the Prison, to be taken out of the yard, unless accompanied by an order signed by the Warden, or Clerk, authorizing their removal."

"A true Extract."

(Signed,) "F. BICKERTON,  
"Clerk."

Extract from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 16th October, 1846:

"The Inspectors also direct, that, in future, strict attention be paid to the general order No. 2 to Gate-keepers, and that no article be allowed to pass the gate without a written order from the Warden or Clerk, which shall be deposited with the Gate-keeper, and by him returned daily to the Office to be there filed."

"Truly Extracted."

(Signed,) "F. BICKERTON,  
"Clerk."

Extract of a Minute of the Board of Inspectors of the Provincial Penitentiary, 29th October, 1847:

"The Board have however ascertained, that it has been a practice of long standing (indeed from the commencement of the Institution) for the Kitchen-keeper occasionally to purchase provisions from vessels and waggons for the use of the Keepers and Guards; and as they consider that such practice is highly inexpedient, as giving rise to imputations of improper use of the Prison Stores, they direct that for the future all traffic in Provisions, within the walls of the Prison, be strictly and positively prohibited."

"A true Extract."

(Signed,) "F. BICKERTON,  
"Clerk."

James Willson—Preliminary examination:—

After detailing the system of speculation which had gone on in the Penitentiary stores, &c., says: "It was against the rules of the Prison for these things to go out without the Warden's special order, but Frank instructed the Guards to let all articles for his use pass out without any order, and as he was their superior officer they were bound to obey. On being asked, why he did not report these irregularities to the Warden? witness says, the Guards knew it was of no use, for whoever had dared to do so would have lost his situation immediately; this feeling was justified by the removal of Richard Robinson and Clement Reid immediately after they crossed the path of Frank Smith. The messenger, Thomas Smith, has often taken bundles of articles home in

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

the Penitentiary waggon for Frank Smith, the Guards did not know what were in these bundles," &c.

By Mr. Smith :—

"If Warden gives a general order, witness does not think an officer should disobey it on the authority of an officer inferior to the Warden; witness should always obey the Warden's order in preference to that of an inferior officer. Witness has known officers dismissed for reporting irregularities to the Warden; Robinson and Reid were so dismissed. Robinson was dismissed on account of giving evidence against Mr. Frank, it was believed; witness believes it by Mr. Frank's own words. Reid told witness that he had reported Mr. Frank to the Warden for throwing water on him and his gang from the fire engine, and witness believes that this was the real cause of Reid's dismissal; Reid's dismissal was some time last summer (1847); witness has frequently passed out things through the gate for Frank Smith, without a pass, he took Mr. Frank's word that he had authority from the Warden for it; the officers take the words of each other without question, and the Guards particularly took Mr. Frank's word, as their superior officer; numbers of things made here or repaired here, or the property of the Penitentiary, went out for Mr. Frank Smith."

Edward Bannister—Preliminary examination :—

(After relating extensive frauds in provisions of the Penitentiary says :)—"There is a rule that no article the property of the Penitentiary shall pass the gate without an order from the Warden or Mr. Bickerton; the Gate-keepers did not consider that provisions came within this rule; Mr. Cooper, the Gate-keeper, had orders from Mr. Frank Smith to let all such things pass without an order, and Mr. Cooper instructed witness to that effect; witness thinks it was not possible that the Warden was ignorant of these transactions; there was no concealment in the matter."

"Articles, not provisions, have been passed through the gate on Mr. Frank Smith's pass; passed brooms in this way for Mr. Frank and other officers: these passes were sent to the office with the rest, and accepted; a large mat was once passed out for Mr. Frank, without an order."

"After Frank Smith's trial, an order was passed that no Provisions should go out, that no traffic within the yard should go on; no one has broken this new rule but Frank Smith, that witness recollects."

By Mr. Smith :—

"Witness has allowed provisions, the property of the Penitentiary, to pass through the gate without a written order; has allowed potatoes, pease, oats, turnips, bread and oatmeal to pass through for the officers on Mr. Frank Smith's verbal order; witness received instructions to do so from Mr. Frank through Guard Cooper, and all the officers take the word of each other. Is in the habit of taking orders on the word of a Guard; would not take the verbal order of any Keeper or Guard in opposition to a written order of the Warden; would take a verbal order from Mr. Frank Smith or Mr. Costen, subsequent to the Warden's written order, although opposed to such written order, presuming that these officers had full authority from the Warden for altering the previous instructions." "Witness has received passes signed by Mr. Frank Smith; delivered the passes once a week or once a fortnight into the office; did not deliver all Mr. Frank's passes; there

are some of them at the Lodge now. (Witness here handed in eleven passes, purporting to be signed by Mr. W. Smith.) There are a good many more such passes in Mr. Bickerton's office if the bundles remain as they were sent in; the reason why witness kept the eleven passes now given in, was because he expected some inquiry would at some time be made about it." "Never received any order to prevent anything the property of the Warden from going out without a pass, that he recollects of." \* \* \* ("The eleven passes by Mr. F. W. Smith given in by witness were acknowledged by the Warden as signed by the late Kitchen-keeper F. W. Smith, and were put in by him as part of his testimony. They were marked as exhibits A B C D E F G H I J K.)

John Cooper—Preliminary examination :—

"Previous to Frank Smith's trial, there was no pass necessary for such things (provisions); witness was given to understand by Frank Smith that the rule only applied to manufactured articles, or articles the property of the Prison." \* \* \* "After Frank Smith's trial, a rule was passed making an order necessary for everything. Frank has had bread, potatoes, and milk passed through without an order, notwithstanding the new rule."

By Mr. Smith :—

"It is witness's duty to see that nothing improper shall come in or go out of the Penitentiary. The rule is, that no article belonging to the Penitentiary, manufactured in, or repaired at, the Penitentiary, shall go out without a written pass from the Warden or Clerk." \* \* \* "Witness was told by Mr. Frank Smith that the rule only applied to articles manufactured at the Prison, the property of the Prison; that what he sent up requiring a pass, he would send a pass for; but that anything he sent without a pass, required none; witness acted on this. Since this conversation with Frank Smith no article which the Gate-keepers knew to be the property of the Prison, has gone out without an order." \* \* \* "A rule was made after Frank Smith's trial that there should be no traffic in the yard."

Francis Bickerton, (Clerk,)—By Commissioners :—

"The Gate-keepers send the passes to the Office once a week; they do it pretty regularly; witness never compares the passes with the books; does not look through the passes regularly; may have done so occasionally when witness had some particular object in view; would not have taken Frank Smith's pass for any article sent out of the Penitentiary; has understood that Frank Smith's passes have been taken at the gate; looked through all the old bundles of passes a week ago and found none of Frank Smith's; never heard until then that articles had been permitted to go through on Frank Smith's pass; may have been told so, but does not recollect of it."

By Mr. Smith :—

"A memorandum of the work done in each of the shops is handed first to the Warden to be examined, and then to the Clerk, prior to a pass being issued for the passage of the articles through the gates."

By Commissioners :—

"No register of the passes granted is kept, and the passes are not numbered; cannot tell if Bills

Appendix  
(B.B.B.B.B.)

30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

have in all cases been furnished with articles from the Shops, before witness granted passes for them to go through the gate; the general rule is that Bills should go with the the articles, but cannot say it has always been adhered to."

By Mr. Smith:—

"The Keepers send bills to the office with the charge made for the work done, before a pass is made for the articles to go out."

For the defence, the Warden called:

James Hopkirk, Esq.—By Mr. Smith:—

"Witness never understood that any pass was required by the Warden when sending out his own private property; is certain there was no such order, and has peculiar reasons for knowing it, as he searched carefully to see if there was such a rule. Does not think the Warden is a man who would send out articles the property of the Penitentiary clandestinely, or would permit them to be sent out."

By Commissioners:—

Question.—You have stated that the Gate-keepers were not required to demand a pass for articles the property of the Warden going through the gate—how were the Gate-keepers to know what articles were or were not the property of the Warden?

Answer.—Cannot tell.

Mr. Sheriff Corbett:—"Recollects Guard Bannister being lately reported by the Warden for allowing bread to pass through the gate after the new rule passed subsequent to Frank Smith's trial; the reason why the matter was not taken up, was because the facts on which the Warden reported had been previously elicited before the Commissioners, and the Inspectors did not wish to interfere with their proceedings. Witness has always heard that the Warden has maintained, throughout, that he had a right to send his own private property through the gate without any pass, but that his right to do so was disputed by the last Board; does not think the Warden a man likely to pass the property of the Penitentiary through the gate, clandestinely."

It is proved that many articles, and large quantities of provisions, have been carried out of the Prison without any permit; that permits signed by Kitchen-keeper F. W. Smith were accepted at the gate and returned to the office, without censure; that articles the property of the Warden were passed out without any permit, and that it was sufficient for its free passage for any one to allege that such property was the property of the Warden; that no register of the permits issued was kept; that the permits were not regularly returned to the office, and were not afterwards examined to prevent fraud; that they were not compared with the books, to see that the proper charges were made; and that they have not been carefully preserved.

From these glaring irregularities, we are satisfied, much loss has been sustained by the Province; and they have been of so palpable a character that we must regard the Warden's conduct in this matter as highly culpable.

Appendix  
(B.B.B.B.B.)  
30th May.

7. THE OFFICERS OF THE INSTITUTION HAVE NO CONFIDENCE IN THE UPRIGHTNESS OF THE WARDEN, AND ARE DETERRED FROM DOING ANY DUTY WHICH THEY CONCEIVE WILL BE UNACCEPTABLE TO HIM.

Mr. Utting says:—"No person in the Institution dared give unbiassed evidence against the Warden; it was felt that those who did so, were ever after marked men;" ex-Keeper Keely says, "it was quite understood among the Keepers that any one who opposed the Warden's will, would be got rid of on the first opportunity." Bannister, Cooper, Gleeson, Fitzgerald, Richardson, Kearns, and Swift, make similar declamations.

On the other hand, Pollard, Manuel, Sexton, Wm. Smith, Gibson, Hooper, Funston, and Head-keeper Costen, testify that they have full confidence in the Warden, that he never prevented them from doing their duty, and that they never understood that any one running counter to the wishes of the Warden would be dismissed.

The whole proceedings show that there have been, for a length of time, two parties in the Institution, one supposed to be friendly to the Warden and his interest, and the other opposed to him. As a natural consequence from this state of things, a feeling of insecurity appears to have been felt by the latter party, and they plead this in extenuation of their conduct in not having reported serious irregularities passing under their notice, and they point to the proceedings of the Warden towards officers who opposed his alleged interests, as proof that their fears were not groundless. These proceedings are fully gone into elsewhere, and it is unnecessary here to pronounce an opinion upon them. It is, however, much to be regretted, that such a feeling ever existed in a place, where perfect confidence and cordial co-operation among all concerned, are absolutely requisite for success.

8. FOR YEARS THE WARDEN AND THE DEPUTY WARDEN (FOR THE TIME BEING) WERE ON THE WORST POSSIBLE TERMS—NOT SPEAKING TO EACH OTHER.

A vast amount of evidence has been received on this point. Mr. Powers was Deputy Warden from the time the Institution was opened, up to his discharge in 1839; for two years after he left, there was no Deputy Warden. Mr. Utting was appointed Assistant Warden in 1841, and remained so up to 1846. It appears that almost throughout the periods when these persons were in office—nearly 10 years—the Warden was at continual strife with them; charges and recriminatory charges, made by one against the other, being frequently before the Board of Inspectors. Mr. Coverdale, the Architect, says "he was in the Penitentiary several years while Mr. Powers was there; there was invariably disagreements between him (Mr. Powers) and the Warden." \* \* \* "The cause of the quarrels between Mr. Powers and the Warden, witness feels confident from what he saw, was jealousy entertained by Mr. Smith of Mr. Powers; for two years previous to Mr. Powers' leaving, the Warden never spoke to him; witness was told so by Mr. Powers; they communicated by letter or by messenger; all the Keepers and Guards knew this to be the case, and witness has no doubt the Convicts did so." And again:—"The Warden and Mr. Utting were frequently on bad terms; Mr. Utting frequently complained of the Warden's harsh treatment towards

Appendix  
(B.B.B.B.B.)  
30th May.

him; Mr. Utting was somewhat irritable in his temper." From all the evidence, we believe this is a correct feature of the position the Warden held towards his Deputies.

Mr. Smith does not appear to deny the facts of serious and continued differences having existed, but he tries to prove generally that Mr. Powers and Mr. Utting were bad Officers. It is unnecessary to pronounce any opinion as to whether the Warden or his Deputies were most to blame in these quarrels; in another part of the report full reference is made to them.

It is impossible to conceive a Penitentiary in a more unfortunate position than with the Warden and Deputy Warden, on terms so bad that they cannot even speak together. We can trace a large portion of the abuses which have accumulated in the Prison to these unhappy differences.

9. THE PRESENT OFFICERS ARE DIVIDED INTO TWO PARTIES—THOSE IN FAVOUR OF THE WARDEN AND HIS FAMILY, AND THOSE AGAINST HIM.

On this head there can be no doubt, and several witnesses testify directly that such is the case.

Guard Wilson names "Manuel, William Smith, Matthews, Funston, Mr. and Mrs. Pollard, Martin, Hermiston, Watt, Tyner, Sexton, Hooper, Little, and Costen," as of the Warden's party.

Guard Martin says:—"He thinks the following persons were concerned in the conspiracy to get the Warden out of his situation:—Dr. Sampson, Bannister, Cooper, Wilson, Richardson, Swift, Baldwin, Gleeson, Keely, and M'Carthy; cannot say as to Mrs. Cox or Robinson or Fitzgerald; thinks from hearsay the two last were concerned in it: cannot say as to Kearns or Skinner, or Watt or Waldron; thinks Rev. Mr. Rogers has been as bad as any of them."

Mr. Hopkirk says:—"He is under the impression that there has been a conspiracy to eject Mr. Smith from the Wardenship of the Penitentiary; thinks that some of the discharged Officers, and Officers still in the Prison, were concerned in it; thinks M'Carthy was concerned in it; Keely also, and M'Garvey and Robinson; cannot say as to Mrs. Cox or Cooper; has suspicions of Richardson; thinks Wilson was concerned in it, and Bannister; cannot say Mr. Utting; thinks Gleeson was; does not know about Waldron, or Watt or Kearns; thinks Kearns is not friendly to the Warden; thinks Skinner would have a leaning against the Warden; has strong suspicions that Dr. Sampson was concerned in the proceedings against the Warden; knows that the Rev. Mr. Rogers has unfriendly feelings towards the Warden; cannot say as to Keeper Jones or Keeper Swift."

As to the period when this division of parties commenced.

Mr. Hopkirk says:—"Cannot say how long the conspiracy against the Warden has been in existence; at this distance of time it is impossible to recollect when his attention was first called to it; wont be positive, but thinks his attention was first called to a hostility on the part of Officers towards the Warden about the time of Frank Smith's trial; perceived an unfriendly feeling to the Warden, and

Mr. F. W. Smith and Mrs. Smith, previous to Frank Smith's trial, on the part of Dr. Sampson."

Appendix  
(B.B.B.B.B.)  
30th May.

We are inclined to believe from all the testimony that this unfortunate division commenced earlier than Mr. Hopkirk dates it, and that it began to show itself after the passing of the new Act in 1846. Whatever the date may have been, however, such a feeling was disastrous to the success of the Penitentiary and will always be in such Institutions.

10. SUNDRY TRANSACTIONS SHOWING THE TOTAL DISORDER PREVALENT IN THE INSTITUTION.

This count embraced several minor charges, on most of which evidence has been received.

The Charge that a male Convict was allowed to go into the women's apartments and took liberties with the female Convicts, rests on hearsay evidence, and the Warden is therefore completely exonerated from it.

Mr. Utting:—Proves that the Warden has sold provisions to the officers; but this does not appear to have been a practice; and the Warden is, therefore, exculpated upon the charge. The facts alleged in the following testimony by Mr. Utting, are not denied:—"On one occasion, recollects being informed by one of the Guards coming to his duty, that a ladder was placed against the stone wall, on the east side of the ground, outside; this was about six in the morning; witness went out immediately, and took the ladder from the wall; the ladder belonged to Government House; witness found a large walking-stick laying at the foot of the ladder; found on the inside of the wall, opposite the ladder, marks showing that persons had been over; on examining the yard, found, in the ash-heap, a large hole, fresh made, and a box laying near of the size of the hole; the box was empty. Witness reported the circumstance to the Warden, who said that he supposed it had been (black) Hart who had been over the wall on Saturday night; Hart was a Convict who had been recently discharged. Shortly afterwards Hart was re-committed. Witness told Warden he would try to find out if it was him who crossed the wall. Warden said he would only tell witness a pack of lies. Witness spoke to Hart, and showed him the stick picked up, and asked him if it was his? Hart said no; it was Davis's stick—another Convict discharged before him. Witness said, then you got your booty clear off? Hart said it was not him who went over the wall, but Davis, and that he and Saunder's stood outside. Witness asked what the box contained? and he said clothing; such as shirts, socks, and waistcoats. Hart was in the wash-house, and had the control of the clothing. \* \* \* Has no doubt such robberies have often occurred; there was no guard on the wall, nor in the yard through the night; the night-guards were all within doors. Witness frequently applied to Warden for the appointment of a night-patrol, but did not succeed."

The necessity of a night-guard in so large an establishment, is very obvious; but fortunately no great injury has arisen from the want of one, and the evil has been corrected for some time past.

It is fully established that there were frequent differences between Mrs. Coulter, Matron; and Mrs. Martin, Assistant Matron; but which was in the right; it is difficult to say.

Appendix

(B.B.B.B.B.)

30th May.

Several irregularities are named under this count, in which Kitchen-keeper F. W. Smith is concerned, but they will come in more properly in the next charge. Several other points under this head having been brought before the Commissioners, were stated in the charges in justice to the Warden, but they are of no magnitude.

Charge II., according to our judgment, is therefore completely established. The disorder pervading the establishment has been very great and long continued; and we are of opinion that to the Warden's mismanagement or negligence, much of it must be attributed.

### CHARGE III.

CULPABLE CONDUCT IN REFERENCE TO HIS SON,  
KITCHEN-KEEPER FRANCIS W. SMITH.

1. Appointing the said Francis W. Smith, Kitchen-keeper; well knowing him to be an unfit person for so responsible a situation.

Henry Sadleir, Esq.—(a member of the Kirkpatrick Board of Inspectors)—Preliminary examination:—

“The character of Francis W. Smith was very bad at the time he was appointed Kitchen-keeper of the Penitentiary, in 1846; he was Deputy Sheriff previous to his appointment. When Mr. Utting was removed from the Deputy Wardenship, Mr. Sheriff Corbett canvassed witness to vote for Francis W. Smith as Utting's successor. Witness asked how Smith would take such a situation, when he had one so much better in the Deputy Sheriffship? Mr. Corbett then told witness that he had turned him (Smith) away from his office the day before; that he could get neither money nor papers from him; and that he (Smith) was ‘a d—d rascal,’ or some such opprobrious term; and that he was then on his way to Smith's house to try to get up some papers out of his hands.”

For the defence, the Warden called Mr. Sheriff Corbett, who testified as follows:—

By Mr. Smith:—

“Witness was present at the meeting of the Inspectors when Frank Smith was appointed Kitchen-keeper; it was the first meeting of the present Board; witness never said to Major Sadleir that Frank Smith was ‘a d—d rascal;’ never used any such words; recollects Frank Smith telling witness that he was applying for the Deputy Wardenship of the Penitentiary, or some other situation in it, and that he was promised the votes of some of the Inspectors. Witness met Major Sadleir shortly after, and asked him about it; the Major knew nothing of it, witness thinks; witness told Major Sadleir that he would be very glad if Frank Smith got an appointment in the Penitentiary, as he saw too much loose company in connection with the business of the Sheriff's office, and he thought if he were under his father's eye, he would do better. Witness was never influenced in his decisions as an Inspector by Frank Smith.”

By Commissioners:—

“Frank Smith ceased to be Deputy Sheriff of the Midland District, on account of irregular conduct; he had ceased to hold the situation previous to his

appointment in the Penitentiary; he became careless of his duties, and staid away from the office, giving as a reason that he was about to get a situation in the Penitentiary. Clute and Frank Smith were for some time in partnership in the Deputy Sheriffship; for a few months previous to his leaving the office, he was alone, and his situation was then worth about £200 a year; witness had no difficulty in getting the papers out of Frank Smith's hands; had difficulty in getting him to make returns of writs; had difficulty in getting Frank Smith to say what monies he had received on account of executions. Frank Smith as partner of Clute and Smith, was in witness's debt for money collected on executions, when he left the Sheriff's office; Mr. Noble and Mr. Heaslip were securities to witness for Frank Smith; never got a bond for payment of money from Frank Smith, out of his salary at the Penitentiary. Witness had no interest in an order which Frank Smith gave on his salary in the Penitentiary for £55, as he looks to Clute's sureties for it, who are good.”

By Mr. Smith:—

“Frank Smith is in witness's debt, independent of loss by escapes; witness claims from Clute and Smith £800 for money, had and received; false returns, and escapes; the escapes were about £200.”

It may be necessary to explain that Mr. F. W. Smith, at the time of his appointment was upwards of 30 years of age; and that the duties of the situation to which he was appointed are very responsible: it is the Kitchen-keeper's duty to examine and weigh all provisions, forage and stores coming into the establishment; to grant receipts for the same, and keep the books in which such transactions are entered; he also regulates the expenditure of such articles, and has the care of the Convict's bedding. About £4,000 of property passes through his hands every year, over which there is little or no check otherwise.

We are of opinion, that as a general principle, the appointment by any Warden of his son to so confidential a situation in the Prison, however high his character, or however well qualified for the office, would be objectionable; the nature of the office admits of so much abuse, that however upright might be his conduct, suspicion of irregularity on the Kitchen-keeper's part could hardly fail to arise; and we hold it as of the highest importance that the Warden should be looked up to, by all connected with the Prison with perfect confidence in the integrity and unbiassed character of any decision he might give on everything passing in the establishment.

But if such an appointment would have been reprehensible in one suitable for the situation, how much more censurable was it in the case of Mr. Warden Smith's son, who had just “ceased to be Deputy Sheriff of the Midland District on account of irregular conduct;” and who seems to have been aided in his application for the Keepership by the consideration that “if he were under his father's eye he would do better.”

All the evils which could possibly arise from such an appointment have arisen out of this one: speculation, cruelty, favouritism, and every species of irregularity, all clouded from observation, if not openly encouraged, because the chief agent was the Warden's son.

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

The appointment of F. W. Smith, as Kitchen-keeper, was made under Clause VI. of Chap. 4, 9 Vict. "The Warden, Clerk, Surgeon, and Chaplain to be appointed by the Governor of the Province, and to hold their offices during pleasure, and the remainder of the officers to be appointed and removed by the Warden of the said Penitentiary, subject to the approval of the Board of Inspectors;" so that the Warden is directly responsible for it.

2. Permitting the said F. W. Smith, for nearly two years, to set every feeling of humanity and rule of good order at defiance.

In support of this charge, we referred the Warden to the evidence given before us in the case of the said F. W. Smith, as transmitted to him for his defence, and which will be found in a previous part of this Report. We charged it as proved:—

That the said F. W. Smith was in the habit of throwing stones, potatoes, &c., at Convicts.

That he offended the religious feelings of Convicts.

That he was in the habit of striking the Convicts on the elbow with a large key.

That he was in the habit of compelling Convicts to open their mouths, under the pretence of searching for tobacco, and then throwing salt, snow, &c., into their mouths.

That he was in the habit of aiding and abetting Convicts in throwing other Convicts into a water-butt.

That he was in the habit of thrusting pins into Convicts.

That he was in the habit of drenching Convicts with water from the fire-engine.

That he fired arrows from a bow at Convicts.

That he behaved indecorously towards the female inmates of the Penitentiary.

That he took Convicts outside the wall to fish.

That he remitted punishment clandestinely.

That he showed favoritism to particular Convicts in the discharge of the duties of his office.

The Warden has not succeeded in shaking the evidence under this count to the slightest extent. He called Convict M'Nair, alias M'Keener, to state that Guard Fitzgerald threw the water on him while he was in the box; that Guard Robinson rolled about the box while he was in it; and that Indian Abraham told him (M'Nair) his eye was hurt by a splinter from a basket. Guard Sexton also states that he saw Fitzgerald throw the water on the box when M'Nair was in it; and Mr. Sheriff Corbett says that he himself was sprinkled with water from the fire-engine on one occasion.

These statements in no way affect the issue. It is indubitable, that all the cruelties and improprieties charged under this count have been habitually and openly practised in the Prison. Whether the Warden did or did not know of these proceedings, we think serious culpability is attachable to him.

3. Countenancing the said F. W. Smith in his said disorderly proceedings.

This count is a pendant to the last, and raises the issue whether the Warden had personal knowledge of his son's improprieties.

Ex-Keeper M'Garvey, after stating that F. W. Smith had shot arrows and thrown stones at Convicts, and wetted them with water from the fire engine, says, "it cannot be possible that this was done without the knowledge of Mr. Costen or of the Warden;" and we think this will be the impression left on every one's mind who reads the whole of the evidence.

Ex-Keeper Gleeson says, in his preliminary examination—that he "has seen Convicts deliberately drenched by Francis W. Smith in presence of the Warden, without his taking any notice of it; this happened once or twice; Warden must have seen the transaction."

By Mr. Smith:—

"Witness has seen a good many Convicts drenched by Frank Smith with the fire-engine; has seen Coté and many others, but cannot name them; has seen Convicts in Mr. Little's and Mr. Reid's gangs drenched. The Warden was not present on all of the occasions; has seen him standing looking on from the stoop of the north wing while Convicts were wetted with the fire-engine on the east side of the yard; believes it was done in skylarking."

Ex-Guard Fitzgerald says, in his preliminary examination—he "recollects the Warden being present on one occasion when Frank Smith was throwing potatoes at the Convicts, and the Convicts at one another; the Warden called out to quit that nonsense, and the men all dispersed."

By Mr. Smith:—

"Has seen the Convicts throwing potatoes at one another; saw them doing so two or three times; witness saw them from the south wing; it was in the rotunda where the potatoes were thrown; Mr. Frank Smith was present; does not recollect of any other officer who was present."

By Commissioners:—

"The Warden was one day present when potatoes were being thrown by the Convicts, and he said "quit that nonsense." When witness said "any other Officer," he only spoke of the Guards and Keepers."

Guard Waldron, in his preliminary examination, says—he "has seen Frank Smith, and eight or ten Convicts throwing potatoes at one another. The Warden was present and checked it."

By Mr. Smith:—

"Witness has seen Convicts throwing potatoes at one another, when Mr. Frank Smith was standing past; does not recollect that Mr. Frank threw any potatoes; no other Officer was present. On another day the same thing was done, when the Warden was passing through, and he checked it; cannot say that Frank Smith was present on the day the Warden checked the Convicts; cannot say how many Convicts were present. It was a lot of the

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

chaps about the Kitchen. Witness was going for the keys on duty one of the times, and the other time he was passing through about some business or other."

Guard Wilson, in his preliminary examination, says—"Frank Smith had drenched a Convict Soldier with water from the fire-engine, and the man became angry and threw a brick at Frank and hit him. The Warden came up shortly after, and the Soldier complained to him of Frank's conduct; Frank told the Warden that the soldier had flung the brick first, but witness knows that this was not true. The Warden ordered Frank to take away the engine. The soldier was punished very frequently after that occurrence.

By Mr. Smith :—

"Witness saw a Soldier Convict wet with water from the fire-engine; does not recollect his name at present; he was so wet by Frank Smith and his gang. Does not know that it is the duty of the Kitchen-keeper to see that the fire-engines are in working order; has seen them out frequently; Frank Smith said he was trying them, but witness thought it was Frank's own tricks. Witness has not seen the engine tried since Frank Smith went away, because he was not in the yard to see them. Saw the soldier throw the brick at Frank Smith; Mr. Frank said he was hit on the hand; Witness believes he was hit, but cannot exactly say that he was; the Convicts were standing all round them; the Warden came up just after the brick was thrown, and he found the soldier standing all wet. Witness was in the blacksmith's shop at the time; part of the blacksmith's gang were assisting Frank Smith in the working of the engine; does not recollect how many men Frank Smith had aiding him; does not know if any particular men are appointed to work the fire-engine. Witness does not believe that the Warden saw the brick thrown. The soldier in question was frequently punished after this occurrence; does not know the faults for which he was punished; heard Mr. Frank say the day after the brick was thrown, "the d—d rascal, I'll have him punished;" and on the day that the soldier went out, Frank Smith said, "there goes the d—d rascal, I'd have had him punished to-day, if he had not got out." Witness cannot say how often this soldier was punished after the affair in question, but knows that he was punished three or four times, at any rate. From Mr. Frank Smith's words, witness thought the soldier was punished wrongfully, but he might have committed offences."

By Commissioners :—

"Witness saw the Soldier Convict go up to the Warden, dripping wet, and complain to the Warden of Frank Smith having wet him. The Warden spoke to Frank; Frank said, coming away from the Warden and in witness's hearing that the soldier flung the brick at him first; witness knows that the soldier was wetted before the brick was thrown. The circumstances occurred in the summer of 1847; is quite satisfied the drenching of the soldier was done intentionally; there were several other Convicts wetted at the same time, but not so much.

Wilson's statement is corroborated by Freeland, Kearns, and M'Carthy.

For the defence on this point the Warden called Keeper Little, who gave the following testimony :—  
"Witness recollects Ilett was wetted with water

from the fire-engine; it was about the beginning of July 1847; recollects a Convict named Coté being in the Penitentiary; thinks he went out about the 19th July, 1847, or thereabouts; thinks Ilett was not wetted intentionally, but through his own foolishness and that of Coté; Ilett was passing by and Coté drenched him through a lark; Coté held the conductor. Convict Christmas was helping to work the engine at the time; Christmas was one of Mr. Skinner's men, and worked at making fire-engines; the rest of the men working the engine were Mr. Frank Smith's Kitchen gang; there were but very few hands altogether. Witness was pointing the stone work of the new Carpenter's shop, opposite Mr. Hermiston's stone shed at the time."

Head-Keeper Costen was likewise called for the defence.

By Mr. Smith :—

"Is Head-Keeper of the Penitentiary. Being shown a list of punishments inflicted on James Ilett, says he made it out from the books, and it is a correct extract of all the punishments inflicted on that Convict, and the names of the Reporting Officers, from 9th July to 2nd August 1847; (said return was handed in and marked Exhibit A.) By this list, Frank Smith appears to have reported Ilett but once, and then he got bread and water one meal. Does not know the date when Convict Ilett was wetted with water from the fire-engine; heard that he had been wetted with water from the fire-engine at the time it happened; to the best of witness's recollection it was in July 1847. Convict Coté left the Prison, according to the books, on 20th July, 1847. Witness discharged Coté according to the books. The fire-engines are tried every month to see if they are in proper order. Frank Smith took this duty on him when he was at the Prison; there is a particular body of Convicts appointed to work the fire-engines."

Punishments inflicted on James Ilett, with the names of the Officers by whom he was reported, from 9th July, 1847 :—

July, 9.	Punished :	reported by	John Swift.
" 15.	do.	do.	J. Matthews.
" 17.	do.	do.	W. Crawford.
" "	do.	with 12 others,	F. W. Smith.
" "	do.		W. Martin.
" 20.	do.		W. Martin.
" 26.	do.		do.
" 27.	do.		John Swift.
" 31.	do.		J. Sharp.
Aug. 2.	do.		W. Crawford.

(Signed,) "THOMAS COSTEN,  
"Head-Keeper."

By Commissioners :—

"In the list of punishments inflicted on Ilett, W. Martin is the Reporting Officer on three occasions; 1st, on 19th July, for going to Warden's office without leave, and swearing that he supposed his kit had gone to h—l, or some other place; when the Guard told him it was in the tower. 2nd, saying (when examining his kit,) to the Guard, "you will see a bloody row about my things before I go out;" and 3rd, for talking in the quarry. The punishments in question were made entirely on the veracity of Guard Martin; no inquiry was made as to the truth of the charge; this is always the practice. The Reporting Officer is sometimes ques-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

tioned as to the facts of the affair. The affair in which Hett was wetted occurred in July; it was before Coté went out. The reason why witness recollects the date of Hett's affair so distinctly, is, because it occurred when Keeper Little was painting the west wing of the shops; it took some weeks to do this painting work; is not sure if it was before the 15th July, but is quite sure it was before the 20th. Little mentioned the affair to witness. The reason why witness selected the 9th of July to commence his return of Hett's punishments was because he thought that was about the time the occurrence took place. The practice of trying the engine once a month commenced from the time Skinner finished the first large engine. There was no rule of the Institution that the fire-engines should be tried once a month; occasionally Mr. Skinner would want to have them tried after he had been repairing them, and at other times Mr. Frank Smith took them out; they were never taken out except when Mr. Skinner or Mr. Frank desired it; and they took them out whenever they thought proper; does not know that the fire-engines were ever out more than once in any one month. The Convicts appointed to work the fire-engines are taken from all the different gangs. They sleep in particular ranges in the wing; in the first range east and west of the south wing. Does not know that these were the men who worked the engines when Frank Smith took them out through the day."

We are of opinion, that personal knowledge of certain improper transactions by his son is brought home to the Warden, and we are fully convinced that he could not have been ignorant of many other improprieties; but, they were so frequent and so notorious in the Prison, that it is questionable whether ignorance ought not to be regarded as equally culpable with knowledge.

#### 4. PERMITTING THE SAID FRANCIS W. SMITH TO CARRY ON A SYSTEM OF OPEN PECULATION.

In support of this count, we referred the Warden to the evidence taken by us in the case of F. W. Smith, and which will be found elsewhere.

We charged it as proved:

- "That the said F. W. Smith had been in the habit of selling Penitentiary stores to the Officers of the Institution, and appropriating the proceeds to his own use.
- "That the said F. W. Smith had been in the habit of appropriating the stores of the Penitentiary to his own use.
- "That the said F. W. Smith had been in the habit of employing Convicts in making nets for his own use; the labour not being charged to him.
- "That the said F. W. Smith had been in the habit of appropriating to his own use, various articles made by the Convicts, the property of the Institution."

For the defence the Warden called several witnesses:—

James Hopkirk, Esquire, says:—"There was no rule prior to Frank Smith's trial, (October 1847), to prevent the sale of provisions in the Penitentiary, so far as witness knows."

Guard Tyner—By Mr. Smith:—

"Believes it was the custom of other Kitchen-keepers, besides Mr. F. W. Smith, to purchase provisions for the Officers when they gave them money for that purpose. Mr. Costen, and he thinks Mr. King, purchased potatoes for witness with money which he gave them for that purpose; it was a great accommodation for the Officers to get provisions in this way; witness lived at a distance, and it was a great convenience to him."

By Commissioners:—

"Witness has never seen Officers get provisions from the waggons in Frank Smith's time."

But such evidence cannot in any manner affect the clear and positive testimony to be found in the charges against Kitchen-keeper Smith. The only defence of which the case is susceptible, viz:—That Francis W. Smith was in some way the *bônâ fide* owner of the provisions, proved to have been sold to so great an extent, has also been attempted by the Warden; he calls Guard Martin and Convict Hall to prove that F. W. Smith purchased provisions in the Penitentiary; and we are left to infer from this, that these were the same provisions he sold to the Officers, or that what he purchased went to replace what were sold. We give the evidence in full.

William Martin—By Mr. Smith:—

"Has known Frank Smith to buy oats in the Penitentiary; he bought them from a waggon; it came in with potatoes for the Penitentiary. Has known Frank Smith to buy potatoes from waggons several times, in the Penitentiary; he put them down stairs in an empty bin. Saw Frank Smith purchase pease in the Penitentiary. Has known Frank Smith buy a bag of meal in the Penitentiary. Saw Frank purchase turnips in the Penitentiary; the turnips were put in the bin along with the potatoes."

By Commissioners:—

"Cannot say how often he has seen Frank Smith buy oats in the Penitentiary; has seen him do so some half a dozen times; does not recollect any of the persons from whom Frank bought these oats, they were strangers to witness. Saw him buy oats at the Kitchen door more than once; it was last year sometime, before Frank Smith's trial; cannot say if any one else was standing past. Witness was standing beside Mr. Frank each time when he purchased the oats. Cannot tell what witness was doing down there; he might have been doing many things; he might have been on messages. The waggons were standing at the outside Kitchen door; in every instance the oats came in on waggons bringing in potatoes; saw the bargains made between Mr. Smith and the waggons in every case; cannot tell what quantity was purchased on any of the occasions, perhaps from one and a half to two bushels each time; saw the money paid in each of these cases; the oats were sometimes put in a bag, and sometimes in a barrel, and then set down at the Kitchen door; and sometimes sent to the lodge with the teamster from whom the oats were bought. Never saw Frank Smith buy any oats except at the Kitchen door; saw him buy oats there five or six times. Witness cannot name any person who ever saw Frank Smith buy oats, but himself. Frank Smith used to ask witness to go down and look at the oats, which is the only reason witness can give for no other person

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

being aware of these transactions; cannot say what price was paid for the oats; the price varied. Has seen Frank Smith buy potatoes at the Kitchen door three or four times; he bought once or twice eight or ten bushels, and sometimes only a bushel or two; eight or ten bushels was the most witness ever saw him buy at a time; saw Frank making the bargain for the potatoes each time; cannot say the price, as it varied; all these purchases were made last year, before Frank Smith's trial. Does not know any of the persons with whom any of these transactions were concluded. Cannot tell what witness was doing down there when the purchases were made; used to go down and buy a bushel of potatoes from the waggons himself; it was a common thing for the Officers to get potatoes out of the waggons, with the consent of the Kitchen-keeper; cannot name any one Officer who so got potatoes from the waggons with the consent of Frank Smith except himself. The bargains witness heard concluded were made before hand, and the potatoes ordered to be sent in on a future day; was present when the bargains were made, and was present afterwards when the same man was delivering potatoes; but whether the potatoes delivered were to supply Frank Smith's private order, or for the Penitentiary, witness cannot tell. Never saw him pay any money for any quantity of potatoes, but has seen him pay for a bushel or so at a time. Does not know the name of the man. Witness saw Frank Smith get a bag of meal, once and only once; saw it delivered to him at the Kitchen door; there might have been a hundred weight of it; cannot tell who bought it; did not see Frank Smith bargain for it or pay for it; only saw it delivered; thinks Mr. Watt was present at the time, but is not sure. The man said, "there is a bag of meal for you," which witness understood applied to Frank Smith personally, but cannot say if it applied to him as Kitchen-keeper; that is all witness knows about it; this occurred last year, before Frank Smith's trial. Witness saw Frank Smith buy pease, once and once only; a bag containing one and a half to two bushels; he bought them at the Kitchen door; cannot say who from; saw him pay for the pease at the rate of half a dollar a bushel; they were put in a little bin near the Penitentiary bin, but not in the same bin with the Penitentiary pease; it was last year, previous to Frank Smith's trial; thinks Mr. Watt saw the transaction. Witness has seen Frank Smith buy a bushel or two of turnips once or twice, at the Kitchen door; cannot tell who he bought them from; saw him pay for them at the rate of one shilling and threepence per bushel, as near as he recollects, on both occasions; they were put down into the cellar; thinks Mr. Watt was present, but will not say positively. These transactions were also last year, before Frank Smith's trial, last fall. The turnips were put down in the cellar along with the potatoes; witness went down with the man who took them into the cellar; thinks Convict Hall carried them down.

By Mr. Smith:—

"The bargain for eight or ten bushels of potatoes was made either once or twice. The meal that comes from the Contractors arrives in large quantities; witness never saw a single bag of meal come from the Contractors for the Penitentiary; meal from the Contractors was always weighed before being put away; the bag for Frank Smith was not weighed.

By Commissioners:—

Witness has nothing to do with the receiving of provisions for the Penitentiary. Witness's station is

in the Lobby Hall; from his station in the hall, can see all the provisions coming into the Prison if he wishes; cannot see provisions weighing from his usual station. It is not his business to weigh provisions, and he never does so."

Isaac Hall—By Mr. Smith:—

"Is a Convict in the Penitentiary; works in the Kitchen; has seen Frank Smith buy potatoes; he put them down in the second bin in the cellar; witness carried them down. Has seen Frank Smith buy turnips, once or twice; they were put in the same bin as the potatoes; witness took them down. Has seen Frank Smith buy a bag of pease; witness put them in a meal bag for him."

By Commissioners:—

"Is a colored man. Was sentenced to three years imprisonment, for larceny; was twice in the Penitentiary before; was sentenced the first time for robbing the stage, and the other two times for larceny; was never apprehended on any other charge than the three he has named; is about 34 years of age; has been eight years in the Penitentiary next March. Has seen Frank Smith buy potatoes more than twenty times; some of the times it was before his trial last fall, and some of them after it; he purchased potatoes ten or twelve times before his trial. All witness knows about it is, that he heard Frank Smith bargaining with the teamsters but did not see him pay any money; there was never more than three bushels at a time and sometimes only half a bushel and one bushel; they were measured out of full waggon loads brought in for the Convicts. Witness did not carry down the potatoes for the Convicts; he only carried down those for Frank Smith; other Convicts carried down the potatoes for the public stock; cannot tell their names; Mr. Watt is the only Guard who was ever past at such transactions. Witness cannot tell anything particular about the bargain made for them; heard Mr. Frank talking with the teamster. Witness did not know what he came here for; does not know how the Warden had his questions for witness previously written down on paper; never spoke to a single soul on the subject of Frank Smith's having purchased provisions; Mr. Costen was often past when Frank Smith purchased potatoes. Witness has seen Mr. Frank Smith purchase potatoes eight or ten times since his trial last fall. Mr. Martin never spoke to witness about Frank Smith's purchases or witness's knowledge of them; never spoke to the Warden about it; has only spoken to him once or twice since he has been in the Prison. Witness does not know how many turnips Frank Smith purchased, not more than five bushels in all. The bag of pease contained two bushels."

Guard John Watt was also called, and testified as follows:—

"Has known Frank Smith purchase potatoes; has known him to buy pease; has not known him to buy any other articles."

As Watt's evidence was taken very fully on this point in Kitchen-keeper Smith's case, we refer to it for a proper valuation of his testimony; we are of opinion, that apart from the direct contradiction which is found between this witness's testimony before the Inspectors, and that given by him before us, that he breaks down entirely in his evidence as to the purchase of provisions by Smith.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Convict Hall's testimony we regard as worthless. On the point now at issue, if all he says were true, it amounts to nothing; but when called on a second occasion by the Warden, he gave evidence so utterly at variance with truth, as proved by Mrs. Chase, Mrs. Pollard, and other witnesses, that we must discard all he has said as valueless.

Guard Martin is, therefore, the only witness on which the defence rests. Martin's testimony amounts to this:—that he has known Kitchen-keeper Smith to get one and a half to two bushels of oats five or six times. That he heard Smith make bargains for potatoes three or four times, and saw the same man, with whom these bargains were made, delivering potatoes on a future day, but whether for Smith or for the Penitentiary, he cannot tell. That Smith once got a bag of meal, once a bag of pease, and a bushel or two of turnips, once or twice. If this were all true, it would in no manner account for the large quantity of provisions proved to have been sold by Smith. But we think the whole of Martin's testimony bears internal evidence that it is little to be relied on. Martin has been called five different times as a witness by the Warden, during the inquiry; and, throughout, his evidence has been given in so loose a manner, to say the least, that we think little dependence is to be placed upon it. We give some instances in which discrepancies occur in his statements:—

Convict DeBlois gave information in September, when before us, that a number of pairs of calf-skin slippers had been made fraudulently for some of the Officers. The parties named were examined separately, and their statements did not at all harmonize.

Guard Martin, swore as follows:—

"Recollects, about a month or six weeks ago, Keeper Gibson asked witness for some light leather to make into slippers; witness went to the book-binder, and got first half a skin of binder's leather, and afterwards a whole skin, and took them to Gibson; when Gibson asked for the leather, he said he was about to make a pair of slippers for Mr. Costen; Mr. Bickerton had ordered witness to get a pair of slippers made for him, and witness desired Gibson to make a pair of the same kind for Mr. Bickerton. When Mr. Bickerton's slippers were finished, witness took them to him, and they fitted him, and he kept them; he has them now; he never had a second pair made for him to witness's knowledge."

Mr. Bickerton, the Clerk, says:—"About a fortnight or three weeks ago, Guard Martin brought witness a pair of leather slippers to put on when his boots were being cleaned; they have remained there ever since, and witness has worn them daily in the way he has mentioned. Martin had previously bought a large pair of the same kind, which witness told him to take away. Witness never ordered a pair of slippers to be made; did not want a pair; and did not know of their being made. The evidence of William Martin as to witness having desired him to have a pair of slippers made for witness, having been read over to witness, he declared it to be totally untrue."

Kitchen-keeper Smith was charged with stealing flour, &c., from the Store-room, and Martin was called to disprove it; he swore that he "never knew Frank Smith to go to the Store-room without witness being present; witness is stationed in the North-wing Hall; the Keeper's Hall, as well as the Office Hall; witness cannot see how Frank Smith could have

Appendix  
(B.B.B.B.B.)  
30th May.

gone into the Store-room without witness seeing him." And again: "witness is constantly in the North-wing Hall, the whole day from six in the morning to six at night, except two hours when he goes to his meals." But in his cross-examination it appears that a great part of his time is spent in other parts of the buildings; he says: "witness goes every morning to the shops from the office; sometimes goes messages from the office to the shops; sometimes relieves Keepers in the shops, but not often; sometimes relieves the Guards, but not often; witness's business is to clean the Hall, and the offices, to look after the clothes in the clothes-room, and do night-guard duty in his turn; when witness is on night duty in yard he is exempted from attendance half of the next day; is on this duty five times in two months; witness never at any time was a whole day in charge of a shop in the absence of a Keeper; has been placed several times for a whole day to relieve a Keeper who was absent; but in every case was himself relieved by other Guards occasionally through the day, when witness was wanted in the North-wing; has been, in the same way, several times stationed for half a day; has been very often stationed in the same way for a quarter of a day; witness could not see Frank Smith going into the Store-room when engaged in these duties.

The Warden was charged with feeding his cows, hogs, &c., from the public stores, &c., and he called Martin to prove that he had stores of his own. He swore *inter alia*, that he "believes the Warden has raised from thirty to forty bushels of potatoes in his garden, per year, on an average." In his cross-examination he says he "cannot tell how many years the Warden has been raising potatoes in the Penitentiary; witness said the Warden raised thirty or forty bushels per year, never measured the potatoes; knows that he has raised this quantity this year; cannot say that he did so of his own knowledge, any other year."

The Warden was charged with feeding stock with the offal of the Penitentiary Kitchen for his own benefit, and Martin was called to prove that he had seen the Penitentiary oxen, and cows, fed with the offal; he said: "witness has seen the oxen get the potato skins from the Penitentiary Kitchen." On his cross-examination, he says: "witness has not been in the habit of seeing the oxen fed every day; occasionally it was witness's duty to be present when the oxen were fed; these occasions occurred when witness attended in room of Thomas Smith in the absence of that officer; it is Thomas Smith's business to see the oxen fed as far as witness knows; has been sent to take Thomas Smith's place in overseeing the feeding of the oxen by Mr. Utting and by Mr. Costen; it has not occurred very often; cannot say how often; can say that he has so taken Thomas Smith's place twenty-five times and oftener; cannot say that he did so fifty times. Potato skins were not given to the oxen any time witness attended to their feeding."

Thomas Smith, Messenger, says:—"Witness has nothing to do with the feeding of the horses or oxen; the stablemen do it all; has heard from them the quantity of feed they give to the animals." And again:—"Witness has fed the oxen on Sundays only, and only within the last three months; never fed the oxen previous to the last three months; has seen the oxen fed by the Convicts occasionally."

We are therefore of opinion that the defence has failed entirely, and that the provisions sold by Kitchen-keeper Smith to his fellow-officers were



Appendix  
(B.B.B.B.B.)  
30th May.

public property. If any doubt existed on the point, the fact that no attempt has been made to produce any of the parties who sold Smith the provisions, coupled with the strong improbability that these transactions could have existed unknown to all the other officers of the Institution, must settle the question.

And setting aside the question of whether Smith did or did not have provisions, his private property, within the Prison, it will be found on reference to the evidence on his own case, that clear and positive testimony exists that public property has been sold, and the proceeds appropriated by Smith to his own use, and that such sales were daily occurrences.

5. COUNTENANCING THE SAID F. W. SMITH IN HIS SAID PECULATIONS.

The evidence as to whether the Warden had personal knowledge of the peculations committed by his son, is as follows:—

Gate-keeper Edward Banister, in his preliminary examination, says:—He “thinks it was not possible that the Warden was ignorant of these transactions; there was no concealment in the matter.” When cross-examined by the Warden, he said:—“To the best of witness’s opinion, the Warden could not but have seen some of the Penitentiary provisions going out of the Prison; the Convicts carried the provisions openly to the Lodge, on their backs, day after day; there was no concealment; the articles which went out in the bread-cart, the Warden could not see.”

Guard Kearns, in his preliminary examination, says:—He “thinks the Warden could not have avoided seeing the transactions going on.” When cross-examined by the Warden, he said:—“Witness does not know if the Warden knew that Frank Smith sold the Penitentiary provisions; but he could not help seeing them passing to the Gate daily.”

Gate-keeper John Cooper, in his preliminary examination, says:—He “is quite confident that the Warden knew of these transactions in the Penitentiary stores; they (the stores) have often been carried out before his eyes.” In his cross-examination by the Warden, he says:—He “cannot say that the Warden knew that Frank Smith sold provisions belonging to the Penitentiary for his own benefit; but the Warden has met Convicts with provisions on their backs going to the Lodge, to be taken outside; the Warden must also have seen these transactions from the window, as the Warden has been looking through the window when they were going on; the provisions were carried out in bags; cannot say that the Warden knew the provisions to be Penitentiary property when he saw the articles going out.”

Rev. Mr. Rogers says:—He “saw provisions leaving the Prison often, and is of opinion that the Warden must have known that such transactions were constantly going on.”

And similar evidence is given by a number of other witnesses.

We believe every witness questioned on the subject, with the exception of Head Keeper Costen, admits being aware that Kitchen-keeper Smith sold provisions to the officers. It is proved that the traffic was carried on openly, under the Warden’s windows,

for over a year, and that it was a daily business; and Cooper proves that the Warden has seen provisions carried to the Gate by Convicts. We cannot suppose the Warden ignorant of what every one in the Prison knew but himself; and have no reasonable doubt that he had personal knowledge of his son’s proceedings.

6. SO CONDUCTING HIMSELF AS TO MAKE THE OTHER OFFICERS OF THE INSTITUTION AFRAID TO REPORT THE SAID FRANCIS W. SMITH’S IMPROPRIETIES.

The issue raised by this count is very similar to that under count 7, charge II. A number of officers swear that they were afraid to report Kitchen-keeper Smith’s improprieties, because he was the Warden’s son, and exercised, as such, great influence in the Prison. The evidence of Guard Kearns, when under examination by the Warden, brings out the feeling which seems to have been entertained by this portion of the officers:—“Witness would have been afraid to report any of Frank Smith’s improper proceedings, because he heard Mr. Frank threatening others; he told witness one afternoon on the road, that two or three officers had been dismissed, and more would be, of whom William Crawford was one, because he had not paid him (Frank Smith) for provisions he had from him; William Crawford has not been dismissed; Frank Smith had not the power in his own person to remove any officer, but believes that he could get it done. Believes that Frank Smith wielded a good deal of influence through his mother. Mrs. Smith told witness that the Warden and her had a hard feeling against witness for giving evidence against her son Frank; and witness thinks she had a good deal of influence with the Warden and Inspectors; witness thinks that Guard Robinson was dismissed through this influence.”

On the other hand, Rowe, Martin, Pollard, Manuel, Sexton, William Smith, Hooper, Funston, Costen, Nursey, Thomas Smith, and Somerville, swear they were never afraid of Frank Smith, and never saw anything in the Warden’s conduct which would have deterred them from reporting to him his son’s misconduct.

We are of opinion, that the reckless character of Kitchen-keeper Smith’s proceedings in the Prison, the total absence of restraint upon him, and the liberty he was allowed to take with the discipline and regulations, though by no means an apology for their not doing their duty, were all calculated to impress the minds of the Officers with that fear of Smith’s revenge, and the extent of his power which seems to have possessed them. Nothing was more likely to make a marked impression of this kind on their minds, than the latitude which was allowed Smith over all the other Officers as to his attendance to his duties; on this point even Mr. Costen says:—“He (Frank Smith) is very irregular; seldom present when the Roll is called; there never was any other Officer so irregular as Mr. Frank Smith; it would not have been right to allow any other Officer to remain in the Institution, who attended so irregularly; no Officer could so do his duty properly.”

There seems then, no doubt, that many of the Officers were afraid to report Kitchen-keeper Smith’s improprieties; that they had grounds to fear the consequences of making such complaints; and we think that the Warden by shutting his eyes to his son’s proceedings in a great measure produced the evil and is culpable for it.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

The charge of culpable conduct, in reference to his son, F. W. Smith, is therefore sustained on all the counts.

#### CHARGE IV.

##### GROSS NEGLIGENCE OF HIS DUTIES AS WARDEN.

###### 1. In not visiting the whole Establishment daily.

The duty of the Warden in this particular is thus laid down in the original Penitentiary Act, 4 Will. IV. chap. 37, clause x. :—"It shall be the duty of the Warden, or his Deputy, to attend constantly at the Penitentiary, except when performing some other necessary duty connected with his office; to exercise a general supervision over the Government, Discipline, and Police of the said Penitentiary; to give the necessary directions to the Keepers, and to examine daily into the state of the Penitentiary, and the health, conduct, and safe keeping of the prisoners."

In the amended Act of 1847, 9th Victoria, chap. 4, clause ix. it is declared to be "the duty of the said Warden, or in his absence of the Head-keeper, to attend constantly at the Penitentiary, except when performing some other necessary duty of his office, and under the rules and regulations which may be made as aforesaid, to exercise a general supervision and control over the Government, Discipline, and Police of the said Penitentiary; to give the necessary directions to the Officers and others employed therein, and to examine daily into the state of the Penitentiary, and to the health, conduct, and safe keeping of the prisoners," &c.

In the "duties of the Warden," as laid down in the rules and regulations of the Prison, the following clause is found :—"He shall reside at the Dwelling provided for him at the Prison, and shall visit the several shops and wings of the Prison, at least once a day."

The evidence, as to the manner in which this daily visit was performed, is as follows :—

Mr. Coverdale, the Architect, says :—He "knows the Warden did not visit the whole Establishment daily; he believes the Warden did not visit some of the work-shops for months together."

Mr. Utting says :—"There were days together, sometimes a week, when witness never saw the Warden in the shops or yard. Witness was constantly visiting the shops and yard throughout the day, and must have seen the Warden if he were about; witness was also frequently in the office, and there have been days together when he saw him neither in the office or work-shops."

Ex-Keeper Gleeson says :—He has "often known three, five, ten, and twelve days to elapse, without the Warden's being in witness's shop, when the Warden was not sick: and he explains that there were such lapses in summer, though they generally occurred in winter."

Ex-Keeper Keely says :—"The Warden would visit his shop, sometimes once a day, sometimes once in three days, and again not once in a week."

Ex-Keeper M'Carthy says :—"The Warden used to walk through his shop once a day, sometimes twice a day, and sometimes not all; sometimes not for a week or two together."

Appendix  
(B.B.B.B.B.)  
30th May.

Guard Wilson says :—"The Warden in the summer time, went pretty regularly to one or two of the shops; most days he visited the Blacksmith's shop once or twice; in the winter time, he did not go so regularly; he only visited the shops in good days, during winter; the Carpenter's shop the Warden visited nearly every day in summer time, but not often in winter time; witness never saw the Warden at any time in the Stone-cutter's shop; never saw the Warden going into the Hospital on any occasion, except on one Sunday morning."

Ex-Guard Fitzgerald says :—"The Warden was not in the habit of inspecting the various parts of the Prison, regularly; in the winter he visited the shops seldomer than in the summer time; has known a week to elapse several times, during which witness never saw the Warden in the yard; witness particularly remarked the remissness of the Warden in this matter, and the officers frequently spoke of it to each other."

Guard Bannister says :—"He thinks the Warden did not visit the Prison regularly, because witness went round the establishment several times daily, and did not meet the Warden; the Warden might have gone round, when witness was at the gate, without his seeing him."

Keeper Richardson says :—"The Warden was not in the habit of visiting witness's shop regularly every day; in the winter time, he did not come so often as in summer, he is often sick in winter; he suffers from rheumatism; for the last three months the Warden visits the shops much more frequently than heretofore." And in his cross-examination he says, he sometimes leaves his shop on business.

Kearns, Swift, Waldron and Freeland, give similar testimony.

For the defence, Guard Tyner says :—"He has generally seen the Warden passing through the yard, from within the gratings at the West gate, most days when he is well." Guard Watt says "he was stationed in the Blacksmith's shop in 1844-5-6, and when so stationed saw the Warden there every day." Guard Martin says "he has seen the Warden go out into the yard, generally before breakfast." Keeper Pollard says "he has seen the Warden visit his shop almost every day, except when sick, and sometimes two or three times a day." Keeper Manuel says "he cannot swear he has seen the Warden visiting his gang every day; sometimes he would come once a day; sometimes twice, three or four times a day, and sometimes not at all; cannot say how often in a week the Warden went his rounds; thinks he has seen the Warden going round the yard four days out of six, when he was well." Guard Sexton says "he has generally seen the Warden going his rounds every day, except when he was sick." Keeper W. Smith says "he has seen the Warden visit the gangs every day, health and weather permitting; has seen him four or five times in a winter's day; witness can see three gangs from his workshop, and has seen him regularly visiting them all." Keeper Hooper says "he has seen the Warden frequently in witness's shop; cannot say that the Warden is there every day; sometimes he has seen him twice or three times a week." The testimony of Guard Rowe and Keeper Gibson is favorable to the Warden, but their knowledge only extends to the summer of 1848.

The testimony as to the regularity of the Warden's visits to the women's apartments is not clear. Mrs. Cox and Mrs. Coulter says he was not regu-

Appendix  
(B.B.B.B.B.)  
30th May.

lar; Mrs. Pollard, Mrs. Martin and Mrs. Matthews (wife of the Keeper of that name, and formerly Assistant Matron) says he was.

In regard to the Warden's visits to the Hospital, there seems to be no doubt. Hospital-keeper Jones says that in the first ten months he was in the Penitentiary, (August 1847 to June 1848,) the Warden visited the Hospital very seldom, probably not over six times during the whole period. And in his cross-examination, Jones explains that he means six *business* visits: that the Warden has passed through the Hospital on an errand occasionally, but he thinks he was not in the Hospital thirty times in the ten months.

Rev. Mr. Rogers says:—"He goes to the Hospital every day he is in the Prison; has rarely met the Warden; probably not over five or six times in the whole six years." And in his cross-examination by Mr. Smith, Mr. Rogers explains that he does not draw the conclusion from this, that the Warden was never in the Hospital. Guard Nursey corroborates the statement of Jones, and says he thinks the Warden "may have" visited the Hospital once or twice a month, during the first ten months Mr. Jones had charge of the Hospital.

There is one witness, however, who gives testimony which were it correct, would remove all doubts as to the regularity of the Warden's visits; we mean Head-keeper Costen. This witness, in his preliminary examination, said:—"He, the Warden, walks through the shops daily; witness does not mean to say, that he has seen the Warden in every shop daily; but he has seen him about the yard, and presumes he visits the shops; witness has seen him in some of the shops." When cross-examined by the Warden, he said:—"The Warden usually goes his first rounds about seven o'clock, every morning; sees the Warden frequently going his rounds at other times, every day, except when sick." And when re-examined by the Commissioners he testifies as follows:—"Witness has seen the Warden going his rounds every morning at seven o'clock, ever since witness came to the Prison, summer and winter, with the exception of when the Warden has been sick. The Warden is not often sick; he was laid up for seven or eight weeks last winter; he has not been often laid up for three or four weeks at a time; he is occasionally a day or two sick. Sees the Warden at seven in the morning going through the yard, and visiting the different places of work; presumes the Warden goes into all the places of work; expects the Warden goes regularly every morning to the Kitchen; has seen him frequently there. Witness was a Guard when he first came to the Penitentiary in 1835, and continued so till 1837, when he was made Quarry-keeper; was removed from the Quarry to the Kitchen in 1841, and remained Kitchen-keeper till Nov. 1846. From 1835 to 1846 witness saw the Warden going his rounds every morning, when witness was not off duty, at seven o'clock; had no better opportunity of seeing the Warden going his rounds during this period than other Guards and Keepers. The Warden has not visited the establishment more frequently within the last three months than he did in previous years. The Warden generally repeats his visits to the establishment at nine o'clock; goes all round the same as in the morning; the Warden has always done so, summer and winter, since witness came to the Prison. The Warden frequently goes round the establishment during the day, besides the two stated visits witness has mentioned."

Mr. Costen was called seven times as a witness by Mr. Smith, and throughout, his testimony was given in a very reckless manner. To meet the charge against Kitchen-keeper Smith, of drenching the Convicts with water from the fire-engines, Mr. Costen swore the engines were tried every month to see if they were in proper order; but in his cross-examination, he admitted that "they were never taken out except when Mr. Skinner or Mr. Frank desired it, and they took them out whenever they thought proper." He swore "the Warden told witness that Wilson's idling his time on 31st March was one of his reasons for removing Wilson to the board fence;" but it appears that the Warden had been satisfied the day before he ordered Costen to remove Wilson, that he had not been idling on 31st March, and had repaid Wilson a deduction made from his pay on account of it. Costen swore that he "has seen the Warden present in the Inspector's avenue, or outside the Roman Catholic Chapel, while service was going on, both in the Protestant and Roman Catholic Chapels, every Sunday since witness came to the Prison, except when witness was absent or the Warden was sick;" but it afterwards appears that during many of these very years, he was locked up in the Protestant Chapel regularly during service, and could not have seen the Warden at all; and that until he was appointed Head-keeper in November, 1846, he was never stationed at the Roman Catholic Chapel on any one Sunday. Costen swore one day that he "has seen the Warden going round inspecting the beef before the men came in, very frequently; he may do it once a week; has seen him do it fifty times and oftener; he may say one hundred times in the thirteen years." He was recalled next day by the Warden, and testified that he "should think the Warden goes oftener than once in forty-seven and a half days to see the rations; as near as witness can guess, witness would say the Warden goes one hundred times in a year to see the rations in the Dining-hall, before the soup is poured into the platters." Costen when giving evidence in justification of Guard Wilson's removal to the outside fence, said one of the reasons for his removal was Wilson's "associating with discharged Convicts and taking them into his own house, and walking through the streets arm-in-arm with them, (which was proved in witness's presence.)" When cross-examined on the point, it appeared that Costen was in the lobby when the Inspectors were trying Wilson, that the door was shut, and Costen did not hear a word of what passed, but that he "understood that this was the charge made against Wilson, and that it was proved." When examined on the same point, Mr. Costen said:—"The rule prohibiting the recognition of Convicts was passed in 1845; does not know that any Officer of the Institution has employed discharged Convicts since this rule has been in operation; does not recollect ever having heard that any Officer had so employed discharged Convicts;" but when further interrogated, it is elicited from him that he did know that Officers had discharged Convicts in their employment, and that he had been told of two cases, (Crawford's and Baldwin's) only the night previous to his examination. When examined as to Convicts having been biassed in their testimony, he said:—"Witness does not know than any Convicts have been up before the Warden upon the subject of matters before, or to be brought before the Commission." But after going over many transactions which have been before us, and the knowledge obtained of them by himself from Convicts, it was elicited from him, that "Mongomery has been frequently before the Warden on these subjects; witness has conversed on the same subjects with Dwyer, Condon, and Booth, several times; and they have

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

been all up before the Warden several times." The Head-keeper calls the Roll and marks the names of absentees, from whose pay deductions are made. Mr. Costen says, he "has marked down in the time-book every occasion on which Frank Smith was absent, or behind time. Mr. Frank Smith was very often behind time for a quarter of an hour and half an hour." But he says elsewhere, "he (Frank Smith) is very irregular; seldom present when the Roll is called; there never was any other Officer so irregular as Mr. Frank Smith." And the deduction book shows that very few deductions have been made from Smith's pay, that months elapse in which no deduction is made, and that many other Officers have been more frequently reported than he. Mr. Costen also swore as follows:—"Has seen the Warden frequently attending Divine Service, during the last five years, and remain during the whole service; has seen him do so frequently during the last three years: cannot tell how many times he means by the word 'frequently;' cannot say how many times; would say he has seen the Warden present during the whole service twenty times in the last three years; witness was himself present on these occasions, and remained during the whole service. The Warden has not been present within the Chapel during the last year."

The Chaplain testifies, that "the Warden has not been present at Divine Service for several years;" and again, that he has only been in Chapel five or six times since 1840; and Mr. Smith does not pretend to say that he has been more frequently.

These are a few instances of Mr. Costen's loose testimony, and they are only a few out of many to be found throughout his evidence.

From all the evidence, we are satisfied that the Warden has not made that regular daily inspection of the Prison contemplated in the Statute. We think he has visited by 'fits and starts;' going more frequently to particular shops for which he had a partiality, but seldom visiting the whole establishment. In addition to the defence that he had made the necessary visits, the Warden attempted to show by Mr. Bickerton, that while the annual accounts were being made up, the Warden could not spare time to visit the shops; but it is clear that the Warden's visits amounted simply to walking through the yard and shops, and even Mr. Bickerton admits he could have spared time for that.

2. In not being present when the Convicts were at Meals.

This charge was supported by the testimony of several witnesses, and the Warden has not attempted to show that their statements are incorrect. There is, therefore, no doubt that the Warden has been seldom present while the Convicts were at meals, except when with visitors, or at corporal punishment. The defence, however, rests on several other grounds. The Warden alleges that there was no rule requiring him to be present at meals; that his time was fully occupied otherwise; that the Clerk was at dinner during the Prison dinner-hour, and the Warden had therefore to be in the office; that it would have been dangerous to shut up the Warden and Deputy Warden together, as a rebellion might have broken out; and finally, that he examined the rations immediately before the dinner hour, and saw the food after it was divided.

We do not think the plea of occupation otherwise a tenable one. The whole duties of the Warden, as they have been fulfilled, seem to have been far from

onerous. It is also obvious, that if there was special danger from rebellion when Mr. Smith and Mr. Costen were locked up together, the difficulty might have been surmounted by one stepping out as the other went in. It is likewise clear, that the Clerk's dinner-hour was not necessarily the same as that of the Convicts, and might have been changed.

The defence that the Warden examined the rations before the men came in, would be more satisfactory were it established, but it rests entirely on the credibility of Head-keeper Costen and Guard Watt. As we have shown under last Count, Mr. Costen first swore that he had seen the Warden examining the rations before the Convicts came in, one hundred times in thirteen years, and when recalled next day by the Warden, he said he thought he had seen him do so thirteen hundred times in the same space.

Guard Watt's testimony is as follows—By Mr. Smith:—

"Witness has seen the Warden in the Dining-hall before breakfast and before dinner; has seen the Warden go round the tables and examine the rations."

By Commissioners:—

"The Warden has visited the Dining-hall much oftener during the last three months than he did previously; two or three times for once formerly. Witness has seen the Warden come three or four times a week in the morning before the bell rang, to inspect the rations, previous to the present year; has seen him come three or four times a week before the men took their seats at dinner; the Warden has come almost every day since the Commissioners have been here."

By Mr. Smith:—

"Witness thinks that previous to the last three months, the Warden visited the Dining-hall every other day."

It is true that there has existed no rule requiring, in so many words, that the Warden shall be frequently present while the Convicts are at meals, but it certainly comes within the meaning of both statute and by-law; and one taking a proper interest in the success of the Institution, would hardly have absented himself on such a plea. Apart from the necessity of seeing that the officers did their duty, and that everything was conducted in an orderly manner, an energetic Warden would naturally take this opportunity of gaining the kindly feelings of the Convicts, by showing an interest in their good treatment, and a determination that every justice should be done them. The great abuses which have arisen in regard to the food, and the treatment of the Convicts in reference thereto, it is to be hoped would not have been allowed to exist had the Warden attended to this duty, and not left it entirely to his subordinates. We are of opinion that negligence in the matter is fully established.

3. In not being present when Corporal Punishment was inflicted upon the Convicts.

This charge was brought on the testimony of several witnesses; and their allegations the Warden has not attempted to gainsay. It is therefore established, that from the opening of the Prison up to October, 1847, the Warden was rarely or never present at corporal punishment. It appears, how-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

ever, that the Deputy Warden has always been present at the infliction in the Dining-hall; and as there was no law or rule requiring his personal attendance, the Warden seems to have considered that he was not called upon to be present. It will be seen, however, in a future charge, that corporal punishment has been inflicted in the Prison to a frightful extent, and that Convicts were often subjected to the lash, who were in a condition calling for the closest examination by the authorities; and when it is borne in mind that no surgeon was present at the infliction of corporal punishment, we think it is obvious that the claims of common humanity demanded the frequent presence of the chief officers on such occasions. The testimony of Mr. Utting, who superintended the infliction of corporal punishment for five years, if any evidence were needed, shows how strong the necessity was. He says:—"Witness has often mentioned that he thought a medical man should be present, (when corporal punishment was inflicted,) as he (witness) was not capable of judging whether the men were in bodily condition to receive punishment."

We think there is much cause to regret that the Warden did not attend frequently on these occasions; but as the letter of the law has been kept by the presence of his Deputy, we cannot hold Mr. Smith guilty of gross neglect of duty in the matter.

#### 4. In not taking means earlier to free the Cells of the Convict Women from Bugs.

This charge extends over a period of several years. The evidence is as follows:—

Mrs. Coulter, (speaking of the time when she was Matron,) in her preliminary examination, says:—"The sleeping cells were frightfully overrun with bugs, especially in the spring of 1846; the women used to sweep them out with a broom. It was so very bad, that on one occasion witness asked the Warden to let the women sleep in the day-room, and she would stop all night with them, and be responsible for them; the Warden would not consent. The women suffered very much; their bodies were blistered with the bugs; and they often tore themselves with scratching. Witness confesses that on one occasion she disobeyed orders, and let the women sleep out of their cells. The torture the poor women endured was horrible; and witness could not resist their entreaties to let them out. Witness often complained to the Warden of the bugs; but he took no steps to remedy the evil. About a month before witness left the Institution, she brought the Warden to see how thick the bugs were; he said that nothing could be done but wash the cells out. Three days after, the women all refused to work, in consequence of what they suffered from the bugs; the Warden then sent in some lime, with which the cells were thoroughly washed; and the evil was not so great afterwards."

By Mr. Smith:—

"There were a great many bugs in the women's Prison; never saw more in her life; plaster was used to destroy them; soap was tried, but it did no good; lye was tried; everything was tried; bottles of bug-poison were got."

By Commisaioners:—

"The remedies witness has spoken of, as applied to the bugs, were so applied after the outbreak among the women, in consequence of the bugs."

Appendix  
(B.B.B.B.B.)  
30th May.

Mrs. Martin (Assistant Matron under Mrs. Coulter) says, when called by the Warden:—"The women's cells had a good many bugs; the Warden got poison, blue ointment, copperas-water, and other things to kill the bugs; there was no delay experienced in getting those remedies. Mrs. Cox was Matron at this time, and Mrs. Coulter. Some two or three of the women were suffering from the itch at this time; it was in Mrs. Coulter's time; they scratched themselves for it until the blood came. She thinks it was from the itch the women scratched themselves."

Mrs. Cox (who succeeded Mrs. Coulter as Matron) says, in her preliminary examination:—"The cells of the Convicts were overrun with bugs."

By Mr. Smith:—

"Great exertions were made by witness to free the cells from bugs. The cells were cleaned once a week, and sometimes twice; but not often twice."

Mrs. Pollard, (who succeeded Mrs. Cox as Matron, and was previously Assistant Matron under her for six months,) when called by the Warden, says:—"Plastering, whitewashing, tallowing, puttying, and soaping were all used to kill the bugs during Mrs. Cox's time; there are very few bugs in the cells now; the cells are now cleaned out regularly twice a week in summer, and once in winter. In Mrs. Cox's time only one day a week in summer and winter was allowed the women for this purpose; and then the Convicts might do it or not, as they saw fit. Convicts are now forced to do this duty. If Mrs. Cox had been as particular, there would have been no more bugs last summer than this summer. Never knew the Warden to refuse any remedy likely to destroy the bugs. The cells are made of wood—she thinks of pine-wood."

By Commissioners:—

"Bugs are increased by the heat of the weather; does not recollect that the summer of 1847 was a very warm one; was told that one thing which made them worse in 1847, was the large fires kept on at night in the Wards, the previous winter. The Convicts have all suffered from the bugs, and they do still, but not so much as before. If stone cells had been put up, the women would have been saved much suffering."

The cells of the female Convicts are built of pine; have been many years in use, and are small apartments, with little ventilation. There seems no doubt that the cells have been overrun with vermin, and that the women suffered frightfully from them for years. It appears that in the spring of 1846, the evil became so unendurable, that an outbreak took place among the women. There is no proof that up to that time any remedies were applied; but since then, it appears, various remedies have been procured, which lessened the evil, though it did not remove it. The explanation of Mrs. Martin, that the women suffered from itch, seems to be incorrect. The following return of all the cases of this disease which occurred in the Prison during the years 1844-5 and 6, shows conclusively that no female Convict labored under it while Mrs. Martin was in the Penitentiary:—

Appendix  
(B.B.B.B.B.)  
30th May.

"Return of the number of cases of Itch, as extracted from the Hospital Diary, Provincial Penitentiary, for three years, commencing October 1, 1843, and ending September 30, 1846.

NAMES.	DATE OF ADMISSION.	DISCHARGED.	
James Wiles.....	Dec. 5, 1843	Dec. 7, 1843	} From Oct. 1, 1843 to Sept. 30, 1844
Lucian Ainsley...	June 20, 1844	June 22, 1844	
Arthur Mowbray	July 16, 1845	July 17, 1845	} From Oct. 1, 1844 to Sept. 30, 1845
William Gibson.	Sept. 15, 1845	Sept. 17, 1845	
William Jackson.	July 14, 1846	July 15, 1846	} From Oct. 1, 1845 to Sept. 30, 1846
James Thompson	July 29, 1846	July 31, 1846	

"I certify that I carefully examined the Hospital Diary for the above period, and that the above, to the best of my belief, is a true extract.

(Signed) "WILLIAM JONES,  
Hospital Keeper.

"Provincial Penitentiary,  
Kingston, February 10, 1849." }

We are of opinion that it was the Warden's duty to see that so serious an evil was remedied. He appears to have made no representation to the Inspectors of the necessity of putting up new cells; and we think that he is justly chargeable with great neglect in the matter.

5. IN ENTRUSTING THE EXAMINATION OF CONVICTS, ABOUT TO BE DISCHARGED, TO ANOTHER OFFICER—TO ONE INCOMPETENT FOR THE DUTY.

The following questions are put to every male Convict (with the exception of soldiers) on the day previous to his discharge:—

QUESTIONS PUT TO CONVICTS ON THEIR DISCHARGE FROM THE PROVINCIAL PENITENTIARY.

- 1.—How long have you been confined in the Penitentiary?
- 2.—Have you been punished by whipping or otherwise during your confinement?
- 3.—Have you seen any punishment inflicted which you consider cruel, or so severe as to injure the health of a Convict, or to prevent him from attending to his daily work?
- 4.—If a Convict is disposed to attend to his work is there any difficulty in conforming to, and obeying all the Prison rules and regulations?
- 5.—What is the number of the cell you occupied, and in what part of the Prison is it situated?
- 6.—During the time you were in your cell, did you hear any conversation or know of any communication between the Convicts?
- 7.—Do you think the Convicts would be able to communicate with each other without you hearing them?
- 8.—What is your height and weight?
- 9.—Are the cells sufficiently large?
- 10.—Should the cells be made wider, would they contribute much to the comfort of the Convicts?

Appendix  
(B.B.B.B.B.)  
30th May.

- 11.—Are the cells well lighted, ventilated, and warmed in cold weather, and are they as comfortable as need be?
- 12.—Have you been employed as a teacher of Convicts to read, if so, what proficiency have they made?
- 13.—Has any communication been carried on between Convicts during the time they are taught in their different classes?
- 14.—Is there any opportunity for communication between the Convicts, situated as they are under the surveillance of the Deputy Warden and Keepers, more than at any other time, or when they are at work?
- 15.—Has your food been wholesome and sufficient?
- 16.—Which in your opinion is the best method of enforcing the observance of the Prison discipline—punishment by Keepers as practised here, or confinement in a dark solitary cell with privation of food?
- 17.—Which of the two last mentioned modes of punishment do you think would be most likely to create sullenness and revengeful feelings on the part of the Convicts against the Keepers?
- 18.—In those cases where Convicts have been punished, have you observed that they have manifested any feelings of hatred or revenge afterwards?
- 19.—What was the condition of the Gaol in which you were confined before you came to the Penitentiary, in respect to intercourse and evil communication among the Prisoners?
- 20.—Do you think that the discipline of the Penitentiary with the punishment of hard labour therein, sufficient to deter Convicts from the further commission of crime, and calculated to produce a reformation?
- 21.—What do you consider the greatest hardship in the Penitentiary?
- 22.—Had you sufficient clothing and bedding while undergoing your sentence?
- 23.—Have any of the Convicts made any communication to you respecting an intention to effect their escape?
- 24.—Did you rise from bed or retire to your cell sooner than you wished?
- 25.—Do you consider the treatment of the Convicts to be hard or humane?
- 26.—Is proper care and attendance paid to the Convicts in cases of sickness?
- 27.—What do you consider to be the cause that led you to the commission of the offence for which you were sent to the Penitentiary?
- 28.—In what manner, in regard to your moral and religious duties, were you, brought up by your parents?
- 29.—Were you ever brought up to any trade?

Appendix  
(B.B.B.B.B.)

30th May.

30.—Did you ever hear of anything that was going on outside the Prison, or have you ever heard the Guards and Keepers talk together upon such subjects?

31.—How often have you, since your imprisonment in the Penitentiary, spoke to the Chaplain (or Priest) on matters concerning your spiritual welfare?

Additional questions put to Convicts who have been twice or oftener inmates of the Penitentiary.

1.—Have you used intoxicating liquors since your discharge from the Penitentiary, on the expiration of your former sentence?

2.—Did the use of intoxicating liquors lead to the commission of the offence which led to your conviction?

3.—Did you after your discharge from the Penitentiary, find any serious difficulty in procuring employment?

4.—Did you commit the offence for which you have been sent here, or any other crime, because you could not find any lawful employment by which you could not gain your livelihood?

5.—Before you left the Penitentiary, at the expiration of your former sentence, did you make any arrangements with any of the Convicts to meet you after you should be both discharged, for the purpose of committing crime of any sort?

6.—Was any Convict who had been formerly at the Penitentiary connected with you at the commission of the offence for which you were last tried and convicted?

"A true copy.

(Signed,) "F. BICKERTON, Clerk."

It appears that the Warden performed this duty himself at first; but in December, 1846, handed it over to Head-keeper Costen, who has since attended to it. The mode in which the Warden performed this duty is thus explained:—

Thomas Costen—By Commissioners:—

"Question. In whose handwriting are the replies to questions from which you furnished your statement as to the answer given to the 15th question?"

Answer. In Mr. Bickerton's handwriting.

Q. Are these the original memoranda taken when the Convicts were examined?

A. No; they are copies from sheets of paper handed to the Clerk by the Warden.

Q. Who took the original memoranda?

A. The Warden.

Q. Are the answers signed by the Convicts?

A. No.

Q. Was any one but the Warden present when the Convicts were examined?

A. No.

The manner in which Mr. Costen has executed the duty he states as follows:—

Thomas Costen—By Commissioners:—

"When witness takes the examination of Convicts about to be discharged, he writes down their answers *verbatim*, in all cases; he reads the answer to each query, generally; does not read it all over to the Convicts at the close of the examination; the Convicts are not asked to sign the examination."

By Mr. Smith:—

"Witness never puts words in the Convicts' mouths, when taking their answers to the regulation questions." "When witness examines Convicts on their discharge, he does not tell them to give their answers freely; he gives no instructions either one way or other; simply puts the questions."

As to the competency of Mr. Costen to fulfil the duty properly, the evidence of Mr. Rogers, the Chaplain, is directly in point.

Rev. R. V. Rogers—Preliminary examination:—

"From his knowledge of Mr. Costen, his station and mental endowments, witness would think him quite incompetent to do this duty properly."

By Mr. Smith:—

"Witness has formed an opinion of the mental capacity of Mr. Costen; he has had a good ordinary education; he is able to read writing; he is capable of writing down what men tell him; should think Mr. Costen very incompetent to examine Convicts going out, as to the effect of the discipline on their minds; thinks it would require a man of great tact, and high moral feeling, to do this duty efficiently; thinks it would require a man much superior to Mr. Costen."

The defence set up is, that there was no rule requiring the Warden to perform the duty. James Hopkirk, Esq., when called by the Warden, says:—"Knows of no rule requiring the Warden to take statements of discharged Convicts before they go out, but such has been the practice; has heard the Warden say, he had directed Mr. Costen to perform this duty; the reason the Warden gave for giving this duty into the hands of Mr. Costen, was, that he thought his fidelity in putting down the answers might be doubted; witness is free to confess that he did not concur with this view of the Warden, as he thought the same objection might be urged against Mr. Costen; he thought it immaterial which performed the duty, as in his opinion either might be perfectly trusted. Thinks Mr. Costen quite competent to perform this duty; had he thought otherwise, he would have objected to Mr. Costen's performing it."

It is true there is no clause in the Act requiring the Warden to put questions to Convicts about to be discharged, nor any positive rule; but it is a recognized practice of long standing, and the Inspectors on 31st December, 1847, ordered an additional question (the 31st) to be added to the list; and it is a most desirable practice, calculated to be exceedingly beneficial, if properly carried out. It is manifestly not a duty to be executed in a loose manner, not to be discharged by asking a few questions with indifference, and writing down a few answers, given

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

mechanically. We conceive it to have the high purposes in view, of enabling the Chief Officer of the Institution to profit by the moment when all the better feelings of the culprit are stirred with the thought that his crime has been expiated, and that he is returning to his home; we can conceive no more interesting duty than to lead the prisoner at such a moment to unbosom himself freely, to advise him as to the difficulties before him, and to strengthen him in any good purposes he may have formed. And were there no higher object, it affords an opportunity to the Warden to learn any abuses which may exist in the Prison, and to find the effect of the discipline.

From first to last, the duty seems to have been done without any feeling of its intention or importance. As a statistical document it can be entitled to no reliance; no signature is attached to the answers, and it appears that they were not even read over to the parties; the cold yes or no, so profusely to be found, seems to be taken an irksome duty, gladly got over.

We are of opinion, that any Head-keeper, however well qualified as regards talent, is a very unfit person to perform this duty. He is the Officer who practically carries out the discipline of the Prison, and comes more than any other into personal contact with the Convicts; and his interest is so direct, in covering any irregularities which might be exposed by the Convicts, that the same confidence could not be placed in the impartiality of his return, as in that of another. As to Mr. Costen's competency, the whole of our intercourse with him, and the character of his evidence throughout, show him to be in every way unfit for the duty.

We are consequently of opinion, that the Warden is guilty of gross neglect of duty in this matter; and that by his neglect, a most desirable practice has been for a long period rendered useless.

6. IN NOT PUTTING THE SAME QUESTIONS TO FEMALE CONVICTS AND SOLDIERS, AS TO MALE CIVILIANS.

It is admitted that the questions given under last count have never been put to the female or military Convicts, although of the latter a large number are annually received. No defence is attempted as to the women, and as to the soldiers the following is the only evidence:—

Thomas Costen—By Mr. Smith:—

"Witness does not examine soldiers before they go out; some of the soldiers come for very short periods, some for five or seven days, and others for one, two, and three months; thinks their answers could have little influence in showing the working of the Prison discipline, from the shortness of their confinement."

By Commissioners:—

"Soldiers are frequently committed to the Penitentiary for a year and over."

Mrs. Coulter says, in her preliminary examination:—

"No questions were put to the women Convicts when their sentences had expired and they were about leaving the Prison."

By Mr. Smith:—

"The Warden saw some of the female Convicts before they went out; heard him tell them to behave themselves or they would come back again."

Mrs. Cox says, when examined by the Warden:—

"The Warden never spoke to any of the women when about to be discharged, further than saying 'take care, or you'll come back;' cannot say how many women the Warden spoke to in this manner."

We think the defence as to the Military Convicts not a good one, as there are many questions in the formula which could be answered as well upon three months knowledge as from three years; and as most of the soldiers are committed merely for trivial Military offences, their testimony on such points would be more valuable than others.

We can see no reason or apology for the omission in the case of either the Female or Military Convicts, and we consider it gross neglect of duty on the part of the Warden.

7. IN NOT TAKING AN ACTIVE PART IN THE WORK DAILY GOING ON IN THE ESTABLISHMENT.

William Coverdale, the master builder of the Institution, in his preliminary examination, says:—

"Warden apparently took no interest whatever in the progress of the work under the charge of witness; for two or three months together he has not spoken a word to him on what was going on. Witness was often greatly astonished at the total absence of interest on the part of the Warden, in the affairs of the Institution. Warden would often pass witness, for months together, with only a passing salutation. When the Warden wanted anything done for himself, such as his garden wall built, or jobs done about his dwelling, sleighs or carriages made or repaired, he took an interest in their progress, and spoke to witness about them."

By Mr. Smith:—

"Witness has frequently thought that the Warden did not take such an interest in the work progressing as a person in his situation should do: he took some interest. The Warden has been two months without speaking to witness; there was pretty nearly the whole of one summer that they never exchanged words; speaks of the same year; the outside walls were then building; the same description of work was going on every day. It took about three years to build the walls; various other works, however, were progressing at the same time under witness's directions; he believes the west wing was building."

Mr. Utting, in his preliminary examination, says:—

"The Warden took no interest in the work going on in the Penitentiary, excepting when getting work ordered by himself executed. Witness thinks the Warden took little interest in the progress of the buildings; the master builder often complained to witness that Warden took little interest in the works going on."

By Mr. Smith:—

"Witness did not think the Warden paid much attention to the work which was going on; has heard

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

Officers complain that they did not see the Warden when they wanted to see him; names M'Garvey and Coverdale; Reid was idle for want of blasting powder; Richardson, if witness thinks right. Coverdale told witness that it was a loss of five pounds a day. Thinks the Warden would get the greatest praise if all things went well at the Penitentiary."

Ex-Keeper Gleeson, says:—"Warden appeared to take little interest in the progress of the business; he very seldom spoke to the head mechanics."

Ex-Keeper Keely says in his preliminary examination:—

"The Warden took very little interest in the work going on. \* \* \* He very rarely inquired as to the work in progress when he came to the shop."

By Mr. Smith:—

"When the Warden did go round witness's shop, he scarcely took time to see what was going on; he walked right through. When witness asked him any questions he could scarcely get an answer, and had sometimes to follow him about like a little boy to get his answer."

Guard William Waldron, says:—"When the Warden did visit the shop, he took little interest in the work proceeding; he would just saunter through the shop, asking a few questions once and again."

M'Carthy, Wilson, Fitzgerald, Freeland, Richardson, Kearns, and Swift, all bear similar testimony.

The duty of the Warden, as laid down in the original Penitentiary Act in 1834, was as follows:—"It shall be the duty of the said Warden or his Deputy, to use every proper means to furnish such Prisoners with employment the most beneficial to the public, and the best suited to their various capacities; and to superintend all the manufacturing and mechanical business that may be carried on within the Penitentiary; to receive the articles so manufactured, and to sell and dispose of the same for the benefit of the Province, when the labour of the Convicts is not let out by contract."

The parallel clause in the amended Act of 1846, is as follows:—"That it shall be the duty of the Warden, or in his absence of the Head-keeper, to attend constantly at the Penitentiary, except when performing some other necessary duty of his office, and under the rules and regulations which may be made aforesaid; to exercise a general supervision and control over the Government, Discipline, and Police of the said Penitentiary; to give the necessary directions to the Officers and others employed therein, and to examine daily into the state of the Penitentiary; and the health, conduct, and safe keeping of the Prisoners; to use every means to furnish such Prisoners with employment, the most beneficial to the public, and the best suited to their various capacities; and to superintend all the manufacturing and mechanical business that may be carried on within the Penitentiary; to receive the articles so manufactured, and to sell and dispose of the same for the benefit of the Province, when the labour of the Convicts is not let out by contract: Provided always, that the Warden shall be and is hereby authorized to act in all cases not provided for by law, or by such rules or regulations, during

the interim of the sitting of the Board of Inspectors, in such manner as he may deem to be most for the advantage of the Penitentiary: And provided also, that the said Warden shall be bound to report to the said Inspectors, at their next subsequent meeting, all matters wherein he has acted during the absence of the Board, and which specially come under the cognizance and directions of the Inspectors."

The evidence offered by the Warden is as follows:—

James Hopkirk, Esquire—By Mr. Smith:—

"The Warden is always ready, when asked to give an account to the Board, of what work is going on in the establishment; it appeared to witness that the Warden took a great interest in what was going on."

Mr. Sheriff Corbett—By Mr. Smith:

"As an Inspector, witness has always found the Warden to take an interest in what was going on in the Penitentiary; he was always ready to give the Inspectors any information they asked."

Mr. Bickerton—By Mr. Smith:—

"The Warden has usually asked the witness, immediately before the annual report to the Government, if witness's cash account has balanced; does not think that the Warden has asked if his general accounts balanced."

Discharged Convict Ramsden—By Mr. Smith:—

"Worked in Mr. Richardson's gang; has repeatedly heard the Warden make enquiries respecting the work which was going on there."

Head-Keeper Costen, in his preliminary examination, says:—

"The Warden takes no charge of the work going on; the Keepers are supposed to be competent to attend to this. The Warden gives his consent before any job is commenced, and he walks through the shops daily; witness does not mean to say that he has seen the Warden in every shop daily, but he has seen him about the yard, and presumes he visits the shops; witness has seen him in some of the shops."

By Mr. Smith:—

"Thinks the Warden takes an interest in the work going on in the Penitentiary. Does not think it is the Warden's duty to look after building operations; there is a person appointed for that purpose: Mr. Horsey does so at present."

James M'Carthy—By Mr. Smith:—

"The Warden very seldom asks any questions about the work; he would occasionally ask who such and such an article was for. There was a rule for some years (latterly) that all jobs done for private individuals should be entered in a pass-book by the Warden before the jobs were commenced; work was sometimes done for the Inspectors to-day and booked to-morrow; otherwise, the Warden knew of work done for private individuals (including the Officers) before it was commenced."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

He also produced a number of witnesses to testify generally to his business conduct.

Keeper Hooper says, he "believes that Mr. Smith has done the best he could for the success of the Institution." Keeper Manuel says, "he has never seen anything on the part of the Ex-Warden, that would be injurious to the Institution, so far as witness can see; he does not remember anything on the part of the Ex-Warden that would be otherwise than conducive to the prosperity of the Penitentiary." Keeper Little says, he "believes that the Ex-Warden has always acted for the good of the Institution." Guard Watt "does not think the Warden ever did anything to prevent the successful working of the Institution." Keeper W. Smith "thinks that Mr. Smith has done everything in his power to promote the interest of the Penitentiary." Keeper Pollard "believes, so far as he knows, that Mr. Smith has done his duty by the Institution." Mr. Horsey "thinks Mr. Smith has done all he could for the success of the Institution." Keeper Ballantine says, "he has always been anxious for the welfare of the Institution." Keeper Hermiston "never saw Ex-Warden do anything which would be hurtful to the Institution." Guard Martin "never saw the Warden do anything that witness has thought prejudicial to the interest of the Institution." Keeper Matthews "thinks that the Ex-Warden has done all he could for the success of the Institution." Guard Sexton "has never seen or known him to do any thing which would mar the interest of the Institution." Mr. Bickerton "has never seen Mr. Smith do anything which would prevent the successful working of the Institution." Guard Thomas Smith "never knew him to do anything which would injure the Penitentiary or the business of it." Keepers Gibson and M'Mahon give similar testimony, but they were only appointed about the time the Commission met.

The defence offered by the Warden seems to be, that it was not his duty, but that of the Keepers, to look after the work going on; but that he did take an interest in it, and that the work-book which he kept enabled him to know all the work going on, without more personal inspection than he gave, or reference to the master mechanics.

It is true that the Keepers were entrusted with the duty of seeing all work practically done; but it was as plainly the duty of the Warden to see that the Keepers attended to the work, and executed it well. The work-book kept by the Warden only contained the orders to be executed for private individuals, which did not form a tithe of the work performed in the establishment; and though it told what work some men should be at, it could not show if they were at it; how long it took them, or if it was well done.

It is clear that there has been, on the part of the Warden, an absence of all that close and warm interest in the business department of the establishment which is absolutely necessary to success. Not one Keeper has been brought to say that the Warden consulted and advised with him about the work. We have nothing but vague generalities which do not meet the evidence of the other witnesses.

It thus appears that for a series of years while great works were proceeding, and thousands of pounds a year of the public money being spent, that their execution was left uncontrolled in the hands of inferior Officers, and that little or no interest was shown by the responsible agent of the Government;

36.

Appendix  
(B.B.B.B.B.)

30th May.

no care to economise; no vigilance in pushing the work through expeditiously; perfect indifference as to how it was executed seems to have been manifested. We find Mr. Smith guilty in this matter of the grossest negligence; and in future charges the results of it, we think, will appear.

#### 8. IN NOT TAKING AN ACTIVE INTEREST IN THE MORAL CONDITION OF THE CONVICTS.

It was charged under this count that the Warden took "no interest in the moral state of the Prisoners; he never spoke to them in private, or reasoned with them as to their offences or unruly conduct." That proper attention was not paid to the common education of the Convicts, and the religious services of the Prison were quite inadequate.

The defence apparently rested upon by the Warden, is, that the Chaplain, and not he, was the proper person to look after the moral and religious interests of the Convicts; that before there was any Chaplain, he (the Warden) read prayers to the Convicts; but that since there has been a Chaplain, he has left such matters entirely in his hands.

No attempt is made by the Warden to show that he inculcated moral duties and principles on the minds of the Convicts; that he reasoned or advised with them, or in any shape exhibited the least interest in their reform: his rule seems to have been that of the rod, not of moral suasion. The inefficient character of the School, if such it can be called, is a reproach to the Institution. During part of the meal hour, on three days of the week, the Convicts are allowed to teach each other, and books are furnished them for the purpose. The evidence as to the interest taken in the School by the Warden, is as follows:—

Thomas Costen—By Warden:—

"Has seen the Warden in the School since Mr. Pringle's time;\* cannot say how often in the Chapel or School since Mr. Pringle's time, but very frequently."

By Commissioners:—

"Witness cannot say how often the Warden has been present at school-time in the last five years; has seen him frequently come in and walk round the room; dares to say he was fifty times; he never looked into the studies of the scholars, or the progress they were making; he merely walked round the School; it was not his duty to do so."

It also appears that there are no morning or evening prayers said in the Prison—no grace at meals—no Sabbath-school,—nothing, except one service on Sunday, and a Lecture on Thursday, "to mark the Institution," in the words of the Chaplain, "as a community of Christians."

It is certainly not the duty of the Warden to perform such services himself, but it is his duty to see that they are done. Every department of the Prison is under his charge; and surely, in such an Institution, nothing can be more important than this. It is true that difficulties did stand in the way, from the variance in the views of Protestants and Roman Catholics; but these ought to have been overcome. It is much to be regretted that strenuous exertions

\* Mr. Pringle resigned in 1840.

Appendix  
(B.B.B.B.B.)  
30th May.

to make the religious means more effective, were not put forth by the Warden; and we think him chargeable with serious neglect of his duty in not doing so.

#### 9. IN NOT BEING PRESENT AT DIVINE SERVICE.

Rev. R. V. Rogers, in his preliminary examination, says:—"The Warden has not been present at Divine Service for several years. Witness does not think he ever saw the Warden present at the Thursday Lecture."

By Mr. Smith:—

"Witness is not aware that he has seen the Warden, or any Inspector, present at School, Chapel, or Lecture, since the first Board (Mr. Pringle's) resigned, (1840,) except some five or six occasions, when the Warden was present at Chapel."

No attempt is made by the Warden to prove that he ever attended in the Chapel while the service was proceeding, except through Mr. Costen and Guard Martin.

Mr. Costen—By Mr. Smith:—

"Witness has seen the Warden in the Chapel since Mr. Pringle ceased to be an Inspector; has seen the Warden in the School since Mr. Pringle's time; cannot say how often in the Chapel or School since Mr. Pringle's time, but very frequently."

By Commissioners:—

"Has seen the Warden frequently attending Divine Service during the last five years, and remain during the whole service; has seen him do so frequently during the last three years; cannot tell how many times he means by the word 'frequently'; cannot say how many times; would say he has seen the Warden present during the whole service twenty times in the last three years; witness was himself present on these occasions, and remained during the whole service. The Warden has not been present, within the Chapel, during the last year."

William Martin—By Mr. Smith:—

"Has seen the Warden inside the Protestant Chapel when service was going on, several times."

By Commissioners:—

"Witness has seen the Warden in the Protestant Chapel during service within the last three years; has seen him once or twice; has seen him several times in the last three years; cannot say that he has seen him five times; he did not remain all the time of service; he might have remained fifteen or twenty minutes."

If Mr. Costen's evidence had been true, there are twelve or fourteen Keepers who have been present at Chapel nearly every Sunday, and could have sustained what he says. Mr. Rogers' testimony is undoubtedly accurate.

But the main defence of the Warden is, that there was no rule requiring his presence at Chapel; and that the requirements of the Act, as to a general surveillance, he fulfilled, by going to the Chapel door on Sundays during service, and there inspecting the prisoners through the peep-holes, or small slits built in the wall, to enable the Keeper to look into the room without being seen. That this was

the general practice of the Warden, he has fully proved; but all agree that he merely glanced through the spy-holes for a minute or two, and went off again.

Mr. Hopkirk is called to prove that "he is not aware of any rule enjoining on the Warden to be present during the performance of Divine Service," and such is the case; but the question might be raised whether the defence was not more censurable than the offence charged. The propriety, nay, the necessity, that the head of such an Institution should give all the countenance in his power to the celebration of Divine Worship, is too obvious to require remark. His presence was desirable to give solemnity to the services—to see that Officers and Convicts conducted themselves properly—to hear the appeals of the Chaplain to his hearers—and to enable him to suggest such subjects as his knowledge of the prisoners might well qualify him to do, for the consideration of the Chaplain. It was especially desirable that the Warden should be always present, to teach regularity as to church attendance to a class of persons apt to neglect such duties, and to regard them as unmanly. Nor would a Warden, who felt his responsibility, have failed to benefit by the influence over the feelings of his prisoners, which his joining with them in the only act wherein they could meet as equals could hardly fail to give him.

Although, therefore, there is no rule requiring the Warden's attendance at public worship, we think it comes clearly within the general scope of his duties; and we hold him guilty of great dereliction of duty.

This is the last count in Charge IV., and we find that gross neglect of his duty as Warden has been fully established against Mr. Smith.

#### CHARGE V.

##### CULPABLE MISMANAGEMENT OF THE BUSINESS AFFAIRS OF THE PENITENTIARY.

1. In forbidding, by his bearing toward his inferior Officers, that cordial co-operation necessary to the successful working of such an Institution.

The evidence on this point is exceedingly contradictory, and partakes very much of the bias naturally to be expected from the state of the Institution. One party says the Warden was cross and petulant; the other that he was everything that could be desired. Instances of what the witnesses considered feeling by the Warden towards particular Officers have certainly been proved; but on the whole we think the Warden's manner and temper have been better than is to be found in the majority of men, and we entirely exonerate him upon this count.

2. IN THE LOOSE MANNER OF GRANTING RECEIPTS FOR GOODS PURCHASED AND DELIVERED FOR THE USE OF THE PENITENTIARY.

The evidence on this point is as follows:—

Mr. Coverdale says:—"There was no Officer whose duty it was to receive purchased articles coming in; sometimes one person would do so, and sometimes another. In the article of stone, the Keepers used to make a monthly return of the quantity received, and the Contractor was paid accordingly; the Contractors gave in no account; in case an understanding had existed between the

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Keeper and Contractor, there was no way of detecting it. In timber, requisitions used to be made by witness or by the Keepers, and the same system followed as with stone." \* \* \* "Witness thinks there was great looseness on the part of the Warden, in taking certificates of the receipt of goods; he never, to witness's knowledge, inquired into their correctness. Recollects of one instance in which witness measured a raft of hewed timber, purchased from Mr. John M'Pherson, worth about £500; witness measured each log, but only gave the sum total to Warden, who paid the bill on that memorandum. Witness expected the Warden would have asked for the figures and checked them; the Warden's general system was similar to this instance. Witness used to make up the stone Contractor's bill for them, from the certificates of the Keepers; the Warden paid on these accounts, made up by witness, without examining into their correctness, and the certificates of the Keepers were generally destroyed. Stone was received in this way five years and amounted to many thousands of pounds, but the Warden made no examination into the correctness of the charges. Convicts were sometimes employed by the Keepers to measure stone when it came in. There used to be five to six Stone-cutter and Mason Keepers. Some of them were incompetent to work the measurement, and they used to measure the outside dimensions of each stone, and send them to Keeper Wm. Smith to calculate for them. Smith resigned, and Mark Hermiston succeeded him; he refused to calculate the stone for the other Keepers, and they had to do it for themselves. A lawsuit lately arose in consequence of their improper measurement; the Contractors sued the Institution and obtained a verdict."

Ex-Keeper Gleeson says:—"When loads of stone or timber came into the Penitentiary, they were received by the several Keepers of the departments using the material, measured by them, and the quantity was written down on slips of paper, or on boards. These memoranda were collected at the end of the month, by Mr. Coverdale, in the stone department, and the sum total handed in by him to the office, on which report the bills were paid. When Mr. Coverdale left, witness did this duty in the stone department. Mr. Horsey (Mr. Coverdale's successor) never did this duty. Some of the memoranda given in by the Keepers were correct, and some of them incorrect. Witness discovered a great error in the calculations of the Keepers which had been going on for many months; in calculating the contents of a stone they added the length with the breadth instead of multiplying them together; one Contractor lost £200 by this system to the best of witness's belief. Many of the Keepers were quite unfit to check the quantities of materials received, and witness has no doubt many errors were committed against the Institution. In case collusion had existed between the Contractor and any of the Keepers, the Institution might have been robbed to a great extent."

Mr. Utting says:—"The Kitchen Keepers received all provisions and forage coming into the establishment."

Ex-Keeper M'Carthy says:—"Had charge of the materials and tools in the Blacksmith's shop; he made requisitions on the Warden for what was wanted in his department, and the messenger was sent into town by the Warden to get the articles."

Ex-Keeper M'Garvey says:—"He had charge of the materials and tools in the Shoemaker's department."

Gate-keeper Bannister says:—"Usually receives the hay and straw, and Cooper receives the oats; when on the ground, witness always receives the hay and straw, and has no doubt he receives nine loads out of ten which come in; the teamsters weigh the forage in Kingston, and bring out a ticket of the weight; witness gives the ticket to the Kitchen-keeper, who gives the teamster a receipt for the Contractor, and enters the transaction in his book; the teamsters might easily have taken off part of their load between the Town and the Penitentiary."

By Mr. Smith:—

"Never appeared to witness that the hay coming into the Penitentiary had been taken off the load, has seen straw in that state, the time that witness speaks of is about two years ago; he then weighed six bundles and calculated the load according to the weight of the six bundles, he gave the number of the bundles upon the load to the Kitchen-keeper who calculated the weight of the load accordingly; does not know whether or not by this process the teamster would get paid for more straw than he brought. During the last two years witness believes the straw has been received with a market ticket." \* \* \* "Witness explains that in the course of the last two years he has seen loads of straw which appeared to have been broken; he means to say that in purchasing by the ticket, the Farmer may have thrown off some of his load after it was weighed; he may have done so however before it was weighed; the straw witness believes was received according to the ticket."

Gate-keeper Cooper says:—"He receives the oats, sees them measured, and put away in the bins, and gets a receipt for the contractor."

Thomas Hendry (a Provision Contractor), says:—"Thinks he was wronged by the Warden in the settlement for the article of molasses, &c." \* \* \* "Witness was the more disposed to doubt the correctness of the Penitentiary receipt-book, as, at the annual settlement, the Warden only gave him credit for 160 lbs. of tea delivered under the contract, and on witness objecting to this, and insisting that he delivered 264 lbs of tea, the Warden gave way (although there was no certificate of the receipt of the larger quantity in the Provision-keeper's book,) and said he supposed it must be so." And again:—"Had much trouble in getting proper receipts from Frank Smith, for the articles he delivered to the Penitentiary; the pass-book would often remain for a fortnight at a time in the Penitentiary, and his messenger would be often told by Frank Smith that he had no time to give them a receipt; all witness's endeavours to get regular receipts for what he delivered were fruitless, and no reliance whatever can be placed on the general correctness of the provision pass-books."

Discharged Convict Coté says:—"The Convicts usually weighed the meat, but in the presence of the Kitchen-keeper or his assistant. At the 'heel of the hunt,' however, the matter was left in the hands of the Convicts, for they usually weighed the article, and gave the quantity to the Kitchen-keeper to enter in the book; the Convicts marked down the quantity received with chalk on a pillar, and it was taken from there and put in the book. Dyas, the Cook, very often weighed the meat. The bread was re-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

ceived in the same way from the Baker, and the molasses, potatoes, Indian-meal, and other articles." And again:—"Witness was often sent to measure potatoes landing from the boats, or coming in in waggons; the measurement was left entirely to him; he used to take short measurement from the men who delivered the potatoes, and they gave witness tobacco for doing so."

This witness's testimony is directly contradicted by Guard Watt, who says:—"The meat is invariably weighed by Mr. Frank Smith, or Mr. Costen, or witness, except on two days in each month, when witness is on guard duty. Never knew nor heard of a Convict having anything more to do with the weighing, than to lay it on the scales."

The only witness called for the defence, is Mr. Horsey, the present Master-builder, who gives the following testimony:—

Edward Horsey—By Mr. Smith:—

"Witness is in the habit of collecting the accounts of stone from the different sheds delivered by the Contractors; has done so for the last year and a half; Gleeson was at the Penitentiary as a Keeper after witness began to take the account for the stone." \* \* \* "Prepared the accounts for stone furnished by the Contractors before the accounts were paid by the Clerk; witness collected these accounts from the respective Keepers; witness examined the measurements before he delivered the accounts to the Clerk; witness got the detailed accounts from the sheds." \* \* \* "Was present at the trial of Conlan against the Warden; heard the charge given by the Judge to the Jury; thinks the Judge said that the Warden was doing his duty in bringing the case into Court, and that the Jury must either disbelieve one respectable man on one side, or four or five respectable men on the other side; the verdict was given against the Penitentiary. Thinks he remembers that the Judge said something to the effect, that if the Warden had reason to suspect a fraud, he was quite right in resisting the payment of Conlan's claim. Some of the stone furnished by Conlan was rendered by addition, when it should have been cross multiplication; this would be owing to the ignorance of some of the Keepers; Conlan might have sustained a loss by the addition rather than the cross multiplication; witness rather thinks he did so; there would be some instances in which Conlan would have gained by this process."

By Commissioners:—

"Gleeson was the Keeper who collected the accounts from the different shops, and handed them to witness in the way that William Smith does now; this was previously to the last year and half, during which witness has received them. Gleeson continued to collect these accounts and to hand them to witness, until he left the Penitentiary. The different Keepers used to give the details to Gleeson by witness's order, and witness would receive them. The same practice exists now with William Smith. Gleeson was not required to give in his own account in detail, as witness had confidence in him. There was no one to check the Keepers who received the wood and stone; witness has been in the general habit of supervising the proceedings of the Keepers, but he could not always do so, as he had many other things to attend to."

Mr. Bickerton says:—"The correct receipt of all goods was entrusted to the Keeper of the department for which the several articles were brought in."

It thus appears that some twenty persons have been granting receipts for goods, without any check whatever on their proceedings; and that many of these persons were incapable of doing the duty properly. It will be seen in a later charge, that the tradesmen's bills, to a large extent, were paid without the production even of certificates of receipts by the Keepers; but had this been insisted on, how wide a door was opened to fraud by so loose a system of receipting goods. Many thousands of pounds of the public money have been expended in this way."

We find here scandalous mismanagement.

3. In the waste of Materials and Tools through the want of care.

The evidence on which this charge was founded, is as follows:—

Mr. Coverdale (preliminary examination):—"There was great carelessness in the management of the property of the Institution. Witness was in the Ordnance and Engineering department; and in both of these, great care was taken to keep an accurate monthly account of everything, such as tools, lumber, rope, &c.; but in the Penitentiary there was only an annual inventory taken, and much loss was sustained. The expense of stone-cutters' tools was immense. Has seen the best description of lumber lying about the yard, going to waste, through carelessness. Convicts would go to the pile, throw it down to pick out a plank to suit them, and leave the rest lying about."

Mr. Utting (preliminary examination):—"There was much waste in the article of lumber; Convicts helped themselves from the pile as they wanted it, and much good wood was destroyed from carts running over it. There was a great loss of tools, such as planes, chisels, crowbars, gimlets, and other implements. They were stolen, and sold to teamsters for tobacco."

By Mr. Smith:—

"There would be a saving if a Store-keeper was appointed at the Penitentiary. There would have been a saving in forage, provisions, and everything." \* \* \* "Has seen great havoc and waste in the lumber business; teams driving over the lumber, and destroying it; when the teams have done so, witness has frequently ordered Convicts to remove this lumber; has seen the plank and lumber lying about the yard for a long time, and has ordered it to be removed. There is an order against witness interfering in this department; but witness has done so when he has seen the lumber lying about. Witness says that it is in the rules that he should see everything in a clear state and in a proper order in the yard. No particular officer had charge of the lumber; each Convict would help himself from the pile, and would scatter the lumber about. Has no idea what quantity of plank has been thus destroyed; cannot say whether there was twenty planks or a hundred—there were a great many. There was continually a great loss of tools from the Penitentiary; does not know what became of all of them."

Ex-Keeper Gleeson (preliminary examination):—"The materials were very carelessly looked after;

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

there was no account kept of them or of the tools; the different Keepers might have looked after them if they chose, and they might not; never knew any Keeper called to account for not doing so." And again:—"There was great loss constantly sustained in the tools; they were stolen. Convicts have often been punished for stealing. There was also great loss in clothing."

Ex-Keeper M'Garvey (preliminary examination):—"There was a good deal of stealing constantly going on in the Prison. Tools were frequently missing."

Ex-Guard Fitzgerald (preliminary examination):—"Thinks there was much waste in the establishment in materials and tools. There was very little care taken of the stores."

Guard Wilson (preliminary examination):—"The stores and materials about the establishment are not well looked after. There is much loss among the tools and implements."

By Mr. Smith:—

"There have been a great many tools missing through the yard; has heard Keepers say so; does not know exactly how they go; has heard the Keepers blaming the Convicts for it. There have been all descriptions of tools missing. Mr. Richardson has said that he has lost carpenters' tools. The Keepers look well after their tools and the materials placed in their charge, so far as witness has an opportunity of judging."

Guard Kearns (preliminary examination):—"Thinks there has been great waste in tools, stone, lumber, and other materials. There is great carelessness in looking after these things. This has been especially the case since Mr. Coverdale left. Mr. Coverdale took much interest in seeing that everything was put to its proper use, and was taken care of: he did his best to keep things right."

By Mr. Smith:—

"Has seen no tools wasted, but has heard complaints of tools being broken and destroyed. Has seen the frame of an ice-house, which had been recently erected, and was not entirely finished, taken down, and an ice-house was used in some other place, the lumber of which frame was broken in the taking down, and unfit for further use. It was taken down by Convicts; they could not do so without breaking it; witness superintended the Convicts so employed. Cannot say that the officers are careless in looking after the materials placed in their charge. Was not in the habit of watching all Mr. Coverdale's movements while he was employed here, but saw him frequently at his work; sees Mr. Horsey about the yard in the same way; thinks Mr. Coverdale was as careful about the materials as Mr. Horsey; there might be a waste of tools and materials while Mr. Coverdale was there."

Keeper Pollard, says:—"Has had nearly two tons of lead on hand at a time; it lays open in the shop; the shop door is not locked; it is possible that persons may have gone into the shop, and cut off lead in small quantities, without witness knowing it; has had as many as fifteen men working under him in the shop; the Convicts only cut off lead with witness's consent, when witness is present; lead has often been cut off in witness's absence; witness has been frequently absent from his shop since he came to the

Prison, working in other parts of the establishment, perhaps two days in a week."

Keeper Richardson, says:—"Witness takes the best care he can of the materials entrusted to his charge; there must be waste, from the nature of the men employed; tools are broken, and missing sometimes; witness locks up all the tools, and gives them out as they are wanted; believes that Convicts sometimes break their tools wilfully."

To meet the charge, the Warden brings a number of Keepers to testify that there was no waste in their shops. For instance, Keeper Hooper says:—"There has been no waste of tools or materials in witness's shop since witness has been at the Penitentiary. There were no more articles purchased for witness's shop than were necessary."

Keeper Kermiston also says:—"Never had more tools than witness wanted for his gang. There is very little waste of tools or materials in witness's gang, only what is unavoidable."

And Mr. Horsey, William Smith, Manuel, Little, Gibson, Ballentine, Grass, M'Mahon, and Mathews, testify to the same effect—almost in the same words.

A second defence is, that it is true great mismanagement occurred as to the stone-cutters' and carpenters' tools; but that, in the former case, it arose from the tools being improperly tempered by Ex-Keeper M'Carthy, and in the latter, from theft by one of the Carpenter-keepers.

On the former point, Keeper Manuel's testimony will show the character of the defence. He says:—"There were no more tools purchased for witness's gang than were required. There was great waste in sharpening the tools in the Blacksmith's shop. Witness's tools are those of stone-cutters—some of them. Mr. M'Carthy was the Blacksmith's Keeper at that time. It was of no use to talk to M'Carthy; he would sit down and let the Convicts do as they pleased. Witness considers that the waste of tools arose from M'Carthy's neglect. Witness and other Keepers have often quarrelled with M'Carthy on the subject of his neglect, and they have threatened to report M'Carthy to the Warden; but it was all of no use. Witness has often complained to Mr. Coverdale, the Architect; and Mr. Coverdale used often to complain of M'Carthy also."

As far as the Warden is concerned, it matters little how the waste arose: the charge is, that waste existed unenquired into; and if Keeper M'Carthy was so unfit for his situation, why was he kept fifteen years in it? If for fifteen years he has been wasting the property of the Institution, how is it that the matter never reached the Warden's ears until now? And as to the Carpenters' tools having been stolen, the allegation rests entirely on Convict evidence; and after all, amounts to nothing more than suspicion. The Keeper in question has also been many years in the Prison, and has borne throughout an unimpeached character. The transactions now averred against him, run over a period of at least two or three years. How is it that they only came up now? We find no ground for any insinuation against the integrity of the Carpenter-keeper.

It is enough to know, that no stock account is kept of tools or materials in any of the shops—that there is no check whatever on the expenditure of such articles—and that the Convicts get tools when they demand them, and help themselves to what mate-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

rials they need—to be convinced that great waste of property takes place.

We are satisfied that there has been shameful carelessness in this matter, and that much loss has been sustained in consequence.

We have at some trouble extracted from the weekly labor returns of the Blacksmith's shop, a statement of the cost of Stone-cutters' and Quarrymen's tools since the opening of the Institution, and we find it exhibits the following result:—

Statement showing the annual cost of such new Stone-cutters' tools as were made in the Penitentiary, and the cost of sharpening them; also, the same of Quarrymen's tools:—

	STONE-CUTTER'S TOOLS.		QUARRYMEN'S TOOLS.		TOTAL.
	New.	Sharpened.	New.	Sharpened.	
1838	£ 40 8 11	154 5 8	81 11 7	259 19 4	536 5 6
1839	56 14 0	180 10 5	79 8 0	176 18 11	493 11 4
1840	48 12 6	164 2 7	72 18 10	205 4 2	490 15 1
1841	51 8 10	68 17 9	201 5 6	272 7 6	593 19 7
1842	69 8 7	103 16 10	200 2 4	288 16 5	662 4 2
1843	149 9 7	149 15 4	243 3 4	503 11 3	845 19 6
1844	334 19 5	337 8 4	239 11 7	368 10 4	1280 9 8
1845	385 16 0	391 9 1	141 18 10	300 11 5	1219 15 4
1846	428 4 5	430 14 7	101 0 3	251 6 5	1211 5 8
1847	256 12 1	511 8 3	167 19 10	366 4 7	1302 4 9
£	1821 14 4	2492 8 10	1529 0 1	2793 10 4	8636 13 7

This statement speaks for itself. The fact, that sharpening tools cost £877 12s. 10d. in the year 1847, must alone remove every doubt as to the culpable mismanagement of this department.

The following statement of the cost of Carts and Hand-barrows for the same period, shows the extraordinary consumption of these articles which has taken place:—

	BLACKSMITH'S RETURN.		CARPENTER'S RETURN.	TOTAL.
	Carts	Barrows.	Carts and Barrows.	
1837	£ 2 10 0	1 18 0	4 0 1	8 8 1
1838	29 2 11	35 7 0	39 18 11	104 4 10
1839	25 6 3	23 9 10	29 1 9	77 17 10
1840	49 4 1	38 3 2	56 15 10	144 3 1
1841	49 7 0	24 11 6	93 7 11	167 6 5
1842	74 14 6	83 12 6	96 11 0	254 18 0
1843	82 2 6	60 13 9	205 17 9	348 14 0
1844	92 6 2	91 15 6	202 1 8	386 3 4
1845	98 15 7	91 17 0	244 12 2	435 4 9
1846	66 1 0	30 7 0	227 7 7	343 15 7
1847	97 2 9	89 16 9	138 13 3	325 12 9
£	666 12 9	591 12 0	1338 7 11	2596 12 8

4. IN ALLOWING THE OFFICERS OF THE PENITENTIARY TO FIX FOR EACH OTHER THE PRICES OF ARTICLES MADE FOR THE SAID OFFICERS BY CONVICT LABOR.

The question whether the Officers should have work done for themselves in the Penitentiary, has been at various periods before the Board of Inspectors. The following orders on the subject have been made from time to time:—

Extracts from the Minutes of the Board of Inspectors of the Provincial Penitentiary.

5th December, 1836.

“That there shall be no retailing of the manufactures of the Prison for account thereof either within its walls or at Kingston, and that work shall be done

Appendix  
(B.B.B.B.B.)  
30th May.

at the shops for persons connected with the Prison only in special cases, and that when work out of the common line is offered the Warden, he shall consult thereupon with the President or any two of the Inspectors before it is accepted.

“That as soon as possible a proper amount of Convict labor to be hereafter determined on, shall be let out by Contract on the plan pursued at Auburn, for the establishment of the manufacture of combs.”

19th December, 1836.

“That it is the opinion of the Inspectors that the Resolution of the 5th instant, in reference to the sale and manufacture of articles in the Penitentiary, does not extend to the Officers and persons immediately connected with the Institution.”

11th January, 1837.

“The Board direct that for the future no work whatever shall be done at the Penitentiary for the Warden and Inspectors, either by wholesale or retail, under any pretence whatever.

12th May, 1837.

“With reference to the order of the 11th January last, relating to work done in the Penitentiary for the Officers and others, the Board direct that its provisions be extended, and that in future no work be done for any Officer or individual connected with the Prison.”

16th October, 1846.

“The Board of Inspectors finding that great irregularity has been occasioned in the Provincial Penitentiary by permitting Officers belonging to the Institution to purchase articles made by the Convicts, and materials and stores procured for the use of the establishment, at the valuation of each other, do now order and direct, that henceforth no work of any description be made directly or indirectly for any Officer of the Institution; nor shall any materials, stores, or other articles the property of the Penitentiary be sold to any Officer belonging thereto, otherwise than by a public sale by auction to be held at such times and places as the Inspectors may from time to time direct, on a report of the Warden of the amount of goods on hand and for sale. The Inspectors also direct, that in future strict attention be paid to the General Order No. 2, to Gate-keepers, and that no article be allowed to pass the Gate without a written order from the Warden or Clerk, which shall be deposited with the Gate-keeper, and by him returned daily to the office to be there filed.”

29th December, 1846.

“A petition from the Keepers and Guards was laid before the Board, praying for permission to have such articles as they may require made and mended by Convict labor. The Board taking into consideration the allegation set forth in the petition, now direct that work may be done for any person connected with the Institution, provided the articles made or repaired be submitted to the examination of the Warden, in order that it may be ascertained that the charge made therefor is correct; and that no such articles be allowed to be sent out of the Penitentiary unless accompanied by a pass for the same from the office.”

“The foregoing are true extracts.

(Signed) “F. BICKERTON, Clerk.”

Appendix  
(B.B.B.B.B.)

30th May.

The foregoing orders were furnished to us by the Clerk, as the only rules which have been passed by the Inspectors on the subject of work done in the Prison for the Officers, and it appears by these rules, that all such work executed between the 12th May 1837, and 29th December 1846, was in direct opposition to the instructions of the Inspectors.

We find that a large amount of retail work has been done for the Officers, as well while such transactions were forbidden, as when allowed by the Inspectors, and that the prices were fixed by the Officers for each other. And it is proved that notwithstanding the rule passed by the late Board, only a few weeks after their appointment, the Keepers still continued to fix the prices for each other; and the Warden has not pretended to show that he exercised the control over it which he was bound to have done by the new rule.

We think much censure is attachable to the Warden in this matter; a practice more liable to abuse could not have been devised, and the Minute of the Kirpatrick Board of 16th October, 1846, shows how injurious they found it in practice. It is very clear that by a combination among two or more Officers the Institution might have been defrauded to a great extent.

We conceive the practice of doing retail work in a Penitentiary for private individuals, inconsistent with the purposes of such an Institution, and calculated to interfere seriously with the discipline; but to do such work for the Officers of the Prison, and allow them to fix the prices for each other is altogether indefensible.

#### 5. IN ALLOWING THE PENITENTIARY LOT TO LAY UNPRODUCTIVE SINCE THE COMMENCEMENT OF THE INSTITUTION.

The capacity of the Lot on which the Penitentiary is built, is well described in the able report of the Building Commissioners to Government, of 23d November, 1833. They say:—

“After examining, with great care, all the grounds in and near the Town of Kingston, it was found that no situation combining the advantages of perfect salubrity, ready access to the water, and abundant quarries of fine limestone, could be obtained nearer the town than Lot No. 20 in the 1st Concession of the Township of Kingston, which is about a mile west of the town. The west half of this Lot, belonging to the heirs of the late Philip Pember, which contains one hundred acres of land, reaching from Hatter's Bay, on Lake Ontario, to the rear of the 1st Concession, was accordingly purchased for the sum of £1000. The space between the Lake and the highway is about fifteen acres in extent, of which nine or ten acres will be enclosed by the walls of the Penitentiary; and on the west side, is a fine harbour, where vessels may approach within a few feet of the shore. Nothing indeed can surpass the convenience and beauty of this site, on which is found a quarry of the best limestone, amply sufficient for the construction of the buildings and walls of the proposed Establishment. Twenty or twenty-five acres of the front of this Lot would, perhaps, furnish all the room that is required for the buildings connected with the Penitentiary; and the Legislature might therefore (if they should see fit) direct the residue to be sold. The Commissioners are, however, of opinion, that the land is worth the purchase-money, and should be retained for public uses, especially as it appears

to abound with quarries of the finest limestone, which it will doubtless be found profitable to open, when Convicts are sentenced to hard labor at the Penitentiary. Probably it may become advisable to let a part of the Lot on the rear, as soon as a system of Prison discipline has been organized for the Establishment; but certainly it would not be desirable that any portion of it should be sold before the nature and value of the quarries had been fully and closely inquired into and understood.”

We find that this valuable land has been in a great measure unproductive for nearly sixteen years. It is true that stone has been taken from it to a considerable extent, and some firewood and scaffold-poles; but altogether to an amount quite inadequate as a return from so valuable a property.

We are of opinion, however, that this was one of those matters upon which the Warden might naturally have looked to the Inspectors to take action; and although various suggestions have been made for the employment of the spare land which might have been profitably carried out, still these are untried experiments, and the results might have been far from satisfactory. We, therefore, acquit the Warden of blame on this score.

#### 6. IN PURCHASING LEATHER AT PRIVATE SALE, INSTEAD OF BY CONTRACT.

It appears by the Books that the following sums have been paid for Leather:—

30th September, 1835, was.....	£40	5	3
“ “ 1836, .....	91	4	11
“ “ 1837, .....	99	4	6
“ “ 1838, .....	241	18	8
“ “ 1839, .....	241	14	2
“ “ 1840, .....	191	12	11
“ “ 1841, .....	176	12	5
“ “ 1842, .....	243	10	0
“ “ 1843, .....	338	14	5
“ “ 1844, .....	284	9	10
“ “ 1845, .....	427	15	2
“ “ 1846, .....	520	5	5
“ “ 1847, .....	458	17	11
	£3356	5	7

Of which sum £2874 11s. 6d. was paid to one individual, Mr. William Ford, jun.

It appears that all these extensive transactions have been concluded by private bargain, while other articles, to a less amount, have been regularly contracted for. While admitting the high respectability of the house with whom so large a portion of these purchases has been transacted; we are of opinion that it would have been much more satisfactory had tenders been taken for the supply of the articles, by which, in all probability, a saving would have been effected.

#### 7. IN DEFACING A LARGE QUANTITY OF STONE, WHICH HAD BEEN PREPARED AT GREAT COST.

The evidence on this point was as follows:—

Ex-Keeper Gleeson (preliminary examination):—  
“There was a transaction by which the Penitentiary lost several hundreds of pounds. In the winter of 1846-7, seven gangs of masons were to work at fine stone-cutting; each gang produced from two to four thousand feet of this article. When the spring came,

Appendix  
(B.B.B.B.B.)

30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

this fine cut-stone was taken, defaced, and made into 'coursers'—an inferior style of work. The effect of this was, that the building was charged with double work: the winter's labor, of about one shilling per foot, was thrown away. Witness is quite sure no such transaction would have occurred in Mr. Coverdale's time. When the men wished to take witness's stone to be used in this way, witness objected, and threatened to complain to the Warden on the subject: he complained to Mr. Horsey in this way, and he put a stop to it. The Warden could not avoid knowing of this transaction."

Ex-Guard Fitzgerald (preliminary examination):—"Recollects a large quantity of fine cut-stone being prepared through the winter, which in the spring was made into coursers, thus throwing away the first work done on the stone."

Keeper Swift (preliminary examination):—"Had charge of a gang of stone-cutters in the winter of 1846-7, and prepared a large quantity of axed-ashlaer work; it was worth 1s. per foot to do this work; and when the building season came, witness had 1229 feet of it on hand; other Keepers had a large additional quantity of this work on hand. In the spring, under Mr. Horsey's instructions, Keepers Little and Matthews defaced a large quantity of this stone, and made it into 'common coursers,' thereby throwing away the previous work. Common coursers are worth 3d. per foot to work."

By Mr. Smith:—

"Witness prepared a quantity of axed-ashlaer in the winter of 1846-7; believes that the return witness made of the article amounted to 1229 feet; made the return to the Commissioners in his evidence formerly given; has made no other return by measurement, but made his returns to the office of the day's work of the Convicts; kept a memorandum of the measurement of the axed-ashlaer by the running feet, without regard to the breadth of the stone; did not keep a separate account of each man's work; does not know how much axed-ashlaer was cut in the other sheds. The whole of the axed-ashlaer cut in witness's shed was defaced; does not know the cause of the stone being defaced. The 1229 feet that witness refers to, was defaced by Little's and Matthews' gangs. The whole of this ashlaer was fit to be used as such before it was defaced, according to Mr. Horsey's examination; does not know whether Little or Matthews defaced any stone which had been in their sheds; cannot say if the alterations was made by Mr. Horsey's directions; does not know that any ashlaer work was put into the boundary wall in Mr. Coverdale's time. All the wall was built in Mr. Coverdale's time"

By Commissioners:—

"Other gangs, besides those of witness's, have prepared axe-ashlaer stone; has no idea whether the stone which was defaced was so done by Mr. Horsey's directions, or by the Keepers' own acts."

Mr. Horsey—Preliminary examination:—

"In the winter of 1846 there was some fine axe-stone work done in the Penitentiary, part of which was defaced in the spring of 1847; it was axe-ashlaer "work turned into rough coursers; does not know how much was so used."

To meet this evidence the Warden re-called Mr. Horsey who testified as follows:—"Witness gave

orders to some of the Keepers to cut certain axe-ashlaer stone into coursers; so ordered Keepers Little and Mathews, Gleeson first informed witness that axe-ashlaer stone was being so cut up; witness reproved Little and Matthews who were doing so; but when witness looked at the quality of the stone as regarded its workmanship, then he told them that they might use a few, warning them to be cautious in the use of this stone, not to take any except such as were unfit for best work; witness told these Keepers to show the stone to himself before they used it into coursers; does not know the quantity so altered, it might be about 130 feet; thinks the stone in question had been cut into axe-ashlaer principally at Swift's shed; some of this stone was in wind and broken at the edge, and this was the reason of this stone being so used into coursers; this stone was not fit to go into a wall as ashlaer stone. Soon after this witness found that Keeper Swift was not fit to be over a gang of Stone-cutters, and witness therefore had him removed into the Quarry. There has been thousands of feet of ashlaer stone used in the boundary wall, and at the stables, and even in the dung pit; this was done in Mr. Coverdale's time; witness considers that this was a great waste of material, and he would not have put such stone in such situations; does not consider the Warden is the proper person to judge about masonry without consulting the architect."

He also called other witnesses.

Guard Kearns—By Mr. Smith:—

"Has seen stone broken up for other work which had been previously dressed; this stone was dressed by Swift's gang, and broken up by Little and Matthews' gang; does not know by whose orders this was done. Witness is not a Stone-cutter; does not know when he sees a stone dressed whether it is fit for use or not; supposes that it would be better if a stone were badly cut, and unfit for the purpose intended, to apply such stone to some other purpose with further alterations."

By Commissioners:—

"The stone dressed by Swift's gang had lain for two or three months before it was broken up by Little and Matthew's gangs; never heard that it was lying about because it was spoilt, or unfit for the purpose for which it was intended."

By Mr. Smith:—

"The stone cut by Swift's gang was done in the winter; it was used in building the chimney of the East Wing of the shops; there may be some of them in the walls of the building; does not know the thickness of the stone in question; thinks it was in the autumn that Little and Matthews gangs were at work in defacing this stone."

Keeper Wm. Smith—By Mr. Smith:—

"Witness has never defaced axe-ashlaer stone and used it for coursers, unless it was unfit for use by becoming damaged. Witness once took axe-ashlaer stone and used it for coursers by order of Mr. Coverdale; there was a deficiency of coursers at the time; it was used in the boundary wall."

Keeper Manuel—By Mr. Smith:—

"Witness does not know of any axe-ashlaer being altered into coursers in Mr. Horsey's time; witness

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

has used thousands of feet of axe-ashlaer work in the boundary wall; it was by Mr. Coverdale's orders that this stone was used; witness has altered a good few of axe-ashlaer work and cut stone in the building of the towers; sometimes there was a difficulty in getting stone, and then witness was directed to use up the stone in question; was directed to do this by Mr. Coverdale."

Keeper Little—By Mr. Smith:—

"There was some axe-ashlaer altered that was of a bad quality, it was not fit to put in a good building; this axe-ashlaer came from witness's shed, some of it,—it was cut by new-comers who were not fit to cut a good stone; there might be not quite 100 feet from witness's shed; there might be axe-ashlaer from other sheds, but witness does not know; witness only altered the 100 feet referred to which had been cut by inferior hands; Mr. Horsey told witness that he might take this stone as it was not good for anything else; there was also some axe-ashlaer and cornice stones from Swift's shed, they were a few pieces; they were all of inferior workmanship, and Mr. Horsey therefore directed witness to use them; some of them had the arris broken off; none of the stone which witness altered was fit to be used for better work than that to which it was applied; some of the axe-ashlaer was used in the boundary wall by Mr. Coverdale's directions; this was too thin for better purposes; there was about 150 running feet used by witness; some of the stone turned out by Swift's gang was of inferior workmanship; Swift has not since had charge of the Stone-cutter's gang; Swift never had charge of a Stone-cutter's gang since witness came to the yard, except for a short time; that ashlaer would have been useless, and might have been lying yet in the yard, had it not been altered; as it was not fit to go in among good cut stone."

Keeper Ballentine—By Mr. Smith:—

"Witness has altered ashlaers into coursers when stone was scarce, rather than the work should be stopped; witness has taken the ashlaer stone; there has not been much so taken, had orders to do this from Mr. Coverdale."

Keeper Matthews—By Mr. Smith:—

"There were some axe-ashlaers altered in 1847; there might be 100 feet more or less altered by witness's gang; part of these ashlaers came from witness's shed, and part from Mr. Manuel's; none come to witness's gang from Swift's shed. This was in the spring of the year, and there was no stone to go on with, witness therefore took the stone on his own responsibility to prevent his men from being idle; the stone which witness took was the refuse of other stone; it was not fit to be used as ashlaer, except it was marked over again; the stone had been ironed over so many times that the corners of some of it was broken, and others were in wind."

We think the Warden has not bettered his case by the evidence adduced; as far as he is concerned it matters not whether the waste occurred in Mr. Coverdale's or in Mr. Horsey's time. Nor can we see that it in any shape affects the charge whether the cause of so much labour being thrown away was the bad quality of the work, or an urgent demand for the inferior article, or want of care in preserving it from injury; in any of these cases great loss to the public is admitted, which by a little forethought and attention, might have been avoided.

We think it clear that shameful waste and mismanagement are brought to light in this matter, and we are satisfied that with anything like a reasonable surveillance of the business proceedings of the Institution the Warden could not have been ignorant of it.

8. IN PROCURING A LARGE ESTABLISHMENT OF CARRIAGES, HORSES, HARNESS, &c., AND MAINTAINING IT AT A GREAT EXPENSE OUT OF THE PENITENTIARY FUNDS, COLORABLY FOR THE CONVENIENCE OF THE INSPECTORS, (ATTENDING MEETINGS OF THE BOARD,) BUT, IN REALITY, FOR THE USE OF HIMSELF AND FAMILY.

A carriage was built in the Penitentiary, avowedly for the use of the Inspectors in 1837; the exact cost of it cannot be ascertained, but it was valued in the inventory at £20.

A second carriage was built in 1843, to take the place of the last, which cost £74 17s. 9d.

These carriages have been often repaired; and harness, robes &c., procured for them altogether, at a cost of several hundred pounds.

It appears that the Warden, on 20th August, 1835, hired from himself a bay horse and cart at the rate of 2s. 6d. per day, and that he paid himself for the same. It is shown however that this transaction was authorized by the Board of Inspectors. In January, 1840, (there being at the time three work horses in the Penitentiary) the Warden asserts that he made a bargain with himself for the use of this bay horse (which forms the subject of a future charge) for the light work of the Penitentiary, and that in accordance therewith the bay horse did such work without hire, further than being fed at the public expense; he remained so employed up to March 1847, when he was sold for the Warden's benefit.

In December 1842 (the bay horse and three work horses being at the time in the establishment) a pair of brown carriage horses were purchased for £50. The purpose for which they were intended is explained by Thomas Kirkpatrick, Esq., then President of the Board of Inspectors. He says:—"Thinks witness was informed of the purchase of the brown carriage horses by Mr. Smith, after he had purchased them from a person residing near Belleville; has no recollection of ever suggesting to Mr. Smith to purchase the said horses; such matters did not come within the province of the Inspectors; no objection was made by the Board as to the building of the carriage or the purchase of the carriage horses."

And again:—"It was understood when the brown horses were bought that they were needed for the general business of the Institution."

Major Sadlier, also an Inspector at the time, says, when examined by Mr. Smith:—"The carriage brown horses were bought while witness was an Inspector; thinks the horses previously used in the carriage were lame at the time the pair of brown horses were bought; they were not bought for carriage use; they were bought to do the general work of the Penitentiary, upon the recommendation of the Warden, who said it was necessary they should be got for the work of the Institution. Has often seen Mrs. Smith, the Warden's wife, riding in the Inspectors' carriage; has known the wife of an Inspector to ride in the Penitentiary carriage with Mrs.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Smith; Mrs. Sadlier has done so; thinks the Inspectors never found fault with the Warden for using the Penitentiary carriage and horses for his family purposes; Mrs. Smith used often to go into town when the carriage was going for the Inspectors, and she used it at other times as well."

In March 1846, one of these horses was sold for £3 17s. 7d., and another bought in his place for £20. The new purchase was mated with the remaining one of the original pair, and they are both in the establishment now.

It appears from the evidence that for a short period after their purchase the original pair did occasionally work in the Quarry; the exact period is not shown, but we gather that it was for about one year; when one of the horses becoming lame, they were both removed from the Quarry and have been employed ever since (over five years) exclusively in drawing the Inspectors' carriage or the Messenger's cart.

For building the carriages, or purchasing horses for carriage work there is no authority of the Board of Inspectors, further than the negative sanction, which may be drawn from the fact, that members of the Board were driven with them to their meetings at the Penitentiary.

The exact sum which the keeping of these horses has cost the country, it is impossible to ascertain; but as will be seen in a future charge the cost of keeping 4 horses, 10 oxen and 2 cows, in 1846, was £608 16s. 9d.; and of 4 horses, 12 oxen and 2 cows, in 1847, £562 2s. 3d. or nearly £40 per annum for each animal. This would give £80 yearly for the pair of horses, or £400 for the five years. A coachman has been paid in the same period £300, and his whole work has been driving the carriage and going errands to town; and a share of the expense incurred for a Convict as stableman must also be added. Altogether, we are within the mark when we say that the stable establishment, kept up on the plea of bringing the Inspectors to the Penitentiary, must have cost the country over £1000.

It is undoubted, that a cart and one horse were all that was necessary for the out-door work of the Institution.

The plea that a carriage and horses were required to bring the Inspectors to the Board Meetings is at once refuted by the small number of such meetings; this will be seen by the following table, showing the number of meetings of the Board of Inspectors which there have been since the Prison was opened:—

	1834	1835	1836	1837	1838	1839	1840	1841	1842	1843	1844	1845	1846	1847	1848
January .....	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
February .....	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
March .....	2	3	3	3	1	1	1	1	1	1	1	1	1	1	1
April .....	2	3	1	1	2	2	1	1	1	1	1	1	1	1	1
May .....	4	1	2	1	1	1	1	1	1	1	1	1	1	1	1
June .....	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
July .....	1	1	3	2	3	1	1	1	1	1	1	1	1	1	1
August .....	2	1	3	3	2	1	2	1	1	1	1	1	1	1	1
September .....	1	1	3	2	3	1	2	1	1	1	1	1	1	1	1
October .....	1	2	2	1	2	2	1	1	1	1	1	1	1	1	1
November .....	1	2	2	1	1	1	1	1	1	1	1	1	1	1	1
December .....	1	3	3	1	2	3	1	1	1	1	1	1	1	1	1
Total .....	2	13	21	25	13	17	14	10	9	8	12	11	13	24	26

220 Board Meetings in 14 Years.

And if further evidence were necessary, the statement of Messrs. Kirkpatrick and Sadlier abundantly furnish it.

Appendix  
(B.B.B.B.B.)  
30th May.

Mr. Kirkpatrick says:—"The number of meetings of the Board of Inspectors during witness's incumbency, averaged about twelve per annum; never considered that there was any necessity for keeping a pair of carriage-horses for the use of the Inspectors."

Major Sadlier—By Commissioners:—

Q. "Do you conceive it was necessary to keep a carriage and pair of horses for the purpose of bringing four or five Inspectors, twelve or fifteen times a year, to the Penitentiary?"

A. "Thinks it would have been very hard for an Inspector who lived far off, and had no vehicle of his own, if he had not been driven to the Penitentiary."

Q. "How many Inspectors have ever been connected with the Penitentiary, who lived far off, and kept no vehicle?"

A. "In Mr. Cartwright's Board, Mr. Pringle, Mr. Nickalls, and Mr. Gray: in Mr. Kirkpatrick's Board, Mr. Manahan: in Mr. Corbett's Board, Mr. Yarker and Mr. Macfarlane. Witness thinks it would have been better not to have kept a carriage and pair of horses for the use of the Inspectors; and so strong is that opinion now, from experience, that had witness moved to have them done away and not succeeded, he would have resigned."

Another plea is, that the horses were needed for the messenger to go errands to town; but this is evidently untenable, from the evidence of Thomas Smith, the messenger. He says:—

"The brown carriage-horses have never done any other work than drawing the carriage and the messenger's cart since the brown horse was lamed in the stable. Witness's usual number of trips to town per day, was two—sometimes four. One horse could have done the messenger's work. One horse would not have been able to go twice daily to town, and three or four times occasionally. From the Penitentiary to town is about a mile and a half."

Besides, the evidence adduced by the Warden shows, that from 1840 to 1846 his bay horse was used by Smith for the messenger's purposes, and was on account of such work fed at the public expense. For three years, therefore, at any rate, the messenger was independent of the brown carriage horses.

The allegation that the Warden used the Penitentiary carriage and horses for the private purposes of himself and family, seems to be completely sustained by many witnesses. The coachman, Thomas Smith, after much equivocation, at last admits the fact.

Thomas Smith—By Warden:—

"Witness never knew the ex-Warden to go in the Penitentiary carriage, except on Penitentiary business, unless on a Sunday when he went to church. Mr. Smith very seldom went to church. Witness has taken Mrs. Smith to town in the Penitentiary carriage, but he has taken the carriage to town on duty at the same time. Mrs. Smith has frequently taken the advantage of the carriage going into town for the Inspectors."

By Commissioners:—

"Mrs. Smith was not in the habit of going to town in the Penitentiary carriage during the summer

Appendix  
(B. B. B. B. B.)  
30th May.

of 1847, or previous summers; she never went unless witness had some business to transact in the town. Witness's business did not require the carriage or two horses to be used."

By Mr. Smith:—

"Has taken Mrs. Smith to town, when going for the Inspectors, in the carriage."

By Commissioners:—

Q. "Did you ever drive the Warden or his family in any other direction than into town?"

A. "Yes; has often driven out the Warden and his family when there was no business to be transacted; and has driven them to town in the carriage and horses when the carriage and horses were not otherwise required, as the cart would have answered. Witness drove out the Warden and his family in the carriage whenever they desired to go; and if witness had any business to transact at the same time, he did it."

Q. "Have you not driven out the Warden's family on many occasions, at all times of the day?"

A. "Yes."

It also appears that the manner in which the carriage and horses were used, came under the notice of the Board.

Mr. Thomas Kirkpatrick says:—"Thinks the Inspectors found fault with the Warden for using the carriage and horses of the Penitentiary improperly; and if he is not mistaken, there is a memorandum as to it on the Minutes. The Inspectors often remarked upon the improper manner in which the carriage and horses were used by the Warden; witness means, in employing them on occasions not connected with the business of the Penitentiary. Has no recollection of the date of the Minute referred to; thinks it was in 1843 or 1844; it was a General Minute, but intended to point specially at the employment of the under officers, and the carriage and horses of the establishment, by the superior officers."

On this point, the Warden called Mr. Bickerton, who testified that he "recollects of no Minute by the Inspectors forbidding the Warden to use the Penitentiary carriage and horses."

Mr. Hopkirk also testifies, as follows:—"The Inspectors were always aware that the Warden used the Penitentiary Inspectors' carriage, and made no objection to it. They were perfectly aware that he occasionally used it for other than public purposes."

From all that has come before us, we are of opinion that the great expenditure of public money, on such a plea, was quite inexcusable.

#### 9. IN ALLOWING CONTRACTORS TO DEVIATE FROM THEIR CONTRACTS, TO THE INJURY OF THE INSTITUTION.

Under this count, four separate transactions are referred to.

The first case in reference to the delivery of a quantity of iron by Messrs. Watkins and Co.

The following is the evidence upon it:—

James M'Carthy—Preliminary examination of 6th July, 1848:—

"On one occasion made a requisition for a large quantity of  $2\frac{1}{2} \times \frac{1}{2}$  inch English iron. Messrs Watkins and Co. were at the time under Contract to supply the Penitentiary with this article at a certain price; when the Warden furnished a memorandum of the quantity wanted to Watkins & Co., it was found they could not supply the order. Mr. Muckleston of Watkins' house, came to the Penitentiary along with Mr. Horsey, and spoke to witness on the subject; he said they were unable to supply the  $2\frac{1}{2} \times \frac{1}{2}$  inch iron wanted, but that they had English iron of a large size, and some Swedish iron which they would furnish at the same price overhead, as the article ordered would have been; that is to say, that they would not charge for the extra weight of the English bars, or the extra value of the Swedish. Mr. Horsey and witness agreed to this, and the iron was delivered and used. Some time after, the Warden asked witness if he had heard the bargain made by Mr. Horsey and Mr. Muckleston? Witness said he had, and explained what passed; the Warden said he was glad of it. Shortly after witness was told by Mr. Muckleston that he received payment of the full weight of the English bars, and of the extra price of the Swedish, notwithstanding his agreement to the contrary."

Recalled 5th September, 1848:—

"Having had his evidence of 6th July, relating to the transaction of iron with John Watkins & Co., read over to him, on page 100; he says his former statement is strictly correct. He received the iron alluded to, and certified the quantity received, at the full weight delivered; and Mr. Muckleston told him he was paid the full price of the Swedish iron, and the full weight of the English iron of a larger size than was wanted."

By Mr. Smith:—

"Recollects Watkins & Co. furnishing iron to the Penitentiary of a larger size than was ordered; thinks the size ordered was  $2\frac{1}{2} \times \frac{1}{2}$ ; forgets the size exactly which was furnished, but it was larger. Witness weighed the iron, and returned the weight delivered which agreed with the invoice; witness weighed 2 pieces of each size of iron to see what the difference would be, but Mr. Horsey said he had a table showing the difference, and witness went no farther in the matter. To the best of witness's belief the transaction occurred in 1847. Crown iron and Banks' iron has been delivered to the Penitentiary by Watkins & Co. Cannot recollect if Watkins & Co. have delivered Crown or Bank's iron in place of English iron which had been ordered. Mr. Muckleston, of Watkins & Co.'s house, came to the Blacksmith's shop and spoke about not having the  $2\frac{1}{2} \times \frac{1}{2}$  in English iron, and Mr. Horsey was with him; Mr. Muckleston said he would make up the  $2\frac{1}{2} \times \frac{1}{2}$  in English with Swedes iron, and a larger size of English iron, and only charge the value of the  $2\frac{1}{2} \times \frac{1}{2}$  inch; Mr. Muckleston said he would make an allowance on the weight of the larger iron, on account of the difference of weight between that ordered and that furnished; he said he would charge the Swedes iron as English iron; Swedes iron was furnished in place of English iron. Mr. Muckleston told witness afterwards, that he was paid the full price of the Swedish iron, and that no deduction was made on account of the extra weight of the English iron, or words to that effect; Mr. Muckleston did not state

Appendix  
(B. B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

that he was paid under this arrangement; but witness understood that he had been allowed what he stated about the iron in his accounts. Mr. Muckleston told this to witness after the order was completed; does not recollect exactly the date, thinks it was in 1847. Witness certified the bills for the weight of iron received, on the understanding that the deduction would be made at the office; presumed so from hearing Mr. Horsey's conversation with Mr. Muckleston, and from the Warden having afterwards asked witness if he had heard that conversation and the terms of it. Witness made no enquiry at the Clerk if Mr. Muckleston had been settled with as he stated; had nothing to do with the Clerk's business. Witness is asked, if knowing that a fraud had been committed on the Institution he had allowed it to pass without notice? and says, he conceived the Warden and Mr. Horsey were as well in possession of it as he was, and that he had no one but the Warden to expose it to, and Mr. Muckleston being a great friend of the Warden's he did not wish to stir in it. Witness is asked if he ever informed the Warden that no allowance was made in the invoices for the difference in weight between the large and smaller iron already mentioned? and says he did not; because he had informed the Warden in answer to his enquiries of the bargain, before all the iron under it was delivered.

Q. "Did you ever tell the Warden that Watkins & Co. had failed to complete the bargain made in presence of Mr. Horsey?"

A. "Witness did not, because he thought the Warden knew of it as well as himself."

By Commissioners:—

"Is not sure, but thinks the Swedes iron was the same thickness, but a little wider than the English iron ordered from Watkins & Co."

Samuel Muckleston—preliminary examination:—

"Is a partner in the house of John Watkins & Co.; the firm has had large transactions in iron and hardware with the Penitentiary; recollects that a large quantity of English iron  $2\frac{1}{2} \times \frac{1}{2}$  inch was ordered for the Penitentiary, last year or the year previous, when the firm had not iron sufficient of that description on hand. English iron of a larger size, and Swedish iron of the right size, were furnished to supply the order; the regular contract price of  $2\frac{1}{2} \times \frac{1}{2}$  in English iron, only was charged. The evidence of James M'Carthy on page 100 from line 31 to line 35 (as to witness having stated that he got full price for the substituted articles) having been read over to witness, he declares it to be untrue. There was very little of  $2\frac{1}{2} \times \frac{1}{2}$  inch iron short, not more than 2 tons out of 20."

By Mr. Smith:—

"Watkins & Co. (of which house witness is a partner) furnished iron for the Penitentiary in 1847; always supplied the sizes of iron required for the Institution, but in one instance. In the instance witness refers to, a larger size of iron was supplied than was required; it was done with the sanction of Mr. Horsey. To the best of his knowledge, five or six cwt. was deducted on account of the larger size being furnished. The firm furnished some Swedes and some Crown iron in lieu of the English iron ordered: both were charged as English iron. About 2 tons of Swedes iron was so furnished: about 5 tons of Crown iron was so furnished. The Crown iron

was  $1\frac{1}{2} \times \frac{1}{2}$  inch; the Swedes iron was  $3 \times \frac{1}{2}$  inch—the exact size ordered. The price of English iron under the contract, was 15s. 6d.; the price of Crown iron under the contract, was 18s. 6d.; the price of Swedes iron under the contract, was 21s. All three kinds were charged overhead at the price of English iron. Thinks the firm lost £25 by the transaction.

"Witness's firm supplied a quantity of Canada Plate to the Penitentiary in fall of 1847. Made application in June or July, 1847, to know what quantity would be wanted under the contract during the year; was told by Mr. Horsey what quantity would be required for covering the buildings going on; means the new work-shops. Furnished the quantity named by Mr. Horsey. Witness considered the firm's contract was to furnish nothing but what was needed for the use of the Penitentiary.

"The interest given at the Kingston Savings' Banks is 3 per cent. Mr. Watkins has money belonging to a Convict in the Penitentiary; he took it at the Warden's request; the amount is £41 odd; he pays 6 per cent. for it. Cannot tell whether the bills of parcels for the large size of English iron was sent to the Penitentiary with the gross weight charged, or with the deduction made as agreed between witness and Mr. Horsey.

"Never told M'Carthy that Watkins & Co. had recovered full payment of the extra weight of the English iron, and the extra value of the Swedes iron, notwithstanding the agreement to the contrary. Never told M'Carthy that the full weight of iron furnished by witness in 1847, was allowed to him, without any deduction on account of size; has no recollection of conversing with M'Carthy on the subject, though witness frequently conversed with him when at the Penitentiary on business; would not say that M'Carthy had sworn falsely, if he had so sworn before the Commissioners; he may have been mistaken; and it is so long ago, and they had so many conversations, that it is difficult to pronounce precisely.

"Thinks witness had some conversation with M'Carthy since he left the Penitentiary; he came to witness's store on business; he said he had some idea of going to New York to see his brother, and get out of the way of the Commissioners; thinks he said he knew nothing against the Warden; M'Carthy as much as said he knew nothing against the Warden; cannot recollect the words distinctly."

Edward Horsey (preliminary examination):—  
"Recollects of giving different large orders for English iron to John Watkins & Co., which they were unable to supply of the size of iron wanted; they furnished Banks' iron and Swedes iron of the proper size, and English of a longer size in lieu of it; but they agreed that they should only be paid for the price that the same lineal quantity of the proper size of English iron would have amounted to."

By Mr. Smith:—

"Recollects making out requisitions last year for iron for the buildings; Watkins, the ironmonger, in Kingston, supplied these orders; they were generally furnished of the size required by the requisitions; some of the iron was furnished of a larger size than was required. Witness's directions to M'Carthy, the Blacksmith Keeper, were to weigh the iron according to the order required. Witness told M'Carthy that some of the iron delivered was larger than the

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

order required, but that Mr. Muckleston, of the firm of Watkins & Co., had agreed to give the overplus weight to the Institution, in consequence of not having sufficient iron of the kind required; it was English iron that was ordered; it was Banks' iron that was delivered to make up the quantity required; but witness believes that it was English priced iron that was charged. Witness considers that the Institution was benefited by this transaction to the amount of £20 or £30."

We are of opinion that it is clearly proved by the evidence of M'Carthy, and admitted by the other witnesses, that the firm of Watkins & Co. being unable to supply a particular description of iron specified in their contract with the Penitentiary, entered into an agreement with the Warden to supply in its place iron of a larger size, with the understanding that they were only to be paid for the weight which a similar number of bars of iron of the contract size would have amounted to. The evidence of M'Carthy is most direct—that the weight which he certified to in the Bills of Parcels under which Watkins & Co. were paid, was the actual weight furnished, without any deduction. And we can state from a personal inspection of the Bills of Parcels at the time referred to in the evidence, (July, 1847,) that they are all regularly vouched by M'Carthy, without any remark on them which could lead to the impression that any deduction was made for such excess of weight. The only evidence to rebut this strong array of facts, is the declaration of Mr. Muckleston—that, "to the best of his knowledge, 5 or 6 cwt. was deducted on account of the larger size being furnished." The Clerk and Architect, who seem both cognizant of the transaction, and who could easily have proved the deduction, had it been made, are not examined in the Warden's behalf on the subject.

With regard to that part of the charge which refers to the substitution of Banks' and Swedes iron for English iron, the declaration of Mr. Muckleston is explicit, that a certain quantity of both qualities were furnished and charged at the prices of English iron. That portion of the charge is therefore not established; but enough has been proved to show that the whole transaction is of a most equivocal character. It is to be regretted that none of the requisitions for the iron by Keeper M'Carthy, for that particular period, have been preserved, as, had they been produced, we should have been enabled to come to a determinate opinion on the whole of the facts.

The second transaction, under this count, is in regard to a quantity of stove-pipes ordered by Mr. Patrick Quinn. Several witnesses gave evidence on this matter, but it is fairly explained in Mr. Quinn's testimony.

Patrick Quinn—preliminary examination:—

"Is a Tavern-keeper near the Penitentiary; made a bargain last fall with the Warden of the Penitentiary for a thousand ends of stove-pipe, at the rate of 8d. per end; made a positive bargain; they were to be finished in less than three weeks; offered to pay them in advance, but the Warden said it would answer to pay them when delivered. The Warden refused to implement his bargain on the ground that he had no sheet-iron; witness told him, he (the Warden) had received three loads of sheet-iron that very day; the Warden said that was for roofing the houses; witness reminded him that he could do no

roofing work for some months, and the Warden said he knew that, but the iron must be kept for it. Witness got about a hundred ends of the Contract executed, but could get no more; considered it very dishonorable conduct on the part of the Warden; the Warden never denied that he had broken his Contract." \* \* \* \* \* "Iron had risen very rapidly at the time of the Contract; the stove-pipe was worth 1s. per end, shortly after the Contract was made."

The whole of the evidence corroborates Mr. Quinn's statement.

The defence of the Warden is, that he applied to Watkins & Co. who held the iron Contract to supply plate iron to fill Quinn's order, but that they refused to supply it, on the ground that their Contract only bound them to supply articles "needed for the use of the Penitentiary," and did not oblige them to furnish materials for the execution of work ordered by third parties from the Penitentiary. It appears from the evidence that the Warden assented to this view of Contract taken by Messrs. Watkins & Co., and declined to supply Quinn's order.

We find that Watkins & Co. by the terms of their Contract, were bound to "furnish and deliver at the said Penitentiary, such quantities of the articles hereafter mentioned as shall be specified in any order or orders from the said party in the second part." We are of opinion that this covered the transaction proposed by Quinn; and the previous practice had been to supply such orders under the Contract.

The third and fourth points at issue under this count, were in allowing Samuel Breden, the Ration Contractor for 1845-6, and Hendry and Blacklock, the Contractors for 1846-7, to supply white bread in lieu of potatoes; but the Warden has shown that the Inspectors were cognizant of these arrangements.

#### 10. IN PAYING LARGE SUMS TO CONTRACTORS FOR QUARRYING STONE TAKEN FROM THE PENITENTIARY LOT, WHICH WORK SHOULD HAVE BEEN DONE BY CONVICT LABOR.

It appears by the books that, since the year 1841, £6,656 16s. 4d. has been paid to Contractors for quarrying stone; all of the stone having been taken from the Penitentiary Lot, with the exception of £1,128 14s. 11d.

The evidence, on which the charge was founded, is as follows:—

William Coverdale—(preliminary examination):

"All the stone used for four or five years back has been quarried by contract. From £100 to £200 per month has been latterly paid for this work. This stone was all got from the Penitentiary Lot. Witness thinks it might have been got out by Convict labor. A high fence might have been put up round the quarry. The quarry was outside the Prison walls. Witness has often spoken to Mr. Utting and Mr. Bickerton on this subject, who agreed with him upon it. Witness spoke to Warden as to it: he objected to taking men out of the Penitentiary. Witness thought men in for long terms should not have been so employed; but soldiers and others, who had only a short time to remain in, might have been safely so employed. From fifteen to twenty men would have been required. Witness is of opinion

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

that £800 to £900 a year might have been saved on this item."

James Gleeson (preliminary examination):—

"Conlan received about £150 a month for the two years witness was in the Penitentiary; and he several years enjoyed contracts before witness went to the Penitentiary. Conlan received all this money for quarrying and drawing. Witness knows no reason why Convicts were not employed to do this work; there were plenty of hands to spare; the work done inside would not have been a bit the less. The quarry could have easily been enclosed, and the work carried on, without any danger of the Convicts escaping."

James M'Carthy (preliminary examination):—

"Knows that a great saving might have been made by doing the quarry work by Convict labor instead of by free contract. There was no reason why this should not have been done; there were plenty of men to spare."

By Mr. Smith:—

Q. Do you know what would have been the expense of putting a wooden fence round the stone-quarry on the Penitentiary Lot?

A. Cannot tell without calculation.

Q. Do you know what the expense of teaming would be in bringing in the stones?

A. No.

Q. Do you know the number of extra Keepers and Guards which would have been required, had the Penitentiary quarry been worked with Convict labor?

A. No.

Q. How, then, do you know a saving would have been effected by working the quarry with Convicts instead of by contract?

A. Because when there was a wooden wall round the Penitentiary, witness had nearly as many men as he ever had; and latterly, to the same number of men, there have been Mr. Skinner, and a Guard, and witness—all officers in the Blacksmith's shop—and he cannot see why some of them might not have been spared outside. There were four or five Stonecutters and Mason-keepers, with a Guard to each occasionally; and witness thinks some of them might have been spared. Guard Martin, who is stationed about the Warden's apartments, might also have been spared.

Q. How do you know Guard Martin was stationed about the Warden's apartments?

A. Understood so.

Q. What branch had Mr. Skinner when in the Prison?

A. Best part of his time he made fire-engines and locks.

Q. Could Mr. Skinner see the Convict Blacksmiths from his part of the shop?

A. He could when he stood at the elbow of the shop.

Q. Could he attend to the men in both parts of the shop at once? Appendix  
(B.B.B.B.B.)

30th May.

A. He could see what they were doing, and tell the work they were about.

Q. Could you stand at the south end of your shop, and see what was doing at the north end?

A. Yes.

Q. How long was the Guard you speak of in your shop?

A. Does not know.

Q. Do you know why he was put there?

A. Supposes he was put there to watch the men. Presumes the Warden and Inspectors knew what they put him there for.

Q. Was there not a complaint made, just before he was put there, of the irregularity in your shop?

A. There were some reports about some complaints, but witness does not know what they were: it was impossible to keep thieves and robbers in such order, that no complaints would arise.

Q. Are not the Mason gangs much extended when at work?

A. Does not know.

Q. Did you ever see a gang of Masons at work?

A. Yes.

Q. Were they not very much extended when the new wings were building?

A. Does not know.

Q. Do you think a Keeper could watch all his gang when building on the new Shops?

A. If the Guard could keep the gang in the Keeper's absence, the Keeper might keep it without the Guard.

Q. Were not all the Convicts that were not sick kept constantly employed?

A. Cannot tell much of any but his own shop. There used to be Convicts running about the yard constantly; and there were a great many idlers in the Kitchen gang.

Q. How often did you go to the Kitchen?

A. Passed there constantly, several times a week; used to see the Convicts playing with Frank Smith, running after pigeons, firing arrows, and setting traps.

Q. How many idle men did you see on an average about the yard?

A. Sometimes more and sometimes less; could not fix an average.

Q. What was the largest number of Convicts you have seen going idle at one time?

A. Did not count them; has seen a good many; could not say how many.

Appendix  
(B.B.B.B.B.)

30th May.

Q. What was the smallest number you ever saw ?

A. There never was a time of the day but you could see one, two or three, unless when they were locked up.

Q. Do you know if these Convicts were going messages ?

A. Cannot tell.

Q. How many Convicts do you think could have been spared to go to the quarry ?

A. Arrangements could have been made by the Warden to spare men that were not wanted urgently inside.

Q. What gang could they have been taken from ?

A. They might have been selected from a great many parts of the yard—from the stables, ice-cutters, Kitchen-men, and other places.

Q. Do the ice-cutters work in summer ?

A. Can't the quarrymen work in winter ?

Q. If these men were taken from the yard would not their work have stopped ?

A. Thinks not, if taken from different parts of the yard.

Q. Who would do their labour, if they were taken away ?

A. Men could have been spared all round ; witness had often men put upon him that he could not employ ; sometimes 6 men at a time, and all the other shops had such men. These men would be kept at some work or other, but they were more in the way than of use.

Q. How many men had you in your gang when some of them were in your way ?

A. Cannot exactly tell ; speaks particularly of the winter.

Q. Does this return (the return of 23d February, 1839, is shown witness) tell the number of men then employed in your gang ?

A. Before witness can say the exact number of men employed at that date, he must see the labor list of the same date.

Q. Does this return show all the work done that week ?

A. Cannot say ; may have done private work besides.

Keely, Fitzgerald and Swift give similar testimony ; and the principal stone Contractor's evidence is very pointed on the subject.

Patrick Conlan—preliminary examination :—

"Is a quarryman ; resides in Kingston ; has had three contracts with the Penitentiary to quarry stone." . . . . . "Witness kept no charge of the stone as it left the quarry ; he trusted entirely to the honesty of the Keepers who measured it when the stone was delivered ; witness had from

12 to 30 men employed during his contracts, including carters ; from 15 to 20 was the usual number. If they had not cheated witness in the measurement, he would have made a good job out of his contracts ; as it is, he saved himself. Witness's bills run from £80 to £200 per month, the monthly bills he thinks would average from £130 to £150 per month. Had the Warden offered witness a contract, in which Convict labor was given him free, for quarrying, witness finding teams, drivers and tools, he would have furnished all the stone wanted for the Penitentiary at from 1d. to 1½d. per foot, overhead ;" (his contract price was, first year, 2½d. ; second, 2½d. ; and third year, 1d., for flagging ; 7 to 8 inches, 2d ; 9 to 10 inches, 2½d ; 11 to 12 inches, 2½d ; and 13 to 14 inches, 3½d. per foot ;) "he would do so now, and if he got a pretty long contract, he would put up a fence round the quarry to prevent the Convicts escaping, without extra charge. Witness always gave two sureties for the fulfilment of his contracts, with the Penitentiary. The Penitentiary lot contains any necessary quantity of stone for the purposes of the Institution, to the height of 14 inches thick."

To meet this the Warden brings the following testimony :—

Edward Horsey—By Mr. Smith :—

"The distance from one end of the quarry on the Penitentiary lot to the other end was about half a mile ; the expense of putting up a fence round this quarry would be about 7s. 6d. a foot, running feet ; this includes watch boxes and all that is necessary for the purpose. It would have required all the Penitentiary teams to bring in the stone from the quarry. If this quarry were worked by the Convicts, the work in the yard would consequently have stopped by taking away these teams. Witness once thought there would be a saving to the Institution by the Convicts being employed in working the quarry, but now thinks that this question can only be properly answered by its practical working, as it is impossible to estimate the advantages and disadvantages otherwise. When witness began to figure this question, he doubted that it would be a saving. There is no doubt that the Convicts would endeavor to escape in going backwards and forwards to the quarry ; it would require several extra Guards to watch the Convicts ; a Guard should go with every Convict teamster employed in conveying the stone to the Penitentiary."

Mr. Bickerton—By Mr. Smith :—

"The contracts for quarrying stone on the Penitentiary lot were always laid before the Inspectors before the contracts were entered into ; the Inspectors never directed the Warden to employ the Convicts on the Penitentiary lot to quarry stone, as far as witness knows."

Thomas Kirkpatrick, Esq.—By Mr. Smith :—

"Recollects of a discussion which occurred at the Board on the propriety of employing Convicts to quarry stone on the Penitentiary lot ; thinks the proposal for so employing Convicts was abandoned on the representation of the Warden that it was unsafe to send the men outside to the quarry. If a quarry could have been found on the south side of Union Street, witness thinks the scheme would have been carried into effect ; but not finding a quarry there, it was abandoned."

Appendix  
(B.B.B.B.B.)

30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

James Hopkirk, Esq.—By Mr. Smith :—

“Thinks it would have been unsafe to send the Convicts outside the wall to quarry on the Penitentiary lot ; there would have been great risk of escapes.”

Mr. Sheriff Corbett—By Mr. Smith :—

“Thinks it would not have been safe to have sent Convicts into the bush to quarry stone.”

Major Sadleir—By Mr. Smith :—

“All tenders for contracts for quarrying stone were generally laid before the Board previous to being decided. To the best of witness's recollection Convicts have been employed outside the walls ; Convicts cut poles in the bush on the Penitentiary lot. All stone quarried from the Penitentiary lot was furnished by contract ; thinks there would be danger in sending out Convicts to work at the quarry, as the present law does not allow them to be chained as they are in other countries.”

It is remarkable, that not one practical man in the Institution has been brought by the Warden to testify that it would have been unsafe to send the Convicts outside ; and, indeed, it would be impossible for them to do so, as it is in evidence that Convicts have been often sent out, in parties, to work, without any harm arising from it.

We are satisfied, that stone sufficient for all Penitentiary purposes might have been found on the Prison lot ; that Convicts sufficient to work the quarry might have been spared, without detriment to the operations going on within the walls ; that by properly selecting the men, and using due precaution, the quarrying might have been done by Convict labor with perfect safety ; that had this been done, a great saving would have been effected ; and that had the Convict labor been hired out to the quarryman, as suggested in Conlan's evidence, about £3,000 would have been saved to the country.

11. IN PAYING SIXPENCE PER FOOT FOR STONE TO CERTAIN QUARRYMEN, WHILE A CONTRACTOR WAS UNDER BOND TO SUPPLY THE SAME ARTICLE FOR THREEPENCE PER FOOT.

The facts in this case do not seem to be disputed.

James Gleeson—(preliminary examination):—

“In 1846, Conlan had a contract to deliver stone to the Penitentiary at 2½d. per foot, all round. A person named Dissett, delivered the same article, but not on contract, at 3d. per foot, all round. This arrangement was made in Mr. Coverdale's time. A few weeks after Mr. Coverdale left, (Conlan and Dissett still continuing to deliver the same article,) the price was raised to Dissett to 6d. per foot for the thick kinds, and 3d. for the thin. Conlan continued to receive the same price as before, 2½d. per foot, all round. Witness knows that Conlan was under contract to supply all the stone required, and had given security to fulfil it. Witness knows no reason why he was not compelled to fulfil his contract. Conlan's stone was taken from the Penitentiary lot ; Dissett's stone was quarried on other ground. There was stone enough on the Penitentiary lot to supply all demands. There was another person, Patrick M'Grogan, who delivered stone about the same time, at 6d. per foot, all round, to the extent of about £200 ; this was during Conlan's contract ; also, a man named M'Imiseg, at the same period, and at the same rate ; also, a man named Angus M'Leod,

son-in-law of Mr. Costen, at the same period, and at the same rate.”

Patrick Conlan—(preliminary examination) :—  
“There were other persons who supplied stone to the Penitentiary during the existence of witness's contracts ; does not know what prices they got ; feels confident he could have supplied all the additional quantity of stone furnished by these persons above what he himself sent in, if he had been required to do so.”

The terms of Patrick Conlan's second contract, are thus stated :—

Patrick Conlan—(preliminary examination) :—

“Witness's second contract ran from 4th May, 1846, to 4th May, 1847 ; and the stone was to be taken from the Penitentiary lot. Under this contract witness received 10s. 5d. per toise for “coursers,” and 2½d. per foot for cutting stone, all overhead. Witness was bound to supply the Institution with such quantities and sizes as they might require under this contract.”

By a return made out by the Warden, it appears that during the existence of this contract of Conlan's, there was purchased from other quarrymen 16,305½ feet of cutting-stone at 3d., and 7,318½ feet at 6d. per foot, making a loss to the Government, on the former description, of ¼d. per foot on 16,305½ feet, or ..... £16 19 8  
And a loss on the latter of 3¼d. per foot  
on 7,318½, or..... 99 2 1

Total loss by the transaction for 1846-7, £116 1 9

Conlan's third contract is thus stated :—

Patrick Conlan—(preliminary examination) :—

“Witness's third contract commenced on 12th June, 1847, and was to last for a year, but was discontinued under a clause of the contract, (by a month's notice from the Warden,) on the 3d March, 1848. Under this contract, the stone was to be taken from the Penitentiary lot, to be of such quantities and sizes as required, and not less than three trucks or sleighs to be kept going. The rates under this contract, were 9s. 5d. for “coursers,” not exceeding 8 inches in thickness ; 1d. per foot for flugging ; stone for cutting, from 7 to 8 inches in thickness, to be 2d. per foot ; 9 to 10 inches, 2½d. per foot ; 11 to 12 inches, 2½d. per foot ; and 13 to 14 inches, 3¼d. per foot. Under this contract, if the kind of stone wanted could not be had on the Penitentiary lot conveniently, the contractor was bound to procure the necessary quantity elsewhere, at the same rates : in case of his neglect to do so, the Warden to have the right to procure what was wanted elsewhere, and charge to witness the difference between contract price and what the Warden might be compelled to pay. All three contracts were obtained by witness under sealed tender. Witness declares that he has fairly fulfilled the spirit and meaning of his contract.”

From the accounts paid Conlan during this contract, the average price of cutting-stone under it appears to have been about 2½d. per foot.

The Warden's return of stone purchased from other parties during the existence of this contract with Conlan, shows that 1,697½ feet were purchased at 3d., making a loss to the Government of £1 15 4  
And 6,113 feet, at 6d., making a loss of 57 15 7½

Total loss for 1847-8.....£59 10 11½

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

The defence is as follows :—

Edward Horsey—By Mr. Smith :—

“ Conlan could not furnish the thick-bed stone so fast as it was required. When application was made to Conlan for this stone, Conlan replied that it was not to be found in the Penitentiary quarry; and witness subsequently ascertained that such was the case. In consequence of this, it was necessary to procure the 14 inch stone elsewhere. The works would have stopped had it not been procured elsewhere. Thinks 6d. a foot a very reasonable price for the delivering of this stone; it would have fetched 7½d. in the town, at this time, at Government works. Does not think it would have been fair to have charged Conlan the extra price for this stone, as the contract, witness expects, bound Conlan to the Penitentiary lot.”

Francis Bickerton—By Mr. Smith :—

“ Several letters were written to Conlan complaining that he did not deliver the stone of the sizes required; great complaints were made of Conlan's delivery of the stone; Coverdale used to make complaints about Conlan.”

By Commissioners :—

“ Recollects of Conlan's contract for stone in 1846; the price he got was 2½d. per foot all round; he was bound to furnish any quantity wanted at 2½d. per foot overhead. While Conlan's contract existed, the same stone, he was bound to furnish at 2½d. per foot, was bought from Dissett and others at 6d.; Conlan had good securities.”

“ Witness is asked to show some of the letters written to Conlan, complaining of his non-delivery of the stone needed for the Penitentiary, and refers to the Warden's letter of 23rd July, 1846. The Warden in that letter complains that “ the Master-builder of this establishment has reported to me that notwithstanding your promise to him, many days ago, to furnish stone of the sizes required and of which there is abundance in the Penitentiary lots, you have neglected to deliver the same to the great damage of the building operations now being carried on here; and as this is contrary to the terms of your agreement, I have to advise you that the same will be purchased elsewhere on your account, and the loss sustained will be charged to you agreeable to the stipulation of your contract.” The loss sustained by buying stone from Dissett and others at 6d., which Conlan was bound to furnish for 2½d., was not charged to Conlan.”

By Mr. Smith :—

“ It was by the Master-builder's recommendation that the thick beds of stone were purchased from other parties besides Conlan the contractor; Dissett and the others furnished the thick stone from their own quarries.”

It will be seen that the defence takes two grounds. One witness says the stone purchased past Conlan was not to be found on the Penitentiary lot, and no blame was attachable to Conlan for not supplying it. The other witness shows, by the Warden's own letter, that there was plenty of the stone required in the Penitentiary quarry, and that Conlan's account was to be charged with the loss sustained by the purchases from others which he had rendered necessary by his negligence.

Appendix  
(B.B.B.B.B.)  
30th May.

We find that under the contract of 1846-7 Conlan was bound to quarry on such part or parts of the Penitentiary lot in the Township aforesaid, according to the directions they (Conlan and his sureties) may from time to time receive from the Master-builder of the said Penitentiary, such quantity and sizes of stone as may be required for the use of the said Penitentiary.” Conlan's contract of 1847-8 is in the words of his evidence.

We find that Conlan gave two good sureties for the fulfilment of both his contracts, and that any penalty under them might have been enforced.

We find that there was abundance of the stone required (14 inch) on the Penitentiary lot; large quantities having been since procured from it; and that Conlan should have either procured the article wanted or have sustained the loss. The Institution has therefore suffered, unnecessarily, a loss of £175 12s. 8½d.

12. IN BUILDING UP A COSTLY ROPEWORK, WITHOUT PROPER FORETHOUGHT AS TO THE SITE OF ITS ERECTION; IN PULLING IT DOWN BEFORE THERE WAS A NECESSITY FOR DOING SO; AND IN ALLOWING THE MACHINERY, BUILDINGS, AND STOCK TO GO TO WASTE.

Mr. Coverdale—preliminary examination :—

“ Recollects there was a Ropework established while Mr. Powers was in the Penitentiary; it was considered a very complete work and cost much money; it was in operation three or four years; part of the time it was let out by contract. The witness believes it was done away because it interfered with the clearing of the yard; it was done away after Mr. Powers left; there was no absolute necessity, as far as the works were concerned, for its being done away; it might have remained a year or two longer. Witness believes part of the Ropework was sold, and a part afterwards used for the stone-cutters; the machinery was not disposed of, but lay about the yard, and witness doubts if one half of it could be now got together. Witness believes it cost from £500 to £800. Witness was ordered by the Warden to take down the building where the horse-power was kept, when it was resolved to discontinue the Ropework. Witness found in the Ropery a large quantity of spun-yarn, about £200 value, as he thinks; witness represented to the Warden that this material should be made into ropes before the buildings were taken down, as the spun-yarn was of no value to the Institution: Warden said, “ never mind, take it down.” Witness still felt reluctance to take it down, knowing that the spun-yarn would go to waste, and represented this to the Warden a second time; the Warden said again, “ never mind, take it down.” Witness mentioned this to Mr. Utting, and he said he would speak to the Warden, and get him to delay taking the buildings down. Same day Warden came to witness, and desired him to get the rope-yarn worked up before the building was taken down. The horse-power stood in the way of the Garden being made.”

James M'Carthy—preliminary examination :—

“ Recollects the Ropework; it was enormously costly; it was in operation a few years; a Mr. Angus managed it at first; he was a Ropemaker by trade; after he went, the work was let out with Convict labor, by contract; at the end of the contract, the Institution carried it on for a while, but there was

Appendix  
(B.B.B.B.B.)  
30th May.

no regular manager; sometimes the Tailor-keeper, or the Shoemaker, or one of the Guards would superintend it; there was an enormous loss by it; the buildings and horse-power went to wreck when the work was stopped, and witness thinks what now remains of the whole property would not bring over a few dollars."

By Mr. Smith:—

Q. Do you know the cost of the Ropework?

A. It was an enormous expense, but forgets the exact cost.

Q. Was any part of the buildings of the Ropework sold?

A. Does not know.

Q. Did Mr. Utting buy any part of them?

A. Does not know.

Q. Was any part of the buildings destroyed?

A. Does not know.

Q. Do you know what has become of the machinery of the horse-power?

A. It knocked about everywhere; some of it is lying about the yard now.

Q. Do you know what is in the little shed near the north-east tower.

A. No.

Q. Did you ever hear that the machinery of the horse-power was there?

A. No; part of the Ropework machinery was in the west wing.

Q. How long were the Convicts employed in making ropes?

A. Cannot tell; some years.

Q. Were they good at it?

A. Does not know.

Q. What is the value of the Ropework sheds now left?

A. Does not know that any are left.

Q. What would you suppose to be the value of the machinery left?

A. Does not know exactly how much is left.

Q. Was it necessary to have another Blacksmith-keeper to take your place, when you were absent from your shop?

A. There was not.

Q. If the Convict Ropemakers knew their trade, was it necessary to have a Ropemaker as their Keeper?

A. Does not know.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Do you know what loss was sustained by the Penitentiary from the Ropework?

A. Heard several times, but forgets how much.

Q. Who did you hear it from?

A. It was pretty much through the officers at the time, that an enormous loss had been sustained by it.

Q. From which of the officers did you hear it?

A. Forgets particularly; they all had it.

By Commissioners:—

"Should not think a gang of Convicts could be kept at Ropework and do good work, without a Ropemaker, as a Keeper, to oversee their work and keep them at it."

Edward Bannister—preliminary examination:—

"After the Ropework was taken down, some of the machinery was taken to the lodge, and the rest lay about the yard. A great deal of it has gone to wreck; the principal wheel is lying in the yard, covered up."

By Mr. Smith:—

"Recollects the Ropework being pulled down; the small wheels were taken to the lodge, also the scales and beam, and some hooks; they were placed in a barrel at the lodge. The large wheel was broken up; the principal wheel, it was laying for some time in the west wing; there is another large wheel lying covered up near the north-east tower. The rope first went to the west lodge; it was then removed to the north lodge; it may have gone to the loft where the Hospital now is, before it went to the west lodge."

John Swift—preliminary examination:—

"When the Ropework was broken up, the machinery was very carelessly looked after; it lay about the yard for long. The wood work is all broken up, and some of the castings are lying about the yard now."

By Mr. Smith:—

"A part of the machinery employed in the Ropework was deposited in the west wing; other parts are laying in the shed near the north-east tower. Believes that the greater part of the wood work was broken up; the horse-power was pulled down; does not know whether any part of the wood work was sold to Mr. Utting."

Mr. Utting gives similar evidence.

Appendix  
(B.B.B.B.B.)  
30th May.

The Ropework account, as taken from the Penitentiary Book, stands as follows, viz. :—

		£	s.	d.	£	s.	d.	
1839	Sept. 30	Paid in Cash during past year	174	2	0			
		Carpenter's work done for Ropery.	46	19	11			
		Blacksmith's work	17	3	6			
		Labor of Convicts, 177 days, at 2s. 6d.	23	2	6			
		Keeper's wages, 5 months	38	10	10			
		Guard's wages, one for 5 months.	23	18	1			
			322	16	10			
		Less receipts on account of Ropery.	16	1	6	306	15	4
1840	Sept. 30	One year's interest on £306 15 4				16	8	1
		Cash disbursed in past year	624	19	2			
		Carpenter's work	274	7	3			
		Blacksmith's work	83	1	11			
		Convict labor, 3280 days, at 2s. 6d.	410	0	0			
		Keeper's wages, 1 year	92	10	0			
		Guard's wages, 1 year	57	7	6			
			1541	5	10			
		Receipts for past year	828	18	3	712	7	7
1841	Sept. 30	One year's interest on £1037 11s.				1037	11	0
		Cash disbursed	690	19	3			
		Carpenter work	180	19	5			
		Blacksmith work	238	4	9			
		Convict labor, 3866 days, at 2s. 6d.	483	5	0			
		Keeper's wages	53	19	2			
		Guard's wages	58	9	5			
			1695	17	0			
		Receipts for past year	688	18	5	606	18	7
1842	Sept. 30	One year's interest on £1906 14 8				1906	14	8
		Cash disbursed	15	2	5			
		Carpenter work	10	17	4			
		Blacksmith work	13	18	0			
		Convict labor, 3311 days, at 2s. 6d.	413	17	6			
		Guard, 8½ months	41	6	0			
			495	1	3			
		Receipts for past year	389	4	7	105	16	8
1843	Sept. 30	One year's interest on £2126 19 5				2126	19	5
		Cash disbursed	220	12	7			
		Carpenter work	0	19	8			
		Convict labor, 2028 days, at 2s. 6d.	253	10	0			
		Guard's wages	32	11	0			
			507	13	3			
		Receipts in past year	198	19	9	308	13	6
1844	Sept. 30	One year's interest on £2563 5 3				2563	5	3
		Cash disbursed in past year	36	9	5			
		Carpenter's work	16	1	2			
		Blacksmith's work	7	1	9			
		Convict labor, 827 days, at 2s. 6d.	103	7	6			
		Guard's wages	19	12	0			
			182	19	1			
		Receipts in past year	119	15	8	68	3	5
1845	Sept. 30	One year's interest on £2780 4 7				2780	4	7
		Receipts in past year	154	3	10	2947	0	10
		Cash disbursed	6	1	0			
						148	1	10
1846	Sept. 30	One year's interest on £2798 19 0				2798	19	0
		Receipts in past year	107	13	9	2966	17	9
		Cash disbursed	£3	2	0			
		Blacksmith work	1	16	6			
		Guard's wages	7	7	0			
			17	5	6	90	8	3
1847	Sept. 30	One year's interest on £2875 9 6				2875	9	6
		Receipts in past year				172	10	7
						3048	0	1
						106	10	8
1848	Sept. 30	One year's interest on £2941 9 5				2941	9	5
						176	9	9
		Total Loss by the Ropework	£	3117	19	3		

The following is the evidence for the defence :—

Appendix  
(B.B.B.B.B.)  
30th May.

Francis Bickerton—By Mr. Smith :—

“There was a large quantity of rope on hand when the Ropework was pulled down; there was some difficulty in making sale of it. There was a quantity sent to Kingston for sale by Commission; some of it was sold by auction; there was a good deal sold altogether. When rope was used for scaffolding, or for other purposes in the Penitentiary, it was expected that the Keeper who used said rope would give an account of the quantity taken to the Clerk's office, to be charged to the building account. When witness makes up his annual accounts of the profits of the different shops, he does not add interest to the previous year's stock. No interest is charged by the Government on money advanced for the support of the Penitentiary.”

“The general impression among the Officers, was, that the Hospital was at first intended to be in the upper flight of the north wing.”

Thomas Kirkpatrick, Esq.—By Mr. Smith :—

“Thinks the Garden on the east side of the yard was laid out with the sanction of the Inspectors, but not formally with their authority. Witness thinks the Ropework was abandoned before the Garden was commenced. The Inspectors would certainly not have allowed the Rope-walk to be pulled down to make way for the Garden. Thinks it very likely part of the Rope-walk was pulled down while witness was an Inspector. After the Rope-making was abandoned, part of the shed was used as a shop for the carpenters. It was understood when the Rope-walk was pulled down, that a new one would be afterwards erected.”

Thomas Costen—By Mr. Smith :—

“When the Rope-walk was built, does not know where the Hospital was intended to be built; does not recollect what the large room in the north wing was intended for; first knew the Hospital was to occupy its present site before the excavation was commenced four or five years ago.”

Major Sadleir—By Mr. Smith :—

“The Inspectors sanctioned the laying out of both Gardens within the Penitentiary walls, in accordance with the plan of Sir Richard Bonnycastle. It was stated to the Board, that it was necessary to pull down the Ropework in order to make the Garden; and as the Ropework did not pay, this was agreed to.”

Edward Horsey—By Mr. Smith :—

“Witness began to prepare for the building of the Hospital as soon as he was employed at the Penitentiary. The space between the east side of the Hospital and the boundary wall, was required for the depositing of materials. Witness was obliged to excavate on the spot upon which the Ropework had formerly stood.”

The defence appears to be, that it was necessary to pull down the Ropework to make way for a Garden, ordered to be prepared by the Inspectors; but this is expressly contradicted by the President of the Board, Mr. Kirkpatrick. It is also averred, that it was pulled down to make way for the Hospital, now building, the site of which was changed a few years

Appendix  
(B.B.B.B.B.)  
30th May.

ago. The evidence is far from direct on this point ; but were it so, this would form no apology for pulling it down so long before the Hospital was commenced. And even had it been necessary to remove the Ropework, this would form no defence for the mismanagement of it while in operation, and the reckless manner in which it has been allowed to go to ruin."

We find the grossest carelessness and incapacity exhibited throughout, in regard to the Ropework.

### 13. IN SUNDRY UNBUSINESS-LIKE TRANSACTIONS.

This count divides itself into several points, on which issue has been joined. The first of these, is the allegation, that many articles have been purchased for the use of the Penitentiary, which should have been made. The evidence is as follows :—

Mr. Coverdale says :—" Has often thought that articles were purchased for the use of the Institution which might have been made in it. He names spades, shovels, axes, chisels of several kinds, in particular, rough-socket chisels. If any of the officers wanted an axe, spade, &c., they got them made in the Penitentiary, because they paid less for them than they could buy the same article for outside ; at the same moment, the Institution purchased such of these articles as they used, instead of making them."

Blacksmith-keeper Grass—By Mr. Smith :—

" Does not think that all the tools required in the different shops could be made in the Blacksmith's shop to any advantage ; such tools can be purchased much cheaper at the hardware stores. There would be a difference of 50 per cent. against the Penitentiary in making them at the Institution. Witness speaks of a great many tools. Witness has made chisels and plane-irons ; but they could have been purchased much cheaper elsewhere, by not having the proper tools for such manufacture. Has made pick-axes and hammers in the Blacksmith's shop ; these could be made cheaper than they could be bought. Never spades or shovels ; they could not be made as cheap as bought ones."

By Commissioners :—

" It is for the want of proper machinery that such tools, as witness has spoken of, are not made in the Penitentiary."

James M'Carthy—By Mr. Smith :—

Q. Did you know the price paid by the Penitentiary for spades or axes ?

A. No.

Q. Did you ever charge less for axes and spades done in the Penitentiary than they could be purchased for in Kingston ?

A. Never had a good axe-maker in his gang ; and, therefore, could not charge as much for them as for an imported article.

Q. Did you ever make a spade in the Penitentiary ?

A. There were a few made.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Was the price charged less than the town price ?

A. Does not know ; charged what he thought was right ; had nothing else to go by.

The second allegation is, that the number of men under one Keeper was ill regulated, there often being too many Convicts in a gang.

Mr. Coverdale says :—" Thinks there was great loss by some Keepers having too many men under them, particularly as to the Stone-masons. Some Keepers would have from thirty to fifty men in their gangs, who were scattered at a distance, and wasted more than the value of their work. One great evil was, that there were too many men employed in building."

The evidence for the defence is as follows :—

Keeper Richardson—By Mr. Smith :—

" Has generally had more men than he can look after ; has twenty-one men in his gang now ; has had more than that ; has had twenty-three or twenty-four. Does not know how many men a Keeper should have by law ; was never told how many he should have."

Keeper Manuel—By Mr. Smith :—

" Witness has not more men in his gang than he can take charge of. Witness's men are very careful in the use of mortar and stone, because they are well watched ; they would not be so otherwise."

Keeper Little—By Mr. Smith :—

" Witness's gang is not larger at present than he can manage."

Keeper Ballantine—By Mr. Smith :—

" Witness's gang is sometimes larger than witness can manage it ; is so at this time."

Keeper Matthews—By Mr. Smith :—

" Witness has not more men in his gang at present than he can manage."

Keeper William Smith—By Commissioners :—

" Has had sixty men under his charge in one gang ; has forty-two at present ; has had as few as nineteen in his gang. Witness can attend to thirty men conveniently, if his shop is well adapted for the purpose."

All of this establishes the correctness of Mr. Coverdale's view of the matter.

The third issue raised under this count, is embodied in the evidence of Mr. Coverdale. He says :—" Witness's impression is, that the present buildings might have been built for 30 per cent. less by contract." And to meet this, Mr. Horsey testifies that " the ordinary run of stone-cutting work done in the Penitentiary, is better than the ordinary run of work outside. Here the stones are cut with sharp edges, which lay close in the wall ; but outside they are not so particular. Would say the difference in the cost of the work is 25 per cent."

The fourth issue raised, is, that there was great loss by the use and mismanagement of oxen for the purposes of the Institution.

Appendix  
(B.B.B.B.B.)  
30th May.

Mr. Coverdale says:—"The oxen used in the yard were not economically managed; recollects of one ox, ordered to be fattened for sale, remaining nine months unsold, through negligence."

Keeper Swift—preliminary examination:—

"Thinks there has been great mismanagement in the stable; the oxen have been for weeks together in the stable unfit to use from the state of their feet. In the Penitentiary yard, witness thinks one horse will do the work of three yoke of oxen in carting. Two horses would be worth all the oxen in the yard."

By Mr. Smith:—

"Witness thinks a lame horse would be as unfit for use as a lame ox. When buildings are going on the road is usually very rough; both horses and oxen require frequently to be shod at the Penitentiary, on account of the roughness of the road; the oxen in particular. One good horse will draw in as much stone from the quarry in a day as three yoke of oxen, if the loads are properly managed; thinks that two horses would do as much work, as all the oxen now in the yard; witness believes there are four yoke of oxen and one old one. Two horses would be able to do more work than eleven oxen, employed as these oxen now are in the yard; one half their time the oxen are idle. Witness means that they might do so by bringing stone from the quarry. Witness has seen the oxen idle; one ox, witness is confident, has been idle for twelve months."

By Commissioners:—

"Witness would not have employed oxen at all on the hard ground about the Penitentiary; would not think them so profitable as horses."

The evidence for the defence is as follows:—

Mr. Horsey—By Mr. Smith:—

"Witness does not think the oxen are idle one half of their time, certainly not, just the reverse; witness would prefer the work of six oxen to that of one horse in the work at the Penitentiary; thinks the oxen would be more profitable. Cannot give an opinion whether horses or oxen would be more profitable in drawing heavy loads at the Penitentiary."

Mr. Bickerton—By Mr. Smith:—

"The Warden has been directed by the Inspectors from time to time, to purchase oxen for the use of the Penitentiary."

It is clear from the evidence that one horse can do the work of several oxen; it is shown elsewhere that the cost of keeping the Penitentiary horses and oxen has been enormous, nearly £40 a head having been some years charged to the Government for their food alone; and there is every reason to believe that an ox has cost as much, if not more, to feed in the Penitentiary than a horse; it is also apparent that the usual advantages to be obtained by feeding up oxen and selling them has not been realized.

We think, therefore, that under all the circumstances, horses would have been much cheaper than oxen; and did the evidence leave any doubt on our minds, the enormous annual cost of shoeing the oxen would entirely remove it. The following table is made up from the Blacksmith's return:—

YEAR.	NO. OF ANIMALS.	OX-SHOES.
1837.....	6 Oxen.....	£4 5 11
1838.....	4 ".....	18 9 11
1839.....	8 ".....	26 18 0
1840.....	8 ".....	59 11 4
1841.....	8 ".....	62 15 0
1842.....	8 ".....	81 15 4
1843.....	10 ".....	68 3 6
1844.....	7 ".....	74 5 2
1845.....	13 ".....	88 8 3
1846.....	10 ".....	100 15 11
1847.....	12 ".....	120 6 5
Total.....		£705 14 9

It will be seen that the shoeing of 12 oxen in 1847 cost £120 6s. 5d., a sum which ought alone to have more than maintained horses (according to the evidence) equal to the work of the 12 oxen.

We cannot doubt that there has been mismanagement and heavy loss in this department, and that the Warden is highly culpable. We cannot find that his attention was even given to the matter, and it is certain that he never brought it under the consideration of the Board of Inspectors, further than getting their consent to buy oxen when he applied for it.

The fifth issue is, that the Convict labor was very loosely conducted; and on this point there is a good deal of evidence.

Ex-Keeper M'Garvey, in his preliminary examination, says:—"Had charge of the materials and tools in the Shoemaker's department; articles were bought in small quantities; about a fortnight's supply of leather." \* \* \* \* \* "The work has been frequently stopped from want of materials and tools." Men were often sent into his gang who were not wanted, and could not be profitably employed; they were all charged on the establishment at the same rate as the best workmen, and prevented the department from showing a profit; witness took pride at first in making his shop pay, but found it impossible from the practice, and lost heart." And again: "There was great loss in binding shoes; the women used to do it, but this was stopped in consequence of so much washing being done; the binding work was then done in the Tailor's shop, but the Tailor-keeper charged so much for it, that witness had to stop sending it there: there was no regular mode of doing this work afterwards."

William Coverdale, in his preliminary examination, says:—"A Convict, Barron, was employed making clocks for two years, and his labor produced scarcely anything; he was sentenced for two years, and was so employed most of the time; expensive tools were made for his use, and when he left they went to waste"

Keeper Skinner, in his preliminary examination, says:—"In witness's opinion, Pollard was quite unfit for his situation, and has been the cause of much loss to the Penitentiary. He got castings made, at one time, at the Kingston Foundry, which should have been done with Convict labor, to the amount of £19 10s. There was also much loss by a large quantity of plate copper, destroyed by mismanagement in the working. A Bookbinder's screw, made by Pollard, cost three times the amount it should have been made for, and was useless when done. In various other ways Pollard has caused much loss to the Institution, by want of knowledge of his business." \* \* \* \* \* "Pollard

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

came to the Institution as a Guard, but was a few weeks afterwards made Keeper of the Plumbers. In witness's opinion, Pollard was quite unfit for his situation, and has been the cause of much loss to the Penitentiary. Witness has twice reported the great waste of materials by Pollard, to the Warden, but no improvement was made."

Ex-Keeper M'Carthy says:—"Knows that a large sum was lost to the Penitentiary by the experiments of a man named Pollard, husband of the Head-Matron, who came into the Institution as a Guard, and was set to experiment on brass work and plumber work. Witness thinks he knew very little about such work." \* \* \* \* \* "There was great loss to the establishment in trying to make fire-engines; a man was brought into the Penitentiary to superintend the white-smith work; he has been there about two years; he has been principally engaged making fire-engines; he has about £120 a year; he had from ten to twelve of witness's men constantly working for him; he turned out one large fire-engine, and two or three small ones; he told witness the large Engine was charged to the Institution at £300.

By Mr. Smith:—

"Witness understood Mr. Pollard tried experiments in his shop; believes they were something like perpetual motion; cannot say if these experiments were for himself (Pollard). Does not know if any charge was made for the work; thinks there was loss sustained by the Penitentiary through the said experiments; there was loss of time and materials. Does not know what brass and plumbers' work was done by Pollard; does not know the quantity of brass or lead Pollard received into his shop, nor what quantity he used." \* \* \* \* \*

Q. Were not the Penitentiary fire-engines well made?

A. There was time and material enough lost upon them to be well made, but witness thinks they were not well made.

Q. Are you a judge of fire-engines?

A. Has seen a great many of them; would know a good one from a bad one; has repaired one many times, and could make the biggest part of one.

Q. Did you make any part of the large engine that Skinner built?

A. Does not recollect; lent Skinner some of his men to work on it.

Q. How do you know there was loss sustained in making fire-engines?

A. Because he saw articles made for it which would not answer, and had to be made over again; the builder never made an engine before; it was not Skinner's fault; he did the best he could.

Q. Did Skinner tell you he never made an engine before?

A. He did.

Q. Was not Skinner very clever as a Machinist?

A. He bragged a great deal about it. His work would never pay to be made here; imported articles could be bought cheaper than they were made.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. How many men had Skinner?

A. About 11 men; sometimes less and sometimes more.

Q. Were you always on the best of terms with Mr. Skinner?

A. There never was any quarrel between them; they were always pretty good friends.

Mr. Utting—By Mr. Smith:—

The labour department was loosely conducted in many ways; the Convicts were allowed to go round the yard, and a number was employed about the Warden's apartments. Keepers complained to witness that they did not know where the Convicts were. Keepers Keely, Richardson, and M'Carthy, have so complained; there may or may not have been more. The Silversmith's Convicts were at work in an outer building, used as the Warden's summer kitchen. Does not know what work the Silversmith did; the Convicts whom witness saw going through the yard, would tell witness they were going to the Warden."

Keeper Pollard—By Mr. Smith:—

"Witness has now on hand, in his shop, a book-binder's screw; cannot tell what the cost of it will be, as it is unfinished; there is not power enough in the lathe in witness's shop, to finish the screw; there is a lathe made by Mr. Skinner of sufficient power, but it is not adapted for such works."

It is quite obvious that the labour department has been very loosely conducted, and that, that strict watch over it, so necessary to success, has been altogether wanting.

We have thus gone through all the counts of Charge V., and we think that culpable mismanagement of the business affairs of the Penitentiary has been fully established. It is difficult to conceive a large establishment more inefficiently conducted; there seems to have been no desire for success—no aim in its management—no care whether it paid or not. Under energetic management, we cannot but think the business results of the Institution might have been very different; and it is clear, that even with common prudence, thousands of pounds of the public money might have been saved.

#### CHARGE VI.

GROSS NEGLIGENCE AND INCAPACITY, IN REGARD TO THE BOOKS AND ACCOUNTS OF THE PENITENTIARY.

1. In not keeping a proper set of Books.

The Books kept in the Penitentiary are—

A Day Book.  
A Ledger.  
A Petty Ledger.  
A Sales' Book.  
A Petty Cash Book.  
A Shop Account Book.  
A Time Deduction Book.  
A Registry Book.  
A Minute Book.  
A Sentence Book, and  
A Letter Book.

Appendix  
(B.B.B.B.B.)  
30th May.

The Warden was charged with not keeping a Daily Cash Book, and he meets this by Mr. Bickerton's evidence that he enters all Cash transactions daily in the Day-Book, and posts them from thence into the Ledger. This is true; but the Ledger is only posted once a month, and without considerable trouble it cannot be seen how the Cash account stands during any current month.

It was also charged that no money received by the Institution except the warrants from Government were paid into the Bank; that no Bank Book has been kept; and that disbursements have not been paid by check as they ought to have been. The Warden meets this by saying that no inconvenience was felt from not having a Bank Book, as the balance of the account was compared from time to time; that it would be very troublesome giving checks on all occasions; and that rarely over £100 was on hand at one time. It is, in our opinion, quite manifest that all the Cash transactions of such an Institution should pass through the Bank, and that in practice this will be found more convenient, more accurate, and safer than the present system.

It was further charged that no Bill Book has been kept, the only such record being a memorandum of a portion of the notes issued, at the end of a Sales' Book.

It was also charged that the Keepers of the several Mechanical departments keep no regular books containing the work done under their superintendence, but simply such Memorandum Books as they think fit, and which do not appear to be preserved. It appears that, up to 1842, there was no check whatever on the work done in the shops, but that in April, 1842, the Warden commenced keeping a Work Book in which he entered all Job work to be done for private individuals, and that each Keeper had a small Order Book into which such articles as belong to his department are entered, before he commences the work. But these books simply refer to the order for the work, not to the cost of labor and material, or amount to be charged; they merely say "Mr. A, a book-case to be made." "Mr. B, a set of Garden tools to repair;" and so on. No books of record, whatever, exist showing the amount of labor or the cost of material put upon any work done in the Penitentiary.

Another charge under this count was, that the work done in the Penitentiary, in the several shops, is returned nominally once a week, on sheets of paper, but that weeks of arrear often occur; that these returns are often incomplete; are filled with errors; and are rarely or never checked. The Warden called Mr. Bickerton on this point who testified as follows:—

By Mr. Smith:—

"The returns are ordered to be made weekly; witness sometimes checks the calculations and additions in these returns before entering them in the Office Books; does not usually do so; when witness finds errors in these returns he gets them explained or corrected by the Keepers. These returns are made on sheets of paper with printed headings and ruled columns." \* \* \* \* \* "Witness receives an account of the work done in the Penitentiary regularly."

By Commissioners:—

"Witness was not always in the habit of checking the weekly bills returned from the shops; has been generally in the habit of checking the additions of the bills; does not know that he has been in the habit of making tick-marks on the returns so checked; witness is asked to produce the first parcel of Weekly Returns he puts his hand on in the Office, and brings the Carpenter's returns for 1844; on examination it appears that there is not a tick-mark on any one return in the bundle; and on trying the additions of the two first returns that came to hand, the first was found correct, and the second £4 wrong in the addition; the parcel of bills produced is a very good sample of the returns; Richardson, the Carpenter-keeper, makes his returns more carefully than many of the other Keepers"

From a thorough examination of the Return Bills in question, we know that this charge is fully borne out.

A further charge under this count was in the following words: "That the work done for private individuals is returned to the Office on scraps of paper, nominally once a month, but in fact as the account of the party may be wanted; and that the correctness of the said accounts rests with the Keepers of the several departments. Of the competency of some of this class of Officers, to keep proper books, doubts have been suggested by an examination of their requisitions and returns, as for instance, the following:—

"Wantad for tha youse of tha CarpanTERS shop ona paire of cumpiss ona duzan of tannant saw files ona duzan of half round files fiv whip saws ona quira of san papar.

(Signed) "JAMES M'MAHAN."

The evidence on it is as follows:—

Mr. Bickerton—By Mr. Smith:—

"Gets returns of work done for the Officers of the Institution once a month; these returns are made up to the 25th of each month, because it is expected that the Officers would be paid monthly, and the amount of the respective accounts of the Officers can thus be deducted from the amounts due to them; Richardson makes a return of the work done for both of the Carpenter's shops."

By Commissioners:—

"Work done for the Officers is returned from the shops monthly; work done for other private individuals is returned when the parties are about to pay their accounts; when the parties don't apply for their accounts the Keepers are very irregular in their returns of such work. Thinks that there could not be much work done for private individuals, and not charged, as the Warden's Order Book is a check upon it; thinks there have not been many articles made in the shops which were not previously entered in the Warden's Order Book. When bills of work done come to the Office from the shops, witness does not compare them with the Warden's Order Book at the time to see if they correspond; when any private account is being closed, witness compares the charges in the books against the party with the Warden's Order Book; witness has gone over the items in the Warden's Order Book and compared

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

them with the books to see that each job ordered has been charged up to April, 1847, but not since that date. The Warden commenced keeping an Order Book in April, 1842, and has kept it regularly ever since; there was no system previous to that. Will not swear so, but believes that every item in the Warden's Order Book has been charged to the parties previous to April, 1847."

James M'Carthy—By Mr. Smith:—

"The returns of private work were not sent regularly to the office, sometimes once in two or three months."

The last item under this Count, is that one or more of the Kitchen receipt books are missing; and that no proper expenditure book is kept, showing the daily consumption of stores. These allegations are undisputed. If a proper expenditure book had been kept, many of the evils which are now the subject of enquiry could not have arisen, and the correctness of the Kitchen-keeper would have been better secured.

We are satisfied that the Books are not well adapted to show the daily transactions of the Establishment, or to prevent fraud; and that heavy losses through fraud or carelessness, may be readily incurred, with scarcely the possibility of detection.

## 2. IN THE NUMEROUS ERRORS TO BE FOUND IN THE BOOKS.

The errors are so numerous, that it is only possible to give a few instances to shew their character; the Books are professedly kept by double entry.

On April 15th, 1848, Hendry and Blacklock are credited with interest, £28 8s. 6d., but no account is debited with the amount.

On September 30th, 1847, the Provincial Government is debited with £14,235 9s. 7d., but the sundry accounts credited in the same transaction, are only £14,215 9s. 9d.—Error £20.

On 14th October, 1846, James Fraser is credited for sundries, £6 8s. 1d., of which 3s. 3d. is debited to Hospital account, and the balance of £6 4s. 10d., is not charged to any account.

On 30th September, 1847, "Prison Buildings" have a balance at the debit of the account of £1,560 3s. 9d., but there is an error in the addition of the debit side of the Ledger of £1,000, which made the balance of the account £2,560 3s. 9d.

On 30th September, 1844, in the "Provision" account, there is an error in addition on debit side of £1000 1s. 0d., it being stated as £2,707 18s. 3d., and should be £1,707 17s. 3d. In the same account there is an error in the addition of the credit side of £100, it being stated as £2,707 18s. 3d., and should be £2,807 18s. 3d. The balance of the account is carried to next year as £1,120 2s. 9d., but should be £20 1s. 9d.

On 23d January, 1845, in the same account as the last, it has been omitted to debit £978 14s. 4d., paid to Simpson and Breden; and the balance of account carried down on 30th September, is £122 16s. 11d., but should be £1 10s. 3d. This error in the balance of the account £121 6s. 8d., runs through the transactions of 1846, 1847, and 1848, and is not corrected to this day.

In David Seahy's account, a forced balance is made of £275 on the credit side, to meet £300 on the debit side of the Ledger. Three hundred pounds was actually paid, but one sum of £25 is not debited to any account.

In the cash balance, an error of a few pounds, varying slightly in one or two years, has run through the Books since they were opened.

On the 15th April, 1847, "Stable account" is debited with £412 1s. 2d., which should have been £432 6s. 2d.—Error £20 5s. 0d.

Mr. Bickerton says:—"There are numerous errors running through the Books of the Penitentiary." In his cross-examination, he says, "witness keeps the office books in which he yesterday stated there were numerous errors."

The defence rests entirely on the following evidence:—

Mr. Hopkirk—By Mr. Smith:—

"Presumes it is not the duty of the Warden to keep the Clerk's books, understands the Clerk gives a Bond to Government for the due performance of his duty; should think the Clerk responsible for his own acts."

Such defence is perfectly untenable; for setting aside the direct duty laid upon him in regard to the Books and Accounts by Statute, the errors are so numerous and so palpable, that the most casual inspection of the Books must have revealed them; and it is very clear that the Warden could not have sworn monthly to the correctness of the cash account, without some inquiry into the data upon which he swore.

We conceive the manner in which the books have been kept for so many years, to be highly discreditable.

## 3. IN NEVER HAVING BALANCED THE BOOKS SINCE THE COMMENCEMENT OF THE INSTITUTION.

Francis Bickerton—By Commissioners:—

"The Books have never been balanced since the Institution was opened."

By Mr. Smith:—

"Witness has balanced his cash account every year except 1848, and it has always come out right."

It is true that a statement of cash received, and of cash paid out, is annually made up, and vouchers to a corresponding amount sent to Government; but there is no balance of the books—no security that all the receipts are included in this balance—and in such a condition are the Books, that we have found it impossible to balance them without re-writing them.

## 4. IN NEVER HAVING HAD HIS ACCOUNTS AUDITED BY THE INSPECTORS.

The original Penitentiary Act, Clause II., says, "The Inspectors of the said Penitentiary shall have power, and it shall be their duty from time to time, to examine and inquire into all matters connected with the Government, Discipline, and Police of the

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

said Penitentiary; the punishment and employment of the Prisoners therein confined; the financial concerns and contracts for work, and the purchases and sales of the articles provided for such Penitentiary, or sold on account thereof; and that they may from time to time require reports from the Warden or other officers of the Penitentiary, in relation to any or all of the said matters." And Clause XVIII. says:—"It shall be the duty of the said Warden, to keep a regular and correct account of all monies received by him from any source whatever, by virtue of his office, including all monies taken from Convicts, or received as the proceeds of property taken from them, and of all sums paid by him, and the persons to whom, and the purposes for which the same were paid: and to make out and deliver to the Inspectors, or one of them, monthly, on oath, a return of all monies received by him on account of the Penitentiary during the preceding month, specifying from whom received and to whom paid, and on what account, and stating also the balance in his hands at the time of rendering such account."

The evidence is as follows:—

Mr. Kirkpatrick—By Mr. Smith:—

"The Warden's monthly statement of cash transactions were always laid before the Board of Inspectors; they were thrown on the table and looked at, but not investigated; the Inspectors have asked explanations of items in these accounts, from the Warden. Thinks that the Inspectors had nothing to do with the auditing of the Warden's accounts."

Mr. Hopkirk—By Mr. Smith:—

"The monthly accounts of cash were regularly submitted to the Board at their meetings; the accounts were generally read, and any thing particularly noticeable was inquired into, and explanations afforded. The Inspectors did not examine the Warden's yearly accounts, witness thinks; is not aware that the law requires them to do so."

Mr. Sheriff Corbett—By Mr. Smith:—

"The Monthly Cash Accounts of the Warden were regularly laid before the Board; they were sworn to by the Warden and Clerk."

By Commissioners:—

Q. What monthly cash accounts are those you have spoken of?

A. A list of monies received during the past month, and a list of monies paid out during the past month; nothing else.

Q. Did the Inspectors discuss the items of these lists, or examine if the cash account balanced?

A. The lists were generally looked at by one Inspector, and handed round from one to the other till all the Board had seen them; no other examination of the items was made."

Major Sadlier—By Mr. Smith:—

"The monthly accounts of the Warden were regularly laid before the Board; these statements were abstracts of the sums received and paid away during each month, and were sworn to by the Clerk and Warden; the cash on hand was always stated. There was a regular habit of laying before the Board

Appendix  
(B.B.B.B.B.)  
30th May.

lists of sums due the Institution, but how often witness does not know. Witness presumes there is no law requiring the Inspectors to audit the Warden's annual accounts; had there been such, witness would have made it a duty to do it."

It is true that simple lists of cash received and paid away, have been laid monthly before the Board, but no statement of the affairs of the Institution. The propriety of the several payments—the debts due by the Penitentiary, and the mercantile transactions of the Institution, have never been examined from the first to the present hour. The system may have met the letter of the law, but certainly not the spirit of it. Whether the Warden or Inspectors were most to blame, it is unnecessary to inquire.

There is one rule of the Board, however, which seems never to have been kept, and for the neglect of which the Warden is undoubtedly blameable. It is as follows:—

"Extract from Minutes of Board of Inspectors of the Provincial Penitentiary, 16th February, 1841.

"The Warden is directed to lay before the Board, from time to time, quarterly statements of the debts and assets of the Institution, commencing on the first day of April next."

"A true extract.

(Signed,) "F. BICKERTON,  
"Clerk."

#### 5. IN PAYING ACCOUNTS NOT PROPERLY CERTIFIED.

The Warden was charged under this Count with paying accounts to a large amount, without any proper voucher to show that the articles paid for were received, and he was referred to the records of the Institution in proof of this. Only one witness was called on the point.

Francis Bickerton—By Mr. Smith:—

"It is the Clerk's duty to satisfy himself of the accuracy of Bills of Parcels before he enters them into the books of the Penitentiary; witness has always satisfied himself that the several articles have been received before he has given credit for them to the different accounts; if the Bills of Parcels are not correct, it is witness's duty to inform the Warden of the inaccuracy; witness files away the Bills of Parcels. Mr. Coverdale handed witness statements of stone, and sometimes of the timber, before witness made out the accounts for settlement. Mr. Richardson has also handed statements of timber; never put in a Quarryman's bill higher prices than were in the Contract; it was not customary to lay the timber and stone bills before the Warden, previously to their payment; in case of a final settlement, witness has brought accounts to the Warden to see that they were correct; the payments before referred to were monies paid on account. When timber was brought to the Penitentiary, a bill of lading was usually brought to witness, or to some one, before the vessel was unloaded; the actual measurement only was entered in the Penitentiary Books; the actual measurement scarcely ever agreed with the bills of lading handed in."

By Commissioners:—

"Witness may, in some cases, have paid accounts from the Bills of Parcels, without any check that

Appendix  
(B.B.B.B.B.)  
30th May.

the articles were actually delivered at the Institution." \* \* \* \* \* "Witness has examined the calculations, extensions and additions, of every bill credited to every party from whom goods have been bought, since the opening of the Institution. Witness uses a tick in marking off the bills he examines; does not know if there are months in which not a single bill now bears a tick-mark." Witness was here desired to bring the Bills of Parcels of any month he might first take up in the years 1844-5 or 6, and he produced the bills of July 1846, and says, after examination, a large number of the said bills have no certificate of receipt attached to them, and no tick-mark appears on a great many of them, but that he checked the calculations all off, before crediting the parties. Witness has never given credit to parties without having an original Bill of Parcels for the articles furnished; a bill of parcels has occasionally been lost, and in such case a new bill of particulars has invariably been got, from which the credit was given. Witness is told to turn to his journal for June 1845, and show his voucher for a payment of £2 14s. 5½d. made in that month to J. & R. Hutton, and produces an account without any certificate of receipt. Witness is asked to show the voucher for £228 3s. 3d. paid Thomas Overend in the same month, and shows an account without any certificate of the article having been received in the Penitentiary. Witness is asked to refer to 17 other payments in the same month, amounting in all to £393 11s. 1½d. and to say if he has any certificate that any portion of the articles in any of these bills was received in the Penitentiary, and says he has not. There are three bills in the same month regularly certified.

The above is a fair sample of the manner in which the whole transactions of the Institution have been conducted, as far as regards goods purchased. For the last twelve months a change has been made in the system, and regular vouchers are now taken; certificates of the quantity of every article received are now regularly taken, and no bill is paid without it; this has been invariably the case for one year. Never discovered anything incorrect in the bills rendered; does not recollect of having to refer in any particular case to the Warden about them." \* \* \* "Witness is referred to his direct examination of 5th December last, in which he said that a bill of lading usually came with every boat load of timber, and that regular measurements were made of each cargo, and the owner paid not by his bill of lading, but by the actual measurement; and he is asked to produce some of those bills of lading and measurements to which he refers; witness answers that he preserved no bills of lading. Witness is asked to produce some of the measurements of cargoes of timber to which he referred, and after searching his office he returned and said he cannot find any such documents, and they must have all been destroyed as of no value, but he never paid any bills without having them."

By Mr. Smith:—

"Witness got vouchers of delivery from some one of the Officers before paying the bill of Thomas Overend for £228 3s. 3d."

We are satisfied that many thousands of pounds of the public money have been paid away by the Warden, for which no voucher can be shown that the articles paid for were ever received in the Penitentiary. Such a fact requires no comment.

6. IN OVERPAYING SAMUEL BREDEN, A CONTRACTOR, THE SUM OF £194 19s. 2d.

Samuel Breden had the Ration Contract from 12th Sept. 1845, to 11th Sept. 1846, and transferred it to his brother John Breden and Robert Allen. They failed to deliver a sufficient quantity of potatoes, and by agreement with the Warden supplied white bread in lieu of them. Out of this transaction the present charge arises.—

On examining the settlement of Breden's account it appeared to us that it required explanation, and the following correspondence ensued:—

No. 1.

Copy—Letter Secretary to Warden.

"Penitentiary Commission Rooms,  
"KINGSTON, 28th July, 1848.

"SIR,

"I am instructed by the Commissioners of the Penitentiary, to call your attention to the Ration Contract of Samuel Breden with the Penitentiary, from 12th September, 1845, to 11th September, 1846.

"It appears that under that contract, white bread was substituted for Potatoes during part of the time; and the Commissioners desire to learn from you what weight of bread was agreed upon, between you and the contractor, for each ration of potatoes, and whether your final settlement of the account was in accordance with that agreement.

"I have the honour to be,

"Sir,

"Your most obedient Servant,

(Signed,) "GEORGE BROWN,  
Secretary.

"HENRY SMITH, Esq.,

"Warden,

"Provincial Penitentiary."

No. 2.

Copy—Letter Warden to Secretary.

"Provincial Penitentiary,  
"31st July, 1848.

"SIR,

"I beg to acknowledge the receipt of your letter of the 28th instant, and to inform you in answer thereto, that in consequence of the potatoes having been reported by the Surgeon to be in a state of disease, and therefore unwholesome for the purpose of food, I was directed by the Board of Inspectors to require from Mr. Samuel Breden, during the remaining part of his contract, a sufficient quantity of white bread in lieu thereof, for which he was paid at the settlement of his account, according to the quantity furnished, and was charged with the potatoes deficient of the supply required by his contract.

"It does not appear that the Inspectors have made any minute of this transaction; but I find a further departure from Mr. Breden's contract, on the 19th February, 1846, when, by the advice of the Surgeon, the rations for the female Convicts

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

were directed to be altogether altered, and which was carried into operation on the 24th of that month. On this latter subject a minute was entered by the Board in the Minute Book.

"I have the honour to be,

"Sir,

"Your most obedient Servant,

(Signed,) "H. SMITH,  
"Warden.

"GEORGE BROWN, Esq.,  
"Secretary."

No. 3.

Copy—Letter Secretary to Warden.

"Provincial Penitentiary Commission Room,  
"KINGSTON, 17th August, 1848.

"SIR,

"I was duly in receipt of your letter of 31st ultimo, in reply to mine of 28th, asking information on the subject of Samuel Breden's Ration Contract; and I am instructed by the Commissioners to apply to you for a more direct answer to their question.

"The Commissioners desire to be informed, explicitly, whether the Board of Inspectors ordered the exchange of bread for potatoes, you say they did, on the report of the Surgeon, or on your representation to them; if the quantity of bread to be substituted for the potatoes was determined by the Inspectors; if you made a specific bargain with the contractor as to the quantity of bread to be substituted, what was the weight of bread for each ration of potatoes: and if the bargain was carried into effect at settlement.

"You will also be good enough to furnish me with a copy of the Surgeon's Report to which you allude, for the use of the Commissioners.

"The Commissioners regret much to learn that no minute of so important a transaction has been preserved by the Inspectors; and if within your recollection, I will thank you to let me know the names of the Inspectors who were present on the occasion referred to.

"I have the honour to be,  
&c., &c.,

(Signed,) "GEORGE BROWN,  
"Secretary.

"H. SMITH, Esq.,  
"Warden."

No. 4.

Copy—Letter Warden to Secretary.

"Provincial Penitentiary,  
"21st August, 1848.

"SIR,

"In reply to your letter of the 17th instant, I beg to state for the information of the Commissioners, that the Board of Inspectors ordered the change of bread for potatoes, during the time of Mr. Breden's Contract; and so far as I can recollect—there being no entry on their Minutes on the subject—on a

report I made to them in consequence of the Surgeon having verbally stated to me that the potatoes were not only unwholesome, but that from the disease with which they were affected, they possessed poisonous qualities.

"The amount of bread I was directed to get in lieu of the potatoes, was to be a sufficient quantity, but no specific weight was stated, either by the Inspectors or myself; and Mr. Breden was settled with according to the bread he actually supplied, but at the same time was charged for the deficiency of potatoes furnished.

"The only two Inspectors that I recollect as having been present at the Board referred to, were Messrs. Kirkpatrick and Sadlier, by one of whom it was mentioned, at the time, that Mr. Breden had informed him that if it was attempted to compel him to furnish sound potatoes, which at that time was impossible to be done, he would rather pay the penalty of £500 and give up the contract.

"I have the honour to be,  
"Sir, &c. &c.,

(Signed,) "H. SMITH,  
"Warden.

"GEORGE BROWN, Esq.,  
"Secretary."

It will be seen that the Warden still evades the question, "what weight of bread was agreed upon between *you* and the contractor, for each ration of potatoes;" he speaks only of the Inspectors. The following evidence will however show what that bargain was:

John Breden:—"Witness saw the Warden on the subject of the potatoes, and an agreement was entered into between them, that white bread should be substituted for potatoes; does not recollect who first made the proposal for substitution; the agreement was that witness should furnish three-fourths of a lb. of white bread in lieu of each ration of one twenty-second part of a bushel of potatoes."

Robert Allen:—"An agreement was in consequence entered into by the Warden and Mr. Breden, that white bread should be supplied instead of the potatoes; the agreement was, that a certain weight of bread should be given for each ration of potatoes; witness thinks the agreed quantity was three-fourths of a lb. of white bread for each potatoe ration."

Samuel Breden:—"Thinks the arrangement was that witness should give one lb. of bread in room of each ration of potatoes; there was a distinct bargain made as to the quantity."

Thomas Kirkpatrick, Esq.—by Mr. Smith:—

"Recollects that Samuel Breden had a Provision Contract with the Penitentiary; has no distinct recollection of any particular conversation with either of the Bredens as to substituting bread for potatoes; there was some proposal of that kind; and witness thinks he may have spoken to John Breden about it; believes the substitution of bread for potatoes was sanctioned by the members of the Board, but cannot say officially by the Board; thinks Mr. Breden told witness that if he were compelled to furnish potatoes, he would rather pay the penalty of his bond than attempt to fulfil his contract. Mr. Breden

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B. B. B. B.)  
30th May.

suffered great loss by having potatoes to supply, his contract becoming bad. Witness thinks there was a specified quantity of bread agreed upon to be furnished by Breden, in lieu of each ration of potatoes."

Major Sadlier—By Mr. Smith:—

"Recollects the last contract Samuel Breden had while witness was an Inspector; had a conversation with John Breden at the time, on the difficulty of furnishing potatoes under the contract; Breden said it was impossible to get potatoes, but whether he mentioned any sum which he would rather lose than go on with the contract, witness does not recollect; mentioned what Breden had stated at next meeting of the Board; Breden was authorized by the Board to substitute white bread for potatoes under this contract; the quantity of white bread to be furnished in lieu of the potatoes was fixed by the Board."

It is clear that the agreement was, that Breden should furnish three-fourths of a lb. of white bread for every ration of one twenty-second part of a bushel of potatoes. In the Warden's settlement with him, however, he gave Breden credit for the full quantity of white bread he delivered at the market value, and charged him with the value of the potatoes he failed to deliver, at the contract price; and three-fourths of a lb. of white bread, being more valuable than 1-22 of a bushel of potatoes at the contract price, the Institution was wronged to the extent of the difference in value. The amount lost is thus ascertained:—

"The total number of potatoe rations to be supplied during the year, under Breden's contract, was....	174,805	=	7945 bushels.
Of which he supplied in potatoes.....	69,454	=	3157
Leaving a short supply of.....	105,351	=	4788
He supplied 47,820 lbs. of white bread at three-fourths of a lb. to each ration.....	63,760	=	2898

Total rations short delivered.....41,591=1890

41,591 rations of potatoes, are equal to 31,193 lbs. of white bread, at the stipulated rate, which at one penny half-penny per lb. amounts to £194 19s. 2d. This sum should therefore have been deducted from Breden at settlement."

This charge is therefore completely established.

7. IN OVERPAYING HENDRY AND BLACKLOCK, CONTRACTORS, THE SUM OF £193 1s. 9d. WHICH CANNOT NOW BE RECOVERED FROM THEM.

The following extract from the Minutes of the Commission, of an interview with the Warden on 19th July, transmitted to the Warden on 27th July, will show the ground work of this charge.

\* \* \* \* \* "Mr. Smith thereupon stated that he" \* \* \* \* \* "entered into an arrangement with that firm to receive from them bread instead of potatoes, and finally settled with them at the rate of four-fifths of a lb. of white bread, in lieu of each ration of one twenty-second part of a bushel of potatoes. "It was then suggested to the Warden" \* \* \* \* \* "that this arrangement had not been carried out, for the contractors fell short in their delivery of potatoes, 102,710 rations (of one twenty-second part of a bushel each,) which, at four-fifths of a lb. of bread to each ration, required 82,188 lbs. of bread to supply the place of

Appendix  
(B. B. B. B.)  
30th May.

the deficient potatoes; and that as only 56,499 lbs. of white bread were received in all, the supply fell short even of the agreed compromised quantity 25,689 lbs., reducing the rations of the Convicts so much." "The Warden replied that he was aware of all this, and that white bread had been received from Mr. Williamson to make up this deficiency of 25,689 lbs., and the amount deducted from Hendry and Blacklock's bill."

"Mr. Smith was, however, shown by the Provision Receipt-book, kept by the Kitchen-keeper, that this was not the case, for that only 56,499 lbs. of white bread had been delivered altogether by Hendry and Blacklock, and Williamson. He was likewise shown that even in his own way of settling, the proper deductions had not been made from Hendry and Blacklock; for even had they delivered the whole of this quantity of 56,499 lbs., the deficit still remaining was 25,689 lbs. of white bread, which at 1½d. per lb. left £160 12s. 3d. to be deducted from their bill, while £145 17s. 0d. only was deducted. Mr. Smith was further shown, that a much more serious error than even this had been made in the settlement of this bread account; for that while 56,689 lbs. of white bread only had been received altogether, about one-half of which was by Hendry and Blacklock, and the other by Williamson. Hendry and Blacklock were paid for the whole quantity, and Williamson was paid £178 6s. 6d. for his share, thereby injuring the Penitentiary to the extent of £178 6s. 6d."

£160 12s. 3d. less £145 17s. 0d. left £14 15s. 0d. short deducted, which added to £178 6s. 6d. twice paid, makes the whole loss on the transaction £193 1s. 9d.

"Extract from the Minutes of the Commission, of an interview had by the Commissioners with the Warden on 20th July, transmitted to him for his correction with that of the 19th on 27th July:—

"This morning the Warden met the Commissioners at the Penitentiary, and admitted that the sum of £178 6s. 6d. in question, had been paid twice; that it had been paid to Mr. Williamson with the intention of deducting it afterwards from Hendry and Blacklock's account, but that this had not been done.

"Mr. Smith was interrogated as to the probability of recovering the sums (£178 6s. 6d. and £14 15s. 3d.) overpaid to Hendry and Blacklock, when he replied that this firm had recently failed, and their affairs were in the hands of an assignee, but that a dividend might be expected from their estate."

This charge is therefore completely established.

8. IN RECOMMENDING AN INCREASE OF SALARY TO MR. BICKERTON, CLERK OF THE PENITENTIARY, ON THE GROUND OF THE EFFICIENCY WITH WHICH THE DUTIES OF HIS SITUATION ARE PERFORMED; WHILE HE KNEW, OR OUGHT TO HAVE KNOWN, THAT THE CLERK'S DUTIES ARE MOST INEFFICIENTLY DISCHARGED.

The fact is undisputed that the Warden has on more than one occasion, and as late as 8th July, 1848, used his influence to get Mr. Bickerton's salary restored to £175; but it is only material inasmuch as it shows either that the Warden knew nothing of the condition of the office, or that he was not in a position to resist the solicitations of his Clerk.

Appendix  
(B.B.B.B.B.)

30th May.

Charge VI. is therefore completely established.

A general defence to this charge is, that the Clerk, and not the Warden, is responsible for the irregularities in the office; but it is quite obvious that such a defence will not bear investigation for a moment. The Clerk has been by statute, as well as in practice, the mere executor of the Warden's will; the Warden is the responsible agent of Government for the whole conduct of the Penitentiary, and in no department is his responsibility more direct than in that of the books and accounts.

### CHARGE VII.

#### STARVING THE CONVICTS IN THE PENITENTIARY.

1. That the Rations as fixed by the Prison Regulations are sufficient when fully supplied to the Convicts.

The establishment of this proposition was necessary to justify the conclusion drawn from the evidence given under succeeding counts. It is uncontradicted that the Prison ration, when of good quality, is amply sufficient.

2. THAT THE REGULATION RATIONS WERE NOT FULLY SUPPLIED.

Some evidence in proof of this allegation was received, and it is uncontradicted; the fact is fully established by the Prison Receipt-books, and by all the evidence under the several counts of this charge.

3. THAT THE FOOD SERVED TO THE CONVICTS WAS NOT SUFFICIENT TO SUSTAIN HARD WORKING MEN.
4. THAT THE CONVICTS HAVE BEEN HABITUALLY SO EXHAUSTED BY WANT OF FOOD, AS TO BE UNABLE TO WORK.

These two issues were raised to ascertain the extent to which the Convicts (if at all) had suffered from want of food, but the evidence has been so commingled that we find it more convenient to class them together.

An immense amount of evidence has been received on this point.

William Coverdale, in his preliminary examination, says:—"Has frequently seen Convicts sitting down during work hours; and on asking the Keepers, was informed that they were too weak to work, from want of food. Has seen Convicts bring out their beef, and show it to the Keepers, when they thought they had got too little. Witness has seen pieces of meat thus shown, certainly not over two ounces in weight."

Ex-Keeper Gleeson, in his preliminary examination, says:—"Has often known the most able and willing workmen totally unable to work from exhaustion, through want of food. He has on many occasions sent them to sit under the shed, taking pity on their condition. Has often known the Convicts to take salt from the table, and tie it up in their handkerchiefs; on being questioned as to why they did so, has been told that it was to eat during the day to make them thirsty, and thereby enable them to drink water to fill up their 'guts.'"

Appendix  
(B.B.B.B.B.)

30th May.

Ex-Keeper Keely, in his preliminary examination, says:—"Has often known Convicts complain of exhaustion from want of food; has known men really unable to work from starvation, and has on many occasions relieved them from duty in consequence, especially since the failure of the potatoe crop. Has seen Convicts with cold mush in their hands; and on being asked by witness where they got it, has been told that they took it from the hog-pen. Feels sure they told the truth, as they could not have got it anywhere else."

Ex-Keeper M'Carthy, in his preliminary examination, says:—"Thinks the able-bodied, hard-working men did not receive enough of food; has known a man to eat both his dinner and supper together on Sunday." \* \* \* \* \* "Has often known the Convicts complain that they suffered from starvation; is convinced they spoke truly; their appearance showed what they said was true; they were often too weak to work; hundreds of times witness has relieved them from hard work; witness could not have had the conscience to make them do hard work; he means men under punishment as well as men not under punishment (i. e., on full diet). Has known a Convict, named Bernard, go twenty times to the hog-pen, and bring in offal, such as potatoes, from the hogs, and divide it among the Convicts in witness's shop. Has known other Convicts do the same thing frequently. Some men were afraid to do it; not afraid of witness, for he would not stop them. Has known Convict Doudevant to be turned out of his office, as Keeper of the Warden's hogs, &c., because he did not prevent them from stealing out of the hog-pen."

By Mr. Smith:—

Q. Did you ever allow your men to eat potatoes during work hours?

A. Yes; and was very glad they got them to eat.

Q. Was it not very irregular to allow Convicts to eat when at work?

A. Yes; but they were often unable to work from hunger.

Q. Did you report them?

A. Sometimes.

Q. Who was the Guard in your shop when the Convicts had the potatoes?

A. Has had different Guards; but which of them, or whether any of them saw the Convicts have potatoes, he does not know.

Q. How many Convicts have you seen eating potatoes in your shop?

A. Has seen four or five at a time eating potatoes brought from the hog-pen.

Q. Who used to bring the potatoes from the hog-pen?

A. Convicts Bernard and Doudevant.

Q. How often did Bernard go to the hog-pen?

A. Nearly daily when the hogs were fattening.

Q. Do you know where the potatoes came from?

Appendix  
(B.B.B.B.B.)  
30th May.

A. Always understood they came from the Prison Kitchen.

Q. Was it customary to take anything from the Dining Hall that the Convicts could eat?

A. Yes.

Q. What?

A. Potatoes and mush.

Q. Was not the mush gathered up every morning when the Convicts came down from their cells?

A. Yes; and pailfuls of it were sent to the cows and hogs.

Q. Did you ever see mush served out to the Convicts at breakfast?

A. Has seen some mush so served; but not all that there was over.

Q. Have you seen any mush taken to the cows and hogs in the last two years?

A. Yes, often; and to the fowls.

Q. Has there been any mush left over since the Convicts have had oatmeal porridge?

A. There has been oatmeal sometimes given to the Convicts during witness's time; but when he spoke of mush, he made no difference between oatmeal and Indian meal.

Q. Did you ever give Convicts leave to go to the hog-pen?

A. Never prevented them.

Q. Were the men who were so hungry under punishment?

A. Some were, and others were not.

Q. Did you ever report to any one that your men were suffering from hunger?

A. Yes; a good many times.

Q. To whom?

A. To the Warden, as one; and to Keepers and Guards. We put the biggest part of the blame to Frank Smith, for going round our shops, reporting our men, and putting them on bread and water?

Q. Were the men talking when Frank Smith put them on bread and water?

A. Does not think they were.

Mr. Utting, in his preliminary examination, says:—"The food was decidedly insufficient; and the prisoners were continually unable to perform their work in consequence. Witness often reported this to the Warden, who took no notice of it."

By Mr. Smith:—

"It was a daily occurrence of the Convicts to complain of the insufficiency of their rations. Once reported to the Warden that as many as twenty Convicts rose from the table at one time; does not

recollect that more than that number rose for this purpose; there may have been more. Witness examined the plates of some of these twenty Convicts; cannot say that he examined all. The quantity of meat was very small, and on some occasions there were bad potatoes. The Convicts have complained to their Keepers that they were unable to work in consequence of the deficiency of food; the Keepers have reported this to witness, and witness has reported to the Warden. These complaints have frequently occurred. The Keepers who complained, were William Smith and Keely, and witness thinks Richardson. There may have been others, but witness does not recollect. Cannot tell how the work was carried on while the Convicts were thus weakened by food; has already stated that there was a great waste of labor; does not know how the buildings were put up; does not know anything about the buildings; the buildings were put up, perhaps, by those who were favorites, and got the larger ration. The work would have got on better, if the men had had full bellies. There may, or may not, have been among those who complained of want of food, Convicts who had been on bread and water punishment; but there were those also who had good characters, and were well behaved men. Has known Convicts take their rations out of the Dining Hall, to give to others who had not sufficient to eat. Is not sure whether Convicts under punishment have received food in this way. Some of the Convicts who took out their provisions, had, to witness's knowledge, larger allowance than others; does not know whether the others who took out their rations, had or had not larger rations. Witness swears distinctly that the Convicts were not sufficiently fed; had they been in a state of starvation, they could not have worked."

Guard Watt says, in his preliminary examination:—"Has frequently heard Convicts complain of being so weak from hunger that they could not work; witness believes they spoke the truth; these were men on full rations, as well as on the sick list." \* \* \* \* \* "Has known Convicts to take salt away from the table; does not know for what purpose." \* \* \* \* \* "Has known Convict Conkright steal meat from the hog pen; has seen Doudevoir eat out of the bucket on its way to the hog pen."

By Mr. Smith:—

"If a Convict has not enough provisions he shows his plate to one of the officers in the dining-hall; never knew a Convict punished for complaining, if he really had a short ration. A Convict always gets more if his complaint is well founded; has known Convicts hide part of their rations for the purpose of getting more food."

By Commissioners:—

"There are some men here who would, under any circumstances, be in a state of starvation, as they would eat a four pound loaf, and still be hungry."

The statements of these six witnesses are fully corroborated by M. B. White, (formerly a Guard—resigned,) M'Garvey, Robinson, Wilson, Fitzgerald, Frecland, Richardson, Kearns, Swift, Waldron, and Skinner.

Convicts Brennan, Doudevoir, Armstrong, Chugnon, and Dyas, also state that the food was quite insufficient.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

For the defence we have many witnesses, and a great variety of testimony.

Guard Sexton says:—"The Convicts occasionally complain of not having enough, and frequently without reason; he may have seen a dozen Convicts complain of want of food at one meal, but thinks he never saw twenty; having been re-called next day, he explains that when so many as twelve Convicts complained, it was at the time potatoes were getting bad."

Keeper Wm. Smith says:—"He is only in the Dining-hall on Sundays, and does not inspect the Convict's rations, but they appeared to him to be enough for any ordinary man; he says none of his gang ever complained of being starved, or stopped work on account of not getting enough to eat."

Keeper Hooper says:—"He considers the Convicts get more food than they can eat, and that he has heard Convicts say so; he has never known nor heard of any Convict being unable to work from want of food; he has never known nor heard of any Convict complaining of shortness of rations; will admit that they have sometimes complained of the meat not being so good as it should be—it is impossible to keep the meat during the summer time; has seen Convicts rising from their seats showing their bread; does not know whether they did so as complaining of the quantity, does not know for what purpose they did so; they may have risen for the purpose of complaining, but the Convicts have never complained to witness. One Convict may have thought his bread in smaller quantity than that of the Convict next to him, and may have stood up with his bread in his hand, by way of showing the inequality of it."

Keeper Matthews says:—"That none of his men were ever too weak to work; they have complained that the rations were short, but he never had reason to think their complaints well founded. He says he has seen Convicts 'rising from their seats at table, and complaining that they had not enough to eat; has seen some of the Convicts ordered down without redress, and in other cases the Keeper has gone to see if the complaint was well founded; does not know of any general complaint among the Convicts, at any time, of not getting enough to eat; has known individual complaints; has seen three or four Convicts rising at one time; cannot say if he has seen ten or twelve."

Keeper Ballentine:—"Thinks the Convicts generally got enough to eat," when the rations "are in good order;" he has "never known Convicts unfit for work, from not having food enough;" he "has heard a general complaint among the Convicts that they did not get sufficient food, but this has only been in the Summer time when the meat was bad."

Keeper Pollard:—"Has always thought the Convicts got too much food;" none of his men "have at any time been so weak from want of food, as to be unable to work; none of them have ever complained of hunger to witness's recollection." He has "known Convicts complain of insufficient rations, both meat, bread, and potatoes, and when he has thought the complaint well founded, he has always got it redressed;" but "has never seen or heard of a general complaint." He "has seen some officers ordering Convicts to sit down, when they have risen at the table to complain of their rations, without inquiring into the justice of the complaint."

Appendix  
(B.B.B.B.B.)

30th May.

Keeper Little says none of his men "have been obliged to stop work on account of not getting enough to eat, excepting those who were down for punishment; witness considers the Convicts get pretty fair rations." He says under cross-examination, "Convicts, who were not under punishment, have complained to witness that they had not enough food, but witness has never heard them complain that they were unable to do a good day's work, for want of more food."

Keeper Manuel says:—"The rations are sufficient for some, but not for others; witness has never seen less than would satisfy him;" he "does not think the Convicts here are in a state of starvation;" he "never saw a Convict so weak, from want of food, as to be unable to work; witness could not swear that any person has been putting up the Convicts to complain of insufficiency of food, but witness has reason to believe that such is the case, from having seen these officers so intimate with Convicts." He also says, "Convicts in witness's gang have complained of not having enough to eat; there are always some of them complaining; there are men who would eat three times as much as the ordinary rations."

Head Keeper Costen, in his preliminary examination, says:—"The Convicts did not often complain of not having enough." \* \* \* \* \* "There were some complaints from a few individuals among the Convicts when the exchange (of bread for potatoes) was first made, but not much; the Convicts are now perfectly satisfied; there never was any great clamour on the subject." \* \* \* \* \* "Convicts may have sometimes complained of their rations being too small, but not often; does not think he ever knew more than six Convicts complain, at one meal, of not having enough." \* \* \* \* \* "Never knew Convicts to complain that they were so weak from hunger that they were unable to work; witness once received a report from Keeper Reid that some of his men were in this condition, but never heard of it in any other instance; Reid's case was some years ago; four or five years ago; thinks the Convicts never suffered from hunger; thinks they always had enough. Has heard that Convicts stole meat from the hog-pen; never inquired into it."

By Mr. Smith:—

"Never saw any Convict sitting down from exhaustion, never received a report of a Convict stealing meat from the kennel, that he recollects of; heard something about it. There is no dog-kennel in the yard, nor has there been; the dogs get some of the bones from the Convicts' tables."

Guard Funstau says:—"He cannot tell if the Convicts get a fair allowance or not;" and he says there are a good many complaints on which the Kitchen-keeper decides.

Guard Rowe:—"Thinks the Convicts generally get enough to eat; some would eat more if they could get it; some do not eat what they do get." This witness has only been in the Penitentiary during 1848.

Keeper Gibson also gives evidence, but his knowledge only extends during the sitting of the Commission.



Appendix  
(B.B.B.B.B.)

30th May.

James Hopkirk, Esq.—By Mr. Smith :—

“ Believes the Convicts had, at all times, enough of food. The rations were very wholesome as far as witness ever saw. Does not believe that starvation ever existed among the Convicts, since witness has been an Inspector. Thinks the Convicts have never had the appearance of being under fed since witness has been an Inspector; thinks if it had been so, the men would not have been able to do their work; thinks he would have heard had Convicts been unable to do their work. Has very frequently heard the opinion of strangers as to the feeding and appearance of the Convicts, has very often taken visitors to see the Prison; never heard any one who did not express the highest satisfaction with the appearance of the Convicts, and of the Prison generally.”

By Commissioners :—

Q. Do you know the daily quantity of food given to the Convicts by the prison dietary?

A. No.

Q. Do you know that the Convicts got the full prison diet, at all times?

A. Was not present at every meal, but has no reason to doubt it.

Q. If you had been present at every meal, could you have told if they got the full prison allowance?

A. Not unless he had weighed each man's allowance.

Q. Do you know that the Convicts got in the aggregate the full weight of food daily allowed them by law?

A. Was never personally present when the meat was weighed out.

Q. Do you know that the regulation quantity of food was daily received from the contractors?

A. Does not, not having been present when the provisions were received.

Q. Did you ever examine the Daily Provision Receipt-book, and compare the receipts by it with the number of Convicts to be fed?

A. Never did particularly.

Q. How could you then give evidence that the Convicts had at all times enough of food?

A. From the general appearance, and from being repeatedly present at meal time, when scraps and remainders were left over.

Q. Do you know the amount of work done by each man in the establishment?—is there any book in the Prison to show each man's share of work done?

A. Does not know the amount of work done by each, nor if there is such a book kept.

Q. Do you know the amount of work done in the aggregate by the whole prisoners?

A. Does not.

Q. Do you know what amount per day has been produced to the State on an average by the daily labor of each Convict?

A. Cannot say.

Q. How then could you testify, that if the men had been starved you would have known so by their not doing their work?

A. Because the Keepers would have reported that the Convicts were not able to do their work, and witness has been in the constant habit of seeing the Convicts working without any appearance of starvation.

Q. Had such complaints existed, would the Keepers have reported them to the Warden, or to the Inspectors.

A. Cannot say to which they would have reported them in the first instance, as no such case ever occurred to witness's knowledge.

Q. Did you ever know an instance in which a Guard or Keeper reported any matter direct to the Inspectors, and not through the Warden?

A. Is not aware any Officer ever did, but they have often spoken personally with witness and his brother Inspectors, and witness has frequently spoken to Officers on the subject of food.

Q. With which Officer have you spoken on the subject of the food, previous to the sitting of the Commission?

A. To Costen and Watt, and several of the other Keepers, but does not remember their names; has also repeatedly gone between the tables and talked to the Convicts about their food in presence of the Officers, and on many of which occasions Mr. Corbett was present; other Inspectors have also been sometimes present. These occurrences have been both before and since the sitting of the Commission, but more often before than since.”

Mr. Sheriff Corbett—By Mr. Smith :—

“ Witness has heard Convicts say that some days they had sufficient food, but other days they had not enough; frequently examined the rations during meal hours; never saw any tainted meat served out to the Convicts, nor bad bread; has seen bad potatoes this fall, but the Inspectors ordered them to be returned; they said it was the second day the potatoes had been bad; thought by their appearance that the Convicts got enough of food. If the Convicts had not received enough of food, they could not have done the work they executed while witness was an Inspector. Visited the Dining Hall in 1847. It never appeared to witness that the Convicts had not enough of food. Has taken strangers into the Dining Hall during meal hours. Has no recollection of any remark from a stranger, that the Convicts had not enough to eat.”

By Commissioners :—

Q. Do you know what has been the average daily product of each Convict's labor since you became an Inspector?

A. No.

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Do you know what the whole of the Convicts have produced per day, or per annum, since you have been an Inspector?

A. No.

Q. Do you know the quantity of work done by any one Convict in the Penitentiary for any given time?

A. No.

Q. How then did you testify, that "if the Convicts had not received enough food, they could not have done the work they executed?"

A. By the general appearance of the work, and the manner in which the Convicts worked.

Q. Do you know the regulation quantity of food which each Convict should receive daily?

A. Does not remember; has seen the table.

Q. During the two years you were Inspector, how often were you in the Dining Hall at meal time?

A. Should think he had been there twenty times in the two years.

Q. Were you ever present at breakfast?

A. Thinks not.

Q. How many Convicts have spoken to you as to the inequality of their rations?

A. Three or four.

Q. When was it?

A. At different periods during the two years?

Q. Who were the Convicts?

A. Cannot say.

Q. Were these statements made to you as an Inspector, with the view of inquiry being instituted?

A. The statements were made in reply to witness's inquiries as an Inspector.

Q. Did you understand that the food varied on different days?

A. No; understood the men could eat more one day than another.

Q. Did these men, or any of them, complain that they received more food one day than they did on another?

A. Yes; one or two said they got better food on the days the Inspectors came than on other days; but witness knew this not to be true, as he has come unexpectedly, and saw no difference.

Q. Did any of these Convicts ever state to you, that at times they had not sufficient food?

A. Yes.

Q. Did you ever mention these representations to the Warden?

Appendix  
(B.B.B.B.B.)  
30th May.

A. Yes; and the Warden said they got their full rations; and what was left over by Convicts who got more than they could eat, was passed round to those who got less than they could eat.

Q. Did the Warden say the Convicts got their full rations according to the tariff?

A. Yes; except those who were under punishment.

Q. Did you take any further action as an Inspector?

A. No.

Thomas Kirkpatrick, Esq., says:—"He always presumed the Convicts had enough of food while he was an Inspector; and their appearance indicated that they got sufficient food."

Major Sadleir says:—"He always thought the Convicts were well fed while he was an Inspector; that their appearance indicated they were so; and that he never heard any complaints to the contrary. He adds, however, that an Inspector would be about the last person to hear of such complaints."

Guard Martin says:—"He has never known a Convict exhausted from want of food; and he thinks the Convicts get sufficient. He adds, that he has only been occasionally in the Dining Hall for the last three years."

Convicts Parker, Ramsden, and M'Nair also testify that the Convicts got sufficient food.

James Sampson, Esq., Surgeon of the Penitentiary  
—By Mr. Smith:—

"It is a part of witness's duty to examine the Convicts' rations occasionally. Has very seldom found the rations in a bad or deficient state; has frequently tasted the soup, and has found it very good whenever he has done so; does not know that he ever had a case of sickness arising from the want of food. If witness had ever heard a complaint of a Convict, of starvation or want of food, should have thought it his duty to report the matter. Has had complaints from Convicts who have been under punishment of bread and water, with which punishment witness has not thought proper to interfere. Witness, on reflection, remembers several instances in which there were general complaints of the badness of bread; it was sour and not sufficiently baked. Witness called the attention of the Warden to the matter, and has reason to believe that the Warden looked into it at once."

By Commissioners:—

"Considers that the rule requiring the Surgeon to examine the rations occasionally, did not render it his duty to do so frequently; but rather that he was to do so when called upon by the Warden or Inspectors, for the purpose of giving a professional opinion upon the sufficiency and nutritive nature of the diet. With this construction of the above rule, witness very seldom examined the rations. Does not recollect having examined the rations at all during the summers of 1846 and 1847. If witness has done so, it must have been very rarely indeed. When witness has been in the Dining Hall, he has sometimes seen the meat upon each plate prior to the soup being poured upon it. Cannot say at what

Appendix  
(B.B.B.B.B.)  
30th May.

season he has so seen the meat. Does not recollect to have seen the meat but when he has seen it before the soup was poured on it; has heard some one complaining of it."

The Warden also produced a letter from Major General Armstrong, certifying that the Military Convicts were well fed, as far as he knew; and that no complaints had ever reached his ears. (See Appendix.)

The Warden also relies on the following incidental circumstances which have come out from several witnesses, and are undoubtedly correct:—

To meet the complaints of want of food, which are proved to have been numerous, he shows that many groundless complaints were made, and that tricks were played off to get more food.

He shows that Convicts frequently gave part of their food to other Convicts, and argues that they would not have done so if short supplied; but it is shown as well, that some men required much smaller rations than others, and it is evident, that men engaged in sedentary employments do not require the same as hard-working out-door labourers.

The Warden proves that Convicts frequently carried part of their food away from the table secretly; but there is strong evidence to show that this was done by confederation, to supply their comrades, when under bread and water punishment, for a return of the obligation at another time.

The Warden relies much also, upon the answers of discharged Convicts, to the question if they had food enough. But it has already been shown how little reliance can be placed on this portion of the records.

We have thus gone over all the evidence, and it will be seen that there is a wide variance on the point among the witnesses.

It is obvious, however, that the explicit testimony of seventeen credible witnesses to what they have seen, cannot be overturned by any number of witnesses, proving that they have not seen the same circumstance.

It is established moreover, beyond a doubt, that a great many complaints as to the insufficiency of the food, have existed. That some of these complaints were inquired into, and some not; and that some of them were redressed, and some not.

It is quite clear that at particular periods, the food must have been very deficient; the irregular delivery of the bread and meat by the contractors—the mode of cooking—the bad condition the food was frequently in—and the actual short delivery of bread and potatoes—all which are shown under other counts—can leave no doubt of the fact.

A good deal of evidence has also been received as to deficiency in the food supplied to the women, and the witnesses are much at variance on the point. We are inclined to think that when the food was good, the women had sufficient.

5. THAT THE DESCRIPTION OF MEAT RECEIVED FROM THE CONTRACTORS WAS NOT EQUAL TO THAT FIXED BY CONTRACT.

6. THAT THE MEAT OFTEN COMES FROM THE CONTRACTORS, AND IS RECEIVED IN BAD CONDITION.

The terms of the Contract are in these words:—  
"The Beef to be of a good, wholesome, and marketable quality."

Samuel Breden, Contractor—preliminary examination:—

"The meat delivered under the contract, was not whole sides; generally speaking, the meat was delivered in the evening or afternoon, after the day's business was over in the market. They usually sent what remained over the day's sales."

John Breden, Contractor, and Butcher by trade—preliminary examination:—

"The meat delivered under the contract was third-rate quality; it used to be delivered in the afternoon, and what remained from the day's sales was sent to the Penitentiary; whole sides were never supplied; witness did not supply the sirloin, or the short rib in the rations; none of the good roast pieces; usually sent four or five shanks to each day's rations. Meat was three or four times sent back to witness, as not good enough, not fat enough; but never knew it sent back for being tainted."

Gate-keeper Bannister—preliminary examination:—

"Has a good opportunity of seeing the rations come in; the meat is often bad; poor, skinny meat; as often bad as good; has seen four or five shanks to one ration; the meat sent in, is the refuse of the day's sales at the Butcher's stall."

By Mr. Smith:—

"Has seen bad meat rejected and sent away; the contractor's boy told witness that they would not have it, meaning the authorities at the Penitentiary. Has seen five shanks delivered with the beef at one time; they may have gone back again unknown to witness. Does not know how many pounds of beef are required for 470 Convicts; does not know, but should think that five shanks are too many for one beast. Witness expects that the Butchers always expose the best side of the meat at their stalls."

William Coverdale—preliminary examination:—

"Has frequently seen meat coming into the yard in a cart, in a very bad state; has seen it look quite black and disagreeable, and smell strongly; has seen six shanks come in for one ration, evidently the refuse of the market; this has been invariably the case for the last few years."

Guard Kearns—preliminary examination:—

"Has often seen the meat come in from the Butcher; has seen it so bad that he could not stand over it; the meat was generally poor and skinny looking; has seen four or five shanks to one ration."  
\* \* \* \* \* "Generally speaking, in summer-time, the meat is not fit to be used."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

By Mr. Smith :—

Does not know how many shanks should go to a day's supply of Convict-meat; has often seen four or five shanks going in to the Penitentiary at once. Does not know what a day's supply is; did not see the meat going in daily; supposes that upon an average, witness saw the meat going in once a week; but not so during last year, as witness has been latterly on the fence. Does not recollect ever to have seen the meat sent back; it may have been. Watt and F. W. Smith, used to receive the meat; it smelt badly sometimes in the summer time; it was the case very generally, during the summer. Was stationed in the dining hall, when witness saw the meat thus bad. Witness watched both the dining hall and the adjoining scullery; was not always present when the meat came; often has seen the meat kept, when witness could not stand over it, on account of the bad smell."

Ex-guard Fitzgerald—preliminary examination :—

"Was in the habit of seeing the meat come in from the Butcher; has frequently seen it stinking when it came in; has seen a number of shanks served to one ration; often five or six shanks to one ration, and on one occasion, ten or eleven; witness has reported to Mr. Costen that the meat was unfit for use, and Mr. Costen has received it notwithstanding."

Gate-keeper Cooper—preliminary examination :—

"Sees the meat come in from the Butcher regularly; has often known it to smell badly when it came in. The meat usually, is not of good quality; it appears to be the refuse of the stall; it is never entire, but with one or two exceptions, it has always been in pieces."

By Mr. Smith :—

"Sees the meat coming into the Penitentiary every day, when the witness is on duty; it comes in small pieces; there have been a few joints lately; it comes in all sizes; has seen the meat rejected; that is, has been told by the butcher-boy, that it was rejected."

Ex-Assistant Warden Utting—preliminary examination :—

"Witness is a good judge of meat; the meat sent in was generally of very inferior quality, and not equal to contract. Witness has seen thirteen shanks come in to one ration, in place of 3½ shanks, which he calculated should be the proper ration; witness, by referring to his Diary, finds this was about 15th July, 1846; witness has frequently complained of this to the Warden, who said it should not be so, but is not aware that he took steps to correct it."  
\* \* \* \* \* "Bad provisions were frequently accepted from the Contractors, and given to the Convicts."

By Mr. Smith :—

"The meat is required to be of good quality, according to the Penitentiary Contract; has a great number of times, seen inferior meat sent in; witness has sent it back frequently, when he has so seen it, and has reported the circumstance to the Warden. Witness thinks he has seen thirteen shanks of beef delivered at the Penitentiary on one day; cannot

say that thirteen shanks were frequently delivered, but there has frequently been more than the proper proportion. Witness has ordered them to be returned on several occasions, and has reported to the Warden; sometimes the Warden has made witness no answer, sometimes may have said 'very well;' cannot say the Warden has ever said 'it should not be so;' the Warden may have said so. Does not recollect having told any one that the Warden said 'it should not be so.' There has been, sometimes, bad meat cooked for the Convicts; witness has reported it; part of the meat that was bad has been sent back; and sometimes the whole of it has been sent back; sometimes a portion of the meat has been cooked, before witness was aware of it."

Ex-keeper Gleeson—preliminary examination :—

"Has often seen the meat come in from the Butcher; it was frequently very inferior; poor, miserable, carrion-like stuff; has often seen too much bone to a ration; has seen six shanks to one ration."

The testimony of these witnesses is corroborated by Keely, M'Garvey, Robinson, M'Carthy, and Convict Dyas, the Head-cook.

The evidence, for the defence, is as follows :—

Guard Watt—preliminary examination :—

"Has seen meat come in from the butcher in bad condition; in such cases, it has been invariably sent back to the butcher; never knew an instance of it, or any part, being retained when in bad condition. During the last two years, part of the meat sent in one ration, has been so sent back thirty times. If the butcher did not bring back other meat immediately, a supply in its place was procured from town. Meat has been so purchased three or four times from other butchers than the Contractors." \* \* \* \* \*  
"The meat delivered to the Penitentiary is generally what remains after the sales of the stall are over. Sometimes the meat comes in quarters entire; would say that the meat comes in whole quarters three or four times a week. Three shanks is the proper quantity to one ration; four or five shanks have been frequently received for one ration; has seen seven, eight, or nine shanks to one ration."

By Mr. Smith :—

"The usual rule is one shank of beef to one hundred pounds weight of meat; this was the rule at the Penitentiary; and that is the way witness always took the meat. Witness has seen more than the usual quantity of shanks brought in; in these cases, the thick end was cut off, and the thin was thrown in for the soup, but was not charged by the Contractor; the thin end was given in—it was not weighed."

Head Keeper Costen—(preliminary examination) :—

"Never knew the meat to be received when bad; has often returned meat to the butcher, and Frank Smith has done so, also, for being bad. If the butcher did not replace that rejected in time, meat was purchased in lieu of it from other butchers. Witness has known this done, perhaps, a dozen times. The meat is sometimes delivered in quarters, entire; but it is usually cut up into pieces, and the fair proportion of each animal is given. The prime pieces are sometimes sent, but not every day; it is generally of good marketable quality. The proper number of shanks is three shanks to each 100 lbs. Witness usually

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

received six shanks to each ration; never knew more than six shanks received to one ration."

By Mr. Smith :—

"Has no recollection of Guard Fitzgerald reporting the meat bad which came in from the butcher. Has never received ten or eleven shanks in one ration of meat."

Thomas Kirkpatrick, Esq.—By Mr. Smith :—

"Has seen meat delivered by the butcher not so good as it ought to have been. Saw meat on one occasion sent back to the butcher, as unfit for use."

Major Sadler—By Mr. Smith :—

"Has seen Convicts at dinner frequently, and has seen the meat cutting up for them. Conceives that the meat was according to contract. Has seen very poor meat returned to the Contractors."

We think it established beyond a doubt, that the meat generally has been of very poor quality—that habitually there has been an unfair proportion of bone—that it has frequently been in bad condition—and that, as a whole, the meat has not been equal to contract. And when it is considered that the meat was kept in the Prison, at all seasons of the year, for two days before being served to the Convicts, it must be obvious, that for many months in the year it could not have been wholesome.

7. THAT THE BREAD OFTEN COMES FROM THE CONTRACTORS, AND IS RECEIVED OF BAD QUALITY.

The words of the contract are :—"The Bread shall be the best wheaten Flour, unbotted."

Ex-Keeper Keely—(preliminary examination) says :—"Has seen the bread piled up after it came in from the baker, within the day it arrived, sour, mouldy, and even with maggots in it."

Ex-Keeper M'Carthy—(preliminary examination) says :—"Has seen the bread come in from the baker, sour and mouldy."

By Mr. Smith :—

"Has seen the bread in a heap, just after being received from the baker, many times."

Guard Wilson—preliminary examination :—

"Has seen the bread come in from the baker frequently. The white bread has been generally very good, but the brown bread has been often very bad; it was sour and mouldy, and you might sometimes take it in your hand and squeeze water out of it."

By Mr. Smith :—

"Witness is sometimes stationed at the Lodge-gate; has not been so lately until to-day; was there in July, witness thinks; has seen the bread coming through the gate; sometimes looked at the bread in the cart as it went through; has sometimes seen bad bread; could not see all the bread by opening the door of the cart; has seen bread sent back several times on account of its being bad. Has examined a ration of bread in the Dining-hall, and has squeezed

water out of it. Does not know how it could have been baked; witness thinks it was not baked well enough; did not show the bread to any of the officers; all of them in the Dining-hall could see it for themselves; has seen a Convict showing that same bread to Mr. F. W. Smith; this was either at the breakfast or the dinner hour. Mr. Costen was generally there; does not recollect whether he was there at that time; he may have been there. Witness has seen the bread several times that he could squeeze water out of it; witness has seen Convicts complaining of bad bread several times, and has once seen a Convict complain of wet bread. Witness has frequently seen bad bread used, and has sometimes seen it sent back. Witness considers that the bread was raw-like, quite heavy; it would have been good had it been properly raised and baked—good according to its quality."

Thomas Fitzgerald—preliminary examination :—

"Has often seen the bread come in from the baker. The white bread was pretty good, but the brown was frequently sour and ill baked; but he never saw it mouldy."

Ex-Keeper Gleeson—preliminary examination :—

"The bread was frequently very bad; it often turned blue-mouldy before it was served out."

Gate-keeper Cooper—preliminary examination :—

"Witness's attention has not been much called to the quality of the bread; but he has seen it sour."

By Mr. Smith :—

"Sees the bread coming in every day, when witness is on duty; does not at all times open the waggon; does not at all times inspect the bread as it comes through the gate; cannot see very many loaves when he opens the door of the waggon; has known bread to be rejected; cannot say how often."

Gate-keeper Bannister—preliminary examination :—

"Lately the brown bread has been pretty passable, but it used to be often very indifferent; never saw it mouldy, though it might have been so."

By Mr. Smith :—

"Has seen the bread passing through the gate; used to stop the waggon to see if there was anything improper passing through; did not inspect the quality of the bread particularly, but could judge that it was sometimes better than at other times; it comes in a covered cart, with a door at the hind part. Has sometimes seen the bread returned; it has been so frequently; cannot say dozens of times."

The evidence, for the defence, is as follows :—

Guard Watt—preliminary examination :—

"Has seen the bread come in from the baker sour, not very often; it was invariably sent back when sour; cannot say how often the bread has been so sent back. When the supply fell short, in consequence of these refusals, white bread was purchased in town, to make up the deficit; has known white bread so purchased 5 or 6 times; cannot name any particular date when white bread was so purchased."

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B. B. B. B.)

30th May.

By Mr. Smith :—

“Has never seen the bread come in, in such a state, that water could be squeezed out of it; does not think it could bake in such a state; sees the bread every day.” \* \* \* \* \* “Has never known the white bread sour; the brown bread has been sour once or twice; the brown bread has been frequently returned to the contractor, and white bread has been purchased in lieu of it. Has never served bad bread knowingly, except the brown bread once or twice when witness could not get the other bread.”

Mr. Costen—preliminary examination :—

“Has seen brown bread come in from the baker, sour and not well raised; it was invariably sent back in such case; when the brown bread was thus sent back, white bread was procured from town in lieu of it; this has occurred frequently; very likely a dozen times or more.”

By Mr. Smith :—

“Has never seen the bread so bad that you could squeeze water out of it; does not believe it could be baked in such a state.”

Mr. Bickerton—By Mr. Smith :—

“Witness has known white bread to be furnished frequently in the room of rejected brown bread; also when there has been a deficiency of brown bread; witness charges these purchases to the contractors.”

It is proved that the bread has often come from the baker of bad quality; it is also shown that on some few occasions it has been sent back; but there is every reason to believe that it has been many times retained when in bad condition; and this will appear still more clearly under Count 12.

8. THAT THE MEAT HAS BEEN FREQUENTLY REJECTED BY ONE OFFICER OF THE PENITENTIARY, AS UNFIT FOR USE, AND HAS BEEN AFTERWARDS RECEIVED BY ANOTHER OFFICER.

Keeper Swift—preliminary examination :—

“Has seen meat come into the Penitentiary which was very bad, and which was sent back; in a few minutes the very same meat has been brought back to the Prison, and accepted.”

By Mr. Smith :—

“Has not seen the meat rejected and sent back again in 1847, but has seen this occur while witness has been stationed on the outside; cannot say that it was the same meat that came back, but it was the same man and the same waggon, and from the short time the man was away, witness does not see how the meat could be changed.”

Gate-keeper Cooper—preliminary examination :—

“Has known the butcher's meat to be sent back, as witness was told by the butcher, in consequence of Guard Watt having decided that it was unfit for use. Has known Frank Smith meet the butcher's cart on its way into town with the condemned meat, and tell the butcher's boy to take it back to the Penitentiary; butcher has brought it back accordingly, and the meat was accepted; has seen this

frequently, and has also known the butcher's messenger, when the Guard refused to receive his meat, wait until Frank Smith came in, when it was taken from him.”

By Mr. Smith :—

“Witness has been told of meat having been rejected by one Officer, and afterwards received by another Officer; explains by stating that the butcher boy told witness that Guard Watt had rejected the meat; the boy afterwards returned with the same meat, by the order of Kitchen-keeper F. W. Smith, and he then left the Penitentiary with his waggon empty. Witness saw the meat on that occasion, both going out and coming in; it was bad meat.”

Guard Watt—preliminary examination :—

“Never knew or heard of the meat when rejected by witness being brought back again and accepted. Has known 3 or 4 instances in which, when witness has rejected the meat, the butcher has waited until Mr. Frank came, and Mr. Smith then accepted part of the meat which witness had rejected. As to meat being sent back, and stopped on the way to town, and accepted by the Kitchen-keeper, witness further says, that he has known the butcher bring meat in at breakfast time, when Frank Smith was in town at breakfast, and during a term when a rule existed that no meat should be accepted without having been inspected by the Kitchen-keeper; the butcher, instead of waiting for Mr. Smith's arrival, would drive it to Mr. Smith's house, and have it inspected there, and bring it back; has known this 3 or 4 times. The rule referred to was in force in March, April and May of this year. Has known the meat to come in from the butcher in the morning, about 8 o'clock, 20 or 30 times in the last two years.” \* \* \* \* \*

“In the instance alluded to of the butcher's boy going to Mr. Frank's house, witness would not have accepted part of that which was taken by Mr. Smith; may have told the boy the meat was bad, but has no recollection of it; would not have received the meat, had it been of excellent quality, without Mr. Frank's having inspected it.”

Head-keeper Costen—preliminary examination :—

“Never knew of any order forbidding Kitchen-guard to receive meat from the butcher; witness recollects of meat coming in from the butcher, and seeing the waggon stand at the Kitchen door for some time, he asked Watt, why it stood there? Watt said he could not receive the meat until Mr. Frank came; this happened twice; he gave some reason for it; some fault he found with the meat; this could only have been the cause. Witness has heard Watt say, that he had rejected meat sent in by the butcher; that the lad took it out of the Prison to Mr. Frank's house, and brought it back again by his orders; Watt had rejected the meat for some cause.” \* \* \* \* \* “The meat usually came in the afternoon; never saw the meat come in before 11 o'clock; during the five years witness was Kitchen-keeper, the meat never came in before that hour, and had it come in before that hour during Mr. Frank Smith's time, witness must have known it.”

Convict Denis Chagnon—preliminary examination :—

“Twice saw the meat rejected by Guard Watt for something, and it was afterwards accepted by Frank Smith; it smelt so bad on these two occasions, that a hog would not have eaten it.”

Appendix  
(B. B. B. B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

It is clear that meat has been on several occasions rejected as unfit for use by the officer acting for the Kitchen-keeper, and that the Kitchen-keeper has afterwards accepted the same meat.

9. THAT THE CONTRACTORS DO NOT DELIVER, DAILY, THE QUANTITY OF FRESH FOOD NECESSARY; BUT VARY MUCH IN THE QUANTITY OF THEIR DAILY DELIVERIES.

In butcher meat, there has been much variation in the daily weight delivered. Under the Ration Contract of the period from 1st December, 1846, to 30th November, 1847, the quantity of meat actually delivered, was 102,113 lbs. to supply 173,286 rations.

In the month of December, the full number of rations to be supplied, was 15,307; and to meet these, at the average weight per ration given throughout the year, 9,020 lbs. of meat were required; but the actual delivery was 9,834 lbs., or 814 lbs. more than the average share of that month.

In October following, on the other hand, the number of rations was 14,470, to supply which 8,526 lbs. of meat were required; but only 7,731 were actually supplied, or 795 lbs. short of the proper proportion for that month.

In January, 468 lbs. were delivered over.

In March, 583 lbs. over.

In August, 282 lbs. short.

And all these irregularities are, of course, balanced by corresponding irregularities in the other months of the year.

The exact quantity of meat delivered any one day by the Contractor, appears to have been almost invariably the quantity boiled next day, and served to the Convicts as the meat ration of the third day; so that the daily portion of food had by the Convicts must have been very unequal from day to day. For example, take the months of July and August, 1847,—a period when the hot weather required more regularity in the quantity than any other season of the year,—the average number of Convicts in these months was about 475, and the daily weight of meat, on the average of the year, to be delivered by the Contractor, was 283 lbs. The following return of the daily quantities actually delivered, will show how great the irregularity was:—

WEEK ENDING SATURDAY

	3rd July	10th July	17th July	24th July	31st July	7th Aug.	14th Aug.	21st Aug.	28th Aug.
Sunday .....		476	228						308
Monday .....	240	322						251	
Tuesday .....	324	330	235	330	316	393	330	385	320
Wednesday .....			330	302	354	313	406		374
Thursday .....	442	344	244	357	336	562	677	276	380
Friday .....	240		344		278	238	373	287	303
Saturday .....	342	541	616	645	658	420	251	361	713
	1588	2013	1997	1634	1942	1926	2037	1560	2398

This return is taken from the Kitchen Receipt-book; and it will be seen from it, that no attempt has been made to supply the quantity needed by the Institution, but that, while precisely the same quantity was needed each week, there has been a variation of 838 lbs., comparing one week with another.

Appendix  
(B.B.B.B.B.)  
30th May.

And the same system has existed in the delivery of bread. In December, 1846, the average quantity deliverable was 17,491 lbs., while 20,990 lbs. were actually supplied; being an over-supply on the average of the year, of 3,499 lbs.

In August, 1847, the average delivery should have been 17,042 lbs., while in fact it was 15,269 lbs.; a short-coming of 1,773 lbs.

And similar irregularities occur throughout the year.

And similar irregularities have occurred in the daily delivery of the bread. In the week ending 11th August, the brown bread delivered was 3,499 lbs., while the week following it was 3,909 lbs. The week ending 1st August, the delivery was 3,834 lbs., while that of the 15th was 3,137 lbs. Properly supplied, the deliveries of these weeks should have been all alike—about 3,800 lbs. Two days frequently occur during which no fresh bread is delivered, and sometimes three.

The only witness called on this point, is

Mr. Costen—By Mr. Smith:—

“Provisions received from the Contractors were always entered on the same day they were received, by witness, in the Provision Book.” \* \* \* \*  
“When new bread was received, it used to be kept till cool before it was weighed; in such cases, the entry in the Provision Receipt-book was made when the bread was weighed; sometimes it was weighed the same day, and at others the following morning. A batch of bread, about two days’ supply, used to be delivered at one time.”

By Commissioners:—

“Bread was delivered at the Penitentiary Lodge late one Saturday night, and it was received on Sabbath morning; it is the only instance in which provisions were ever delivered on Sabbath day, to witness’s knowledge. The provisions were correctly and regularly entered in the Receipt-book on the day they were received. When the bread came in too fresh to be weighed at the moment, it was usually weighed and entered the same evening; but sometimes, if the bread was not wanted, it lay over till the next morning. Never in any case weighed and entered bread on Sunday. Witness produces the Kitchen Receipt-book, and is asked if provisions were entered in the said book as received on Sabbath, 4th July, 1847, and on Sabbath, 11th July, 1847, and on Sabbath, 22d August, 1847? and says, Yes—such entries are in the Receipt-book.”

This Count is, therefore, completely established.

10. THAT THE MODE OF COOKING AND DIVIDING THE DAILY FOOD IS INJURIOUS TO THE CONVICTS, VIZ., IN MAKING THE DAILY FOOD VARY MUCH IN QUANTITY; AND IN KEEPING THE BREAD AND MEAT OVER, UNTIL THEY BECOME UNFIT FOR USE.

The practice as to the meat has been to receive it in the afternoon; to cook it next day, and serve it to the Convicts on the third day.

Mr. Costen is called to prove that this could not have been helped; he says:—“There was not sufficient time to cook the meat the same day it came in; there would not be time to weigh out each man’s

Appendix  
(B.B.B.B.B.)  
30th May.

ration; during the day it lays over after being cooked; the meat was cut up the day it was boiled, for breakfast next morning, and for dinner it was cut up the next morning." \* \* \* \* \* "It takes about three or three and a half hours to cook the meat."

Mr. Hopkirk also testifies:—"Thinks it would be impossible to weigh out the daily rations of food, for each man, in proper time."

But it is clear that there was nothing to prevent the meat from being received early in the morning, in time to boil in that day's soup, by which one day, at any rate, would have been saved.

It is also contended that the meat was put in pickle during the hot weather, but this does not appear to have been a regular practice.

On the point as to whether the quantity of meat delivered one day was the exact quantity boiled the next, and the exact quantity served out on the third day, there is some variance in the testimony.

John Watt says:—"When the butcher has delivered an overplus, this overplus is kept till next day; when short, the necessary quantity is taken from the cooked meat of the next ration; hot meat has been taken to make up a deficient ration of the previous day, two or three times; cannot say how often it has been done so; has put meat in a net three or four times, apart from the other rations, to make up what was short the previous day; when a larger quantity is short, the meat is not put in a net, and the quantity taken from it is guessed at. \* \* \* The regulating of the quantity of meat eat up, is left entirely to Chagnon; the cook takes it down to the cellar, and Chagnon helps himself; Chagnon regulates the quantity he takes entirely by his eye; witness tells him there are so many pounds short or over, and he makes it right by his eye."

Watt here explains how the deficiency of meat has been made up, on some occasions, but the result of it all is that the regulation of the matter "is left entirely to Chagnon." And immediately after he destroys the defence by the admission, that "some days the Convicts get larger rations than others, in consequence of the butcher having sent in meat one day short, and the next over."

The Convict to whom the duty is left, Denis Chagnon, explains the matter differently from Mr. Watt. He says:—"Witness is never informed of the weight of the meat, when it is delivered to him." \* \* \* \* \* "Each morning's boiling consists of the whole quantity of meat sent in by the butcher the previous day." \* \* \* \* \* "The quantity of meat served to each Convict varies very much, one day with another; this arises from the butcher delivering some days a less quantity of meat than on other days; there will be sometimes forty pounds of difference in the daily delivery of meat, for the same number of Convicts. The inequality of the rations also arises from there being a much larger quantity of bone in one day's rations than in another. Five or six times, when a ration of meat has been delivered short by the butcher, an additional supply of meat has been got to make up the deficiency."

Mr. Costen gives several explanations as to the mode of regulating the amount of meat delivered to the Convicts, when he was Kitchen-keeper; but he

says "he does not know what is the course now pursued by the Kitchen-keeper—meaning Kitchen-keeper Smith—in whose time the irregularity in the delivery of the meat chiefly occurs."

There is also a good deal of evidence as to variation in the meat rations, comparing one day with another. Chagnon, the Convict, who cuts up the meat, and distributes it, says the quantity served to each Convict "varies very much, as well on account of the irregular deliveries of the butcher, as from there being a much larger quantity of bone in one day's ration than in another." Guard Fitzgerald says, "frequently the bits of meat were very small—about an ounce." Gleeson says, "the quantity of meat served out to the Convicts was often very small; witness feels confident he could have eaten twelve of the rations at one meal, without abusing himself." Dyas, the cook, says, "the meat rations, until lately, consisted more of bone than anything else." A number of other witnesses testify to the same purport, while others again declare they never saw so small a meat ration as one ounce served out; and they never perceived any great difference, one day with another.

The Kitchen Receipt-book shows, beyond any explanation, that the meat was delivered by the butcher in quantities varying very much, one day with another; and we think it is true, that the quantity delivered by the butcher was the precise quantity boiled next day, and distributed the third. Instances in which the short delivery of the butcher has been rectified, have undoubtedly occurred; but we think it clear, that they only form the exception to the rule shown by the Receipt-book.

We are also of opinion, that the system of retaining the meat so long on hand during summer was a very bad one. It must be obvious, that such meat as that in question, after being exposed in the shambles for at least one day, and kept 48 hours in the prison, could not be in a very wholesome condition when it reached the Convicts.

The same remark applies to the irregular delivery of bread, which has also been very marked, and must have often prevented it, even when originally good, from reaching the Convicts in proper condition.

#### 11. THAT THE MEAT IS OFTEN SERVED TO THE CONVICTS IN BAD CONDITION.

Mr. Utting says, he "has frequently known the meat, when distributed to the Convicts in the Dining-hall, to stink." Convict Eliza Quinn says, "the meat was often stinking." Guard Robinson says, it was "frequently stinking." James M'Carthy says, "he has frequently seen it absolutely stinking." Mrs. Coulter says, the meat "has often come in stinking." Guard Wilson has often seen it "stinking." Thomas Fitzgerald has known "the soup and meat unfit to be eaten, frequently." Ballentine, Kearns, Swift, Cooper, and Freeland, and Convicts Chagnon, Dyas, DeBlois, Armstrong, and Dudevoir, all bear similar testimony.

Keeper Manuel has seen the meat have a bad smell, but not unfit to eat. Keeper Pollard has seen it bad, not very bad. Keeper Matthews has heard Convicts complain that it had a bad smell. Guard Sexton "has occasionally known one ration to smell a little—not to say bad—not to stink." Mrs. Chase "never saw stinking meat served but once." Guard Watt admits, "the meat has often been stinking

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

when served out to the Convicts; the whole of a ration has been tainted, but not all stinking."

For the defence, we have heard Head-keeper Costen, who swears as follows:—"Has never known meat to be served to Convicts which was tainted; the meat could not have been tainted without witness knowing it. If a man came before the Commissioners, and swore that he had known the meat served to the Convicts, on several occasions during the last two years, to stink, witness would be prepared to swear that that man had perjured himself."

We have also Guard Martin, who declares "he could not say that he has ever seen or smelt stinking meat upon the table." And lastly, we have discharged Convict Ramsden, who states, he "has known the meat sometimes a little tainted in the summer time, but not past eating." He "never heard Convicts complain, in the summer time, that the meat was over bad; on the contrary, some of them preferred the meat a little tainted."

There is no doubt that the meat has been served to the Convicts, habitually during the summer time, in uneatable condition. The evidence of Mr. Costen on this point is indefensible; as Kitchen-keeper, and afterwards as Head-keeper, he has had personal knowledge of the food served to the Convicts daily during the last seven or eight years, and he could not have been ignorant of the state the meat was so often in.

12. THAT THE BREAD IS OFTEN SERVED TO THE CONVICTS IN BAD CONDITION.

Terence M'Garvey says:—"The bread was often very bad—sour, miserable-looking stuff;" and he has seen "maggots in it." James M'Carthy has "seen it mouldy, and with maggots in it." Mrs. Cox says, "the bread was often very bad; has seen it sour, pastey, mouldy, and has even seen maggots in it." Mrs. Coulter says it was "often very bad, sour, and blue-mouldy." J. H. Freeland says, "it was sour, mouldy, and quite sickening;" and that he has seen weevils and worms in it. Keeper Swift says, he has "seen it sour, mouldy, and with maggots in it; has seen it have dung in it." And numerous other witnesses give similar testimony.

Guard Watt says:—"Has seen the brown bread served out to the Convicts sour, but not often; knows that seven or eight batches of sour brown bread were served out to the Convicts within the last two years. Witness has seen the brown bread served out mouldy; has seen it so frequently; witness has seen the flour-worm in the bread frequently; witness has seen dung in the brown bread on several occasions—rats' dung—not so frequently as the worms."

By Mr. Smith:—

"Has never served bad bread knowingly, except the brown bread once or twice, when witness could not get other bread."

Guard Wilson says:—"The brown bread has been often very bad; it was sour and mouldy; and you might sometimes take it in your hand and squeeze water out of it."

For the defence, Keeper Manuel says, it was never so bad that he could not have eaten it. Guard Martin says, "the bread was never bad in his recollection." Keeper Matthews has smelt it sour.

Appendix  
(B.B.B.B.B.)  
30th May.

Guard Sexton never saw wet bread served to the Convicts, but has heard Convicts complain that there was "dirt in it." Guard Rowe has not seen it wet, but "rather soft" sometimes. Discharged Convict Ramsden declares it was "generally sound and wholesome," and never was sour or ill-baked; and Convict Parker says it has always been good till now.

Mr. Costen says, in his preliminary examination. —"Never saw the bread served to the Convicts in bad condition; has seen it sour sometimes, not often—not a dozen times. Has seen it mouldy once or twice, not often. Never saw it with the flour-worm in it; has seen tobacco in the bread; never saw dung in it."

By Mr. Smith:—

"Bread has never been served to the Convicts that was found to be bad before being cut up; the brown bread has been sour sometimes, not often; has often eaten white bread equally sour."

Dr. Sampson—By Mr. Smith:—

"Witness, on reflection, remembers several instances in which there were general complaints of the badness of bread; it was sour, and not sufficiently baked; witness called the attention of the Warden to the matter, and has reason to believe that the Warden looked into it at once."

The charge is, therefore, completely established. We are satisfied the bread has been habitually of the most inferior quality, and very frequently sour and mouldy. During the season, when no potatoes were supplied, the poor quality of the brown bread, which formed so large a portion of their daily food, must have caused suffering to many of the Convicts.

13. THAT IN THE SUMMER OF 1846, THE FOOD SERVED TO THE CONVICTS WAS GREATLY DEFICIENT.

As has been previously stated, Samuel Breden had the Provision Contract from 12th September, 1845, to 11th September, 1846. The whole number of potatoe rations required to be delivered by the Contractors during the year, was 174,805, which, at one twenty-second of a bushel to each ration, gives 7,945 bushels as the quantity of potatoes deliverable during the Contractor's term.

The whole quantity of potatoes actually delivered during the year, was 3,157 bushels, leaving a deficiency of 4,788 bushels.

The Warden agreed to receive three-fourths of a pound of white bread for each ration of potatoes, which, we are of opinion, was a most inadequate substitute for 3 lbs. of potatoes.

The whole number of potatoe rations, was 174,805  
3,157 bushels of potatoes were supplied, or  
in rations..... 69,454

Leaving to be supplied with white  
bread, rations..... 105,351

105,351 rations, of three-fourths of a pound,  
required of white bread.....lbs. 79,013  
But by the Kitchen Book it appears there  
were only delivered..... 47,820

Leaving a deficiency on the compro-  
mised rations, of..... 31,193

Appendix  
(B.B.B.B.B.)  
30th May.

The substitution of white bread for potatoes seems to have come into operation on 29th January, 1846, and to have remained so to the end of the contract; so that the whole of this deficiency in the food fell during the 226 days of this period.

The number of potatoe rations deficient during the 226 days, was 107,013, which, at 1-22 of a bushel, or 3 lbs. weight per ration, make a short coming, in potatoe, of.....lbs. 321,039  
To supply this, the Convicts got of bread,  
but ..... 47,820

Leaving a deficiency in the food, in  
226 days, of .....lbs. 273,219

The average number of Convicts in the prison during the 226 days in question, was a fraction less than 474; so that each Convict got but 101 lbs. of white bread, in lieu of 678 lbs. of potatoes; or 2½ lbs. of food less per day than they were entitled to by the regulations of the prison.

But further, during this period, when so great a deficiency in the food of the Convicts occurred through the want of potatoes, there was also a great deficiency in the regular supply of brown bread, as compared with the quantity consumed during that portion of the year when potatoes were furnished.

From the 12th September, 1845, to 28th January, 1846, (when there was a sufficiency of potatoes,) the total number of brown bread rations to be supplied, was 67,792; and to meet these, 80,667 lbs. of brown bread were actually served to the Convicts.

From the 29th January to 11th September, 1846, 107,013 rations of brown bread had to be supplied.

By applying the plain rule—If 67,792 rations required 80,667 lbs., how much will 107,013 rations require?—we have 127,337 lbs. of brown bread as the quantity which should have been supplied during this latter period.

It appears, however, from the Provision Book, that only 118,939 lbs. of brown bread were actually supplied during this period—being 8,399 lbs. less during the 226 days of deficiency in the potatoes, than the Convicts got in the previous months with full rations of potatoes.

The Warden brings no evidence to explain these facts; and, indeed, they are not susceptible of any explanation. Major Sadlier and Mr. Costen state, however, that they noticed no difference between the food in 1846 and any other year. And discharged Convict Ramsden swears, that “the food during the whole of the year 1846, was in similar quantity and quality to that of any other period that witness was at the Penitentiary.” On the other hand, many of the witnesses allude to the numerous complaints “when there were no potatoes.”

But evidence on this point is quite unnecessary. The food actually received and distributed during the period in question, is ascertained precisely; and so large a deficiency in the daily ration could not have occurred without deep complaint and much suffering on the part of the Convicts.

Appendix  
(B.B.B.B.B.)  
30th May.

14. THAT DURING THE PERIOD FROM MARCH 23, TO AUGUST 26, 1847, THE FOOD OF THE CONVICTS WAS GREATLY DEFICIENT.

Hendry and Blacklock held the Provision Contract from 1st December, 1846, to 30th November, 1847. The whole number of potatoe rations deliverable during the year, was 173,286, which, at 1-22 of a bushel to each ration, made 7,877 bushels.

The total quantity of potatoes delivered during the year, was 3,208, leaving a deficiency in the supply of 4,669 bushels.

The Warden agreed to receive four-fifths of a pound of white bread from the Contractors, in lieu of each ration of potatoes, which, we think, was not an adequate substitution.

The whole number of potatoe rations, was 173,286  
3,208 bushels, delivered, were equal to  
rations ..... 70,576

Leaving to be supplied with white bread  
rations ..... 102,710  
102,710 rations, of four-fifths of a pound  
each, required of white bread.....lbs. 82,188  
But by the Provision Book it appears that  
there was only supplied.....lbs. 56,499

Leaving a deficiency on the compromised  
ration of .....lbs. 25,689

The substitution of white bread for potatoes commenced after 23rd March, 1847, and lasted until the 26th August following, when part potatoes and part white bread began to be supplied.

The total number of potatoe rations to be supplied in the 156 days, from 24th March to 26th August, inclusive, was 73,666, which, at 3 lbs. per ration, was .....lbs. 220,998  
To supply this, the Convicts got in white  
bread, but.....lbs. 52,291

Leaving a deficiency in the food of (in 156  
days) .....lbs. 168,707

So that each Convict had but 111 lbs. of white bread in lieu of 468 lbs. of potatoes, or over 2¼ lbs. of food less per day than he was entitled to receive by the prison regulations.

There was also a great deficiency in the regular brown bread rations supplied during this same period, as compared with the consumption of the previous months, when there was a sufficient supply of potatoes.

From the 1st December, 1846, to 23rd March, 1847, the regular supply of potatoes was furnished to the Convicts. During this period, 54,385 was the number of rations of brown bread to be supplied; and to meet these, 69,209 lbs. of brown bread was supplied.

The potatoes ceased to be supplied on and after the 24th March, 1847, and up to the 26th August, none were delivered. During this space, the number of ordinary rations of brown bread to be supplied by the contractors, was 73,666

Now, by putting the question—If to meet 54,385 rations, it required (when there was a full supply of potatoes) 69,209 lbs. of brown bread, how much

Appendix  
(B.B.B.B.B.)  
30th May.

brown bread did it require to meet 73,666 rations? We have 93,745 lbs. of brown bread as the equivalent quantity to be supplied during 156 days, when there was no potatoes.

The Provision Book shows, however, that only 79,224 lbs. of brown bread were actually supplied during the period in question—so that the Convicts received 14,521 lbs. less brown bread, during the 156 days when they had no potatoes, than they had served to them during the previous months, with full supply of potatoes.

These facts are undisputed; and it is obvious that during this period also, there must have been severe suffering from hunger, the more especially as it covers the Summer months, when the meat is, according to the evidence, so often unpalatable.

15. THAT DURING THE PERIOD FROM 27TH AUGUST TO 4TH OCTOBER, 1847, THE FOOD SERVED TO THE CONVICTS WAS GENERALLY DEFICIENT.

From the 27th August to the 4th October, 1847, a period of 39 days, a very great deficiency occurred in the supply of food. The total number of potatoe rations deliverable, within that space, was 18,591  
Of which were furnished in potatoes,  
278½ bushels, equal to.....rations 6,127  
And in white bread, 3,904 lbs.,  
equal to, at ¼ of a lb. to each  
ration .....rations 4,880

	11,007
Leaving rations unsupplied .....	7,584

The total quantity of potatoes deliverable during the 39 days in question, was..lbs.	55,773
Of which were delivered in potatoes.....lbs.	18,381
And in white bread.....	3,904
	22,285

Leaving a deficiency of food .....lbs. 33,480

Each Convict had consequently but 47 lbs. of food instead of 117, to which he was entitled.

Here also, then, the charge of starvation is fully proved.

16. THAT CONVICTS WERE OFTEN PUNISHED, WHO COMPLAINED, WITH JUSTICE, OF THE SMALL QUANTITY AND POOR QUALITY OF THEIR FOOD.

The nature of this charge will be best explained by the evidence of one or two of the witnesses:—

Guard Kearns says:—“Has known Convicts complain of the shortness and poorness of their rations at the dinner table, very often; they were frequently punished for it, by the Kitchen-keeper. They were entered in the Punishment Book for getting off their seats, or speaking to their Keepers during meal times. The complaints did not come from particular men; they were quite general when the potatoes were bad.”

Thomas Fitzgerald says:—“Has frequently known Convicts complain of the bad quality and short quantity of their rations, and be punished for so complaining; Mr. Frank reported against the Convicts for so complaining, and they would be read out for punishment next morning, for speaking during meals, or standing up during meals, or some such offence.”

Appendix  
(B.B.B.B.B.)  
30th May.

Guard Watt:—“Has known men frequently to be punished for complaining of the smallness of their rations.”

Mr. Costen says:—“Convicts have been entered in the Punishment Book, as punished for leaving their seats without the consent of the officer in charge, when they did so to complain of their rations.”

And many other witnesses give the same testimony.

It is beyond a doubt that there have been constantly a great many complaints by the Convicts, of the short quantity and bad quality of the food. It is also a fact, that many Convicts have been punished, under one shape or another, when the real offence they committed was endeavouring to get more or better food. And it seems unlikely that so many would have exposed themselves to punishment, without some just ground of complaint. But the evidence, strong as it is on the other points, is not so clear as to the justice of the complaints from which punishment followed, and we cannot, therefore, say that “Convicts were often punished, who complained, with justice,” of their food.

This is the last count of Charge VII., and we think the allegation of starvation, during a considerable space of time, fully established.

In every feature of this charge, as in many of the others, the utter negligence of the Warden forcibly appears; it is hard to imagine that he could have been in ignorance of so many glaring irregularities. It is very obvious, that what with deficient potatoes—short rations of bread—bad meat, made worse by over-keeping—and poor bread, become worse by keeping—the Convicts must have been often insufficiently fed, and that the hard-working out-door men, must have suffered severely.

It is a noticeable circumstance, that in 1846, the first year the potatoes failed, the quantity of white bread agreed to be taken in exchange for each ration of 3 lbs. of potatoes, was ¾ of a pound, and that only ½ a lb. was received by the Convicts; the year following, (1847) the agreement was for ⅔ of a lb., and about ⅔ only was actually received; but the year following that, (1848) the quantity agreed for was 1 lb., which has been regularly supplied, and has been found little enough.

CHARGE VIII.

PURSuing A SYSTEM OF PUNISHMENT, IN THE MANAGEMENT OF THE DISCIPLINE—CRUEL, INDISCRIMINATE, AND INEFFECTIVE.

1. In neglecting, for many years, to keep a proper Record of the Punishment inflicted.

The only original records of the punishment inflicted in the Penitentiary, from June, 1835, to August, 1843, are some bundles of loose slips of paper containing the reports of the Keepers. These are very defective as records of the discipline; and for long spaces, even these are missing. There is a Punishment Ledger during this period, professing to show the number of punishments inflicted; but the offence is not given. From March to December, 1844, there are no records of punishment.

Appendix  
(B.B.B.B.B.)

30th May.

2. IN THE CHARACTER OF THE SEVERAL MODES  
OF PUNISHMENT.

From June, 1835, to April, 1842, the punishments adopted, were flogging with the cat-o'-nine-tails, and flogging with the raw-hide. These were the only punishments for offences of all grades.

From April, 1842, to October, 1846, the punishments were—flogging with the cats—flogging with the raw-hide—irons—solitary confinement—and bread and water, instead of the regular rations.

From October, 1846, to February, 1847, the cats and raw-hide were suspended by the Government.

From February, 1847, up to now, the punishments have been—the cats—shutting up in a box—irons—solitary confinement in dark cells—solitary confinement in the Convict's own cell—and bread and water.

From 1835 to 1847, neither the Warden nor the Surgeon were present at the infliction of corporal punishment; but in October, 1847, the following rule was passed:—

“Extracts from the Rules and Regulations for the government of the Penitentiary, October, 1847:—

## “PUNISHMENT OF CONVICTS.

“The Warden and Surgeon shall attend at every infliction of corporal punishment; and the Surgeon shall certify in writing, that he has examined the health of the Convict ordered for punishment, and that it is such as to enable him to bear the infliction without detriment thereto; and without such certificate, the punishment shall not take place.”

“A true extract.

(Signed) “F. BICKERTON,  
“Clerk.”

## THE CATS.

James Gleeson—preliminary examination:—

“Convicts flogged with the cats, were tied up to the triangles. Formerly, men were often flogged with the cats when neither Warden nor Surgeon were present. By a late rule, the Warden, or Deputy Warden, is always present, and the Surgeon always. Has often seen the blood flow from the wounds inflicted with the cats; it is worse when the blood does not flow.” \* \* \* \* \* “Four dozen was the largest number inflicted with the cats.”

John H. Freeland—preliminary examination:—

“The cat lacerates the back and breasts, the blood flows, and the skin becomes black.”

James Kearns—preliminary examination:—

“The cats were laid on the bare back; it made the whole back raw; brought blood at almost every stroke.” \* \* \* \* \* “Has known men frequently get water to prevent them from fainting during punishment.”

Edward Utting—preliminary examination:—

“Has known Convicts faint frequently when being flogged with the cats; the Surgeon was not present;

it was an order that the Deputy Warden should be present at all punishments; the Warden was very seldom present on such occasions. Witness has often mentioned that he thought a Medical man should be present, as he (witness) was not capable of judging whether the men were in bodily condition to receive punishment.”

## THE RAW-HIDE.

Maurice Phelan—preliminary examination:—

“They (the Convicts) were flogged (with the raw-hide) on the back, with all but their shirts off; the quantity of lashes varied from six to twenty-four; it was a very severe punishment.” \* \* \* \* \* “The instrument was a regular Jockey-whip of twisted raw-hide, about the thickness of one's thumb at the top, and tapering to a point; it was about three feet long. Flogging by raw-hide has been done away for about a year.”

Edward Utting—preliminary examination:—

“The raw-hide does not fetch blood, but leaves large wales on the back; the skin becomes discoloured.”

John H. Freeland—preliminary examination:—

“The raw-hide frequently cuts the skin; it made blisters and caused the back to be sore.”

Eustach Coté—preliminary examination:—

“Was often flogged with the raw-hide: more than twenty times. His offences were generally laughing, talking, and looking round. The raw-hide would sometimes break the skin; but it would always make welts, and become much discoloured.”

James Kearns—preliminary examination:—

“The raw-hide was laid on the back, with no covering but the shirt; it would frequently bring blood on the breasts; the ordinary effect was to leave a welt at every stroke, which became swelled and discoloured.”

## THE BOX.

Maurice Phelan—preliminary examination:—

“Was once in the Box, for quarrelling at the water side, nine hours. The box is a very severe punishment; was like to faint; when he got out was completely benumbed; witness is a very strong man, and thinks it must have been very hard for weak persons.” \* \* \* \* \* “Witness thinks the box a much worse punishment than the raw-hide.”

James Brennan—preliminary examination:—

“The effect of the box is very injurious; it makes one liable to cramps in the tendons of the leg and the foot; never had cramps before he was put in the box, but has them now often, on getting up in the morning; is sure that it is the effect of the box-confinement.”

Thomas D. M'Cormick—preliminary examination:—

“The box is a very severe punishment; witness would rather be flogged with the raw-hide; was only

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

once in the box ; could scarcely move when he got out."

ROUTINE OF PUNISHMENT.

James M'Carthy—preliminary examination :—

"Recently the habit is for Keepers to write their charges against Convicts in the Punishment Book, and the Warden writes opposite to it the punishment to be inflicted ; but formerly all reports were made on pieces of loose paper. These reports were in most cases attended to, and culprits punished. In some cases, however, the Warden forgave them, after inquiry, and not frequently without any inquiry into the charges against them ; this latter practice weakened the authority of the Keepers with the Convicts."

Maurice Phelan—preliminary examination :—

"Each morning the entries on the Punishment Book are read over by Francis W. Smith ; the offenders, who are to be placed on bread and water, are brought forward to the front rank ; after breakfast, those to go into the boxes are marched to them ; those to be flogged with the cats are so at dinner time, before all the other prisoners, when the Surgeon and Warden are present ; those flogged with the raw-hide (but that punishment is now done away) used to be punished at once, after breakfast."

The whole of the punishments employed have been approved by Government and the Inspectors ; and no charge can therefore be founded upon their character against the Warden. The foregoing statements were merely given in the charges to enable the Warden to offer any explanations he desired, as the nature of the punishment must be taken into account in considering the extent to which they have been carried.

3. IN FLOGGING THE SAME CONVICTS FOR DAYS CONSECUTIVELY

This is completely established. Men have frequently been flogged with the raw-hide three, four, and even five times in one week. In the year 1846, the Warden reported, in his annual return to the Imperial Government, that during the year,

1	Convict had received corporal punishment	20	times.
1	"	21	"
3	"	22	"
2	"	23	"
2	"	30	"
1	"	32	"
2	"	34	"
1	"	48	"
1	"	60	"

It is very clear that such repeated corporal punishment must have entirely done away with any good effect which might have been expected from it, either on the culprit or on those who witnessed the inflictions.

4. IN FLOGGING CONVICTS WHOSE BACKS WERE UNHEALED FROM PREVIOUS PUNISHMENT.

M. B. White—preliminary examination :—

"Has seen men brought up for punishment, whose backs were severely lacerated ; positively black, from

previous punishment, and flogging by cats was administered, notwithstanding."

Ex-Assistant Warden Utting—preliminary examination, says :—

"Has often been implored by Convicts not to flog them, when their backs were much bruised from former punishment ; witness has allowed them to stand over for Warden's orders. Witness never succeeded in getting the punishment remitted but once ; this was in the case of a Convict named Williams, who was punished, by culpable mistake, for another man of the same name ; one of them was a black man, the other white ; the punishment was 6 blows of the cats. Witness also got a Convict forgiven by Warden for a personal charge affecting himself (witness). Witness was latterly forbidden to defer punishment for Warden's review."

Keeper Swift—preliminary examination :—

"Has frequently seen men brought up for punishment by flogging, whose backs were unhealed from previous punishment."

By Warden :—

"Has never seen Convicts brought again for punishment whose backs have been already unhealed."

Martin Keely—preliminary examination :—

"Has known Convicts brought up for flogging whose backs were yet unhealed from previous flogging."

Terence M'Garvey—preliminary examination :—

"Has known Convicts come up for punishment whose backs were unhealed from former punishment ; their backs were much discoloured and sore."

And Kearns, M'Carthy, Brennan, Fitzgerald, Freeland and Coté, give similar evidence.

On the other hand, Mr. Costen, and Keepers W. Smith, Hooper, Manuel, Little, Pollard, Ballentine and Hermiston, all swear distinctly that they never knew an instance of a Convict being flogged whose back was yet raw from previous punishment. Discharged Convict Ramsden swears so also. Keeper Matthews says, he does not remember any instance. Keepers Gibson, Grass and M'Mahon, also swear that they never saw such a thing ; and it was impossible that they could, as there have not been six corporal punishments since they came to the Prison.

There is here distinct contradiction in the testimony ; but the evidence of the Surgeon shows clearly that men must have been flogged while their backs were yet sore.

Dr. Sampson—By Mr. Smith :—

"Has occasionally seen the backs of Convicts after punishment by the cats ; 36 lashes, given in the way in which this punishment is given here, would require three or four days to heal, so that a man might again wear his clothes. Does not mean to say that there would not be a scab over it for sometime afterwards. Does not know how many applications of the lotion are applied after the punishment of the cats ; the Convicts very seldom go on the sick list after this punishment ; the Hospital-keeper applies a lotion to their backs as they may require it."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

By Commissioners:—

"Witness is shown the table prepared from the Punishment Register, of the case of Convict Donovan, by which it appears that Donovan received floggings on the 26th, 27th, 28th, 29th, 30th, and 31st May, 1845; also on 2nd June, the 7th, the 9th, and 10th; 7 times with the cats, the remainder with the raw-hide. Witness does not think that a man's back could be healed between the time of each of these floggings, supposing such floggings to have been inflicted according to the table presented."

If it requires three or four days to heal the wound inflicted by 36 lashes of the cats, and a scab still remains after that, it must have often happened that men were flogged again before the old wound was cured. We therefore think the charge established.

5. IN THE DISPROPORTION BETWEEN THE OFFENCES OF CONVICTS, AND THE PUNISHMENTS AWARDED TO THEM; AND THE VARIABLENESS IN THE AMOUNT OF PUNISHMENT AFFIXED AT DIFFERENT TIMES TO THE SAME OFFENCES.

The following extracts are made from the Punishment Book of the Penitentiary, to show the remarkable variance which has existed on this head:—

- Aug. 2, 1843. Laughing and talking—6 lashes cats.  
 3. Idle and inattentive to directions—6 do. do.  
 7. Laughing at teamsters—6 raw-hide.  
 Talking in wash-house—6 do.  
 Concealing himself in shed; throwing stones at privy when a Convict was in it—6 cats.  
 10. Cursing a Convict—6 cats.  
 Receiving provisions without permission—6 raw-hide.  
 15. Threatening to knock Convict's brains out—24 cats.  
 16. Talking to Keepers on matters not relating to their work—each, 6 cats.  
 Finding fault with rations when desired by Guard to sit down—12 cats.
- March 28, 1844. Talking and laughing—6 raw-hide, and bread and water.  
 Having tobacco—12 cats.  
 Wilfully breaking a barrow—each, 6 cats.  
 Having tobacco—12 cats.  
 Talking at dinner—6 raw-hide, and bread and water.
- Dec. 9. Talking—9 raw-hide.
- Jan. 8, 1845. Talking; not going direct to a place—6 or 12 raw-hide.  
 9. Having in his possession song-books, novels, tobacco, snuff, candles, lucifers, &c.—24 cats.
- March 5. Talking at work—each, 9 raw-hide.  
 Impertinence to Guard, and telling a lie—9 do.  
 Staring about, and inattentive at breakfast table—bread and water.
- June. Raw-hide and cats for every sort of offence.  
 September. Do. do. do. do.  
 Oct. 4. Leaving work for the purpose of talking—6 cats.  
 Cursing another Convict—6 do.
- Jan. 12, 1846. Giving a blank leaf to another Convict, taken from a new Bible—9 cats.  
 Having the above blank leaf concealed—9 cats.  
 Stealing a knife from Warden's house—6 cats.  
 Talking occurs very frequently—6 to 9 raw-hide.
- March. Raw-hide or cats, for all sort of offences.  
 May 20. Fighting—12 cats.

Appendix  
(B.B.B.B.B.)

30th May.

- Very rarely a case of bread and water alone.  
 June 3, 1846. Letting window-sash fall, and breaking the glass—bread and water.  
 4. Having file and bones in his cell—6 cats.  
 Talking to teamsters—6 do.  
 9. Cursing and swearing—6 do.  
 Oct. 13. Talking at work—6 raw-hide.  
 Continually talking at dinner (5 Convicts)—9 raw-hide.  
 Talking at dinner—24 hours cell.  
 Filthy state of cell—6 raw-hide and bread and water, and 48 hours dark cell.  
 Giving Convict tobacco—24 hours dark cell.  
 Laughing, and staring round at breakfast—bread and water, one meal.  
 14. Leaving his gang, impertinent—36 hours dark cell, and bread and water.  
 Leaving work and going to privy, when other Convict there—36 hours dark cell, and bread and water.  
 Talking at breakfast—6 raw-hide.  
 Continually laughing at breakfast, throwing handkerchief at Convict—bread and water two meals.  
 Continually grumbling when at work, refusing to carry mortar—shaking his head at keeper in a threatening manner—bread and water, and 24 hours in his own cell.  
 Talking to Convict behind him at breakfast—6 raw-hide, and bread and water.  
 Talking and laughing—24 hours dark cell, and bread and water.  
 26. Talking continually, when at work—bread and water.  
 Making a great noise in cell—imitating the bark of a dog—bread and water.
- Jan. 8, 1847. Obstinate refusing to work—(irons, &c.)—48 hours dark cell, and bread and water.  
 Insolence to Keeper, and using threats—48 hours dark cell, and bread and water.  
 Making great noise—threats—keeping prison in an uproar, irons—48 hours dark cell, and bread and water.  
 Abusing Keeper—24 hours dark cell, and bread and water.  
 Having 8 plugs of tobacco, and refusing to state where he got it—48 hours dark cell, and bread and water.  
 Striking and kicking a Convict—48 hours in his own cell, and bread and water.
- Feb. 1. Very impertinent when ordered to go to his punishment meal—throwing his hat on the table in a disorderly way—one meal bread and water.  
 Telling Convict "he'd fix him"—one meal bread and water.  
 Disobedient, and saying it was a d—d shame to work in the cold—three meals bread and water.
10. Making a copper ferrel contrary to Keeper's orders—6 cats, and bread and water.  
 Telling lies to get a new pair of shoes, and refusing to take them off, until he saw Warden—box.  
 Shouting in his cell—box.  
 Idling, disobeying orders, sulking, and swearing—box.  
 Quarreling with Convict—box.  
 Saucy to Keeper—box.  
 Still refusing to work—insolent to Guard—cursing the Keeper—(ironed)—36 cats, and bread and water.
- Feb. 10. Stealing a Convict's ration of bread—box.  
 Cursing and swearing, refusing to work—(irons)—box, and bread and water.

Appendix  
(B.B.B.B.B.)  
30th May.

- Feb. 10, 1847. Saying he would make some one suffer for putting him in the box—24 hours dark cell, and bread and water.  
Receiving tobacco from Contractor's teamster—box, and bread and water.  
Eating ration before breakfast—bell rang, and then complaining he had not enough—box, and bread and water.
- March 3. Laughing and talking at breakfast-table—box, and bread and water.
6. Having knife and tobacco on his person—box, and bread and water.
8. Talking in cells—bread and water.  
Making a noise in cells—do. do.  
Singing in cell—do. do.  
Talking to Convict—do. do.  
Remaining in cell for long time after it was unlocked—box, and bread and water.  
Having tobacco on their persons—do. do.  
Refusing to open mouth when challenged about tobacco by F. W. Smith—box, and bread and water.  
Talking at dinner—bread and water.  
Continually leaving work, and talking to Convict—box, and bread and water.  
Continually finding fault with rations, and impertinent to F. W. Smith—box, and bread and water.
26. Chewing tobacco—having tobacco—each—box, and bread and water.  
Having two pairs drawers on, and tobacco—box, and bread and water.
29. Laughing and making signs to each other—bread and water.  
Laughing staring about at breakfast—bread and water.  
Refusing to open mouth when challenged by F. W. Smith—box, and bread and water.
30. Finding fault, at every meal, with his rations; speaking disrespectfully, and saying he never got a quarter of a pound of bread—box, and bread and water.  
Stating that he had received no meat; the meat found under his vest—box, and bread and water.
- May 25. Saying he would not stop at Penitentiary; and when he got to Montreal he "would kill the judge and M'Mann for sure"—box, and bread and water.  
Suspected of making away with his slippers, and saying impertinently, "the day would come when the dogs would bark at him"—box, and bread and water.
26. Idling; leaving work without leave, saucy to Keeper—24 cats, and bread and water.  
Continually staring about him, and leaving his seat without liberty—box, and bread and water.  
Taking Convict's spectacles off nose—putting them on—staring about and laughing—box, and bread and water.  
Laughing, and making signs to other Convicts—bread and water.
- June 7. Eating breakfast before bell rang, and then finding fault with ration—box, and bread and water.  
Idling time; leaving work—do. do.  
Talking, laughing, and plaguing others—do. do.  
Talking, laughing, and staring about—do. do.  
Having supper of bread and molasses in cell, when under punishment—box, and bread and water.  
Idling at work—bread and water.
- July 6. Having 3 pocket handkerchiefs on person—24 hours in his own cell, and bread and water.

June 27, 1847. Repeated disobedience—box, and bread and water.

Stealing bread at breakfast; giving it away—box, and bread and water.

1848. During this year the Dark Cell Punishments are, for making noise in cell—striking Convict—calling Costen a d—d rascal—didn't care for bread and water—disobedience—bestly language—insolence, &c.

The bread and water punishments are for talking—laughing—staring about—chewing tobacco—making noise in cell—impertinence—disobedience—wilfully destroying property—making signs—exposing person in bestly manner—cursing and swearing—making tooth-picks—tobacco concealed in sock—stealing a comb, &c. &c.

The defence rests entirely on the evidence of the Head-keeper.

Thomas Costen—By Mr. Smith:—

"Thinks that four or five different parties have awarded punishment since the opening of the Institution. There must be a great variation in the punishment awarded to any one offence. If a Convict persists in disobeying the rules, it is necessary to increase his punishment; there are often mitigating circumstances in one offence which do not appear in a similar offence. The Convicts have behaved better at some times than at others. The number of Convicts has very much increased since soldiers have been received in the Penitentiary; the punishments have not increased very much in consequence of the soldiers coming."

By Commissioners:—

"The five different parties who have awarded punishment in the Penitentiary, were—the Inspectors, the late Warden, the present Warden (M'Donnell), the Keepers, and Mr. Utting. The Inspectors have only awarded punishment in two or three instances. The punishment awarded by Mr. Warden M'Donnell, have all been since the charges were preferred against Mr. Smith, and subsequent to the time to which this inquiry relates. The only other parties who have awarded punishment, viz., Mr. Warden Smith, Mr. Utting, and the Keepers, never exercised the power at the same moment; they held severally the exclusive power of punishment at different periods, since the opening of the Prison.

As regards the main point of this defence, the number of persons ordering the punishment, it does not in any way apply to the extracts we have given, as they extend no further back than 1843, and since then the Warden has personally ordered all the punishments, with the one or two exceptions named by Mr. Costen.

As to the plea that Convicts persisting in disobedience must be more severely punished than others, we cannot find that the Punishment Records bear out the explanation. On looking through the punishments awarded to the several grades of offences and offenders, we can perceive no regulating principle whatever, in the amount inflicted.

6. IN THE VERY GREAT EXTENT OF THE PUNISHMENT INFLICTED ON THE INMATES OF THE PENITENTIARY.

The following tables were compiled from the Punishment Ledger, from June 1835 to August 1843, and after the latter date from the Daily Journal of Punishment:—

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

PUNISHMENTS INFLICTED IN THE PENITENTIARY.

Appendix  
(B.B.B.B.B.)

30th May.

30th May.

	1835.			1836.			1837.			1838.			1839.		
	Raw-hide.	Cats.	Total.	Raw-hide.	Cats.	Total.	Raw-hide.	Cats.	Total.	Raw-hide.	Cats.	Total.	Raw-hide.	Cats.	Total.
January				6		6	7	3	10	11	3	14	11	1	12
February				18	5	23		8	8	18	6	24	14		14
March				11		11	15	4	19	29	9	31	15	4	19
April				6		6	5	2	7	21	9	25	16	1	17
May				14	6	20	16	4	20	17	6	23	23	6	29
June	1		1	12	4	16	16	1	17	24	5	29	8	1	9
July	4		4	4	4	8	34		43	20	1	31	16	1	17
August	1		1	11	2	13	26		26	13	2	15	7	4	11
September	18		18	17		17	20		20	13	3	16	14	1	15
October	27	2	29	1	5	6	32		32	7	1	8	17	1	17
November	10		10	12		12	25	2	27	12		12	10	1	11
December	15		15	8	2	10	21	13	34	6		6	27		27
	76	2	78	120	28	148	217	46	263	191	31	222	178	20	198

	1840.			1841.			1842.			1843.			1844.					
	Raw-hide.	Cats.	Total.	Raw-hide.	Cats.	Total.	Bread and Water.	Raw-hide.	Cats.	Total.	Bread and Water.	Raw-hide.	Cats.	Total.	Bread and Water.	Raw-hide.	Cats.	Total.
January	6	4	10	35	7	42		8	8	60	9	4	73	98	30	13	161	
February	13	13	11	2	13	4	6	5	15	18	8	18	44	47	17	16	74	
March	18	5	23	16	2	18	9	10	11	30	1	23	9	33				
April	7	4	11	16	1	17	12	13	11	36	2	26	8	36				
May	17	1	18	5	1	6	9	9	3	21	49	34	27	110				
June	35	2	37	5	1	6	1	7	6	14	17	16	7	40				
July	26	1	27	7		7	15	17	3	35	35	26	12	73				
August	14	1	15	14	1	15	14	10	9	33	33	13	8	54				
September	15	1	16	6	3	9	18	2	3	23	22	17	5	44				
October	15	1	16	14	6	20	18	5	2	25	39	25	4	68				
November	21	1	22	3	5	8	43	6	6	57	61	38	19	116	No Records.	No Records.	No Records.	
December	16	1	17	7	4	11	41	1	2	44	45	28	6	79	108	86	7	201
	203	22	225	139	33	172	184	88	69	341	382	261	127	770				

	1845.					1846.					1847.					1848.								
	Bread and Water.	Raw-hide.	Cats.	Own Cell.	Dark Cell.	Total.	Bread and Water.	Raw-hide.	Cats.	Own Cell.	Dark Cell.	Total.	Bread and Water.	Box.	Cats.	Own Cell.	Dark Cell.	Total.	Bread and Water.	Box.	Cats.	Own Cell.	Dark Cell.	Total.
January	21	120	9			150	21	159	13			193	422		12	20	454	571	23	5	6	4	609	
February	25	78	3			106	39	203	12			254	414	53	3	2	9	481	508	41		10	2	561
March	33	119	2			154	14	274	17			305	430	84	1	3	518	469	5		44	4	522	
April	16	127	6			149	11	220	11	3	15	260	387	79	2	5	1	474	414	2	1	20	17	454
May	16	207	13			236	18	194	12	2	2	226	507	72	12	14	12	617	420	3		30	28	481
June	12	213	5			230	34	159	8	8	3	212	428	78	5	7	5	523	421	5	2	11	27	466
July	19	150	4			173	32	302	13	2	3	352	595	143	9	3	4	754	474			3	15	492
August	33	169	8			210	18	225	11		1	255	467	78	12	3	5	565	540	4	3	12	15	574
September	22	127	3			152	15	185	3		1	204	314	64	1	3	3	385	418	1	0	11	20	450
October		142	8			150	106	111	1	10	29	257	330	70	5	6	2	413	338	1	0	17	8	364
November	6	131	3			140	426			35	41	502	372	27	5	7		411	363	1	1	12	9	384
December	22	228	2			252	388			21	16	425	438	11	3	11	5	468	342			3	12	357
	225	1811	66			2102	1132	2032	101	79	111	3445	5104	759	58	73	69	6063	5277	85	12	179	161	3714

Rev. R. V. Rogers, in his preliminary examination, says:—"Witness's most decided opinion is, that the very severe system of punishment practised in the Institution has been most hurtful to the Convicts, and to the general objects of the prison. Has seen no marked benefits from the use of the box. The fact is, that nothing can be worse than the present condition of the Penitentiary, as a moral school. Witness, on several occasions, has remonstrated with the Warden as to the harshness of the discipline, but without any effect. The Warden treated his remonstrances with indifference, if not contempt. He would say, sneeringly, 'the Convicts humbugged witness.'"

By Mr. Smith:—

"Could not say whether the punishment at any other prison, or the Auburn system, are less severe than they are at this Penitentiary. They have been very severe here; does not know what they are now; could not say whether the punishment of the box

has tended to increase or decrease the number of offences of the Convicts; has no doubt that if greater attention was, and had been, paid to the spiritual condition of the Convicts, there would be a greater moral effect than there now is. Witness speaks of the time of his own incumbency. May have reported to the Board that a Convict has complained of having been unjustly punished; remembers now that witness was once told by the Board that he had nothing to do with such a question."

John Swift, in his preliminary examination, says:—"Newly-arrived Convicts have a great horror of being flogged; but it goes off by degrees. Witness thinks flogging has a bad effect on the prisoners; it hardens them."

By Mr. Smith:—

"Has no reason to believe that newly-arrived Convicts have any great dread of corporal punish-



Appendix  
(B.B.B.B.)

30th May.

ment; thinks that frequent flogging makes Convicts worse."

The Warden's defence to the charge involved in the preceding tables, appears to be, that numerous punishments therein recorded were all necessary, and not cruel, under the circumstances; and he calls a number of witnesses to sustain this position.

Convict Parker says, the Convicts generally think "the punishments moderate." Keeper Manuel says, "the Warden did not punish the Convicts severely enough, even at the time the punishments were most severe." He admits, however, that he would not "inflict punishment on the Convicts publicly; thinks it raises a revengeful feeling in their minds; thinks that the sympathy it excites for the culprit, obliterates all recollection of the crime." Guard Watt "thinks the Convicts are not punished cruelly at the Penitentiary." Keeper William Smith is of the same opinion, and Keeper Hooper. Mrs. Martin says, the women flogged "were very good afterwards;" and she has heard one of them (Miron) say, "God bless the Warden, he has made me a good girl by flogging me." Keeper Little cannot say, that any Convict in his gang "has been much punished," or "has been the worse for punishment." Keeper Matthews, does not consider the punishments "at any time have been cruel." Guard Sexton "does not think the punishment is sufficient for the offences; never saw any cruelty." Discharged Convict Ramsden "does not think the punishments in the Penitentiary were cruel; they were not more severe than the Convicts deserved for their offences." Guard Thomas Smith, "does not think the Convicts are severely punished here;" and Mr. Costen "never knew anything cruel or oppressive in the Warden's conduct towards the Convicts."

The Warden also produced the following testimony:—

Dr. Sampson—by Mr. Smith:—

"Does not think the late Warden would be guilty of wanton cruelty towards the Convicts. Witness has seldom looked at the nature of the offence which the Convict has committed when sentenced to the cats; when he has so looked he has not thought the punishment greater than the alleged offence." \* \* \* \* \* "Witness has always considered that it was necessary to inflict the cats, in certain cases, at the Penitentiary; with respect to the particular punishments which have been inflicted at the Penitentiary, witness has had no opportunity of forming any judgment upon them, prior to the regulation which required witness's certificate to punishment. Witness has frequently witnessed corporal punishment in the army; has seen a man get 500 lashes at one time."

By Commissioners:—

"Witness never saw any soldier flogged two or three times a week, or nine or ten times a month while he was in the army; witness left the army in 1817. Witness was in the army during the time of hard flogging; so small a flogging as 12 cats would hardly require any dressing; witness would think a large flogging of 500 lashes would be more severe than repeated floggings of 12, 24, and 36 cats."

Thomas Kirkpatrick, Esq.—By Mr. Smith:—

"The Punishment Reports were regularly laid before the Board of Inspectors at their stated meetings; the number of punishments was often made the

subject of remark by the Inspectors, but they conceived that they were often too light, and that had they been more, the number of infractions of the rules would have been diminished. The remarks of witness apply to the less aggravated descriptions of offences and the lighter punishments. Witness is not aware of anything cruel and oppressive in the treatment of the Convicts by the Warden."

By Commissioners:—

"The Punishment Reports, witness has spoken of, were slips of paper containing the reports on each offence by the Keeper to the Warden. The Inspectors had no certificate that these slips contained all the punishments inflicted, and no statement of the aggregate amount of punishment accompanied the slips. Cannot say how many instances of punishment there may have been in the last ten months witness was in office; would say the cats were not used over three or four times in that space; would say that punishment by the raw-hide was inflicted 1000 times in the ten months in question. If the number of punishments by cats in that space was 101, and the raw-hides 2032, the numbers are larger than he thought."

By Mr. Smith:—

"The cats, witness supposed, were used upon the most hardened offenders only."

James Hopkirk, Esq.—By Mr. Smith:—

"From what witness knows of the Warden, thinks he would not ill use any Convict. The Punishment Book has been regularly laid before the Inspectors every Board-day while Mr. Smith was Warden. It never appeared to witness that the punishments were too severe; on several occasions the Board, or Inspector for the week, wished more severe punishments inflicted, than the Warden desired to impose. An agreement was made among the Inspectors, sometime in 1847, that one of their number should examine the punishments weekly, for the purpose of sanctioning corporal punishment, or incarceration in the box; neither of these punishments were inflicted without the previous consent of the Inspectors for the week, nor more than 36 lashes of the cats without the consent of the Board. All the kinds of punishments now in force in the Penitentiary have been sanctioned by the Government; cannot say whether gagging was so sanctioned. The Inspectors had reason to believe that the box punishment had the effect of reducing the number of offences."

Sheriff Corbett—By Mr. Smith:—

"Thinks the Warden would not ill-treat the Convicts in any way whatever. The punishment book was regularly laid before the Board at every meeting; never thought the punishments too severe; differed with his brother Inspectors as to the number of lashes. The punishments inflicted by the Warden were not too severe. Has heard the Warden say the box punishment had had the effect of reducing the number of offences; examined the Punishment Book and found this was the fact, and recommended the Government to continue the box."

By Commissioners:—

Q. Did your evidence on the subject of punishment refer exclusively to the last two years?

A. Yes.

Appendix  
(B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. When you spoke of the severity of punishment did you refer to the number of punishments, the amount inflicted for certain crimes, or to the greatest amount of punishment inflicted on any one Convict?

A. Spoke solely as to the general number of punishments inflicted in the Prison.

Q. How many box-punishments were there inflicted in 1847?

A. Cannot say.

Q. Can you tell how many box-punishments were inflicted in any one month while you were an Inspector?

A. No.

Q. Can you of bread and water punishments, or cats, or dark cell, or irons, or gags?

A. No.

Q. Did you ever count the number of punishments inflicted within any given space?

A. No.

Q. When was it you examined the books to see the effect of the box punishment?

A. At the end of three months after it was introduced.

Q. Did you find that the offences during these three months were less numerous than the three months preceding?

A. Yes; offences of a higher crime, for which it was necessary to use the box, were less numerous.

Q. What was the box substituted for?

A. For the cats.

Q. Were the number of cat punishments much less during these three months than during the preceding three months?

A. Thinks there were no cats used during the preceding three months.

Q. How then did you institute a comparison between the first three months of the box, and the three months preceding?

A. From a general inspection of the crimes reported in the Books, but without any close examination into the statistics.

Q. Were you not guided by the Warden's representations on the subject, when you advised the Government that the box punishment had reduced the number of offences in the Institution?

A. Yes; it was the Warden's opinion, and he understood the matter better than witness did.

Q. When was the box punishment first introduced?

A. In February, 1847.

Q. If the gross number of punishments in 1846 were 3,445, and in 1847, 6,063; would you say the effect of the box punishment had been to diminish offences in the Prison?

A. Would not say so.

Major Sadlier—By Mr. Smith:—

“The punishment slips were laid before the Board at each meeting of the Inspectors. Did not think the punishments cruel or severe, but the very reverse. Witness stated to the Board his opinion that the numerical greatness of the punishments arose from the slight character of the several inflictions.

“Has never known anything cruel or oppressive in the Warden's conduct towards the Convicts, but the reverse; thinks he was not strict and severe enough.”

The Warden also produced a letter from Major General Sir Richard Armstrong to the effect, that no complaint of cruelty or oppression had ever reached him from any of the Military who have been confined in the Penitentiary, and that they would have complained had there been occasion. (See Appendix.)

We have thus given the evidence at great length; though we are of opinion that no amount of testimony could meet the case developed in the punishment tables. The simple facts, that the number of punishments rose from seven hundred and seventy in 1843, to two thousand one hundred and two in 1845, and from three thousand four hundred and forty-five in 1846, to six thousand and sixty-three in the year following; the same number of men being subject to discipline in the two latter years. That in the year 1845 and 1846, the number of corporal punishments alone, averaged between four and five punishments in each year, for every man, woman, and child in the Prison; and that in the same years there was an average of seven corporal punishments inflicted daily—shows beyond cavil, that the system pursued has been one of the most frightful oppression.

The rapidity with which the punishments increase, from year to year; is particularly noticeable, the increase in the number of Convicts bearing no proportion to it. It is very clear, that the moment excessive punishment commenced, the hardening effect it had on the culprits produced a growing necessity for punishment, and where it would have stopped, had the Government not interfered and restrained it, it is impossible to say.

As many as twenty, thirty, and even forty men, have been flogged in one morning, the majority of them for offences of the most trifling character; and the truth of the complaint resting solely on the word of a Guard or Keeper, subject at best to all the frailties of other men. The exasperation which such a system could only produce, must have bid defiance to all hope of reform. To see crowds of full grown men, day after day, and year after year, stripped and lashed in the presence of four or five hundred persons, because they whispered to their neighbour, or lifted their eyes to the face of a passer-by, or laughed at some passing occurrence, must have obliterated from the minds of the unhappy men all perception of moral guilt, and thoroughly brutalized all their feelings.

The argument, that such an amount of punishment was necessary to maintain the discipline, is quite untenable. In the first place, good discipline has not been maintained; and in the second, the history of Penal Establishments throughout the world, show clearly that Institutions distinguished for excess of

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

punishment, are at the same time notorious for bad discipline. We are satisfied that the prisoners in the Kingston Penitentiary are quite as good a class of men to work upon as those of any prison in the Northern States. And while other similar Institutions have been made profitable to the public, and the discipline maintained with comparatively little punishment, this, with excessive punishment, has succeeded in no respect.

We are not satisfied, that corporal punishment can safely be prohibited in a Penitentiary; but we are decidedly of opinion, that its exercise should be rare and marked, and only called out by the most serious offences. Little good can be obtained by degrading a man in his own estimation or in that of others. Convicts have the same feelings as other men. Cases will undoubtedly arise, when it is necessary to make a severe example, but frequent repetition will completely destroy the effect.

We think the frightful amount of punishment which has been inflicted in the Penitentiary, and the indiscriminate manner of its application, admits of no apology.

7. IN FLOGGING WOMEN.

The following Corporal Punishments are recorded in the Book, as having been inflicted on women.

Feb. 4, 1841.	Mary Glennon	—18 lashes rawhide.
March 23.	do.	6 do. do.
June 26, 1845.	Sarah Geddes	—6 do. do.
September 11.	Louise Miron	—6 do. do.
Jan. 7, 1841.	Sarah O'Connor	—(14 years of age)—
		6 do. do.
Feb. 4.	do.	8 do. do.
March 1.	do.	6 do. do.
5.	do.	6 do. do.
23.	do.	6 do. do.
Oct. 30, 1840.	Eliza Robinson	—6 do. do.
March 1, 1841.	Mary Ryan	—6 do. do.
June 21, 1842.	do.	6 do. do.
Jan. 6, 1841.	Elizabeth Breen	—(aged 12 years)—
		8 do. do.
7.	do.	5 do. do.
March 1.	do.	6 do. do.
5.	do.	6 do. do.
24.	do.	6 do. do.
April 22, 1842.	do.	6 do. do.

There is some variance in the testimony as to whether the women's stays were removed before flogging; but in no case has any other garment been removed. The lash seems to have been laid on the back of the neck over a cotton handkerchief.

We are of opinion that the practice of flogging women is utterly indefensible.

8. IN THE CASE OF ALEXIS LAFLEUR.

This boy was committed to the Penitentiary on 24th July, 1842, aged 11.

Was pardoned on 26th July, 1845;

And, was recommitted for four years on 9th May, 1846, aged 15.

The punishments inflicted on this Convict, appear by the entries on the Punishment Book, to have been as follows:—

July 27, 1842.	6 raw-hide.
Aug. 13.	3 do.

Sept. 26, 1842.	Bread and water.
Oct. 8.	do.
Nov. 4.	do.
5.	do.
14.	do.
24.	6 raw-hide.
Dec. 1.	6 do.
Jan. 6, 1843.	12 do.
March 2.	Bread and water.
11.	6 Raw-hide.
31.	12 do.
May 20.	4 do.
July 3.	Bread and water.
Aug. 16.	6 raw-hide.
Nov. 2, 1843.	Bread and water—(slip says 6 cats also.)
13.	3 raw-hide and bread and water.
18.	6 cats and bread and water.
Jan. 8, 1844.	6 raw-hide and bread and water.
March 12.	Bread and water.
15.	12 raw-hides and bread and water.
22.	Bread and water.
April 15.	do. (slip says 12 raw-hide, also.)
May 24.	12 raw-hide, and bread and water—Spilling shoe oil.
30.	12 do. do. do. (slip says 18 cats.)
June 16.	6 cats and bread and water—Talking and saucy.
July 5.	6 do. do. do. Striking Convict.
13.	12 raw-hide and bread and water.
27.	12 do. do. do. Disobedience.
29.	12 do. do. do. Talking.
30.	6 do. do. do. Telling a lie.
July 5.	12 raw-hide and bread and water.
Aug. 21.	12 cats and do. do. Putting hand in Keeper's pocket.
22.	6 raw-hide and do. do. Talking.
Sept. 3.	6 do. do. do. Talking.
Oct. 8.	6 do. do. do. Disobedience.
15.	12 do. do. do. Insolence.
Nov. 21.	6 do. do. do. Talking.
25.	12 do. do. do. Very disobedient.
27.	9 do. do. do. Dilatory at work.
Dec. 7.	9 do. do. do. Talking.
18.	9 do. do. do. Talking & laughing.
24.	12 do. do. do. Talking French.
24.	12 do. do. do. Noise in cell.
26.	12 do. do. do.
Jan. 6, 1845.	9 do. do.
Feb. 21.	9 do. do. do.
March 12.	9 do. do. do. Talking & laughing.
April 7.	9 do. do. do. Leaving work.
12.	6 do. do. do.
May 20.	6 do. do. do. Calling to Convict in Church.
June 21.	6 do. do. do. Talking. Pardoned.
June 9, 1846.	9 raw-hide, and bread and water.
16.	12 do. do. do.
22.	6 do. do. do. —
	Sitting at wrong table.
Aug. 8.	6 cats do. do.
Sept. 3.	24 cats, 48 hours dark cell, and bread and water—Trying to escape.
10.	12 rawhide, and bread and water—Singing.
Oct. 9.	36 hours dark cell—Disrespectful to Mr. Utting.
13.	36. do. do. Talking.
Oct. 15.	24 do. do. do.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Oct. 4, 1846. 24 hours dark cell—Quarreling.  
 Nov. 2. 48 do. do. Singing.  
 4. 24 do. do. Talking.  
 5. Bread and water.  
 9. 48 hours dark cell.  
 12. Bread and water.  
 16. do. do.  
 March 17. do. do.  
 Nov. 18. 24 hours cell—Shouting.  
 Dec. 1. Bread and water.  
 4. do. do.—Talking and laughing.  
 7. do. do.  
 8. do. do.—Insolent to Guard.  
 12. do. do.  
 28. do. do.  
 Jan. 4, 1847. do. do.—Talking at Chapel.  
 11. do. do.  
 11. do. do.  
 13. do. do.  
 14. 48 hours dark cell—Idle and insubordinate.  
 15. Bread and water.  
 22. do. do.—Talking.  
 26. do. do.  
 29. do. do.—Talking.  
 Feb. 1. do. do.  
 5. do. do.—Talking.  
 8. Box—Shouting.  
 10. Bread and water.  
 18. do. do.  
 19. Box—Talking and Idling.  
 20. Bread and water.  
 March 8. do. do.  
 April 10. do. do.—Talking.  
 14. do. do.  
 16. do. do.  
 23. Box—Fighting.  
 28. Bread and water.  
 May 17. do. do.  
 20. do. do.  
 21. 18 cats, and bread and water—Insolent and insubordinate.  
 24. Bread and water—Talking and staring.  
 25. do. do.  
 31. Box, and bread and water—Talking and disobedient.  
 26. do. do.  
 June 12. do. do. do.—Talking.  
 15. do. do. do. do.  
 17. do. do. do.  
 18. Box, do. do.—Saucy and disobedient.  
 24. do. do. do.—Refusing to work.  
 28. Bread and water.  
 29. do. do. Talking.  
 July 2. do. do.  
 3. Box, bread and water—Idling and talking.  
 5. do. do. do. Whistling.  
 15. do. do. do.  
 16. do. do. do. Talking.  
 17. do. do. do.  
 19. do. do. do.  
 20. do. do. do. and whistling.  
 21. Box, and bread and water.  
 28. do. do. do. Taking bread and meat.  
 July 29. Bread and water. Talking.  
 Aug. 2. do. do. }  
 4. do. do. }  
 9. do. do. }  
 10. do. do. } Talking, &c.  
 11. do. do. }  
 12. do. do. }  
 13. do. do. }  
 14. do. do. }  
 16. do. do. } Leaving work.

Appendix  
(B.B.B.B.B.)  
30th May.

Aug. 17, 1846. 24 cats, and bread and water—Stealing a watch.  
 18. do. do. Talking.  
 19. Box do. do. do.  
 20. do. do. do.  
 21. do. do. do.  
 25. do. do. do.  
 27. do. do. do. do.  
 Sept. 14. 48 hours dark cell—Striking Convict.  
 15. Bread and water.  
 27. Box. Telling a lie.  
 Oct. 7. Bread and water.  
 23. do. do.  
 Nov. 2. do. do. Talking.  
 3. do. do.  
 4. Box do. do. Leaving work.  
 9. do. do. do. Quarreling.  
 29. do. do.  
 Dec. 7. do. do.  
 20. 30 cats, and bread and water—Gunpowder in cell.  
 24. do. do.  
 Jan. 1. 1848. do. do.  
 Jan. 3. Bread and water.  
 5. do. do.  
 10. do. do.  
 12. do. do.  
 29. Box and bread and water—Cursing and swearing.  
 Feb. 10. Bread and water. }  
 18. do. do. }  
 19. do. do. }  
 March 3. do. do. }  
 7. do. do. } Small Offences.  
 25. do. do. }  
 10. do. do. }  
 11. do. do. }  
 April 3. do. do. }  
 11. do. do. }  
 29. Box and bread and water—Swearing.  
 May 1. Bread and water. }  
 17. do. do. }  
 24. do. do. } Petty Offences.  
 25. do. do. }  
 26. do. do. }  
 27. do. do. }  
 Jun. 3. do. do. }  
 June 13. Box and Bread and water—Insolence.  
 12. Bread and water—Quarreling.  
 26. 24 cats, and bread and water—Fighting.  
 July 1. Bread and water.  
 3. do. do.  
 10. do. do.  
 11. do. do.  
 14. do. do. Talking.  
 15. 24 hours dark cell—Insolence.  
 17. Bread and water.  
 15. do. do. Stealing a comb.  
 Aug 1. do. do. Having a comb.  
 3. do. do. Talking in cell.  
 17. 24 cats, and 48 hours dark cell—Having a crowbar and knife in his cell, and outrageous conduct.

The Warden brings evidence to show, that Lafeur is a wild character, and there can be no doubt that his conduct has been that of a troublesome bad boy, and that it may have been necessary to punish him severely; but the offences for which he has been punished have been generally, talking, laughing, and idling, and do not betoken depravity so much as heedlessness; and it is very clear that if he was not naturally bad, such a frightful amount of punishment must assuredly have made him so. His punishment commences within three days after his

Appendix  
(B. B. B. B.)  
30th May.

arrival, showing that no mild treatment was used towards the child, before the last resort was employed; and during his first committal, he is flogged 38 times with the raw-hide, and 6 times with the cats.

It is horrifying to think of a child of 11 to 14 years of age, being lacerated with the lash before 500 grown men; to say nothing of the cruelty, the effect of such a scene, so often repeated, must have been to the last degree brutalizing.

#### 9. IN THE CASE OF CONVICT HENRY COOPER.

The following is a return of the punishments inflicted on this Convict:—

July 26, 1843. 6 raw-hide, and bread and water.  
 Aug. 11. Bread and water—Laughing.  
 12. 6 raw-hide—Pushing a Convict.  
 15. 24 cats—Threatening a Convict.  
 Sep. 21. 6 raw-hide, and bread and water—Talking.  
 Nov. 9. Bread and water—Laughing.  
 11. do. do.  
 Dec. 16. 12 raw-hide, and bread and water.  
 Jan. 13, 1844. Bread and water—Talking and laughing.  
 Feb. 24. 6 raw-hide, and bread and water, do. do.  
 March 20. 12 do. do. do. do. do.  
 April 29. 24 cats, do. do. Quarrelling, &c.  
 Aug. 11. 12 raw-hide, and bread and water—Talking and staring.  
 15. 12 cats, and bread and water.  
 21. 6 raw-hide, do. do. Talking.  
 28. 12 do. do. do. do.  
 Sep. 3. 6 cats, do. do. do.  
 and laughing.  
 4. 6 raw-hide, and bread and water.  
 5. 12 do. do. do. Talking and passionate.  
 10. 6 raw-hide, and bread and water—Not cutting hair properly.  
 14. 6 raw-hide, bread and water—Laughing.  
 26. 6 do. do. do. do. and staring.  
 Dec. 18. 9 raw-hide, and bread and water—Giving away ration.  
 18. 9 raw-hide, bread and water—Insolence.  
 30. do. do.  
 May 8, 1845. 9 raw-hide, and bread and water—Talking.  
 22. Bread and water—Talking.  
 April 12. 6 raw-hide, and bread and water.  
 May 23. 6 do. do. do. Giving away ration.  
 June 16. 9 raw-hide, and bread and water—Giving a book and saucy.  
 July 3. 6 raw-hide, and bread and water—Sauciness.  
 Aug. 19. 9 raw-hide, and bread and water—Dancing.  
 22. Bread and water—Leaving his book in the rain.  
 23. 6 raw-hide, and bread and water.  
 26. 9 do. do. do. Sauciness.  
 27. 6 cats—Sauciness.  
 30. 9 raw-hide, and bread and water.  
 30. 9 do. do. do.  
 Sep. 1. 6 raw-hide, and bread and water—Talking.  
 9. 24 cats, and bread and water—Very insubordinate.  
 Oct. 1. 6 raw-hide, and bread and water—Talking and laughing.

Appendix  
(B. B. B. B.)  
30th May.

Oct. 22. 9 raw-hide, bread and water—Talking and laughing.

Nov. 6. 12 do. do. do.—Throwing a letter.  
 10. 6 do. do. do.—Talking.  
 20. 12 do. do. do.—Giving false report of the measurement of stone.

The Warden calls Guard Cooper, who says Convict Cooper was a troublesome man. Keeper Matthews says he was passionate; and Mr. Costen says he was "rather a bad character." His offences, however, appear to have been generally of a light character, and his punishments, on the other hand, exceedingly heavy. We think there is evidence here of the careless manner in which punishment has been inflicted.

#### 10. IN THE CASE OF CONVICT PETER CHARBONEAU.

This Convict was committed on 4th May, 1845, for 7 years; aged 10.

Punishments inflicted on P. Charboneau:—

June 27, 1845. 6 raw-hide, and bread and water—Making noise.  
 Sept. 9. 6 do. do. do.—Laughing in Chapel.  
 Oct. 16. 6 do. do. do.—Laughing, talking, and staring.  
 Nov. 25. 6 do. do. do.—Talking.  
 Dec. 9. 9 do. do. do.—Talking and laughing in Chapel.  
 18. 6 do. do. do.—Talking and laughing.  
 Jan. 1, 1846. 4 raw-hide, and bread and water—Talking and staring.  
 1. 4 do. do. do. Talking and staring.  
 3. Bread and water—Laughing, making faces.  
 3. 6 raw-hide, bread and water—Laughing, and playing tricks.  
 22. 4 do. do. do.—Talking.  
 26. 6 do. do. do.—Laughing, and making signs.  
 Feb. 10. 6 do. do. do.—Laughing and talking.  
 12. 6 cats, and bread and water—Talking.  
 16. 6 raw-hide, bread and water—Laughing and talking.  
 16. 6 do. do. do.—Laughing and winking.  
 17. 6 do. do. do.—Staring.  
 24. 6 do. do. do.—Laughing and talking.  
 26. Bread and water—Staring.  
 March 3. 6 raw-hide, and bread and water—Leaving his class.  
 3. 6 do. do. do.—Turning round at table.  
 6. 4 do. do. do.—Laughing and staring.  
 9. 6 do. do. do.—Making noise in cell.  
 9. 9 do. do. do.—Talking.  
 11. 6 do. do. do.—Receiving ration.  
 11. 6 do. do. do.—do. do.  
 20. 9 do. do. do.—Talking and laughing in Chapel.  
 23. 6 do. do. do.—do. do. do.  
 25. 9 do. do. do.—do. do. do.  
 30. 6 do. do. do.—Losing his book.  
 April 6. 6 do. do. do.—Tobacco and lies.  
 6. 6 do. do. do.—Lies.  
 16. 6 do. do. do.—Talking at table.  
 23. 6 do. do. do.—Laughing and staring.  
 23. 6 do. do. do.—Cell filthy.  
 29. 9 do. do. do.—Stealing gimlet.  
 May 11. 9 do. do. do.—Talking.  
 12. Bread and water—Staring.  
 13. 6 raw-hide, bread and water—Winking.  
 14. Bread and water—Laughing and staring.  
 15. 6 raw-hide, and bread and water—do. do.

Appendix  
(B.B.B.B.B.)

30th May.

May 16, 1846.	9	raw-hide, and bread and water— Throwing water.			
	18.	9	do.	do.	do.—Whistling.
June 2.	6		do.	do.	do.—Talking.
	2.	9	do.	do.	do.—Stealing.
					bread.
	2.				Bread and water—Staring and laughing.
11.	12	raw-hide, and bread and water—Pushing Convict.			
	15.	9	do.	do.	do.
July 7.	6		do.	do.	do.—Stealing
					book.
	7.				Bread and water—Laughing and staring.
	7.	9	raw-hide, and bread and water—Leaving hall.		
	11.	6	do.	do.	do.—Staring.
	11.	9	do.	do.	do.—Staring
					and laughing.
	13.	6	do.	do.	do.—Talking.
	13.	9	do.	do.	do.—Leaving
					Dining-hall against orders.
	17.	6	do.	do.	do.—Talking
					and laughing.
	20.	6	do.	do.	do.—Talking
					and laughing.
	20.	9	do.	do.	do.—Calling on
					and laughing.
	22.	6	do.	do.	do.—Tricks at
					at table.
	24.	9	do.	do.	do.—Leaving
					work.
	25.				Bread and water.
	27.	12	raw-hide, and bread and water—Whistling.		
	27.	9	do.	do.	do.—Not recorded.
Aug. 4.	9		do.	do.	do.—Disobedience.
	19.	9	do.	do.	do.—Talking
					and staring.
	20.	6	do.	do.	do.—Laughing
					and talking.
Sept. 3.	6		do.	do.	do.—Laughing
					and talking.
	7.	9	do.	do.	do.—Talking
					continually.
	19.	9	do.	do.	do.— do. and
					laughing.
	19.	12	do.	do.	do.—Stealing
					grease.

In October, he gets bread and water on 1st, 6th, and 15th; 6 raw-hides on 12th; and 24 hours in his cell on 12th and 13th; also, bread and water 22nd, 23rd, and 26th.

In November, he gets bread and water on 2nd, 4th, 7th, 9th, 10th, 13th, 18th, and 19th.

In December, he gets bread and water on 3rd, 8th, 9th, 12th, 18th, 22nd, and 28th; and 24 hours dark cell on 9th.

In January, 1847, he gets bread and water on 11th, 12th, 13th, 15th, 15th, 22nd, 29th and 29th.

In February, he gets bread and water 1st, 10th, 10th, 11th, 12th, 16th, 22nd, 23rd, and 27th; and he is put in the box on 12th, 22nd, and 23rd.

In March, he got bread and water on 2nd, 4th, 6th, 8th, 11th, 16th, 18th, 20th, 24th, and 27th; and he is put in box on 4th and 18th.

In April, he got bread and water on 5th, 7th, 8th, 9th, 15th, 21st, 23rd, and 28th; and was put in box on 28th.

In May, he got bread and water on 3rd, 4th, 5th, 13th, 14th, 15th, 16th, 19th, 20th, 21st, 24th, 25th, and 26th; and was put in box on 5th, 16th, and 26th.

In June, he got bread and water on 1st, 2nd, 3rd, 4th, 5th, 7th, 14th, and 18th; and box on 7th.

In July, he got bread and water 1st, 5th, 7th, 8th, 9th, 12th, 17th, 20th, 23rd, 26th, 27th, 28th, and 29th; and he was put in the box on 1st and 20th.

In August, he got bread and water on 3rd, 4th, 6th, 13th, 16th, 18th, 19th, 20th, 24th, 25th, 26th, 27th, and 30th; and was put 48 hours in dark cell on 4th, and in box on 30th.

In September, he got bread and water on 2nd, 6th, 7th, 8th, 9th, 10th, 11th, 17th, 18th, 20th, 21st, 22nd, 23rd, and 30th; and so on up to the present moment.

Edward Utting—preliminary examination :—

“A small boy, named Charboneau, was frequently flogged with the cow-hide. He was a mere child. He should have had a kind word, rather than punishment.”

By Mr. Smith :—

“Charboneau’s conduct was childish. He was continually playing tricks, as children would do.”

Thomas Fitzgerald—preliminary examination :—

“Recollects the boy Charboneau; he was a very small boy; he was very frequently flogged with the cow-hide. Witness thinks he could have made more of him by advising him than by whipping.”

The defence is as follows :—

Francis Little—By Mr. Smith :—

“Charboneau is in witness’s gang; his general conduct is very bad; has had more difficulty with him than with five other Convicts. He is in good health.”

Thomas Costen—By Mr. Smith :—

“Peter Charboneau is a very bad, troublesome little boy; idle and talkative. Thinks reasoning would do no good with him; has spoken to him frequently without effect; cannot tell his sentence. As far as witness knows, he was never punished without a cause. There is frequently more trouble with young Convicts than with grown men.”

The table shows that Charboneau’s offences were of the most trifling description—such as were to be expected from a child of 10 or 11; and that for these, he was stripped to the shirt, and publicly lashed 57 times in eight and a half months.

We can only regard this as a case of barbarity, disgraceful to humanity.

#### 11. IN THE CASE OF THE CONVICT ANTOINE BEAUCHE’.

This Convict was committed on 7th Nov. 1845, for three years,—aged eight.

The following punishments were inflicted on him :

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

Nov. 14, 1845.	3	raw-hide, and bread and water—Talking.
Dec. 9.	3	do. do.—Talking and idling.
15.	4	do. do.—Shouting in cell.
16.	4	do. do.—Playing tricks.
19.	4	do. do.—Shouting in cell.
20.	4	do. do.—Talking, &c.
26.	4	do. do.—Talking and laughing.
Jan. 1, 1846.	4	do. do.—Talking and laughing.
5.	4	do. do.—Destroying book.
29.	4	do. do.—Spilling vinegar.
29.	4	do. do.—Leaving Kitchen.
30.	6	do. do.—Stealing bread.
Feb. 6.	6	do. do.—Concealing brass for toothpicks.
6.	6	do. do.—Whistling.
17.	6	do. do.—Talking, &c.
21.	4	do. do.—Laughing.
24.	6	do. do.—Talking.
25.	6	do. do.—Making lime dirty.
March 6.	4	do. do.—Staring.
9.	9	do. do.—Having tobacco.
9.	6	do. do.—Talking.
10.	9	do. do.—Stealing bread.
11.	9	do. do.—Talking.
16.	6	do. do.—Talking, &c.
30.	9	do. do.—Talking.
April 13.	9	do. do.—Indecency.
29.	9	do. do.—Tobacco.
May 11.	9	do. do.—Noise in cell.
14.	6	do. do.—Tobacco in mouth.
14.	6	do. do.—Leaving work.
18.	6	do. do.—Talking.
25.	6	do. do.—Tobacco.
26.	9	do. do.—Destroying book.
June 1.	6	do. do.—Talking.
8.	9	do. do.—Stealing in Church.
22.	6	do. do.—Noise in cell.
July 17.	6	do. do.—Laughing.
20.	9	do. do.—Noise in cell.
20.	6	do. do.—Losing handkerchiefs
21.	6	do. do.—Noise in cell.
24.	6	do. do.—Laughing.
27.	9	do. do. do.
Aug. 3.	9	do. do.—Tobacco in mouth.
19.	9	do. do.—Staring.
20.	6	do. do. do.
21.	9	do. do.—Talking, &c.
24.	6	do. do. do.
29.	9	do. do.—Idling &c.
Sep. 7.	9	do. do. do. &c.
19.	9	do. do.—Talking and laughing.
21.	6	do. do.—Noise in cell.
25.	6	do. do.—Remitted.
Oct. 5.	6	do. do.—Talking and idle.
6.	6	do. do.—Noise in cell.
13.	24	hours dark cell—Disorderly in Chapel.
14.	24	do. do.—Giving Convicts tobacco.

Here the raw-hiding suddenly ceases, and Beauché is punished afterwards with bread and water, and occasionally with the box.

For the defence we have the following evidence :—

Keeper Jones—By Mr. Smith :—

“ Recollects Antoine Beauché ; he was in the Tailor’s shop ; his health was generally good.”

Keeper Hooper—By Mr. Smith :—

“ Antoine Beauché was in witness’s gang ; he has recently gone out ; he left the Prison in good health.”

Head-keeper Costen—By Mr. Smith :—

“ Recollects Antoine Beauché, the tailor boy ; he was continually breaking the rules of the Prison while here ; never saw him punished to his knowledge, without his offence being entered in the book ; the punishment book is referred to in all cases of punishment. Beauché was here three years ; he went out a short time ago. Cannot say if he was punished with the cats ; in all the raw-hide punishments he received in witness’s presence, the lash was laid on lightly on account of his youth ; has been stationed in the dining-hall during punishment, ever since Antoine Beauché has been in the Prison ; his health was always very good ; he left the Prison ; in excellent health ; it was absolutely necessary to punish him to keep him in proper order.”

The table shows that this child received the lash within a week of his arrival, and that he had no fewer than 47 corporal punishments in nine months, and all for offences of the most childish character.

We regard this as another case of revolting inhumanity.

12. IN THE CASE OF CONVICT JOHN M’GRATH.

The noticeable point of this case was in M’Grath’s having been punished for feigning insanity. The Warden is acquitted of all censure in the matter.

13. IN THE CASE OF CONVICT LOUIS BEAUCHE’.

This Convict was committed on 7th Nov., 1845, for 3 years—aged 12.

The following punishments were inflicted on him.

Nov. 10, 1845.	4	raw-hide, and bread and water.
17.	6	do. do.—Tobacco in mouth.
Dec. 19.	4	do. do.—Talking.
26.	4	do. do.—Laughing when called up for punishment.
27.	4	do. do.—Talking.
29.	6	do. do.—Leaving his seat.
Jan. 1, 1846.	4	do. do.—Talking.
10.	4	do. do. do.
12.	4	do. do.—For two offences.
22.	4	do. do.—Talking.
26.	6	do. do.—Laughing and—talking.
29.	4	do. do. do.
31.	6	do. do. do.
Feb. 9.	6	do. do. do.
10.	6	do. do. do.
March 4.	6	do. do.—Turning round at table.
9.	9	do. do.—Noise in cell.
11.	6	do. do.—Talking and laughing.
30.	6	do. do.—Losing book.
April 22.	6	do. do.—Losing bucket in well.
25.	9	do. do.—Continual talking.
May 5.	6	do. do.—Laughing, &c.
12.	Bread and water	—Winking at Convicts.
13.	9	do. do.—Laughing.
15.	9	do. do. do.
21.	6	do. do.—Laughing at his brother.
June 15.	9	do. do.—Playing.
22.	6	do. do.—Noise in cell.
30.	6	do. do.—Talking.
July 7.	6	do. do.—Stealing a book.

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

July 20, 1846.	6	Raw-hide, and bread and water.
		—Noise in cell.
23.	6	do. do.—Leaving seat.
27.	12	do. do.—Staring.
28.	9	do. do.—Laughing &c.
Aug. 3.	9	do. do.—Playing.
5.	6	do. do.—Talking.
19.	6	do. do.—Annoying men at work.
29.	9	do. do.—Talking & laughing.
31.		Bread and water—Laughing.
Sept. 1.	do.	do.
25.	12	raw-hide, bread and water—Laughing.
Oct. 5.	9	do. do.—Talking.
6.		Bread and water.
10.	do.	do.

Corporal punishment here suddenly ceases to be inflicted, and bread and water is the usual punishment afterwards.

In October, he got bread and water on 5th, 6th, 10th, 12th, 22nd, 23rd, and 27th; and 24 hours in cell on 13th and 14th.

In November, he got bread and water on 4th, 14th, 17th, 18th, 18th and 23rd.

In December, he got bread and water on 2nd, 4th, 8th, 12th, 16th, 22nd, 28th, 28th, and 28th.

In January, 1847, he got bread and water on 2nd, 4th, 7th, 11th, 12th, 14th, 14th, 15th, 18th, 20th, 21st, 24th, 26th, 29th, 29th, and 24 hours in cell on the 14th.

In February, he got bread and water on 2nd, 3rd, 4th, 5th, 10th, 11th, 13th, 22nd, and box on 19th.

In March, he got bread and water on 4th, 11th, 15th, 16th, 22nd, 23rd, 26th and 31st.

In April, he got bread and water on 3rd, 6th, 7th, 12th, 13th, 15th, 22nd, 23rd, 29th and 30th; and he was put in the box on 13th and 28th.

In May, he got bread and water 1st, 2nd, 3rd, 8th, 11th, 13th, 18th, 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, 25th, 26th, 29th, and was 24 hours in dark cell on 27th.

In June, he got bread and water 2nd, 5th, 7th, 9th, 10th, 14th, 15th, 16th, 18th, 19th, 21st, 22nd, 23rd, 24th, 25th and 26th; was put in the box on 7th, 21st and 22nd; and 24 hours dark cell on 10th.

In July, he got bread and water 7th, 8th, 9th, 12th, 13th, 20th, 21st, 23rd, 24th, 28th, 29th and 30th.

In August, he got bread and water 2nd, 7th, 9th, 10th, 11th, 12th, 13th, 14th, 16th, 17th, 18th, 19th, 20th, 25th, 26th, 28th, and 31st, and was put in box, on 30th.

And so his punishment goes on up to the present day.

The evidence on this case is as follows :—

Keeper Jones—By Mr. Smith :—

“Recollects Louis Beauché; does not think he was often on the sick list, would consider him a healthy boy.”

Keeper Little—By Mr. Smith :—

“Louis Beauché was in witness's gang; his general conduct was very bad.”

Mr. Costen—By Mr. Smith :—

“Convict Louis Beauché was a very bad character; it was necessary to punish him frequently to keep him in subjection. Cannot say if he was ever punished with the cats; he was always very healthy; he left the prison lately with his brother; he was in good health when discharged.”

This boy was flogged within three days of his arrival, and got 39 punishments with the lash in the first eleven months of his imprisonment. There have been three brothers of this name in the Prison. One of them became insane in the Penitentiary, and is now an inmate of the Beauport Lunatic Asylum. In the character of the offences committed by all three of the brothers, a weakness of intellect may perhaps be detected.

In looking into such cases as this, one cannot but feel that the merciful intervention of the late Government was a most fortunate event.

14. IN GOADING, BY EXCESSIVE PUNISHMENT, CONVICT JAMES BROWN INTO A STATE OF INSANITY, OR IN AGGRAVATING THE MALADY UNDER WHICH HE LABOURED.

The following return of the punishments inflicted on this Convict, is extracted from the Punishment Book :—

Feb. 4, 1841.	24	cats.
April 14.	12	do.
May 14.	48	do.
June 15.	24	do.
August 7.	24	do.
Nov. 4.	48	do.

Feb. 16, 1842. 12 raw-hides.

21. 6 do.

March 9. Bread and water.

23. 24 raw-hides.

Sept. 15. Bread and water.

22. 12 raw-hides.

30. Bread and water.

Nov. 1. do. do.

29. 36 cats.

Jan. 28. 1843. Bread and water.

April 17. 6 raw-hides.

May 24. 36 cats, and bread and water and irons.

August 10. 6 cats—Leaving work—concealing himself.

Nov. 10. Bread and water.

Dec. 11. 6 raw-hides—Striking Convict.

Jan. 4, 1844. 48 hours dark cell, and bread and water—irons.—Disobedience and insolence.

5. 48 cats, and bread and water—Violence, and running away from Guard.

9. 24 cats, and bread and water, and 48 hours dark cell.—Insubordination.

Feb. 17. do. do.

19. 36 cats, and 48 hours dark cell—Violence.

March 15. 12 raw-hides, and bread and water.

28. do. do.

April 17. 36 cats, do. do.

—Threatening, and throwing stones.

July 16. 36 cats, bread and water, and irons—Striking Convicts.

Appendix  
(B.B.B.B.B.)

30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

Oct. 23. 1844. 60 cats, bread and water—and irons  
—Trying to escape.  
Dec. 7. 48 do. do.  
and irons—Outrageous during a mutiny  
in quarry.  
Jan. 13. 9 raw-hide, do. do.  
16. 9 do. do. do.  
23. 24 do. do. do.  
—Outrageous in quarry.  
April 18. 24 cats, and bread and water, and irons.—  
Drawing a knife on Guard.  
June 6. 12 cats, and bread and water—Talking,  
cursing, and swearing.  
July 18. 36 do. do. do.—Talking,  
cursing, and swearing.  
Sep. 11. 24 do. do. do.—Refusing  
to work in irons.  
Oct. 8. 24 do. do. do.—48 hours  
dark cell—Cursing and swearing.  
Feb. 17, 1846. 12. Cats, and bread and water.—  
Talking indecently.  
24. 12 do. do. do.—Quarrelling  
and fighting.  
March 25. 12 do. do. do.  
April 27. 9 raw-hide, and bread and water.  
May 13. 24 cats, and bread and water, and 48 hours  
dark cell—Cursing and swearing.  
22. 12 do. do. do.  
June 9. 36 do.—48 hours dark cell, and irons—  
Threatening life of the Guard.  
16. 12 cats, and 48 hours dark cell.  
19. 24 do. do. do.—Cursing and  
swearing.  
23. 24 do. do. do.—Trying to  
escape.  
26. 6 raw-hide, and bread and water.  
July 14. 24 cats, and 48 hours dark cell—Cursing  
and swearing.  
July 17. 12 raw-hides, and bread and water.  
18. 6 do. do. do.  
27. 12 cats, do. do.—Talking  
and cursing.  
Aug. 11. 24 do. do. do.—Cursing  
and swearing.  
24. 9 raw-hides, do. do.  
Sep. 30. 12 do. do. do.—24 hours  
dark cell.  
Oct. 10. 48 hours own cell.  
12. 48 do. do.  
27. Bread and water.  
31. 24 hours dark cell in irons—Threatening to  
take life, cursing and swearing.  
Nov. 12. 48 do. do. do. do. do. do.  
16. 48 do. do. do. do.  
Dec. 26. Bread and water.  
March 3, 1847. do. do.  
5. do. do.—and box.  
April 7. do. do.  
May 6. do. do.  
15. do. do. do.  
17. 36 cats, do. do.—Threatening to take  
life—cursing and swearing.  
18. Box, do. do.  
19. do. do. do.  
20. do. do. do.  
June 5. do. do. do.  
9. do. do. do.—Fighting.  
10. do. do. do.  
12. do. do. do.  
17. do. do. do.  
21. do. do. do.  
22. do. do. do.  
23. do. do. do.  
26. do. do. do.  
28. do. do. do.

July 6, 1847. Box—cursing and swearing  
8. do. do.  
20. do. do. do.  
21. do. do. do.  
30. do. do. do.  
Aug. 2. do. do. do.  
2. do. do. do.  
3. do. do. do.  
4. do. do. do.  
5. do. do. do.  
6. do. do. do.  
7. 36 cats, and bread and water—Cursing and  
swearing—threatening to take life.  
16. Box, and bread and water.  
19. do. do. do.  
20. do. do. do.  
21. do. do. do.  
28. do. do. do.  
Sept. 9. do. do. do.  
10. 48 hours dark cell.  
Sep. 29, 1847. Box, and bread and water.  
Oct. 8. do. do. do.  
9. do. do. do.  
12. do. do. do.  
23. do. do. do.  
26. do. do. do.—Cursing and swearing  
Nov. 1. do. do. do.  
8. do. do. do.  
10. do. do. do.  
Dec. 27. do. do. do.  
30. 36 cats—(Not given) for outrageous con-  
duct.  
Jan. 3, 1848. Bread and water—Cursing and  
swearing.  
22. do. do.  
29. do. do.  
March 14. do. do.

Appendix  
(B.B.B.B.B.)  
30th May.

On 30th December, 1847, the Surgeon was called on to report on Brown's fitness to receive corporal punishment, when he entered on the record, "fit as to bodily health." This stopped the punishment, and the Inspectors called on the Surgeon to report on Brown's mental condition. Dr. Sampson reported on the 16th February, that Brown was of "unsound mind." The Warden and Inspectors seem to have dissented from the opinion of Dr. Sampson, and contrary to the usual practice the case was not reported to Government till April following. A long correspondence ensued upon the case which will appear elsewhere, but does not affect the present issue. Brown, since the Surgeon's report, has not been punished, but still remains in Prison.

The defence made by the Warden upon this charge is, that Brown is not mad, but a violent, bad character, who deserved all the punishment he got, and was the better of it.

The evidence on both sides is as follows :—

James Gleeson—preliminary examination :—

"Another man, named Brown, was also much lacerated, but thinks he became at length almost insensible to it. These two (Donovan's and Brown's) cases, occurred before the rule was made as to the Surgeon's being present. Witness thinks both of these men were insane." \* \* \* \* \*  
"Brown's usual offence was making a noise, talking, singing, swearing, threatening to strike his Keepers, and attempting to run away."

John Swift—preliminary examination :—

"Knows James Brown; he was very severely flogged; he is insane; he has been often been pun-

Appendix  
(B.B.B.B.B.)  
30th May.

ished for acts of madness. He struck witness with a crow-bar on the chest, without object or reason that could be imagined. He was standing quietly past, and turned round on a moment's impulse and struck witness.

By Mr. Smith :—

“Knows James Brown. His conduct has been very violent; does not think he can be in his right senses; he would not carry on as he does, if he were; of course he must see what he is doing when he acts in this rough way; does not know if the Surgeon has reported Brown insane; witness thinks Brown's conduct has been much the same all through the time that he has been at the Penitentiary. Witness's attention was not directed to Brown's conduct before Brown struck witness with a crow-bar in 1843; does not know how long Brown had been in the Penitentiary previous to this transaction; never heard of violence committed by Brown to other officers prior to that period. Brown has frequently attempted to escape. Never knew a Convict pronounced to be insane by the Surgeon.”

Rev. R. V. Rogers—preliminary examination :—

“Recollects Convict James Brown; always regarded him as an insane man; thinks that he was often punished for acts committed under the influence of insanity.”

By Mr. Smith :—

“Witness thinks that James Brown was at the Penitentiary when witness first attended the Institution. Remembers Brown having attacked some one shortly after witness became acquainted with him; believes that the Surgeon has pronounced Brown to be of unsound mind; does not know whether it was this year or last year that the Surgeon so reported Brown; knows nothing about the time. Believes that Brown's conduct has occasionally been very violent. Frequently had private conversations with Brown on religious matters; had great difficulty in persuading Brown to attend school; believes he can now read a little. Brown attends the Divine Service generally on Sundays, so far as witness has observed. Witness thinks, but would not positively say, that Brown once misconducted himself during Divine Service; would say that he generally conducts himself well during Divine Service.”

Guard Kearns—preliminary examination :—

“Recollects James Brown; he was very severely punished; has no doubt he was insane; has known him often punished for acts of madness.”

By Mr. Smith :—

“James Brown's conduct has been pretty bad; could not say whether he was insane; should think he was from his conversation; has been the same, so far as witness knows, all the time witness has been at the prison, which is four years; does not know that the Surgeon has pronounced Brown to be insane. Brown has been very violent in his conduct; has heard that he has threatened to do mischief to some of the officers. Brown has not been punished for some time, so far as witness knows.”

By Commissioners :—

“Considers James Brown to be insane.”

And Mr. Utting, White, Keely, M'Garvey, Robinson, M'Carthy, Wilson, Fitzgerald, and Freeland—all declare him to be insane.

On the other hand, we have Watt, William Smith, Hooper, Manuel, Pollard, Gibson, Ballentine, Grass, M'Mahon, Martin, Matthews, Sexton, Ramsden, Thomas Smith, and Costen—all testifying that Brown is not mad; and many of them say his conduct has been always the same since he came to the prison.

Keeper Little says, he does not think Brown mad; but on his cross-examination, he admits that he has seen him “break out very violent without any provocation or cause for it.”

Keeper Hermiston—By Mr. Smith :—

“James Brown used to break out into raptures sometimes when witness first came to the Penitentiary. Witness thinks Brown is worse now than formerly; he uses very obscene, filthy language. Witness is not a proper judge whether a man is mad or not. Brown talks like a madman.” \* \* \* \*  
“Witness thinks that Brown has become worse since punishment has ceased to be inflicted on him; his talk has become much worse.”

Guard Rowe—By Mr. Smith :—

“James Brown talks sometimes in a very deranged state; witness does not know what is the matter with him; sometimes Brown talks very sensibly, sometimes the reverse.”

Dr. Sampson—By Mr. Smith :—

“Had heard of the violent conduct of James Brown before witness had been shown a statement of the punishments inflicted upon him; it was not from that statement alone that witness formed his opinion of the insanity of Brown; does not recollect having seen any account of Brown's punishments previously to the statements shown to him by the Warden. The Punishment Book is exhibited, by which an entry appears on the 17th May, 1847, as follows :—‘Threatening to take the lives of Keeper M'Garvey and Guard Funstan, and to raise a mutiny in prison; cursing and swearing in a violent way continually, day and night.’ Sentence—‘36 lashes with the cats; one meal bread and water; to be kept in irons until further orders.’ To which is appended as follows—‘Fit to receive the same. James Sampson, Surgeon.’ A further entry appears on the 7th August, 1847, as follows—‘Making a great noise in his cell; disturbing the whole of the prison; cursing and swearing, and threatening to take the life of the Keeper.’ Sentence—‘36 lashes with the cats; one meal bread and water.’ To this is appended—‘Fit. James Sampson, Surgeon.’ Both of these entries refer to the Convict James Brown. Witness did not think Brown insane at the date of the last quoted entry.”

The ex-Warden asks the following question :—  
“When did you first perceive symptoms of insanity in James Brown?”

“Witness states in answer, that his suspicions of Brown's insanity arose on the 30th December, 1847. His suspicion arose from the previous cases which had been brought under his notice, and from having heard that Brown had been often punished; and from having seen Brown's violence on this day, being the first time that witness had been an eye-witness to it. From all these circumstances, witness began

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix (B.B.B.B.B.) 30th May.

to suspect that Brown was insane ; and was induced to make the entry in the Punishment Book of the 30th December, 1847, as follows—'Fit as to bodily health ;' not wishing to pronounce positively as to Brown's state of mind, without farther investigation. Witness reported the insanity of Brown on the 16th February, 1848. Brown's bodily health is good. When persons become insane from ill-treatment, the body generally suffers with the mind ; the suffering of the body would depend upon the temperament of the party ; a callous man would not suffer in body ; a sensitive man would do so. Witness further states, that he considers Brown the sort of man who would not suffer in body from frequent punishment. Has had no personal opportunity of judging of Brown's conduct, until called upon to certify to the propriety of the sentence passed upon him in May, 1847. Brown has seldom been on the sick list ; and when he was so, he always behaved, in witness's presence, quiet and orderly. Witness never, on such occasions, observed acts of insanity in Brown."

Thomas Kirkpatrick, Esq.—By Mr. Smith :—

"The cats, witness supposed, were used upon the most hardened offenders only. Brown was one of those hardened offenders ; he was an obstinate violent man, of low intellect."

James Hopkirk, Esq.—By Mr. Smith :—

"Has had conversation with Convict James Brown, in presence of the Board, since Dr. Sampson pronounced him insane ; thinks Brown exhibited no symptoms of insanity ; his answers to the Board were perfectly rational."

Mr. Sheriff Corbett—By Mr. Smith :—

"Has had conversation with Brown since he has been declared insane ; he did not appear to be insane, but has heard him carrying on at an immense rate in his cell ; asked Brown why he behaved so ill ; he said it was because so many were pardoned for worse crimes than he had committed, while he was kept a prisoner ; witness told him that the best way for him to get out was by behaving himself well. His answers were all perfectly rational ; he knew who witness was ; said he was the Sheriff."

We are bound to believe, from the report of the Surgeon of the Institution, that Brown was, on the 30th December, 1847, and still is, insane. And from the evidence, as well as from our own personal examination, of the Convict, we have not a doubt on the subject. The very acts for which Brown was so often and so severely punished, would of themselves lead to a belief in his insanity.

Mr. Kirkpatrick has well described him as "naturally a violent obstinate man, of low intellect ;" a man without sufficient judgment to carry him through the world. To subject a man of this disposition to the cruel punishments which have been incessantly inflicted on him for over eight years, is the direct way to drive him mad.

Brown was originally sentenced to be transported, and was committed to the Penitentiary by an order of the Lieut. Governor of Upper Canada, until ordered otherwise ; and there he has remained ever since. He has some idea that he is improperly retained in confinement, and broods over it from morning to night, breaking out into paroxysms of passion, in which he recounts with monotonous perseverance the history of his grievances. Such par-

Appendix (B.B.B.B.B.) 30th May.

oxysm have formed his offences ; and for these he has been punished so severely.

The tables show that Brown was ordered 1002 lashes of the cats, and 216 of the raw-hide ; but 36 lashes of the cats having been stopped by the Surgeon, the whole number of lashes inflicted on him has been 1182. Thirty-five times has this man been subject to the torture of the cats.

We are well satisfied that whether a different treatment would have been successful or not, if tried upon him, incessant and severe punishment could only make him more reckless and stupid than before ; and we cannot doubt, that the treatment which he has received in the Prison has greatly aggravated his predisposition to insanity.

15. IN GOADING JOHN DONOVAN, BY EXCESSIVE PUNISHMENT, INTO A STATE OF INSANITY, OR AGGRAVATING THE MALADY UNDER WHICH HE LABORED.

This Convict was a Private of the 82nd Regiment ; he was committed on 8th May, 1845, and was discharged by order of the Assistant Adjutant General on 2nd August, 1845. The following punishments were inflicted upon him :—

- 1845.
- May 14. 12 raw-hide, bread and water—Swearing at Convicts ; throwing piggin across rail.
- 19. 12 do. do. do.—Destroying tin cup by crushing it.
- 20. 12 do. do. do.—Throwing contents of bucket on gallery.
- 21. 12 do. do. do.—Striking Keeper with his hand during divine service.
- 26. 12 cats, bread and water—Frequently striking Convicts with his hand.
- 27. 12 raw-hide, bread and water—making noise in cell, rising too early.
- 28. 12 do. do. do.—Rising from seat and walking across two tables.
- 29. 24 cats, bread and water—Striking Guard Robertson for reporting him.
- 30. 9 raw-hide, bread and water—Remaining in privy ; said he did not hear the bell.
- 31. 9 cats, bread and water—Striking Guard O'Neil ; breaking windows.
- June 2. 6 do. do. do.—Striking Keeper when mustering to breakfast.
- 7. 12 do. do. do.—Talking, and jumping on dinner table.
- 9. 12 do. do. do.—Striking Convict in Chapel.
- 10. 12 do. do. do.—Striking Convict.

All committed on 19th.

Or 168 lashes in 28 days.

James Gleeson—preliminary examination :—

"Has frequently seen a man flogged with cats, whose back was much lacerated before the flogging began ; it was hard to find a whole spot on which to strike the first blow ; his name was Donovan." \* \* \* \* \* "These two (Donovan's and Brown's) cases occurred before the rule was made as to the Surgeon being present ; witness thinks both of these men were insane ; Donovan's usual offence was striking his neighbor without apparent cause, and even in the Chapel ; witness often had to take him out of Chapel, and on one occasion he made an attempt to chuck the Priest under the chin."

Appendix  
(B.B.B.B.B.)

30th May.

Ex-Assistant Warden Utting—preliminary examination :—

“ Recollects Donovan ; he was very severely flogged ; feels convinced he was mad. On one occasion this man jumped over the bannisters down on the stone floor, from the first floor. Guard Mills reported on one occasion that Donovan would kill himself, by knocking his head against the stone wall, and he had to be removed. Donovan was quite outrageous ; he was flogged after these circumstances occurred ; he was even flogged for these very occurrences.”

By Mr. Smith :—

“ Recollects Donovan ; did not think him insane when he came into the Penitentiary ; but began to think so afterwards. Shortly after Donovan came in he became very outrageous ; after he had been frequently flogged, witness observed that he became more outrageous ; he became stark mad. Witness, upon referring to the Punishment Book, is of opinion that Donovan must have been refractory from the commencement of his imprisonment ; his back was sore, when he came in, from previous punishment. It depends upon a man's constitution as to the length of time which is required to heal the back after punishment. Cannot say how often Donovan was flogged ; it was often ; does not recollect if Donovan was flogged after the Surgeon reported him insane.”

Martin Keely—preliminary examination :—

“ Recollects Convict Donovan ; he was often very severely punished ; this man was certainly out of his mind ; he would throw himself back on his head, on the flag stones, without the least apparent cause.”

Thomas Fitzgerald—preliminary examination :—

“ Convict Donovan was very severely punished ; he was evidently insane ; his punishments were often inflicted for acts committed under the influence of insanity ; never knew Donovan to be punished for an offence which a man in his senses would have committed ; Donovan has been frequently punished when his back was unhealed from previous punishments.”

And a number of other witnesses give similar evidence.

Dr. Sampson says :—“ Recollects Convict John Donovan, a soldier. It was not long after Donovan's arrival at the Penitentiary that the Surgeon reported him to be of unsound mind. Witness presumes that he examined Donovan on his arrival, in pursuance of witness's general practice with regard to those newly committed. Thinks there were three Military medical officers who sat in the investigation of Donovan's sanity. Does not know what became of Donovan after he left the Penitentiary ; believes he was sent to Fort Henry, and that he was there set to work under a guard. Heard a report that Donovan was sent to the Lunatic Asylum at Toronto, but did not believe such report.”

The Surgeon having pronounced Donovan insane, the attention of the Military authorities was called to the fact. The following letter from Col. Young, explains the ulterior proceedings in the case :—

“ Assist. Adjutant General's Office,  
“ Kingston, 5th September, 1848.Appendix  
(B.B.B.B.B.)

30th May.

“ Sir,

“ In reply to your letter, dated 4th instant, I beg to inform you in reference to the case of Private John Donovan, 82nd Regiment, that in consequence of a communication made to the Military Secretary at Head Quarters, and returned to this Department by order of the Commander of the Forces, it was deemed advisable to assemble a Military Medical Board at the Penitentiary, for the purpose of examining the condition of mind of Private Donovan. The result of which was, that on due enquiry the Board found—‘ That John Donovan has, since his confinement, manifested on various occasions, strong symptoms of insanity ; and although the Board (being fully impressed with the difficulty of the question, as to the real or assumed nature of the affection) hesitate to pronounce a decided opinion, they are fully satisfied of the inadequacy of his present position to establish the true nature of the case ; and, therefore, the Board beg to recommend that Private John Donovan be removed, for more close medical superintendence, to the Hospital of the 82nd Regiment, near Fort Henry, Kingston.’

“ In compliance with the above, John Donovan was removed to a Military Hospital, where he remained until the early part of June, 1846, at which time he was forwarded to Montreal, with other invalids, for final examination by a Medical Board, and thence to England, as unfit for service ; but whether from insanity or not, I am unable to say. The man having been brought to Kingston, (a prisoner,) and marched off at once to the Penitentiary, I am not aware of what his previous state of mind may have been.

“ I have the honor, &amp;c.

(Signed) “ PLOMER YOUNG,  
Lt. Col., A.A.G.

“ George Brown, Esq.”

The only defence made by the Warden in this case, is, that he thought the Convict was simulating insanity ; and to sustain this position, he put in the following certified copy of Donovan's committal to the Penitentiary by the Military authorities :—

(Copy.)

“ I, James Forlong, Commanding Officer of the 43rd Light Infantry, do hereby require and order you to receive into your custody, and to keep in confinement for the space of two years, from the 29th day of January, 1845, inclusive, Private John Donovan (3) of the 43rd Light Infantry, pursuant to the sentence of a District Court Martial, held at Quebec, Canada East, on the 29th day of January, 1845.

“ Crime 1st. Violent and outrageous conduct when a prisoner in the Guard-room, in striking Private Martin Devenny a violent blow in the face, with his fist, without the least provocation.

“ 2nd. For disgraceful conduct in feigning insanity between the month of October, 1844, and January, 1845, thereby endeavoring to evade his duties as a soldier.

“ 3rd. For highly insubordinate and outrageous conduct when a prisoner in the Guard-room, in striking Corporal John Webbe, the Corporal of the Guard, a violent blow in the face with a broom handle.

Appendix  
(B.B.B.B.B.)  
30th May.

“Sentence—To undergo imprisonment, with hard labor, for the space of two years; and, also, the forfeiture of all advantages as to additional pay and pension on discharge.

“To be imprisoned at the Head Quarters of the Regiment, until an opportunity serves of sending the prisoner to the Kingston Penitentiary.

(Signed) “J. A. HOPE,  
Major General.

“Quebec, 30th January, 1845.”

“General character, extremely bad, (will not work if he can help it, and is at times very violent.)

“I certify that I have examined Private John Donovan, (3) 43d Regiment; he is in good health and free from disease.

(Signed) “J. MILLER,  
“Surgeon, 43d Regt.”

“Description:—“Name, John Donovan, (3); age, 33 years, 9 months; height, 5 feet 8¼ inches; complexion, sallow; hair, brown; eyes, gray.

(Signed) “J. FORLONG, Lt. Col.  
“Commanding 43d Light Infantry.”

“To the Governor of the  
“Penitentiary, Kingston.”

(Additional.) “It is my opinion that Private John Donovan, (3) 43d Regiment, has been simulating insanity, and that his aim at present is to intimidate those about him, by which means he escapes hard labour.

(Signed) “J. MILLER,  
“Surgeon, 43d Regt.

“Quebec, 1st May, 1845.”

“A true copy,

(Signed) “F. BICKERTON,  
“Clerk.”

We cannot think the Warden's defence a good one. His attention had been specially called to the fact that symptoms of madness, whether real or feigned, had been exhibited by Donovan; and while it was his duty to guard against being imposed on by the simulation of insanity, it was much more his duty to investigate closely and bear patiently with such a subject, until it was clearly ascertained that he was a responsible agent. Instead of this we find that within six days of his arrival, Donovan is subjected to the lash, flogged again within a week, and almost daily afterwards, until he is pronounced insane.

The punishment inflicted on him is frightful. Seven floggings with the cats in a fortnight, and fourteen floggings in four weeks with cats or raw-hides. It is very clear that if the man was deranged when he arrived, or had any tendency towards it, that the treatment he received was calculated to drive him into hopeless insanity. We think no one can read Donovan's committal, and the list of offences committed by him in the Penitentiary, without coming to the conclusion, that he was not sane.

This case strongly manifests the reckless and unfeeling manner in which corporal punishment has been awarded in the Penitentiary.

16. IN GOADING CONVICT NARCISSE BEAUCHE', BY EXCESSIVE PUNISHMENT, INTO A STATE OF INSANITY, OR AGGRAVATING THE MALADY UNDER WHICH HE LABORED.

Appendix  
(B.B.B.B.B.)  
30th May.

This Convict was committed on 7th Nov., 1845, for three years, aged 19. Having been declared insane, he was removed to the L. C. Lunatic Asylum 12th August, 1846.

The following punishments were inflicted on him:—

1845.	
Dec. 4,	4 raw-hide, and bread and water—Talking at dinner.
19.	4 do. do.—Talking and laughing at breakfast.
19.	4 do. do. do. at dinner.
24.	4 do. do. do. do.
27.	4 do. do.—Making noise in cell.
1846.	
Jan. 3,	6 do. do.—Having tobacco.
3.	6 do. do.—Talking and playing.
5.	6 do. do.—Talking in cell at 4 A. M.
6.	6 do. do.—Talking and laughing at work.
16.	9 do. do.—Talking, laughing and playing with Convict.
31.	Bread and water—Making signs.
Feb. 9.	6 do. do.—Talking and staring.
16.	6 do. do.—Laughing and playing.
17.	6 do. do.—Talking at breakfast.
24.	6 do. do. do. at dinner.
March 3.	6 do. do. do. at breakfast.
5.	9 do. do.—Quarrelling with Convict.
5.	9 do. do.—Tricks with Convicts.
6.	9 do. do.—Stubborn and disobedient.
9.	9 cats, and bread and water—Outrageous and disorderly in cell.
May 20.	9 raw-hide, and bread and water—Dancing in cell, and impertinent.
25.	6 do. do.—Noise in cell, impertinent to Keeper.
25.	9 do. do.—Unruly in cell.
June 1.	9 do. do.—Walking in cell at half-past 4 A. M. disorderly.
8.	6 do. do.—Disobedience.
20.	Bread and water—Being very insubordinate, when brought out to work; said he would not—nor could not—work for any one.

All committed in one day.

Thomas Fitzgerald—preliminary examination:—

“Recollects Narcisse Beauché, the French boy, who was sent to the Lunatic Asylum; he was very severely flogged; he was only a small boy about 13 or 14 years of age; to the best of witness's belief he was flogged with the cats; witness was well convinced that Beauché was insane for many months before he was sent to the Asylum.”

James Kearns—preliminary examination:—

“Recollects the French boy Beauché; he was a small chap; he was severely punished with the raw-

Appendix  
(B.B.B.B.B.)  
30th May.

hide, and witness thinks once or twice with the cats; thinks he was not in his right mind; he was often punished for getting excited through the night; witness thinks this was one of the turns of his insanity."

By Mr. Smith:—

"Recollects Narcisse Beauché; he was from fifteen to twenty years of age, witness thinks. He was very unruly; the Keeper used to say so; does not know whether he was insane when he first came to the Penitentiary; believes he was punished with the cats; thinks two or three times, but kept no memorandum of punishment. Witness thinks it might be six months before Beauché went out, that he was insane. Thinks it would be very cruel of any officer to report him for punishment, if the officer knew him to be insane; if witness believed him to be insane, he would not report him for punishment. (The Punishment Book is produced, by which it appears that Beauché was reported by witness on the 2nd March, 1846, being three months before Beauché left the Prison.)"

By Commissioners:—

"Would not report Brown with a view of having him punished, but for the purpose of making the Warden acquainted with the violence committed. Witness does not consider himself a proper judge whether a Convict should be punished or not, but reports the irregularities of Convicts as a portion of his duty. In reporting Beauché, witness did not do so for the purpose of having him punished, but for the reason above stated.

Keeper Swift—preliminary examination:—

"Recollects the boy Beauché; he was very severely flogged; he was a small boy; he was not in his right mind; he displayed the most frantic manoeuvres; he was quite crazy; he was often punished for acts committed in a state of mental excitement."

By Mr. Smith:—

"Recollects the Convict Beauché, who was insane; would not say he was more than fifteen or sixteen years of age; he might have been older; he was very unruly at the time he was said to be insane; did not know anything of his conduct prior to that period. Witness thought him insane; it was not when he first came in, but afterwards. Cannot say how long it was after he came in that witness considered him to be insane; it is witness's belief that Beauché was a year in the Penitentiary before witness thought him to be insane. Believes he has been punished with the cats; does not know how often; he may have been punished six times, but witness cannot say about it; does not know how often he was punished with the raw-hide. Witness supposes that Beauché remained five or six months after witness thought him insane; he may have been more or less; witness cannot speak confidently about it. Witness may have reported Beauché within two months of his leaving the Prison. Keepers have to report irregular conduct."

For the defence, the Warden called the following witnesses:—

Dr. Sampson—By Mr. Smith:—

"Recollects Narcisse Beauché, but cannot remember any particulars of his case. He was a boy with a bald head from former disease of the scalp. Beauché came in with a sore head; cannot say

whether Beauché's sore head affected his brain; it might have done so."

Keeper Manuel—By Mr. Smith:—

"Narcisse Beauché was once in witness's gang; does not recollect how long he was in the gang. He was a very wicked boy; if Beauché did not get what he wanted, he would fly into very great passions; he was quite furious. Witness had no reason to think that Beauché was mad while under witness's care, excepting that he was subject to these violent fits of passion for a little while."

By Commissioners:—

"Is aware that Beauché has been declared insane, and has been sent to the Lunatic Asylum."

Discharged Convict Ramsden—By Mr. Smith:—

"Recollects Beauché, a boy with a sore head; he was not mad."

It appears that this youth got twenty-four corporal punishments within six months of his arrival, and all for offences either childish in their character or the evident results of a disordered mind. The circumstance that the lad was afflicted with a disease in the head, should have secured for him, if not milder treatment, at least protection from punishment hurtful to his health, mental or bodily.

But there is another feature in this case, which marks it more strongly than the previous ones:

Ex-Guard Robinson—preliminary examination:—

"Recollects a Convict boy, named Booshee, (Beauché); he was a very small boy, from twelve to fourteen years of age; he was often punished very severely with the cats. His usual offence was making a noise in his cell. Recollects one night, about two years ago, when witness was on guard over the prisoners, the Prison was disturbed by this boy. He awoke in a great fright, and commenced shouting out that there was something under his bed, and calling for the Priest to come and see him. He climbed up on the rails of his window and door, screaming at the height of his lungs; blood and froth came from his mouth. Keeper Hooper went to the Warden, and called him out of his bed; it was near midnight. When the Warden arrived, the boy was still screaming. The Warden immediately said—"open the door, till I bring this scoundrel out." Hooper opened the door, and at Warden's desire, witness brought out Booshee, who was quite naked; the boy was laid on his back, and they tried to put a gag in his mouth, but did not succeed. The boy then told the Warden, in French, that he would be quiet, and he was put back into his cell. Warden told witness what boy said. The moment the boy was put back he became as bad as ever, crying out that something was under his bed. The Warden then ordered him to be taken out of his cell again; Hooper and witness held him down on the ground, and the Warden flogged him with a rope's end, as long as he could stand over him. The boy was very severely cut; the stripes broke the skin. Witness's shirt received so much blood from contact with the boy, that he had to change it next morning. The boy never left the cell afterwards, witness thinks, until he was declared insane, and sent to the Lower Canada Lunatic Asylum in the custody of witness."

To meet this the Warden produced,—

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B. B. B. B.)

30th May.

Keeper Hooper—By Mr. Smith :—

“ Recollects being called upon one night to go to the East wing to Narcisse Beauché, who was making a noise in his cell. Witness was one of the Keepers on guard that night; there were two Keepers; the other Keeper was Ballantine; the Warden was in the Wing before witness came there. The Warden ordered witness to put Beauché in the dark hole, and the boy was taken out of his cell for that purpose. He used violence towards witness; he bit witness in the hand, which was sore for nine months in consequence. Witness put Beauché in the dark cell; he remained there until breakfast time. It was towards morning when witness and Warden were sent for to Beauché's cell. Witness saw the Warden strike Beauché with a small cord; this was for climbing up the door of his cell, of which he would not lose his hold. Beauché was struck about the hands; Beauché's shirt was on at this time; did not see any blood about Beauché; if there was any it must have proceeded from witness's hand, which bled very much. Did not hear the Warden use any violent or harsh language toward Beauché. Beauché was on the ground when witness tried to put the gag in his mouth. All three Beauchés were very bad boys. Cannot say whether Beauché went to his work the next morning; thinks he was punished that morning for his conduct the preceding night.”

By Commissioners :—

“ Would think that Narcisse Beauché was about sixteen or seventeen years of age; he was small of his age. He was shouting and screaming in his cell at the time when witness and the Warden went to him; his shouts and screams were such as might proceed from fear. Did not hear Beauché complain of having seen a ghost, but had heard other officers say that he complained of having seen the ghost of his mother in his cell; this was previously to the night in question. Does not know of his having complained that some one was under his bed. He did not call for the Priest in witness's hearing; has not been told that he did so. Beauché spoke French to the Warden; he could speak broken English. Witness did not understand what Beauché said when he was crying out in his cell. When the Warden went to Beauché, Beauché was removed from his cell, and upon his promise to be a good boy, the Warden directed him to be replaced in his cell. Beauché immediately continued his noise, and it was upon the second attempt to remove him from his cell that witness was bitten in the hand, and that the rope-end was applied to Beauché's hands. The Warden then had Beauché removed from the cell for the second time. Beauché was then placed in the avenue in the front of his cell; he was still screaming and shouting. Mills and, witness thinks, Robinson, were holding Beauché while witness was trying to put the gag in his mouth; the boy was then laying down on the floor. Witness did not see the Warden strike Beauché excepting with the rope upon his hands to make him let go his hold of the door. The Warden was with Beauché before witness arrived. Witness had to go away before Beauché was removed to the dark cell, in consequence of his hand bleeding so much. When witness left, Beauché was still in the avenue; witness returned as soon as possible, and assisted in the removal of Beauché to the dark cell. Witness believes that Beauché was shortly after this declared to be insane, and removed to the Lunatic Asylum.”

By Mr. Smith :—

“ Does not know whether Beauché was sent out to work the morning after he had been in the dark

cell. Believes that he was punished the next morning; thinks he was punished with the raw-hide. Witness supposes he was away between five to ten minutes, when he left Beauché to attend to the bleeding of his hand. It was in the struggle with Beauché, in attempting to gag him, that Beauché got upon the floor.” \* \* \* \* \* “ The Punishment Book is produced, by which it appears that on the 9th March, 1846, Narcisse Beauché was punished with nine cats and bread and water, for being outrageous and disorderly in his cell. Witness believes that this entry refers to the transaction of which witness has spoken.”

We think Hooper confirms, in every essential point, the evidence of Robinson. The thought of the Warden of a high penal Institution, in the middle of the night, and while evidently labouring under personal excitement, flogging a maniac lad with his own hands, is too horrible to dwell upon. The facts of the revolting affair are so fully elicited in the evidence, as to require no comment.

17. IN GOADING CONVICT MICHAEL SHEEHAN, BY EXCESSIVE PUNISHMENT, INTO A STATE OF INSANITY, OR AGGRAVATING THE MALADY UNDER WHICH HE LABOURED.

This Convict was committed on 27th November, 1846, for life. On 13th November, 1847, he was pardoned, and sent to the Lunatic Asylum. The punishments inflicted on him were as follows :—

1846.

Nov. 30, 48 hours own cell—Refusing to work.  
Dec. 9. 48 do. do. —do. and walking about.

1847.

Jan. 30. 48 do. dark cell, in irons—Assaulting Guard, and swearing.  
Feb. 8. 36 cats, and bread and water—Refusing to work; insolence.  
Mar. 31. Bread and water—Bedding badly put up.  
April 19. Box, and bread and water—Insubordinate.  
20. Bread and water—Bedding badly made up.  
May 19. do. do. —Talking in cell.  
21. 36 cats, do. do. —Insubordinate, and attempting to strike Keeper  
26. Bread and water—Sleeping with clothes on.  
June 8. Box, do. do. —Making noise in cell; wearing clothes all night.  
21. Bread and water—Refusing to work.  
24. Box, do. do. —Swearing in cell.  
30. do. do. do. —Staring, laughing, and talking at table.  
July 1. Bread and water—Talking in cell.  
2. do. do. do. —Idling and staring.  
5. do. do. do. —do. do.  
6. 36 cats, do. do. —Striking a Convict; raised fist, and threatened to strike Guard.  
7. Box, do. do. —When taking him to be ironed, caught Guard by throat.  
14. do. do. do. —Sleeping with clothes on.  
19. do. do. do. —do. do.  
20. do. do. do. —do. refusing to obey; calling officers a “bloody murdering crew.”  
21. do. do. do. —Sleeping with clothes on.  
26. do. do. do. —do. do.  
29. do. do. do.  
Aug. 5. Bread and water—Talking.

Appendix  
(B. B. B. B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

1847.

- Aug. 16. Box, and bread and water—Sleeping with clothes on.  
Sept. 7. do. do. do. —Striking a Convict.  
17. do. do. do. —Saying he would not oil his boots.  
21. Bread and water.  
22. do. do.  
25. Box, do. do. —Refusing to leave his cell in the morning.  
Oct. 1. Bread and water.  
6. do. do.  
21. do. do.

The Warden called witnesses for the defence.

Guard Watt—By Mr. Smith :—

“Recollects Convict Sheehan ; he was a very sullen, obstinate fellow ; saw no difference in him from the time he came in till the time he went out ; he was always outrageous. Does not know whether he was reported by the Doctor to be mad.”

Keeper Hooper—By Mr. Smith :—

“Recollects Sheehan. Does not know that he saw any difference in him from the time he came in to the time he went out ; does not know whether he has been reported by the Surgeon to be insane.”

Guard Martin—By Mr. Smith :—

“Recollects Convict Michael Sheehan. He acted very curiously sometimes ; he was very sullen and obstinate. Saw no difference in him from the time he came to the time he went away.”

Dr. Sampson—By Mr. Smith :—

“Recollects Convict Michael Sheehan. Reported him to be insane on the 3rd November, 1847. Sheehan was always strange in his manner ; he was of a sullen disposition ; witness considered him so the first time he saw him. Witness's attention was first called to Sheehan's insanity on the 4th October, 1847 ; did not report to the Board on this case until called upon by the Board to do so, further than the entry made in the Punishment Book on the 4th October, 1847,—‘seems insane,’—which entry witness was aware would call for a report from the Board. Witness considered Sheehan to be of sound mind on July 5, 1847. Came to no conclusion as to the cause of Sheehan's insanity.”

By Commissioners :—

“With reference to the foregoing evidence, relative to the state of Sheehan's mind on the 5th July, 1847, witness does not wish to express the opinion that Sheehan was of sound mind at that date ; but that his attention had not been so given to Sheehan as to induce witness to doubt his sanity at that period. Cases of insanity might exist for months among the Convicts without the attention of the Medical attendant being given to it. It does not necessarily come under the Doctor's notice so to observe Convicts as to discover such insanity, unless his attention is specially directed to it.”

Discharged Convict Ramsden—By Mr. Smith :—

“Recollects Convict Sheehan ; he was not mad.”

This is another case of insanity occurring after frequent punishments for insane-like offences ; but some of the objectionable features found in previous cases, do not here present themselves.

18. IN GOADING CHARLOTTE REVELLE, A CONVICT, BY EXCESSIVE PUNISHMENT, INTO A STATE OF INSANITY, OR AGGRAVATING THE MALADY UNDER WHICH SHE LABORED.

Appendix  
(B.B.B.B.B.)  
30th May.

This Convict was reported by the Surgeon on 18th January, 1848, to be of unsound mind. Her time is expired, but she is still in the Penitentiary. The following punishments have been inflicted on her, as appears by the Warden's Punishment Ledger :—

1846.

- July 11. 24 hours dark cell—Refusing to walk.  
16. 24 do. do. —Bad language.  
19. 46 do. do. —Outrageous behavior.  
23. 36 do. do. —No offence reported in Punishment Book.  
28. 24 do. do. — do. do. do.  
13. 24 do. do. — do. do. do.  
18. 24 do. do. — do. do. do.  
Aug. 12. 48 do. do. — do. do. do.  
15. 48 do. do. — do. do. do.  
31. 48 do. do. — do. do. do.  
Sept. 7. 48 do. do. and 6 raw-hide—do. do. do.  
26. 12 hours dark cell—Outrageously noisy and abusive.  
28. 11 do. do. —No report.  
28. 48 do. do. —Destroying clothes ; great violence.  
Oct. 1. 48 do. do. —Great violence.  
16. 19 do. own cell—Refusing to wear shoes.  
Nov. 3. 48 do. dark cell, and bread and water—Refusing to work ; revengeful feeling to Mrs. Cox.  
20. 24 do. own cell—Abuse ; accusing the Matron of starving her.  
23. 48 do. dark do.—Disorderly conduct ; breaking panes of glass.  
Dec. 4. 48 do. own do.—Grossly insulting the Surgeon.  
24. 48 do. dark do.—Destroying slippers.

1847.

- Jan. 6. 48 do. do. do.—Abuse, &c.  
March 2. Box, and bread and water—Disorderly conduct.  
3. do. do. do. — do. do.  
4. do. do. do. and pinioned—Cutting strait waistcoat, and saying, “now report me for that, d—d brutes.”  
19. do. do. do. —Disorderly.  
22. do. do. do. —Punished for offences committed on 20th.  
20. do. do. do. and strait waistcoat—Disorderly ; cutting her shoes ; knife concealed in pocket.  
29. do. do. do.  
31. do. do. do. —Tearing blankets.  
April 1. do. do. do. —On being relieved, called Matron names, and said, “nobody should conquer her.”  
2. do. do. do. —Cursing the Matron ; breaking cell down.  
2. Bread and water—Destroying lock of handcuff.  
3. Box, and bread and water—Not reported in Punishment Book.  
3. do. do. do. —Abusing Matron ; “saying all the devils in hell, should not conquer her.”



Appendix  
(B.B.B.B.B.)  
30th May.

1847.	April 13.	Box and bread and water—Disrespectful language respecting Warden.
	15.	do. do. do. —Telling Warden that she would tear her clothes and be fixed in hell; sick, not punished.
	16.	do. do. do. —Abuse; not punished; sick.
	7.	do. do. do. Abusing Matron.
	17.	48 hours own cell—Saying Warden was “an old brute;” and threats.
	19.	Box, and bread and water—Throwing shoes into night bucket.
	20.	do. do. do. — Calling Warden a “d—d old brute,” and saying they must not try to master her, for she’d rather die than give in.
	21.	Own cell—Not reported in Punishment Book.
May	5.	48 hours dark cell—Abusive to Surgeon and Matron.
June	14.	24 do. own do.—Impertinence to Matron.
	15.	48 do. dark do.—Endeavoring to break out of cell.
	28.	Box, and bread and water—Tearing clothes; abusive.
July	2.	24 hours own cell—Quarrelling with Bridget Donelly.
	3.	24 do. do. do.—Impertinent to Matron.
Oct.	7.	30 do. dark do.

On the 15th January, 1848, the Board of Inspectors having had their attention called to the violent conduct of this Convict, and to an attempt at suicide made by her, called upon the Surgeon “for a certificate as to the state of her mental condition, with the view of application being made to the Government for her removal to a Lunatic Asylum, should her case require it.” On the 16th January, the Surgeon, in accordance with the desire of the Board, reported that Reveille “labours under that species of mental derangement which may be termed moral insanity.” It appears, however, that when the Warden and Inspectors received this report of Dr. Sampson’s they dissented from the Surgeon’s opinion, and desired to call in further medical advice, but without the knowledge of Dr. Sampson. A long correspondence ensued on the case which is given elsewhere, but is not material to this issue. (Reveille was not removed to a Lunatic Asylum, and her time of incarceration expired on 14th February, 1849, but in consequence of her condition, bodily and mental, the Warden and Inspectors have felt it their duty not to discharge her from the establishment at this inclement season.)

The defence of the Warden to this charge, is, that Reveille is not, and has not been, insane; and that part of the punishments charged as inflicted on her, were awarded, but not executed.

On the former point, the evidence is as follows:—

Mrs. Cox—preliminary examination:—

“There was only one instance of flogging women while witness was in the prison; the name of the culprit was Reveille. Witness thought, at times, that this woman was insane. Witness reported to the Warden that she thought her insane. ‘Well,’ answered the Warden, “report it, and I will forward

the report.” Witness did not report, as she was unwilling to do this on her own judgment. She thought the Warden should have advised with her, and sent the Surgeon to speak to her about it; but he did not; all he would say, was as above. The only instance of gagging was in the case of Reveille. It was done without the knowledge of witness. Mrs. Pollard reported her, and the Warden ordered the punishment, without any reference to witness. She lost the use of her limbs in the box, and was carried to her cell, where she remained until she was sent to hospital by the Surgeon. She recovered the use of her limbs.”

Mrs. Coulter—preliminary examination:—

“Recollects Convict Reveille. She behaved very well while witness was in the Penitentiary. Witness has no doubt this woman was insane, and always thought so; told this to the Doctor.”

By Mr. Smith:—

“Witness left the Penitentiary in June or July, 1846. Reveille was in the Penitentiary only a short time before witness left. Reveille was very sick; thought she would have died; she was swelled by constipation. She never deserved, and never had, punishment before witness left; her conduct was very good. Thought by the look of her eye, and the way she talked, that she was insane; told the Surgeon she thought so; the Surgeon said she was odd in her ways, but time only would tell if she were insane; he instructed witness to keep her quiet, and let nothing excite her mind.”

Rev. R. V. Rogers—preliminary examination:—

“Is quite convinced Reveille is insane; was the first to mention her insane; mentioned this to the Warden, he thinks—at any rate, to the Surgeon.”

By Mr. Smith:—

“Witness thinks that Reveille is insane; would say so from her conduct generally while at the Penitentiary. Witness states several occurrences in Reveille’s conduct which led witness to this opinion; has stated this opinion to the Surgeon much more than a year ago; has understood that the Surgeon has reported Reveille to be insane; does not know when the Surgeon did so. Has had frequent private conversations with Reveille on religious subjects.”

For the defence, the Warden called several witnesses.

Mrs. Martin—By Mr. Smith:—

“Recollects a Convict named Reveille; she was taken sick about a fortnight after she came to the prison; she frequently reported herself to be ill. The Surgeon always saw Reveille when she was keeping her bed; he never refused to see Reveille, so far as witness knows. She used to complain of a lump in her side, and used to have large swellings on her body; she complained of inability to walk from weakness in her limbs; she complained of being unable to straighten her leg. Dr. Sampson once gave Reveille up as likely to die; he came on one occasion with another Doctor. Reveille has told witness that she was worse when in Montreal. (Mr. Smith puts in a certified copy of a letter from Dr. Arnoldi, respecting the case of Reveille, while under that disease in the Montreal Jail, dated June 15, 1848.) The box was not used as a punishment while witness was at the Penitentiary. Never

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

thought Reveille mad; considers her a very wicked woman, of very violent temper. Her punishments were confinements in her own cell, and once in the dark cell; such punishments are not calculated to injure a Convict's health. Reveille sewed, and did what she wished, in the dark cell."

Mrs. Pollard—By Mr. Smith:—

"Is not aware that Reveille ever lost the use of her limbs from confinement in the box—witness was Assistant Matron under Mrs. Cox—does not think that Reveille was ever in the box more than three times; witness once put her in the box for six hours; had authority to do so; her general conduct was very violent. Reveille has told witness of a hurt in her side which he got before she came to the Penitentiary; Reveille said she was on a step ladder in a shop, and met with an accident which produced this hurt in her side; she was six months in bed with it; Reveille has complained of that hurt since she has been here; Dr. Nelson attended her in Montreal; from the nature of Reveille's complaints here, witness would think that they are the same as those she suffered from before she came; Reveille was in good health; her usual health, after being put into the box. She has destroyed a very great number of things in the Prison; witness does not think she is insane; she was very frequently violent and abusive to Mrs. Cox; once heard Mrs. Cox say that she would glory to stand, without a wince, to see Reveille get three dozen with the cats. In general Reveille would put herself on the sick list when ordered for punishment. Dr. Sampson has sometimes said that it was of no use to see Reveille, when he has been asked to do so, as he did not think she was sick. The Doctor said that he wished a stone place could be built for Reveille, where she could not destroy anything, as she was not fit to be placed where she was. The Doctor has given her up as going to die. Witness has not the least idea that Reveille will die in the Penitentiary; thinks she is too strong and too wicked to die. Every indulgence has been shown to Reveille; no expense has been spared, either in food or clothing, to make her comfortable; witness has many times given her provisions; she has been fed a very great deal from the Warden's table."

By Commissioners:—

"Reveille would commit acts of great violence without any provocation; she would smash the windows with a bucket, because the Doctor has refused to give her a warm plaster. Some of the indulgencies proceeded from the doctor's order; he has said she was to get whatever she wanted."

Mrs. Chase—By Mr. Smith:—

"Reveille frequently speaks of her leg being contracted; she says that it arises from laying in bed so long; she cannot straighten the leg; the leg was not in this state when witness first came to the Penitentiary. Reveille has never been put in the box since witness has been at the Penitentiary, nor has she had any punishment. Reveille has told witness that she could contract her leg by tying it up; Convict Cooke had told her how to do it. Cooke is in a similar state, she cannot stand without a crutch: another Convict has tried the same experiment; witness discovered it. Reveille told witness that the cause of the lump in her side was falling down stairs, and falling against some candle-sticks when in Montreal; she said that Dr. Nelson attended her for a long time. Reveille has always

shewn the same temper and disposition since witness has been here." \* \* \* \* \* "Witness never stated before the Inspectors that she believed Reveille to be mad; nor before the Commissioners."

Dr. Sampson—By Mr. Smith:—

"Convict Reveille is a very violent woman. Has understood that she has been frequently punished for her bad conduct; thinks the punishments she has received have been instrumental in causing her illness; the restraints of punishment were productive of violent conduct on her part, and this violence aggravated her complaint. (There is put in the following entry from the Hospital Registry of 17th October, 1847):—'Admitted this day Charlotte Reveille, with rather profuse Menorrhagia, brought on, no doubt, by her extreme violence and undue exertion while frequently confined to her cell, and placed in the punishment box for outrageous behaviour; the complaint is of some days standing, and she has been treated for it in her cell; the skin is cool, and there is no constitutional disturbance, pulse not accelerated, but rather weak.' Was called upon by the Inspectors to give an opinion as to the effect of the punishment of the box; made a report in consequence; does not remember more than one report on this subject; this was on 15th December, 1847. Is shewn a report in witness's handwriting on the subject of the box, dated the 20th June, 1847, which witness admits to be his. (Certified copies of each of these reports are handed in.) Witness has sometimes declined to put Reveille on the sick list when she has complained; has several times said that he would not go near her; the rule is, that witness should visit every day every sick and complaining Convict. Witness has expressed an opinion that Reveille should be put in some place where she could neither see nor hear any one. Witness considers that Reveille would often express a wish to see him for the mere purpose of violence; she often complained when there was no necessity for witness to visit her. Reveille went upon the sick list, for the first time, on the 17th May, 1846; thinks that the complaints entered in the Hospital book of that date, viz., "Constipation and Colic," were put down at the time that Reveille's name was entered in the book; will not be certain of it—sometimes adds to the entry after it is first made—Reveille was taken into the Hospital the next day; she was discharged from Hospital on the 1st July, 1846. She was again put on the sick list, on the 30th July, but no complaint was stated; it is sometimes difficult for a medical man to determine at the moment the nature of a complaint; witness therefore sometimes leaves this entry blank, with the intention of filling up the blank when the nature of the complaint is determined: she was discharged from the sick list on the 3rd of August, 1846. She was taken into Hospital on the 22nd August, 1846, and was discharged from thence on two days after; her complaint was then injured loins. She was placed on the sick list on the 5th November, 1846, no complaint stated; she was discharged from thence on the 13th November. She was again placed on sick list on the 11th January, 1847, complaint "Colic;" taken into Hospital on the 14th January, and on 19th January was discharged therefrom. None of the complaints for which Reveille was treated as above, appeared to witness to have been the result of confinement in the box. (The Punishment Book is produced, by which it appears that the first time on which Reveille was punished by the Box, was on the 2nd March, 1847.) Witness has several times expected that Reveille was going to die; this was subsequent to the 2nd March 1847; thinks that he once considered Reveille in great danger in Mrs. Coulter's time. The Chaplain has frequently stated to wit-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

ness that it was his opinion Reveille was insane; does not remember that Mrs. Coulter ever stated a similar opinion, but she may have done so; thinks Mrs. Cox has given such an opinion, but cannot speak with certainty. The mind of Reveille was a problem to witness from the time he first saw her."

Thomas Costen—By Mr. Smith:—

"Knows Convict Charlotte Reveille; has seen her behave in a very outrageous manner; it has been necessary to restrain her; has superintended punishment inflicted on her; does not believe she is insane, only bad-tempered. As far as witness knows, her conduct has always been the same since she came to the prison."

Witness is asked, if the Inspectors did not, by minute of 5th April, 1847, order "Charlotte Reveille to be gagged, whenever it might be necessary to reduce her to silence?" and witness says, "they did."

Mr. Sheriff Corbett—By Mr. Smith:—

"Recollects seeing Convict Reveille in the summer of 1848; it was in June; asked her how she was treated; it was on a Sunday; cannot remember what she said, but knows she complained of no ill-treatment; thinks she said Mrs. Smith and Mrs. Pollard were kind to her, and that the former had sent her in nourishing food; she said the Warden was kind to her; does not remember that she said anything of her own conduct, or of Dr. Sampson's conduct to her."

The second ground of the Warden's defence, viz., that the punishments contained in the preceding table were awarded, but not actually inflicted, rests on the testimony of the Head Keeper.

Thomas Costen—By Mr. Smith:—

"Witness is referred to the Punishment Book of 20th March, 1847, and says, Reveille was reported on that day, and punished; on 22nd March, she was reported, but not punished; on 29th March, she was reported, but not punished; on the 3rd April, 1847, she was reported, and punished on 5th and 6th; on 7th, she was reported, and confined to the box on 17th; on the 13th April, she was reported, but not punished; on the 15th April, she was reported, and not punished; on the 16th April, she was reported, and not punished; on the 17th, she was reported, and punished, but witness cannot say from the book on what day; on 19th April, she was reported, and not punished, being sick; on 20th, she was reported, and not punished, being sick; on 21st, she was not reported; on 5th May, 1847, she was not reported."

By Commissioners:—

"Presumes every punishment entered in the Warden's Punishment Ledger, was inflicted."

Q. You have sworn that Convict Reveille was reported for punishment on 22nd March, 29th March, 13th April, 15th April, 16th April, 19th April, and 20th April, 1847; but that in no one of these instances was punishment inflicted on her. Please to refer to the Warden's Punishment Ledger, and say if punishments are not registered in that book as having been inflicted on Reveille on these days?

A. Yes; Reveille is registered in the Warden's Ledger to have been put in the box on each of these days. The entries are in the Warden's hand-writing.

Q. How then did you swear that these punishments were not inflicted?

A. Because in the original Punishment Report Book a memorandum is made opposite each of these entries in question, stating that punishment, although ordered, was not inflicted.

Q. Are not these memoranda you speak of, in pencil, and in the Warden's hand-writing?

A. Yes; in every case.

Q. If these pencil memoranda had not been there, would you not have sworn that, to the best of your knowledge, these punishments were inflicted?

A. Yes.

Q. In every one of these instances, was not the punishment awarded by the Warden, and are not all the entries in his hand-writing in ink?

A. Yes.

Q. Are not these awards of punishment entered in the Punishment Book immediately before breakfast, and are they not carried into effect immediately after breakfast?

A. Yes.

Q. Could any Convict have been relieved from punishment without the special consent of the Warden?

A. No.

Q. Is there not a mark made in the Punishment Book, by the Kitchen-keeper, showing the date when any given punishment was inflicted?

A. Yes; a date is put in opposite the punishments inflicted for any given day.

Q. Are not these marks regularly made on all the days in question as to Reveille, and would you not have pronounced from them (but for the pencil marks) that all the punishments in question were inflicted?

A. As regards the males, would have said so; but in the case of women ordered for punishment, it is the duty of the Head Keeper to see the sentence carried out; and in several instances, when witness went to see Reveille put in the box, she was sick, and punishment was deferred.

Q. Refer to the Warden's Ledger, and say if Reveille is there registered as having been put in the box twice on 3rd April, 1847, and once on 7th April; in her own cell on 17th and 21st April; and in the dark cell on 5th May, 1847?

A. Yes; she is.

Q. Look at the Punishment Book of 1st April, 1847, and say if Reveille was not on that day ordered to be confined in the box?

A. She was; but there is an addition to the award in ink, stating, that from sickness she was not then punished.

Q. Is that ink entry in the same place on the page of the book, as the pencil memoranda you have formerly referred to?

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B. B. B. B.)  
30th May.

A. No; in the ink entry it is under the award; in the other cases, the memoranda were placed in a different column.

Q. You swore that the two reports of 3rd April were inflicted on the 5th and 6th April, 1847—how did you find that such was the case?

A. From date placed opposite the awards.

Q. Are not these dates placed in the column where the Kitchen-keeper usually places his mark of the date of punishment?

A. Yes.

Q. When you swore that the offence of 7th April was punished on 17th April, was it not on precisely the same foundation as in that of 3rd April?

A. Yes.

Q. Are not all these dates, from which you have sworn, in the hand-writing of the Warden?

A. Yes.

Q. Can you find any entries in that column in the Warden's handwriting, except in the case of Reveille?

A. No; the entries in that column are all in Frank Smith's writing, or in witness's, except in the case of Reveille.

By Mr. Smith:—

Witness, whenever punishment of Reveille by box or dark cell was to be inflicted, went to the women's apartments, and superintended such punishment.

Frequently returned without inflicting punishment on account of her reporting herself sick. The Kitchen-keeper does not see the punishments inflicted on females; nor has he any other means of knowing that such are inflicted except through the information of other officers. Witness refers to Punishment Book, and on 4th May, 1847, finds that Convict Bridget Donelly was twice reported on that day, and that opposite the awards the dates "4th May" and "6th May," are written in the hand-writing of the Warden, as the dates when the punishments were inflicted. Witness, on reference to the Punishment book, says the following are the only entries of dates in the case of Reveille made in the hand-writing of the Warden:—Opposite the award of 2d March, 1847, the Warden has written as the date of infliction—

Opposite 19th March, he has put	"2d March."
" 31st "	" " "31st March."
" 1st April	" " "3d April."
" 2d "	" " "5th April."
" 2d "	" " "6th April."
" 3d "	" " "13th April."
" 5th "	" " "16th April."
" 7th "	" " "17th April."

It was impossible for Reveille to be twice punished by the box on 3d April, as stated in the Warden's Ledger.

By Commissioners:—

Q. You say that the two reports of 4th May against Bridget Donelly are entered in the Punishment book, in the Warden's hand-writing, as having

been inflicted on "4th May" and "6th May;" please refer to the Warden's Ledger and say when they are there stated to have been inflicted? Appendix (B. B. B. B.) 30th May.

A. They are there stated to have been inflicted on 4th May and 5th May.

Q. Is it not the usual practice when a Convict is reported for two offences on the same day, to punish them on two successive days?

A. Yes; always, except in cases of sickness.

Q. Is it not the fair conclusion then, that the words "4th May" and "6th May," have been written in the Punishment Book by the Warden, since his ledger was posted, as otherwise he would have posted the punishments on the days they are now said to have been inflicted?

A. Cannot say; the Warden may have made an error.

There has been for some years in the Prison a Punishment Report Book, ruled with a column for the offence, a column for the sentence awarded, and a column for the date when the sentence was inflicted; then there is a Punishment Ledger into which the several punishments, inflicted on each Convict, are carried from the Punishment Report Book to his or her debit in a separate account opened for every prisoner. The former book is kept by the Kitchen-keeper, except the award column in which the Warden every morning inserts his award upon each offence. The Ledger has been kept exclusively by the Warden.

All the offences given in the return of Reveille's case are regularly reported in the Report Book—punishment regularly awarded in the Warden's hand-writing—and the date of infliction regularly certified, in the usual manner, by the Kitchen-keeper; and all of them are regularly posted from the Report Book into the Ledger, as having been inflicted, precisely as in our return, in the Warden's own hand-writing.

On the 4th January, 1849, we learned for the first time, (through Mr. Costen's evidence) that any doubt of the infliction of these punishments existed. On examining the Punishment Report Book, we found that opposite several of the entries as to Reveille, pencil-marks had been made by the Warden, stating that these punishments had not been inflicted. We find no such pencil-marks opposite the names of any other Convict. We also observed that in the column kept by the Kitchen-keeper, in which the date of infliction is recorded, the Warden had made pencil-entries opposite several offences of Reveille's, differing from those of the Kitchen-keeper. To understand how this was done, it must be explained that the Kitchen-keeper does not put a date of infliction opposite each offence, but makes one date include a number of punishments, so that although the date of infliction is clearly designated, the date column is frequently left blank. The only similar pencil entries to be found in the books are in two cases of punishment inflicted on Convict Bridget Donelly—and her sanity was doubted as well as Reveille's—a report on her mental condition was also ordered to be made by the Surgeon. A return of punishments inflicted on her, too, was called for by the Surgeon, and all the motives which could have made interpolation desirable in Reveille's case operates in her case.

Appendix  
(B.B.B.B.B.)  
30th May.

Cases have frequently occurred, and as to Reveille among others, in which Convicts had punishment awarded, and escaped the infliction at the time, in consequence of sickness; but an entry is made in ink of the circumstance, and in quite a different column from that used in Reveille's case. It is certain that if these punishments had not been inflicted on Reveille, the Warden must have known it immediately after he awarded the punishment, as his consent must have been had to remit the punishment; and if he possessed the knowledge that they were remitted, was he likely to have recorded these punishments in his Ledger as inflicted—and that not in one case, but in many successive instances? There is the strongest possible reason, from the records alone, to believe that the punishments in question were inflicted according to the entries in the Ledger.

But the Punishment Report Book has been often closely examined by at least three members of the Commission, and they have no recollection of having observed these pencil-marks; and Mr. Commissioner Thomas, who compiled the return of Reveille's punishments, feels fully assured that when he extracted the matter from the Report Book, in August 1848, no such pencil-marks were in existence; he is satisfied that he could not have made up the return without seeing these marks, and he states that he would have considered it of the utmost importance in making out such a charge as the present, to be particularly careful in crediting the Warden with every point which might be considered favourable to his defence.

Upon the whole case we think that Reveille came to the Penitentiary in bad health, and probably with a predisposition to insanity; we are fully satisfied that she is quite deranged at frequent intervals; and have no doubt that the severe punishment she received, has greatly aggravated her maladies, physical and mental. We are also of opinion that the Warden has endeavoured to shield himself from the censure, which his treatment of this woman so well deserved, by deliberate falsification of the Prison Records.

Charge VIII. we consider amply established.

#### CHARGE IX.

##### GROSS MISCONDUCT AS WARDEN OF THE PENITENTIARY.

1. In granting notes for large sums of money, without authority, and concealing the existence of such notes in his returns to Government.

It appears that the Warden has at different times granted notes to the creditors of the Penitentiary, to the gross amount of £13,812 9s. 5d., and that he thereby kept a large debt due by the Institution afloat without the knowledge of Government, and entailed a considerable amount of interest on the Institution. He was charged with having granted such notes without any authority by statute, and without the consent of the Board of Inspectors.

The Warden called the following witnesses :—

Mr. Bickerton—By Mr. Smith :—

“The Penitentiary is very frequently out of funds; has to pay the contractors with promissory

notes when witness has no money. Keeps an account of all the promissory notes given by the Warden. There were a few such notes given in the time of the Kirkpatrick Board; that Board raised some thousands of pounds by the joint note of the Warden and Inspectors for the use of the Penitentiary.” \* \* \* \* \* “During the existence of the Kirkpatrick Board, the Institution was sometimes out of funds from the Government. Money was raised on promissory notes drawn by the Warden, and endorsed by the Inspectors; there were a few promissory notes issued to contractors by the Warden during the Kirkpatrick Board.”

By Commissioners :—

“There is an estimate of the amount needed for the ensuing year for carrying on the Institution, sent annually to Government by the Warden. For several years, at the commencement of the Institution, the Government seldom gave what was asked; for the last six or eight years all the money asked for by the Warden has always been granted and furnished; the instalments have been regularly paid; but sometimes a larger sum was wanted at one part of the year than other parts, and being out of funds notes were granted. When the whole grants asked for, were paid up by Government, the debts were not fully paid; the amounts asked for were not sufficient to carry on the Institution, and left it in debt. This debt has been accumulating for four or five years; the debt is now about £5000; the Government has never been made aware of the existence of this debt; until the past year this debt has not brought much interest on the Institution.” \* \* \* \* \*

“The only notes ever granted by the Kirkpatrick Board, or any other Board of Inspectors, were three in 1841; one at 90 days from 24th February, for £1500; one on 3rd April, for £1000, and one on 2nd July, 1841, for £500. These notes were not passed away, but negotiated at the Bank by the Inspectors themselves.”

By Mr. Smith :—

“Does not know the cause of the debt due by the Penitentiary; has never compared the amount of the estimate for building purposes with the amount expended; the Master-builder makes out the annual estimate for building materials. In the estimates for the year 1841, the debt due for the preceding year was included; the debt was returned at £2,155 15s. 2d.

Thomas Kirkpatrick, Esq.—By Mr. Smith :—

“Witness does not remember any monies being advanced by the Bank to the Penitentiary on promissory notes during the time that witness was President of the Board of Inspectors. The Cashier of the Bank advanced on the credit of the Institution, and allowed the account to be overdrawn.

The advance was made on the word of witness that the amount would continue to be kept at the same bank. Witness does not recollect that a report was made to the Government, complaining of the personal responsibility of the Inspectors, but such report may have been made.”

James Hopkirk, Esq.—By Mr. Smith :—

“The Board of Inspectors were aware that the Warden was officially in the habit of granting promissory notes; thinks it would have been better to have given money, if they had had money, but as there was no money, the next best thing was to give

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

notes, which was an accommodation to the creditors of the Institution.

By Commissioners :—

Q. Had the Inspectors ever laid before them a statement of the debts due by the Institution ?

A. Is not aware that they had, unless there was such a statement in March, 1848, though there is no trace of any such in the Minute Book.

Q. Do you know what has been the current amount of debt due by the Institution during your incumbency ?

A. Is not aware.

Q. Are you aware, that a large indebtedness due by the Institution, has been carried from year to year, on which interest has been paid ?

A. Is not aware that such an indebtedness has been carried from year to year ; knows that there is a large debt now, but how long it has existed does not know.

Q. Have you ever informed the Government of the existence of the said debt ?

A. Is not aware.

Q. Has the debt ever been included in the estimates for the ensuing year, annually sent to Government ?

A. Cannot say.

Q. Have not the Government always granted the Officers of the Penitentiary the full amount they asked for in their annual estimates ?

A. Has no doubt they have done so since witness has been an Inspector ; but has paid no particular attention to matters of finance.

Q. Did the Inspectors ever officially authorize the Warden to grant notes ?

A. Is not aware that any such authority has been granted in witness's time.

Q. Are you aware of any such authority before your time ?

A. Is not ; but has not particularly examined the minutes, and cannot tell what they contain.

Q. Do you know the number or amount of notes officially granted by the Warden during your incumbency ?

A. Does not.

Q. Do you know that there was no money in the Penitentiary exchequer when the said notes were granted ?

A. I do not know.

Q. How then did you testify that the said notes were granted as an accommodation to the creditors of the Institution ?

A. Witness's testimony was to the effect, that when there was money, it was best to give it ; but when there was no money, the giving the notes was an accommodation to the creditors of the Institution.

Mr. Sheriff Corbett—By Mr. Smith :—

“ Witness was aware that the Warden gave notes to the creditors of the Penitentiary ; saw one note in the Commercial Bank ; does not know that he ever saw any other note ; saw no objection to the Warden's giving notes when there was no funds. Recommended Mr. Harper to cash the note witness has spoken of, and he did.”

By Commissioners :—

Q. Did your Board ever authorize the Warden to grant notes ?

A. Not to witness's knowledge. The Warden stated that he could pay the Contractors in no other way at the time.

Q. Did you know whether he had money on hand or not, except from the Warden's assurance ?

A. Never ; except when witness saw the monthly return, which showed the cash on hand.

Major Sadlier—By Mr. Smith :—

“ Witness recollects of money being raised by the Inspectors to carry on the Penitentiary on their own notes. The Warden made the note, and the Inspectors endorsed it.”

The evidence, in this case, establishes that the Warden had no authority, by statute, for granting notes, nor from the Board of Inspectors ; that the Warden did, however, officially grant notes to the creditors of the Institution to a large extent, without any such authority ; that there was no occasion for granting the said notes, as the Warden got all the money he asked for from Government, and was paid with great regularity ; and that the facility afforded him by these notes, enabled the Warden to carry on a large debt due by the Institution, which he has never reported to Government, and which has entailed a heavy amount of interest on the Institution.

We can see no necessity for committing a power, so liable to abuse, as that of granting notes in his official capacity, to an unlimited amount, to any Warden ; and we are satisfied, that in the present case there was no such power given or required by the circumstances of the case. We, therefore, think the Warden's conduct in this particular most censurable.

The allegation that the Kirkpatrick Board recognized the practice, is incorrect. The sum raised by that Board was obtained under special circumstances ; and, moreover, that transaction was the act of a large Board, made direct with their bankers—a very different case from the unauthorized and indiscriminate granting of notes by an individual officer. The circumstances under which the Kirkpatrick Board acted, are explained in their report to the then head of the Government.

Extract from the Annual Report of the Board of Inspectors of the Provincial Penitentiary, January, 1842 :—

“ The Legislature, at its last Session, having granted a sum sufficient to cover the expenses of materials necessary for the completion of the East Wing, and also for the erection of some Cottages for the accommodation of the Keepers, the Inspectors hope that they will not for some time be obliged to ask for a larger sum than will be sufficient to cover

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B. B. B. B.)  
30th May.

the current expenses of the Institution. They cannot, however, let this opportunity pass, of expressing their hope that they may not again be placed in the same position in which they were during the past year: the funds granted by the Legislature of the Province of Upper Canada being exhausted previous to the end of the year 1840, and the Session of the United Parliament having closed in September, a period of nine months elapsed, during which the Inspectors were obliged, on their individual responsibility, to borrow a large sum of money to pay off the arrears due to the officers, and provide means for the support of the prisoners, and were also compelled to postpone the settlement of other claims, by which, no doubt, the credit of the Institution was materially affected. They trust that, as soon as the time of the future sittings of the Provincial Parliament is determined upon, the necessary supplies will be granted to the Penitentiary for a period ending with the close of the Session. With this in view, the Inspectors defer making out the annual estimate until the meeting of the Legislature."

"A true extract.

(Signed) "F. BICKERTON,  
"Clerk."

2. IN PAYING MR. EDWARD HORSEY, ARCHITECT  
AND MASTER-BUILDER OF THE PENITENTIARY,  
£200 PER ANNUM, CONTRARY TO LAW.

The salary of the Architect and Master-builder for some years previous to 1846, was £200 per annum; by the new Act of 1846, it was cut down to £100. The Board of Inspectors remonstrated with the Government, but without avail; and Mr. Coverdale resigned in consequence. This was one of the reasons for the resignation, also, of the then Board of Inspectors. This new Board having come into office, Mr. Edward Horsey was appointed as the successor of Mr. Coverdale, and application made again to Government to restore the salary to £200. This time the application succeeded, and Mr. Horsey from that date got £200 per annum.

This charge, as against the Warden, rested on the points, that the salary was reduced by an Act of Parliament framed by the Warden and his son, Mr. Henry Smith, M.P.P.; that the moment Mr. Coverdale was thus ejected, Mr. Horsey was put in his place, and shortly after received the original salary; and that all this was brought about to settle a difficulty existing between Mr. Horsey and Mr. H. Smith, M.P.P., as to the dower of Mrs. Horsey, on a house purchased from her husband by Mr. Smith.

This charge has been, however, entirely disproved; and the Warden is exonerated from all blame in the premises.

H. Smith, Esq., M.P.P.—By the Warden:—

"There was no money transactions between Mr. Horsey and witness immediately before the passing of the Act in question; never had any transactions with Mr. Horsey but two; bought a house from him in 1838 or 1839; paid him for the house on the day he made a deed of it to witness. The other transaction was for a lot which witness bought from a third party, but had to get the deed from Mr. Horsey; this was previous to the purchase of the house; paid Mr. Horsey for the house in 1839, since which he has had no money transactions with Mr. Horsey."

By Commissioners:—

Q. Was Mrs. Horsey's right of dower barred at the time you got the deed of the house you purchased from her husband?

A. No; she refused to bar it.

Q. Has it since been barred?

A. It has not. Thinks it was a plan of Mr. Horsey's; that he regretted the bargain he made with witness, and put his wife up to refuse barring her dower, in order that witness might throw up the bargain.

Q. Have you been since in treaty with Mr. Horsey to get his wife's dower barred?

A. Never spoke to him on the subject since.

Q. Have you never applied to Mr. Horsey to put you in a better position as regards his wife's dower?

A. Never.

The following is the Provincial Secretary's letter on which the additional £100 per annum has been paid to Mr. Horsey:—

"Secretary's Office,  
"Montreal, 7th Oct., 1847.

"Sir,

"I have the honour, by command of the Governor General, to inform you that his Excellency has had under his consideration in Council your letter of the 4th June, recommending, by desire of the Board of Inspectors of the Provincial Penitentiary, that the Salary of the Architect and Master-builder of that Institution be increased to £200 per annum.

"The 48th Section of the Statute 9 Vic. Chap. 4, limits the Salary of the Architect and Master-builder of the Penitentiary to the sum of £100 per annum, for superintending the erection of the buildings and other works necessary for their completion, and His Excellency, therefore, cannot direct any augmentation of the regular Salary of that officer, beyond the amount authorized by the Act referred to.

"As, however, His Excellency considers it to be of the greatest importance to procure the services of a competent Architect and Master-builder, I am directed to convey to you His Excellency's authority for remunerating that officer in such manner as the Inspectors may think just and reasonable, for any extra services he may be called upon to perform, not included in the mere superintendence—such as drafting, working out other plans, preparing estimates, specifications, and the like; provided that such extra remuneration does not exceed £100 per annum: and also, provided that his whole time and services are placed at the disposal of the Board, and that the nature and amount of remuneration for such extra services, be specified in the Annual Accounts of the Penitentiary.

"I have the honour, &c.,

(Signed) "D. DALY,  
"Provincial Secretary."

To T. A. CORBETT,  
President Board of Inspectors.

"Certified to be a true copy,

(Signed,) "F. BICKERTON,  
"Clerk."

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

3. IN DRAWING UP A NEW ACT OF PARLIAMENT, FOR THE REGULATION OF THE PENITENTIARY, WITHOUT CONSULTING THE BOARD OF INSPECTORS; AND IN WITHHOLDING FROM THE INSPECTORS, DRAFTS OF THE BILL AND AMENDMENTS, SENT UP FOR THEIR USE, UNTIL IT BECAME LAW.

The evidence under this Count is, that the Warden and his son Mr. Henry Smith, M. P. P., drew up together the draft of an amended Penitentiary Act, throwing new and unheard of powers into the hands of the Warden; that the Warden did not consult with the Inspectors on the subject nor advise them of what he was doing; that the said Bill was handed over to Mr. Attorney General Draper, with the Salaries blank; Mr. Smith, jun., thinking it "better that the Government should introduce it." That Mr. Draper struck out several clauses giving extraordinary power to the Warden, but in no shape otherwise altered the Bill. That the Bill, as it then stood, still gave greatly increased power to the Warden. That by its provisions the Warden's salary was raised from £300 to £500; the Chaplain's reduced from £150 to £125; the Architect's reduced from £200 to £100; the Clerk's reduced from £175 to £150: and the Assistant-Warden with £150 was reduced to Head-Keeper with £125. That the Bill was introduced into the House of Assembly by Mr. Draper, and carried without amendment; that the Board of Inspectors knew nothing of these proceedings, and heard of the new Act, for the first time, by the action of the House of Assembly; that a draft or drafts of the Bill were forwarded to and received by the Warden, though it does not appear they were for the use of the Inspectors; that the Warden did not communicate with the Inspectors on the subject, nor submit the draft to them; that amendments were made on the Bill in the Legislative Council, and copies of them sent to and received by the Warden, but not communicated by him to the Inspectors; that the Inspectors never saw a copy of the Bill until it became Law; that in consequence of the character of the new Law, and the manner in which they had been treated in regard to it, the Board of Inspectors refused to hold office longer, and resigned.

We think the Inspectors were the proper parties to have been consulted on the Provisions of a Penitentiary Act; and that it was the duty of the Warden to have communicated with them on the subject.

4. IN SUPPLYING EXTRA RATIONS TO THE CONVICTS WHEN DISTINGUISHED VISITORS WERE EXPECTED, WITH A VIEW OF CONVEYING AN ERRONEOUS IMPRESSION AS TO THE REGULAR DIET OF THE PRISONERS.

It is established that additional food was served to the Convicts, on several occasions, when persons of distinction were expected. The regulations lay down a fixed scale of diet for the Prisoners, and we can see no reason for deviating from it; but such a practice would be still more censurable were it intended to mislead strangers as to the real amount of food supplied to the Convicts.

5. IN USING THE INFLUENCE OF HIS OFFICE FOR POLITICAL PURPOSES.

A good many witnesses gave evidence on this point, but one or two extracts will explain the charge:—

James Gleeson—preliminary examination:—

"Some few days before the election, (the late General Election,) the Warden called witness out of the gang as he went into the dining-hall, and asked if he had a vote in the city? Witness said he had. 'Well,' said the Warden, 'I suppose you'll vote for Mr. M'Donald?' Witness said, 'if you (the Warden) desired me to do so?' The Warden said, he 'did not force any one to vote.' 'Then,' said witness, 'if that is the case, I will not vote for any one.' On the morning of the election, George M'Mahon, a Town-Councillor, came for witness to go to vote for Mr. M'Donald; witness positively refused to go. A few moments after Mr. M'Mahon left, a Convict-messenger came for witness to go in and see the Warden; witness was met in the hall of the Warden's apartments by Mrs. Smith, wife of Warden. Mrs. Smith said to witness, 'here is a letter from my son Henry, for you to go and vote for his friend Mr. M'Donald.' Witness said, he had 'determined not to vote at all.' Mrs. Smith laid one hand on each of witness's shoulders, and looking him full in the face, said, 'Wont you do this much to oblige me?' Witness said, he 'would be very happy to do anything to oblige her, but he could not do this.' Mrs. Smith said, 'the Warden told her witness had promised to go.' Witness said, he 'had not.' Mrs. Smith went in to the Warden, and coming out again, said, 'Mr. Smith tells me you did promise him, and you must do so.' Witness said, 'if he must, he must;' and he accordingly left the hall, on the understanding that he was to go. Witness then went into Blacksmith's shop, and told Keeper M'Carthy what had occurred, and asked his advice. M'Carthy recommended him to vote for Mr. M'Donald. Witness declared he would not, though he was well aware he would lose his situation. Spoke also to Keeper Keely. Both recommended witness to vote for Mr. M'Donald, on the ground, that if he did not, the first opportunity of getting rid of him would be taken by the Warden. Witness was fully determined not to vote for Mr. M'Donald in any case; and that should the contest run close, he would vote for Mr. M'Kenzie at all hazards. Witness went into town, and saw Mr. M'Donald; witness asked Mr. M'Donald to excuse him from voting unless he was hard pushed; Mr. M'Donald did so. Witness did not vote, and returned to the Penitentiary next day. Never had any future conversation on the matter with Mr. and Mrs. Smith."

Edward Utting—preliminary examination:—

"Recollects frequent occasions on which Guards and Keepers were refused leave of temporary absence, on the score, that they could not be spared from the Institution. Witness thinks it was right to be strict in this matter, as, if a number of officers were absent at the same time, the safety of the Prison would be endangered. Witness recollects the Warden coming to him on the 24th or 25th October, 1844, and desiring witness to send all the Keepers and Guards witness could spare to Waterloo, to aid his son Henry at the Frontenac Election; the Warden said his son wished to show his strength on the first day. Thirteen Keepers and Guards were sent, according to the Warden's orders; they did not return to the Penitentiary that day; witness understood they all voted, and heard some of them say they had not got their deeds."

By Mr. Smith:—

"There may have been six, seven, or eight Keepers and Guards absent from the Penitentiary at the election for Frontenac in 1844; this is under the

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

number. Witness has a memorandum of the exact number, and their names; witness has not brought the memorandum with him. There were a few substitutes provided; does not recollect the number of substitutes; there might be three or four. To the best of witness's recollection, the instructions which Warden gave, were, to send as many of the Guards and Keepers as could be spared, to show Mr. Henry's strength the first day. There was a laugh and talk among the officers, that some who had voted had not got their deeds; forgets the names of those who were mentioned; did not hear any of those who had voted say they had not got their deeds at the time of the election in 1844. Warden was not confined to his room; he came to witness at the wooden steps to give the order; witness afterwards visited the Warden in his room. Witness, on reflection, remembers that he was sick, but was able to come out upon the steps."

By Commissioners:—

"Witness kept an account of the number of officers which were sent at the request of the Warden to the Frontenac election in 1844. At the time witness gave his evidence before the Commissioners last summer, witness spoke from reference to a memorandum which he had referred to; witness had not that memorandum when he gave his evidence yesterday; witness then spoke from the best of his recollection."

Terence M'Garvey—preliminary examination:—

"It was the general practice to refuse leave of absence to more than two or three Guards and Keepers at a time; if others, beyond this number, asked, they were told they could not be spared; there were occasions when exceptions occurred as to this rule. At the Frontenac election a number of the Officers were absent at the same time. At the election of 1844, witness was canvassed by Mrs. Smith for her son; witness is a reformer, but he knew that if he voted against Mr. Smith, he would very likely lose his situation, and so he voted for Mr. Smith. Witness was canvassed by the Warden, at the late election, to vote for his son; the Warden asked him "if he would not vote for the Orangeman?" Witness said he was not fond of the Orangemen. The Warden said, "shall I tell my son you will vote for him?" Witness said he might. Mr. Bickerton was present. Witness has a brother who resides in Kingston, and who had a vote in the City at last election; just before the election, the Warden sent for witness, and said he would be forever obliged to him if he would get his brother to vote for Mr. M'Donald; witness did speak to his brother but did not persuade him; his brother voted for M'Kenzie. Recollects of two Officers getting leave of absence to go to a political meeting at Mill-creek; the object of the meeting was to send a delegate to Montreal, to present an address to the Governor General; Mr. Henry Smith, M. P. P., was trying to get himself sent as the delegate, but Mr. Marks was sent."

John Watt—preliminary examination:—

"Not more than two Officers are allowed to be absent on leave at once, from the Penitentiary. There were several Officers absent together at the Frontenac election in 1844; witness recollects seven who were then absent at once; some of them may have had substitutes. Witness was canvassed to vote for Mr. Henry Smith, on that occasion, by Mr. Frank

and Mr. Henry; did vote for him; witness had not a deed at the time; witness was also canvassed by Mrs. Smith, the Warden's wife, to vote for her son. Witness had a substitute during his absence; witness paid him; does not know his name; never knew it; he was a Ship-carpenter; cannot swear that he was ever employed as a substitute for any other Officer; the man is gone away from Kingston."

John Swift—preliminary examination:—

"Only two Officers were allowed leave of absence from the Penitentiary at a time; has never known this rule to be broken except at election times; has counted seven Officers attending the Frontenac election at Waterloo. Witness is a reformer, and has a freehold in the County of Frontenac. In 1844 was canvassed by the Warden to vote for his son, and did vote for him. Witness thought, and thinks now, that his situation was at stake; and that he would have lost it had he voted for Mr. Thibodo; would certainly have voted for Thibodo had his choice been free, at the late election. Witness was also canvassed by the Warden to vote for his son, and promised to do so against his conviction. No deduction was made from witness's pay, for his absence at the election of 1844; he lost half a day; never was absent on any other occasion when his lost time was not deducted from his pay. At a political meeting, held at Mill-creek some time ago, two or three Officers were allowed to be absent."

By Mr. Smith:—

"Witness went to the Frontenac election in 1844; believes there were some substitutes provided for Officers who went to the election; cannot say there were substitutes for all who were away. Witness was absent half a day at the election. Believes there were three Officers absent at the Mill-creek meeting, Little, Tyner, and witness thinks Funstan. Witness thinks it would be unjust if a person who had a vote at an election had not the power to give his vote. Witness does not think it would be so unfair to prevent a person from attending a political meeting as to prevent him from attending an election."

Keely, Robinson, M'Carthy, Fitzgerald, Wilson, Bannister, Kearns, and Cooper give similar testimony.

There is no doubt that the Warden's influence has been exerted over the Officers in political matters; but it does not appear to have been to an extent prejudicial to the interests of the Institution, and we therefore acquit the Warden of "gross misconduct" in the premises.

6. IN KNOWINGLY APPOINTING A WOMAN OF NOTORIOUSLY BAD CHARACTER, TO BE DEPUTY MATRON OF THE PENITENTIARY; AND IN APPOINTING THE MAN, WHO HAD LIVED IN PROSTITUTION WITH HER, TO A CONFIDENTIAL SITUATION IN THE INSTITUTION.

The evidence under this count is, that Mrs. Martin, for some years before her marriage, was a servant in the Warden's family; that while so living, within the walls, in the Warden's house, she became *enceinte* by William Martin, then an occasional temporary Guard in the Prison, and was turned away in consequence. That she had a room given her in the house of Joel Sturges "out of pity," where she and Martin "lived together before their marriage;" that a child was born; that Mrs. Sturges told the parties that "they must either leave the house, or be married;"

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

that Mrs. Martin was then brought back to the Warden's house as his private servant, and was married to Martin nine or ten months afterwards. That the Warden sometime after found an Assistant-Matron was required, and appointed Mrs. Martin to the situation, for which he afterwards obtained the sanction of the Board of Inspectors; that William Martin, eighteen months afterwards, was appointed a permanent Guard in the Penitentiary; that Mrs. Martin was discharged, in 1846, for incapacity; and that Martin still remains an Officer of the Penitentiary.

The defence of the Warden is, that the parties were only prevented from marrying by the opposition of Martin's father; that, with this exception, they have lived moral lives; and that the appointment of Mrs. Martin was sanctioned by the Board.

As regards this last plea, the minutes show that the Warden was the only active party in the appointment.

"Extract from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 18th Dec., 1843 :—

"The Warden stated to the Board, that owing to the increased number of Female Convicts, and with a view to prevent any conversation passing between them during the time they are locked in their cells at night, he had engaged the services of Mrs. Martin as Assistant-Matron, as well to sleep in the Prison, as to take charge of those belonging to the Roman Catholic Church, during the time of Divine Service. For this duty the Warden has engaged to pay her at the rate of two pounds per month; and he recommends that she have the free use of the small frame-building on the West corner of the Penitentiary lot, (as soon as it may be vacated by the Messenger) as long as she may continue her present duties. The Board being of opinion that this arrangement is necessary, now sanction the same."

Thomas Kirpatrick, Esq.—By Mr. Smith :—

"Mrs. Martin, witness presumes, was appointed with the sanction of the Board. The applicants for situations in the Penitentiary who were recommended by the Warden, were always appointed; in some instances the Warden made no recommendations."

By Commissioners :—

"Witness thinks it would have been most improper to appoint a woman Assistant-Matron of the Penitentiary, who had been living in open prostitution. Mrs. Martin was strongly recommended to the Board by the Warden. It strikes witness that the Warden had placed her in the situation and applied to the Board to confirm the appointment. The fact that a woman had a bastard child, and afterwards married her seducer, might necessarily have prevented witness from assenting to her appointment as Assistant-Matron of the Penitentiary. Thinks the point never came before the Board."

As regards the other points of defence, whatever may have been the degree of culpability attachable to Mrs. Martin's lapse from virtue, the exceeding impropriety of appointing to the Matronship of the Penitentiary a person open to such a reproach, must be obvious. And the fact that the circumstance occurred within the walls of the Penitentiary, and was matter of notoriety, marks the appointment as one of the most censurable character, and attaches great culpability to the Warden in making it.

Appendix  
(B.B.B.B.B.)  
30th May.

We know of nothing more ruinous to the success of such an Institution than the appointment of Officers of low moral character. Put it in the power of the Convicts to look down on their Keepers, and adieu may be bid to all hope of reform.

We can find nothing in the previous employment of Mrs. Martin, or in her suitability for the duties of the office to redeem her appointment; and the fact that she cannot write her own name, alone proves that she was unfit for the situation.

As regards the appointment of Martin, in the circumstances of the case, we must also consider it as objectionable, but not so detrimental to the discipline as in the former case.

The imputations of dishonesty against Mr. and Mrs. Martin, which are found in the evidence under this count, we do not think proved.

7. IN CONSPIRING TO REMOVE EVERY OFFICER OF THE PENITENTIARY, WHO DID NOT BECOME ENTIRELY SUBSERVIENT TO HIS WILL, FROM THE INSTITUTION.

A vast amount of evidence has been received as to the treatment of the Officers of the Penitentiary by the Warden, both before and since the charges were served on the Warden; but under this count we confine ourselves to the cases referred to in the formal charges. The evidence on all of the cases herein mentioned, is given very fully elsewhere, and it is unnecessary to do more here than state the facts as proved.

We find that the salary of Mr. Coverdale, the Architect, was reduced from £200 to £100, by the amended Penitentiary Act of 1846. That this Act having been got up by the Warden and his son, Mr. Coverdale and others considered the reduction was procured by the Warden for personal reasons of his own; and that the result of the reduction was the ejection of Mr. Coverdale from the Institution.

In the case of the Chaplain, the Rev. R. V. Rogers, we find that from the first appointment of this gentleman there has been constant jarring between him and the Warden; that the Warden has often brought Mr. Rogers before the Board of Inspectors, upon trivial complaints, in a very harassing manner. That the Chaplain's salary was reduced from £150 to £125, and the effect of the reduction construed by the Warden to date back, so that Mr. Rogers had to refund money previously paid to him. That Keeper Pollard was induced by the Warden to write a letter of complaint against Mr. Rogers, detailing some conversation he alleged to have passed between the Chaplain and himself, more than a year before, and previous to Pollard's coming into the establishment, and which letters the Warden laid before the Board of Inspectors. That inferior officers were sent round the Convicts by the Warden, to know from them if the Chaplain had written letters from them to their friends; and that this was done with the intention of bringing the matter before the Board of Inspectors. That Keeper Pollard was charged and proved guilty of having called Mr. Rogers a liar, in the presence of a number of other officers, but was let off upon writing an apologetic letter to Mr. Rogers; an apology as public as the insult, being asked by Mr. Rogers, but declared unnecessary.

In Mr. Utting's case we find that when that officer obtained his appointment as Deputy or Assistant-Warden, Mr. F. W. Smith, the Warden's son, was an unsuccessful candidate for the situation. That

Appendix  
(B.B.B.B.B.)  
30th May.

constant quarrels existed between the Warden and Mr. Utting, while the latter was in the Prison. That his salary was cut down by the new Act from £150 to £125, and the title of his office to Head-keeper. That the Warden frequently preferred charges against Mr. Utting before the Board of Inspectors, and finally had him dismissed, though under circumstances which come up hereafter, under the charge of "false representations."

We find that Guard Robinson gave evidence highly prejudicial to Kitchen-keeper Smith, the Warden's son, at the trial of that Officer by the Board of Inspectors; that a few days after so giving evidence, he was himself brought before the Board on a charge of leaving one of the double outside wicket-gates open at night, and found guilty; that Robinson denied the charge, and asserted that the gate was opened by some one, from malice; and that he was forgiven on account of his previous good character. That a few days after this again, Robinson was brought before the Board on a charge preferred against him by the Warden, of having a stove-pipe stone in the watch-tower for the purpose of stealing it; that the said stone had been in the tower for a year, and was not put or kept there with fraudulent intent, and that the Warden had often been in the Tower when it lay openly, without making any remark. That at the trial of the case, Robinson conceiving that these repeated accusations and the whole character of the proceedings, showed a predetermination to dismiss him, lost his temper, and that he was thereupon acquitted of the charge as to the stone, but dismissed for insolence.

It appears that Mrs. Cox, while Matron of the Penitentiary, had frequent difficulties with her Assistant-Matron Mrs. Pollard, (wife of the Keeper of that name) and that the Warden generally upheld Mrs. Pollard against her superior officer. That Mrs. Cox gave testimony at the trial, by the Board of Inspectors, of Kitchen-keeper Smith, prejudicial to Smith; that Mrs. Pollard, on the same occasion, gave evidence in Smith's favour; that Mrs. Cox's situation was made so uncomfortable, that notwithstanding the salary of £75 per annum, she felt compelled to resign her appointment; and that Mrs. Pollard was immediately installed in her place.

The proof in the case of Keeper Gleeson, is that he gave evidence at Kitchen-keeper Smith's trial before the Inspectors, unfavourable to Smith. That Gleeson was brought before the Inspectors in Feb. 1848, upon a charge of appropriating to his own use, materials for making blacking, the property of the Penitentiary, to the value of seven pence half-penny, currency; was found guilty, and discharged.

Keeper M'Carthy gave evidence at Kitchen-keeper Smith's trial before the Inspectors, in Oct. 1847, unfavourable to Smith. It appears that shortly after so giving evidence, the Warden applied to Keeper Pollard to write him a letter, detailing circumstances of which Pollard had informed him. That on 15th March, Pollard did write a letter, addressed to the Warden and the Board of Inspectors; that in that letter Pollard stated that Mr. Rowlands, of the *Chronicle and News*, had told him (Pollard) that Dr. Sampson had told him (Rowlands) that "there was also others who could tell quite enough to ruin the Warden, and that was the Keepers M'Garvey, M'Carthy, and Keely, who had told the Surgeon things the Warden little thought of." That the Warden laid this letter before the Board of Inspectors; that the Inspectors, upon the sole foundation of this passage of Pollard's letter, sent for M'Carthy, on 18th March, and asked him if he knew

anything against the Warden; that M'Carthy said he did not. That various general questions were asked him as to the character of the Warden, and answers elicited favourable to Mr. Smith; that the Inspectors asked him to swear to the truth of his answers, which he refused to do; that he was pressed to do so, and still refused; and that for refusing to swear or subscribe his statements, he was suspended until the Commission, then daily expected to be appointed, should assemble; and that some weeks after, without further proceedings, or reason recorded for the change of sentence, M'Carthy was dismissed from his situation; such dismissal being subsequent to the appointment of the present Commissioners, and shortly before they assembled at Kingston.

It is shown that Keeper Keely gave evidence at Kitchen-keeper Smith's trial, before the Inspectors, unfavourable to Smith. That he, also, was brought before the Board of Inspectors in consequence of Pollard's letter; that similar incidents occurred at his examination as in that of M'Carthy; that he too was asked to swear to his answers and refused; that he too was suspended, and finally dismissed for the same reasons and on the same day as M'Carthy.

It is clear that Keeper M'Garvey gave evidence at Kitchen-keeper Smith's trial unfavourable to Smith. That he, too, was brought before the Board of Inspectors, and similar questions put to him, as to M'Carthy and Keely; that he answered as the others had done, favourably for the Warden; that he subscribed and swore to a statement founded on his answers; that he regretted having done so immediately afterwards, and now declares that the said statement did not contain his real sentiments. That about two months afterwards he was again brought before the Board of Inspectors on a charge of losing two pairs of boots from his shop; that he declared the boots were stolen from his shop; that he was called on to pay for the boots or take the consequences; that he refused to pay for them, as he considered it would be confessing to an act of dishonesty, and declared that he was not responsible for articles stolen; that he was thereupon dismissed from his situation, on the very same day as M'Carthy and Keely. That articles have often been lost in the Penitentiary, by probably all the Keepers; but that, in no other instance, was a Keeper ever asked to pay for such losses, or dismissed in consequence of them.

James Hopkirk, Esq.—By Commissioners:—

Q. Were not Mrs. Cox, E. Bannister, Gleeson, Kearns, Robinson, M'Garvey, Keely, M'Carthy, Swift, and Richardson, the only officers of the Institution who gave testimony at Frank Smith's trial, in October, 1847, unfavourable to Smith?

A. Cannot tell, without careful reference to all the evidence.

Q. Of these ten officers, have not five been since dismissed by the Inspectors, one resigned from dissatisfaction, two twice brought before the Board on various charges, and one reported against to the Government?

A. Five have been dismissed. Cannot tell on what ground Mrs. Cox resigned. Another (Bannister) was twice before the Board; once about the bag of oats, and again about having taken money at the gate. And one (Kearns) was once before the Board. As to the one reported against to the Government, the Warden objects to evidence being received, as it occurred since his dismissal; and the Court upheld him.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B. B. B. B.)  
30th May.

**Q.** Of the eighteen witnesses, officers of the Institution, who on the same occasion gave evidence in Frank Smith's favor, viz., Little, Hooper, Nursey, O'Neil, Baldwin, Tyner, Thorpe, Mrs. Pollard, Bickerton, Hermiston, Matthews, Costen, Thomas Smith, Watts, Sexton, Martin, Manuel, and Pollard, is there one who is not still an officer of the establishment?

**A.** These officers all gave evidence at Frank Smith's trial; but without careful perusal of the evidence, cannot distinctly say what the character of each officer's testimony was; they are all still in the establishment.

**Q.** Has any one of these officers ever been brought before the Board on any charge, since Frank Smith's trial, with the exception of Manuel and Pollard; and these only on the Skinner affair, in which the complainant against them was dismissed for bringing the charge?

**A.** No, none of them have; Pollard, however, was brought up a second time on the complaint of Mr. Rogers, formerly referred to."

By Mr. Smith:—

"Wilson and Skinner are the only officers who have been dismissed by the Inspectors since the sitting of the Commission. Gleeson, Keely, M'Garvey, Robinson, and M'Carthy were discharged by the Board, of which witness was a member; and Fitzgerald by the Warden, previous to the sitting of the Commission. Bannister, Richardson, Kearns, Swift, Cooper, Watt, Costen, Waldron, Jones, and Horsey gave evidence before the Commissioners, and still are officers of the Institution; also, the Chaplain, the Surgeon, and the Clerk, of whom the Board have not the dismissal in their power."

Some of these facts may admit of explanation; but from the whole body of the evidence, we are satisfied that there has been a determination, on the part of the Warden, to remove from the Prison every officer not entirely subservient to his will; and that, by the influence he exercised over the late Board of Inspectors, he was enabled to carry out his determination to a great extent, and much to the injury of the Institution.

**8. IN ATTEMPTING TO INTIMIDATE THE INMATES OF THE PENITENTIARY, AND OTHERWISE TRYING TO BIAS THE EVIDENCE OF OFFICERS AND CONVICTS EXPECTED TO APPEAR AS WITNESSES BEFORE THIS COMMISSION.**

Under this count, the Warden was charged with acting towards the officers of the Penitentiary, and the Convicts, in a manner calculated to affect the testimony of the witnesses to be brought before this Commission; and a great deal of evidence has been received on this point.

Guard Wilson was the first officer of the Penitentiary examined by the Commissioners, and his evidence was unfavorable to the Warden. His examination began on Friday, 21st July, and was resumed on Monday, 24th July. Up to that time his conduct as an officer had never been called in question, and his daily duty was to act as Guard in the shops and wings of the Prison. The day after he was before the Commissioners, (25th July,) he was removed to a post on the wooden fence outside the Prison, as his permanent station, and another man placed in the more confidential post from which Wilson was ejected.

Mr. Costen swears, that he removed Wilson to the outside fence by express orders of the Warden, to prevent Wilson from coming in contact with the Convicts; and that the reasons for this step having been taken, were, 1st. That Wilson had idled his time while stationed in the yard on one occasion, and had a deduction made from his pay in consequence; and, 2nd. That he had recognized two discharged Convicts in the streets of Kingston. Mr. Costen swears the Warden told him these were the reasons for Wilson's removal, and that they were the only reasons. As regards the first, it was elicited on the cross-examination of Mr. Costen, that this case of idling occurred on the 31st March, 1848, or four months previous to the date on which Wilson is said to have been punished for it; and no reason is given for the delay. It does not appear that Wilson knew that this deduction had been made from his pay, or that any complaint had been made against him for idling, until 24th July, the very day he was before the Commission. But it is proved that on that day he appealed to the Warden as to the injustice of the deduction. Called Costen and Guard Tyner, as witnesses, to prove that he had not idled his time on the occasion alleged. And Mr. Bickerton proves that, by directions of the Warden, the deduction was refunded to Wilson on the 24th July, the very day previous to the one when he is alleged to have been sent on the outside fence as a punishment for this very idling.

As regards Wilson's recognizing discharged Convicts; if it is true that this was a reason for his removal, then he was punished first and tried afterwards; for, on 31st July, he was brought before the Board of Inspectors, and tried on that very charge. It does not appear who urged the complaint. Wilson says, Francis W. Smith and Guard Sexton were the complainants. Costen says, it was Frank Smith. Mr. Hopkirk says, he cannot say whether it was the Warden or Mr. Costen, or who it was. The minutes of the Inspectors are quite silent on the subject; and the notes of evidence, if any such there were, cannot be found. The evidence shows that Wilson in going to the Commission-room, on the 24th July, from the Penitentiary, met two discharged Convicts, and talked with them; and that one of them walked home to his (Wilson's) house, and entered it. Wilson acknowledged to the Inspectors that he had held such intercourse with the discharged Convicts in question, but urged that it was quite of an accidental and harmless character, and that he had committed no offence. The Inspectors alleged that he had broken the following rule:—"No discharged Convict is to be recognized by any officer or other person belonging to the Institution, nor is he or she to be made known by them to any other person." Wilson explained that he understood this rule meant simply, that no one was to "recognize discharged Convicts so as to hurt them;" and the substance of Mr. Hopkirk's explanation of the rule is similar. It is proved that the recognition of discharged Convicts by officers, has been a frequent occurrence with probably every officer, and that many of them have had them living in their houses as domestics and otherwise; and Wilson alleges that he stated so to the Board of Inspectors, and Mr. Hopkirk does not deny that he did. The Board, however, ordered Wilson to be censured for his misconduct, and notified that "upon the next well-founded complaint against him of any dereliction of duty, he will be immediately dismissed from his situation." Mr. Hopkirk also states that Wilson would have been "more severely punished," but "the Board understood Wilson had been before the Commissioners, with some discharged Convicts, and they wished to avoid the appearance of any interference with the Commissioners." The evidence

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

shows that the recognition of discharged Convicts by the officers, was a notorious practice, and that Wilson was the first person ever called in question for it.

Guard Waldron was examined by the Commissioners on the morning of the 19th August, and his evidence was prejudicial to the Warden; he was brought before the Inspectors the same evening, on two charges preferred against him by Mr. Costen. One of these charges was, in allowing a Convict to get into one of the Towers to do some Carpenter work, without having the authority of the Warden or Head-Keeper; and the other was, in replying to Mr. Costen, when told to look more sharply after the mortar-men, as they had too much of their own way, that "they were encouraged to that;" and when asked what he meant, replying, "I know that myself." Depositions on oath were taken in the examination by the Inspectors, but they are not to be found among the records of the Prison; and what the merits of the case were, we do not, therefore, know; but Waldron appears to have obtained an acquittal. The remarkable feature of this case, is the moment at which these charges were brought up. It is proved that all complaints against officers were taken up regularly by the Board, immediately after the report was made; but it appears that the first charge against Waldron was reported on 28th June, and that meetings of the Board were held on 28th June, 1st July, 31st July, and 17th August, and no notice taken of the matter; and it appears that the second charge against him occurred on 5th August, but that no notice was taken of it at the meeting of 17th August; and it also appears that Waldron never heard of these complaints against him, until 18th August, the very day he was summoned before the Commission, and that even then he was only informed by the Warden, "that a charge had been laid," but the Warden said he "did not remember what it was for."

Guard Bannister gave evidence before the Commission unfavorable to the Warden; he testified that he was of opinion "the Warden, Mr. Costen, and Mr. Frank Smith, have been trying to get a catch at him on which to dismiss him." He was subsequently brought before the Inspectors for trafficking in provisions in the Penitentiary; Mr. Hopkirk says the charge was brought either by the Warden or Mr. Costen, "probably the former," and that Bannister "was not punished, because it was not altogether proved against him." It afterwards appears, however, that the whole extent of the trafficking was in Bannister's buying one bag of oats, *outside the Prison*, from a Farmer; that the man had some provisions to deliver in the Penitentiary and passed inside the gate without throwing off the oats; that Bannister discovered the mistake before the cart had gone many yards inside the gate, and brought it back at once. The practice has been for the Warden to decide on all trivial complaints against officers, and refer only serious complaints to the Board of Inspectors. Mr. Hopkirk admits that in this case the Warden "might possibly" have decided without reference to the Board.

The case of Convict Thomas D. M'Cormick is a very remarkable one, and it is so well supported by other evidence that we place every reliance on the truth of the facts alleged. We give the evidence in full:—

Thos. D. M'Cormick—preliminary examination:—

"Is a Convict in the Penitentiary. This spring, Mrs. Smith, the Warden's wife, spoke to witness on the wharf, while measuring timber; she said the

Warden was using his influence to get witness pardoned; and after expressing great interest in witness, she began to examine him as to what he had to say against Dr. Sampson. Witness answered some of her questions and evaded others. The same day Head-keeper Costen came to witness in the Carpenter's shop, and said he understood that witness had some complaints to make against the Doctor, and he would leave pencil and paper in his cell, for him to write out what he had to say. Witness told this circumstance to his Keeper, Mr. Richardson, who recommended him not to refuse the paper and pencil. Witness resolved from the first not to write. Mr. Costen, in the course of the same day, told witness that he would find the writing materials under his Bible in his cell; or going to his cell at night, witness found paper and pencil on his bed, covered up with his bible, the bible had been taken down from the shelf on purpose; witness did not write. In the morning, just as the bell rang, and before the cells were opened, Costen came to witness's cell; he was never there at that hour before; witness told him he had not written; Costen still pressed him to do so, and asked him to come to the hall when he got out of his cell, and he (Costen) would give him (witness) pen, ink and paper, to write; witness did not go the hall. The same day Costen ordered witness to go to the office, and see the Warden; witness said he did not want to see the Warden; Costen ordered him to go; witness went, and the Warden cross-examined him as to what complaints he had against the Doctor. He wrote out some complaints which witness named, and witness then went to his work. The Warden and his son Frank, have constantly kept up the hope in witness's mind that he would be immediately discharged; witness has no doubt they did so to make a tool of him for their own purpose. There are many other Convicts who have been so treated, and undoubtedly with the same object; they would not venture to ask witness to swear to what was untrue, but there are many men in the yard who have been plainly asked to swear to what was false. James Parker, in the Carpenter's shop, and Martin in the Kitchen, can speak to this point."

James Wilson—preliminary examination:—

"Witness saw Mr. Costen come into the Prison, at a quarter before six in the morning, on 29th April last; witness never saw Mr. Costen in that part of the Prison at so early an hour before; Mr. Costen on the morning in question, went up to the cell of Convict M'Cormick, in the third range, and took paper and pencil from him through the grating. Witness afterwards asked M'Cormick as to this affair; and M'Cormick told him that Costen had given him paper and pencil to write against the Doctor, but that he had not done so; M'Cormick also said that he had been offered the use of Costen's room and of the Warden's room, with pen, ink and paper, to write against Dr. Sampson, but he had not done so."

By Mr. Smith:—

"Witness saw Mr. Costen take paper and pencil from Convict M'Cormick at a quarter before six one morning, and witness sent to M'Cormick and asked him what he was doing with the paper and pencil? M'Cormick said, Mr. Costen had given it to him to write against the Doctor. Witness was on duty, and he thought he was bound to ask M'Cormick about the circumstance; this occurred on 29th April, 1848. Costen got the paper and pencil from M'Cormick through the grating. Witness did not

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

think that in doing so he was interfering improperly with his superior officer."

Thomas Costen—preliminary examination :—

"Has never spoken to any of the officers on the subject of the evidence to be given before this Commission, nor to any of the Convicts; has never spoken to any of the officers or Convicts about complaints against Dr. Sampson. Witness has given paper and pencil to Convict M'Cormick; he complained of some bad usage he received from the Doctor when in the hospital, and the Warden wished him to state his grievance in writing. The first thing witness heard of the affair, was from M'Cormick, who came up to him in the Carpenter's shop, and complained of the treatment he had received from the Doctor; witness cannot tell what reply he made to M'Cormick; witness reported what had occurred to the Warden; cannot say when this happened; it was this year; the Warden then desired witness to furnish M'Cormick with paper and pencil to write out his complaint; by the Warden's directions, witness accordingly gave M'Cormick paper and pencil; witness gave it to him in his cell in the evening; he did not give to him—he left it in his cell for him; put it in his cell before the evening muster; put the paper and pencil on the bed, and a book on top of them. Witness had previously told M'Cormick that he would leave paper and pencil for him in his cell; told him so in the yard; he promised to write what witness wanted. M'Cormick did not write what witness asked of him; he gave back the paper and pencil next morning; after the cells were opened, M'Cormick brought them to witness, and said he would not write, but would go before the Warden, and repeat what he had said. M'Cormick did not bring the paper and pencil to witness; he left it in his cell, and witness went for it; witness went for the pencil and paper immediately after the prisoners were let out of their cells, and had gone to their work. Witness will not swear that he did not go to M'Cormick's cell before the Convicts were let out for the day, and get the paper and pencil handed to him through the bars by M'Cormick. It is quite possible that witness may have gone to M'Cormick's cell in this way, before the prisoners were let out. Does not recollect of any other instance when he visited the prisoner's cells in the morning, before they were let out for the day. Witness never offered M'Cormick the use of his own room to write out his complaint against the Doctor. M'Cormick visited the Warden next day, after he returned the writing materials, in his private office; cannot say what passed; does not know whether he wrote out his complaint. Witness reported to the Warden that he had given M'Cormick writing materials, and that he had not written as desired, but was prepared to repeat his complaint to the Warden."

Keeper John Richardson—preliminary examination :—

"Has reason to believe that Convicts have been spoken to on the subject of this Commission. Mr. Costen came lately to witness's shop, and began to talk with Convict M'Cormick; when Mr. Costen went away, M'Cormick came to witness, and told him, that Costen had been proposing to give him paper and pencil to write out what had passed between him and the Doctor, the last time he (M'Cormick) was in the hospital."

There are also several other cases which are not so clearly proved as the last, but which are evidently not without foundation. In the case of Convict Tuey, Guard Wilson in his preliminary examination,

Appendix  
(B.B.B.B.B.)

30th May.

says :—"Witness has known several instances lately of Convicts being canvassed as to the evidence they should give before this Commission; saw Keeper Manuel take a Convict, named Tuey, into Mr. Wm. Smith's writing shanty, and talk with him there for three quarters of an hour; witness asked Tuey, when Manuel went away, what he had been saying to him; Tuey said that Manuel had been taking down his evidence to be given before the Commissioners; that he was to prove that Gleeson had been two years in Prison for killing a man, before he came to this country; that he had been spoken to on the same subject, by the Warden and Frank Smith, and that he (Tuey) was to get a black suit when he went out, for giving his evidence. Witness knows that Tuey had been with the Warden previously."

By Mr. Smith :—

"The Keepers and Guards often talk to the Convicts about other matters than the business of the establishment; witness has so talked to Convicts; asked Convict Tuey what he was doing in Wm. Smith's shanty talking to Manuel; Tuey said Manuel was asking him what evidence he could give against Gleeson; Tuey told witness that he was to give evidence against Gleeson, that he had killed a man in Ireland. Tuey said Mr. Frank Smith was to treat him well for giving this evidence, and was to give him a suit of black clothes when he went out of the Penitentiary."

Keeper Hugh Manuel—By Mr. Smith :—

"Witness has not taken down any conversation which he has had at any time with Tuey, but has reported a communication from Tuey to the Head-keeper."

The case of a colored Convict named M'Nair, alias M'Keener, is also a noticeable one. This man gives the following account of himself :—"Witness came to the Penitentiary first, in Nov. 1844, for larceny, for three years, under the name of M'Keener; the name was put down so by mistake. Came in for the second time, on 25th April, 1848, for larceny on two indictments; three years on one, and four years on the other; was never apprehended on any other charge in Canada. Was a prisoner in Auburn State Prison, two years, for larceny; went in there in 1837 or 1838. Was convicted on another charge of larceny, in the United States, before going to Auburn Penitentiary; it was in the state of Ohio; was 18 months in gaol there. Was once apprehended in Buffalo, and once in Rochester for larceny, besides the times he has named. Was sent to Auburn for a second affair in Buffalo; always went by the name of M'Nair. Was not put on his trial on the two affairs he has named in Buffalo and Rochester. Witness is over 30 years of age, but is not sure if he is 31; thinks he is over 31: when witness came into the Prison he was not asked his age or anything about it. The first winter witness was in the Prison, he worked in the quarry; in the summer following, he carried the hand-barrow; in the winter following, he swept the chimneys and blacked stoves; the second summer, witness carried the barrow; the third winter, witness was Barber, fixed the razors and shaved some of the Convicts; the third summer, witness was on the quarry, or working on the buildings. While witness was barber, he belonged to Frank Smith's gang; for some three or four months. Witness has been very often punished while in the Penitentiary; had the cats often; had the raw-hide often; was only once in the box; has been in the dark cell three times; has been put in irons twice;

Appendix  
(B. B. B. B.)  
30th May.

was never gagged. Witness, when under punishment, has had full rations notwithstanding, very often; witness is on the punishment list now, and had only bread and water at dinner to-day; but he has no doubt a full dinner-ration is waiting for him; if the Commissioners will allow him to go for it, he has no doubt he can bring it, and show them he speaks truth. Any Convict can manage to get full rations, notwithstanding the Prison Rule that when under punishment they shall get nothing but bread and water. Witness always manages some way or other to get full rations, except when closely confined to his cell."

Guard Wilson, in his preliminary examination, stated:—"There is also a black Convict in the Penitentiary, committed, this time, under the name of M'Nair, but who was formerly committed under the name of M'Keener, who has been employed for some days in getting up evidence against the Doctor. Witness, on several occasions, saw this man talking to Convicts, and stopped him; M'Keener said he was electioneering against the Doctor, and had been permitted to do so by Mr. Frank Smith. Witness reported this man for so electioneering, contrary to the rules of the Prison, on four several occasions; but he was not punished for any of these offences. Witness reported him as the Guards usually do, to the Kitchen-keeper, who wrote the complaints down on a slip of paper; this memorandum should have been copied into the Punishment Book, and read out next morning with the Warden's prescribed punishment to each offence: but in no one of these four instances was any notice taken of witness's report. This affair of M'Nair's occurred early last month."

By Mr. Smith:—

"Has reported M'Keener or M'Nair for talking; has reported him five times lately during the summer; he was only punished once upon these reports to witness's knowledge; did not report to the Warden or Head-keeper that he had not been punished."

Guard Waldron, in his preliminary examination, says:—"A Convict named M'Keener was for some days employed electioneering among the prisoners for complaints against the Surgeon. Witness challenged M'Keener for doing so, and he replied that he was authorized to do so by the Warden, Mr. Costen and Mr. Frank."

M'Keener was produced by the Warden as a witness to prove misconduct on the part of Dr. Sampson; Keepers Richardson and Gleeson, and Guards Wilson, Fitzgerald and Robinson, and he gave evidence as to conversations which he alleged these parties had held with him.

Convict A. B. DeBlois, who was alluded to under the charge of favoritism, and who appears to have had no cause of complaint as to his treatment, makes the following statement in his preliminary examination:—

"The day after the Commissioners first arrived in the Penitentiary, Mrs. Smith, the Warden's wife, came to witness, and told him, that if he would give evidence in favor of her husband, he would endeavor to obtain witness's pardon; no one was present but themselves on the occasion. Convict Henry Smith is usually in the shop with witness; he was not present when Mrs. Smith spoke to witness; witness told him afterwards what had passed, and Smith said, Mrs. Smith had made the same proposal to him. Witness made no answer to Mrs. Smith. Witness's work-shop is next to the Warden's apart-

ments; it is opposite the entrance to the store-room and the women's departments; it is the bookbinder's shop. Mrs. Smith, since then, has treated witness very kindly; she gave witness a piece of melon, a glass of wine, and permission to take cucumbers from the garden whenever he desired; he has taken advantage of this permission every day for over a fortnight; he is in good health; not in the hands of the Surgeon. Convict Smith has had cucumbers in the same way, and several of the officers knew of it; he never had such liberty before. When Mrs. Smith gave witness the wine, Keeper Martin was present, and a young lady from 15 to 18 years of age; her father is dead, but does not know her name. Convict Smith said her father was formerly security for the Warden; she very often visits the Warden's wife. Before the Commissioners came, witness was treated very severely; had no indulgences; was flogged with raw-hide, twice; two or three times had bread and water." \* \* \* \* \*

"When he said he was severely treated, he does not mean to say that he was punished more often or more severely than other men, but that Frank Smith treated him contemptuously—called him "a d—d Papist," &c."

By Mr. Smith:—

"The day after witness had arranged some books for Mrs. Smith, and had received a glass of wine from her; Mrs. Smith came to witness where he was working alone, and told witness if he would be a good witness; and then, Mrs. Smith supposing that witness could not understand that, said "a good boy," for the Warden before the Commissioners, that she would speak to her husband, and that the Warden would speak to the Commissioners in witness's favour, and the Warden would be sure to obtain witness's pardon."

In contradiction of DeBlois' statement, Convict Henry Smith is called by the Warden, and states as follows:—

"Mrs. Smith never told witness that he would get his pardon if he gave evidence in the Warden's favour. Mrs. Smith told witness that he might get cucumbers out of the garden for Mr. Horsey: she never gave witness a melon; the little child once gave witness a piece of one."

Smith and Guard Martin also testify that DeBlois had shown hostile feeling towards the Warden.

Keeper Jones, in his preliminary examination, says:—"He has often been spoken to by Mrs. Smith, as to Dr. Sampson, in a way which struck witness as very incorrect."

Convict Hugh Cameron, the Warden's gardener, and already alluded to as favoured in the Dining-hall, says, when under examination by Mr. Smith:—"No one has spoken to witness about being pardoned but Mrs. Smith; she told witness that he was down on the Warden's list as recommended for pardon; it was about the month of July of this year."

Keeper John Richardson, one of the witnesses who gave evidence before the Commissioners unfavourable to the Warden, says, in his preliminary examination:—

"Is Carpenter-keeper in the Penitentiary; has been so since December, 1837; got his situation through Mr. Coverdale. Witness never had any serious misunderstanding with the Warden; witness gave evidence at Mr. Utting's trial; his evidence

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

was in Mr. Utting's favour: since then, witness's situation has not been so comfortable as previously; he means that slights and insults has been shown him on various occasions. The impression on witness's mind is, that his evidence in Utting's case is the cause of this change in the treatment he receives."  
\* \* \* \* \* "Witness has reason to believe that Convicts are encouraged to go to the office, and make complaints against him."

By Mr. Smith:—

"Does allow Convicts in some cases to speak to one another on matters not relating to the business, without reporting. A great many Convicts have been sent for to the office, who told witness that they were asked about matters connected with the shop, and witness considering that such proceedings were intended to affect his character, did not refuse to hear these Convicts when they mentioned such proceedings to him. The practice of sending for Convicts to the office, it is witness's opinion, has continued for eighteen months, or two years; and that they are not generally the best men in the shop who are sent for. Witness cannot swear that Warden sent for any Convicts before the month of September, 1848, on his own personal knowledge. Witness has been told lately that every Convict was entitled to come before the Warden any morning at 9 o'clock, but he never knew before he was then told so, that any such rule existed; witness previously understood that the rule was, that Keepers might allow Convicts to go to the office at any time, or to speak to the Warden when he (the Warden) was passing through the shops; the Keeper had the right to give or refuse his consent to their so going or speaking to the Warden; cannot saw how long it is since he first gave Convicts his consent to go to the Warden; has no recollection of the date. It was Mr. Costen who told witness lately that Convicts were entitled to go to the Warden's office at 9 o'clock, with the Keeper's consent." And again:—"Witness gave evidence at Mr. Utting's trial before the Board of Inspectors; does not know whether he was Utting's witness or the Warden's; believes that his evidence was favorable to Utting. Has experienced annoyance at the Penitentiary. If witness makes a report, as Keeper, and that report is not attended to, witness considers it an insult. Witness reported Eusebe Lemay, for scandalous report about a Guard; witness's report was not attended to. The report in question is on or about the 7th May, 1847. Witness states, that to the best of his recollection, he gave in a written report to the Kitchen-keeper or Head-keeper, and signed the same in the usual way. (The Punishment Book is produced, which describes the report, and has, in the punishment column, the words, 'to be con.' The report has not been signed in the book; the Convict did not receive any punishment.) It was customary for officers to sign the Punishment Book; witness would have done so, had he been asked to do so; witness was not asked to sign on that occasion. On the morning after witness reported, the Warden had a conversation with witness about it; witness again mentioned to the Warden the offence of the Convict, and does not know why his complaint was not attended to. Witness is shown another report in the Punishment Book, which has his signature appended to it; witness does not know whether that signature was made before or after the punishment was inflicted; sometimes, when an officer is out of the way, the signature is taken after the punishment has been inflicted."

To meet this, and to affect Richardson's character as a witness, the Warden called a number of Convicts in Richardson's gang, to prove that their Keeper

showed favoritism to certain of his men; that he had been carrying on a conspiracy against the Warden and Mr. Costen for months; that flagrant irregularities were constantly permitted in his shop; that he stole tools and other property from the shops; and that he prevented the Convicts under his charge from holding communication with the Warden. The whole of the evidence comes entirely from Convicts, and nothing has been adduced to cast the slightest doubt on the honesty of Keeper Richardson. As to great irregularities having existed in his shop, there can be no doubt; and Richardson does not attempt to deny it. But he sets up the defence, that there has been a systematic attempt made to destroy his character, and that the Convicts in his charge were encouraged by the Warden and Head-keeper to carry tales against him to them; that his authority over his men has not been sustained; and that he was forced to permit irregularities, and to do things in his own defence, which he would not have done in other circumstances. The fact, that Richardson has borne an unexceptionable character for eleven or twelve years, as an officer of the Prison, must give weight to what he says. Whether Richardson was justified in his proceedings, is not at present the question; but in the course of the evidence produced by the Warden against Richardson, a great deal comes out, showing that underhand exertions have been making, for a length of time, to get up a case against Richardson. We give two extracts:—

Head-keeper Costen says:—"Witness does not know that any Convicts have been up before the Warden upon the subject of matters before or to be brought before this Commission. The Warden has not asked witness to inquire of Convicts what they could say in regard to matters before this Commission. Witness has spoken to Convicts about the evidence they could give as to matters likely to come before this Commission. Has spoken to Convicts Parker, M'Donagh, Montgomery, Crandell, James Dwyer, Thomas Condon, and Booth; all these Convicts are in Mr. Richardson's shop, except Condon. Every one of them spoke first to witness, and complained of his Keeper. Condon, also, complained of Richardson, though not of his gang; he saws for Richardson. Witness has spoken to Convict Parker, in this way, three or four times, as near as he can recollect; perhaps five or six times. Parker complained of the violent manner in which Richardson acted towards him. Parker said Richardson swore at him, and spoke roughly to him. Parker said Richardson wished to make a party against the Warden in the shop:—He (Parker) had seen Convict M'Cormick ask Richardson's leave to speak to Convict M'Donagh, and M'Cormick went directly from Richardson to M'Donagh, and Parker heard M'Cormick say to M'Donagh, that whatever Convict was for Costen or the Warden, might never expect his pardon, but would remain his full time in the Prison. Parker told witness that he wished to go before the Warden, and state his complaint against Richardson, of the treatment he had shown to Parker, and his getting up a conspiracy against the Warden. Witness reported this to the Warden; the Warden told witness to send Parker to him; Martin went for Parker, and brought him to this office; it was at nine in the morning, about three weeks or a month ago; was not present when Parker was at the office. At the subsequent conversations witness had with Parker, Parker told witness of Richardson's trying to get over other Convicts against the Warden; witness mentioned these conversations to the Warden. Parker was brought up again before the Warden about these matters; he has been so brought up frequently; Parker may have told other matters of Richardson, but they

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

escaped witness's recollection. Witness has heard that tools were missing from Richardson's shop; several of the Convicts have told witness so; the Convicts suspected Richardson of taking them; all the Convicts witness has named have spoken to witness about Richardson having stolen the missing tools; they said they were using tools and gave them up to Richardson, but never saw them after. Reported this to the Warden; did so for the first time, three, four, or five months ago; heard something of the kind a long time ago, but gave no heed to it until lately; does not know that any inquiry has been made into the matter; the Convicts in question came up to the Warden for the purpose of explaining to the Warden about the tools having been stolen; no Convict is punished on the testimony of another Convict. Witness has not told Richardson of the complaints made against him by the Convicts, either as to his bad treatment of them, or the conspiracy against the Warden, or the stealing of the tools; does not know that the Warden has informed Richardson of any or all of the three complaints made against him by the Convicts. Witness has spoken to M'Donagh three or four times on the same subjects; thinks he (M'Donagh) has also been several times before the Warden making the same complaints. Witness has spoken to Convict Montgomery upon these subjects, several times; will not swear that he has not spoken to Montgomery on these subjects ten times; could not swear that he had not spoken to him twenty times; cannot tell how often he has spoken to Montgomery upon these subjects; Montgomery has been frequently before the Warden on these subjects. Witness has conversed on the same subjects with Dwyer, Condon and Booth, several times; and they have been all up before the Warden several times. He thinks witness has not conversed so often with Crandell as with the others; has only talked with him once or twice; does not know if Crandell was before the Warden. These conversations have run over the last three or four months; witness communicated the purport of all these conversations to the Warden immediately after they occurred. Witness being asked, if it was right of the Warden and of himself, the Head-keeper, to allow these complaints and accusations to be going on for four months against another officer, on the veracity of Convicts, without informing that officer of them? Says it would depend on the circumstances. Cannot say whether there were any circumstances in Richardson's case which justified the receiving of such accusations against Richardson for so long a space, without informing him of them."

Mr. Costen was recalled next day by the Warden and made the following statement:—"Witness first informed the Warden about the tools being stolen from the Carpenter's shop sometime last month. Witness was in error yesterday when he stated that he informed the Warden of this matter three or four months ago. All the Convicts witness spoke of yesterday, expressed a desire to come before the Warden about their complaints; the man came to the Warden. Thinks it is the Warden's duty to get all the information he can when any wrong act is reported to him. It is witness's duty to report to the Warden any wrong act that he hears of."

Convict James W. Parker, the leading witness against Richardson, makes the following statements:

By Mr. Smith:—

"Mr. Costen has asked witness to swear things against Mr. Richardson. Witness met Mr. Costen and told him that Mr. Richardson abused witness,

and asked him to remove witness from the Carpenter's shop. Mr. Costen said it was not in his power, and that witness had better remain quiet, and that he did not know where to put witness. Mr. Costen asked witness about what was going on in the shop, and witness told him; told him that tools were missing, and Mr. Richardson was trying to lay it to the Convicts; told him that the tools were last seen in Richardson's cupboard, under his lock and key. Mr. Costen asked witness if he was willing to go before the Warden and qualify to his statements. Mr. Costen said, "if you know anything it will be none the worse for you to tell it; you need not be afraid to tell it." When witness said Mr. Costen asked him to swear against Mr. Richardson, he referred to the affair of the tools, and to nothing else; it was after witness had spoken to him about the tools." \* \* \* \* \* "Witness told Mr. Richardson that Mr. Costen asked witness if he would swear against Mr. Richardson; this was in relation to the tools which witness spoke to Mr. Costen about. Witness has watched Mr. Richardson pretty closely since he has been here. Mr. Richardson has called witness a fool; but he is not such a fool as he takes him to be. When witness told Mr. Richardson that Costen had asked witness if he would swear against Richardson, Richardson was trying to pump witness for things against Costen. Witness was wide awake for him. Richardson asked a few questions of witness, and would go off to his desk and write down the answer; he would return again in a few minutes and ask a few more questions, and so on. Witness knew well enough what he was about. Richardson so came, three times in one day."

By Commissioners:—

"Was sentenced to six years imprisonment for two robberies; has been in the Penitentiary three years and a half. There are two parties in the Carpenter's shop—one for the Warden and the other for Mr. Richardson. M'Cormick is on Mr. Richardson's side; Henry Montgomery is on the Warden's side; O'Donnell is on the Warden's side; Johnston is against Mr. Richardson's proceedings. Witness is against Mr. Richardson for the abuse he has given him; has always been on good terms with Mr. Richardson; has been in Mr. Richardson's gang all the time he has been in the prison. Mr. Richardson and M'Cormick know pretty well which of the Convicts are on their side and which for the Warden; they don't tell any of their secrets to the opposite party; M'Cormick has told witness all their secrets: and when M'Cormick has asked witness what he did in the Warden's office, witness has put him off with some frivolous excuse; did not tell him the real cause which took him to the Warden's office, nor to Mr. Richardson, when he asked him on the same point. Mr. Richardson thinks that witness is on his side, and under this impression has had frequent conversations with witness, and told him things he would not otherwise have done. Mr. Richardson has not abused witness within the last nine or ten months; it was previous to that he abused witness. The only complaint witness has had against Richardson lately has been about the tools. When witness said Richardson used him worse than a dog, it was a year or two ago he referred to. Witness did not refer to any particular period about the tools; tools have disappeared from the shop which had been last seen in Richardson's cupboard, continually, since witness came to the prison. Witness first spoke of the loss of the tools to Mr. Costen, about fifteen or sixteen months ago. Spoke to him about his complaints against Mr. Richardson three or four times, about twelve or

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

fifteen months ago. Spoke to Mr. Costen, next, about the tools, five or six weeks ago; never mentioned the loss of the tools between the two periods. The conversation which passed between witness and Mr. Costen in the yard of the Penitentiary—the particulars of which witness related in examination by the Warden—occurred fifteen or sixteen months ago; is quite sure of this; witness did not go before the Warden at that time. The next time witness held conversation with Mr. Costen, was about five or six weeks ago; it might be two months ago; it was in Mr. Costen's private room off the Dining-hall. Mr. Costen asked witness if he would go to the Warden and testify to what he had said? Witness said he would. Convict Henry Smith came for witness, and he went to the office; the Warden wrote down witness's statements. Witness spoke to Mr. Costen a day or two afterwards on the same subject, and told him what witness had seen and heard in the shop; has frequently done so since; up to the present time, told him all witness saw and heard, from time to time. Witness has been three times before the Warden telling him what went on in the shop; the Warden wrote down what witness told him. Has spoken to Mr. Costen very often to let him know what was going on in the shop; perhaps twenty times. Witness has found out all that Mr. Richardson and his party have been saying and doing for the last two months, and carried it immediately to Mr. Costen."

All the cases which we have enumerated were brought under the notice of the Warden in the charges preferred against him; and from the whole of the evidence, we are of opinion that he has attempted to intimidate the inmates of the Penitentiary, and otherwise tried to bias the evidence of Officers and Convicts, expected to appear as witnesses before the Commission.

In the course of the inquiry, but subsequent to the charges being transmitted to the Warden, other similar cases have been elicited from the witnesses.

The course pursued towards Guard Wilson in reference to his removal to an outside post, has been already shown. On the 31st October, he was again brought before the Board, on a charge of using violent language to Guard Fee one Sunday. The notes of evidence taken in the case are not to be found, so that we do not know, except from the testimony of Mr. Hopkirk, what the evidence before the Inspectors was. We gather, however, that the Sunday duty was taken by the Guards in turn; that the Guards were formed into patrols, and that the same men always came on together; that it was the habit of the Guards of each patrol to agree among themselves which post each man should occupy, and that each regularly took the place assigned him; that Guard Wilson had assigned to him a particular tower, and had regularly taken his station there for many months; that one Sunday, Guard Fee took the key of Wilson's tower, that Wilson remonstrated, but Fee persisted, and took Wilson's station for that day. Wilson says, that he complained to Mr. Costen of Fee's conduct, who said the Guards must settle the matter among themselves. That the following Sunday the same occurrence took place; and that, in the course of the words which passed between Fee and Wilson, the latter said to Fee, if he would not give up the key, he would twist his nose; that Wilson did not use any violence towards Fee; and that simply for using these words, he was dismissed from his situation. It also appears, that during inquiry into this matter, several Convicts were sent for, and interrogated by the Inspectors, as to various thefts which, they alleged, Wilson had

committed within their knowledge; that Wilson was not present when these Convicts were examined, and never knew that they had anything against him; and that, by the rule of the Institution, laid down by the members of the then Board themselves, the Inspectors were debarred from using Convict evidence in any complaint against an officer. The unexplained disappearance of the depositions taken in this, and other similar cases, by the Board of Inspectors, we regard as deserving grave reprehension; and the more so, as the books and papers, except in a few marked instances, have, from the first, been carefully preserved.

The proceedings in reference to the cases of Gate-keepers Bannister and Cooper, have appeared to us to be strongly confirmatory of a desire to bias the evidence of the witnesses to be examined by the Commissioners; we have already adverted to the charge brought against Bannister, relative to a bag of oats; we would now direct especial attention to the following circumstances:—On the 18th of October last, Gate-keepers Bannister and Cooper were examined by the Commissioners, and gave testimony, in some respects, unfavorable to the Warden. In the course of their cross-examination by the Warden, these witnesses were severally asked, if they had ever received money at the gate from visitors?—They appealed to the Commissioners, whether they were required to give evidence inculcating themselves? And, upon a written pledge having been given by the Warden, that they should suffer no annoyance for any matter which might arise in evidence, except in the case of perjury, they were instructed by the Commissioners to reply to the question.—Then they each admitted, that in a few cases, money had been pressed on them and accepted. On the 31st of October, at the meeting of the Board of Inspectors, however, the Warden referred these offences to the Board, but no action at that time was taken upon the charges exhibited. On the 13th of November following, being the day upon which Guard Wilson was finally examined, the Warden again called Bannister and Cooper before the Commissioners, in defence of the charges then under consideration. The Commissioners adjourned at the usual hour, and late *the same evening*, a Board of Inspectors was convened, and adjourned until eight o'clock, of the following morning, when the report of the Warden of the 31st October previous, relative to the whole of these Guards, was considered, and Guards Bannister and Cooper, having been found guilty upon their admission before the Commissioners, of the charges offered against them, they were degraded by the Inspectors from the responsible office of Gate-keepers, to the comparatively inferior position of Yard-watchers. The nature of the testimony given before us, did not lead us to conclude that these officers were in the habit of receiving money from visitors; and their general good conduct, during many years of service in the Institution, would preclude the idea that such degradation was necessary to the due discipline of the Prison. Upon our remonstrating with the Warden upon the impropriety of converting the evidence given before us into charges to be used against officers before the Inspectors, and more particularly in direct violation of his own pledge that he would refrain from such a course; the Warden replied, that his promise had merely been given to the effect, that officers should not be dismissed. But upon exhibiting to the Warden his written word, that no officer should suffer any annoyance; he declared that these parties had not suffered, as they had been merely removed from one place to another.

We have already shewn that the nature of the removal was to degrade these officers throughout the

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Prison. Considering the whole of the circumstances of this case, in connexion with the proceedings of Guard Wilson and others, and feeling that the effect of such proceedings could not fail to be injurious in the further taking of evidence, we suspended the further examination of witnesses, and decided to bring the affair under the immediate notice of Your Excellency. Your Excellency, after hearing the report of the Inspectors upon the subject, was pleased to order that Guards Cooper and Bannister, should be immediately restored to their places at the gate.

Keeper James Skinner, one of the witnesses unfavorable to the Warden, having reason to suspect that fraud had been committed by Keepers Pollard and Manuel, as to some perpetual motion machinery, executed for the officers in the Prison by Convict labor, applied to the Warden to stop the said articles when they were passing the gate on the 21st August, 1848, and had them stopped accordingly.

Skinner addressed a letter of complaint on the subject, to the Board of Inspectors, dated 22nd August, and pointed out the grounds on which he suspected fraud; these being mainly the statements of Convicts.

The Board investigated the matter on the 29th August, but on the very day of the trial, and before entering upon it, they passed a rule against receiving Convict evidence.

Notwithstanding the obstacle raised by this new rule, it was proved on the examination, that some work had been done on a brass wheel, some large lead balls cast, and some wedges and shafts made for the said machinery; all which were being passed out at the gate when Skinner stopped them.

It was deemed sufficient by the Inspectors, for Manuel and Pollard to produce a Bill of Parcels from the Kingston Foundry, unreceipted, for a brass wheel, and a wooden wheel, to prove that these were the brass wheel on which the work was done in the Penitentiary, and the wooden wheel stopped along with it at the gate; and the Warden's oath that "a bill must have been given to the Clerk, or a permit would not have been granted," was taken as sufficient evidence that such bill had been given in to the Clerk, and the proper charges made. It was proved that the Warden had authorized some gearing to be cleaned, and two small shafts to be made some months before, but no authority was proved for the other work. On this state of facts, the Inspectors declared Skinner's charge unfounded, and dismissed him from his situation for bringing it.

To ascertain the truth of the case, we examined the Clerk, and on desiring him to show the bill on which he granted a permit for the machinery in question, he produced one containing the following items:—"8 wedges for brass wheel, 4d; 2 small shafts, 2s. 3d.—total, 2s. 7d." and stated that it was the only bill ever rendered to him of the machinery in question.

This bill bears date the 25th August, four days after this machinery was stopped at the gate; and besides includes only a small portion of the work done. It is therefore clear, that at the moment when Skinner stopped the machinery at the gate, no charge for the work had been made; that but for this prompt action, no charge might ever have been made for it; and that to this day the full charge has not been made. We also examined Pollard and Manuel, and from the whole evidence, cannot doubt that Skinner was

justified to the full extent, in bringing the charge he did.

Guard Watt gave evidence at the trial of F. W. Smith, by the Inspectors, in October, 1847; he also gave evidence before the Commission on the same points, and his evidence broadly contradicted his previous testimony. When Kitchen-keeper Smith was served with the charges and evidence against him by the Commissioners, the discordancy in Watt's testimony was brought by him under the notice of the Inspectors. The Inspectors applied to the Commissioners for information on the subject, with a view to Watt's immediate dismissal; which having been declined, the matter fell through. Watt was called for cross-examination by the Warden, on 19th October, when the following evidence was elicited:—

By Commissioners:—

"The Warden read over the evidence to witness which he (witness) gave before the Commissioners; it was when Mr. Frank's charges came; does not know what the Warden's object was in doing so. No one has ever threatened witness with a prosecution for perjury on account of that evidence. Mrs. Smith asked witness to go into Kingston to a lawyer, and take advice about the evidence; understood that she wanted witness to make an affidavit, that the evidence witness gave before the Commissioners was not true. Talked with Mrs. Smith only once. Only conversed with the Warden once about the evidence he had given before the Commissioners; has never spoken with Mr. Henry Smith, M.P.P., on the subject; has never spoken with Mr. Frank Smith about it; has never spoken with Mr. Costen about it."

By Mr. Smith:—

"Cannot tell what induced Mrs. Smith to advise witness to go to a lawyer; told Mrs. Smith that part of his evidence before the Commissioners was incorrectly taken down; said to Mrs. Smith, that in speaking of giving out bread between meals, that sick Convicts were among them, and that this circumstance was not taken down. Does not recollect of saying to Mrs. Smith, that the list of names of persons given to the Commissioners by witness, as having received provisions from Frank Smith, was incorrect. Some of the officers, whose names witness gave, have told witness that he was mistaken as regards them. Thinks he told Mr. Brown that he was not certain as to some of the names he gave in; Mr. Brown never said it would be rectified afterwards. It was not possible for witness to recollect with certainty every person who got provisions."

By Commissioners:—

"The whole of the evidence witness gave before the Commissioners was read aloud to witness; it was read rather quick for witness to make any observations upon what he did not approve of; does not recollect if he was asked whether the evidence was all right before witness signed it. Witness is shown the minute book of the Commission, page 254, and asked, if the following words were read to him before he signed his evidence:—"The foregoing evidence having been read over to witness, he declared it correct and signed it?" And witness answers, that he does recollect of these words being read to him by Mr. Brown, and that this is his signature. Mr. Brown told witness, before he commenced reading the evidence, that any alterations witness desired would be made. Mr. Brown asked witness, before signature, if he had any thing more to add.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B. B. B. B.)  
30th May.

Witness has never represented to any of the Commissioners up to this moment, that his evidence was incorrectly taken down. Witness has told the Warden that he thought a little more was written down than he said. Mrs. Smith commenced the conversation with witness about his evidence; she was not there over five or ten minutes; it was in the Hall, when witness was on duty after six o'clock." \* \* \* \* "When Mr. Brown read over the evidence of witness to him, at his examination on 8th August, witness pointed out several portions of the evidence which he thought needed amendment, and the corrections were made which witness desired."

We are of opinion that Charge IX is established on several of the Counts, and that the Warden has been guilty of gross misconduct.

### CHARGE X.

#### MAKING FALSE REPRESENTATIONS.

1. In representing articles, the property of the Penitentiary, in the annual Inventory of the Institution, to be worth sums much above their value.

As an instance of the system here complained of, the valuation of 3 carriages used by the Warden and Inspectors, was referred to:—In September, 1846, a carriage 10 years old, another 3 years old, and a third 2 years old, were valued together at £140; before the next Inventory was taken, the oldest was sold for £4 15s., and the remaining two inventoried at £90.

The Warden did not meet the general charge intended to be conveyed, by showing that the Inventory was accurately taken yearly, but confined his defence to the case of the carriages. He called Mr. Bickerton on this point, who testified as follows:—"Does not know who valued the carriages at the taking of the Inventory in 1846. Cannot tell whether M'Carthy valued articles in the Penitentiary higher than they were worth; his returns showed a higher profit than those of any other gang; does not know that the Warden lowered the value of the carriages in 1847, in consequence of their being too high in 1846, three carriages were valued in 1846, at £140; two carriages were valued in 1847 at £90; one of the carriages was sold between the two periods of stock-taking; the value was reduced in 1847, from £120 to £90 by the Warden."

We are satisfied that an improper valuation was put on the carriages, and from personal inspection of the books, that the annual Inventory of the moveable property has been very loosely made up.

It is evident that great care should be taken in the execution of so important a duty, as an erroneous view of the financial condition of the Institution might otherwise be conveyed.

2. IN INDUCING THE ARCHITECT OF THE PENITENTIARY, TO PUT A FALSE VALUATION ON THE BUILDINGS.

William Coverdale—preliminary examination:—

"After the Penitentiary had been some years in operation, witness was desired to value the buildings; witness did so: it was during Mr. Power's time. Warden frequently came to witness while he was making the necessary calculations, and expressed a

strong desire that the estimate of the value of the buildings should be equal to the aggregate of the public grants, and said, if so, he would care for nothing else. The Warden repeatedly used such language to witness; witness's impression was, that the Warden wished to bias his report. Witness's report of the value of the buildings did exceed the public grants; his report was biased by these expressions of the Warden, to the extent of ten per cent., that is to say, witness put the valuation at the very highest rate. Witness's impression is that the present buildings might have been built for thirty per cent. less, by contract."

The Warden has not attempted to deny this statement. Mr. Coverdale is an intelligent witness and a man of unimpeachable integrity.

3. IN REPRESENTING THE CONVICT LABOR TO BE WORTH, AND TO HAVE PRODUCED, A RATE MUCH ABOVE ITS TRUE VALUE; THEREBY GIVING A FALSE APPEARANCE OF PROSPERITY TO THE INSTITUTION.

When the Penitentiary was first opened, the labor of the Convicts was valued at 2s. per day in the winter time, and 2s. 6d. in the summer; but after a few years, this was changed by the Warden's orders, and the daily value of the Mechanic's labor was afterwards calculated at 3s. in winter, and 3s. 6d. in summer, and the laborers were put down at 2s. 6d. throughout the year. All the Convicts,—men and boys, good, bad, and indifferent, whether fully employed, or only partially so, unless when sick,—have been returned as producing these rates. At the annual balance, the gross amount thus taken to have been produced by each gang, is added to the cost of the materials consumed by the said gang, and the sum total is then charged to the Government, as having been expended on the buildings. By this means, a deliberate misstatement of the business success of the Institution has been got up annually; and the Convicts represented as having earned a rate of daily wages altogether fallacious. And these statements have been yearly sent to Government as the *bonâ fide* results of the Convict Labor.

In this way, during twelve years and four months previous to 30th September, 1847, the Convicts in the Penitentiary have been represented to the Government and Legislature, as having earned, on work done for the public, £116,203 0s. 3d., or 2s. 9½d. per day on an average, for each man and boy.

Were any evidence necessary to show that Convict labor could not in any Penitentiary produce so high a return as 2s. 9½d. or 55½ cents per day, the operations of the best Institutions in the United States amply furnish it. We find that in the years 1847, the Convicts in Massachusetts State Prison, averaging 270, produced \$30,635.21, or 36½ cents a day for each man, which paid all the expenses of the Institution, and left a profit to the State. That the Convicts in Connecticut State Prison, 143 in number, produced \$12,641.87, or an average of 28½ cents, which paid all expenses, and left a profit to the State. That the Convicts in Auburn Penitentiary, earned 31½ cents per day, for the same year, and those of Sing-Sing, not so much. And these are Prisons in which the labor department has been long regulated, the gangs well trained to their several employments, and the details sharply looked after.

A good deal of evidence has been received as to the value of Convict labor in the Kingston Penitentiary, but no one has rated it above 2s. per day.

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

We think the Warden, in this matter, has pursued a system of wilful misrepresentation, and it cannot be doubted that the false picture which he has annually conveyed of the business results of the Institution, prevented an earlier inquiry as to the reason why greater success was not attained.

But it appears that in one instance, the Warden was not satisfied with the result which even this system afforded. A very large quantity of heavy iron work has been done in the Prison; doors, gratings, railings, &c.; the raw material of such articles forming the greater part of the value; the Warden desired the Blacksmith-keeper to depart from his general rule in returning them, and instead of charging the material at cost price, and the labor at 3s. 6d. per day, to weigh each job when finished, and return it by weight, at the rate of 6d. per lb. On this point the evidence is as follows:—

James M'Carthy—preliminary examination:—

"The price of all work done in the shop, (Blacksmith's) was arrived at by calculating the number of days spent on it, at 3s. 6d. per day, the quantity of iron and coal used, and adding them together. For work done on the Prison Buildings, the Penitentiary was charged, for every man and boy in the gang, except when sick, whether working or not, at 3s. 6d. per day. Some of the men were good hands, and some of them were not worth twopence per day. Witness is a regularly bred blacksmith. He would not give 2s. per day, overhead, for the labor of an average gang, the men keeping themselves. In calculating and returning the cost of making the heavy gratings used in the Prison, by the Warden's directions, witness did not charge the quantity of iron used at the price paid for it, and the work per day put upon it; but he weighed the railing when finished, and charged it, in gross, at 6d. per lb. Witness did this on all jobs weighing over a stone. By this way of charging, witness used to get from 7s. 6d. to 10s. per day, out of his men. As there was very little work done on these articles, the iron had only to be cut and rivetted. Witness thinks 4d. per lb. would have been a good price for this work. There was a great quantity of this work done—all charged in this way—galleries, doors, railings," &c.

By Mr. Smith:—

"Witness was desired by Warden to charge 3s. 6d. per day for the men's time, and add the cost of the iron; or to charge 6d. per lb. for the iron in the job, to cover everything—on Penitentiary work done in the Blacksmith's shop. Followed this rule in all work done for the Penitentiary, to the best of his knowledge."

Q. Have you ever charged higher rates for work done at the Penitentiary, than it could have been done for elsewhere?

A. Yes; was directed how to charge. Some of the work witness was directed to charge at 6d. per lb., could have been done outside for 4d.

Q. Is there a great deal of work on such jobs as grating, doors, &c.?

A. Principally drilling and rivetting, which any hand could do.

Q. Do you know how many holes have to be drilled in each door? Are there a hundred?

A. Cannot say; could soon calculate.

Q. Is not the labor very great in drilling holes?

A. Not very great; and a laboring man can do it. \* \* \* \* \* "Has seen the shop-books kept in the office; does not know all that was in them. Witness was always given to understand that the Blacksmith's shop was given credit in the office books for the men's time, at 3s. 6d. per day, and the material used. It was the Warden's direction that witness should charge in this way, with the exception of the heavy jobs, which were charged 6d. per lb. The gratings and doors were charged 6d. per lb. Skinner charged 7½d. for some of his doors. The Warden told witness to charge 6d. per lb. Skinner's charge of 7½d. came through witness's hands. Allowed Skinner to make this charge, because Skinner told witness they could not be done for less; they were sheet-iron doors; and Skinner said he had spoken to the Warden about it. Used to know the price of sheet-iron—used to see the bills; never kept an account by the day, of how much iron a man could work up in a day into gratings, railings, and doors. Does not think he was ever told to charge work to the Penitentiary at the Kingston prices. Witness was desired to charge 3s. 6d. per day, and time and materials; or 6d. per lb., including everything. At some work, by charging 6d. per lb., he could make 5s. to 7s. 6d. per day out of some of his men; and at others, if he charged in the same way, he could not make 1s. 3d. per day. Forgets if he ever made 10s. per day out of some of his men. The real value of the Blacksmith's Convicts was not 2s. per day."

For the defence, the Warden called

Keeper Pollard—By Mr. Smith:—

"The fair Kingston price for iron gratings and cell doors laid down ready made, would be 6d. per lb.; that is the regular price. The fair price for sheet-iron doors, he does not know."

Mr. Horsey—By Mr. Smith:—

"Cannot say what the laborers in the Penitentiary are charged at; has no personal knowledge." \* \* \* \* \* "Cell doors and gratings made in Kingston, witness thinks, would be worth from 6d. to 7½d. per lb., as turned out of the shop."

We find that, in consequence of this system of charging, the Blacksmith's returns have shown the average value of the men employed in his shop, to be 7s. 1d. per day, for the last six years. Notwithstanding the valuation put on the heavy iron-work by Pollard and Mr. Horsey, we are satisfied M'Carthy's estimate of 4d. per lb. much nearer the truth. On application at the principal Foundry in Kingston, we found that a contract could be effected for such work, to any extent, at 4d. to 4½d. per lb.

4. IN HIS COMMUNICATION WITH THE COMMISSIONERS, IN REFERENCE TO THE NEW ACT OF PARLIAMENT, REGULATING THE PENITENTIARY.

Extract from Minutes of the Commissioners, 26th June, 1848:—"At 10 o'clock, Mr. Hopkirk, Inspector, and Mr. Smith, Warden of the Penitentiary, had an interview with the Commissioners." \* \* \* \* \* "Mr. Smith, on being interrogated (not under oath) stated that he and his son, Mr. Henry Smith, M.P.P., had framed the late Penitentiary Act; that it was adopted by Mr. Draper; that previous to the second reading in the Lower House, a copy was sent up, which he (the Warden) handed to Major Sadlier for the use of the Board of Inspectors; that the Major offered no objection to

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

the bill; that amendment having been made on the bill in the Upper House, a draft of said amendment was sent up to the Warden, who submitted it to the Inspectors; that no objection was made to the bill by the Inspectors, previous to the passing of the bill, but afterwards much objection, and that the Inspectors resigned their appointments in consequence of this bill.<sup>5</sup>

Henry Sadlier, Esq. :—" Was one of the Inspectors of the Penitentiary, from 1840 to 1846; resigned with the other Inspectors in 1846, in consequence of the passing of the new Penitentiary Act, 9 Vic. cap. 4. Never saw a copy or draft of the said bill until it was the law of the land; it was then produced at the Board by the Warden, in consequence of a remark of the Chairman, Mr. Kirkpatrick, inquiring of the Warden, if he knew of the Act before it passed. The Inspectors were never consulted as to the clauses of the Act before it was passed through the Legislature, and had no knowledge that such a bill was to be introduced. A new Act was frequently mentioned by the Inspectors, in presence of the Warden, as desirable; it was expected that Government would introduce a new bill, and would send for the Inspectors to attend the Committee of the House. Witness never heard that a copy of the bill was sent up for the use of the Inspectors, before it became law; was not shown any copy of bill, or any draft, or amendment of it, at any time, before it became law. The Inspectors heard by common report that a bill was before the House, but were thrown off their guard, as they fully calculated on being consulted by the Government upon it, before it passed. (The statement of the Warden, made to the Commissioners, on page 14, from line 23 to line 32, (extract given on that page 201,) having been read to the witness,) he declares it to be untrue."

Thomas Kirkpatrick, Esq.—By Mr. Smith :—

"Witness never saw the amendment made by the Legislative Council to the Penitentiary Bill of one thousand eight hundred and forty six until that Bill became law: never saw the Bill before it was passed. The Inspectors heard through the public papers of such a bill being before Parliament. Witness expected that a copy would have been sent to the Inspectors, and therefore did not take any steps to procure one."

James Hopkirk, Esq.—By Mr. Smith :—

"Witness was present with the Warden at an interview with the Commissioners, at the Court house, on the first day they sat; has some recollection of the Warden mentioning a copy of the last amended Penitentiary Act having been sent to him; did not pay much attention; thinks the Warden said the Copy of the Act alluded to was sent for his own use; has no recollection of any thing being read over to the Warden by either of the Commissioners; no deposition was read.

The letter of resignation by Messrs. Kirkpatrick, Manahan, Marks and Sadlier, says, the Act "was framed, introduced into the Legislature, and passed both houses, without the slightest reference to them."

The statement of Mr. Smith is, therefore, directly contradicted by the Inspectors; and the transaction shows how little dependence we were able to place on the unsupported information of the Warden, on any point submitted to him for explanation.

5. IN STATEMENTS MADE TO THE COMMISSIONERS IN REFERENCE TO HENDRY AND BLACKLOCK'S CONTRACT.

This charge is developed in the following correspondence :—

No. 1.

"Copy—Letters Secretary of Commission to Warden Provincial Penitentiary.

"Provincial Penitentiary Commission Room,  
"Kingston, 27th July, 1848.

"Sir,

"I am instructed by the Commissioners of the Penitentiary Inquiry, to transmit to you certain extracts from their Minutes of 19th and 20th instant, on the subject of the Ration Contract of Hendry & Blacklock, with the Penitentiary; and I am to state, that, should you have any corrections or additions to these Minutes, which you would desire to have entered on the Records of the Commission, we will be happy to hear from you on the subject.

"I have the honor to be,

"Sir,

"Your most obedient Servant,  
(Signed,) "GEO. BROWN,  
"Secretary.

"HENRY SMITH, Esq.,  
"Warden, Provincial Penitentiary."

"Extract from Minutes of Penitentiary Commission, of 19th July, 1848 :—

"The Warden's attention was this day directed to the subject of Hendry & Blacklock's Contract for the delivery of the Convicts' Rations, from 1st December, 1846, to 30th November, 1847; and an explanation was demanded from him in reference to the short supply of potatoes delivered under that Contract.

"Mr. Smith thereupon stated, that the Contractors had been unable to procure potatoes to fulfil their agreement, and had proposed to him to supply white bread in lieu thereof; that he had referred the matter to the Inspectors, who authorized him to make the best terms he could with Hendry & Blacklock; that he thereupon entered into an arrangement with that firm, to receive from them bread instead of potatoes, and finally settled with them at the rate of four-fifths of a pound of white bread, in lieu of each ration of one twenty-second part of a bushel of potatoes.

"It was then suggested to the Warden, that it was a very poor arrangement for the Convicts, to give them four-fifths of a pound of bread, in lieu of two pounds\* of potatoes per diem. It was further suggested to him, that even this arrangement had not been carried out, for the Contractors fell short in their delivery of potatoes, 102,710 rations, (of one twenty-second part of a bushel each,) which, at four-fifths of a pound of bread to each ration, required 82,188 lbs. of bread to supply the place of the deficient potatoes; and that, as only 56,499 lbs. of white bread were received in all, the supply fell short, even of the agreed compromised quantity, 25,689 lbs., reducing the rations of the Convicts so much.

"The Warden replied that he was aware of all this, and that white bread had been received from

\* This should have been 3 lbs. See Letter of 21st August.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B. B. B. B.)  
30th May.

Mr. Williamson to make up this deficiency of 25,689 lbs.; and the amount deducted from Hendry & Blacklock's bill.

"Mr. Smith was, however, shown by the Provision Receipt-Book, kept by the Kitchen-keeper, this was not the case, for that only 56,499 lbs. of white bread had been delivered altogether by Hendry & Blacklock, and Williamson. He was likewise shown, that even in his own way of settling, the proper deduction had not been made from Hendry & Blacklock; for, even had they delivered the whole of this quantity of 56,499 lbs., the deficit still remaining was 25,689 lbs. of white Bread, which, at 1½d. per lb., left £160 12s. 3d. to be deducted from their bill, while £145 17s. only, was deducted.

"Mr. Smith was further shown that a much more serious error than even this, had been made in the settlement of this Bread Account; for that, while 56,689 lbs. of white bread, only, had been delivered altogether, about one-half of which was by Hendry & Blacklock, and the other by Williamson, Hendry & Blacklock were paid for the *whole* quantity, and Williamson was paid £178 6s. 6d. for his share, thereby injuring the Penitentiary to the extent of £178 6s. 6d.

"The Warden being unable to account for these things, it was agreed that he should look into them, and give what explanation he could to-morrow morning."

"A true Extract.

(Signed,) "GEO. BROWN,  
Secretary, P. P. C."

"Extract from the Minutes of the Penitentiary Commission, 20th July, 1848:—

"This morning the Warden met the Commissioners at the Penitentiary, and admitted that the sum of £178 6s. 6d., in question, had been paid twice; that it had been paid to Mr. Williamson with the intention of deducting it afterwards from Hendry and Blacklock's Account, but that this had not been done.

"Mr. Smith was interrogated as to the probability of recovering the sums (£178 6s. 6d. and £14 15s. 3d.) overpaid to Hendry & Blacklock; when he replied that this firm had recently failed, and their affairs were in the hands of an Assignee, but that a dividend might be expected from their Estate.

"As to the short supply of white bread, alleged by the Commissioners to have been furnished to the Convicts, Mr. Smith admitted that the Convicts had received 25,689 lbs. of white bread too little, in lieu of their potatoes. But Mr. Smith informed the Commissioners that in its room, 11,238 lbs. *extra*, of brown bread, had been furnished to the Convicts during the time they had no potatoes, and he added that the short allowance to Convicts on the Sick and Punishment Lists, accounted for the remaining deficit. In support of this statement, Mr. Smith handed in a written memorandum, showing that these 11,238 lbs. of brown bread had been furnished to the Convicts in 3,220 extra rations of one-sixth of a loaf each; and 9,114 extra rations of one-fourth of a loaf each."

"A true Extract,

(Signed,) "GEO. BROWN,  
Secretary, P. P. C."

No 2.

"Copy—Letter Warden to Secretary.

"Provincial Penitentiary,  
"28th July, 1848.

"Sir,

"I have the the honor to acknowledge the receipt of your letter of yesterday's date enclosing extracts from the Minute Book of the Penitentiary Commissioners, dated 19th and 20th instant.

"The verbal statement given by me to the Commissioners respecting Messrs. Hendry & Blacklock's contract, and the number of rations consumed during its existence, should not of course be depended on; as having been given without reference to the books of the Institution, and with the reservation of the number of sick Convicts which were not known at the time. I have therefore now enclosed an account by which it will be seen, that after making full allowance for the bread rations, and appropriating the surplus to make good the deficiency of potatoes furnished during the year, there appears to be, as regards potatoes alone, a deficiency of 2943 rations, distributed to the Convicts, being at the rate of about 1¼ per cent on that article, or so much less consumed by them during the year, and this without considering that a less quantity of bread is equally nutritious with a greater quantity of potatoes. In order to show that a sufficiency of provisions has been allowed to the prisoners, I have examined the statements made by sixty-seven discharged Convicts, and I find that fifty-one of them declare that they have always had sufficient food, and five of them that they have always had more than enough. On the other hand, there appears to be sixteen who state that they had not always enough, but the majority of these were very frequently punished by low diet, for infractions of the rules of the establishment, and therefore their remarks on this head are readily accounted for. In addition to the above sixty-seven Convicts, there were 193 soldiers discharged, who were not questioned on their release from confinement, as their answers would not tend to throw any light upon the cause or progress of crime, their offences being simply of a military character. I have, however, questioned several of this latter class of prisoners, while undergoing their sentences, and such as I have spoken to have assured me that they are not only well fed here, but receive a greater amount of provisions during the day, than they are allowed in the barracks. As I have no recorded opinions of the military prisoners, I must beg to refer the Commissioners to the Major General Commanding the District, and to the Town Major, for a corroboration of my statement, as I have reason to believe that they have made particular examination into the treatment of soldiers while under confinement here. I would beg leave further to observe, that the general robust appearance of the Convicts, and the absence of sickness from nearly the whole of them, furnish ample evidence that a sufficiency of food is distributed to them; therefore any complaints that can be made on this score, must be from the persons I have before described as receiving short allowance as a punishment for their own bad conduct; and I should have deemed myself highly censurable to have permitted any waste, by allowing the distribution of a greater quantity of provisions for the sustenance of the Convicts, than was absolutely necessary.

"It is the duty of the Surgeon to examine the rations from time to time, and I have never received any report from that officer that they were insuffi-

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

cient, nor have I learned that any Convict has suffered from sickness arising from a deficiency of food.

“ With regard to the white bread furnished by Mr. Williamson to the amount of £178 6s. 6d. and the quantity of which was erroneously credited to Messrs. Hendry & Blacklock, and for which they were afterwards paid ; when I stated to the Commissioners that the account of the former was distinct from that of the latter, such was my impression, as the Clerk knew that a separate agreement had been entered into with Mr. Williamson, and from the circumstance of that officer having handed to Messrs. Hendry & Blacklock a memorandum of the amount already paid to Mr. Williamson for the purpose of being entered in their books to the credit of the Penitentiary, and which was done by them, it would appear that the Clerk was aware that the bread in question was credited to Messrs. Hendry & Blacklock ; and therefore it was owing to his omission to charge the amount agreeably to what he had previously stated to them that the error has occurred. If Messrs Hendry & Blacklock had had the candour to have made known the mistake at the time of settling their account, it would immediately have been corrected.

“ The sum stated in the minute of the Commissioners, as being chargeable to Messrs. Hendry & Blacklock for the difference between the amount of white bread purchased on their account, and the potatoes deficient in their contract is £14 15s. 3d., which should be £32 9s. 6d., and which latter sum is credited to the Penitentiary by the Assignee of Mr. Hendry.

“ I have the honor to be Sir,  
Your most obedient Servant,  
(Signed,) H. SMITH, Warden.

“ GEORGE BROWN, Esq.  
“ &c. &c. &c.”

“ Statement of the distribution of Bread Rations from 1st December, 1846, to 30th November, 1847 :—

“ Total amount of Bread to be issued during the year, had each Convict, borne on the books, received their rations ..... 186,778 lbs.

Less for Convicts discharged during the year :—

Sunday rations..... 47= 64 lbs.

Week-day do. .... 213= 213

Less for Sick Convicts :—

Sunday rations..... 719= 988

Week-day do. .... 5044=5044

6309 lbs.

Less furnished to Convicts for supper. 1565

4744 lbs.

“ Statement of the distribution of Potatoe Rations, or substitutes therefor, from 1st December, 1846, to 30th November, 1847 :—

“ Total number of rations, had each Convict on the books received full diet..... 173,286

Less Convicts discharged, whose names were borne on the books the day they were liberated, but who did not receive rations ..... 260

Rations deducted on account of punishment ..... 6043

Do. do. do. sick diet. 5763=12,066

Total number of rations to be provided .... 161,220

Potatoes furnished by the Contractors, equal to rations..... 70,576

White bread furnished by J. Williamson, and Contractors..... 70,623

1-6 of Brown loaf } 11,238 lbs.furnished { 3,220

1-4 do. do. } extra ..... { 9,114

1-4 do. do. 4,744 lbs. as per statement above..... 4,744

Rations deficient in lieu of potatoes..... 2,943

161,220

No. 3.

“ Copy—Letter Secretary of Commission to Warden Provincial Penitentiary.

“ Provincial Penitentiary Commission Room,  
“ Kingston, 15th August, 1848.

“ Sir,

“ I was duly in receipt of your favor of 28th ultimo, with accompanying statement of rations supplied to the Convicts in 1846-7, in reply to my communication of the previous day. I did not fail to lay your letter immediately before the Commissioners, but I have been prevented from replying, by a pressure of other business, until now.

“ The Commissioners are happy to observe, that there is complete harmony between you and them, in regard to the facts embodied in their Minutes of 19th and 20th ultimo, as transmitted to you.

“ The Commissioners are surprised at being informed by you, that ‘ Verbal statements made by you to the Commissioners, respecting Messrs. Hendry & Blacklock’s Contract, and the number of rations consumed during its existence, should not of course be depended on ;’ they cannot but think, that in so grave a matter, every statement made by you to them, should be well considered, and strictly accurate.

“ The Commissioners regret still more to find that your written statements, prepared with all deliberation, are not more ‘ to be depended on’ than the verbal ones ; the calculations accompanying your letter are, to say the least, exceedingly erroneous.

“ Taking it for granted, that the annual numbers on the Sick and Punishment Lists, and those nice calculations as to discharged Convicts, borne on the books, but not fed, are correct,—I proceed to point out certain inaccuracies in your statement, to which the Commissioners invite your attention. The first portion of the calculations which accompany your letter, is as follows :—

“ Total amount of Bread to be issued during the year 1846-7, had each Convict borne on the books received their rations.....lbs. 186,778

Less for Convicts discharged during the year :—

Sunday ration ..... 47= 64 lbs.

Week-day do. .... 213= 213

Less for Sick Convicts :—

Sunday ration ..... 719= 988

Week-day do. .... 5044=5044

6309 lbs.

Less furnished Convicts for supper. 1565

4744 lbs.

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

“ You will perceive that in this calculation you have not made allowance for the extra brown bread furnished to every Convict while under punishment. You afterwards give the number of Convicts punished during the year as 6,043; this, at half a pound of bread to each punishment, would make 3,021 lbs., making your statement of overplus bread, that number of pounds too much.

“ Your second statement is as follows :—

“ Total amount of potato rations for 1846-7, had each Convict on the books received full diet.....rations	173,286
Less Convicts discharged, whose names were borne on the books the day they were liberated, but who did not receive rations.....	260
Less rations deducted on account of punishment.....	6043
Do. do. do. sick list.	5763=12,066

Total number of rations to be provided..... 161,220

“ The number of rations here deducted, we shall assume for the present to be correct, and that 161,220 rations of potatoes was the nett number to be served to the Convicts. Your statement then goes on to show how these 161,220 rations were supplied, as follows :—

“ Potatoes furnished by the Contractors, equal to rations.....	70,576
White Bread furnished by J. Williamson, and Contractors.....	70,623
1-6 of Brown loaf } 11,238 lbs. furnished {	3,220
1-4 do. do. } extra..... {	9,114
1-4 do. do. } 4,744 lbs. as per statement above..... {	4,744
Rations deficient.....	2,943
	<hr/>
	161,220

“ The first item of the above is correctly stated.....	70,576
The second item is also correct.....	70,623
But the next item (Extra Rations which you say were furnished) is erroneous; for these 3,220 rations you only allege to have been one-sixth of a 4 lb. loaf each; you have in your next two items calculated one-fourth of a loaf, or 1 lb. as equal to a ration, or two pounds of potatoes; this is certainly below the just comparative value, but we shall take it at that rate.....	2,147
The next item, (further alleged Extra Rations,) with the same reservation as to the comparative nutritive value of 1 lb. of brown bread and 2 lbs.* of potatoes, will be as you have it.....	9,114
And the last item, with the correction pointed out above, viz., 4744—3021 will leave.....	1,723
	<hr/>
Total rations furnished.....	154,183

“ It thus appears that, even had all your allegations been correct, the Convicts had 154,183 rations of potatoes or their substitute, instead of 161,220 rations or 7,037 rations short.

“ But so far from your allegations being correct, they are utterly baseless. The charge of starving the Convicts, now under consideration, lays during the period when you agreed to furnish the Convicts

\* Should have been three pounds.

Appendix  
(B.B.B.B.B.)  
30th May.

with four-fifths of a pound of white bread in lieu of two pounds\* of potatoes—and when your supply to them fell short, even of this compromise, 25,689 lbs.—and does not include any other portion of the year. Your allegation that extra brown bread rations were supplied in lieu of the deficient white bread, we have the means of demonstrating, cannot possibly be true. Your own Books show not only this much, but that the ordinary supply of brown bread was not furnished during the period in question. The correctness of this statement you will not fail to see by examining the following calculations :—

“ Hendry & Blacklock’s Contract commenced on 1st December, 1846, and from that date to 23d March, 1847, the regular supply of Potatoes was furnished by them to the Convicts. During this period, 54,385 was the number of rations of brown bread to be supplied; and to meet these, 69,209 lbs. of brown bread were actually supplied.

“ The potatoes ceased to be supplied on and after the 24th March, 1847, and up to the 26th August, 1847, none were delivered. During this space, the number of ordinary rations of brown bread to be supplied by the contractors was 73,666.

“ Now, the ‘rule of three’ comes at once into play! If to meet 54,385 rations of brown bread, it required (when there was a full supply of potatoes) 69,209 lbs. of brown bread, how much brown bread did it require to meet 73,666 rations? Answer, 93,745 lbs. of brown bread.

“ It thus appears that had you given the Convicts only the same quantity of brown bread which they had with full rations of potatoes, during the five months on which this charge is founded, they would have received 93,745 lbs. of brown bread. Now, Sir, if you will examine the Kitchen Receipt-book, you will find that only 79,229 lbs. of brown bread were actually supplied to the Convicts during this period; which proves that not only is your allegation, that you had supplied extra brown bread rations, in lieu of the deficient white bread, incorrect, but that, in fact, there was a deficiency of 14,521 lbs., on the ordinary brown bread rations, during the very period when the white bread fell so much short.

“ Confident as the Commissioners felt that these calculations were strictly correct, they were still unwilling to believe that you could have deliberately concocted these extra rations—so many of one-sixth of a pound, and so many of one-fourth of a pound—and to set every doubt at rest, they resolved to examine on oath, the officers under whose inspection these extra rations must have been expended, had they any existence. The following extracts from the evidence obtained, you will see fully corroborate the calculations of the Commissioners :—

“ Thomas Costen, Head-keeper of the Penitentiary, stated :—‘ Extra rations of brown bread were never, on any occasion, served to the Convicts, while the white bread was substituted for potatoes. When the potatoes were very bad, some days, extra rations of brown bread were served out, but never when potatoes ceased to be served.’

“ John Watt, Assistant Kitchen-keeper, states :—‘ The quantity of brown bread was never increased when the potatoes failed to be supplied; the daily ration of brown bread has continued steadily the same; at no one particular time has extra brown bread rations been served to the Convicts.’

\* Should have been three pounds.

Appendix  
(B.B.B.B.B.)  
30th May.

"James Kearns, a Guard, states:—"Has known—at the time when the potatoes were very bad, and much clamour excited on the subject—the Kitchen-keeper to send round an extra supply of brown bread, after the white bread came instead of the potatoes. No extra brown bread was served in this way. Witness is quite sure that during last summer, when white bread was supplied in lieu of potatoes, there was only the ordinary supply of brown bread served out; there never were any extra brown bread rations served out during this time, he is quite certain."

"It was the more remarkable your attempting to set the brown bread expended during the year, beyond the Statutory allowance, against the deficient white bread, when you were well aware that the extra consumption of brown bread was not peculiar to the year in question, but that for several previous years the Government had been charged for a large quantity of brown bread beyond the statutory allowance, and that when the potatoes were fully supplied.

"You state that the potatoes were only  $1\frac{1}{4}$  per cent short, 'and this without considering that a less quantity of bread is equally nutritious with a greater quantity of potatoes.' We say nothing of the erroneous per centage; but after giving four-fifths of a pound of one article in lieu of two pounds\* of another article, on the score of its high nutritive properties, it is a strange mode of reasoning to palliate a deficiency of the substituted article on the score of its being more nutritious than the article for which it was substituted.

"The statements of the sixty-seven discharged Convicts you name, as to the sufficiency of food furnished to them, were they entitled to any weight, would not alter the facts of the case, viz.: that in the one hundred and fifty-six days referred to, each Convict in the Penitentiary was entitled to have received 312 pounds† of potatoes; that you agreed to substitute for the quantity of potatoes, 125 pounds of white bread to each Convict, and that in fact, you only supplied 86 pounds of white bread. On the opinions of the Convicts and of the Military, as to the sufficiency of food and on the general appearance and condition of the Convicts, we shall, however, have occasion to enlarge hereafter, and we do not, therefore, enter on these points at present.

"The Commissioners are glad to observe that passage of your letter in which you say:—"I should have deemed myself highly censurable to have permitted any waste, by allowing the distribution of a greater quantity of provisions for the sustenance of the Convicts, than was absolutely necessary." The Commissioners thoroughly agree with you in this, and extend the same remarks to the several departments of the Institution; but, in the case before us, your economy appears to have been exercised rather for the benefit of the Contractors than of the Government, for while the Convicts were short supplied, the Contractors were fully paid.

"You say 'it is the duty of the Surgeon to examine the rations from time to time,' and so it is; but the charge at present made, is not that the rations were bad, nor yet that the quantity fixed by law was insufficient, but simply that the full statutory quantity was not furnished; and it was scarcely to have been expected that the Doctor could check the daily quantity of food given to each Convict. Had he attempted to do so, he was not likely to have

\* Should have been three pounds.

† Should have been four hundred and sixty-eight pounds.

Appendix  
(B.B.B.B.B.)  
30th May.

detected the deficiency when you, the Warden, and your Deputy, the Head-keeper, and the Kitchen-keeper, whose daily duty it was to see to this very matter, failed to discover it, and are even now trying to establish that the supply only fell short  $1\frac{1}{4}$  per cent.

"As to the error in settling with Hendry & Blacklock, the Commissioners have no desire to enter now upon the question of whether the Clerk, acting under your instructions, found out, sooner or later, that an error had been made; and still less do they desire to discuss whether if Hendry & Blacklock 'had had the candour' to refuse the money when you paid it to them, the error would 'immediately have been corrected.' All that the Commissioners have to know in the matter is, that the Government is minus the sum overpaid to Hendry & Blacklock, and that you are responsible for the transaction. In justice to the contractors, however, the Commissioners must say, that as Hendry & Blacklock settled on a statement made out from the Penitentiary books, and furnished by you, and as you, yourself, did not discover the error, and were with difficulty persuaded of its existence, the fair conclusion is, that they did not discover that they had been overpaid.

"You are good enough to correct the calculations in my letter of 27th ultimo, but with all deference, I beg to refer you again to the Minutes of the Commissioners of 19th ultimo, when I think you will perceive that the short deduction is £14 15s. 3d. and not £37 9s. 6d. as you assert. If Hendry & Blacklock have given the Penitentiary credit for this latter sum, they must have done so by deducting the sum you kept from them at settlement (£145 17s.) from the amount paid to J. Williamson (£178 6s. 6d.) and not as they should have done, from the value of 25,689 lbs. of white bread, short delivered, or £160 12s. 3d.

"I have the honor to be, Sir,

"Your most obedient Servant,

(Signed,) "GEORGE BROWN,  
"Secretary.

"HENRY SMITH, Esq.  
"Warden, Provincial Penitentiary."

No. 4.

"Copy—Letter, Warden to Secretary.

"Provincial Penitentiary,  
"18th August, 1848.

"Sir,

"I beg to acknowledge the receipt of your letter of the 15th instant, which only reached me on the evening of the 16th, and as I was engaged with the Board of Inspectors on the following day, and have since had to attend to other matters consequent upon their meeting, as well as my ordinary daily duties in the Institution, I have been unable to reply to it until the present time.

"In your letter you state that the Commissioners are happy to observe there is complete harmony between me and them, in regard to the facts embodied in their Minutes of the 19th and 20th ultimo; but I do not see how this can be, as by the Minute it is assumed that four-fifths of a pound of white bread were given at all times during the absence of potatoes, whereas I have shown in the statements accompanying my letter of the 28th ultimo, that

Appendix

(B.B.B.B.B.)

30th May.

when there were neither potatoes or white bread, one-sixth of a brown loaf for a week, and one-fourth of a loaf of the same description for a longer period, were substituted for potatoes.

“ On reference to my letter of the last mentioned date, you will find that respecting the ‘ verbal statement’ I made to two of the Commissioners, regarding Messrs. Hendry & Blacklock’s contract, that the statement I made should not ‘ be depended on as having been given without reference to the books of the Institution;’ and also, without a knowledge at the time of the number of sick Convicts, which could only be ascertained by an examination of the Hospital books; and considering the instantaneous answer I was called upon to give, I cannot imagine how, under such circumstances, any statement made by me could be ‘ well considered and strictly accurate;’ the time in putting and answering the question not occupying two minutes.

“ Before further answering that part of your letter respecting the calculations forwarded to you, I request you will be pleased to inform me whether you have, in your counter statement accompanying yours of the 15th, excluded the extra rations of one-sixth and one-fourth of a brown loaf, which if I correctly understand your letter, must be the case, as you there state ‘ the following extracts, from the evidence obtained, you will see fully corroborate the calculations of the Commissioners.’

“ After reading the extracts of the evidence alluded to, I called upon Mr. Costen, who tells me that he was put upon oath, and that when asked the question whether extra rations of brown bread were given to the Convicts when potatoes ceased to be served out, he meant by his answer that none was given to the Convicts except the usual daily allowance of brown bread, and that which was served to them in lieu of potatoes when there was no white bread.

“ I also spoke to the Guard John Watt, on the same subject, who tells me he also was sworn, and that he did not at all understand that brown bread was referred to in the questions put to him; and that, furthermore, he knows that two pieces of bread have always been furnished to each prisoner, when neither potatoes or white bread were supplied.

“ I have also questioned the Guard James Kearns, who is stated in his evidence to have said, ‘ there never were any extra brown bread rations served out during this time, he is quite certain:’ which conveys an erroneous impression, as he says, his meaning being, that the Convicts, when without potatoes, had always two allowances of bread, and that anything beyond that, he considered extra.

“ These discrepancies would have been avoided, had I been allowed to be present at the examination of any witnesses who gave evidence in matters wherein I was personally concerned; and I take this first opportunity of pointing out the consequences of receiving testimony under oath, in my absence, relating to any transactions in which I have been officially or otherwise engaged.

“ It may appear strange, until it is explained, that there should at any time appear to be a surplus of brown bread when potatoes have been furnished during the whole year; but it is well known that, at certain seasons, that vegetable becomes strong and unwholesome; and notwithstanding their apparently sound state before being cooked, when served out for breakfast and dinner meals, a great portion of them

prove to be unfit for consumption, which is fully elucidated by the evidence of James Kearns, who says, he ‘ has known, at the time when the potatoes were very bad, and much clamour excited on the subject, the Kitchen-keeper to send round an extra supply of brown bread.’

“ From these circumstances, I trust you will see that there was no attempt on my part to deceive or mislead the Commissioners in any statement I felt called upon to lay before them, or that it is my wish to palliate any inaccuracies, real or supposed, on my part. I am free to confess that, like all men, in preparing statements extracted from accounts of daily transactions during a year, I might be liable to make some inaccurate statement, particularly when I have but a short time to make them, and even then in the midst of my daily occupations, which cannot be set aside; but that I would wilfully endeavour to impose a false statement on the Commissioners, or on any one, no one who has known me for any length of time will attempt to assert.

“ I was rather surprised to find that the Commissioners did not appear to think the declarations of the 67 discharged Convicts were entitled to any weight; particularly as I had reason to know that the evidence of such description of persons had been taken, and would be acted upon, by the Commissioners; and I must again assert, that their declarations are borne out in this respect, by their general robust appearance, and the testimony of the public.

“ Neither the Head-keeper nor the Kitchen-keeper have had anything to do with the preparation of the statements already furnished by me to the Commissioners, nor is it my special duty to see to the serving out of the daily rations, but ‘ to exercise a general supervision and control over the government, discipline, and policy of the said Penitentiary.’ It might, with equal propriety, be expected that I should count, weigh, or measure every article furnished for the service of the Institution.

“ With regard to the error in Hendry & Blacklock’s settlement, whatever excuses may be made for them, it is too mild a term to call it a want of candour on their part; more particularly when it is known that the amount credited by them to the Penitentiary was balanced on the debit side of their books by the unmercantile entry of ‘ to error.’ Had the account furnished to Mr. Hendry from the Penitentiary been examined by him, and compared with the Bread Pass-book in his possession, in which the accounts of bread furnished by Mr. Williamson, as well as by himself, were kept distinct from each other, he would immediately have discovered that he had been overpaid, without reference to the entry before alluded to, and the strange counter-entry made to balance his books.

“ You are pleased to state that it was with difficulty I was persuaded of the error. The only difficulty in my mind was, how the white bread should be credited to the two accounts; but when Mr. Bristow showed me that the entries in Hendry & Blacklock’s provision account, and those in Mr. Williamson’s bill, exactly corresponded both as to date and quantities, I became convinced there was an error, and immediately proceeded to Mr. Williamson’s and to Mr. Hendry’s, and had the matter fully explained.

“ I do not hold myself responsible for any loss sustained by the negligence of the Clerk, as that officer is not appointed by me, neither is his bond for the faithful performance of his duties given to

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B. B. B. B.)  
30th May.

me, but to the Government, by which he is appointed; neither can he be removed or suspended but by the Government. However, I do not believe that any loss will be sustained by the transaction referred to, as the Penitentiary Solicitors have informed me they have no doubt of recovering the money from Messrs. Hendry & Blacklock's sureties.

"I have the honour to be,

" Sir,

" Your most obt. Servant,

(Signed,) " H. SMITH,

" Warden.

" GEO. BROWN, Esquire,  
" &c. &c. &c."

No. 5.

" Copy—Letter, Secretary to Warden.

" Provincial Penitentiary  
" Commission Room,  
" Kingston, 19th August, 1848.

" Sir,

" I have to acknowledge receipt of your letter of 18th, in reference to the short supply of food served to the Convicts during Hendry & Blacklock's contract.

" The Commissioners understand you now to state, that the alleged overplus brown bread was not given, as you before stated, as 'extra rations,' but as ordinary rations; brown bread being substituted for white. It is immaterial to the real question at issue, in what shape they are asserted to have been given. The Commissioners have shown that they were not given in any shape between the 23rd March and 26th August, 1847, the period now under investigation, and to that point they beg again to direct your attention.

" You say 'I have shown in the statements accompanying my letter of the 28th ultimo, that when there were neither potatoes or white bread, one-sixth of a brown loaf for a week, and one-fourth of a loaf of the same description, for a longer period, were substituted for potatoes.' Will you be good enough to state the precise date of these two transactions?

" You ask, if in my counter-statement I have excluded 'the extra rations of one-sixth and one-fourth of a brown loaf?' If you will re-peruse my letter, you will find that I first took up your calculations, and showed that allowing you the full benefit of your alleged extra rations of one quarter and one-sixth of a brown loaf, the short supply of bread was 7,037 rations, and not 2,943 as your figures went to show. But I went on further to show that your allegations were not founded on fact, and that these extra rations could not have been served to the Convicts, as you had not the bread to give them.

" I have the honour to be,

" Sir,

" Your most obt. Servant,

(Signed,) " GEO. BROWN,

" Secretary.

" H. SMITH, Esquire,  
" Warden, Prov. Penitentiary."

No. 6.

Copy—Letter, Secretary to Warden.

" Provincial Penitentiary  
" Commission Room,  
" Kingston, 19th August, 1848.

" Sir,

" I am led to believe that I have fallen into an error as regards the quantity of potatoes, per diem, to which each Convict is entitled; and I now write to beg that you will inform me, at your earliest convenience, what weight you receive for each bushel of potatoes under your ration contract.

" I have the honour to be,

" Sir,

" Your most obt. Servant,

(Signed,) " GEO. BROWN,  
" Secretary.

" HENRY SMITH, Esquire,  
" Warden, Prov. Penitentiary."

No. 7.

Copy—Letter, Warden to Secretary.

" Provincial Penitentiary,  
" 21st August, 1848.

" Sir,

" I beg to acknowledge the receipt of your letter of the 19th instant, and to state to you, for the information of the Commissioners, that potatoes are not supplied for the service of this Institution by weight but by measure. They will vary very materially in regard to their weight according to their age and size, for when they are young and small they are much heavier and will pack closer, which is not the case when they are larger and in their more advanced growth; I should imagine they would diminish one-third in weight.

" A bushel of potatoes, at the present time, will weigh sixty-six pounds.

" I have the honour to be,

" Sir,

" Your most obt. Servant,

(Signed,) " H. SMITH,  
" Warden."

" GEO. BROWN, Esquire,  
" &c. &c. &c."

No. 8.

Copy—Letter, Warden to Secretary.

" Provincial Penitentiary,  
" 22d August, 1848.

" Sir,

" I now beg leave to notice such parts of your letter of the 15th as have not yet been replied to, as well as yours of the 19th instant.

" You state, that I made no allowance for extra brown bread furnished to every Convict while under punishment. It is not customary to allow extra bread when a Convict is placed on short allowance,

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

he merely gets one allowance, or half a day's bread ration, at each of his meals.

"I find I have made an error in making no allowance for punishment supper-meals; but you have also fallen into a mistake in assuming that the punishments are the same in number at each of the three daily meals, which is not the case; as many of the Convicts are furnished with only one or two meals of bread and water, which does not at all interfere with the supper meal, and would therefore very materially alter your calculations of 3,021 rations, as not having been allowed in the deficiency of supply.

"I now furnish a statement of the distribution of bread rations and bread furnished in lieu of potatoes, from 24th March to 26th August, 1847, during which period you say the charge of starving the Convicts lays.

"On this subject I have already ventured my opinion, and must again assert that the Convicts have always been well fed, although a few, from only two causes, may declare to the contrary.

"Total number of brown bread rations, if all borne on the Books had received them from 24th March to 26th August, 1847, both days inclusive, 73,666; of which there were, Sunday rations, 10,389; Weekday do., 63,277. Less for discharged Convicts, borne on the books, but not fed the day of their discharge:—

	Sunday. 21	Week-day. 80
Less for sick Convicts	276	2,101
	297	2,181
Leaving to be provided for bread rations.....	10,092	66,096
These rations are equal in weight to ...		74,972 lbs.
To this add for 2,370 supper punishments.....		1,185 "
		76,157 lbs.

This last amount, if deducted from 79,224 lbs., the quantity received, will leave a surplus of 3,067 lbs.

Total number of potatoe rations to be provided.....	71,188
To meet these 42,291 lbs. of white bread were furnished, being equal to 52,864 rations, and the above surplus of brown bread 3,067, making together.....	55,931
Shewing a deficiency of potatoe ration..... after the bread rations have been fully supplied.	15,257

"This deficiency is in a great measure made up by the consumption of large quantities of cabbages, cucumbers, lettuces, carrots, parsnips and onions, besides other vegetables grown in the Penitentiary Gardens, of which no notice is taken in the Provision Book. Whenever I have heard complaints from Convicts of not having sufficient food, I have directed the Kitchen-keeper's attention to it, and the complaints have ceased. These applications have been very few, and only from those who have extraordinary appetites; and as nearly the whole of the Convicts appeared to be thoroughly satisfied with their meals, I judged that sufficient was prepared for them. To serve out more provisions than were absolutely required, would have been waste; and if the principle, that all should be served out

Appendix  
(B.B.B.B.B.)  
30th May.

that is required by law is to prevail, I might by the same rule so have distributed the stated allowance of vinegar, pepper, and molasses, of which great savings have been effected; and yet I have heard no complaints of a want of any of these articles.

"In the foregoing calculations I have allowed one-fourth of a loaf as the ration in lieu of potatoes, as I have no means of discovering the exact period when the week's supply of one-sixth of a loaf was issued.

"I have the honor to be, Sir,  
Your most obedient Servant,

(Signed,) "H. SMITH,  
"Warden.

"GEORGE BROWN, Esq.  
" &c. &c. &c."

No. 9.

Copy—Letter, Secretary to Warden.

"Provincial Penitentiary  
"Committee Room,  
"Kingston, 23rd August, 1848.

"Sir,

"I have to acknowledge your letter of 22nd instant, in reply to mine of 15th and 19th, all having reference to the short supply of white bread between 23rd March, and 26th August, 1847.

"The Commissioners are glad to find, that you have at last come to the point sought for by this Correspondence, and that they conceive it may not be without benefit to look back, and recapitulate the various positions you have taken up during its progress:—

"On the 19th July, you were shown that by your compromise with Hendry & Blacklock, the Convicts should have received 82,188 lbs. of white bread in lieu of potatoes, during the period specified; that only 56,499 lbs. were however, supplied to them, and that they were thus deprived of 25,689 lbs. of their just allowance.

"To this you replied, the same day, that you were aware Hendry & Blacklock fell short in their delivery of white bread 25,689 lbs., but that in its room you had purchased an equal quantity from James Williamson, and supplied it to the Convicts.

"You were thereupon shown that this was not correct, as Hendry & Blacklock and Williamson, had furnished in the aggregate, but 56,499 lbs. of white bread, leaving 25,689 lbs. short of the proper quantity.

"On the 20th ultimo, you admitted the deficiency of 25,689 lbs of white bread, but averred that 'in its room, 11,238 lbs. extra of brown bread had been furnished to the Convicts, during the time they had no potatoes; and that 'the short allowance to Convicts on the Sick and Punishment Lists, accounted for the remaining deficit.' In support of this statement, you handed in a memorandum showing that these 11,238 lbs. of brown bread, had been furnished to the Convicts in 3,220 extra rations of one-sixth of a loaf, and 9,114 extra rations of one-fourth of a loaf, each.

"On the 28th you followed up your explanation of the 20th, with an elaborate statement, in which you asserted, and attempted to show, that 17,078

Appendix  
(B. B. B. B.)  
30th May.

lbs. of brown bread had been supplied to the Convicts, in lieu of the deficient white bread, in 3,220 rations of one-sixth of a loaf; and 13,858 rations of one-fourth of a loaf, and you tried to show that with these extra brown bread rations, and the savings made on the white bread, through Convicts on the Sick and Punishment Lists, the full quantity of white bread due to the Convicts had been made up to them, with the trifling exception of 2,943 rations, or 2,355 lbs.

"On the 15th instant, I showed you that these statements, as to brown bread having been supplied in lieu of the deficient white bread, were inconsistent with fact; as your own Receipt Book clearly established, that you had received no such quantity of brown bread from the baker as you alleged was served to the Convicts. And I then showed, further, that so far from having overplus brown bread at your disposal, to serve in lieu of deficient white bread during the period in question, you had received 14,521 lbs. of brown bread less from the baker than you required to supply each Convict, with the same quantity per diem you allowed them for several months previous, with full rations of potatoes.

"On the 18th you replied to my letter of 15th, and professing indignation at being charged with creating imaginary extra brown bread rations, you persisted in affirming that 'when there were neither potatoes or white bread, one-sixth of a brown loaf for a week, and one-fourth of a loaf of the same description, for a longer period, were substituted for potatoes.'

"On the 19th I asked you by letter, to state the precise dates when 'one-sixth of a brown loaf for a week, and one-fourth of a loaf of the same description, for a longer period,' were supplied; and I recalled your attention to your own Receipt Book, from which it clearly appeared that you had no bread to give in such a manner.

"Your letter of 22nd, (to which I am now replying,) sweeps away all your previous statements, and admits that you made no arrangements for meeting the large deficiency of white bread, under Hendry & Blacklock's contract; and indeed the whole correspondence proves distinctly, that you had no knowledge that any deficiency occurred.

"You say you have 'no means of discovering the exact period when the week's supply of one-sixth of a loaf was issued.' This I can readily believe, as well as of the 'one-fourth of a loaf of the same description, for a longer period;' for, leaving the 'longer period' out of the question, a single week of one-fourth of a loaf would have required 3,304 lbs.; while you now admit that, with all the aid you can collect from sick Convicts, Convicts under punishment, and Convicts 'borne on the books, but not fed,' you had only 3,067 lbs. of brown bread at your disposal, and that, too, running over a space of five months. And as the average total supply of brown bread delivered weekly to you by the Baker, was only 3,556 lbs. during these five months, and as the average ordinary consumption of brown bread (allowing all your deductions) was 3,416 lbs. per week, it is impossible to conceive where you procured overplus bread enough for one day's extra rations of one-fourth of a pound, much less of one week.

"So, the 11,238 lbs. in 3,220 extra rations of one-sixth of a loaf, and 9,114 extra rations of one-fourth of a loaf, of your first statement; and the 17,078 lbs. in 3,220 rations of one-sixth of a loaf, and 13,858 rations of one-fourth of a loaf, of your

Appendix  
(B. B. B. B.)  
30th May.

second statement; and the 'one-sixth of a loaf for a week, and one-fourth of a loaf, of the same description, for a longer period,' of your third statement, have, at last, all died away into 3,067 lbs. of brown bread; being the aggregate amount assumed as remaining over from the daily supplies, through the absence of Convicts sick and under punishment; an assumption evidently without warrant, as, so far from a saving having been realized on this score, at other times, you are well aware that the actual consumption of brown bread has for years past exceeded, by many thousand pounds, the full quantity allowable to all the Convicts, had none been sick, and none under punishment.

"But we have a fourth statement, as to the mode in which the deficient white bread was made up. It now appears, that in addition to the savings on sick and erring Convicts, you supplied the Convicts with 'large quantities of cabbages, cucumbers, lettuces, carrots, parsnips, and onions, besides other vegetables,' of which, as you truly remark, 'no notice is taken in the Provision Book.' On this latest statement the Commissioners conceive it unnecessary to make any comment.

"I have the honor to be,

"Sir,

"Your most obedient Servant,

(Signed,) "GEO. BROWN,  
"Secretary.

"HENRY SMITH, Esq.,  
"Warden, Provincial Penitentiary."

No 10.

Copy—Letter, Warden to Secretary.

"Provincial Penitentiary,  
"26th August, 1848.

"Sir,

"I have to acknowledge the receipt of your letter of the 23rd instant. Respecting my statement made to you on the 19th ultimo, to which you again advert, you are well aware that it was given verbally, on the spur of the moment, without reference being had to any books or documents in the Institution; and I merely mentioned what my impression was at the time, as it can hardly be supposed I can carry in my mind all the transactions of so extensive an establishment as this; but when I came to examine the books, and get other evidence of the provision account, I gave the statement as I found it.

"The statement of the distribution of the 11,238 lbs. surplus brown bread was given to me by the Head-keeper, whose duty it is to be present during the meal hours, and who, therefore, sees all the rations supplied.

"My statement of the 28th ultimo refers to the whole year's supply, whereas that of the 22nd instant only applies to five months in the year; but it is made to appear by your letter that the 3,067 lbs. surplus brown bread is the result of misstatement, as well as the other, which it is impossible to be.

"I cannot imagine how the conclusion has been arrived at by the Commissioners, that even when the Convicts had full rations of potatoes, I had not sufficient bread to give to them; as the Provision Book shows, that after getting their daily brown bread rations, there was a surplus of 11,238 lbs.,

Appendix  
(B.B.B.B.B.)

30th May.

after making allowances for more than was actually required.

"I could not but feel indignant at a charge of deception, although I admit myself liable to error; as that, of all others, is the last that with any justice can be alleged against me.

"It frequently occurs that it requires 27 loaves to make up 100 lbs. brown bread, which gives eight rations extra to every hundred, as the loaf is in all cases divided into four for the day's ration. These are issued over and above the rations mentioned in the Provision Book, and of course causes an apparent supply of so much less than we actually distributed.

"You say that I have tried to show that a saving of white bread had been effected through the diet of the Sick and Punished Convicts; and you further state that I have assumed, without any warrant for so doing, that 3,067 lbs. brown bread had been thereby saved, as stated in the return made to the Commissioners during the months inclusive, from March to August, 1847.

"All I have to say in answer to this, is, that the statement regarding the diet of the sick Convicts is taken from the Hospital-keeper's return, and that of the punished Convicts from the Punishment Books, in which they will be found to be added page by page.

"The yearly surplus of brown bread to which you refer, is to be accounted for by supper punishment rations; supper to Convicts with whom mush does not agree, and the occasional distribution of that article when potatoes are beginning to decay.

"I have the honor to be,

"Sir,

"Your most obedient Servant,

(Signed,) "H. SMITH,  
"Warden.

"GEO. BROWN, Esq.,  
"Secretary."

The evidence, as to the Convicts having been supplied with vegetables, is as follows:—

Dennis Chagnon—preliminary examination:—

"The Convicts got cabbage in their soup daily, for three months, last year; they got only the outside of the cabbages; about two bucketfuls of this cabbage was thrown into the soup daily; during the last month (August, 1848,) the whole cabbage has been given; onions have also been given for the soup, and carrots, to the extent of 30 or 40 bushels during last year. Each Convict got a head of lettuce, twice a week, for six weeks last year, and also this year; and a slice of cucumber was given twice to each Convict. There were some 12 or 15 bushels of parsnips included in the 30 or 40 bushels of carrots. These are the only instances in which vegetables, (potatoes excepted,) have been supplied to the Convicts."

John Dyas—(Head-cook)—preliminary examination:—

"Cabbages, carrots, onions, and parsnips were got from the garden last year, and put in the soup; the Convicts did not get the hearts of the cabbages, and the number of them would vary; some days there would be 10, at others 15 or 20; 8 or 10

carrots, and as many parsnips would be given each day. One lettuce was given to each man, twice a week, for six weeks, last year, and a slice of cucumber twice or thrice; one cucumber was divided between 5 or 6 men."

Hugh Cameron—(Gardener)—preliminary examination:—

"The whole benefit which the Convicts have derived from all the Gardens, from first to last, is as follows:—In 1844-5, they had the outside leaves of the cabbages, and some chives from the old garden; in 1846, they had cabbage leaves and chives from the Warden's new garden; in 1847, they had cabbages from the Penitentiary garden, which were very poor, and cabbage leaves from the Warden's garden. Thinks there might have been, in all, 400 to 500 cabbages, such as they were; 60 to 70 bushels of carrots; 15 to 20 bushels of onions; lettuce to supply all the Convicts, twice a week, for six weeks; 15 or 20 bushels of parsnips, and a piece of cucumber twice or three times, to each Convict. This year, the Convicts have had lettuce, cabbages and onions."

It will be observed that these vegetables were supplied during the whole year 1847, and the time in question is only five months.

#### 6. IN A RETURN TO GOVERNMENT OF THE BOX PUNISHMENTS.

In November 1847, the attention of the Government seems to have been called to the box punishments employed in the Penitentiary, and information as to the number of these punishments was demanded from the Warden, by letter from Mr. Assistant Secretary Meredith. The Warden replied on the 8th November, that "the number of cases of punishment by confinement to the box, from the 1st August last, to the present time, is, including male and female Convicts, 221."

This is about the number of box punishments inflicted within the period specified; but the Warden did not tell the Government, that during these three months the amount of this punishment had been greatly reduced, and that only the month previous, in the month of July, 1847, alone, there were 143 box punishments.

The Warden, however, produced the letter of the Under Secretary, and it appeared that the return was only asked for from 1st August, so that the Warden is entirely exonerated on this head.

#### 7. IN A RETURN TO GOVERNMENT OF THE WOMEN FLOGGED IN THE PENITENTIARY.

The Warden wrote to the Attorney General, on 19th September, 1846, in answer to a letter from that Official asking information on the subject, as follows:—

"It will be seen by the accompanying return of punishments inflicted on female Convicts, during the last two years, that three have been punished with the raw-hide, which took place in the presence of the Assistant Warden, and one of the Matrons; but none of their garments were removed, the stripes being given over their gowns, stays, and handkerchiefs on their shoulders.

"These are the only women who have been so punished since the opening of the Penitentiary, in

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

1835, and so good has been the effect, that they have not since been corrected, and are now among the best behaved female Convicts in the Prison."

The Warden's Punishment Ledger, in his own hand-writing, shows that eight women have been flogged; and that among them nineteen different floggings have been inflicted. The return to Government was, undoubtedly, a deliberate misrepresentation.

8. IN A RETURN TO GOVERNMENT OF THE AFFAIRS OF THE INSTITUTION.

On 25th March, 1848, Mr. Sheriff Corbett, President of the Board of Inspectors, wrote to Mr. Secretary Sullivan, with statements of the operation of the Penitentiary, from the time of its commencement to the end of the year 1847. It was attempted to be shown by this statement, that a great gain to the Province had been made, after paying expenses of all kinds. The parties who made the estimates are stated to have been employed on the task five months, and are ready to verify the correctness of their measurement and valuation on oath.

The statement is as follows:—

Dr.	
To amount received Parliamentary Grant, to 1st October, 1847.....	£116,255 16 11
Balance, profit to Province.....	11,096 3 7
	£127,352 0 6

Cr.	
By value of Buildings, as per accompanying estimates of Messrs. Horsey & Cull....	£113,998 18 9
" Stock of materials, tools, &c. on hand, 1st October, 1847....	11,520 10 11
" Cash on hand, do.....	1,404 18 0
" Debts due to the Institution ...	427 12 10
	£127,352 0 6

In this statement, the debts due by the Institution were concealed. On the 31st December, 1847, to which the account professes to be made up, the debt of the Penitentiary was £5,677 12s. 6d. This was a very remarkable omission, as a note which accompanied the statement shows, that it was intended to carry the impression, that all transactions were included in it; and from the debts due to the Institute being carefully given, it is unaccountable how those due by it could be omitted. The note is as follows:—

"Note.—From the above account current, it will be perceived that there is a profit of £11,096 3s. 7d. to the credit of the Institution, after defraying the whole expenses of every kind whatever, including all salaries to every officer of the establishment, clothing and bedding of Convicts, rations, Hospital stores and medicines, clothing, and travelling expenses to discharged Convicts; as also, large sums unavoidably expended in the erection of temporary buildings, &c., fences now removed, and of buildings destroyed by fire, for which no credit has been taken."

(Signed,) "H. SMITH,  
"Warden."

The evidence on this count is as follows:—

James Hopkirk, Esq.—By Mr. Smith:—

Two papers (marked Exhibits A and B,) having been shown to witness, he identified them as in his hand-writing. Exhibit A is the original balance

Appendix  
(B.B.B.B.B.)  
30th May.

sheet made of the affairs of the Penitentiary, from the commencement to end of 1847, for the information of the Governor General, and must have been made up from statements and documents laid before witness and Mr. Gildersleeve by Warden and the Clerk. Exhibit D is an original memorandum of a proposed Note to the statement. Exhibit A, although in witness's hand-writing, was principally prepared under the direction of Mr. Gildersleeve; another draft was submitted, either by the Warden or the Clerk, which Mr. Gildersleeve thought was not properly stated; the one in question was substituted for it. Horsey and Cull were directed to make a valuation of all the works of the Penitentiary in existence, at the end of 1847.

By Commissioners:—

Q. Did the Inspectors employ Messrs. Horsey and Cull to make an estimate of the value of the property of the Penitentiary?

A. They did.

Q. When? Is there any Minute of it?

A. There is a Minute of the 9th August, 1847, directing the Warden to employ some one to make an estimate of the value of the buildings, and other works, up to the close of 1846. On the 8th October, the Inspectors, by Minute, instructed the Warden not to pay over £50 for said estimate; and on the 15th March, 1848, the estimate was laid before them.

Q. Was not the Warden, at the meeting of 15th March, 1848, instructed (in connection with the said estimate) to prepare a statement of the gain to the public, by the operations of the Institution "to the close of the year 1847?" and was not the President requested to forward it to the Government in the name of the Board?"

A. Yes.

Q. Was the said statement prepared, and transmitted to the Government, with a letter from Mr. Corbett, of 25th March, 1848?

A. A statement of the operations of the Institution, founded on Cull and Horsey's estimate, was sent to Government, with a letter from Mr. Corbett, dated 25th March, 1848.

Q. Do the Minutes show that either the said statement, or the said letter, was submitted to the Board for approval?

A. They do not; but there is a notice, on 8th April, that Mr. Secretary Sullivan had acknowledged the receipt of both.

Q. You gave evidence, formerly, as to the manner in which the said statement was prepared. Did the proceedings of yourself and Mr. Gildersleeve, which you have detailed, take place at a meeting of the Board?

A. Thinks not.

Q. You have stated that the Warden made one financial statement, but Mr. Gildersleeve disapproved of it, and drew up another. In what respect did the two estimates disagree?

A. Does not remember. Thinks it was in the way the figures were arranged; but there was in the first statement an item credited to the Institution



Appendix  
(B.B.B.B.B.)  
30th May.

for the profits on private work done, and an amount debited for the salaries and other expenses.

Q. Did the Inspectors examine the calculations of Horsey and Cull's estimate?

A. They examined the report, or letter, which accompanied the estimate itself, but they did not examine the details.

Q. Did Cull and Horsey furnish the details?

A. Not the minutiae of measurements and prices.

By Mr. Smith:—

It was not an intentional omission on the part of witness, the leaving out of the debts due by the Institution, in the *Vidimus* of the affairs of the Penitentiary in March last. The letter which accompanied the said statement and estimate, was seen by Mr. Corbett, Mr. Gildersleeve, and witness, before it was despatched; but witness is not certain if Dr. Baker saw it, or if it was ever submitted to the Board before it was sent.

Mr. Sheriff Corbett—By Commissioners:—

Q. Please refer to the Inspectors' Letter Book, and say, who drafted the letter and statement of the affairs of the Institution sent to Government, in your name, as President of the Board, and dated 25th March, 1848?

A. Cannot tell.

Q. Were you not aware when that statement was forwarded to the Government, that a Commission on the affairs of the Penitentiary, was about to issue?

A. Yes. On the 17th March, 1848, Dr. Sampson stated by letter to the Board, that he had received a letter from Government, intimating that the Governor General intended to appoint a Commission of Inquiry upon the general management of the Institution."

The whole proceedings in regard to this exhibit of the affairs of the Institution, are remarkable. No such statement was asked for by the Government; it was not prepared as a part of the Inspectors' Annual Report; it was got up when the complaints against the Institution were loudest, and at the very moment when the propriety of a general investigation into the management, was under the consideration of Government. The estimated value of the buildings is double the original estimate; and as is shewn in another part of our report, the Book containing the particulars of the calculations was first refused to be submitted to us by Mr. Horsey, and was afterwards alleged to have been stolen from Mr. Horsey's office within the Penitentiary, since such refusal, and during the sitting of the Commission at Kingston. Mr. Horsey declares himself unable to furnish the measurements or prices on which his estimate was grounded.

But the only point in which the Warden is affected is the omission of the debts due by the Institution. His defence is, that the Inspectors were responsible for it, and not he. But Mr. Hopkirk admits that the calculations were furnished to Mr. Gildersleeve and himself by the Warden or Clerk; that the Exhibit went to Government as they so got it, with an alteration merely of the arrangement of the figures; and it appears, moreover, that the document was never officially before the Board, but was merely shown to Mr. Hopkirk and Mr. Gildersleeve,

individually, and sent off, accompanied by a letter, the original draft of which we find is in the Warden's hand-writing; and it also appears that though Mr. Corbett's name was attached to the letter, he does not know who wrote it.

We cannot understand how the debt due by the Penitentiary could have been omitted, when those due to it were put in.

9. IN A RETURN TO DR. SAMPSON, SURGEON OF THE PENITENTIARY, OF THE PUNISHMENTS ON CONVICT JAMES BROWN.

Dr. Sampson having been called on by the Inspectors to make a report on the mental condition of Convict James Brown, wrote to the Warden on 24th January, 1848, as follows:—

"In order to enable me to form a more correct opinion with respect to the mental state of Convict James Brown, it would be requisite that I should be acquainted with the several amounts and descriptions of punishments inflicted for the offences committed by him since his admission to the Prison."

In compliance with this request, a statement of the punishments inflicted on the said Convict was transmitted to Dr. Sampson; and by comparing it with the Punishment Books of the Institution, the Commissioners find the following punishments were suppressed in the statement given to the Surgeon:—

1841.			
Feb.	4.	24	cats.
April	14.	12	do.
May	14.	48	do.
June	15.	24	do.
Aug.	7.	24	do.
Nov.	4.	48	do.
1842.			
Feb.	16.	12	do.
	21.	6	do.
May	9.	Bread and water.	
	23.	24	raw-hide.
Sept.	15.	Bread and water.	
	22.	12	raw-hide.
	30.	Bread and water.	
Nov.	1.	do.	do.
	29.	36	cats.
1843.			
Jan.	28.	Bread and water.	
April	17.	6	raw-hide.
May	24.	36	cats, irons, and bread and water.
Nov.	10.	Bread and water.	
1844.			
Feb.	17.	Bread and water.	
Mar.	15.	12	raw-hide, and bread and water.
	28.	Bread and water.	
July	16.	Is reported to the Surgeon, 12 cats, but the Punishment Book says 36.	
1845.			
Jan.	13.	9	raw-hide, and bread and water.
	16.	9	do. do. do.
1846.			
April	27.	9	raw-hide, and bread and water.
May	22.	12	cats, do. do.
June	26.	6	raw-hide, do. do.
July	17.	12	do. do. do.
	18.	6	do. do. do.
Aug.	24.	9	do. do. do.
Sept.	30.	12	do. and 24 hours dark cell.
Oct.	10.	48	hours own cell.
	12.	48	do. do.

Appendix  
(B.B.B.B.B.)  
30th May.

## Appendix 1846.

(B.B.B.B.)

Oct. 27. Bread and water.

Dec. 26. do. do.

30th May.

1847.

Mar. 3. Bread and water.

5. Box, and bread and water.

April 7. Bread and water.

May 6. do. do.

15. Box, and bread and water.

18. do. do. do.

19. do. do. do.

20. do. do. do.

June 5. Bread and water.

10. Box, and bread and water.

12. Bread and water.

17. Box, and bread and water.

21. do. do. do.

22. do. do. do.

23. Bread and water.

26. Box, and bread and water.

28. do. do. do.

July 6. do. do. do.

8. do. do. do.

20. do. do. do.

21. do. do. do.

30. do. do. do.

Aug. 2. Bread and water.

2. Box, and bread and water.

3. do. do. do.

4. Bread and water.

5. Box, and bread and water.

6. Bread and water.

16. Box, and bread and water.

19. do. do. do.

20. do. do. do.

21. Bread and water.

28. do. do.

Sept. 9. do. do.

10. 48 hours dark cell.

29. Box, and bread and water.

Oct. 8. do. do. do.

9. Bread and water.

12. do. do.

23. do. do.

Nov. 1. Box, and bread and water.

8. Bread and water.

10. do. do.

Dec. 27. do. do.

1848.

Jan. 22. Bread and water.

29. do. do.

Mar. 14. do. do.

All these punishments were omitted in the return made to the Surgeon.

The evidence, on this matter, is as follows :—

James Sampson, Esq.—By Mr. Smith :—

“ Recollects making a requisition for a return of the punishments inflicted upon James Brown.” (Two certified copies of letters from Dr. Sampson to the Warden are handed in, on the several dates of the 18th and 24th January, 1848, by which Dr. Sampson desires to ‘ have access to all the records of the various acts of violence which James Brown has committed, &c.

James Hopkirk, Esq.—By Mr. Smith :—

“ Recollects of a letter from Dr. Sampson, asking for a return of punishments inflicted on Convict James Brown, being laid before the Board ; thinks the Warden mentioned on that occasion that some of the reports could not be found ; thinks general directions were given to the Warden to furnish a

list of all the punishments inflicted on Brown for acts of violence which could be found ; but merely states so from recollection.”

Appendix

(B.B.B.B.)

30th May.

By Commissioners :—

Q. Did not Dr. Sampson, on 30th December, 1847, when called upon to certify Convict James Brown's fitness for corporal punishment, enter on the Punishment Book, “ Fit as to bodily health ?”

A. Yes.

Q. Was the attention of the Board called to the said report ?

A. It was ; and the Board, on 15th January, 1848, directed the Warden to call on the Surgeon, “ to furnish a full and explicit report as to the health, both mental and bodily, of the said Convict.”

Q. Did not the Surgeon, by letter of 24th January, 1848, write to the Warden, in the following words :—“ In order to enable me to form a more correct opinion with respect to the mental state of James Brown, it would be requisite that I should be acquainted with the several amounts and descriptions of punishments inflicted for the offences committed by him (Brown) since his admission to the Prison ; and I beg to submit, that instead of calling on all the Guards and Keepers to answer such questions as I might put to them, touching this case, it would be more convenient if I were furnished with the names of the officers who reported the Convict on the various occasions of violence for which he was punished ?”

A. Has no doubt he did ; and that the letter now shown, is the letter in question.

Q. Was not the said letter laid before the Board on 3rd February, 1848 ?

A. It was ; along with another letter from Dr. Sampson of 18th.

Q. Did not the Board, thereupon, instruct the Warden in the following terms :—“ It appears from his (Dr. Sampson's) letter of 24th ultimo, that he is unable to make his report on this (Brown's) case, unless he is made acquainted with the several amounts and descriptions of punishments inflicted upon the Convict ; the Warden is directed to furnish the statement required ?”

A. They did.

Q. Did the Warden write to Dr. Sampson on 3d February, 1847, as follows ?—“ I have to inform you that your letters of the 18th and 24th ultimo, respecting the case of Convict James Brown, have been laid before the Board, and I am to say they have directed me to lay the statements of punishments inflicted upon that Convict, before you, as soon as it can be prepared ; although the Board is at a loss to conceive what assistance it will afford you in coming to a conclusion as to the present state of the prisoner's mind, as in neither of the cases of John Donovan and Michael Sheehan, both of whom, before their being reported by you as insane, had been frequently punished for acts of violence, was it deemed necessary by you to be put in possession of a similar statement to enable you to come to a decision on their respective cases ?”

A. Sees a copy of a letter to this effect in the Warden's Letter Book, addressed to Dr. Sampson, but has no recollection of ever seeing it before.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. Please to look at the Minute Book, and say, if the Inspectors authorized the Warden to express any astonishment at the request of the Surgeon ?

A. Sees no such authority or feeling stated in the Minute.

Q. Do you not consider that, by the Minute of the Board, the Warden was instructed to furnish Dr. Sampson with a list of the amount and description of all punishments inflicted on James Brown since his admission to the Prison ?

A. Does consider that such were the instructions of the Board by their Minute."

By Mr. Smith :—

"Witness is shown the copy of Charges transmitted by the Commission to Mr. Warden Smith; and is asked, if a letter given there, on page 255, purporting to be from Dr. Sampson, contains any reference to acts of violence? and says, it does not. Witness is asked to compare the said copy with a letter in Dr. Sampson's hand-writing, handed to him by the Warden, and to say, whether the charges contain a copy of the whole letter? and says, only the first portion of the letter is given, and the latter portion, as follows, is not given:—'And I beg to submit, that instead of calling on all of the Guards and Keepers to answer such questions as I might put to them touching this case, it would be more convenient if I were furnished with the names of the officers who reported the Convict on the various occasions of violence for which he was punished.' There are two sentences in the said letter, one given by the Commissioners, and one not given; they are divided by a semicolon. The Commissioners do not mention the portion they gave as a copy of Dr. Sampson's letter; they do not mention it as an extract. At the time Dr. Sampson's letter of 24th January was received, witness understood that he referred to acts of violence; speaks to the best of his recollection. Witness is shown a letter of Dr. Sampson's, of 18th January, on the same subject, and is asked, if he therein speaks of acts of violence? and witness says, he does, twice. Is not aware that Dr. Sampson ever made any objections to the return that was made to him in reply to his demand. Witness does not know whether any knowledge Dr. Sampson might acquire of trivial offences committed by Brown, would enable the Surgeon to form an opinion of Brown's insanity; it would depend on the nature of the offences. Dr. Sampson never asked for any return of the punishments for acts of violence committed by Sheehan before declaring him insane, as far as witness knows."

By Commissioners :—

"Witness is again referred to the letter of Dr. Sampson of 18th January, 1848, in which he asks for a statement of 'the various acts of violence, committed by Convict James Brown—to the letter of the Warden of 21st January, sending him that statement—and to the letter of Dr. Sampson, of 24th January, asking, still further, for a statement of the several amounts and descriptions of punishments inflicted for the offences committed by him (Brown) since his admission to the Prison'—and is asked, if the fair meaning of this request of 24th January, is not, that Dr. Sampson desired a statement of every punishment inflicted on Brown, whether for acts of violence or other offences, since his admission to the Prison? Witness answers as follows:—Considering that Dr. Sampson had in his letter of 18th January, stated his wish to have access to the re-

cords of the various acts of violence, and said nothing as to the Punishments inflicted; and that in his letter of 24th January, he does not especially ask for a return of other offences besides acts of violence, but only for the amounts and descriptions of punishments inflicted for the offences committed by him since his admission to the Prison; and that, in the latter part of his letter, he asks to be furnished with the names of the officers who reported the Convict on the various occasions of violence for which he was punished, it may fairly bear the interpretation that Dr. Sampson wished for a return of the acts of violence, only, though the matter is by no means clear.

Q. If the first statement sent Dr. Sampson contained the amount of punishment inflicted on Brown for every act of violence given, would that fact alter the opinion you have just given ?

A. Yes; it would show that he had no need to ask for the punishments inflicted, specially for acts of violence; and the fair deduction, in the mind of a person who knew that, would be, that Dr. Sampson wanted a statement of all punishments inflicted on Brown.

"Is not aware if Dr. Sampson had any means of knowing whether the return sent him contained truly, the information he asked, or not; does not know if Dr. Sampson has any doubt on the subject now."

Mr. Bickerton—By Mr. Smith :—

"Recollects Dr. Sampson making an application, by letter, for a return of the acts of violence committed by Convict James Brown; he afterwards made another application; does not know if both returns, made in answer to Dr. Sampson's application, showed the punishments inflicted. Mr. Bickerton is referred to a letter of the Warden to the Surgeon, of 21st January, 1848, and says, there is nothing in it about punishments. The Surgeon asked for no return, but of acts of violence, in either of his letters. The Surgeon was not satisfied with the first return made him, and required a second; cannot tell why the Surgeon was dissatisfied with the first return made him. Witness is referred to 'a return of the punishments inflicted on Convict James Brown, for violent conduct,' as entered in an old Minute Book of the Building Commissioners, and says, that is a copy of the second return made to Dr. Sampson. The punishments are stated in that return."

By Commissioners :—

"Witness is referred to the Warden's letter to Dr. Sampson of 21st January, 1848, spoken of in his direct evidence, and is asked if there is a copy of the return of acts of violence, spoken of in that letter, as accompanying it when sent to Dr. Sampson, in the letter book? and says, there is not. Witness is asked to produce a copy of the return of acts of violence therein referred to? and having searched his office, returns and says, he can find no copy of it." \* \* \* \* \* "Witness having examined the two letters of Dr. Sampson of 18th and 24th January, 1848, asking for returns in the case of Convict James Brown, says he was mistaken in saying, in his direct evidence, that Dr. Sampson 'asked for no return but of acts of violence in either of his letters;' in the letter of 18th, he asked for a return of acts of violence, but in that of 24th, he asked for a return of 'the several amounts and descriptions of punishments inflicted, for the offences committed by him, since his admission in the Prison.' Witness is

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

referred to the return of punishments inflicted on James Brown, spoken of by him in his direct testimony, as entered in the old Minute Book of the Building Commissioners, and he is asked, if that is merely a Return of acts of violence committed by the said Convict? and says, there are many acts of violence included in the Return, but there are also many offences which cannot be so designated, such as cursing, swearing, and leaving his work. Believes the said Return was principally made up by the Warden, and that Mr. Costen did the remainder."

By Mr. Smith :—

"Witness read the whole of Dr. Sampson's letter of 24th January, 1848, before he gave his evidence upon it this morning."

The Warden's defence on this matter is, that Dr. Sampson only asked for returns of acts of violence, and punishments inflicted for acts of violence, and that he furnished all he demanded. We think, however, that such a defence is quite in opposition to the facts.

Dr. Sampson, by his letter of the 18th January, made two demands—1st. For "access to the records of all the acts of violence which this Convict has committed in the Prison;" and 2nd. "For the means of making personal enquiry of such officers or persons as have witnessed them," (the acts of violence).

The Warden wrote Dr. Sampson, on 21st January, in reply to his of 18th :—"I have enclosed a return of the acts of violence committed by the Convict in question during his confinement in this Institution." The return enclosed in this letter contained but 10 offences, including one "talking at work," and another "using indecent language," and only four of them could be properly construed, as "acts of violence."

This return forms the first misrepresentation, in the case of Brown; for a large number of "acts of violence" committed by him, were altogether suppressed; the number stated, bearing no proportion to the truth; and it is impossible that these omissions could have been the result of unintentional accident, as the Punishment Books show each infliction clearly and simply; and could any doubt on this score exist. The Warden removed it himself, by sending (on a farther application of Dr. Sampson,) a second return, in which a large number of additional instances of "violent conduct" are stated. It is also remarkable, that no copy of the return of 21st January was preserved in the records of the Penitentiary, the copy used by us having been obtained from the Surgeon.

In reference to Dr. Sampson's demand for the means of making personal enquiry of the officers who witnessed Brown's acts of violence; the Warden informed him in the same letter (of 21st) that "all the Keepers and Guards of the establishment are cognizant of the several acts of violence recorded."

Dr. Sampson having received, as he supposed, a return of "all the acts of violence which this Convict has committed in the Prison," wrote farther to the Warden on 24th January, for "the several amounts and description of punishment inflicted for the offences committed by him (Brown) since his admission to the Prison;" and in reference to the Warden's answer to his second demand, (to be made acquainted with the persons cognizant of Brown's conduct) he says, "and I beg to submit that instead of calling on all the Keepers and Guards, to answer

such questions as I might put to them on the case, it would be more convenient if I were furnished with the names of the officers, who reported the Convict on the various occasions of violence for which he was punished." The Warden laid this letter before the Board, by whom he was instructed to furnish the statement required of the several amounts and descriptions of punishment inflicted upon the Convict." The Warden, accordingly, made up a return, which he entitled, a "Statement of Punishments inflicted on the Convict James Brown, for violent conduct;" and which he forwarded to the Surgeon, with a letter, informing him that by directions of the Board, he sent "a statement of punishments inflicted upon that Convict." The statement sent, on this occasion, was not a true return of the punishments inflicted on Brown; the long list given, at the beginning of this count, having been suppressed.

The Warden says, he never professed to send Dr. Sampson a list of all the punishments inflicted on Brown, but only those for acts of violence. This cannot be so, however, for the wording of the correspondence shows the contrary; and the return actually sent, included punishments for many offences besides "acts of violence," while among those omitted, cases of "acts of violence" are found. The plea that the second paragraph of Dr. Sampson's letter of 24th January qualified the first part of it, and made him ask only for punishments inflicted for acts of violence, cannot be sustained. This portion of the Surgeon's letter was evidently intended as a rejoinder to the second portion of the Warden's letter of 21st; and the Minute of the Board, and the Warden's own letter of 3rd February, show that they so regarded it.

Our opinion is, that the Warden has been guilty, in this matter, of gross and wilful misrepresentation.

The whole of the correspondence in the case will be found in the Appendix.

10. IN STATEMENTS MADE TO THE GOVERNMENT, IN OCTOBER, 1846, TO PROCURE THE REMOVAL OF ASSISTANT-WARDEN EDWARD UTTING.

In October, 1847, the Warden preferred charges against his Deputy, Mr. Utting, to the Board of Inspectors; he having previously suspended Mr. Utting upon them. The charges were :—

"1st. Pulling down a quantity of the plank fence, and carrying it away, without the knowledge of the Warden, and afterwards refusing to replace it.

"2nd. Sending out Convicts to his private dwelling, and to his lot in Union Street, for the purpose of carting cord-wood and lumber, without the knowledge or permission of the Warden, being contrary to their sentences, as well as to the discipline of the Institution.

"3rd. For giving, to some person unconnected with the Penitentiary, a statement of the punishments inflicted upon the Convicts, &c.

"4th. Employing Convicts to work for his private advantage, without the knowledge of the Warden; and placing them in such a position, that they might have effected their escape."

The Board investigated the matter on 12th, 13th, and 14th October, and finally came to the following decision :—

"On the first charge, they are of opinion, that Mr. Utting caused some of the fence, on the west

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

side of the Prison, to be taken down, without the knowledge of the Warden. They consider, however, in doing so, Mr. Utting may have supposed that he had authority, from the fact that he had permission of the Warden to purchase some other old lumber which had formed part of the fence on the east side.

"With respect to his refusal to replace it, they consider that he virtually complied with the order, by proceeding to make good the fence in another place with other material, the old stuff having been sawed into studs.

"On the second charge, the Board are of opinion, that the Convicts were very improperly taken off the ground of the Institution, and thereby unnecessarily exposed to escape. They do not, however, impute any mercenary motive to Mr. Utting in doing so.

"The third charge, the Board conceive, is not supported by any evidence which it would be safe to rely on.

"With regard to the fourth charge, the Board are of opinion that there is no evidence to satisfy them that any work was done for Mr. Utting by Convicts, for which he has not been charged; and with regard to the latter part of the charge, they consider that the Convicts were not more exposed to an escape in collecting the pickets for Mr. Utting, than they were in pulling down the rest of the fence."

Having thus expressed their opinion on the several charges, two of the members of the Board considered that the facts of the case would not warrant them in dissenting from the removal of Mr. Utting by the Warden. The other member present is of opinion that the punishment of dismissal is too strong for the offence. "But as the Board are not satisfied how far they are competent, with the present number now assembled, to act in the affairs of the Penitentiary, according to the terms of the Statute 9 Vic., chap. 4., the Warden is directed, in such reference as he may make to the Governor General on the subject, to submit the whole case to the decision of His Excellency."

The Warden, accordingly, addressed the Government on 17th October, asking for the dismissal of Mr. Utting; and in the contents of this letter, the present charge of false representation lies.

In communicating the decision of the Inspectors, the wording of the last clause was essentially altered. Instead of the words commencing, "But as the Board," and ending, "of His Excellency," the Warden stated the paragraph as follows:—

"In the examination of these charges, there were three Inspectors present, but as the Board are not satisfied how far they are competent with that number, to act in the affairs of the Penitentiary, according to the terms of the statute before mentioned, and although a majority\* of those present concur with the Warden in the necessity of Mr. Utting's removal from his situation, they prefer that the matter should be first submitted to the decision of His Excellency."

The Warden also travels away from the case at issue, and enters into statements criminatory of Mr. Utting, on various matters not connected with the charges on which he was suspended, and against which Mr. Utting had no opportunity of defending himself.

\* The majority did not "concur with the Warden;" they simply did not feel warranted, in dissenting from a step taken by the Warden.

Among other matters brought to bear against Mr. Utting, the Warden tells the Government, that in March, 1845, he had felt it his duty to prefer nine charges against that officer, before the Inspectors. After stating the particulars of these nine charges, the Warden proceeds to give the decision of the Inspectors upon them. He says:—

"Of the 1st, 2nd, 4th and 7th charges, he was declared by the Board to be guilty, and as the evidence given on the other charges, was principally that of Convicts, the board did not consider them to be proved." On that account he was ordered to be admonished, and in doing so the President of the Board informed Mr. Utting, that it was only in consideration of his family that he was not dismissed from his situation; and a Minute, to that effect, was made."

The true decision of the Inspectors was as follows:—

"Upon maturely considering the evidence adduced by the Warden, in support of the several charges preferred against the Assistant-Warden, the Board are of opinion, that the 3rd, 5th, 6th, 8th and 9th charges, are not proved; that the 1st charge has been proved; and the 2nd, 4th and 7th charges, have been proved, in a great measure, by Convict evidence.

"The Board regret that they cannot exonerate the Assistant-Warden from much irregularity, and the improper exhibition of temper; yet taking into consideration his large family, and *hitherto good character*, contents itself with admonishing him to be more careful in future.

"Through the whole of this investigation, it appears to the Board that very many cases of complaint have originated from the employment of Convict servants in the families of the officers, and which, being contrary to law, is strictly forbidden for the future."

Upon this letter of the Warden's, without any communication of its contents to Mr. Utting, the Governor General ordered the dismissal of the Assistant-Warden.

The evidence on this case has been given already in an early portion of the report. The Warden has not attempted to justify his conduct in the matter; and we cannot comment in language too strong, upon the wilful and deliberate misrepresentations which it brings to light.

We have thus gone through Charge X., and we consider it completely established.

In the course of the inquiry, and subsequent to the Charges being served on the Warden, we discovered that in certain Punishment Returns, made annually by the Warden for the Imperial Government, a number of mis-statements has been made.

The following evidence explains their nature:—

Thomas Bickerton—By Commissioners:—

"The Punishment Returns, witness has spoken of as made annually, do not appear in the Annual Reports of the Institution to the Provincial Government, but are made for the information of the Imperial Government, in obedience to an extract from a Despatch from Lord John Russel, and are forwarded to the Warden for his guidance, by the Governor General. These returns have been made

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B. B. B. B.)  
30th May.

since 1837; the Warden has always compiled them. Witness is asked to refer to the return of 1846, and especially to the statement of whipping, in that year, and says, the cases of whipping are their stated to have been, of Males, 2,053, and of Females, 1. In a subsequent part of the same return, the cases of flogging by cat-o'-nine-tails, are particularly stated as 25 Convicts so flogged, once; 5 twice; and 1 seven times; making in all 42 punishments with the cats.

Witness is then asked to go over the Punishment Book, and say, if this is a correct statement of the number of punishments actually inflicted, in 1846? and says, it is not. In that year—

44	Convicts were flogged with the cats, once.
14	“ “ “ “ “ “ twice.
7	“ “ “ “ “ “ thrice.
1	“ was “ “ “ “ twelve times.

Total Cat-Punishments, from the Report Book, for the year 1846, 105.

In the Report of the Raw-hide Punishments, the Warden reported that for the same year—

1	Convict had been flogged	20	times.
1	“ “ “ “	21	“
3	“ “ “ “	22	“
2	“ “ “ “	23	“
2	“ “ “ “	30	“
1	“ “ “ “	32	“
2	“ “ “ “	34	“
1	“ “ “ “	48	“
1	“ “ “ “	60	“

Witness is referred to the Warden's Punishment Report for 1847; and says, the Warden, in the list of punishments inflicted during that year, puts down the number of Box Punishments as 599. Witness is asked to examine the Punishment Book, and say, if that is a correct statement of the Box Punishments actually inflicted in 1847? and says, it is not. He finds the actual number was 770.

Nothing could more forcibly depict the loose morality which has prevailed in the Prison, than the fact, that the official documents prepared by the chief officer of the establishment have been unworthy of reliance.

CHARGE XI.

PECULATION.

1. In Feeding a Horse, for Seven Years, out of Penitentiary Stores, and not charging himself with the expense of the same.

It appears that when the Penitentiary opened, the Warden owned a bay horse; and that in August, 1835, the Warden, with consent of the Board of Inspectors, hired it and a cart from himself, for the consideration of 2s. 6d. per day. This transaction lasted for a considerable time, but was at length terminated. In 1840, Mr. Smith moved into the house built for him within the walls of the Prison; and he asserts that he then made a bargain with himself, as Warden, that his bay horse should do the light work of the Prison, and be fed at the public expense. It is certain that this horse was fed at the public expense, from 1840 to 1846; and it is also proved that the Warden used him for his own personal purposes during the period in question, but that he was chiefly employed as the Messenger's horse, and in

doing light work about the yard. It is certain, moreover, that the transaction was never sanctioned by the Board of Inspectors; and that after the purchase of the brown carriage horses in December, 1842, there was not the slightest necessity for the services of this bay horse.

Mr. Smith has, however, proved by the testimony of two of the Inspectors who held office from 1840 to 1846, that they knew the Warden's bay horse was fed at the public expense, so that we must acquit him of peculation in the matter. The whole transaction, however, we regard as highly improper, and expressly contrary to the Statute, which forbids officers from being parties in contracts with the Penitentiary.

2. IN FEEDING A COW, FOR EIGHT YEARS, OUT OF THE PENITENTIARY STORES, AND NOT CHARGING HIMSELF WITH THE EXPENSE OF THE SAME.

It is proved that the Warden kept one cow from 1840 to 1848, within the walls of the Penitentiary; a second cow for "a few weeks;" and frequently calves during eight to nine years.

It is proved that these animals were regularly fed, with the Penitentiary cattle, from the same stores of hay, oats, potatoes, turnips, and straw, and were tended by the Convicts along with the other animals.

It is proved that the Warden has paid into the Penitentiary funds, the following sums for provender:—

December, 1842....	5 bushels oats.....	£		
September, 1843...	hay.....	1	6	6
January, 1844.....	potatoes.....	0	8	1
December, do.....	5 bushels do.....	0	9	7
	1 ton hay.....	1	12	6
	5 bushels oats.....	0	5	0
March, 1845.....	1 ton hay.....	1	12	6
July, 1846.....	3 bushels oats.....	0	4	3
September, do.....	4 do. do.....	0	5	8
	15 cwt. 3 qrs. hay.....	1	5	8
November, 1847...	1 ton hay.....	1	12	6
	4 bushels oats.....	0	9	6
February, 1848....	6 do. do.....	0	10	6
November, do.....	1 ton hay.....	1	12	6

And he may also have paid £1 10s. in February, 1846, for a load of hay. But the Warden has not attempted to show that the provender, so paid for, was measured and set aside for his personal purposes, or that this charge was regulated by the actual consumption; on the contrary, all the evidence goes to show that the sums in question were paid into the public exchequer without any reference to the amount of provender consumed.

An attempt has also been made to prove that the Warden brought provender into the Penitentiary for his own use.

Mrs. Martin says, she recollects the Warden brought some hay from the cottage when he moved in; she does not know how much.

It is shown that Baron Grant presented some hay, probably five or six loads, to the Warden, which was brought into the prison.

There is also the testimony of Mr. Henry Smith, M.P.P., that he saw his mother pay John Van Loven £1 12s. 6d. for two loads of hay, in the winter of 1840-1.

Appendix  
(B. B. B. B.)  
30th May.

Appendix

(B.B.B.B.B.)

30th May.

There is also an attempt to show that the Warden purchased and raised potatoes, and purchased turnips for his own use; but it is successful to a very limited extent; and there is not the slightest proof that articles so purchased were given to the Warden's cow; on the contrary, the proof is direct, that it was fed regularly from the same stores as the Penitentiary animals.

It is very obvious that, even if no fraud existed in this matter, it was most improper to mix up private property with the public stores; such a practice could not fail to open up the way to much irregularity, and subject the participators in it to constant suspicion; but having resorted to so dangerous a practice, the Warden was bound to show that he had reimbursed the Institution for all the food his animals consumed. This, however, he has not attempted; he has merely shown that he paid for some hay, and had some oats, potatoes, and turnips; but he does not attempt to prove that his animals got them; and it is very evident that, had all the provender he alleges he purchased, been actually supplied, the whole would have been nothing like adequate to the support of one cow. It is very clear, on the Warden's own statement, that his cattle have been fed since 1840, almost entirely at the public expense.

It will be proved, under a future count, that the expense of supporting the Penitentiary animals has been enormous, averaging, for several years back, nearly £40 per head, annually; and as it appears that the Warden's cow was fed with oats and other provender in the same manner as the Penitentiary oxen, no other conclusion can be arrived at, than that the Institution has been wronged on this item, at the least calculation, to the extent of over £200.

4. IN FEEDING LARGE QUANTITIES OF POULTRY, OUT OF THE PENITENTIARY STORES, AND NOT CHARGING HIMSELF WITH THE EXPENSE OF THE SAME, DURING EIGHT YEARS.

It is proved, by many witnesses, that poultry in large quantities, the property of the Warden, have been fed regularly, for years, from the Penitentiary stores. The Convict who fed them for some time, testifies that there were, in his time, over 150 head of poultry; and Guard Wilson says, he has counted 200 to 300 head at a time.

The quantity of poultry, the Warden tries to show, was much less than represented; but he does not attempt to contradict, directly, the evidence as to their having been fed from the public stores. He tries, however, to show that he kept grain of his own, with which they were fed. This allegation rests entirely on the veracity of Thomas Smith, the Messenger, and his Wife; and we, therefore, give their evidence in full.

Elizabeth Smith—By Mr. Smith:—

"Is wife of Thomas Smith, Messenger to the Penitentiary. Has attended to the feeding of the Warden's poultry ever since she came to live in the Prison Lodge; no one else has had the care of them; has lived at the Lodge five years. When witness first came, the Warden had not a dozen fowls. The largest number of chickens ever raised in one year, was 30, and of ducks 16, and these did not all get to any size; they (the chickens and ducks) were fed with Indian meal, crumbs, sour milk, and other refuse from the Warden's kitchen; the old fowls were fed with different kinds of grain, sometimes

oats, and at others Indian corn, which was supplied by Mrs Smith; the fowls would not eat much grain, as they picked up food on the dunghill and about the yard. Has seen the ducks fed with salad and other green stuff from the Warden's garden. Witness is frequently about the stables; has seen the oxen eating potatoe-pairings in the morning; they have always had them for the last five years, when the Convicts were getting potatoes.

The greatest number of turkies the Warden ever had at one time was 11; the smallest number was 1; no turkies were ever raised by the Warden. Never saw more than 2 geese at one time; they were four or five days in the stables.

Knows that 30 bushels and over of grain had been purchased every year for the Warden's poultry, besides what was brought from the house: witness kept the key of the hen-house. Convict Henesy had nothing to do with the poultry, unless witness entrusted him with the grain, to give to them when she went to town; always left sufficient for the fowls on such occasions; never told Henesy to give any Prison oats to the fowls, they had no need of it; never saw him, or knew of his giving oats to the fowls.

"If any one has sworn that the Warden had 93 chickens, 21 ducks, 40 old fowls, besides a number of purchased chickens, turkies and ducks, in one season, he has sworn falsely.

"If any one has sworn he has seen from 200 to 300 head of poultry, within the Penitentiary at one time, within the last two years, he has sworn falsely. If any one has sworn he has seen 54 turkies at one time, within the Penitentiary, during the last twenty-six months, he has sworn falsely."

By Commissioners:—

"Witness has always been on good terms with the Warden's family; has known them better than eight years; has never received any kindness from the Warden or his family, but free quarters, and her husband's salary. Has had presents of a bit of pork occasionally, and vegetables from the garden. The house witness has occupied for five years, is the property of the Penitentiary; has paid no rent for it. Witness supplied the Penitentiary with beer, for about two years; charged 2½d. per pint; never sold any beer to any other party; has no license: has supplied the Penitentiary Hospital with bread, for about four years; got a profit on it, of one loaf in twelve; sometimes they got one loaf per day, sometimes three, and sometimes none: never sold any thing else to the Penitentiary.

"The Warden's hen-roost is in the Penitentiary stable; fed the fowls regularly three times a day, and sometimes oftener, Sundays as well as week days. The Warden never had 50 chickens and fowls at one time, thinks there might be 40; the largest number of ducks he ever had at one time was 18; the Warden never had a live goose within the walls but 2, and these only for a night or two; the largest number of turkies was 11; never had any pen-hens, or any other kind of fowls. Witness swears that the Warden never had over 71 head of poultry on hand at one time; witness kept the grain for the Warden's poultry, in her own house at the Lodge; it has always been kept there during the last five years, except what little was got from the kitchen; sometimes kept the grain in a bag, and sometimes in a barrel; sometimes witness bought the grain, sometimes her husband did, and sometimes Martin, and

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

sometimes Mrs. Smith did. Witness cannot tell how often she has bought grain for the fowls; has bought grain upwards of twenty times for the Warden's fowls. Bought sometimes corn, and sometimes oats, and sometimes Indian meal; does not remember how often she has bought Indian corn. Cannot tell the names of the shops where she bought it; bought it wherever she could get it cheapest; cannot name one of the shops. Bought sometimes one bushel and two bushels, but never over four and a half bushels of corn, for the Warden's fowls at once; whatever the bag held. Sometimes the man who sold the corn would bring it into the Penitentiary, and sometimes witness's husband; believes they brought it in at one of the gates; cannot tell any one farmer, who so brought in corn. Will swear what farmers have brought in corn for the Warden's fowls, and left it at witness's house twenty times, in the last five years; witness's husband has several times brought in corn for the fowls, which witness had purchased in town; Martin has bought corn for the Warden's fowls, and left it at witness's house, many times; witness's husband has bought Indian corn for the Warden's fowls many times; Mrs. Smith, the Warden's wife, has bought Indian corn for the Warden's fowls many times. Witness has bought oats for the Warden's fowls 30 times, and more than that; bought them mostly from boats lying at the Penitentiary wharf; the boatman brought the oats in through the west gate; bought from 2 bushels to 8 bushels at a time; cannot tell how often she has got oats from boats. Witness never bought any oats in town; all the oats witness bought were from boats lying at the west wharf. Cannot tell how often her husband has bought oats for the Warden's fowls; not so often as witness, but very often; cannot say where he got them; does not remember what quantity he bought in at a time. Does not remember Martin ever bringing any oats for the Warden's fowls; Mrs. Smith the Warden's wife, has bought oats for the Warden's fowls many times, and sent them down to witness; sometimes the farmer brought them in."

"Witness has bought Indian meal for the Warden's fowls many times, cannot tell how often; bought from a peck to a bushel at a time; bought it in the market, and once or twice in shops; cannot name any one farmer or shop she purchased it from; sometimes the farmer brought it home, and sometimes witness's husband. Would think her husband had brought home Indian meal, that witness had purchased for the fowls, a dozen of times. Does not remember of her husband ever buying Indian meal; nor of Martin doing so; Mrs. Smith has bought Indian meal many times, and sent it to witness for the fowls.

Mrs. Smith gave witness the money to pay for all the grain; more of it was bought this last year than any previous year. Grain for the Warden's fowls has been regularly purchased and kept on hand, in witness's house, for the whole of the last five years; Mr. Tyner, the Gate-keeper, knows that witness has been in the habit of feeding the fowls occasionally, from stores kept in her house; does not know any other person who knew the fact; witness's son, Thomas, knows that the fowls have been so fed. Cannot tell how much grain she used for the fowls; has had five bushels of Indian corn and some oats on hand at one time; some of the corn was in a bag, and some in a barrel; has two or three barrels for keeping the Warden's grain in; sometimes keeps the barrels in the house, and sometimes in the gateway.

By Mr. Smith —

"The Warden had more fowls at one time than another; the quantity of grain bought for the fowls was more than they would eat."

By Commissioners:—

"The grain for the fowls has often been brought in by farmers at the west gate; when witness made purchases in the market for the fowls, witness's husband would call for her and take the grain to the Penitentiary. Witness never conversed with the Warden on the subjects spoken of in her evidence of this day, nor to Mrs. Smith, nor with any one else."

Thomas Smith—By Mr. Smith:—

"Has bought grain for the Warden's fowls; has bought Indian corn and oats; that was all. Witness's wife has had charge of the fowls since witness has come to live at the lodge; has lived there nearly seven years. The Warden's fowls have often been given to the sick Convicts.

Has bought shorts for the Warden; never bought peas or pollard.

By Commissioners:—

"Witness has purchased bran for the Warden very often, so often that he cannot tell the number of times. Bought sometimes more and sometimes less, from one hundred to three hundred pounds at a time. Bought it in shops; always paid cash for it; cannot name any one shop where he bought bran for the Warden; has bought bran for the Warden at a shop on the corner of Brock street, several times; cannot swear that he bought bran there three times; cannot recollect how often; bought bran in that shop for the Warden about a month ago; cannot tell when the first purchase he made in that shop was; did not buy any bran for the Warden, in that shop, previous to Frank Smith's trial in October, 1847; did not buy bran in that shop previous to June, 1848, that he recollects of. The people from whom witness bought bran for the Warden, in other shops, have all left Kingston; they have given up their shops; they kept shops in different parts of the town; there was one shop where witness used to buy bran for the Warden, in Wellington street, which was burned down at the fire; it was a bran and corn store; does not know the name; cannot say if it was five years ago, he bought bran there; cannot say when the fire took place; cannot designate any other shop in which he ever bought bran for the Warden. Has brought in bran in a mattress, for the Penitentiary, but only once for the Warden; at other times brought it in for the Warden in his own bags. Witness solemnly declares he has brought in bran for the Warden at other times, besides the one occasion on which he brought it in in a mattress. Sometimes took the bran, when he brought it in, to the Warden's house, and sometimes to his own house; kept it there, and gave it to the stable man, when he wanted it for the Warden's cow; never had any bran in his house, for the Warden's cow, previous to June, 1848. Does not know, of his own knowledge, what became of any of the bran witness purchased for the Warden. The unthreshed oats witness has spoken of came from Mr. Hopkirk; cannot tell when it was. The oats came in, and were put in the Penitentiary stable over the Ox-stalls, and that is all witness knows about it; saw the oxen eating them; the horses might have got some, as they were in the same stable."

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

“Witness has bought Indian corn for the Warden, three times; once from Mr. Morton, and twice in the market; does not recollect how much he bought at a time; those are all the occasions on which witness bought corn for the Warden. Martin bought corn for the Warden once. Witness's wife has bought corn for the Warden in town, and witness has brought it home for her; cannot tell how often, nor where she got it; witness's wife kept corn for the fowls stored in witness's house, up stairs, in barrels; it was always kept there, to the best of his recollection. On the three occasions on which witness bought corn, himself, for the Warden, part of it he left in Warden's house, and part of it he took to his own house for the fowls. Could not tell whether there was one bushel of corn on each of the three occasions when witness bought corn for the Warden—thinks there were three bushels from Morton—on the other occasion thinks it was a bushel, or a bushel and a half. Will swear he has purchased corn for the Warden previous to June, 1848; does not know if Morton's was previous to that date; cannot tell if the other two occasions were previous to that date. Witness's wife kept corn and oats on hand, for the Warden's fowls, in witness's house; does not know that she kept any thing else for them. Could not tell when witness's wife first began to keep grain for the Warden's fowls.

Q. Will you swear that grain has been kept in your house, for the Warden's fowls, previous to last year (1848)?

A. Cannot swear that it has.

Q. Will you swear that grain has been kept in your house, for the Warden's fowls, previous to the Commission sitting in Kingston?

A. Cannot swear that it has.

Cannot tell how often witness's wife fed the fowls; knows nothing about it. She commenced taking charge of the fowls after the new stables were built; moved into the new stables after the fire in which Richardson's shop was burnt down; has no personal knowledge of how the fowls have been fed, except what he has been told.

Witness has bought oats for the Warden.

Q. Will you swear that you have bought oats three times for him?

A. Yes.

Q. Will you swear you have done so five times?

A. No.

Q. Where did you buy them?

A. Wherever they could be got cheapest on the market place; never bought any in shops.

Q. What quantity did you purchase at a time?

A. Cannot say.

Q. Did you ever buy five bushels at once?

A. No.

Q. What is the most you ever bought for the Warden, at once?

A. Thinks three bushels.

Q. Will you swear you ever bought any oats for Warden previous to last year (1848)?

A. No; cannot say when he bought them.

Q. Will you swear you ever bought any oats for the Warden previous to the sitting of the Commissioners?

A. No; could not swear that he had.

Q. Do you know that any one besides yourself has bought oats for the Warden?

A. Witness's wife has gone to town for oats for the Warden, and witness has brought it home for her.

Q. How often has she done so within your knowledge?

A. Cannot tell.

Q. Will you swear that your wife ever bought a grain of corn or oats for the Warden previous to last year (1848)?

A. Could not swear she had.

Q. Will you swear she has done so previous to the sitting of the Commissioners in Kingston?

A. No; cannot swear she has.

Q. Have you ever bought any Indian meal for the Warden?

A. Does not think he ever did.

Q. Did you ever know any one else to buy Indian meal for the Warden?

A. Cannot say that he has; his wife has told him that she has done so; she was feeding the fowls with it at the time; it was last summer.

Q. How often did you buy shorts for the Warden?

A. Four or five times.

Q. Where did you buy it?

A. In bran shops, in Kingston; cannot tell any one shop in which he ever bought any shorts.

Q. What is the largest quantity of shorts you ever bought at once for the Warden?

A. One cwt.; half a cwt. was the smallest.

Q. What did you do with the shorts?

A. Left them in the Warden's kitchen.

Q. Will you swear that you ever purchased shorts for the Warden previous to the sitting of the Commissioners in Kingston?

A. No; cannot say when it was he purchased the shorts.

Q. Did you ever know the Warden to purchase produce from boats at the west wharf, or to have any purchased there for him?

A. Yes; butter, eggs, and fowls; nothing else.

Q. Did you ever know corn, oats, Indian meal, or shorts, purchased for him in that way?

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

A. Never knew of such a circumstance within his own knowledge.

Q. At which gate was all this grain, you have spoken of, brought in ?

A. Sometimes at one gate, and sometimes at the other, until the north gate was opened. Since the north gate has been opened, has brought everything in by it ; the north gate has been open about four years.

The statements of these witnesses do not harmonize as to date, quantity, and number of purchases ; they differ so widely as to cast much doubt on their evidence, even had it stood uncontradicted otherwise. But we believe the truth is elicited in the cross-examination of Smith. There is little doubt that a few small purchases of all the articles named have been made by these parties for the Warden, and that such grain has been kept in Smith's house to feed the Warden's fowls ; but all the evidence, and Thomas Smith's own admissions, lead us irresistibly to the conclusion, that such a practice has only existed since the opening of our Commission, and that previous to that time the Warden's poultry were fed entirely at the public expense.

There are numerous witnesses who testify that the fowls were regularly fed from the public stores, and that they never knew the Warden to have grain for his own use. Had the Warden been in the habit of keeping such stores, it is scarcely possible that the Gate-keepers could have been ignorant of it ; but the following evidence shows that they were not aware of his doing so :—

John Cooper—By Mr. Smith :—

“Has seen Smith, the Messenger, bring in bran or shorts, cannot say which, for the Warden, only once or twice ; it was in a bed-tick, such as the Convicts use ; does not know the quantity, nor where it was taken to.

“The Warden had no place for holding grain in the stable, never saw any place set apart for him ; receives the Penitentiary grain and fills all the stable bins with it.”

By Commissioners :—

Q. Did you ever know Smith, the Messenger, bring in bran or shorts, for the Warden, previous to 1848 ?

A. Thinks it was last year he brought the bran or shorts.

Q. Did you ever know Smith to bring in Indian corn, oats, or Indian meal, for the Warden ?

A. Has no recollection of his ever doing so.

Q. Did you ever know Martin bring in any of these articles for the Warden ?

A. No ; never in his recollection.

Q. Did you ever know Mrs. Smith, the Messenger's wife, to do so ?

A. No.

Q. Did you ever see Mrs. Smith, the Messenger's wife, feeding the fowls ?

A. No ; has no recollection of seeing her.

62

Appendix  
(B.B.B.B.B.)

30th May.

Q. Could she have fed the fowls three times a day for the last five years, without your seeing her ?

A. Thinks she could not, as witness was often down at the stables.”

We are fully convinced, that for at least seven years large numbers of poultry have been fed for the Warden's benefit, from the public stores ; and if it is true, as sworn to by Convict Henesey who fed them for some time, that they got “not far from half a bushel of oats per day,” the cost of feeding them must have amounted to a considerable sum in so many years.

#### 4. IN FEEDING LARGE NUMBERS OF HOGS, DURING EIGHT YEARS, OUT OF THE PENITENTIARY STORES, AND NOT CHARGING HIMSELF WITH THE EXPENSE OF THE SAME.

It is proved that from 1840 to 1848, inclusive, the Warden kept from 6 to 14 hogs within the walls of the Penitentiary, buying them young, and killing them off as fattened.

It is proved that they were regularly fed with offal from the Penitentiary kitchen, and oats from the Penitentiary stores.

For the defence, it was attempted to be shown that the Warden purchased shorts and Indian corn, but only to a small extent ; and the only witness (Thomas Smith,) who gives evidence on the point, will not swear that he ever bought such articles for the Warden, previous to the sitting of the Commission in June, 1848. Not one witness testifies that he ever saw the Warden's hogs fed with other than Penitentiary property.

It is therefore clear to us, that the Warden's hogs have been fed almost, if not entirely, at the public expense ; and if the testimony of Convict Henesey is to be relied on, who says they got from one to two and a half bushels of oats per day, the cost of maintaining them must have been very considerable in so many years. The offal of other Penitentiaries is usually sold, and produces a respectable sum annually, and had it been sold here, the amount in eight or nine years would not have been inconsiderable.

Undoubtedly this count explains in part, the enormous sums charged for oats, potatoes, &c., for the Penitentiary stables. In the long period during which this abuse has existed, the public must have been wronged through it by Mr. Smith, to the extent of several hundred pounds.

#### 5. IN EMPLOYING CONVICTS FOR HIS PRIVATE BENEFIT, AND CHARGING THE VALUE OF THEIR TIME TO GOVERNMENT.

Under the original Act for the regulation of the Penitentiary, 4 Wm. IV. Chap. 37, the Warden's salary was fixed at £200 per annum, and he was expressly debarred from receiving any perquisites or emoluments other than his salary ; “a dwelling at or near the Penitentiary, and shall be furnished with fuel and candles, from the Stock provided for the use of the Province, and with servants from among the Convicts, if he shall think proper.”

On 1st November, 1837, the Board of Inspectors, in their report to the Lieutenant Governor, recommended the “granting to the Warden and Deputy Warden, a competent allowance for servants,” as the

Appendix  
(B. B. B. B.)  
30th May.

employment of Convict servants is "in some degree at variance with the express terms of the sentence pronounced upon the Convict by the Court, consigning him for the period of his confinement to "hard labor," and "is unquestionably at variance with that essential part of discipline, which is intended to prohibit Convicts from obtaining information of what is going on, either within or without the walls of the Prison."

During the succeeding Session, by Statute 1 Vic. Chap. 53, passed in the Session of Parliament 1837-8, the original Act was repealed, "so far as relates to the Warden and his Deputy being furnished with servants from among the Convicts," and in the same Session an Act was passed, giving the Warden an increase of £100 to his salary.

Since the winter of 1837-8, therefore, the Warden has been prohibited by Statute, from employing Convicts for his private purposes, but notwithstanding this, it appears that the Warden has been in the regular habit, since his removal into the Penitentiary, of using the services of as many Convicts as he thought proper.

It is proved, that he had one Convict working constantly in his house since 1840, and 1, 2, 3, or 4 more, as occasion required.

It is proved, that he had one Convict employed for the greater part, if not the whole of his time, in feeding his cows, hogs, and poultry.

It is proved, that since the fall of 1843, Convict Cameron has been employed as gardener; that for three years he has had another Convict regularly to assist him, and sometimes three or four more, as occasion required. It is true, that for the last two years there has been a Penitentiary garden, which was kept by Cameron and his assistants, but during the previous years their services were entirely employed for the Warden's benefit, and the greater part of them since.

It is proved, that a gang of several Convicts, and one or two officers, have been sent out on the bay, for several winters past, to cut ice, and were so employed for several days each year. This appears to have been authorized, one year, on the score of ice being required for surgical purposes; but it does not appear that the ice so procured has ever been used, except for the private purposes of the Warden.

All these transactions were throughout contrary to Statute, and the Inspectors have more than once alluded to the practice, in terms of strong disapproval. On 12th March, 1845, the Board said it was "contrary to law" and "is strictly forbidden for the future," but this had only the effect of interrupting the practice for a short time, and in a few weeks it was resumed as before.

The only palliation which is offered for these violations of the law, is the sanction of the Board of Inspectors, for the employment of Convict Cameron, as gardener. On 10th June, 1844, the following Minute was recorded:—"The Board conceiving it to be necessary, that a quantity of shrubs and plants, fit for ornamenting the space in front of the north wing, should be prepared, direct the employment of one of the Convicts for that and such other purposes as the Warden may require." But Cameron had been so employed for nearly a year before this order passed, and though it sanctioned the employment of Cameron, it certainly did not of his assistants, and moreover this order was completely cancelled

by the order of the same Board, in March following, already alluded to.

On June 3rd, 1847, the late Board recommended the employment by the Warden, of as many Convicts as he chose for his private purposes, but nothing was said about payment.

The time of the men so employed in the private service of the Warden has been regularly returned to Government, as employed in the public service; and in the annual returns, their labor is charged to the Government and credited to the Institution, as having been expended on the Prison buildings, at an average of about 3s. per day.

The conclusion we have arrived at is, that the Warden has had, on an average, three Convicts regularly in his employment since 1840; and at the rate returned to the Government, as having been produced by these men, the value of their labour must have amounted to over £1000.

6. IN FEEDING A PAIR OF GREY HORSES, THE PROPERTY OF HENRY SMITH, Esq., M. P. P., FOR NINE MONTHS, AND CHARGING THE EXPENSE OF THE SAME TO GOVERNMENT.

A great deal of evidence has been received on this point, and the facts are simply as follows:—

It appears that a pair of grey carriage horses, the property of Mr. Smith, M. P. P., came to the Prison in December, 1845, and remained till July, 1846; that they were fed, groomed, and shod, during the time they remained, at the public expense; and that they were brought to the Prison, and remained there, without any sanction from the Board of Inspectors.

The Warden alleges that he borrowed these horses from his son for the use of the Penitentiary, and agreed to feed them for the use of them; that one of the brown carriage horses was lame at the time, and others were wanted to bring the Inspectors to the Penitentiary, and to draw the Messenger's cart. In support of this explanation the Warden proves that the greys were used on two, or three, or four occasions, to draw the Inspectors to their meetings at the Prison; that one of them went to town frequently, in the Messenger's light waggon; and that one of them drew a cart in the yard, for the benefit of the Penitentiary, on several occasions, but was not regularly so employed.

We do not think the Warden's defence satisfactory. His first plea, that horses were wanted to bring the Inspectors to their meetings, is destroyed by the fact, that the Inspectors held only four meetings while the greys were in the Prison; and besides this, the lame brown horse was sold in March, 1846, and another purchased in his place, after which there could have been not the shadow of a pretext for retaining the greys. Then, as to their being required for the Messenger's purposes, there were in the Prison, at the same time as the greys, the lame brown horse until March, and afterwards the one that replaced him; the second brown carriage horse and the bay horse, hired by the Warden from himself—all expressly kept for the Messenger's purposes; and the Messenger himself testifies that all he required from them was to draw the light cart to town, once or twice a day, and occasionally three or four times, a distance of a mile and a half.

The testimony of two of the Inspectors on this matter, is very material.

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

Thos. Kirkpatrick, Esq.—By Mr. Smith :—

“The pair of grey horses belonging to Mr. Henry Smith, jun., were twice or thrice used in the carriage, bringing the Inspectors to the Penitentiary; has no recollection of seeing the Messenger in town with them. Had no knowledge at whose expense they were fed; witness's impression at the time, was, that the Warden provided food for them himself. Recollects that one of the brown horses went lame for some time, but has no knowledge as to when it was.”

By Commissioners :—

“Had witness known that the keep of Mr. Henry Smith's (junior) grey horses was to be paid from the public chest, he would not have permitted it.”

Major Sadler—By Commissioners :—

“Recollects a pair of gray horses being in the Penitentiary one winter and part of the following summer; they were not the property of the Penitentiary; they were not hired for the use of the Penitentiary by the Inspectors; presumes they were not fed at the expense of the Penitentiary; never heard that any application was made to the Board for another pair of horses, at the time the greys were in the Prison; presumes if horses had been needed application would have been made for them. Never knew these grey horses to do any work in the Penitentiary yard, but they may have done so, unknown to witness; they drew the Inspectors to the Prison on two, three, or four occasions—it could not have been more; understood these grey horses were in the Penitentiary for the use of the Warden's family; they were the property of Mr. Henry Smith, M.P.P., and were not authorized by the Board, and were used by the Warden's family, and witness therefore inferred that they were in the Prison for the Warden's private convenience. If witness could have conceived that these horses were fed at the public expense, he would not, as an Inspector, have permitted their remaining in the Institution, as they did. The Warden has told witness that he paid for the feed of his own animals, and witness considered the feed of the grey horses was included.”

By Mr. Smith :—

“Thinks he has seen one of the grey horses going to town in the Messenger's cart. If horses work for the Penitentiary, the Institution ought to feed them, but would think it very irregular if horses were taken in upon hire without the knowledge of the Inspectors. One of the brown carriage horses was lame while the greys were in the Institution; he was a little lame from the day he was bought, and grew worse while he remained, until at last he was unfit to go in the carriage.”

It is also proved by other witnesses, that these grey horses were used frequently for the private purposes of the Warden and his family while they remained in the Prison; and that, on one occasion, Mr. Smith, M.P.P., took them away on a journey for a few days.

We are led irresistibly to the conclusion, that these gray horses were not required for the purposes of the Institution; that they were there for the private use of the Warden and his family, and that they were only employed in the public service to an extent sufficient to give a cover to the transaction.

7. IN FEEDING A PAIR OF BAY MARES, THE PROPERTY OF ONE RITCHEY, OUT OF THE PENITENTIARY STORES, AND NOT CHARGING THE SAID RITCHEY OR HIMSELF, WITH THE COST OF THE SAME.

The following is the evidence on this count :—

Martin Keely—preliminary examination :—

“About three years ago, there was a pair of bay horses in the Penitentiary; Mrs. Smith told witness that she got them from Mr. Ritchey of Glenburnie, to draw the carriage, so that the Penitentiary horses need not be used for the Warden's purposes. One of the horses died, while so employed, and witness has reason to believe, they were paid out of the Penitentiary funds.”

James M'Carthy—preliminary examination :—

“Recollects a pair of bay mares being in the Penitentiary for a whole winter. Mrs. Smith told witness that she had got the use of them, for their feed, from her servant girl's father or brother, and that it would enable her to avoid using the Penitentiary horses when she drove out. Mrs. Smith added, that they would do enough of work for the Penitentiary to pay for their keep. Witness has seen these horses working for the Institution once and again, but not often—apparently only for a show. Witness was in the habit of shoeing these mares, and always charged the amount to the Institution. One of the mares died in foaling, and it was rumoured that the Penitentiary paid the owner, whose name was Ritchey, for her; the other mare was taken away shortly after her mate died.

John Swift—preliminary examination :—

“Recollects a pair of bay mares being in the Penitentiary; they were the property of a man named Ritchey; one of them died, and the other was sent back to Ritchey; they were employed partly in working in the yard, and partly in carriage work.”

William Martin—By Mr. Smith :—

“As far as witness knew, Ritchey's brown mares went to work every day in the yard; witness was not regularly employed in the Prison then.”

By Commissioners :—

“Ritchey's brown mares were employed drawing rubbish in various parts of the yard; they worked singly in carts; they worked regularly at cart work when witness was in the yard. Witness was not then in the establishment, he merely did occasional duty for a sick or absent Guard. Never saw them in any of the carriages, or in the waggon or buggy; cannot tell how often witness was employed as a substitute while Ritchey's horses were in the stables; could not say he was employed half his time; could not say he was employed a quarter of his time; was employed more than twenty days during the winter.”

William Smith—By Mr. Smith :—

“Recollects a pair of brown mares which were in the Penitentiary for some time; they wrought in the quarry, and drew wood and water in the yard; they worked every day in the yard, like the other horses.”

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

By Commissioners :—

"All that witness can say of the brown mares, is, that he saw them working occasionally in the yard."

By Mr. Smith :—

"The brown mares worked in the yard regularly every day, while they were in the Penitentiary."

By Commissioners :—

"Swears, as to the brown mares, from his own knowledge."

Thomas Smith—By Mr. Smith :—

"Has never driven the Warden, or any of his family, with Ritchey's bay mares; they worked regularly in the yard; never saw them used in the carriage; they were not fit to put there."

Thomas Costen—By Mr. Smith :—

"Recollects a pair of grey mares being in the Penitentiary; they worked about the yard; thinks they did so every day they were here."

Andrew Ballantine—By Mr. Smith :—

"Recollects a pair of bay mares being in the yard some three or four years ago; cannot tell if they worked every day; has seen them working in the yard; they were drawing rubbish from the yard; never saw them in the carriage."

It is certain that a pair of bay mares, the property of Mr. Ritchey, were in the Penitentiary stables, from November, 1843, to May, 1844; that they were fed at the public expense; and that the Inspectors in no way authorised their being in the prison. It is also clear to us, that they were not required for the business purposes of the Institution, as the brown carriage horses were proved to have been taken from the yard work before the arrival of Ritchey's mares, and were not so used while they remained. It is farther true, that one of Ritchey's mares died while in the Prison, and that the owner was paid £12 10s. for it, without any sanction from the Inspectors.

#### 5. IN FEEDING LARGE NUMBERS OF PIGEONS OUT OF THE PENITENTIARY STORES, FOR EIGHT YEARS, AND NOT CHARGING THE SAME TO HIS OWN ACCOUNT.

It is proved that large flocks of pigeons have been kept in the Penitentiary for a number of years back—sometimes as many as 200 at one time; and that a pigeon-house was built for them at the public expense. It is proved that they were regularly fed with the public stores; the Convicts being deprived of a large portion of their daily supply of pease to feed them. It is also proved that these pigeons were considered the private property of the Warden, and were regularly used for his purposes.

The defence set up by the Warden, is, that pigeons were often supplied to sick Convicts; and this he has endeavoured to prove, by several witnesses.

Mr. Costen says, he has delivered pigeons for sick Convicts, on the requisition of Mr. Julien, formerly Hospital-keeper, but now dead. He "cannot name any Convicts who got pigeons while in the hospital;" he "thinks" Convict Kelly got them, "but cannot be sure." Mr. Smith recalls Mr. Costen, however, and his recollection is better. He now says, he

"knows that pigeons have been given to sick Convicts, of his own knowledge; knows that young Kelly got them frequently; knows that pigeons were sent to the hospital for other Convicts, but does not recollect their names; it was at the time Julien was Hospital-keeper."

By Commissioners :—

"The pigeons which Kelly got were killed by the Warden's orders, and where they were cooked, witness does not know; Kelly got them almost every day."

Guard Martin says, he has killed pigeons for sick Convicts thirty times within the last three years, and in every case it was at the request of Hospital-keeper Julien, who is now dead; he knows that Convict John Bran got a pigeon every day, or every second day, for six or several days, but Bran is now dead; he saw Convict Kelly drink pigeon broth, but Kelly is now out of the country; he knows that pigeons were killed for Convict Fanny Johnston four or five times, and she, too, is dead. He states, however, that "not one sick Convict has had a pigeon to his knowledge, since Mr. Julien died;" and he "cannot name any one Convict, now in the Penitentiary, who has had a pigeon when sick or well." On being again examined by the Warden, Martin "recollects" that Convict Uniak Pettis "got pigeons;" but in his cross-examination it appears that Pettis is now dead. He also "thinks he killed a pigeon, once or twice, for Convict Margaret Douglas," but she is dead also. He "thinks Convict Margaret Hayward had pigeons killed, two or three times, for her;" and she, too, is dead. He thinks Convict Caroline Evans had pigeons also, but she, too, is among the departed; and he adds, that all the pigeons for the sick Convicts, male and female, were cooked in the women's apartments.

Mrs. Martin sustains her husband's statement. She says, Convicts Margaret Douglas, Fanny Johnston, and Margaret Hayward, got pigeons while she was Matron; and they (the Convicts) are all dead; says Mr. Julien ordered the pigeons for these women, but he is dead; and that Mrs. Parsons, who was Matron at the time, knew of their getting pigeons, but she is dead, too. She says, she never knew any other Convict, but these three women, to get pigeons; and that no other female Convicts died in the prison but these, while she was Assistant Matron. Mrs. Martin also states, that Julien brought pigeons to the women's prison, to be cooked for sick male Convicts.

The Messenger, Thomas Smith, says, he never carried any pigeons outside for any one but Mr. David John Smith, lately deceased.

Mrs. Pollard says, that the only Convict who has ever had pigeons to her knowledge, is Charlotte Reveille, and that she has only had them since November, 1847; that since she became Assistant Matron on 15th May, 1847, no pigeons have been cooked in the female ward for either male or female Convicts, to her knowledge, except for Reveille.

This is the evidence, on the part of the Warden; but there are many witnesses who testify differently.

Dr. Sampson—preliminary examination :—

"Is Surgeon of the Penitentiary; has been so from the commencement of the Institution; has been daily in the habit of ordering the diet of the sick hospital Convicts. . . . Never

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

ordered a pigeon in his life for a sick patient; recollects hearing from the Keeper, that Mrs. Smith intended to send a pigeon for a sick Convict; does not know that she sent a pigeon in this case; does not believe that pigeons were ever given to the sick Convicts."

By Mr. Smith:—

"Has not every day prescribed the diet of the sick hospital Convicts; in some instances has said of a sick Convict, let him or her have such diet he or she desires; if hospital Convicts were to receive a pigeon, such diet would be consistent with the foregoing wish. Has requested Mrs. Smith, on several occasions, to send sick Convicts little comforts; does not recollect ever telling any person that sick patients got pigeons."

William Jones—preliminary examination:—

"Is Hospital-keeper in the Penitentiary; came to the Institution in August, 1847; has charge of the sick Convicts in hospital; sees them fed by the diet prescription of the Surgeon; there has never been a pigeon given to sick Convicts while witness has been in the Institution; never knew of any Convicts getting any pigeons, either sick or well; never made any demand for pigeons."  
"Never asked for, nor got any, pigeons since he came to the Institution, with the exception of once, when Mr. Smith was kind enough to let him have three for himself."

Deputy-Warden Utting, Fitzgerald, Freeland, Wilson, and others, testify that they never knew a Convict to get pigeons in the Penitentiary.

It is very clear, that if all the Convicts alleged to have had pigeons did really get them, the total number so expended formed no excuse for the constant maintenance of such large flocks at the public expense. But the fatality which seems to have attended all connected with these pigeons, is most remarkable. Out of eight Convicts who are mentioned as having had them, six are dead, one is deranged, and one is out of the country; the Hospital-keeper who ordered them is dead; a Matron cognizant of the facts is dead; and a gentleman who had a few presented to him is dead also!

Convict John Dyas, the Head-cook, testifies that the pigeons had a dipper-full of peas regularly three times a day, and that the dipper would hold half a gallon; and the evidence of many of the witnesses goes to sustain this statement. Dyas also explains that the peas consumed by the pigeons were abstracted from the daily rations of the Convicts.

We can find no palliation for the Warden's conduct in this matter, and can only regard it as deliberate peculation.

#### 9. IN GETTING ARTICLES MADE FOR HIM IN THE PENITENTIARY; WHICH WERE NOT CHARGED TO HIM.

The several Keepers return a Weekly Labor Bill, showing how their men have been employed during the past week. They also return a Monthly Bill of the work done for the Officers of the Penitentiary. On comparing the two, there are articles alluded to as having occupied the time of the men, on the Labor Bills, which were not charged to the Warden on the Monthly Bills. The following items are examples of this:—

#### IN BLACKSMITH'S RETURN.

1840.  
1. Jan. 11. A dumb stove, 13s.  
1843.  
2. Dec. 15. A waggon, 168 lbs. English iron; 16 lbs. Swedes iron; 60 counley; 30 bushels coal; 108 days labor.  
1838.  
3. June 9. A lock repaired, 2s.  
1841.  
4. Nov. 13. 4 horse shoes.

#### IN CARPENTER'S RETURN.

1839.  
5. March 2. Repairing chairs, 2s.  
6. Jan. 2. A sleigh repaired, two days.  
1841.  
7. Feb. 27. Repairing sofa, churn, and cask.  
1842.  
8. May 14. Child's chair, one day.  
9. Sept. 3. Making picture frames, four days.  
1843.  
10. Jan. 7. Making book-case, 6 days.  
11. March 4. Making furniture, 3 days.  
12. do. 11. do. do. 5½ days.  
13. do. 18. Making 2 foot-stools, and repairing sideboard, 5 days.  
14. April 22. Making tables, 1½ days.  
15. do. 29. do. footstools and sofa, 5 days.  
16. May 6. do. tables, 1½ days.  
17. do. 13. do. do. 5½ do.  
18. do. 20. do. do. 3 do.  
19. do. 27. do. do. 2 do.  
20. June 10. do. cupboard, 2½ days.  
21. June 17. do. cupboard, 1½ days.  
22. July 1. do. wash tub, 1½ do.  
23. Sept. 2. do. flower pots.

The Warden called Mr. Bickerton, who explained some of the above items as follows:—

Item 5, he swears, was paid for by the Warden.

Item 6, or "12 feet 1 inch board, 1½ lbs. paint, and two days work," was paid by Mr. Smith, M.P.P., amount 6s.

Item 8, was paid by F. W. Smith, 2s. 6d.

Item 10, was paid by Mr. H. Smith, M.P.P., amount £2 11s. 6d.

11, 12, and 13 he says, were included in a charge against the Warden, on 25th March, 1843, of £6 7s. 11d.

20, 21, 22 and 23, were paid by F. W. Smith.

Items 1, 2, 3, 4, 7, 9, 14, 15, 16, 17, 18 and 19, are totally unexplained.

The shop accounts are so negligently kept, that it is almost impossible to trail back any transaction; we therefore hesitate to pronounce this a case of peculation, though it manifests the grossest irregularity.

#### 10. IN HAVING ARTICLES MADE FOR HIM IN THE PENITENTIARY, CHARGED AT PRICES MUCH BELOW THEIR VALUE.

The Warden had a quantity of drawing-room and dining-room furniture made for him in the Penitentiary; it appears to have been mahogany and walnut furniture of a superior description, but there is no

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

record of these articles in the books. From allusion in the labor bills, however, to the work the men were employed in, from September 1842, to March 1843, the Commissioners are under the impression that these articles consisted in part of,

- One or more four-posted bedsteads.
- A quantity of picture frames.
- Two or more centre tables.
- A book-case.
- Two drawing-room couches.
- A music stool.
- A fire screen.
- Several handsome drawing-room ottomans.
- One or more ladies' work tables.
- A sofa.

The only charges against the Warden, for what he had done in the months in question, are as follows :—

1842.	
Oct.—6 days on a bedstead, walnut and a pine board .....	£1 2 6
Dec.—Making two ottomans .....	0 6 1
1843.	
Jan.—Making work table, sofa and circular table .....	3 11 0
4 bed posts .....	0 15 6
Feb.—Making and repairing furniture, 34 days .....	3 8 0
Picture frames .....	0 8 0
Walnut 16s. 9d., veneers 3s. 4d., Canvass 12s. 6d., webb hair and screws, 16s. 4d.....	2 11 6
	£12 2 5

Thirty-four days are charged to the Warden, but the labor list shows 71 days, *casually*; and 2s. per day, is charged, though at the same moment the Government were charged 3s. 6d. per day for the labor of the very same men.

The Warden has not made any defence on this charge.

11. IN PURCHASING ARTICLES OF OLD FURNITURE FROM HIMSELF, FOR THE USE OF THE PENITENTIARY, AT HIS OWN VALUATION, AND PAYING HIMSELF FOR THEM.

Wm. Coverdale—preliminary examination :—

“Has known of the Warden turning in old articles, to pay his indebtedness for work done on his personal account in the Penitentiary. Was asked by Mr. Bickerton, on one occasion, to value a book-case, and answered that it was worth \$5; Mr. Bickerton said the Warden had turned it in for £5. Mr. Bickerton mentioned other articles which the Warden had thus transferred.”

Francis Bickerton—preliminary examination :—

“Recollects of some furniture, the property of the Warden, being purchased from him, and the amount placed to his credit in the books of the Institution; the purchase was made on the Warden's own authority; the valuation of the articles was made by the Warden himself.”

The following is the entry in the books of the Penitentiary, for this transaction.

“Cr. Henry Smith, 31st March, 1842.

Cart and harness.....	£8 0 0
Cupboard .....	2 10 0
Desk .....	5 0 0
Scales.....	3 0 0
	£18 10 0

By Mr. Smith :—

“Recollects the Warden furnishing a desk and book-case to the Institution, for the use of the office; it was at the first commencement of the Penitentiary; it was soon after witness came to the Penitentiary. Witness was clerk to the Building Commission before he was clerk to the Penitentiary. The Warden allowed himself for them, four or five years afterwards; the book-case is in Mr. Horsey's office; cannot tell if the feet or cornice were cut off it; the Warden allowed himself £2 10s. for the book-case; never told Mr. Coverdale that the Warden had allowed himself £5 for it.

“The Warden never had a cart made at the Penitentiary.

“There were no scales at the Penitentiary large enough to weigh meat and bread before the Warden furnished a pair, his own private property.”

The Warden only called one witness :—

Edward Horsey—By Mr. Smith :—

“The value of the book-case in witness's office is about \$10 or \$12, would say \$10; if the feet and cornice were to it, it would be worth \$2 or \$3 more; would say \$3.”

This transaction was completed without any reference to the Board of Inspectors. It was directly contrary to the Statute, and even if no unfair advantage had been taken in it, it would have been highly improper. But the evidence we think does not establish, that justice was done to the Institution.

12. IN APPROPRIATING CERTAIN BLANKETS, THE PROPERTY OF THE PENITENTIARY, TO HIS OWN USE.

The following is the evidence in this case :—

James M'Carthy—preliminary examination :—

“During the Rebellion, one-half of the Keepers and Guards slept in the Penitentiary every night for protection, and one pair of blankets was served out to every two men; they were excellent blankets, could not be better. When the alarm passed, this system of watching was discontinued, and the blankets were returned by the Keepers and Guards. Some time after, witness was putting up bed rods on a four-post bed in Warden's private apartment, and the clothes being turned, for witness to stand on the bed, witness saw among the clothes the pair of blankets which he had used during the Rebellion; witness is quite sure they were the same blankets; he knew them by thirteen cuts which he had made in them, to identify them from the blankets of the other officers.”

By Mr. Smith :—

“The blankets used for the officers, during the Rebellion, were the best of blankets; they had no

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Penitentiary mark on them, when witness used them; cannot tell the value of them; is not a judge; witness's pair were uncut, they were in one piece; they were large blankets; does not know if they cost \$6 per pair; had not used the same pair all during the Rebellion; the pair he has spoken of were given him towards the close of the Rebellion. Witness made iron curtain rods for the Warden's largest four-post bed; does not know if it was a larger bed than usual; thinks the bed witness put the iron rods on was about four and a half feet wide—a common bedstead; thinks there were two wooden bedsteads in the room; saw the blankets witness had used during the Rebellion on one of those beds; saw one of the blankets there, will not be certain that both were. As far as witness knows, the blankets could not be better; is no great judge of such things; thinks he could tell the rods which witness made, if he saw them. (Witness being shown a four-post bedstead which the Warden alleges is the bed for which the rods were made, says, he thinks that is not the bed on which he saw the blankets.) Witness knew the blankets by thirteen cuts which he had made on them, the middle cut being the largest." \* \* \* \* \*

"Witness is shown iron curtain rods for a bedstead, and says they were made in the Penitentiary, but are not the same witness was putting up on the bed on which he saw the blankets; speaks to the best of his opinion; more than one set of iron rods were made for the Warden; one set was made along with a number of other things, before a system of charging was laid down, and the Warden was not charged with them. Witness had no books at that time, no writing under his charge. Recollects of no work done for others at that time; perhaps a horse was shod for Mr. Henry Smith, M.P.P.; speaks of a time shortly before any Convicts were received in the Penitentiary; the rods were after the Convicts came; thinks he was a Keeper at the time; cannot state the year."

John Richardson—preliminary examination:—

"Recollects that the Keepers had to sleep in the Prison, during the Rebellion. Blankets were served out to them; the blankets were returned, when the troubles were over, to the Penitentiary."

Guard Martin—By Mr. Smith:—

"Witness was a supernumerary Night-guard during part of the Rebellion in 1837-8. The blankets witness slept in, then, were the common prison blankets; could not say what kind of blankets the other officers had, but as far as he knows they were all alike; witness always slept in the same blankets every night."

Elizabeth Smith (wife of Thomas Smith)—By Mr. Smith:—

"Has often made the beds in the Warden's house; every week has done so, and sometimes every day; used to live in the house in sickness. Very large blankets were used in the Warden's house, about twice as large as any witness ever saw used, and Mrs. Smith's bed was a particular large one. Has often seen the prison blankets hanging out to dry; has never seen a prison blanket on Mrs. Smith's bed; it would take three to cover it; never saw a prison blanket on any bed in the Warden's house."

Phœbe Martin (wife of Guard Martin)—By Mr. Smith:—

"Has made the beds in the Warden's house several times since witness left his service; the

blankets on the Warden's beds are large rose blankets; has never seen any prison blankets on any of his beds; a prison blanket would not cover any of the Warden's beds."

Francis Bickerton—By Mr. Smith:—

"Ten pairs of blankets were purchased from J. H. Green, in October, 1837, at 15s.; ten pairs blankets were purchased from William Wilson, in November, 1837, at 16s. 3d.; ten pairs 5½ point blankets were bought from Thomas Wilson, in February, 1838, at 15s. 4d. per pair. No blankets were ever purchased for the Penitentiary so good that they could not be better. The Penitentiary blankets are generally of a poor quality; but there were some purchased of a better quality, about a dollar per pair higher. Blankets were dearer during the rebellion than at other times." \* \* \* \* \*

"The superior blankets to which witness alluded in his evidence in chief, were purchased in 1845."

The evidence for the defence does not meet the point, but leaves M'Carthy's statement uncontradicted.

13. IN HAVING AN OLD CARRIAGE COMPLETELY REPAIRED AT THE EXPENSE OF THE PENITENTIARY, AND SELLING IT FOR HIS OWN ADVANTAGE.

James M'Carthy—preliminary examination:—

"The dennet was often repaired; at one time to the extent of over £3, besides a set of four good new wheels, and all charged to the Penitentiary. Mrs. Atkinson has now this dennet in her possession; and she told witness she took it in payment of an old debt the Warden owed her."

The Warden calls witnesses to prove that the Inspectors used the carriage in question (a dennet) when coming to the Board meetings.

William Smith—By Mr. Smith:—

"The Inspectors used the Warden's dennet when the Penitentiary was first opened; they used it for two or three years."

Thomas Costen—By Mr. Smith:—

"When the Penitentiary first opened, the Warden had a carriage of his own; alludes to the dennet; it was always used by the Inspectors to come to the meetings, until one was made for that purpose."

Richard Gibson—By Mr. Smith:—

"Witness has occasionally seen the Inspectors coming to the prison in the Warden's dennet, for a short time subsequent to the opening of the Penitentiary; there was no carriage built for the Inspectors, to witness's knowledge, up to the time witness left the prison, in 1837."

Mrs. Martin—By Mr. Smith:—

"Recollects the Warden's dennet; has seen the Inspectors use it; they always did at that time."

H. Smith, Esq., M.P.P.—By Mr. Smith:—

"Recollects the Warden having a dennet; it was new when the Warden came to the Penitentiary; it was made in Picton; has seen the Inspectors use it before the large carriage was built."

Appendix  
(B.B.B.B.B.)  
30th May.



Appendix  
(B.B.B.B.B.)

30th May.

Francis Bickerton—By Mr. Smith :—

“ Does not know what carriage was used for the Inspectors when the Penitentiary was first opened. A carriage was built for their use sometime after the Prison was opened; does not recollect of seeing the Inspectors come to the Penitentiary in the Warden's dennet.”

It is quite clear that if some of the Inspectors used the Warden's dennet to bring them to their meetings, it must have been between the opening of the Prison in June, 1835, and the building of a carriage for their own use, in 1837; and it is also obvious, that if the Warden demanded compensation for the loan of his carriage, on the very few occasions when the Board met during the two years in question, his only mode for obtaining payment was by application to the Board of Inspectors, at the time.

We find, however, that on this plea he kept this carriage in repair, at the expense of the public, long after the Inspectors had a carriage of their own; and that he finally almost completely renewed it, and sold it for his own benefit, and that all this was done without any sanction from the Inspectors. We find the charge of peculation completely established on this count.

14. IN NOT CHARGING THE COST OF A VALUABLE CARRIAGE, MADE AT THE PENITENTIARY, FOR THE USE OF HIS FAMILY, TO HIS OWN ACCOUNT.

James M'Carthy—preliminary examination :—

“ Mrs. Smith came to witness one day, and said she had received the consent of the Warden to have a carriage built for herself, and added, there were enough of men and materials in the Penitentiary to let her have a carriage, without using the Inspectors' carriage; witness said he would soon make her a carriage if the Warden gave orders for it. Shortly after, the Warden came to witness and desired him to make a lighter carriage than the Inspectors, but of similar build, and charge it to the Penitentiary. A very handsome carriage, worth about £60, was built, and charged to the Institution; it is now used by Mrs. Smith and her family. Witness has never known it to be used by the Inspectors.”

By Mr. Smith :—

“ Mrs. Smith, the Warden's wife, spoke to witness about building a carriage for her; she ordered witness to build one lighter than the Inspectors' carriage; she said there were men and materials enough in the Penitentiary to build her a carriage, and save her from using the Inspectors' carriage. Witness built her a carriage, after getting particular directions from the Warden. Told Mrs. Smith he would do the work when the Warden ordered it, and he did order it. It was to be built for two horses, and on the same principle as the Inspectors' carriage, and the Warden ordered the work to be charged to the Institution. The two carriages were distinguished, the one as ‘the Inspectors' carriage,’ and the other as ‘Mrs. Smith's carriage,’ or ‘the Warden's carriage;’ it was to be lighter than the other, if anything it is lighter. The springs were made after a pattern sent to the shop by the Warden; thinks the pattern was the property of Mrs. M'Leod. Mrs. Smith's carriage was built for a pole or shafts; for one or two horses; but thinks the shafts were never made; does not think he ever charged for ironing the shafts; he may have, but if

so, it has escaped his recollection. Has seen Mr. and Mrs. Smith riding in the light carriage in question, a great many times. Has had to repair the Inspectors' carriage; when it was under repair, it was only from night to morning, at most two days; if the Inspectors wanted to come to the Prison, when their own carriage was under repair, until lately, there was the old one (which was sold) for them to use. Does not think he had occasion to repair the Inspectors' carriage, between the time when the old carriage was sold and witness's dismissal; if he had occasion to repair the Inspectors' carriage during that time, there was no carriage to bring out the Inspectors while it was under repair. Mrs. Smith's carriage was there. There was no drawing for Mrs. Smith's carriage ever shown to witness; witness's part of the building of the carriage, was only the iron work.”

Francis Bickerton—By Commissioners :—

“ When witness spoke of Mrs. Smith's carriage, he referred to the small green carriage which was built in the Institution for the Warden; it was built shortly after the new Inspectors' carriage. It appears not to have been charged; does not know why it was not charged; it must have been omitted. Has seen the carriage alluded to, used frequently; it was generally used by Mrs. Smith, the Warden's wife.”

By Mr. Smith :—

“ Articles have been on several occasions returned to the Institution, by the parties for whom they were made, on the ground that they were not made according to order.”

Guard Martin—By Mr. Smith :—

“ There are two carriages now in the Penitentiary; one of them is called the Penitentiary carriage; does not know how the other is called; cannot tell how it has been used; has seen it out when the other was broken; cannot say if he has seen it out, when the other was not broken. Cannot say that he ever saw Mrs. Smith in it; has seen the Inspectors in it; cannot say how often; two or three times; cannot say when; saw the Inspectors in it this year; cannot say he saw them in it last year. Has seen Mrs. Smith in the Penitentiary carriage. Cannot say he ever heard the other carriage called ‘the Warden's carriage’ or ‘Mrs. Smith's carriage;’ never heard any name given to it.”

Guard Thomas Smith—By Mr. Smith :—

“ The small carriage is too heavy for one horse; it is heavily ironed; the springs are very heavy; two sticks would spring as well as they do.”

By Commissioners :—

“ The small carriage has only been used once or twice to take the Warden to town, and on different occasions when the large carriage was under repair. The large carriage was finished since witness was made messenger; it has broken down three times while the Inspectors were coming to the Prison in it.

Witness has no recollection of ever driving out the Warden's family in the small carriage; it was a very rough thing; it jolted. Has brought the Inspectors to the Prison in it three times.

Q. You say the small carriage has only been used once or twice by the Warden, three times by the Inspectors, and never by the Warden's family. Who, then, has used it?

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

A. Nobody else.

Q. What was the necessity for building it then ?

A. Does not know.

Q. Could you have done the carriage work without it ?

A. The Inspectors would have had to walk home on three occasions, if it had not been built.

Convict Chapman—By Commissioners :—

“There are two carriages in the Penitentiary ; one is called the large carriage, the other is called the small carriage ; never heard the first called the Inspectors’ carriage ; never heard the second called the Warden’s carriage, or Mrs. Smith’s carriage. The large carriage has only been four times repaired—once, it had lamps fixed on it—once, a wheel repaired—once, some binding put on it—and once, the springs repaired. The small carriage has been only thrice repaired. The small carriage has only been twice out of the stable in two years.”

H. Smith, Esq., M.P.P.—By Mr. Smith :—

“Has seen a small green carriage in the Penitentiary ; it is similar in make and weight, to Mr. Hepburn’s carriage ; it is heavier ; it is a very strong heavy carriage ; it is too heavy for one horse.”

By Commissioners :—

Q. Have you ever seen the small green carriage, you have spoken of, in use ?

A. Yes ; has seen it drawn by the Penitentiary horses, but how often cannot say.

Q. Who have you seen driving in it ?

A. Has no recollection of ever seeing the Warden or Mrs. Smith using it ; thinks he has seen the Inspectors use it.

By Mr. Smith :—

“Witness thinks, on one occasion, when the small carriage was in town, Smith, the Messenger, told witness the large carriage was under repair. Has seen the springs of the large carriage under repair in the Blacksmith’s shop.”

We have given the evidence on this count in full. There seems to be no doubt that the carriage in question was ordered to be made by the Warden for his own private use, and that he ordered the cost of it to be charged to the Institution—that it was so charged—that he got delivery of it—and that he and his family frequently used it.

The defence of the Warden seems to be of a two-fold character. 1st. That it was badly made—not according to the pattern he furnished ; and 2d, that a carriage was needed for the use of the Inspectors, to replace the one built for them, when it should be under repair.

The plea, that his instructions were not properly followed in building the carriage, would not discharge the Warden of improper conduct in the matter, had he even established it ; for it is proved that from the first, the carriage was ordered by him to be charged to the Institution, and was so charged ; and besides this, the Warden took delivery of the carriage, and used it. As to the second ground of defence, it is

unworthy of argument. A new carriage has just been built, expressly to bring the Inspectors to meetings, numbering some twelve or twenty a year, and it is absurd to allege that a second one was necessary to provide against accidents.

It appears that the sanction of the Inspectors was never asked for any part of this transaction, and, as far as appears, they were in utter ignorance of it.

We think peculation is here distinctly established.

15. IN CHARGING THE EXPENSES OF SHOEING HIS OWN AND HIS FRIENDS’ HORSES TO THE GOVERNMENT.

It appears that the Warden has had his horses shod in the Penitentiary since its commencement, and has not been debited for the work in a single case. This charge, however, has been included under previous counts, referring to the horses on which the labour was executed. The extent of this item may be estimated from the following return of the cost of horse-shoeing in the Penitentiary, there never having been more than five horses, properly, in the Prison at one time :—

1837.....	£ 2 11 0
1838.....	8 2 3
1839.....	13 0 7
1840.....	9 4 0
1841.....	10 0 9
1842.....	20 6 5
1843.....	15 7 2
1844.....	21 9 9
1845.....	19 18 3
1846.....	21 15 6
1847.....	12 3 6

£153 19 2

16. IN REFUSING TO SELL THE OFFAL OF THE PENITENTIARY KITCHEN, BUT RETAINING THE SAME FOR HIS OWN USE, AND NOT CHARGING HIMSELF WITH THE VALUE OF THE SAME.

It is proved, that John Lennon, a farmer residing near the Penitentiary, offered to purchase the offal of the Penitentiary, but his proposal was rejected ; and it is shown that the Warden’s animals have had throughout the benefit of it. In many of the United States Penitentiaries the offal of the kitchen realizes a considerable annual sum, and it might have been made to do so here. The same remark applies to the manure, which seems to have been given away.

The Warden has attempted to show that the skins from the potatoes served at breakfast, were given to the oxen, and there is no doubt that this has sometimes been the case ; but one of the Convicts who fed them, says that in his time the oxen refused to eat them. But this must have formed only a small portion of the refuse.

17. IN BUYING, MAKING, AND REPAIRING, VARIOUS VEHICLES FOR HIS OWN USE, AND CHARGING THE COST OF THE SAME TO THE PENITENTIARY.

The following is the evidence on this count :—

James M’Carthy—preliminary examination :—

“There was also a gig which Baron Grant presented to the Warden ; it was frequently repaired, and the amount of the repairs was always charged to

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

the Institution. There is also a large double family sleigh in the Institution, which was got from Baron Grant; it was completely repaired when it came in, and occasionally repaired afterwards; all which was charged to the Institution. There was also a cutter made in the Penitentiary; it was charged to the Institution. There was also another large family sleigh, made winter before last, in the Penitentiary; the blacksmith's work was charged to the Warden's private account, by the Warden's desire. There was also another sleigh, called a berline, in the yard; it came at the commencement of the Institution, and was considered the Warden's property; it was often repaired at the expense of the Penitentiary; it disappeared—witness does not know what became of it."

By Mr. Smith:—

"Does not know whether the Warden had a sleigh in 1841—there have been several sleighs and cutters made in the Penitentiary, at different times—forgets whether more than one sleigh has been made and charged to the Warden, but he had several repaired. Some were repaired for the Warden, and charged to the Penitentiary; this was the case with a berline he had, and a large sleigh which the Warden got in a present from Baron Grant. Ironed a cutter for the Penitentiary; ironed one for the Warden, and charged it to him. Forgets if he built any other sleigh or cutter than these two in the Penitentiary."

Francis Bickerton—By Mr. Smith:—

"There is a cutter belonging to the Penitentiary. There was no winter carriage the property of the Penitentiary, when the Prison was first opened. Recollects the Warden's berline, which he had when the Prison was opened; does not know that it was used by the Penitentiary messenger; does not know what winter carriage the messenger used immediately after 1835."

By Commissioners:—

"There is an account now standing in the books of the Penitentiary, against the executors of Baron Grant; the balance is £5 8s. 10d.; it has been frequently asked for. The large sleigh witness has spoken of came into the Penitentiary as a present to the Warden from Baron Grant; it was so considered for years, until the Baron's account to the Institution was demanded, and then payment was sought for the sleigh; nine pounds currency was then struck off the bill due to the Penitentiary, on account of the sleigh. Never saw any sanction in the Inspectors' Minute-book, for this operation."

From the manner in which the shop returns have been kept, it is impossible to arrive at the precise truth in such matters as this; but it is very obvious that transactions of the most loose and improper character have occurred.

18. IN CHARGING LARGE SUMS TO THE GOVERNMENT FOR FORAGE—THE QUANTITY OF SAID FORAGE BEING BEYOND THE POSSIBLE CONSUMPTION.

The following is a return of the amount paid annually for forage since the commencement of the Institution, with the number of animals in the stables, including the Warden's bay horse, the grey horses of

Mr. Henry Smith, M.P.P., Ritchey's bay mares, and the Warden's cow:—

	OXEN.	HORSES.	COWS.	£ s. d.		
				£	s.	d.
1837*	6	1	...	54	11	1
1838	4	2	...	88	16	11
1839	8	4	...	114	6	9
1840	8	4	1	187	15	9
1841	8	4	1	369	17	6
1842	8	4	1	337	0	9
1843	10	6	1	212	14	1
1844	7	6†	1	493	3	7
1845	11†	6	2	276	15	11
1846	10	5†	2	608	16	9
1847	12	4	2	562	2	3
1848*	11	4	2	686	5	7
				£3,992	6	11

\* 6 months.

† Average.

The daily weight of provender supplied to each animal, including in the calculation all the borrowed horses and the Warden's cow, has been as follows:—

	NO. OF ANIMALS.	AVERAGE FOOD TO EACH ANIMAL.	
		Per Annum.	Per Day.
1837*	7	13,582 lbs.	37 lbs.
1838	6	9,813	27
1839	12	6,583	18
1840	13	11,009	30
1841	13	23,676	65
1842	13	18,761	51
1843	13	11,200	30
1844	14	23,494	64
1845	19	15,584	43
1846	17	26,410	72
1847	18	16,817	46
1848*	17	40,098	109

\* 6 months.

The amount stated for 1848 is larger than the actual consumption, as some provender was on hand, the amount of which could not be ascertained.

The Warden's defence is, that the Surgeon's horse had some oats; and that Deputy-Warden Utting was once charged by him (the Warden) with appropriating Penitentiary oats to his own use. As to the former case, however, it appears that the Surgeon merely put his horse in the stable while making his daily visit, on a few occasions, probably not amounting, in the aggregate, to over one hour a day for a few weeks; and as to the latter, the charge was investigated by the Inspectors, and neither then nor now has the slightest evidence been adduced to sustain so serious a charge against Mr. Utting.

The evidence, as to the actual daily consumption of forage, is as follows:—

James Henesey—preliminary examination:—

"Is a Convict in the Penitentiary; was convicted of manslaughter; was sentenced to ten years imprisonment; has been over six years in the Penitentiary. Was employed in the stables from 25th September, 1846, to 24th February, 1848; witness's duty was to feed the oxen, the cows, hogs, and poultry; had usually another Convict to assist him, as the work

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

was too much for one; each ox had daily, one-third of a bushel of oats, half a bushel of potatoes, or half a bushel of turnips, and as much hay as they could eat. Never fed the oxen with straw; tried them with offal from the kitchen, three or four times, but they would not eat it, and it was given up; the oats were not chopped or bruised. There was one cow of the Warden's, and one the property of the Penitentiary; fed them both from the same stores; the Penitentiary stores; they got three bushels of potatoes or turnips in the seven days, and the same quantity of oats as the oxen; they had as much as they could eat; occasionally perhaps 20 times, gave the cows potatoes instead of oats."

William Chapman, a Convict called by Mr. Smith on another point, testifies on examination by Commissioners, as follows:—"The quantity of oats given to the four horses, is a bushel and a half per day, among them; half a bushel three times a day; this has been the invariable allowance since witness has been stable man. There have always been just four horses in witness's time: each horse gets a rack of hay per day; each rack holds exactly 19 lbs. weight of hay; it is filled once in the 24 hours: the horses get a feed of bran each, in the week; they get two bushels among the four, and on that day they only get a bushel of oats: they get the same feed on Sundays as on other days. The horses got no other description of food. The horses get clean straw every other night; it takes just 14 bundles of straw per week, for the four horses."

Thomas Smith—By Mr. Smith:—

"Witness has never known any hay or oats to be sent out of the Penitentiary stable.

"Has never seen any waste of hay or oats by the cattle blowing upon it, unless it were a quart of oats or so, occasionally left by the oxen; unless it would be that they would leave a little on their horns, over their backs; it was used for beds, when they would not eat it.

Knows of no other horses being employed and fed in the Penitentiary, during witness's time, which were not the property of the Penitentiary, but the pair of bay mares belonging to Ritchey, and the pair of grey horses belonging to Mr. Henry Smith, M.P.P., and the Warden's bay horse."

By Commissioners:—

"Witness has nothing to do with the feeding of the horses or oxen; the stable men do it all; has heard from them the quantity of feed they give to the animals.

It is witness's duty to oversee the horses and oxen turned out, and yoked-up by the Convicts; witness goes to the dining-hall rotunda for the stable Convicts, and marches them to their duty; if witness is not present when the men leave the dining-hall, another Guard takes his place; it does not take place often, not once a week, perhaps once a month. Going to meals, the stable Convicts join in with the gang to which they are attached. Witness has fed the oxen; on the Sundays only, and only within the last three months; never fed the oxen previous to the last three months. Has seen the oxen fed by the Convicts occasionally; they gave them a bucket of oats between every pair, three times a day, if they got nothing else; if the oxen got turnips or potatoes, they only got oats twice a day; cannot tell how much the bucket contains; supposes about half a bushel; cannot tell how much potatoes or turnips the oxen got.

"From the nature of his duties, witness knew very little of the work going on in the yard, or about the buildings.

The Convict stablemen feed the cows; has never seen them feed."

\* \* \* \* \*

By Commissioners:—

"Cannot tell what was done with the oats which were blown on by the oxen; there were some oats in a barrel in the stable, and Convict Armstrong told witness these were the blown oats. Witness never knew any horses but those he has spoken of, fed in the Penitentiary stables."

Thomas Costen—By Mr. Smith:—

"There has been usually two or three months supply of forage on hand in the Penitentiary. The amount of forage received within any particular date would not be a fair statement of the amount consumed within that date. At the time Oliphant and Watt took the Contract, there was fully three months supply of forage on hand.

The provender actually consumed by each ox, per day, in the Penitentiary, has been 27 lbs. hay, 32 lbs. potatoes or turnips, 25 lbs. oats.

The provender actually consumed by the cow, per day, has been 24 lbs. hay, 32 lbs. potatoes or turnips, 17 lbs. oats.

The provender actually consumed by each horse in the Penitentiary, has been, per day, 20 lbs. hay, 13 lbs. oats.

By Commissioners:—

"Never weighed the hay given to any of the animals. When witness was Kitchen-keeper he has overlooked the measuring of the potatoes and turnips, by the Convicts, for the oxen; did it daily. Does not recollect what weight of potatoes was measured out for each ox; thinks it was half a bushel for each animal at each meal, and they were fed with potatoes or turnips twice a day. Cannot tell how many pounds there are in a bushel of potatoes or turnips.

Q. Is it not the fact that the turnips and potatoes are served out to the cattle by the barrel, and were never otherwise weighed or measured?

A. They were measured first in a bushel measure, and thrown into the barrels; two and a half bushels or three bushels to the barrel.

Q. Have you seen the potatoes and turnips measured hundreds of times?

A. Yes.

Q. Cannot you tell exactly, then, how much they got?

A. Thinks it was a bushel of potatoes, per day, to each ox.

Q. What do you know about the oats?

A. Has instructed the Convicts as to the quantity of oats they should give the animals, per day.

Q. What quantity of oats did you instruct the Convicts to give, per day, to each ox?

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

A. Does not recollect.

Q. How much to each horse ?

A. Does not recollect.

Q. How much to the cow ?

A. Does not recollect.

Q. How much hay did you instruct the Convicts to give to each animal ?

A. To the oxen twenty-seven pounds; to the horse cannot tell; to the cow cannot tell.

Q. What Convicts did you so instruct ?

A. The man is not here now; witness referred to the time he was Kitchen-keeper.

Q. What was his name ?

A. There were different ones.

Q. What were their names ?

A. Does not recollect the names of any of them.

Q. Which eats most—a cow or a horse ?

A. A cow.

Q. What is the weight of a cow generally ?

A. Cannot tell.

Q. Who made up the memorandum of weights, from which you swore so precisely to the quantities consumed, in your direct evidence ?

A. Witness ascertained them from the Messenger, (Thos. Smith) and from the stable Convict.

Q. Which Convict do you refer to ?

A. To Chapman and Armstrong.

Q. Which of them told you the quantity of food given to the oxen ?

A. Armstrong; also Smith, the Messenger.

Q. If Smith swore before the Commission, that "he could not tell how much potatoes or turnips the oxen got," has he swore different from what he told you ?

A. Smith told witness that the oxen got twenty-seven pounds of hay.

Q. If Smith swore before the Commissioners that he "never fed the oxen previous to the last three months," would his assurance be sufficient for one to swear as to the quantity of food given the oxen during the last ten years ?

A. Smith must have known the quantity of food the oxen got; and witness trusted to his statement as to the hay and oats, and witness himself knew as to the turnips and potatoes.

Q. Then you made up the Return, from which you swore to day, partly on the assurance of Smith, Chapman, and Armstrong, and partly from your own knowledge ?

A. Yes; they told witness the quantities they had been in the habit of giving to such animals.

Appendix  
(B.B.B.B.B.)  
30th May.

Q. What part was from your own knowledge ?

A. The potatoes, and turnips, and oats.

Q. What weight of potatoes did you put in the said statement as supplied daily to the oxen, from your own knowledge ?

A. Cannot recollect.

Q. What weight did you so put down for the cow, from your own knowledge ?

A. Cannot recollect.

Q. What to the horses ?

A. Cannot recollect.

Q. When was the said statement made up ?

A. Cannot tell.

Q. Was it within the last week ?

A. No.

Q. Was it within the last month ?

A. Does not know.

Q. Was it within the last two months ?

A. Cannot say.

Q. Was it within the last three months ?

A. Yes.

Q. How long has Armstrong been in the stable in charge of the oxen ?

A. A little over two months.

Q. Where was the statement in question made up ?

A. In the office.

Q. Who was present—was not the Warden ?

A. No.

Q. How did it happen that your memory was so good then, as to precise quantities, running over a period of years, and that now you recollect nothing of the matter ?

A. Made inquiry at the stable.

Q. How did you swear you gave express orders as to these particular quantities, when now, it appears, you only got them from the stable ?

A. Found, on inquiry at the stable, that the quantity now furnished was the same as witness issued when he was in charge of that department ?

Q. How did you know the quantity you issued when you were in charge, so as to compare it with the quantity now issued ?

A. Took it as near as he could recollect at the time.

Q. What quantities did you recollect you had issued ?

Appendix  
(B. B. B. B.)

30th May.

A. Cannot precisely say now.

Q. Why cannot you recollect them as well now as you did then ?

A. Does not recollect.

Q. Can you swear distinctly to the quantity of food given within your knowledge, on any one day, to each of the oxen ?

A. Cannot recollect ; but refers to the answer, as given from his written statement, in his direct examination.

Q. Can you swear distinctly to the quantity of food given within your knowledge, on any one day, to the cow ?

A. Answers as he did in regard to the oxen.

Q. Can you as to the horses ?

A. Answers as before.

Q. Was this food given to the oxen in addition to the potatoe parings ?

A. Yes ; always while there have been oxen.

Q. When there were no parings, did the oxen get more food than you have stated ?

A. No.

Q. Then no saving was made by giving the oxen the parings ?

A. No.

Q. How many pounds of food do you think an ox could eat in a day ?

A. Can only answer from his written statement, so often referred to.

Q. Do you think an ox could eat its own weight in five days ?

A. Cannot say.

We are quite satisfied that the quantity of food paid for by Government could not possibly have been consumed by the animals in the prison ; undoubtedly the feeding of the Warden's hogs, poultry, and pigeons, accounts for a large part of the excess, but not, we think, for the whole of it. The great variation in the daily quantity of food consumed from year to year, is very remarkable ; but we can discover no trace of collusion between the Warden and any of the Contractors.

19. IN STRIKING OFF A SUM DUE BY HIM TO THE INSTITUTION, ON THE PRETENCE THAT HE WAS ENTITLED TO BE REIMBURSED FOR AN ALLEGED LOSS BY AN ACCIDENTAL FIRE.

The following is the evidence on this head :—

Francis Bickerton—By Mr. Smith :—

“ Recollects the fire in which the Carpenter's and Blacksmith's shops were burnt down ; the Wash-house was burnt down at the same time. The Inspectors passed an order, of date 9th April, 1846, that those who had suffered by that fire should be reimbursed. The Warden gave to witness a list of

the amount he had lost by the said fire ; and the amount, by the Warden's direction, was allowed to him (the Warden).

By Commissioners :—

“ Witness cannot tell what articles the Warden lost in the fire ; only knows that the Warden then lost articles by the Warden telling witness so. Does not know that the Warden submitted his claim to the Board ; there is no entry in the Inspectors' Minute-Book authorizing the Warden's claim to be settled ; there is a general minute, but no mention of the Warden's loss ; there is no entry in the Books of the Institution showing any portion of the transaction in which the Warden was repaid for his alleged loss by fire. Witness is asked, how the Warden could have got money out of the funds of the Institution without its appearing on the books ? and says, he did not get paid in money, but by work done for him. Witness is asked to produce the returns from the shops of the work done for the Warden under this transaction ? and says, there were no returns made, and witness cannot tell what the work done for him was ; the transaction occurred in 1846 ; cannot tell what value of work was done for the Warden in this way, and has no means of ascertaining ; does not know which of the shops the work was done in.”

By Mr. Smith :—

“ Witness does not know that he deducted the amount of the Warden's alleged loss from the amount of his monthly account of a future month.”

From the manner in which the books are kept, we have been unable to get more information than is given by Mr. Bickerton ; but there is enough to show that the transaction was grossly improper.

20. SUNDRY ACTS OF PECULATION COMMITTED BY HIM, OR BY OTHERS, WITH HIS COGNIZANCE.

This count included a variety of minor transactions which were brought before us ; but some of them are referred to elsewhere, and others have been explained. We conceive it unnecessary to enter upon them further.

The charge of peculation is, therefore, fully established ; and Your Excellency will perceive that the transactions are just those which were most calculated to be injurious to the moral tone of a Penitentiary. The Warden's conduct in all these matters was perfectly well known to most of the forty Officers of the establishment, and to many of the Convicts ; and though self-interest made the former close their eyes to what was passing before them, the effect on their principles must have been seriously injurious to the Institution.

In the course of the inquiry it came casually under our notice, that the Warden had drawn, from the funds of the Institution, as salary, £37 19s. 9d., more than his just due, in the years 1845 and 1846. Mr. Smith's salary, as fixed by Statute in 1838, was three hundred pounds per annum. In the Session of Parliament, 1844-5, an extra grant of one hundred pounds was voted to him in the supplies for the ensuing year. In the following Session of 1846 the Amended Penitentiary Act passed, by which the Warden's salary was raised to five hundred pounds ; this Bill became Law on 18th May, 1846. The Warden was therefore entitled to have received at the rate of three hundred pounds, up to 18th May, 1846, with one hundred pounds added ; and at the

Appendix  
(B. B. B. B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

rate of five hundred pounds after the 18th May. From 1st April, 1845, to 1st May, 1846, he should have had four hundred and twenty-five pounds; for the first seventeen days of May, 1846, thirteen pounds, nineteen shillings and sixpence; and for the last fourteen days, nineteen pounds, three shillings and sixpence; total, four hundred and fifty-eight pounds, three shillings, for the fourteen months. Instead of this we find, from the Books, that the Warden drew four hundred and ninety-six pounds, two shillings and ninepence in the fourteen months in question; thereby wronging the Government to the extent of thirty-seven pounds, nineteen shillings and ninepence.

We have thus gone through the charges against the Warden; and in doing so we have endeavoured to state each case presented, as fully and fairly as possible.

We have found the Warden guilty on all the charges preferred against him; and the case is so fully established—whether as regards indifference to the success of the Institution—neglect of his duties—incapacity—mismanagement—cruelty—falsehood—peculation—that the only course left us, is to recommend Mr. Smith's permanent removal from the Wardenship of the Penitentiary.

#### PROCEEDINGS IN THE CASE OF JAMES SAMPSON, ESQ., SURGEON OF THE PENITENTIARY.

We availed ourselves of the intermissions in the Warden's defence to take up the charges against Dr. Sampson. The following documents shew the manner in which this case came before us:—

No. 1.

Copy—Letter, President Board of Inspectors to Chairman of Commission.

“ Kingston, 21st June, 1848.

“ Sir,

“ I have the honor to acquaint you, that the Board of Inspectors of the Provincial Penitentiary having found it necessary, some time ago, to bring under the notice of the Governor General the conduct of the Surgeon of that Institution on various occasions—and having suggested the expediency of the appointment of a Commission of Inquiry into these and other matters connected with the management of the Institution—they have been informed, by command of His Excellency, that yourself and the other gentlemen associated with you, are to make these inquiries, and they therefore presume that you have been furnished by the Government with the communications of the Board on this subject; and being ready to substantiate the statements made by them if called upon to do so, they would respectfully beg to be informed, when it would suit your convenience to enter on this part of the inquiry, and to request, for the interest of the establishment, that the same may be commenced as early as may be convenient to you.

“ I have the honor to be, Sir,

“ Your most obedient Servant,

(Signed) “ T. A. CORBETT,  
“ President Board of Inspectors,  
“ Provincial Penitentiary.

“ Honorable ADAM FERGUSON,  
“ President, Board of Commissioners,  
“ Provincial Penitentiary.”

No. 2.

Copy—Letter, Secretary of Commission to President of Board of Inspectors.

“ Provincial Penitentiary  
“ Commission Room,  
“ Kingston, 24th June, 1848.

“ Sir,

“ I have the honor to acknowledge your communication of 21st inst. to the Commissioners of the Penitentiary Inquiry, in regard to certain charges made against Dr. Sampson, Surgeon of the Penitentiary.

“ The Commissioners are fully aware that the interest of the establishment renders an immediate inquiry into this matter highly desirable, and will proceed with it on the earliest day possible. The communications made to the Government by the Board of Inspectors of the Penitentiary on this subject have been placed in the hands of the Commissioners. The Commissioners will not fail to avail themselves of the valuable information of the Board of Inspectors, and will communicate with you as soon as a day is fixed for entering on this portion of their inquiries.

“ I have the honor to be,

“ Sir,

“ Your most obedient Servant,

(Signed,) “ GEO. BROWN,  
“ Secretary.

“ To THOMAS A. CORBETT, Esq.,  
“ President, Board of Inspectors,  
“ Provincial Penitentiary.”

No. 3.

Copy—Letter, Kitchen-Keeper F. W. Smith to Commissioners.

“ Penitentiary, 22d June, 1848.

“ Gentlemen,

“ I have the honor to inform you, that having reported to the Board of Inspectors that it was my intention to bring certain charges against one of the Officers of this Institution, and having been referred by them to the Commissioners appointed to enquire into the management of the Penitentiary, I beg leave to state, that I now prefer the following charges against James Sampson, Esquire, the Surgeon of the Provincial Penitentiary, viz:—

“ 1st. Furnishing Provisions to the Penitentiary for his own private advantage, contrary to the Statute.

“ 2nd. Improper treatment of, and negligence towards sick Convicts, and behaving with cruelty towards them.

“ 3rd. Recognizing discharged Convicts, and making them known to others, contrary to the rules of the Institution.

“ 4th. Maliciously preferring false charges against Francis W. Smith, one of the Keepers of the Penitentiary.

“ And for the due examination of which I request that you will be pleased to issue subpoenas for the undermentioned persons, viz:—

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix

(B.B.B.B.)

30th May.

"Edmund Boyle, John Ovens, Thomas Hendry, Phoebe Martin, John Stewart, Julia Cox, Anthony Manahan, Thomas Fitzgerald, John Rowlands, Maurice Phelan, Elizabeth Smith.

"And I further beg leave to request that you will be pleased to direct that John Stewart, Esq., one of the Coroners of the Midland District, do produce before you the evidence taken by him at an inquest, held at the Penitentiary on the body of one John Murphy, a deceased Convict, in the month of October last.

"I have the honor to be,  
"Gentlemen,  
"Your most obedient Servant,

(Signed,) "F. W. SMITH,  
"Keeper.

"To the Commissioners appointed  
"to investigate the management  
"of the Provincial Penitentiary."

No. 4.

Copy—Letter, Secretary to Keeper Smith.

"Provincial Penitentiary  
"Commission Room,  
"Kingston, 24th June, 1848.

"Sir,

"I have to acknowledge receipt of your communication of 22d instant, to the Commissioners of the Penitentiary Inquiry, in which you prefer certain charges against Dr. Sampson, Surgeon of the Penitentiary, with the view of action being taken thereon by the Commissioners. I am instructed to inform you that the Commissioners will not fail to investigate the said charges, and that the witnesses you desire to be examined will be duly summoned.

"I remain, &c.,  
(Signed,) "GEORGE BROWN,  
"Secretary.

"To Mr. FRANCIS W. SMITH,  
"Keeper, Prov. Penitentiary."

No. 5.

Copy—Letter, Secretary to Dr. Sampson, Surgeon of the Penitentiary.

"Provincial Penitentiary  
"Commission Room,  
"Kingston, 24th June, 1848.

"Sir,

"I am desired by the Commissioners, appointed by His Excellency the Governor General to investigate the management of the Provincial Penitentiary, to intimate to you that they have received a communication, dated 22d June, 1848, and signed 'Francis W. Smith, Keeper;' in which the following specific charges are made against you, as Surgeon of the Penitentiary, viz. :—

"1. Furnishing provisions to the Penitentiary, for his (your) own private benefit, contrary to the Statute.

"2. Improper treatment of, and negligence towards, sick Convicts, and behaving with cruelty towards them.

"3. Recognizing discharged Convicts, and making them known to each other, contrary to the rules of the Institution.

"4. Maliciously preferring false charges against Francis W. Smith, one of the Keepers of the Penitentiary.

"A list of witnesses to be examined in support of these charges is added; and a request made, that John Stewart, Esq., shall be called on to produce, before the Commissioners, the evidence taken by him, in October last, at a Coroner's Inquest then held on the body of John Murphy, a deceased Convict.

"The Commissioners have also before them, certain complaints made against you by the Board of Inspectors of the Penitentiary, to the Government; and the correspondence had in reference thereto.

"I am to intimate to you, for your guidance, that the Commissioners intend entering on the investigation of these charges on an early day.

"I have, &c.,  
(Signed,) "GEO. BROWN,  
"Secretary.

"JAMES SAMPSON, Esq.,  
"Surgeon, Prov. Penitentiary."

No. 6.

Copy—Extract Minutes of Commission, 26th June, 1845.

"At two o'clock the Commissioners received Dr. Sampson, and explained to him the course they intended to pursue in the investigation of charges against the Officers of the Penitentiary, with which he expressed himself highly satisfied. A long conversation then ensued as to the general management of the Institution and its internal history, since its commencement, from which the Commissioners derived much information."

No. 7.

Copy—Letter, James Hopkirk, Esq., to Chairman of Commission.

"Provincial Penitentiary,  
"24th June, 1848.

"Sir,

"Referring to the Communications of the Board of Inspectors of the Provincial Penitentiary to the Government, which are I presume in your possession, and to the letters of the Board to you, of the 14th and 21st instant, as also to their Minute of this date, a copy of which was transmitted to you; I have now the honour on behalf of the Board to acquaint you, that they have the following charges to prefer against James Sampson, Esq., Surgeon of the Institution, which charges they will be ready to substantiate before you, when called upon to do so :—

"1. Refusing to obey the orders of the Board of Inspectors, in contravention of the 3d Clause of the Penitentiary Act."

"2. Charging officers of the Institution with improper conduct, and refusing to appear before the

Appendix

(B.B.B.B.)

30th May.



Appendix  
(B.B.B.B.B.)

30th May.

“Board of Inspectors when called upon by them to  
“substantiate the charge.”

“3. Publishing the proceedings of the Board of  
“Inspectors, pending the decision of the Governor  
“General in Council thereon, and endeavouring to  
“bring the Board into contempt with the public.”

“I am further, on behalf of the Board, to acquaint  
“you, that the following charge was preferred before  
“them against the Surgeon, viz. :—

“Behaving with improper familiarity towards a  
“female Convict.”

“The Surgeon, however, having refused to appear  
before them, or to submit to an investigation of  
his conduct on the occasion out of which the charge  
arose; and having appealed to His Excellency the  
Governor General, and requested that the matter  
might be referred to His Excellency; the Board  
of Inspectors came to no decision thereon.

“As the charge is, however, a very grave one,  
and which, if well founded, would deeply affect the  
discipline and good conduct of the Institution; the  
Board are desirous that the Commissioners should  
now investigate it, and they will be ready, when  
called upon, to bring forward such witnesses as they  
are given to understand are cognizant of the facts  
out of which the charge arose.

“I have also to inform you, that in the course of  
certain investigations before the Board, it was stated  
incidentally, in the course of the evidence, ‘that the  
‘Surgeon had attended sick Convicts when not in a  
‘proper state as regarded his sobriety.’ But that  
the investigation in the course of which this was  
stated, not being one into the Surgeon’s conduct,  
but into that of another officer of the Institution,  
the Board had no opportunity of ascertaining whether  
the statement made to them was well founded; but  
as this, like the last mentioned charge, would, if true,  
deeply affect the interests of the Prison, the Board  
request that it may now be inquired into; and they  
will, when called upon, be ready to produce such  
witnesses, as they are led to believe, can throw light  
on the matter.

“In bringing the two last mentioned charges  
against the Surgeon, under the notice of the Com-  
missioners, the Board beg it may be understood that  
they do not themselves prefer them, and that they  
have come to no conclusion, as to their being well or  
ill-founded. But being charges of a very grave nature,  
and which they themselves would not have been  
justified in passing over without duly examining  
into and deciding upon, had it not been for the  
peculiar circumstances in which the Surgeon had  
placed himself in relation to them, and the prospect  
of a Commission of Inquiry being about to issue;  
they consider it their duty to notify yourself, and the  
other gentlemen associated with you, that such  
charges have been made, with a view to your inves-  
tigating them, and coming to such decision thereon  
as the evidence brought before you shall appear to  
justify.

“I have the honour to be,

“Sir,

“Your most obt. Servant,

(Signed,) “JAMES HOPKIRK,  
“Inspector.”

“Hon. A. FERGUSSON  
“&c. &c. &c.”

No. 8.

Copy—Extract, Minute Board of Inspectors.

“The Board considering that the Commissioners  
appointed by Government to investigate divers  
charges and complaints respecting the conduct,  
economy, system of discipline, and management of  
the Provincial Penitentiary, are now in Kingston,  
and have appointed Monday next and following  
days, to receive such information and complaints, as  
may be tendered, and further considering that the  
Board have made certain complaints to the Govern-  
ment, which will require to be substantiated before  
the Commissioners, and that it is besides necessary  
that some Member of the Board should attend at  
the proceedings of the Commissioners on behalf of  
the Inspectors, with a view of affording them on  
their part any information which the Commissioners  
may require, and otherwise acting on their behalf;  
they request that James Hopkirk, Esq., will be  
pleased to charge himself with that duty; and that  
gentleman having, at the particular request of the  
other members of the Board, agreed to do so, they  
hereby authorize him to attend on the Commissioners,  
on the behalf of the Board for the above purpose,  
and they request the Warden to afford him every  
information and assistance in his power.

“The Board further consider, that it would be  
a matter of convenience, as well as a saving of time,  
should any communications which the Commissioners  
may consider it necessary to address to the Board,  
be transmitted to Mr. Hopkirk on their behalf, who  
would do what might be necessary therein; they  
therefore direct the Warden to furnish the Commis-  
sioners with a copy of this Minute for their informa-  
tion, accompanied by a request, that they will be  
pleased to act accordingly.

“Truly extracted.

(Signed,) “F. BICKERTON,  
“Clerk.”

“Provincial Penitentiary,  
“24th June, 1848.

No. 9.

Copy—Letter, Secretary to Mr. Hopkirk.

“Provincial Penitentiary  
“Commission Room,  
“Kingston, 26th June, 1848.

“Sir,

“I have the honor to acknowledge receipt of your  
letter of 24th instant, addressed to the Chairman of  
the Penitentiary Commission, preferring certain  
charges, on behalf of the Board of Inspectors, against  
Dr. Sampson, Surgeon of the Penitentiary, and  
stating certain other charges, preferred by other  
parties, to your Board, against the same officer,  
which you are of opinion ought also to be investiga-  
ted by the Commissioners.

“I am to inform you, that the Commissioners will  
not fail to investigate all the grounds of complaint to  
which you have called their attention, and will duly  
notify you when prepared to enter on this branch of  
their labors.

“I have, &c.

(Signed,) “GEO. BROWN,  
“Secretary.”

“JAMES A. HOPKIRK, Esquire,  
“Inspector Prov. Penitentiary.”

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.)  
30th May.

No. 10.

Copy—Letter, Secretary to Dr. Sampson.

“ Provincial Penitentiary  
“ Commission Room,  
“ Kingston, 26th June, 1848.

“ Sir,

“ I had the honor to address a communication to you on the 24th instant, (yet unacknowledged,) stating certain charges which had been preferred before the Penitentiary Commission against you, by Mr. F. W. Smith. I have now to state, that the following additional charges have been preferred against you by James Hopkirk, Esq., on behalf of the Board of Inspectors, viz :—

“ 1st. Refusing to obey the orders of the Board of Inspectors, in contravention of the 3rd clause of the Penitentiary Act.

“ 2nd. Charging officers of the Institution with improper conduct, and refusing to appear before the Board of Inspectors, when called upon by them to substantiate the charge.

“ 3rd. Publishing the proceedings of the Board of Inspectors, pending the decision of the Governor General in council thereon, and endeavoring to bring the Board into contempt with the public.

“ Mr. Hopkirk has also communicated to us certain charges preferred against you to the Board of Inspectors by other parties, and as these are the items alluded to in mine of the 24th, as having been brought under the notice of Government, I here state them :—

“ 4th. Behaving with improper familiarity towards a female Convict.

“ 5th. That the Surgeon had attended sick Convicts when not in a proper state, as regarded his sobriety.

“ The Commissioners will investigate these charges along with the others, as before intimated.

“ I have, &amp;c.

(Signed,) “ GEO. BROWN,  
“ Secretary.

“ JAMES SAMPSON, Esq.,  
“ Surgeon, Provincial Penitentiary.”

No. 11.

Copy—Letter, Dr. Sampson to Secretary.

“ Kingston, 28th June, 1848.

“ Sir,

“ I have the honor to acknowledge the receipt of your letter, dated 24th instant, stating certain charges preferred against me, by Keeper F. W. Smith; and beg to apologize for not having sooner returned a written acknowledgment of the same.

“ I have also to acknowledge the receipt of your letter, dated 26th instant, containing three charges against me, by James Hopkirk, Esq., on behalf of the Board of Inspectors; and also two additional charges preferred against me to the said Board by other parties.

“ I have, &amp;c.

(Signed,) “ JAMES SAMPSON,  
“ Surgeon, P.P.

“ GEO. BROWN, Esquire,  
“ Secretary Commission.”

66

No. 12.

Copy—Letter, Dr. Sampson to Secretary.

“ Kingston, 28th September, 1848.

“ Sir,

“ Having reason to suppose that the Commissioners will, at an early day, proceed to investigate certain specific charges made against me, as Surgeon of the Provincial Penitentiary, which charges, as it appears from documents transmitted to me by you, are preferred by known and acknowledged parties; I beg leave most respectfully to claim from the Commissioners, the privilege of being allowed to attend personally at the examination of the witnesses who may be brought forward by my accusers, and that I may be permitted to put such proper questions to them as I may deem necessary to my defence.

“ I have the honour to be,

“ Sir,

“ Your most obedient Servant,

(Signed,) “ JAMES SAMPSON.

“ GEORGE BROWN, Esq.  
“ &c. &c. &c.”

No. 13.

Copy—Letter, Secretary to Mr. Hopkirk.

“ Provincial Penitentiary  
“ Commission Room,  
“ Kingston, 2nd October, 1848.

“ Sir,

“ In reference to your letter of 24th June, preferring—as organ of the Board of Inspectors of the Provincial Penitentiary—certain charges against James Sampson, Esq., Surgeon of the Penitentiary, I have now to intimate to you, that the Commissioners are prepared to enter on the investigation of the said charges.

“ They will be happy to receive you, upon the subject, at the British American Hotel, to-morrow (Tuesday) morning, at 10; or as soon thereafter as convenient for you.

“ I have the honor to be,

“ Sir,

“ Your most obedient Servant,

(Signed,) “ GEORGE BROWN,  
“ Secretary.

“ JAMES HOPKIRK, Esq.  
“ &c. &c. &c.”

No. 14.

Copy—Letter, Secretary to Mr. F. W. Smith.

“ Provincial Penitentiary  
“ Commission Room,  
“ Kingston, 3rd October, 1848.

“ Sir,

“ In reference to your letter of 22nd June, bringing certain charges against James Sampson, Esq., Surgeon of the Penitentiary, I have to notify you, that the Commissioners are now proceeding with an

Appendix  
(B.B.B.B.)  
30th May.

Appendix  
(B. B. B. B.)  
30th May.

inquiry into the conduct of that officer, and that they will be prepared to take up the charges preferred by you, to-morrow, (Wednesday, 4th instant,) or the day following.

"I have the honor to be,  
" Sir,

" Your most obedient Servant,

(Signed,) " GEORGE BROWN,  
" Secretary.

" Mr. FRANCIS W. SMITH,  
" Kingston."

No. 15.

Copy—Letter, Secretary to Dr. Sampson.

" Provincial Penitentiary  
" Commission Room,  
" Kingston, 3rd October, 1848.

" Sir,

" I have to acknowledge receipt of your letter of 28th ultimo. I duly laid it before the Commissioners; and I am now instructed to inform you, that in so far as the specific charges preferred by certain parties against you are concerned, you will be entitled to be present at the examination of the witnesses upon such charges, and to put such proper questions to the witnesses as you may deem necessary to your defence.

" I am also to inform you, that the Commissioners will proceed to investigate the said charges, and any others which may be preferred against you, as Surgeon of the Penitentiary, forthwith.

" I have the honor to be,  
" Sir,

" Your most obedient Servant,

(Signed,) " GEORGE BROWN,  
" Secretary.

" JAMES SAMPSON, Esq.  
" Surgeon, Provincial Penitentiary."

We commenced the investigation into the charges against the Surgeon on 4th October, and continued it during the 5th, 6th, and 7th; we resumed their consideration on the 31st, and closed the case on 3d November. The straightforward course pursued by Dr. Sampson, in at once admitting most of the allegations of his accusers on matters of fact, and merely combating the deductions attempted to be drawn from these facts, shortened the inquiry.

The first charge preferred against Dr. Sampson by Francis Smith, was, in "furnishing provisions to the Penitentiary for his own private advantage, contrary to the Statute." Edmund Boyle, a contractor, was the first witness called in support of this charge; he testifies that Dr. Sampson sold him, on the 5th of October, 1846, pease to the amount of £7 6s. 3d.; and that Dr. Sampson was one of his sureties to the Penitentiary for the fulfilment of his contract. On his cross-examination, however, the witness says, that Dr. Sampson had no advantage nor promise of advantage by the Penitentiary contract; that the pease he sold to witness were under the market price; that he paid 2s. 6d. per bushel to Dr. Sampson for them, and 3s. 3d. to others for the same articles, seven weeks afterwards; that it was an advantage to him to get the pease from Dr. Sampson at the time and price; and that he knows

Dr. Sampson cultivates a farm, and has such produce for sale.

Dr. Sampson admits that he sold twenty bushels of pease to Hendry and Blacklock, grocers, in Kingston, while they held a contract at the Penitentiary.

Henry Smith, Esq., Warden of the Penitentiary, was called by his son as a witness, when he testified as follows:—

By F. W. Smith:—

"It is provided in the Penitentiary Act, that no Officer of the Penitentiary shall be concerned in any contract with the Penitentiary. Witness cautioned Dr. Sampson about selling some pease, witness thinks, to a contractor, for whom he (Dr. Sampson) was surety; and warned him, that by so doing he came within the meaning of the Statute referred to; Dr. Sampson said he did not think so."

By Dr. Sampson:—

"Witness accepted Dr. Sampson as a surety for contractors; thought he was not precluded from doing so by Act of Parliament or regulation, as he did not appear to receive any benefit from the transaction; if Dr. Sampson received no benefit from the contract, witness thinks his having been surety is not blameable."

John Ovens, a Forage Contractor, was then called to testify that he bought 180 or 280 bushels of turnips from Dr. Sampson, in the fall of 1847, at 1s. 6d. per bushel, deliverable at the Penitentiary by Dr. Sampson. It appears that he had bought some turnips, the same season, at 1s. 3d., but had paid 1s. 6d. to others as well as Dr. Sampson; that it was a great advantage for him to get so large a quantity in one lot; that the Doctor was very indifferent about selling them at 1s. 6d.; and that he (Ovens) got himself 2s. for these very turnips from the Penitentiary.

This is the whole of the evidence, and it in no way compromises Dr. Sampson. The purchases in question seem to have been common business transactions, in which each party looked to his own advantage, and the market value of the article transferred. There is not the slightest reason to suppose that Dr. Sampson ever had any interest in any Penitentiary contract.

## 2. IMPROPER TREATMENT OF, AND NEGLIGENCE TOWARDS, SICK CONVICTS, AND BEHAVING WITH CRUELTY TOWARDS THEM.

The first case attempted to be made out under this count, is in Dr. Sampson's treatment of a female Convict named Evans. There are only two witnesses called upon it, Mrs. Cox, and Mrs. Martin; and the only allegation seems to be that Evans died very unexpectedly, and said to Mrs. Martin, before her death, "God forgive Dr. Sampson for neglecting me." Mrs. Cox, however, says "the Surgeon saw Evans daily, before her death," and Mrs. Martin says, "Dr. Sampson went to see her (Evans) every day when he was at home, and Dr. Yates always went to see her in Dr. Sampson's absence, except one day which he missed; that day was the second day before Evans died."

Convict C. Cronk, now undergoing the penalty of his second conviction, is brought to prove that he went to Dr. Sampson, and complained that he

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

was afflicted with Gonorrhœa, but the Surgeon sent him away, saying, there was nothing the matter with him. On cross-examination, he admits that Hospital-keeper Jones, was present on the occasion. Dr. Sampson called Mr. Jones who swore that Cronk applied to the Surgeon, and was treated for sore eyes, but that he never heard Cronk make any such complaint as he now speaks of.

Convict Patrick Kelly, a life-prisoner for sodomy, is called to state, that he fell from a scaffold in December, 1846, on a Thursday morning; that the Surgeon did not see the injury until the following Monday, when he sent him into Hospital from his cell; that he was a fortnight in his cell before it was discovered that his thigh was broken; that a splint was then put on it, and remained on six weeks, and that he is lame still. He admits, however, that he "blames his not lying as the Doctor directed him, for the shortness of his leg now. The Doctor threatened to tie witness down, to make him lie in a proper direction." Hospital-keeper Jones proved, that every patient in the establishment has been regularly examined by the Surgeon daily, and Kelly could not have been three days unexamined; that Kelly's accident did not occur when he says it did, but that he came into the Hospital on the 26th September, 1845; that lotions were applied until 9th October, when a splint was applied for *fractured neck of the femur*; and that the case was discharged from Hospital on 7th January, 1846.

John Stewart Esq., M.D., also proves that a "fracture of the neck of the *femur* is exceedingly difficult to detect, and the best Surgeons are often for many days deceived by it," and that it would depend on the extent of inflammation about the hip, when a splint should be put on. Horatio Yates, Esq., M.D., fully corroborates the statement of Dr. Stewart, and says, from personal knowledge of the case, that Kelly "could not have been turned out better"—"he has never seen a case better turned out."

Convict Ralph Smith is called to detail his treatment for sprained ankles; he seems to be of opinion that the dry bandage application ordered for him by the Surgeon was not correct, and that liniment applications should have been longer continued. He thinks too, that he was discharged from the Hospital over-soon. Mr. Jones proves that Smith, when discharged from the Hospital, was "quite fit to walk," and "not a fit subject to be retained in the Hospital." But of all this, the Surgeon was the best and only judge, and he seems to have taken great pains with the case.

Convict Cyril Aubé also gives evidence as to his treatment for a "pain and swelling in the stomach;" but the only complaint he seems to make is, that he was kept too long in his cell without work, and had not oakum given him to pick sooner. Convict Bernard Forshee, sentenced to 14 years imprisonment for burglary, is brought to give evidence, that he went to Dr. Sampson for relief from "a pain in his head or ear, one winter;" that Dr. Sampson said he could see nothing the matter with his ear, and thought he was "scheming," (*i. e.*, trying to get on the sick list and thereby escaping work,) and that Dr. Sampson said "he (Forshee) was so great a liar, he could not believe him." Forshee admits that he had been frequently through Dr. Sampson's hands before this. Dr. Sampson states, that he used no such language as Forshee represents; and as to anything further, it is the duty of the Surgeon to detect all attempts at deception, on the part of the Convicts, and there is no reason to doubt that his judgment in Forshee's case was correct.

The only case brought before us which seems to have been worthy of investigation, is that of a Convict named John Murphy, who committed suicide in the Prison. Murphy, on 28th August, 1847, attempted to stab his Keeper: when spoken to by the Warden on the subject, he talked incoherently; and the Surgeon being called on to examine him, on 3rd September, reported him insane. The Warden wrote next day to Government for an order for his removal to a Lunatic Asylum; and he was committed to his cell to await the arrival of the order. The Government took no notice of the matter, and Murphy continued to remain in his cell until 26th October, when he committed suicide; he was found suspended from the top of the cell door with a cord taken from a strait-jacket, and by means of a button, he had opened a vein in his arm in two places, from which much blood had flowed. The charge against Dr. Sampson is, that he never saw Murphy from the time he reported him insane, till after his death. Dr. Sampson's defence is, that Murphy was in good bodily health, and was not on the sick list; that the Surgeon's duty in such cases, according to the rules of the Prison, was merely to report the Convict insane, and on that report, the Warden had to make immediate application to Government, and have the patient removed to the Lunatic Asylum. He shews that this was the invariable practice previous to Murphy's case; and he declares that until he heard of Murphy's death, he had no doubt that he had been removed from the Prison to the Asylum for some time. Dr. Sampson further shews, that he had no apartments fit for the treatment of Lunatic Patients, and that to remove them as soon as possible to an Asylum was the only way to dispose of them. He also shews, that immediately after Murphy's case, the Inspectors passed an order for all insane patients to be placed on the sick list, and that this has been regularly attended to ever since.

We think it would have been better had all insane Convicts been considered under the charge of the Surgeon from the moment of their being pronounced so; but such was not the rule of the Prison; and it does not appear that the Surgeon's attendance would, in this case, have prevented the catastrophe which occurred.

Besides these cases of alleged improper treatment, witnesses are brought to testify that they have heard Convicts complain that the Surgeon treated them badly. These witnesses are Thomas Smith, Costen, Manuel, Wm. Smith, Pollard, Little, and Hooper—but none of them profess to know anything more than that complaints were made; and the trifling character of these complaints, and the small number of them, speaks rather favourably than otherwise of Dr. Sampson's attention to the Convicts.

Such is the evidence on which the charge of improper treatment rests; and we are of opinion, that there is not the slightest ground to sustain it. On the contrary, much was elicited during the investigation, to shew that Dr. Sampson has fulfilled his duty to the sick inmates of the Penitentiary efficiently and humanely.

Mrs. Cox, late Matron, says:—"Witness conceived that Dr. Sampson ordered everything which was requisite for the sick Convicts, and he always complied with the reasonable requests of the patients. Thinks Dr. Sampson's treatment of the patients was as it should be; never knew him to be unkind to them."

Samuel Pegg, Junior, a Farmer in the Home District, who was for two years Convict Hospital

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

attendant in the Penitentiary, says—"he considered that Dr. Sampson paid great attention to the sick Convicts, and always treated them well and kindly, and sympathized with them when very ill. Dr. Sampson was particular in making the Hospital Officers do their duty; witness often received particular instructions, as to the proper mode of conducting the Hospital, from Dr. Sampson."

It was a common thing for the Convicts to attempt imposing on the Surgeon, by feigning sickness: the object of their doing so, in some, was to get light work given them, and in others to escape working altogether. All the patients were examined by the Surgeon, every forenoon, except on Sundays, when only the Hospital patients were examined, and any of the others whose condition required it: their cases were regularly enquired into, and the proper remedies ordered."

Mrs. Chase, the Assistant-Matron, declares—"she never heard that any of the Convicts complained of bad treatment from Dr. Sampson; witness thinks that Dr. Sampson performed his duties efficiently and humanely."

Mrs. Pollard, the Matron, who declares Dr. Sampson "has been the cause of great annoyance" to her, and that "she considers him a very rude man," gives the following testimony:—"Dr. Sampson is generally humane to the Convicts. Witness thinks he did not stay long enough, when visiting, nor inquire with sufficient minuteness into each case; never knew any case to be neglected; never knew any case mismanaged; never knew an instance when there was a necessity of a visit from the Surgeon that Dr. Sampson did not come in the forenoon to see the patient."

William Jones—By Dr. Sampson:—

"Witness was Hospital-Sergeant in Royal Artillery for nearly three years, before he came to the Penitentiary; has been Hospital-keeper in the Penitentiary since 1st August, 1847; found, when he came to the Penitentiary, that the Hospital duty was regularly and efficiently performed; considers that Dr. Sampson has been very kind to the sick, and has always acted with great forbearance towards them. Never heard Dr. Sampson speak harshly to any sick man; has heard him order a Convict out of the Surgery on one occasion, but the man had no bodily ailment and was complaining about ill-treatment he had received in having irons put on him.

"Has known Dr. Sampson to come to the Penitentiary more than once a day, when not sent for. Every Convict on the sick-list has been seen daily by Dr. Sampson or his substitute, every week-day since witness came to the Prison. On Sundays and holidays, the Surgeon comes to the Prison with equal regularity, but only sees such patients in the cells as he knows, or witness informs him, require attendance. The Surgeon sees every patient in the hospital on Sundays as well as on week-days.

"There is a great disposition on the part of the Convicts to feign sickness, and it is an important part of the Surgeon's duty to detect such deception."

By Commissioners:—

"There is a return made every day of the Convicts in their cells and in the hospital; since December, 1846, these returns have been entered in a book.

"Every sick Convict in the Penitentiary is daily examined by the Surgeon; it is not possible that a

Convict could have been three days sick without seeing the Surgeon."

Thomas W. Robinson, Esq., sworn:—"Is a Physician; has been frequently in the habit of attending at the Penitentiary since its commencement, in the absence of Dr. Sampson. Thinks the Medical Superintendence of the Institution is as good as possible; never heard any complaints from the patients as to Dr. Sampson's treatment of them. Thinks it is very difficult to discriminate between cases of real sickness in the Penitentiary, and those of feigned sickness; there is an immense amount of feigned sickness in the prison; detection in such cases is very likely to produce hostility to the Surgeon in the feelings of the Convict."

John Stewart, Esq., sworn:—"Is a Surgeon; has been in the habit of going to the Penitentiary frequently with Dr. Sampson; considered that Dr. Sampson's Medical Superintendence of the Institution was very good; had an excellent opportunity of judging as to his practice; never saw him unkind to the Convicts; on the contrary, witness thought he treated his patients most kindly. There are so many cases of feigned sickness in the Penitentiary, that it is difficult to discriminate between the real and false applicants for medical treatment."

Horatio Yates, Esq., sworn:—"Is a Physician; has attended at the Penitentiary very frequently with Dr. Sampson, as well as for him in his absence. Witness thinks Dr. Sampson's practice, at the Penitentiary, is just what it ought to be; thinks Dr. Sampson's system of superintendence particularly good; always thought Dr. Sampson kind and attentive to the Convicts; thought him more attentive to the Convicts than to many of his patients in town."

### 3. RECOGNISING DISCHARGED CONVICTS, AND MAKING THEM KNOWN TO OTHERS, CONTRARY TO THE RULES OF THE INSTITUTION.

The following entry was made in our Minutes of the 4th October:—"Dr. Sampson admits that he took discharged Convict Jones to Mr. Rowlands, of the *Chronicle and News*, and introduced him to Mr. Rowlands, for the purpose of Jones telling him his story."

Dr. Sampson meets this by the explanation, that the decision of the Inspectors, on the trial of Kitchen-keeper Smith, caused a general belief in Kingston, that he (Dr. Sampson) had brought unfounded charges against Smith; that the matter had been made public, and was injurious to his character, and he was forced to defend himself. He called, in support of this explanation, the following witnesses:—

Samuel Rowlands, Esq., sworn:—"Is Editor of the *Chronicle and News* newspaper. Understood that Dr. Sampson sent discharged Convict Jones to witness, for the purpose of establishing that arrows had been shot by Frank Smith in the Penitentiary; Jones said he had been himself hit with arrows. Dr. Sampson had no other object in sending Jones to witness, that he knows of."

By Mr. Hopkirk:—

"Was not particularly intimate with Dr. Sampson at the time referred to; Dr. Sampson had spoken to witness about an article in witness's journal, a few days before, on the subject of the Penitentiary; he spoke to witness as the Editor of the *Chronicle and News*; witness did not make use of Jones's informa-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B. B. B. B.)  
30th May.

tion; has no doubt Dr. Sampson intended witness to make use of it, if witness thought proper, after hearing it. The occurrence as to Jones happened after the decision on Frank Smith's trial, but thinks it was before witness published it in his journal."

Augustus Thibodo, Esq., sworn:—"Had a conversation with Mr. Sheriff Corbett, one of the Inspectors of the Penitentiary, as to the trial of charges preferred by Dr. Sampson against Kitchen-keeper Francis W. Smith; it was on the 20th October, 1847, witness thinks, that the conversation took place; witness was in company with Mr. Corbett, and remarked to him, 'so Frank Smith has been acquitted.' Mr. Corbett said, 'he had; that Dr. Sampson had completely failed in substantiating the charges against Frank Smith; that he had never seen a more complete break-down.'"

By Mr. Hopkirk:—

"Witness commenced the conversation; has had frequent conversations with Dr. Sampson relative to Mr. Frank Smith's trial, and other matters connected with the Penitentiary; cannot say that Dr. Sampson expressed any opinion upon the conduct of the Inspectors; has no doubt that he said the decision of the Inspectors was incorrect; cannot recollect of Dr. Sampson's saying that the decision was influenced by improper motives. Witness has sent no witnesses before the Penitentiary Commissioners for examination."

By Dr. Sampson:—

"Does not recollect of holding any conversation with Dr. Sampson about Frank Smith's charges, until after the conversation (referred to) with Mr. Corbett, on 20th October, 1847."

Whatever argument may be raised on this case, on general principles, it is clear, from Mr. Rowland's statement, that, practically, no bad result followed from it; no use having been made of Jones' statement. But the bearing of this count is almost identical with that of one of the charges preferred by Mr. Hopkirk, and which will come up hereafter.

4. MALICIOUSLY PREFERRING FALSE CHARGES AGAINST KITCHEN-KEEPER FRANCIS W. SMITH, ONE OF THE KEEPERS OF THE PENITENTIARY.

Mr. Smith did not attempt to sustain this charge; and the subsequent dismissal of Smith on the very matters referred to in Dr. Sampson's complaint against him, is a sufficient vindication of Dr. Sampson's conduct.

We now proceed with the charges preferred against Dr. Sampson by the Board of Inspectors.

1. REFUSING TO OBEY THE ORDERS OF THE BOARD OF INSPECTORS, IN CONTRAVENTION OF THE THIRD CLAUSE OF THE PENITENTIARY ACT.

In support of this charge, Mr. Hopkirk referred to the correspondence in the case of the alleged undue familiarity of Dr. Sampson with Convict Reveille, which is stated in full in an early part of this Report.

He charges Dr. Sampson with refusing to come before the Inspectors, when the Board "directed the Surgeon's attendance."

On carefully perusing the correspondence in question, however, we cannot find that Dr. Sampson was directed to attend before the Board. We find that

in their Minutes of the 24th February, the Board consider themselves bound, "in justice to that officer," to acquaint him with Mrs. Chase's report against Convict Reveille, in case he may desire to call for any investigation. Dr. Sampson's only reply to this, was a request that a copy of Mrs. Chase's report and a copy of the Board's Minute of 24th, might be forwarded to Your Excellency.

In their rejoinder to Dr. Sampson of the 28th February, the Inspectors say:—"As you have now requested that the matter may be brought under the notice of the Governor General, the Board feel that you have a right to expect from them a full inquiry into the matter;" and after naming a day, they add, "when they desire your attendance for the purpose of putting any questions or offering any observations you may consider necessary."

Dr. Sampson appeared, on the day in question, before the Board, and declined putting any questions or offering any observations, and protested against the Inspectors proceeding with any inquiry into his conduct, whilst his appeal to Your Excellency was undecided. We do not find by their Minutes, that the Inspectors considered Dr. Sampson had disobeyed any mandate of theirs, or that in their letter to the Provincial Secretary of 8th March, communicating the affair, any such complaint is urged against Dr. Sampson; but on the contrary, the whole tone of correspondence gives the impression that the examination of the 3rd March was a proceeding taken entirely from kindness and from justice to Dr. Sampson; and Mr. Hopkirk himself in his examination before us on the charges against the Warden, gives the following testimony:—

Q. Was not the inquiry of 3rd March, a trial of Dr. Sampson?

A. Cannot say that it was.

Q. Was it a trial of Convict Reveille?

A. Cannot say it was.

Q. What was it then?

A. It was for the purpose of taking Mrs. Chase's statement on oath; Dr. Sampson having requested that certain papers connected with the matter should be sent to the Governor General.

Q. Would the examination of the 3rd March not have taken place but for said request of Dr. Sampson?

A. Cannot say what the Board would have determined to do; but thinks it very possible that but for Dr. Sampson's letter, the matter would have dropped.

We do not think therefore that Dr. Sampson did, in this matter, "refuse to obey an order from the Board;" he was asked to come and defend himself as he "may consider necessary;" he attended, but did not consider any defence necessary: and surely a respectfully written protest could not be considered as an act of disobedience to any order of the Board.

2. CHARGING OFFICERS OF THE INSTITUTION WITH IMPROPER CONDUCT, AND REFUSING TO APPEAR BEFORE THE BOARD OF INSPECTORS, WHEN CALLED UPON TO SUBSTANTIATE THE CHARGE.

This charge is founded on the following entries made by Dr. Sampson in the Hospital Diary, in reference to the case of Convict Charlotte Reveille.

Appendix  
(B. B. B. B.)  
30th May.

Appendix

(B.B.B.B.B.)

30th May.

(Copy.)

"February 8th. The bowels were opened on the 5th, and the tumid abdomen again subsided, but the pain never leaves the left side, which is tender on very slight pressure. No uterine discharge since last report, but the bloody vomiting has returned this morning. Mentally there has been evident improvement of late, which I attribute to conciliatory and soothing mode of treatment.

"February 9th. The uterine hemorrhage returned last night, and is rather copious to-day. The Matron reports that this Convict was detected with the earthen vessel in which she vomits under her, in order to procure blood, mix it with gravel and shew it to me as having come from her stomach. It is difficult to suppose that this trick could have been practised when no uterine discharge existed; besides, the liquid said to be vomited contained very dark blood, while uterine discharge was of a pale scarlet colour. I may remark in this place, no credence is to be given to anything said when animosity and deceit seem to govern the actions of persons in office. I reported this Convict insane, to the Board of Inspectors on———, and I feel convinced that no improvement can take place mentally, while in this Prison."

On the 15th March, the attention of the Inspectors was directed to this entry in the Diary, and they summoned Dr. Sampson to appear before them, with the view of an investigation being had into the circumstances which called for the remark that animosity and deceit seemed to actuate the conduct of persons in office. On 17th March, Dr. Sampson replied that as it had been communicated to him by command of His Excellency the Governor General, that His Excellency intended to appoint a Commission of Inquiry not only as to what personally concerned himself, but also as to the general management of the Institution, he begged leave, respectfully, to decline now entering further upon the subject, it being his intention to bring the case in all its details and bearings, before this tribunal as soon as it should be constituted.

We think it would have been much better, had Dr. Sampson not used the objectionable words employed in his Diary; but he might have considered it his duty, whilst recording his treatment of the case, to advert to circumstances, which, in his opinion, might affect the success of that treatment; and we can allow much for the excited feelings which recent events must have produced. Under all the circumstances of the case, with the investigation of his complaint against an inferior officer, turned into a trial of himself—his medical decisions set aside by unprofessional men—his recommendation to protect a Convict from injury by frost-bite rejected—letters written him sneering at his professional proceedings, and a groundless charge of undue familiarity with a woman labouring under a disgusting disease, all fresh in his recollection, we cannot wonder at Dr. Sampson's declining to appear before the Inspectors as his judges,—and must acquit him of all blame in this respect.

3. PUBLISHING THE PROCEEDINGS OF THE BOARD OF INSPECTORS, PENDING THE DECISION OF THE GOVERNOR GENERAL IN COUNCIL THEREON, AND ENDEAVOURING TO BRING THE BOARD INTO CONTEMPT WITH THE PUBLIC.

The evidence on this count is as follows:—

"Dr. Sampson admits that he furnished Mr. Rowlands, of the *Chronicle and News*, with the copy

of the decision of the Inspectors of 29th October, 1846, as published in the paper in question."

Samuel Rowlands, Esq. :—

"Is Editor of the *Chronicle and News*. Never received a communication or article of any description whatever, in reference to the Penitentiary, from Dr. Sampson, with the exception of a copy of the Inspectors' decision of 29th October, 1846. Never received any affidavits from Dr. Sampson, as far as he recollects. Has reason to believe that Dr. Sampson was instrumental in furnishing one declaration published in the *Chronicle and News*, in regard to the Penitentiary; it was the declaration of the discharged Guard Robinson. Witness's reason for supposing that Dr. Sampson had any concern with Robinson's declaration, is, that Robinson said when he brought it to witness, that he had been with the Surgeon; has no reason to suppose that Dr. Sampson had anything to do with any of the other declarations published in witness's Journal. There were in all, declarations by six persons. One came to witness, as already stated, and the other five were handed in by Mr. Manahan; these five declarations were given to witness by Mr. Manahan, two or three months previous to that of Robinson's being received; never received any declarations from Dr. Sampson which were not published. The reason why witness retained the said declarations so long, without publishing them, was, that the general elections were proceeding at the time, and he waited until the public mind was more settled, and the declarations more likely to make a strong impression. "Has had conversation with Dr. Sampson in regard to the affairs of the Penitentiary; the first conversation witness had with Dr. Sampson was as to Frank Smith's trial in October, 1847. Dr. Sampson was one of the parties from whose statements witness was led to believe that the affairs of the Penitentiary was in disorder, and also one of those persons, resting on whose veracity, witness continued to call for investigation by the Government. The only statements made to witness by Dr. Sampson, were in reference to Frank Smith's trial; he always pleaded ignorance as to the details of the Penitentiary affairs. Witness was led from Dr. Sampson's statements, to believe that the Inspectors behaved very improperly in the matter of Frank Smith's trial; understood that from friendship to the Warden and his son, the Inspectors had relaxed that strictness which they would have enforced under ordinary circumstances; is of opinion that had the Inspectors so acted, to such an extent as to deny justice, the conduct of the Inspectors would tend to bring them into public contempt. From the statements of Dr. Sampson to witness, it would be too strong an expression to say, that contempt for the Inspectors was produced on witness's mind; would say that Dr. Sampson's statements led him to believe that the conduct of the Inspectors' was deserving of strong animadversion. Cannot say that Dr. Sampson's statements were made to witness in reference to his position as Editor of the *Chronicle and News*: they were all made subsequent to witness's first publication on the affairs of the Penitentiary, but prior to the series of articles which appeared in the *Chronicle and News*; they were not made in confidence. Dr. Sampson has referred witness to parties from whom he could get information as to the affairs of the Penitentiary; he mentioned Mr. Gleeson, Mr. Robinson, and Mr. Manahan, also other parties whom witness does not recollect at the moment."

By Dr. Sampson:—

"At the time witness had the intercourse he has referred to with Dr. Sampson, the public was divided

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

as to the matter of Frank Smith's trial; some persons thought that Dr. Sampson had brought groundless charges against Keeper Smith, and others that the charges were well grounded. The publications in question tended greatly to relieve Dr. Sampson from the imputations against him in the public mind. Had no particular interest in, or friendship towards, Dr. Sampson, at the time of these publications."

By Commissioners :—

"Received no payment or consideration of any kind, from any person, for the publication of the articles in question. Never received any communication on the affairs of the Penitentiary from any officer of the Institution, other than he has named. Was never requested to write or publish any article as to the affairs of the Penitentiary, by any person whatever."

Samuel Pollard—By Mr. Hopkirk :—

"Recollects the conversation witness had with Mr. Rowlands of the *Chronicle and News*: he said he was to get the copy of a paper from Dr. Sampson through Sheriff Corbett, for publication. Mr. Rowlands found great fault with the decision of the Inspectors in Frank Smith's case. Cannot say, positively, that Mr. Rowlands mentioned to witness that he had had conversations with Dr. Sampson as to Frank Smith's trial. Understood from Mr. Rowlands that he had received information as to the conduct of the Inspectors (other than the copy of the decision of the Board as to Frank Smith's trial) from some quarter; cannot say that Mr. Rowlands said he had such information from Dr. Sampson."

Thos. A. Corbett, Esq.—By Dr. Sampson :—

"Is Sheriff of the Midland District, and one of the Inspectors of the Penitentiary. Recollects of Dr. Sampson applying to witness, as President of the Board of Inspectors, for a copy of the evidence taken in the case of the charges brought by Dr. Sampson against Kitchen-keeper Francis W. Smith: it was refused, because the Inspectors thought they had no right to part with it, as the evidence was the property of the Penitentiary. Sent Dr. Sampson a copy of the decision given by the Board on the case: had the Inspectors given a copy of the evidence to Dr. Sampson, witness would have considered this an act of publication."

"Witness being shown a copy of the decision on the case, by the Board of Inspectors, says it was sent to Dr. Sampson by order of the Board; considers it was an act of publication to him. Dr. Sampson was not bound down as to the use he should make of the decision, he was at liberty to do with it what he liked."

By Mr. Hopkirk :—

"Dr. Sampson is an officer of the Penitentiary. It is usual in all cases affecting officers of the Penitentiary, to make such officers aware of the decision of the Board upon them. It is not usual to give Guards or Keepers a copy of any evidence taken. It is invariably the practice to take down examinations upon charges in writing, and make the witnesses sign their depositions. In the reports of one officer against another, when unimportant, no record of the evidence is kept; it is invariably the practice for the accused to be present at all examinations by the Board, when they can be obtained. Dr. Sampson was present during the examination into the charges against Frank Smith; he asked the Board to go on

Appendix  
(B.B.B.B.B.)  
30th May.

in his absence, but they refused to do so. The evidence of each of the witnesses was read aloud to them before they signed it. Dr. Sampson expressed himself quite satisfied with the manner in which the evidence was taken down. One of the reasons for refusing a copy of the evidence to Dr. Sampson was, because the Board had never done so before to other parties; another reason was, because the whole matter was likely to be referred to the Government by Dr. Sampson, in the opinion of the Board.

"It would be very different giving a copy of the decision in any matter before the Inspectors to a party interested in the decision, and giving it to an Editor for publication in a newspaper. The decision in Frank Smith's case was not given to Dr. Sampson for the purpose of publication, but because he had a right to it; does not consider that the giving of the decision by the Board to Dr. Sampson was an act of publication by the Inspectors. Dr. Sampson had liberty to do with it what he thought proper, as far as the Inspectors were concerned. Cannot say whether the decision was published in the *Chronicle and News*, pending the consideration of it by the Governor General."

By Dr. Sampson :—

"Cannot say if the Inspectors had placed the matter under the consideration of the Governor General, at the time of publication; the Inspectors placed the whole matter before Government on the application of the Government."

"Does not think the publication of the Board's decision, on Frank Smith's case, tended to bring the Board into contempt with the public."

By Mr. Hopkirk :—

"The newspaper remarks which accompanied the decision in the *Chronicle and News*, tended to bring the Inspectors into contempt."

"The application by the Government to the Inspectors for the whole proceedings in the case of Frank Smith, witness understood was caused by the appeal of Dr. Sampson to Government, against the decision of the Board."

"Witness did express his willingness to the Editor of the *Chronicle and News*, to furnish him with a copy of the decision of the Board in Frank Smith's case, for publication; never furnished him with a copy of it; never asked the Board to give Mr. Rowlands a copy."

It is very clear that no charge can be maintained against Dr. Sampson for publishing the decision of the Inspectors in Kitchen-keeper Smith's case. Mr. Corbett, President of the Board, testifying that he sent Dr. Sampson the decision "to do with it what he liked;" that "he does not think the publication tended to bring the Board into contempt with the public;" and that he (Mr. Corbett) himself had expressed his willingness to the Editor of the *Chronicle and News*, to furnish him with a copy of the decision of the Board on Frank Smith's case for publication.

Though not coming within the scope of his charge, Mr. Hopkirk has undoubtedly established that Dr. Sampson drew Mr. Rowlands' attention to the state of the Penitentiary, and that he aided Mr. Rowlands in acquiring information as to its affairs.



Appendix

(B.B.B.B.B.)

30th May.

Dr. Sampson's defence on this head is the same as on Count 3 of the charges preferred against him by Francis W. Smith. He alleges that the decision of the Inspectors on his complaint against the Kitchen-keeper, was prejudiced, contrary to evidence, and calculated to injure him with the public; that the Inspectors themselves spoke publicly of his proceedings against Smith, in a way to injure him (Dr. Sampson); that many persons thought he had brought groundless charges against Smith, and that the few publications which did take place were fair statements, necessary to disabuse the public mind, and did tend greatly to relieve him (Dr. Sampson) from the imputations against him.

For a full understanding of Dr. Sampson's position, reference is necessary to the proceedings of the Inspectors against the Surgeon, given at great length in the introductory part of this report. Judge Kirkpatrick therein testifies, that he "has examined the depositions taken by the Board of Inspectors of the Provincial Penitentiary, on the trial of charges preferred by Dr. Sampson against Francis W. Smith, in October, 1847; has also perused the decision of the Board of Inspectors thereon. In witness's opinion the judgment of the Board was not in accordance with the evidence before them."

There can be no question that the unauthorized publication of occurrences passing in such an Institution as the Provincial Penitentiary, by an officer of the establishment, as a means of obtaining personal redress, is strongly to be deprecated; as in such appeals there will always be two parties, and strife and ill-will within the walls will very surely be engendered and perpetuated by it, and party feelings excited outside the walls.

We are of opinion, however, that the present is altogether an anomalous case, to which general rules are inapplicable. We think Dr. Sampson did establish the charges he preferred against Kitchen-keeper Smith; that the decision of the Inspectors upon the case was not according to the evidence before them; that they might have had much more conclusive evidence against Kitchen-keeper Smith, had they sought for it; that apologies averred in their decision for Smith's admitted irregularities were voluntary on their part, and without foundation; that in the course of the investigation into Smith's conduct much evidence was taken by the Inspectors, the object of which was seriously to affect Dr. Sampson, and which had no possible connection with the matter on hand; that Dr. Sampson, during the progress of Smith's trial, had the gross irregularities existing in the Institution, but unknown beyond the Prison, forced on his attention, and that he did good public service in urging a general inquiry. Had Dr. Sampson failed to show a necessity for the inquiry which he strove to procure, his conduct would have been liable to animadversion; but the result having proved the urgent need which existed for it, in our opinion amply exonerates him from all blame.

#### 4. BEHAVING WITH IMPROPER FAMILIARITY TOWARDS A FEMALE CONVICT.

Mr. Hopkirk having closed his case on the charges formally preferred by the Board against Dr. Sampson, made reference to the two additional charges on which the Inspectors declined to be complainants, of which the following Minute was made:—

"Mr. Hopkirk then, in reference to the first of two charges named to the Commissioners as having come under the notice of the Inspectors, but in

which they declined to be prosecutors, at the request of the Commissioners, handed in the evidence of Elizabeth Chase and Mary Pollard, given before the Board of Inspectors of the Provincial Penitentiary, on 3rd March, 1848, in reference to the report of Mrs. Chase as to the conduct of the Surgeon."

The whole of the evidence as to the circumstances on which this charge is founded, has been given in full in the introductory portion of this report. The Convict in question is E. Charlotte Reveille; she has suffered for years from disease, has lost the use of her limbs, and is in a most helpless condition.

Her situation is thus described by Mrs. Chase, the Assistant Matron:—

"Does not know what was the matter with the Convict; she vomited blood; has seen Reveille vomit blood every day for a week; she discharged blood in her urine; she did so constantly, with slight intermissions; altogether she was a most disgusting person; her clothes were exceedingly filthy; she made herself quite a beast; the Doctor saw all this, and used to be quite disgusted with her."

Reveille was very severely punished while in the prison; and whether from that cause, or from her bodily infirmities, she became exceedingly outrageous in her conduct. The Inspectors, in consequence, called on the Surgeon to report whether Reveille was sound in her mind. Dr. Sampson reported that she was laboring under moral insanity. The Inspectors differed from the Surgeon's opinion, and wished to have further advice; and Reveille's sanity or insanity became a topic of keen discussion in the prison.

Dr. Sampson continued to attend Reveille, and treated her as insane. He saw her on the morning of the 18th February. Mrs. Chase says, "Reveille was worse some days than others; she said she was worse than usual on the morning in question;" and Dr. Sampson declares, he "feared her death might take place on that day." The Surgeon, in consequence, visited his patient again the same evening, at half-past nine; and it appears that while he was in the women's apartments, certain circumstances occurred which form the ground-work of the present charge, and to which we will presently refer. Mrs. Chase thus explains how the matter became public:—

"The way in which the affair became public, was as follows:—Mrs. Smith, the Warden's wife, sent for witness on the night in question, after the Surgeon had left, and asked witness what the noise she had heard was caused by? Witness said it was Dr. Sampson and Convict Reveille. Mrs. Smith said she (witness) must report the circumstance to the Warden, and desired her to go into the Warden's bed-room, and do so. Witness refused to do so, as the Warden was in bed. Next morning, Mrs. Smith and the Warden both told witness that she must make a written report of the circumstance. Witness did so make a report, and the matter came in this way before the Inspectors. Witness would have made a report whether Warden had told her to do so or not."

Mrs. Chase's report was drawn against Reveille, "for improper conduct towards Dr. Sampson—laughing and shaking hands—making a great noise." Not a word was said in it against the Surgeon. The absurdity of getting up such a report, on the freak of a deranged patient, is obvious. If only Reveille's conduct was intended to be called in ques-

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

tion, the Surgeon was the person to have protected himself from her improper conduct; and had Dr. Sampson's conduct been unbecoming, it was Mrs. Chase's duty to have reported it directly without any mystery.

Mrs. Chase's report was made to the Warden. Had Reveille been sane, it would have been his duty to punish her at once. In cases of insanity, if a report is made at all, no action is taken. In this case, however, Mr. Smith thought the matter of sufficient importance to be brought under the notice of the Board; accordingly, the Inspectors were made acquainted with the affair reported by Mrs. Chase, and on 24th February they had that person before them, to narrate the facts. Mr. Hopkirk says, Mrs. Chase then made a statement "very much to the same effect" as her subsequent deposition. The Board did not, on that occasion, commit Mrs. Chase's communication to writing; but they resolved to intimate to Dr. Sampson, that the statement of Mrs. Chase on her complaint against Reveille, "appeared to imply that, in her opinion, there had been undue familiarity" on his part towards Reveille, and that they "consider they are bound, in justice" to him, "to acquaint him therewith, in case he may desire to make any statement regarding it, or to call for any investigation."

Mr. Hopkirk declares, in his evidence, that the Board came to this decision, without forming any opinion whether Mrs. Chase's statement, if true, contained sufficient ground for placing Dr. Sampson on his trial, for undue familiarity with a female Convict.

Dr. Sampson, on 26th February, replied to the Inspectors' notification, by asking that a copy of Mrs. Chase's report, and the Minute of the Board of the 24th, might be transmitted to His Excellency the Governor General, to whom he was about to refer the matter.

The Inspectors addressed Dr. Sampson again on 28th February. In their letter they state, that "no charge of any kind was preferred against you to them;" and they go on at great length to justify their proceedings, which they represent as dictated entirely by a regard to "your character and position." They again tell Dr. Sampson that he was made acquainted with Mrs. Chase's report, to afford him "an opportunity of requesting an inquiry into the matter, should you think it necessary to do so;" but although Dr. Sampson has made no such request, the Inspectors did not allow it to rest there; and, still continuing the same mocking tone, they tell him, "as you have now requested that the matter may be brought under the notice of the Governor General, the Board feel that you have a right to expect from them a full inquiry into the matter."

On the day appointed for the examination, (3rd March,) Dr. Sampson appeared before the Board and declined being a party to the investigation; the Board, however, went on with it, and took the depositions of Mrs. Chase and Mrs. Pollard. On the 8th March, the Board forwarded these depositions, and the papers formerly referred to, to the Provincial Secretary.

We now proceed to look at the evidence on which Dr. Sampson was charged with undue familiarity towards this deranged woman. Mrs. Chase, the Assistant Matron, was the only officer present when

the circumstances occurred, and her testimony, when before the Inspectors, was as follows:—

"On the 18th ult. Dr. Sampson came to visit the Convict Charlotte Reveille, a little before 10 o'clock at night. When he came in, he spoke to her several times; she told him she was very bad with a pain in her side, and she showed him where the pain was; he pressed her several times about the stomach, and she said it was not there, it was lower down; he told her she would be better to-morrow, he would send her some medicine, and he shook hands with her, and they were laughing for sometime together, and making a great noise.

"The Surgeon had his hand under the bed-clothes when he pressed Reveille.

"Witness does not know if that was the place where the Convict complained of pain; she was complaining of pain there this morning. Reveille told the Surgeon to move his hand lower down, and to press hard; when he did so, she said,—'Oh! how nice that is!'—then he and she would laugh together. Reveille often pulls the doctor's hand down so. From his laughing and conduct, witness thinks the Surgeon had been drinking. Reveille said, 'What a nice man you are, doctor! You are the only gentleman that comes to see me; if you had seen me some months ago, you would have found what a nice woman I was!' The doctor smiled and laughed; told her to be quiet, and she would be a nice woman again.

"Witness does not think the Surgeon's conduct was right; she does not think it right for the Surgeon to put his hand where it was; it was on the lower part of the body, under the clothes.

"Witness does not know if his hand was on her private parts, she thought so, but could not say for certain.

"The Doctor and Reveille were laughing at the time. 'She said, how very nice it was!' On the occasion, witness certainly thought his conduct most improper. She had often thought Reveille's conduct to the Surgeon disgusting; she told the Matron so."

Mrs. Pollard, the Matron, says,— "She did not see the doctor when he was in the women's Ward, but heard him talking very loud; she listened, and heard Reveille tell the doctor where to put his hand; heard her tell him to put it lower; heard nothing more between Reveille and the Surgeon, except a great deal of laughing—very loud laughing."

We are of opinion that had any word of this been true, it was utterly unjustifiable, on such evidence, to bring a gentleman of Doctor Sampson's standing to trial on a grave charge of having had "undue familiarity" with a female Convict. The whole evidence, we repeat, if it were all true, would only prove that the Surgeon was one night somewhat excited, humoured an insane patient more than was advisable, and laughed.

But Mrs. Chase, when brought before us, completely broke down in her account of the matter; and to show the discrepancies in her testimony, we place her evidence, on the two occasions, in parallel columns:—

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix (B.B.B.B.B.)

30th May.

BEFORE INSPECTORS.

“Reveille did not appear to be that morning any worse than she is at other times.”

“She showed him where the pain was; he pressed her several times about the stomach, and she said it was not there, it was lower down. \* \* \* The Surgeon had his hand under the bed-clothes when he pressed Reveille. Witness does not know if that was the place where the Convict complained of pain; she was complaining of pain there this morning. Reveille told the Surgeon to move his hand lower down and to press hard; when he did so, she said “Oh! how nice that is!” then he and she would laugh together. Reveille often pulls the Doctor’s hand down so.”

“Witness does not think the Surgeon’s conduct was right; she does not think it right for the Surgeon to put his hand where it was; it was on the lower part of the body, under the clothes. Witness does not know if his hand was on her private parts—she thought so, but could not say for certain.”

“He (Dr. Sampson) went to see no other patient that night in the wards; there were three or four other women sick, but not so sick as Reveille.”

“Reveille often puts her hand in Dr. Sampson’s pockets, but did not do so that night; she will pull his hand out of his pocket, or he pulls hers, witness does not know which, as she was quite disgusted with them.”

BEFORE COMMISSIONERS.

“Reveille was worse some days than others; she said she was worse than usual on the morning in question.”

“Reveille had complained in the morning to the Surgeon, of having a lump in her side; she has it now; does not know whether it was a tumour. Dr. Sampson generally felt her side; he turned down the clothes to do so on this occasion, and put his hand on her side as usual. Reveille said the pain was lower down, and took hold of his hand and pressed it down on her stomach, and began laughing; the Surgeon laughed also.” \* \* \* “The Dr. had not his hand under the clothes; the clothes were turned completely back and Dr. Sampson laid his hand openly on Reveille’s stomach, over her flannels. Witness saw Dr. Sampson’s hand all the time it was on Reveille’s body; Dr. Sampson’s hand was not on Reveille’s body over a minute or two in all.”

“Thinks it was not on her private parts that Reveille placed Dr. Sampson’s hand; thinks it was only on the lower part of her stomach; it was not a spontaneous act on the part of the Surgeon; Reveille had hold of his hand and pressed it on the spot she complained of the pain; when Reveille withdrew her hand, Dr. Sampson did so also.”

“Dr. Sampson went to see Convict Cook (female) the same evening; witness was not aware of this when she gave evidence before the Inspectors.”

“Never saw him (Dr. Sampson) act in the same way before; never saw him, at any time, do any thing otherwise than was becoming and proper when visiting the sick Convicts; has seen Dr. Sampson laugh and joke with Reveille before, but never in an unbecoming manner.” \* \* \* “Dr. Sampson used to consider Reveille insane; he would never have taken her impudence as he

Appendix (B.B.B.B.B.)

30th May.

did, if he had not thought her insane.”

“From his laughing and conduct, witness thinks the Surgeon had been drinking.” \* \* \* “Witness’s reason for supposing the Surgeon the worse for liquor, was from his conduct and smelling it on him.”

“There is much more familiarity between Dr. Sampson and Reveille than between him and any other female Convicts. Witness cannot say if it has a bad effect on the discipline of the Prison.”

But the worst feature in Mrs. Chase’s deposition, when before the Inspectors, is not in what she there says, but what she omits to tell. One or two passages of her evidence before us, clear away every vestige on which a charge could be founded. She says:— “A little before ten in the evening, Dr. Sampson came to see Reveille again; he rang the bell of the women’s apartment, and witness got up and let him in. When he came in, Dr. Sampson said, “how is Reveille?” Witness said, she thought she was better. Witness then walked on before the Surgeon to the small ward where Reveille was; the Surgeon went up to Reveille’s bed, and witness stood close beside him the whole time he remained; the bed stood in the open ward, in front of, and close to the doors of three cells, but there were no women in them; in the three next cells there were Convicts, and in some or all of the six cells of the upper range; these Convicts must have heard all that passed, and some of them could see all that occurred. The Doctor said when he entered, “Well, you see, I have come all this way from town to see you again.” Reveille said, “What a nice gentleman you are—you are so kind!”

“When the Doctor had got through, he left the ward, and witness went with him and locked the door. Dr. Sampson walked on while witness was locking the door, and when she came up to him at the foot of the stair, he was standing speaking to Mrs. Pollard. Witness thinks Dr. Sampson was not longer than five minutes in the ward where Reveille was, altogether.”

“Dr. Yates has been the Surgeon of the Penitentiary for the last few months; Reveille is as unreasonable with him as she was with Dr. Sampson, but he does not humor her as Dr. Sampson did—he gives her the go-bye. Reveille is still treated as an insane person; she has a separate room and a nurse to wait on her, and has indulgencies which other Convicts have not.”

“Witness smelt wine on Dr. Sampson on the night in question; thought the Doctor had been out, and probably had taken an extra glass of wine; he talked well enough, and knew what he was about well enough. Witness thinks that if she had been sick that night and Dr. Sampson had prescribed for her, and made up the medicine for her, she would have no hesitation in taking the medicine.”

“Dr. Sampson was very indulgent to Reveille at all times. Witness and Mrs. Pollard were instructed by him to humour Reveille in all her whims; expected that the Surgeon did so as a part of his treatment of the case, as a case of insanity.”

Appendix  
(B.B.B.B.B.)

30th May.

The facts presented in this case seem to be as follows:—

A gentleman of high standing in society, of unimpeachable character, and of eminence in his profession, attends an insane patient late in the evening; he is met at the Prison door by the Assistant-matron, who conducts him to the bedside of his patient, remains close beside him during the whole of his visit, sees his every action, hears every word he utters, and, *five minutes in all having elapsed*, she conducts him out of the female ward. The lunatic exhibits some of the common freaks of her distemper; the Surgeon humours her in her mood; and on this a mysterious charge of "undue familiarity with a female Convict" is founded against him; a grave investigation into the circumstances is held; the conduct of the Surgeon is reported to Your Excellency; and a *fama* is spread far and wide against him, which might have been ruinous to his social peace and professional standing. The manner in which the whole proceedings are conducted, is also remarkable. A weak woman is induced to bring the matter up—not in an open manner against Dr. Sampson, but by a grave report against the lunatic for improper conduct towards the Surgeon—the Inspectors are then solemnly convened to investigate the freak of the mad woman, and in the course of it, the misconduct of Dr. Sampson comes to light "quite incidentally." When the Assistant-Matron tells her story, the Inspectors "form no opinion" as to whether her statements, if true, are sufficient to justify them in placing Dr. Sampson on trial, but they carefully minute the grave charge on the public records of the Prison (to which many persons have access), and thus ensure for it public notoriety.

The Inspectors refrain from calling directly on Dr. Sampson to defend himself, but they feel that they would not be "acting fairly" towards him did they not make him "aware of what had been stated;" and they accordingly resolve, "in justice to that officer, to acquaint him therewith, in case he may desire to make any statement regarding it, or to call for an investigation." Dr. Sampson neither desires to make any statement, nor calls for an investigation, but asks that two documents may be forwarded to Your Excellency. The Inspectors got his letter and reply to it, detailing with much precision the steps they have taken, and carefully impressing on the Surgeon how entirely they have been actuated by a regard to his "character and position" in what they have done; but the conclusion they arrive at is remarkable:—"As you have requested," they say, "that the matter (it was not the matter, but two specified papers Dr. Sampson requested) may be brought under the notice of the Governor General, the Board feel that you have a right to expect from them a full inquiry into the matter;" and they desire his attendance on 3rd March, "for the purpose of putting any questions or offering any observations you may consider necessary." Dr. Sampson attended, and declined "putting any questions, or offering any observations," but protested against any inquiry pending his appeal to Your Excellency. The Board considered Dr. Sampson's letter, and resolved, that notwithstanding his protest, "as the Surgeon had previously requested in his letter of the 26th ultimo, that the papers relating to the matter in question should be forwarded to the Governor General with as little delay as possible, the Board proceeded to take the examination, on oath, of the Matron and Assistant-Matron." The evidence of the Matrons is taken: Mrs. Pollard's being almost entirely as to what Mrs. Chase had told her, although she herself had been just examined. Mr. Hopkirk, in his examination before us, swears that this was "not a

Appendix  
(B.B.B.B.B.)

30th May.

trial of Dr. Sampson," and throughout he endeavours to maintain the same non-committal position as is held in the correspondence. But the Minute of the Inspectors of 3rd March says, the Board "specially met this day to take into consideration the verbal statements made on the 24th ultimo, by the Assistant-Matron in regard to the report on the misconduct of the Convict Elizabeth C. Reveille, so far as they are applicable to the Surgeon;" and the formal depositions, taken by the Board and signed by the President, are entitled "Copy of the evidence taken relative to the Assistant-Matron's allegation of undue familiarity of the Surgeon of the Provincial Penitentiary towards the Convict E. C. Reveille." The evidence, such as it is, however, was taken by the Inspectors, but it appears that when finished they are unable or unwilling to tell wherein it affects Dr. Sampson. Mr. Hopkirk gives the following evidence:—

Q. Is there anything affecting Dr. Sampson, as an officer of the Penitentiary, in the testimony of Mrs. Chase?

A. Yes; to a certain extent.

Q. What improper act does she state him to have been guilty of?

A. Refers to the whole testimony.

Q. Of what acts on the part of Dr. Sampson did the alleged "undue familiarity" consist?

A. The testimony is there, and speaks for itself."

The Inspectors transmitted the evidence they had taken for Your Excellency's information, assuring the Provincial Secretary, however, that they "have thought it advisable, pending the appeal to His Excellency, to come to no conclusion on the matter."

We cannot but view the proceedings of the Inspectors in this matter as highly improper; and this opinion is greatly strengthened by a knowledge of the differences which had existed for some months previous between the Warden and Inspectors, and the Surgeon. Dr. Sampson had brought on the investigation into the conduct of the Warden's son; he was urging a general investigation of the affairs of the Prison on the Government; he had appealed from the decision of the Inspectors, and was at issue with them on several points, among which was the sanity or insanity of the very subject of the alleged undue familiarity. The evidence and documents to which we have referred in this case were elicited in a preliminary examination into the facts. We came to the decision that Dr. Sampson was not chargeable with the slightest impropriety but had been deeply wronged in the matter, and we did not call on him for any defence.

##### 5. ATTENDING SICK CONVICTS WHEN NOT IN A PROPER STATE AS REGARDED HIS SOBRIETY.

This was one of the two charges which the Inspectors brought under our notice, but on which they declined to appear as complainants. When Mr. Hopkirk closed his case on the three charges preferred by the Board against the Surgeon, the following Minute was made:—"In reference to the second of the two above named charges, Mr. Hopkirk stated in answer to the Commissioners, that the witnesses in that matter, named to the Board, were Thomas Smith, E. Chase, Mary Pollard, the Warden, and Mrs. H. Smith, sen.; but that the Board had not taken up the matter."

Appendix  
(B.B.B.B.B.)  
30th May.

We conceived it proper to make a preliminary inquiry into the truth of the allegation. The following is the evidence :—

Thomas Smith—By F. W. Smith :—

“Has been sent for Dr. Sampson to attend Convicts at unusual hours; after the Prison was shut up: has taken him to the prison. Has brought Dr. Sampson twice to the Prison when he was intoxicated; he was not in a fit state to visit sick persons; had not to assist him out of the carriage; he fell down once.”

By Dr. Sampson :—

“Cannot recollect the date when these two instances of intoxication occurred; cannot recollect the year; did not help Dr. Sampson into the carriage; gave this same evidence before to the Inspectors; gave it voluntarily on the trial of F. W. Smith.”

By Commissioners :—

“Recollects only of Dr. Sampson being drunk twice; the first time he was not so drunk as he was the second time. There was a note sent by the Warden to the Surgeon that night; cannot say what hour it was, whether eight at night, or twelve, or four in the morning; it was in the fall of the year; the girl opened the door of the Doctor's house; sent in the Warden's note by the girl and waited till Surgeon came; cannot say how long it was before he came; when they got back to the Gate, witness drove through into the yard; does not know what Guard was at the gate; let the Doctor out opposite the North Wing. It is usual for the Surgeon to see the Warden when he goes to the Prison during the night; does not know if he saw him that night. Waited till Dr. Sampson was ready and then drove him home again; never mentioned the circumstance to any one until he mentioned it to the Inspectors. Witness cannot tell any more about the second instance than he can about the first; cannot say what time of the year it was; both times the vehicle witness went in was the buggy. Has been four years Messenger; during these four years witness has always gone for the Doctor, when he was wanted at night; sometimes he has been wanted very often, at others not so frequently. Dr. Sampson has been often unfit to attend the sick, but not so bad as on these two occasions; cannot say how often; would not swear that he had seen Dr. Sampson six times the worse of liquor; thinks he could swear to four times.”

Samuel Pegg—By Dr. Sampson :—

(Witness was Hospital-Assistant for two years previous to October, 1847.) “Witness slept in the Hospital during the two years he was employed in it; always attended upon Dr. Sampson when he came through the night, during the two years; never saw Dr. Sampson the worse of liquor, at any time, in the Penitentiary; never heard of such a thing.”

Mrs. Chase—By Commissioners :—

“Witness smelt wine on Dr. Sampson on the night in question;\* thought the Doctor had been out and probably had taken an extra glass of wine; he talked well enough, and knew what he was about well enough. Witness thinks that if she had been sick that night, and Dr. Sampson had prescribed for her and made up medicine for her, she would have

\* The 18th February—on which the Reveille matter occurred.

had no hesitation in taking the medicine. Never, at any other time, discovered on the Surgeon any appearance that he had been drinking wine or other liquor.”

Mrs. Pollard—By Commissioners :—

“The Doctor was not drunk when visiting the Prison on the night in question; he was merry, as if he had taken an extra glass of wine; he talked quite coherently; he walked quite steady. Witness never would have discovered anything unusual about the Doctor that night, but for the merry mood he was in, and from smelling wine on him; thinks the Doctor was not exactly fit to administer medicine at the moment.”

\* \* \* \* \*

“Witness has seen Dr. Sampson the worse of liquor on other nights; has seen him several times as bad as he was that night, probably not less than ten times; should think it was ten; never saw him in this condition in the day time; never saw him in that state after the 18th February. Witness cannot say how often Dr. Sampson came to the Prison at night from the 1st May, 1847, to 18th February, 1848; he did not come often; sometimes a month would elapse without his being there at night. Mrs. Chase always slept in the women's apartments; the Surgeon could not have been in the Prison during the night without Mrs. Chase knowing it. Witness sleeps in the Prison every second night; does not see the Surgeon when he comes on the other nights, as she sleeps at home. Dr. Sampson was not the worse of liquor every time he came to the women's apartments at night; witness thinks that on the ten times she has seen Dr. Sampson worse of liquor he was in an unfit state to administer medicine; judged that he was so from his colour, and from smelling drink on him; cannot particularize any night on which he was in this condition, except the one in question; never heard him noisy on any other night.”

Henry Smith, Esq., (Warden) having been called before us, made the following statement on oath :—  
“One night, about three years ago, Dr. Sampson came to the Penitentiary about ten o'clock to see a Convict; when he had seen his patient he came to witness's apartments, and witness found he was much the worse of liquor; he cursed and swore, and said he would have nothing more to do with the Penitentiary. Had witness seen the Doctor before he went to the patient, he would have dissuaded him from doing so. Next morning Dr. Sampson called on witness, and said he presumed witness would report him for the affair of the previous night; and witness said he would not. Dr. Sampson said, the fact was, he had some friends, or a friend, to dine with him, and he had taken a glass too much; it was in the fall of the year. On the occasion of Frank Smith's trial, the Messenger, Thomas Smith, blurted out before the Inspectors, that he had brought the Surgeon several times to the Penitentiary when he (the Surgeon) was the worse for liquor; out of this circumstance the whole matter arose; witness had not, until then, mentioned the matter to any one.”

By Commissioners :—

“Dr. Sampson does not come to the Penitentiary at night often; perhaps five or six times in a year; speaks only of the times Dr. Sampson is specially sent for; he comes sometimes at night without being sent for. Witness keeps the keys of the great gate after 9, P. M., and no one can enter or leave the

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Prison after that hour without witness knowing of it; only recollects of giving the keys to admit Dr. Sampson on one occasion when the Surgeon was not sent for. Probably on one-half of the times Dr. Sampson has come to the Prison at night, witness has seen him. Never saw Dr. Sampson the worse of liquor at the Penitentiary on any other occasion than the one he has named."

Elizabeth Smith—By Commissioners:—

"Is wife of the Warden of the Penitentiary. Recollects seeing Dr. Sampson much the worse of liquor on two occasions; the second occasion was when her husband was present, about three years ago this winter; the first occasion was when the Seat of Government was in Kingston; Dr. Sampson came to see Convict Coote on that occasion. Both occurrences were after 10 at night.

"Witness always knows when Dr. Sampson visits the Prison at night; he does not come often at night, perhaps six or eight times in the course of a year.

"On the two nights in question, Dr. Sampson was very violent, and swore about the Penitentiary. Dr. Sampson was witness's family Physician for twenty-six years; he has not been so for the last year. For the last thirteen years has seen Dr. Sampson almost daily; never saw him the worse of liquor in the day-time in her life; never saw him in that state at night, except these two cases referred to. Witness thought nothing of these two occurrences, having come to her knowledge in so long a space."

Thomas W. Robinson, Esq.—By Commissioners:—

"Has been on terms of intimacy with Dr. Sampson since 1826." \* \* \* "Dr. Sampson is not a man of intemperate habits; he takes a glass of wine, like other men, in moderation after dinner, but never touches liquor before dinner. Witness has never seen him in an unfit state to do business; never knew him to visit a patient in an unfit state to administer to the sick—feels confident that Dr. Sampson would not do so."

The foregoing is all the evidence on this charge, and we only introduce it in justice to Dr. Sampson. We find nothing in it to affect the character of the Surgeon in the slightest degree, and we did not call on him for any defence.

The evidence of Mrs. Pollard, on this case, is far from satisfactory. She swore before the Inspectors that "he was very much the worse of liquor" on the night of the 18th February, and "not in a fit state to visit" as a Surgeon. Before us, she testified that she "would never have discovered anything unusual about the Doctor that night, but for the merry mood he was in, and from smelling wine on him;" he "was merry, as if he had taken an extra glass of wine; he talked quite coherently." Afterwards she testifies that she "has seen him several times, as bad as he was that night; probably not less than ten times; should think it was ten; never saw him in

Appendix  
(B.B.B.B.B.)  
30th May.

this condition in the day time; never saw him in that state after 18th February." The Warden, however, testifies that the Surgeon comes to the Penitentiary at night, "perhaps five or six times in a year," and that he could not get admission without his (the Warden's) knowledge. Mrs. Smith says, he comes "perhaps six or eight times in the course of a year." Mrs. Pollard came to the Penitentiary in May, 1847, from which date to 18th February, 1848, there were nine and a half months; the Surgeon's visits in that space would at most be six or seven to all the prisoners, male and female—the females not being a tithe of the whole number—and as Mrs. Pollard was absent from the Prison every second night, it is impossible to conceive how her statement could be true.

We have thus laid before Your Excellency the result of our inquiries into the case of Dr. Sampson; and, in our opinion, he stands fully acquitted of every charge preferred against him. We are satisfied that the Surgeon has efficiently performed his duty as an officer of the Prison, and that the Convicts have been treated by him with humanity and attention. The following evidence of Dr. Sampson's standing in his profession was given before us:

Thomas W. Robinson, Esq., M. D.:—"Has been on intimate terms with Dr. Sampson since 1826. As a Physician, witness believes Dr. Sampson stands as high as any medical man in the country; he enjoys a very extensive practice in the City and neighbourhood of Kingston."

John Stewart, Esq., M. D.:—"Has known Dr. Sampson for the last seven years. Dr. Sampson stands at the head of the Profession in the City of Kingston; he has a very extensive practice."

Horatio Yates, Esq., M. D.:—"Has known Dr. Sampson for fifteen years, was apprentice to him. He is considered the leading Physician of Kingston and neighbourhood. Dr. Sampson has a very good practice."

#### FINANCIAL POSITION OF THE PENITENTIARY.

Having laid before Your Excellency the result of our inquiries into the conduct of the Officers of the Penitentiary, and shown, incidentally, the manner in which the different departments have been administered; we now propose to bring under the notice of Your Excellency the general Financial Results, which the affairs of the Penitentiary exhibit.

The following table shows the money received into the Penitentiary Treasury, and disbursed for the support of the prisoners, and in the erection of buildings:—

Appendix  
(B.B.B.B.B.)

CASH RECEIVED FROM

Appendix  
(B.B.B.B.B.)

30th May.

30th May.

	Provincial Government.			Military Chest.			Labour and Materials.			Sundries.			Total.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Building Commissioners .....	12500	0	0										12500	0	0
1835.....	2023	16	6							27	2	3	2050	18	9
1836.....	2160	0	0				81	5	1	32	12	2	2273	17	3
1837.....	8840	0	0				304	3	3	60	12	4	9204	15	7
1838.....	5000	0	0				137	7	9	65	0	0	5202	7	9
1839.....	6000	0	0				1271	8	2	87	7	0	7358	15	2
1840.....	6000	0	0				1100	16	0	166	19	0	7267	15	0
1841.....	3800	0	0				1721	13	4	44	19	8	5566	13	0
1842.....	8771	0	0	7	12	0	1335	12	11	7	17	6	10122	2	5
1843.....	7025	12	7	416	16	1	1429	4	2	6	15	7	8878	8	5
1844.....	7166	13	5	299	3	11	807	14	6	46	10	3	8320	2	1
1845.....	15156	4	5	602	11	1	938	8	2	31	3	9	16728	7	5
1846.....	15078	10	9	540	15	8	633	18	5	61	18	5	16315	3	3
1847.....	13853	13	4	479	14	6	598	10	4	66	6	9	14998	4	11
1848.....	15012	1	8	417	9	11	871	10	7	135	19	6	16437	1	8
	£128387	12	8	2764	3	2	11231	12	8	841	4	2	149224	12	8

Which has been expended in the following manner:—

	£	s.	d.
Buildings.....	41169	10	1
Salaries.....	41378	15	9
Provisions.....	24806	5	5
Clothing and Bedding.....	12904	1	2
Fuel.....	6622	9	7
Stable.....	4363	12	4
Oil and Candles.....	2003	13	10
Hospital.....	1656	8	3
Furniture and Tools.....	2210	9	2
Contingencies.....	1203	2	3
Rope-work.....	1954	12	8
Paid to discharged Convicts.....	1251	10	11
Error.....	0	1	8
Cash on hand, 30th September, 1848.....	1699	19	7
	£143224	12	8

In the 13 years and 4 months over which these tables extend, there has been expended for Food, Clothing and Bedding of the Convicts, £37,710 6s. 7d.: the outstanding debt at the close of the statement being about equal to the value of the stock on hand. From the manner in which the books have been kept, it is impossible to state the exact sum which the daily support of the prisoners has cost in each year, but on an average of the whole 13 years it appears that the expense of providing each Convict with Food, Clothing and Bedding, has been annually, £11 6s. 7½d. or 7½d. per day.

In addition to this, during the same period, the general expenses of management, including Salaries, Hospitals, &c., have been £56,116 0s. 7d., being £16 17s. 2d. per annum for each Convict, or 11d. currency per day. The current expenses of the Penitentiary have therefore been 1s. 6½d. currency per day, for each Convict.

The number of days' labour obtained from the Convicts since the opening of the Prison, the Warden has returned as follows:—

RETURN OF CONVICT LABOUR.—NUMBER OF DAYS.

	Shoemakers.	Stone Cutters, Masons, &c.	Blacksmiths.	Carpenters.	Quarry Men.	Labourers.	Scamstresses.	Tailors.	Cooks.	Work on hire.	TOTAL.
1835.....	21	318	133	179	53	579	69	118	129	.....	1599
1836.....	825	3533	1089	1358	1161	6939	857	948	1402	.....	18612
1837.....	1234	5761	3078	3484	1211	13323	2161	946	730	.....	31928
1838.....	920	9743	3085	4818	1741	16187	2353	1166	1040	.....	42820
1839.....	758	6392	2214	4562	1524	19463	2619	1040	1040	.....	46409
1840.....	895	5769	2611	5123	1776	16225	2444	1288	1044	.....	44885
1841.....	1167	6317	2421	4022	1922	19430	4418	1464	1042	.....	48622
1842.....	1070	7374	3244	3446	1827	17686	3304	1693	677	.....	45853
1843.....	2060	13433	3695	4711	3142	36674	2574	2474	678	.....	73310
1844.....	2318	25724	5951	6678	2412	44924	4325	3463	679	.....	99571
1845.....	4137	36395	7189	6925	2817	55749	7343	4602	677	.....	127402
1846.....	5133	40493	7804	8861	2907	85007	8579	5029	677	.....	165924
1847.....	4360	40217	7576	9328	1729	52280	8207	4445	677	.....	130206
1848 * .....										.....	141520
											1018661

\* The Returns for 1848 have not yet been made up, but we take the labour at the average of the previous four years.

Appendix  
(B.B.B.B.B.)  
30th May.

It appears, by this Return, that 1,018,661 days labour have been obtained from the Convicts since the Prison was opened; only 42,000 days of this large amount have been applied to productive work, the whole of the remainder having been employed on the Buildings, or in the unproductive occupations of

the Penitentiary. The Warden makes a Return to Government annually of the value of the work performed in the Penitentiary during the past year. From these Returns we make up the following Table :—

Appendix  
(B.B.B.B.B.)  
30th May.

RETURN—SHEWING THE VALUE OF CONVICT LABOUR.

	Prison Work.			Productive Work.			Total.		
	£	s.	d.	£	s.	d.	£	s.	d.
1835.....	234	13	0	.....	.....	.....	234	13	0
1836.....	2622	13	0	185	15	5	2808	8	5
1837.....	4285	12	8	263	1	8	4548	14	4
1838.....	5737	8	0	214	17	1	5952	5	1
1839.....	5012	15	2	1086	19	0	6099	14	2
1840.....	4522	10	7	1328	12	0	5851	2	7
1841.....	5437	7	5	556	13	6	5994	0	11
1842.....	5931	13	9	527	8	10	6459	2	7
1843.....	9531	13	7	496	12	7	10028	6	2
1844.....	14287	6	4	470	14	9	14758	1	1
1845.....	17725	13	2	352	13	9	18078	6	11
1846.....	22180	14	7	321	4	11	22501	19	6
1847.....	18702	14	0	313	9	4	19016	3	4
1848 *.....	.....	.....	.....	.....	.....	.....	19737	3	1
							£142068	1	2

\* Average of previous years.

We have shown that up to 30th September, 1848, the Provincial Government had advanced £128,387 12s. 8d. towards the maintenance of the Penitentiary; and since that date, £6,250 has been further advanced, which paid off the debts of the Institution up to 31st Dec. 1848, making in all £134,637 12 8

There was also received from the Military Chest, for Military Convicts, £2,764 3s. 2d.; and since then, from the same source, £127 11s. 1d.....Total 2,891 14 3  
Received from labor, in cash..... 6,118 2 10  
Received from Sundries, say..... 500 0 0

Total Cash assistance towards the erection and maintenance of the Penitentiary .....£144,147 9 9

Of this sum, £93,826 7s. 2d. had been paid up to 30th September, 1848, for the current expenses of the Institution, and about £4,000 has been paid since. The balance, or £46,321 2s. 7d., and Convict labour to the amount of £135,949 18s. 4d.—total, £182,271 0s. 11d., have to be accounted for.

To meet this large sum, there are the Prison Lot and Buildings, the stock of tools, materials, furniture, &c., and the debts due to the Institution. The Stock was valued in Oct. 1847, at £11,520 10 11

The Debts due to the Prison were stated then at..... 427 12 10  
The Buildings were valued by Messrs. Horsey & Cull, as at 1st January, 1848, to be worth. 113,998 18 9  
And to this must be added the value of the work done in 1848, say... 15,000 0 0

Total assets.....£140,947 2 6

It is evident that the pecuniary result from the operations of the Prison, depends on the value of the buildings. Taking Mr. Warden Smith's own estimate of the value of the Convict labor, we have shown that there should be property on hand to the amount of £182,271 0s. 11d.; but the valuation of

Messrs. Horsey & Cull, made at the instance of the Warden and Inspectors, shows only £140,947 2s. 6d. If the data were correct, therefore, there would be a short-coming of £41,323 18s. 5d.

But we are fully convinced that the ground-work on which this calculation is founded, is far from correct. We are satisfied that the valuation put on the Convict labor by the Warden has been altogether imaginary, and that the estimate of Messrs. Horsey & Cull is far above the true value of the property.

Mr. Smith's annual returns to Government represent the Convicts to have produced 2s. 9d. per day, for each prisoner who has been at work since the Institution was opened—a rate almost double the returns of the best conducted Penitentiaries in the United States—and the returns of the Warden bear internal evidence of the incorrect manner in which they have been made up. For instance, in 1846, he returns 165,924 as the number of days' labor obtained from the Convicts during that year; but had every man, woman, and child in the prison been at work every day in the year, they could only have made 148,969 days among them.

As to Messrs. Horsey & Cull's estimate of the value of the buildings, we are convinced it is equally erroneous. The original estimate of the buildings, made by Messrs. Powers & Mills, was £56,850; and as the plan has not been very materially altered, we were at a loss to understand how so large a valuation could be put upon them, while still far from completed. We accordingly applied to Mr. Warden Smith for the particulars of Messrs. Horsey & Cull's estimate, and were furnished with the following document :—

PROVINCIAL PENITENTIARY.

Report of a Survey and Valuation of the Excavations, Embankments, Drains, Sewers, Cut Stone, Masonry, Plastering, Brickwork, Carpenter's work, Flagging, Ironwork including iron-gratings, iron-doors, clamps, and all other ironwork, with every other description of work



Appendix  
(B. B. B. B.)  
30th May.

done in the Provincial Penitentiary, in the Midland District, which is at present ascertainable, up to 31st of December, 1847. Made by order of the Inspectors, by James Cull, Civil Engineer, and Edward Horsey, Architect, &c. :-

EXCAVATION.

Excavation of rock and earth at the north front, east front, within the walled gardens; for drains outside the Prison wall, drains inside the Prison wall, at the south-east corner, in the north road, inside the yard, foundations of stable, dungpit, for the towers, lodges, boundary walls, the four wings, with their foundations; do. of work-shops, garden walls, &c. &c. .... £

EMBANKMENT.

Outside the wall, on the south front; do. do. on the west front; do. do. in formation of wharfs; do. in the gardens; together with all other embankments, &c. &c. .... 18,339 17 11

In obtaining an admeasurement of the rock-excitation, great pains have been taken to ascertain the character of the original site, not only by making inquiries of persons who were locally acquainted with it, but by taking profiles of the adjoining land, in which no change has been made, and also by making sections for ascertaining the same.

Some of these excavations have been made in solid rock, at a depth exceeding 15 feet.

The valuers have had considerable difficulty in ascertaining the relative proportions between the earth and rock excavations; they, however, have satisfied themselves that their estimate is below rather than above the actual quantity of rock.

SEWERS, DRAINS, AND CESS-POOLS.

Drain leading from north wing, including cess-pool, to the river; do. from the women's apartment, with cess-pool; do. from the cellar; do. running south-west; do. from the smith's forge; main new sewer leading from the new hospital, east wing, &c., and which has been excavated 23 feet deep. .... 2,141 5 0

CUT-STONE.

In belt-courses, window-sills, upstarts, cornices, copings, bases to pilasters, door-sills, chimneys, column-blocks, frosted do., lintels, angles of cells, arch-stones, cut gutters, steps, anchor-stones, ventilators, safe in Warden's office; in all the various fronts of the respective buildings, with a vast variety of items in different parts of the buildings, &c., in arch-stones, fire-places, date-stones, bulls-eyes, impost-stones, arch'd pannel-stones, corbell-stones, pilasters, stove-pipe stones, bases, rustic quoins, frontispieces, &c. &c. 10,839 18 3

Carried forward.....£37,321 1 2

Brought forward.....£37,321 1 2

HEAVY COURSE WORK.

In the various wings of the respective buildings, in the wharfs, bridges over which the road passes to Portsmouth, &c. &c. .... 11,153 13 6

AXE-STONE WORK.

In the four wings, chimneys, gables, garden walls, &c. &c. .... 3,584 4 10

RUBBLE MASONRY.

In the four wings, foundations of cells, cess-pools, cellars, centre walls, foundations, boundary walls, &c. &c. 21,785 13 11

LEAD.

In cisterns, conductors, flashings, in the lodges, carpenter's shops, fixing anchors, cramps, hooks and hinges, gutters to iron ties, bolts, hold-fasts, &c. &c. .... 956 10 11

CARPENTER'S AND JOINER'S WORK.

In roofs of the buildings, with new work-shops, landings of the various stairs, with the stairs, window-sashes throughout the building, including the glazing and painting, &c., flooring and joisting, lintels and batten-doors, steps to cellar, heavy doors, pannel doors, linings, with hinges, fastenings, &c., rough board partitions, skirting of various depths and dimensions, grooved and tongued partitions, pulpit and stairs, hatchways, chimney-pieces, cupboards, fence round women's yard, temporary buildings in do., women's cells, with steps, landing, &c., staircases, with railing, glass doors, deafening to floors, shelving to store-rooms, columns with entablature, architraves, office partitions, with closet doors and frames, bracketing, and all other carpenter's work throughout, &c. &c. .... 11,432 16 6

IRONWORK.

In iron-gratings inside and outside, iron-doors, wall-hooks and eyes, round newels in the corridors, wrought iron anchors, brackets, cast-iron anchors, hand-railing, tie-irons to cells, hinges, locks, door-levers, with lead for fastenings, cramps to coping, scrapers, knockers, hold-fasts, bolts, &c. &c. .... 16,839 4 11

PLASTERING.

In the various wings and passages, dining hall, store-rooms, Warden's apartments, offices, including all the cornices and whitewashings, &c. &c. .... 3,235 18 6

FLAGGING.

In bouchard flagging, in south wing; do. do. east wing; do. do. west wing, do. do. north wing; do. do.

Carried forward.....£106,309 4 3

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Brought forward.....	£106,309	4	3
new work-shops, as well as through- out the building.....	3,820	10	6
<b>BRICK-WORK.</b>			
In passages between cells, division- walls, haunches, partition-arches, do. walls, in Warden's apartments, in ovens, fire-places, chimneys, and all other brick-work, &c.....	3,859	4	0
Total.....	£113,998	18	9

We have given the foregoing valuation our best and most patient investigation, and shall be prepared if necessity requires, to substantiate every item. The principle on which we have estimated both the quantities and the prices, has been that on which we should have acted, had we been employed between two private individuals. We are aware that in case the work had been done by contract, the contractor must have added a considerable per centage, as a sett off for detentions and interruptions, which would have been inevitable from the regulations for the safe custody of the prisoners; we have made no addition to the value of the work on this score.

We think it right to say, that in addition to those now standing, there must, of necessity, have been a large expenditure in other temporary buildings, fences, and means adopted to prevent the escape of the prisoners, which do not now exist, and on which we have set no value; and the same remark applies to the removal of rock and earth from one place to another, contingent on the necessity of keeping within the boundary walls; the temporary work-shops, &c. now standing we have not included in our valuation.

The workmanship throughout the Prison is of the most substantial nature, and cannot be excelled for strength and durability either on the continent of North America or in England.

We have not included, in the foregoing valuation, the following items, viz:—

The fixtures throughout the establishment.

The tools or working apparatus in the workshops.

The prepared stone or other material on the premises.

The temporary fences around the premises.

All which is respectfully submitted.

(Signed,) JAMES CULL,  
Civil Engineer, &c.  
EDWARD HORSEY,  
Builder, &c.

KINGSTON, March 18, 1848.

From this document we were unable to gather any proof of the correctness of the valuation put on the buildings; we therefore requested Mr. Horsey to furnish us with the measurements and prices of the different items of the estimate. Mr. Horsey informed us that he had the means of furnishing such a statement, but that it was not the custom of the profession to give anything more than Mr. Cull and he had submitted to the Inspectors; and he declined acceding to our request.

After some delay, we addressed the Warden on the subject, when the following correspondence ensued:—

Appendix  
(B.B.B.B.B.)  
30th May.

No. 1.

Copy.—Letter, Secretary to Warden.

“ Provincial Penitentiary  
“ Commission Room,  
“ Kingston, 6th January, 1849.

“ Sir,

“ Early in 1848, Messrs Cull and Horsey made a valuation of the Penitentiary buildings and works as at 31st December, 1847, by order of the Inspectors; the gross value of the different kinds of work was given, but no details. The Commissioners wish to obtain the original calculations on which such estimate was founded, showing the measurements of the different kinds of work in the several parts of the buildings, and the price put on the work and materials, and will thank you to apply to Mr. Horsey for the same.

“ I have the honor, &c.,

(Signed,) “ GEO. BROWN,  
“ Secretary.

“ D. Æ. M'DONELL, Esq.,  
“ Warden,  
“ Provincial Penitentiary.”

No. 2.

Copy.—Letter, Warden to Secretary.

“ Provincial Penitentiary,  
“ 8th January, 1849.

“ Sir,

“ I have to inform you that in compliance with the instructions of the Board of the 6th instant, I have communicated with Mr. Horsey (Master-Builder), and in reply beg leave to submit a copy of his communication of the 7th instant, for the information of the Commissioners.”

“ I have the honour to be, Sir,  
“ Your obedient  
“ Humble Servant,

(Signed,) “ D. Æ. M'DONELL,  
“ Warden, P. P.

“ To G. BROWN, Esq.,  
“ Secretary Commissioners,  
“ Provincial Penitentiary.”

No. 3.

Copy.—Letter, Mr. Horsey to Warden.

“ Kingston, January 7, 1849.

“ Sir,

“ I beg to acknowledge the receipt of your letter of yesterday's date, respecting the original calculations upon which the estimates of the work performed at the Penitentiary, from its commencement until the end of the year 1847, were founded.

“ The book, in which these calculations were entered in, unfortunately is lost or mislaid, as I have already informed the Commissioners.

“ I have, however, several rough memorandums which can be furnished, should the Commissioners

Appendix  
(B.B.B.B.B.)  
30th May.

require them, and which may be serviceable, as from these documents the statements in the book were copied.

" I remain, your obedient  
" Humble Servant,

(Signed,) " EDWD. HORSEY,  
Provincial Penit'y.

" D. Æ. M'DONELL, Esq.,  
" Warden,  
" Provincial Penitentiary."

No. 4.

Copy.—Letter, Secretary to Warden.

" Provincial Penitentiary  
" Commission Room,  
Kingston, 8th January, 1849.

" Sir,

" I am in receipt of your letter of this date, and have laid it before the Commissioners.

" I am desired to express to you the astonishment with which they have heard that Mr. Horsey asserts he has lost the original estimate of the Penitentiary buildings, and that he had already informed the Commissioners of that fact. Mr. Horsey, when before the Commissioners, informed them that he had full details of the calculations on which the estimate was founded, but that he declined to give them up for the use of the Commission.

" The Commissioners will, however, thank you to obtain from Mr. Horsey whatever documents, relating to the estimate, he has in his possession.

I remain, &c.,

(Signed,) " GEO. BROWN,  
" Secretary.

" D. Æ. M'DONELL, Esq.,  
" Warden,  
" Provincial Penitentiary.

No. 5.

Copy.—Letter, Warden to Secretary.

" Provincial Penitentiary,  
" January 9, 1849.

" Sir,

" The accompanying package has been forwarded to me by Mr. Horsey, which he states contains the calculations upon which were founded the estimate of work at the Penitentiary, to the end of the year 1847.

" I enclose, for your information, Mr. Horsey's communication on forwarding the package, which you can return.

" I have the honor to be, Sir,  
" Your obedient humble Servant,

(Signed,) " D. Æ. M'DONELL,  
" Warden, P. P.

" G. BROWN, Esq.,  
" Secretary,  
" Provincial Penit'y. Com."

No. 6.

Copy.—Letter, Mr. Horsey to Warden.

" Kingston, 8th January, 1849.

" Sir,

" I have received your letter of this date, in which you state the Commissioners have expressed their astonishment that the records of the calculations upon which the estimate of the works performed at the Penitentiary, from its commencement until the end of the year 1847, were founded, had been lost; and requesting that I should submit, for their information, such documents as were in my possession respecting the same. And I have, therefore, now sent the undermentioned relative thereto, viz. :—

10 Memorandum Books,  
13 Pieces of Paper,

Which I request may be returned to me as soon as possible after they have been examined. With regard to the astonishment expressed by the Commissioners relative to the loss of the Book into which the above documents were copied; I would remark that the Book was in my possession when I was first examined before the Commissioners, and that when I was examined afterwards, in the presence of Mr. Smith, I stated that a Book had been taken from my office, which was the one in question.

" I remain,  
" Yours respectfully,

(Signed,) " EDWD. HORSEY,  
" Master-Builder,  
" Provincial Penitentiary."

" To D. Æ. M'DONELL, Esq.,  
" Warden,  
" Provincial Penitentiary."

The memoranda sent us, we found to be utterly unintelligible, and when afterwards put into Mr. Horsey's own hands, he could furnish us with no information from them.

We conceived it requisite to obtain some explanation from Mr. Horsey as to the disappearance of the particulars of his estimate, and also such information as to the measurements and prices as he could furnish from personal knowledge. He was accordingly summoned before us on 27th February, when he gave the following evidence :—

" Is Architect and Master-builder of the Penitentiary. Certain memoranda, from which the estimate of the Penitentiary Buildings was compiled by Messrs. Cull and Horsey, are put into the hands of witness; also, the formal estimate submitted by them to the Inspectors.

Q. Are these the only documents you have to show the particulars of your estimate?

A. They are.

Q. Had you at any time other documents?

A. Yes.

Q. What were they?

A. The detailed particulars in a Book.

Q. What has become of that Book?

Appendix  
(B.B.B.B.B.)  
30th May.

## Appendix

(B.B.B.B.B.)

30th May.

A. Does not know. About a week or ten days after witness was first examined by the Commissioners on this subject, he brought the book from home to the Penitentiary, and had it in his office; it was stolen from the office about a week or ten days after it was brought to the Penitentiary.

Q. Do you suspect any one of having taken it?

A. Does not.

Q. Is there a lock and key on your office door?

A. There is; had the lock changed immediately after this circumstance.

Q. Your office is in the north wing, which is devoted exclusively to the Hospital, women's apartments, the office, and the Warden's private apartments, is it not?

A. Yes.

Q. Have any Convicts or Officers resort to that part of the Prison at night?

A. Cannot say.

Q. Can you say, from the Memoranda in your possession, how many yards of earth-excitation, removed to the distance of a quarter of a mile, there were in your estimate?

A. No.

Q. Can you say how much you estimated for such work, per yard?

A. Cannot charge his memory, and has no means of telling.

Q. Can you say at how much you valued rock-excitation, carried the same distance, and how much there was of such work?

A. Cannot tell; all the rock-excitation was estimated at so much a yard for quarrying, and so much for carrying outside the wall; the cost of carrying out all the stone got out of the site was charged for.

Q. Did your calculation of the masonry show the value of the rough stone, and of the labour put on it, or did it include both under one sum?

A. Sometimes in one way, and sometimes in the other.

Q. How did you do as to Rubble Masonry?

A. It was charged by the toise, including labour.

Q. At what rate did you value it?

A. Cannot exactly say, but thinks it was 45s. per toise, all over.

Q. How much was there of it?

A. Cannot say.

Q. Can you tell how many feet there were of Masonry, one side faced with picked coursing; or at what rate you estimated such work, per toise?

A. Cannot tell either the quantity or price.

Q. Can you of two-sided face with picked coursing?

A. Cannot tell.

Q. Can you Bouchard Ashlaer-work?

A. Does not recollect.

Q. Can you of Tooled Masonry?

A. Cannot tell.

Q. How much did you value plastering, at per yard, for two coats?

A. Cannot tell.

Q. Can you for three coats?

A. No.

Q. Can you tell how much axe-ashlaer work there was, and what price you rated it at?

A. No.

Q. Can you tell how much, per yard, you charged for excavating the Drain, and how many yards there were of such work?

A. No.

Q. Can you tell how much, per square, you valued the carpenter-work of the roofs at, or how many squares there were of such work?

A. No.

Q. Can you tell the quantity or price of sheeting, per square?

A. No.

Q. Can you of shingling, per square?

A. No.

Q. Can you of one and a half-inch flooring, best quality, per square?

A. No.

Q. Can you tell the weight of the gratings to to windows and doors of cells, or at what rate, per pound, you valued them?

A. Cannot tell either; but thinks the heavy iron work was taken, overhead, at from 6d. to 7½d. per pound.

Q. Can you tell the weight or price, you put on levers or cell-doors?

A. Cannot say.

Q. Can you tell the value you put on cell-locks?

A. No.

The unexplained disappearance of so many important documents is far from satisfactory.

Mr. Coverdale, who has been Architect and Master-Builder during nearly the whole of the Prison's existence, says—his "impression is that the present buildings might have been built for 30 per cent. less, by contract;" and from all we have seen and learned on the subject, we are satisfied that Mr. Coverdale still much over-values the work. On one item of Messrs. Horsey and Cull's Estimate—the Ironwork—there has evidently been a great over-

## Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B. B. B. B.)

30th May.

charge. There is a large quantity of heavy iron work in the Penitentiary, on which very little labour was required; this appears to have been estimated chiefly at 7½d. per pound, but none lower than 6d. per pound. We have ascertained that such work can be got by contract in Kingston, for 4d. to 4½d. per pound. The iron work, in the estimate of Messrs. Horsey and Cull, amounts to £16,839 4s. 11d., and consists chiefly of the articles we refer to.

We are satisfied that there has been great waste of labour in the Penitentiary; and that, from the mismanagement in this department, had the buildings been erected by contract, and the labour of the Convicts hired to Contractors for manufacturing purposes, many thousands of pounds would have been saved to the Province.

We have now laid before Your Excellency the result of our labours in the first branch of the Inquiry committed to us by Your Excellency, viz. :— The past management of the Penitentiary.

Appendix  
(B. B. B. B.)

30th May.

We are at present engaged preparing suggestions for the future conduct of the Institution, which we will have the honour, on an early day, to submit to Your Excellency as our final Report.

All which is respectfully submitted.

ADAM FERGUSSON,  
N. AMIOT,  
E. CARTWRIGHT THOMAS,  
W. BRISTOW,  
GEO. BROWN.

Commissioners.

Montreal, 16th March, 1849.

# SECOND REPORT

OF THE

## COMMISSIONERS

OF THE

### PENITENTIARY INQUIRY.

Provincial Penitentiary  
Commission Room,  
Montreal, 16th April, 1849.

Sir,

I have the honour to send herewith, the Second and Final Report of the Commissioners appointed to inquire into the Condition and Management of the Provincial Penitentiary.

I have the honour to be,  
Sir,  
Your most obedient Servant,

GEO. BROWN,  
Secretary.

Honourable JAMES LESLIE,  
Provincial Secretary.

To His Excellency JAMES, Earl of ELGIN and KINCARDINE, Knight of the most Ancient and most Noble Order of the Thistle, Governor General of British North America, and Captain General and Governor in Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, and Vice-Admiral of the same, &c. &c.

May it please Your Excellency :

With sincere pleasure, we turn from the topics which occupy our first report, to the far more agreeable subject of those improvements on our Penitentiary system which the increased light thrown, of late years, on the interesting question of prison discipline throughout the world, and the personal knowledge of the subject we have acquired, may enable us to suggest for Your Excellency's consideration.

The vast number of human beings annually committed to prison in every civilized country, and the reflection that there they may receive fresh lessons in vice or be led into the path of virtue—that, after a brief space, they are to be thrown back on their old habits, more deeply versed than before in the mysteries of crime, or returned to society with new feelings, industrious habits, and good resolutions for the future—must ever render the management of penal Institutions a study of deep importance for the Statesman as well as the Philanthropist.

The time has been when the Prison was regarded as a mere place of punishment, when fear was deemed the only passion by which prisoners could be swayed, and the law of terror the only rule of discipline; when a discharged Convict, no matter what his crime, was shunned as the leper, and driven by the cold, unpitiful cruelty of his fellow-beings to despair,

too often sought revenge by plunging into the lowest abyss of guilt. But the labours of the great and good men who have devoted their lives to the cause of the out-cast of society, have not been fruitless; public attention has been gradually awakened to the errors of the prevailing systems of prison discipline, and great ameliorations have been effected. The dungeon gave way to the well regulated apartment—healthful labour has replaced vicious idleness—and now the general aim is to find in what manner the security of the public, the prevention of crime, and the reformation of the criminal can be best obtained without the appearance of revenge. And when it is considered that a large proportion of the inmates of prisons are the victims of circumstances; that many are condemned for the first act of crime, and many more for the act of a moment of passion or intemperance; and that the great majority of prisoners have been born and reared in ignorance of everything but vice—how strong is the claim on a Christian people to see well that their prisons shall not become the moral tomb of those who enter them, but rather schools where the ignorant are enlightened and the repentant strengthened—in which expiation for crime is not lost sight of, but the permanent moral reform of the Convict is the chief aim.

In Canada, while the history of our prisons does not furnish the tales of horror, which those of Europe have so often unfolded, little progress has been made towards introducing the ameliorations and improvements which the wisdom and philanthropy of other countries have tested and approved. The juvenile offender is yet confined with the hoary-headed evildoer—we have as yet no asylum by which the child of vice and ignorance may be stopped and rescued on his first entry upon the path of crime—in our common gaols the erring youth and the hardened offender, the innocent and the guilty, those committed for trial and those actually convicted, are too often found herded together in one apartment. We have but one penal Institution of which the aim is reformation, and the little success which has as yet attended its operations, it has been our painful duty to disclose.

At a very early stage of our inquiries, we became convinced that the discipline and management of the Kingston Penitentiary were susceptible of much improvement; our attention was consequently earnestly turned towards the reformatory systems in operation in other countries, with a view to culling the best portions of each and adapting them to the condition and requirements of our own land. The subject opened up for our consideration numerous points of greater or less importance; and notwithstanding our access to many valuable works and reports on prison discipline, we found that our task could not be efficiently executed without personal inspection of some of the best penal institutions of the neighbouring States. We accordingly, despatched two members of the Commission, Messrs. Bristow and Brown, on

Appendix  
(B.B.B.B.B.)  
30th May.

6th November, to fulfil this mission. They were absent until the 10th December, having in the interval, visited the Penitentiaries of seven States.

### DEPUTATION TO THE UNITED STATES.

The deputation proceeded by Montreal and Lake Champlain to Albany, where they inspected the new Albany County Penitentiary. This Institution is under the superintendence of Mr. Pillsbury, who was for many years Warden of the Wethersfield Penitentiary; it is not yet in full operation. It is a very handsome building, occupying a fine site about two miles from the city, and is fitted up with many of the modern improvements in Prison building. It is to be conducted on the Auburn or Congregated system, and the labour department will be regulated as in the State Prisons. It is a great step in advance to have a County Gaol, built and conducted on so improved a scale.

From Albany, Messrs. Bristow and Brown proceeded to Boston, where they had the pleasure of meeting many gentlemen well known in connection with the subject of Prison discipline; and from whom they received much valuable information. The merits of the Congregate and Separate systems have been keenly discussed in Boston, both systems having advocates of much ability and influence. There is a Prison Discipline Society in the city, which has been in existence more than twenty years, and from which a report annually emanates, throwing much light on the subject. The Rev. Louis Dwight is the secretary of the society, and his whole time is devoted to the duties of his office. This society throws its weight in favour of the Congregate system, and the State Prison of Massachusetts is conducted on that principle; but there are many eminent citizens of the state in favour of the Separate system, and who long for its introduction into the Eastern States.

The Massachusetts Penitentiary is at Charlestown, about two miles from Boston; it is, as we have said, on the Congregate system, and has been under the superintendence of Frederick Robinson, Esq., since 1843. The spirit in which this gentleman entered on the duties of his office, may be gathered from the following extract taken from his first annual Report:—

“I came here with the most liberal views concerning the human race, with a heart of kindness towards all men. I have long looked upon a man as a man, whether he be the occupant of a Palace or a Prison, and in whatever situation he may be; entitled to human sympathy, kindness, and respect. He is my brother, wherever he may be, whatever of crime or wrong he may have been tempted to commit. The more he has erred and strayed from the path of right and virtue, the more he is to be pitied, and the louder is his call upon our commiseration, our sympathy for his sufferings, and our efforts for his reformation; for his restoration to rectitude, to usefulness and happiness. We are all liable to fall into temptation; if it were not so, we should not have all been taught to beseech our Father in Heaven to ‘lead us not into temptation.’ I felt my own frailties and imperfections, and was resolved to do by others as I should wish to be done by, if I were in their situation. It seemed to me, therefore, in entering upon the duties of this office, if I

“erred at all, I should prefer rather to err on the side of kindness, clemency, and humanity, than on that of severity of punishments.”

Appendix  
(B.B.B.B.B.)  
30th May.

Mr. Robinson's views may be treated as enthusiastic and impracticable; but there can be no doubt that he holds them honestly, and he has for six years consistently carried them out in his management of the Prison. Talking among the prisoners is forbidden, but silence is not enforced as in other Congregate Prisons, and smiling and looking at strangers are not forbidden. The Convicts are likewise allowed many privileges not afforded in other Penitentiaries; they are allowed to see their friends more frequently, and to receive letters and presents from them; they have a debating society on the Thursday evening of every second week; their hair is allowed to grow; they get a suit of clothes for use on Sundays, better than their week-day apparel; and they have instruments and music-books for the use of a choir at chapel, formed from among themselves. The great aim of the system is to raise the self-esteem of the Convict, to rouse his ambition, and to prove to him the beneficial results of morality and industry. Mr. Robinson is of opinion that his administration has been completely successful. He says, in his report for 1846:—“Order, industry, kind feelings, and consequently contentment and a good degree of happiness, have constantly existed among us. There have been no outbreaks, no resistance of authority, and there has been less of punishment, and less cause for the infliction of punishment, than ever heretofore. A desire of self-improvement among the Convicts has been excited, and prevailed in a remarkable degree.”

A personal inspection of the Charlestown Prison bears out all that Mr. Robinson alleges; the prisoners look cheerful, healthy and happy; and the kind treatment they receive must enable the officers to exercise a strong influence over them for good. There seems to be no doubt that the general principle of kindness, in which Mr. Robinson's system moves, is the only one which will ever obtain high success in the moral reformation of the criminal, for any Institution; but the question is, whether it can be carried to the extent now attempted. It must be admitted that the moment a prisoner enters the Charlestown Penitentiary, and the door is locked on him, punishment for the crime which brought him there, ceases, and but one object is kept in view; to reform him. The loss of his labor during the term of his imprisonment, and his restriction within the walls of the Prison, are the only inconveniences to which he must submit. The system does not contemplate deterring the evil-doer outside, from the commission of crime, or deterring the discharged Convict by a knowledge of the hardships of the penalty from a return to evil courses. Everything is done to make the prisoner comfortable and happy, and remove from his mind all feeling of degradation. The Convicts show the effect of this system in their personal appearance; and the freedom, almost boldness, of their gait and look; there is a strong contrast between them and the prisoners met elsewhere. While there is little appearance of sullenness or revengeful feeling, there is evidently no proper sense of their position; and one takes away the impression, that the majority of them are far better off, have more true enjoyment, and are happier than they are ever likely to be outside. To the great majority of Convicts, incarceration, for a limited period in the Charlestown Penitentiary, cannot be a heavy punishment; and the dread of return can exercise far less influence over their actions when discharged, than it does elsewhere.

Appendix  
(B. B. B. B. B.)  
30th May.

We cannot lose sight of the fact, moreover, that Massachusetts presents a field for the working of such a system hardly to be found elsewhere. Discharge a Convict with the views and feelings of the Charlestown prisoners, on a community dead to sympathy with him; who turn from him with fear and aversion; and the effect on his mind will evidently be much worse than if he had been trained to view his position to society differently. In the New England States, where the theory of equality is perhaps nearer realization than among any other people, where much light has been spread abroad on the subject of prison discipline, and where active benevolence is at work to find employment for the prisoner, and strengthen his resolutions the moment he is discharged; the ultra-humane system has every opportunity of being successfully worked. The Chaplain, in his report for 1846, used the following language:—

“It is matter of great satisfaction that a state of more liberal and kindly feeling is extending itself in our community, towards those who are discharged from the State Prison. These men, going out into the world with the loss of character, and labouring under manifold discouragements, need, in a peculiar manner, the sympathy and friendly aid of the Christian public. The hand of Christian kindness extended to them—a kind word to cheer and to encourage—a willingness to give them employment and a home—will do much to allay prejudice, to dissipate discouragement, and to cheer them onward in their efforts to elevate themselves to the standard of respectability and usefulness in the world. But if, on their discharge, the cold shoulder is turned to them, and they meet naught but the frowning look, the contemptuous sneer, the chilling repulse, when employment and patronage are respectfully and earnestly solicited; who that is acquainted with human nature need wonder, if discouraged and utterly disheartened, by such treatment and such repulses, they should recklessly return back to their former course and habits.”

From 1829 to 1846 inclusive, the Charlestown Penitentiary defrayed, by the Convict labour, the whole expenses of food, raiment, salaries, transportation of the prisoners from the County Gaols, and gave from \$3 to \$5, and a new suit of clothes to each Convict on his discharge,—receiving but \$2,999.64c. as assistance from the State Government in the whole twenty-seven years.

The Boston House of Correction was visited by the Deputation, and the inspection afforded them much pleasure and instruction. It is a city establishment for the confinement of vagrants, drunkards, and other minor offenders; the sentences are short, and the prisoners generally all of that hopelessly indolent character, of whom it is difficult to make much. Notwithstanding these obstacles, however, the Superintendent, Captain Robbins, has succeeded in raising the discipline to a high point. The Silent system is carried out with much strictness, but with very little punishment; and the industrial pursuits go on as systematically as in the best Penitentiaries. Order, comfort, and cleanliness pervade every department, and as a whole, it is a model establishment for prisons of its class. It is also remarkable for the economy of its management.

The Boston house of Reformation for Juveniles, proved to be well worthy of inspection. This Institution is divided into two departments; one for children, snatched from the purlieus of vice before the commission of crime, and the other for early transgressors. The establishment is under the manage-

ment of trustees, and the magistrates have the power to place children of the two classes designated, wholly under the control of the trustees until they attain twenty-one years of age: the treatment of both classes is the same, but the boys are kept totally apart. The system in operation combines strict discipline, with good education, invigorating relaxation and healthful labor. When the lads have attained a proper age, they are apprenticed to such occupations as their ability and disposition seem to point out as best adapted for them: the master is obliged to hold frequent communications with the Officers of the Prison, who can withdraw the apprentice at any time, for fault, either on his own part, or that of the master: when the apprentice reaches manhood, he becomes his own master. The Institution has been most successful; many valuable citizens now admitting the treatment there received, to be the origin of their own prosperity in life. Masters are readily found for the boys; and it is said that the greater number of the latter, turn out well.

In waging war with crime, there is no department so satisfactory, so encouraging, as the rescue and reformation of the young; and there it is the battle should be fought with the utmost warmth.

From Boston, Messrs. Bristow and Brown proceeded to Hartford; the Connecticut State Penitentiary, being situated at Wethersfield in the neighbourhood of that city. This prison is on the Congregate system; the number of prisoners is small, the average since 1828, being about 185; the labour department has been conducted probably with more success than in any other prison in the world; the profits to the State in the seventeen years, from 1828 to 1844, having amounted to \$93,146.48c. The outward discipline is superior to anything met with elsewhere, and is apparently as near perfection as possible, on the Auburn system. Silence is very strictly insisted on and maintained; the men relax not a moment from their work, and a vacant and inquisitive gaze can scarcely be detected by the visitor; the Martinet system could not be more perfectly carried out. And with all this, the authorities of the prison report that there is little or no punishment. The Warden reported, in 1846, as follows:—

“The number of punishments are a fraction over three per month, the last nine months of the year, and about four for the first three months, administered according to the offence and character of the offender; usually by solitary confinement of from six to twenty-four hours, or by inflicting from two to five stripes of the lash. No Convict has been kept in solitary confinement exceeding forty-eight hours at one time, during the year, and but two have been punished to the extent of the law, which forbids over ten stripes.”

In 1847, as the Deputation were informed by the Warden, the total punishments in the prison, were but 36, and in 1848, not so many. It is very difficult to understand how such results are effected without punishment. The men have an exceedingly depressed appearance, a grave weighted look very different from the free air of the Charlestown prisoners, or even the scared look, under the eye of the Keeper, met with, in laxly conducted Congregate prisons. We notice that in ten years, from 1835 to 1844, the deaths in Wethersfield were 45, while in Charlestown, with 50 per cent more prisoners, the number of deaths in ten years, from 1837 to 1846, was 35. While the deputation were at Wethersfield, one of the Keepers was in a dying state\* from the effect of a blow struck him with a hammer, by one

\* He is since dead.

Appendix  
(B. B. B. B. B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

of the Convicts, a few days previously. Mr. Johnston is the Warden of this prison, and Mr. Walker is his deputy.

The Hartford County Gaol, under the superintendence of Mr. Morgan, is a small but well-managed prison. The inmates are kept steadily at labour, and much care is taken with them. Mr. Morgan communicated some valuable information as to the management of gaols.

The Deputation went next to New York, where they enjoyed much agreeable intercourse with the officers of the New York Prison Association. This society was formed in 1844, by the exertions of John W. Edmonds, Esquire, Circuit Judge of the State of New York, and other benevolent individuals, for the following purposes:—

1. The amelioration of the condition of prisoners, whether detained for trial, or finally convicted, or as witnesses.
2. The improvement of prison discipline and the government of prisons, whether for cities, counties, or states.
3. The support and encouragement of reformed Convicts, after their discharge, by affording them the means of obtaining an honest livelihood, and sustaining them in their efforts at reform.

The society is empowered by law, "to establish a Work-house in the County of New York, and in their discretion to receive and take into the said work-house all such persons as shall be taken up and committed as vagrants or disorderly persons in said city, as the Court of General Sessions of the Peace, or the Court of Special Sessions, or the Court of Oyer and Terminer in the said County, or any Police Magistrate or the Commissioner of the Almshouse may deem proper objects; and shall have the same powers to govern the said persons, as are now by law conferred on the Keepers of the Bridewell or Penitentiary in said city."

The charter of the society also contains the following clause:—

"The said Executive Committee, by such Committees as they shall from time to time appoint, shall have power, and it shall be their duty to visit, inspect, and examine all the prisons in the State, and annually report to the Legislature their state and condition, and all such other things in regard to them as may enable the Legislature to perfect their government and discipline. And to enable them to execute the powers and perform the duties hereby granted and imposed, they shall possess all the powers and authority that by the twenty-fourth section of title first, chapter third, part fourth, of the revised Statutes are vested in the Inspectors of county prisons; and the duties of the Keepers of each prison that they may examine, shall be the same in relation to them as in the section aforesaid are imposed on the Keepers of such prisons in relation to the Inspectors thereof; provided, that no such examination or inspection of any prison shall be made until an order for that purpose, to be granted by the Chancellor of this State, or one of the Judges of the Supreme Court, or by a Vice-Chancellor or Circuit Judge, or by the first Judge of the county in which the prison to be examined shall be situate, shall first have been had and obtained; which order shall specify the name of the prison to be examined, the names of the persons, members of the said association,

by whom the examination is to be made, and the time within which the same must be concluded."

The society has been carried on with considerable energy, and, we doubt not, has effected much good.

Mount Pleasant State Prison was duly visited by the Deputation. It is situated near the village of Sing-Sing, on the Hudson River, 30 miles above New York. There are three State Penitentiaries in New York, all conducted on the Congregate system, viz., the Mount Pleasant, the Auburn, and the Clinton. There is a Head-keeper for each prison who has charge of the discipline; an Agent for each, who administers the business and finances; and three paid Inspectors who control the whole. These officers and all their subordinates, are swept out of office with every political change, and the constant removals have proved, and will continue to prove while the system exists, a complete bar to success. The political revolution occasionally throws up men well qualified to conduct a prison humanely and efficiently, but before their exertions have had time to operate, a new change in the political world, and a consequent change of management, undoes all the good effected. The labour of the Convicts is hired out to Contractors, and various branches of manufacture have been brought to great perfection. Many useful hints were obtained at Sing-Sing, as to the management of the Convict labour, and the best mode of working the Contract system. For the reasons already mentioned, it is to be presumed, the moral reform of the prisoners does not occupy that prominence here, which is desirable.

Corporal punishment was at one time inflicted to a frightful extent in this prison, but an inquiry was held and the parties removed. Notwithstanding this, a subsequent Head-keeper in his annual report, (1846) used the following language:—

"In administering the discipline of prisons, some kind of punishment has been found necessary, to coerce the inmates to the observance of healthful and necessary rules, and much solicitude has been felt to discover the best mode. Among all the modes yet devised, I am decidedly of opinion that flagellation with the cat is the most effectual, and, at the same time, least productive of permanent injury either to body or mind. This is the mode chiefly relied upon at this prison. Objections have been urged against this mode, but I believe that the only true ground of objection lies in its abuse, and applies with equal force to all other modes. At all events, it is an undeniable fact, that no system has been yet devised under which abuse and cruelty may not be practised. I am aware that much may be effected by moral suasion, and that kind admonitions and exhortations are all that in many cases may be necessary; but among so many as are here collected together, there must be some evil-disposed men who can be subdued and controlled only by corporal punishment. Prisons were instituted as places of punishment, and they should be so conducted as to effect three distinct objects: first, to punish the offender; second, to reform him, if possible; and third, to terrify the criminally inclined. If this is a correct view, then great care should be taken by those having prisons in charge, and by those having power and influence to direct in their affairs, neither to detract from the punishment its just merit, nor to debase the Convict by adding cruelty or unnecessary severity to the discipline, and especially not to strip the prison of its terror, and thereby render it inviting and desirable."

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix

(B. B. B. B.)

30th May.

Corporal punishment has been recently forbidden by act of the Legislature, and the punishments now in use are, pouring water on the head, fastening a heavy iron bar on the shoulders with the arms stretched out upon it, and confinement in the dark cell.

The State Female Penitentiary is also at Sing-Sing, and the remarks made as to the Male department apply equally to this. There is the same changing of officers, and, at times, a good deal of business energy, but the tone of the discipline is alike unsatisfactory to the moralist and the philanthropist.

The New York City Penal Establishments were next visited by the Deputation; they are on a vast scale, and are supported at heavy cost to the public. In 1847, the total expense of maintaining the various criminal and pauper institutions of the city was \$342,188.30c. The city offices are held on a still more uncertain tenure than those of the State; and the effect of such constant changes may be seen in the present condition of the prisons; they could not be much worse. The Nursery on Randall's Island appears to be the best managed of the New York city establishments: the children are taken from the abodes of vice, so numerous in every large city, and when educated, are apprenticed out till they reach twenty-one years of age. The abuses in the Penitentiary on Blackwell's Island, have recently been the subject of investigation, and it is to be hoped that when the public mind has been aroused to the evils of its management, a thorough reform will ensue; but no permanent good can be effected until political feeling ceases to control its administration. The Penitentiary, the Alms-house, the Nursery, the Lunatic Asylum, and other city establishments, have each a chief responsible officer, and the whole are under the superintendence of an Alms-house Commissioner, through whom all business is transacted. Moses G. Leonard, Esq., is at present Commissioner, to whose kindness and that of Dr. Kelly, we are indebted.

From New York Messrs. Bristow and Brown proceeded to inspect the State Penitentiary of New Jersey. This prison is situated at Trenton, about midway between New York and Philadelphia; the average number of Convicts is about 150. New Jersey, up to 1836, adopted the Congregate system, but the Separate or Philadelphia system was in that year introduced, and is still in operation. The Physician of the Institution appears from his reports to be unfavorable to the Separate system, if not from its introduction, at least from a period immediately following it; he is spoken of as a professional man of high standing, and his annual reports are frankly written.

The deputation passed from Trenton to Philadelphia, where the Cherry Hill Penitentiary is situated. This was the pioneer American Prison on the plan of separation, and it has attained a celebrity in Europe as wide as on our own continent. All the features of the system are brought out in an examination of Cherry Hill, so that it is unnecessary to enter upon a criticism of the working of the Trenton prison. There is this very material difference between the two, however; that while in Cherry Hill, complete separation of the Convicts has been maintained, in Trenton whenever the Convict's "mind begins to fail, and he shows symptoms of derangement, another Convict is put with him in his cell." The Deputation were assured at Trenton, that only seven or eight prisoners there, required companions.

Nearly a week was devoted to a minute inspection of Cherry Hill, and to personal discussion of the merits of the two great systems of discipline with the Warden (T. Scattergood, Esq.) and Inspectors of the Institution and with the visitors of the Prison society; to these gentlemen we are indebted for much important information. The high tone of feeling on the subject of Prison discipline in Philadelphia, is most gratifying; time and labor are freely bestowed on the cause by many eminent citizens, and a truth-seeking spirit, very naturally tinged with admiration of the system for which they have rendered their city famous, pervades all their discussions. Our Deputation were afforded the fullest opportunity of satisfying themselves on every disputed point, by minute inspection of the Prison, by unrestricted conversation with the Convicts in the absence of the Warden or Keeper, and by intercourse with all the officers of the Prison. They endeavored to examine without prejudice, and did not rest satisfied until they felt convinced they had done ample justice to the inquiry. The Prison is exceedingly well managed; the kind but firm tone which pervades the intercourse of the Warden with his prisoners, the systematic employment of means for the moral and religious improvement of the Convicts, the class of men employed as Keepers, the cleanliness and order which reign throughout the establishment, are all grounds of commendation. There is a right understanding of the proper objects of a Penitentiary, and apparently an interest felt in the subject by all connected with the Prison, from the Inspectors down to the inferior officers. No system could have a more fair trial than that now undergoing by the Separate system in the Eastern Penitentiary of Pennsylvania.

The principle of the Philadelphia discipline is absolute separation and seclusion of each individual Convict from all his fellow-creatures, except such as visit him by special order, or by permission of law. The cells are apartments 11 feet 9 inches long, 7 feet 6 inches wide, and 16 feet 6 inches high in the centre of the arched ceiling. They are lighted from a window which the Convict can open, and are warmed by hot water tubes; each cell contains a bed, a table, a chair, a cupboard, and many have various other articles contributing to their comfort. Opposite the entrance to each cell, from the corridor, another door leads into a small yard, 15 feet long by 8 feet wide, and surrounded by a wall 11 feet high, in which the Convict is allowed to enjoy the air for one hour each day. It has been alleged that the Convicts in neighboring cells can hold communication with each other, by various contrivances, but if this is at all practicable, which we doubt, it cannot possibly exist to a hurtful extent. The prisoner works in his cell without any oversight, but a certain amount of daily work is expected from him, and as long as he comes up to a reasonable standard he is allowed to divide his time with labor, reading the books which are plentifully placed at his disposal, and any other relaxation which he may contrive for himself. The Keepers have occasion to visit each cell several times a day; the Warden and Physician visit each prisoner once a fortnight, and many of them much oftener; the Chaplain and Schoolmaster devote their whole time to their instruction, going from cell to cell. The Inspectors meet at the Prison twice in each month, and devote some time to visiting the cells. The Committee of the Prison Society have also access to the prisoners, and devote much time to personal intercourse with the Convicts. All the city clergymen, and certain public authorities have free access to the cells; but the public are not allowed to see or be seen by the prisoners. When divine service is performed, the doors are thrown partially open, and the clergyman speaks from the

Appendix

(B. B. B. B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

end of the corridor; he is heard distinctly in the cells of the corridor in which he preaches, but he does not see his auditors, nor do they see him. There is very little punishment either at Trenton or Cherry Hill. The proceeds of the labor of the Convicts at these Institutions are not equal to the support of the prisoners; the deficit and the salaries of the officers are defrayed by the State. The salaries of Cherry Hill Prison are only \$8000 per annum.

Our Deputation found the cells generally neat and clean, and the prisoners apparently well fed. The demeanour of the Convicts was invariably respectful and subdued; no bitterness of feeling was manifested, no rudeness, and very little sullenness. Most of them appeared glad to see visitors; the majority declared that they would rather be confined separately, than work in a gang; and not one of them showed any hostility to the officers.

The Deputation were satisfied that the claim of the advocates of the Separate system, that their form of discipline is highly humanizing, calls forth warmly the confidence and affection of the prisoner, and gives the officers much influence over his mind, and generally affords a good opportunity for effecting the moral reform of the criminal; is fully established by an examination of its operation in Cherry Hill.

But as to the effect of separation and seclusion on the minds of the Convicts, the Deputation were compelled to arrive at the conclusion, that the human mind cannot endure protracted imprisonment under this system; and that with all the care of the authorities, insanity, to a fearful extent, is to be found within the walls. The prisoners, as a class, have a sallow, worn-out appearance; the eyes are deeply sunk, and while the eyelids have a heavy, languid appearance, the eyeballs glare with a feverish brightness. In thought and action there is a general sluggishness, tending towards torpidity. To this rule there are exceptions, but they are not numerous; these are men who with more or less education exercise the mind and body by reading and labour, properly regulated, and who have strength of resolution to refrain from self-abuse; for such prisoners the discipline is well suited. But there is a class, and a larger one it is to be feared, who sink from restlessness into listlessness, from listlessness to sluggishness, and who soon pass from that to imbecility. Dr. Givens, the intelligent Surgeon of Cherry Hill, says:—"It must be confessed that the tendency of all (cases of insanity in the Penitentiary) seems to be to pass into dementia." Messrs. Brown and Bristow were satisfied that, taking the men whom they visited to be a fair sample of the Cherry Hill prisoners, which they have every reason to believe was the case; that out of three hundred Convicts then in the prison, no fewer than fifty were labouring under insanity, in one form or another, from dementia to evident weakness of intellect. While the Warden and Physician admitted the large amount of insanity in the Penitentiary, of greater or less severity, they both maintained that there was not a larger proportion of insanity in Cherry Hill than existed in Congregate prisons; the only difference, they alleged, being, that in one case it passed unnoticed, and in the other it was detected; they admitted, however, that the Separate system develops insanity more than the other, but they denied that it produced it. Dr. Givens is preparing a return of all the Convicts who have suffered from insanity, since Cherry Hill was opened, which is looked for with much interest.

We think that the admission, that the system develops insanity with a "tendency, in all cases, to

dementia," in persons who might, under a less strict system, have never exhibited any indication of being affected by such a malady, shows that it cannot be safely applied to all Convicts as the rule of a prison. It is unfortunate that the annual reports do not show the number of cases of insanity in the prison at any one time; some of them show only the cases which have originated within the walls during the past year. The official Returns for ten years, up to 1846, were as follows:—

1837.....	14	of dementia.
1838.....	18	acute dementia 13.
1839.....	26	hallucination 7, dementia 9.
1840.....	21	
1841.....	11	
1842 (no return) ...	0	
1843.....	7	
1844.....	5	
1845.....	8	
1846.....	9	

119

In the report for 1845, the Surgeon states, in addition to the eight cases of derangement "developed within the past year," that "independent of the many whose minds I consider more or less defective, thirteen have been received decidedly insane; more than one of them so obviously so, that the judges were fully aware of it, but from want of an hospital for the insane poor, a due regard for the protection of society obliged them to be sent to us."

The want of an insane hospital for the poor in Pennsylvania, may account to some extent for the insanity in Cherry Hill Prison, but not we think for the excessive amount of it; and it will be recollected that this argument does not apply to the 119 cases, reported as above, but to the two classes spoken of by the Surgeon, as being in addition to these.

During the ten years included in the above table, there were in Charlestown Penitentiary (Congregate) only seven cases of insanity; and in our own Penitentiary, since its opening in 1835, there have been in all but 11 cases.

In the same ten years (1837 to 1846) the total numbers of deaths in these three Prisons were:—Charleston, 35; Kingston, 41; Cherry Hill, 155. The average number of Prisoners being Charlestown, 295; Kingston, 250; Cherry Hill, 364.

The frightful mortality at Cherry Hill is endeavoured to be accounted for by the larger proportion of black and coloured persons confined there; but in the same period there were 50 deaths at Cherry Hill among the white Convicts, out of an average of 229.

And, as it is said to be a practice in prisons to obtain the discharge of dying Convicts, so as to lessen the official returns of mortality; the pardons granted in each institution during the same period were—Charlestown, 144; Kingston, 142; Cherry Hill, 210.

Dr. Coleman, Physician of the New Jersey (Separate) Penitentiary, in one of his annual reports, used the following language:—"Among the prisoners there are many who exhibit a childlike simplicity, which shows them to be less acute than when they entered. In all who have been more than a year in the Prison, some of these effects have been observed. Continue the confinement for a longer time, and give them no other exercise of the mental

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

faculties than this kind of imprisonment affords, and the most accomplished rogue will lose his capacity for depredating with success upon the community."

We are convinced that this is a faithful picture, and that separation, as practised in the Eastern Penitentiary, cannot be indiscriminately inflicted for lengthened periods.

Dr. Givens says, in his annual report for 1846:—

"If prisoners were men of education; if their minds were stored with the facts of general science and philosophy, on which they could reason and converse within themselves, whether at work or in idleness, then indeed would intercourse with their fellow creatures be uncalled for; but it must not be forgotten that the majority of Convicts are men of very limited information on all subjects; men, who in fact when at liberty, require all the pressure of surrounding intellect (if I may be allowed the metaphor) to keep them within the bounds of sanity. Such I apprehend the great mass of them to be."

Dr. Givens is of opinion that all needful intercourse can be, and is at present afforded the Convicts under the system practiced at Cherry Hill. But the largest estimate made of the average daily intercourse enjoyed by the Cherry Hill prisoners, with officers and visitors of every character, is fifteen minutes daily—divided into several visits, during part of which no conversation takes place—this space is quite inadequate to relieve the prisoner from the admitted direful effects of unmitigated solitude.

From Philadelphia the Deputation proceeded to Baltimore, in the State of Maryland, and to Washington, in the District of Columbia, where they inspected the State Penitentiaries. Both are conducted on the Congregate system, and the industrial department of the Baltimore Prison is exceedingly well managed. The features presented in these establishments were very similar to those of other Congregate Prisons, but on many practical points a good deal of information was obtained.

On their return, the Deputation visited Auburn, the far-famed Congregate Penitentiary. As a manufacturing establishment the interests of the State are not neglected in its management; but the moral reform of the Convict does not occupy that prominence which would be desirable. The average number of prisoners has been about 680; the labour is hired out to contractors, and brings a high rate. The discipline fluctuates with the political changes of the State, but corporal punishment is forbidden by law. The general discipline at present at Auburn, without being so strict as at Wethersfield, does not possess the softening effect of the relaxed system of Charlestown. It is in fact a good house of detention, in which it is sought to teach the Convict habits of industry, by keeping him closely at work; the higher objects of a Penitentiary, it is to be feared, are not sufficiently attended to.

With Auburn the Deputation closed their labours in the United States; and we take this opportunity of expressing our gratitude for the marked kindness and attention received by them at every Institution they visited; our thanks are also due to the numerous friends of the prisoner's cause in many places, to whom we are indebted for valuable suggestions.

#### COUNTY GAOLS.

Appendix  
(B.B.B.B.B.)  
30th May.

At every step of our proceedings we have felt keenly that the entire penal system of the Province demands a thorough reform; and that so long as our Common Gaol system remains as at present, no satisfactory moral results can be expected from the higher institution. The District Gaols are the nurseries of crime and vice, and ere the prisoner is transferred from them to the Penitentiary, he is too often thoroughly contaminated and hardened. Men do not sink at once into the depths of crime—the descent is gradual and imperceptible—and while considering how to reform the criminal, we have constantly felt how much more desirable it would be to prevent the crime, and how much more hopeful would be the labor of leading the young offender into a good course, and inspire him with better feelings, than to eradicate habits which have been the growth of years.

Though the scope of our instructions did not extend beyond the Penitentiary, we have felt that the success of that Institution depends so much upon the Common Gaol system, that it was our duty to call Your Excellency's attention to the evils arising from it; and in considering the improvement of the Penitentiary system, we could not avoid associating with it, to some extent, the reform of gaol discipline throughout the Province. We cannot refrain from suggesting to Your Excellency whether the discipline of all the County Gaols might not, with advantage, be placed under the control of Government Inspectors, from whom periodical reports of their condition would emanate.

#### JUVENILE OFFENDERS.

Of scarcely less urgency than the reform of the gaols, is the necessity of some immediate action on behalf of the youthful delinquent. It is distressing to think that no distinction is now made between the child who has strayed for the first time from the path of honesty, or who perhaps has never been taught the meaning of sin, and the hardened offender of mature years. All are consigned together to the unutterable contamination of the common gaol; and by the lessons there learnt, soon become inmates of the Penitentiary.

We recommend to Your Excellency the immediate erection of one or more Houses of Refuge for the reformation of juvenile delinquents. Such an establishment might be economically built on the Penitentiary lot at Kingston, and might be governed by the same Inspectors; but the expense of transporting children so great a distance from the extreme points of the Province, seems to make it necessary that there should be a House of Refuge for both divisions of the Province; one at Montreal or Quebec, and the other at Toronto or Hamilton.

We recommend that such House of Refuge consist of two departments: one for children whose parents or guardians, by vagrancy or vicious conduct, are unwilling or incapable of exercising proper care and discipline over them; and for children whose parents and guardians make complaint to the proper authority, that from the incorrigible conduct of such children they are unable to control them; and the other, for children who have been convicted of crime.

The control of the discipline and business affairs of such House of Refuge might be advantageously placed in the hands of the Penitentiary Inspectors. The weekly visiting, the apprenticing of the children, and the general carrying out of the philanthropic

Appendix  
(B.B.B.B.B.)  
30th May.

objects of the Institution, might be vested in a large Board of Managers, to be appointed by Government; or, as in the United States, in a society of benevolent persons formed with this view.

All Criminal Courts of the Province might be empowered to commit children to the House of Refuge; and any two Justices of the Peace or City Magistrates, on a case being shown.

The managers of the institution should have the control of all children so committed during their minority; and they should be empowered to place them at such employments, and cause them to be instructed in such branches of useful knowledge, as may be suited to their years and capacities. They should also have power to indenture the children as apprentices to such persons, and to learn such trades, or other employments, as in their estimation will be most conducive to their reformation and amendment, and will tend to the future benefit and advantage of the children. During the continuation of his apprenticeship, the youth to remain still under the control of the managers, and in case of irregular conduct, the managers to have the power of bringing him back to the House of Refuge. The children, in the two departments, to be kept strictly apart, but the system to be the same, namely, a combination of education, labor, and healthful exercise.

#### THE PENITENTIARY SYSTEM.

The results to be drawn from all we have seen and read, and the suggestions for the improvement of the Provincial Penitentiary, to be offered for Your Excellency's consideration, have engaged our earnest attention; and we have arrived unanimously at the conclusion to recommend the combination of the two systems, the Separate and the Congregate, in the future management of the Prison.

Were a new Penitentiary about to be erected, we might have been in favour of a somewhat different plan; but with so costly and commodious an establishment nearly completed, we are of opinion that the most advisable course is to continue the Congregate system as the main principle, and to engraft on it the ameliorating influences of individual separation. We recommend to Your Excellency, the erection of a sufficient number of cells to apply the Separate system to every newly-arrived Convict; while so confined, the Convict to be furnished with secular instruction and labour, and to be earnestly dealt with by the Chaplain and Warden. The length of this ordeal, we think, should be left to the discretion of the Prison authorities, but should in no case exceed six months; and the termination of it might in many cases where mitigating circumstances existed, it is to be hoped, offer a favourable opportunity of exercising the Royal Mercy with benefit to society and to the Criminal.

Were it possible to judge correctly of each man's character, classification would form the next step after the ordeal of separation had been undergone. But this system, as far as it has yet been attempted, has depended on so many elements—as, for instance, the nature of the Convict's crime, his previous character and position, his conduct in Prison, and the prospect of his reformation,—as to make a correct classification, almost impossible, if not absolutely so. No clear principle can be laid down to guide such a system; the whole must depend on the judgment and discretion of the Warden. But unsuccessful as the

many experiments to carry out a complete plan of this character have proved, we are not yet without some hope that it might be partially introduced in amelioration of the Congregate system.

Appendix  
(B.B.B.B.B.)  
30th May.

We recommend that the employments selected for the prisoners, be as little diversified as possible, and that they may be such as can be carried on within doors, and with the least needful communication between the prisoners. It is exceedingly desirable that each gang should occupy a separate apartment, and that the possibility of communication between them should be cut off; fortunately, the construction of the Prison workshops will render this easily attainable. In rating off the Convicts from the separate cells into gangs, in the hands of a judicious Warden, we are persuaded experiments may be made in the way of classification, which will prove highly advantageous; and while we refrain from suggesting any rules for the regulation of the duty, we would earnestly urge its high importance on the authorities of the Penitentiary. Were it possible to keep every gang separate and secluded from the rest of the prisoners, that worst evil of the Congregate system, viz., that the Convict is known to so many Criminals on his return to the world, would be partially avoided.

We recommend that besides employing the separate cells on the first reception of the Convict, they be used as a means of discipline; not as a frequent punishment, but in the case of continued refractory conduct on the part of any Convict, to enable the Warden to deal with him individually and endeavour to produce a change.

We recommend that fifty separate cells shall be the number at first to be erected, and that they be built with all convenient speed.

We also recommend that apartments for the treatment of insane Convicts, be erected within the walls. Heretofore the practice has been, in such cases, to obtain the pardon of the patient and consign him to the Provincial Lunatic Asylum until cured, when he was discharged from confinement.

It must be confessed that the success of any system of prison discipline will be strongly affected by the treatment which the Convict receives on his discharge from confinement. A Convict may leave his cell penitent and determined to reform, but if he is met with harshness and refused employment, and his good resolutions treated with scorn, despair will soon overtake him, poverty and the force of circumstances will too often drive him back to the haunts of crime. Governments can do little to avert this snare from the path of the reformed Criminal; the force of public opinion will alone effectually remove the evil. Much has been done in the United States by prison societies, who receive the penitent transgressor on his discharge, and aid him and strengthen him in his struggle with the frowns of the world; the tide of public sympathy has been, by their labours, turned towards the helpless out-cast, and great good has undoubtedly been effected. A more noble work could not engage the efforts of the Christian or Philanthropist. We trust that such a society will, ere long, exist in our own country, and that through the press and the lecture-room, the subject of prison discipline may engage more attention from the public than it has heretofore done.

The sum of money paid to the Convicts, on their discharge, is altogether inadequate; and we respectfully recommend that the Warden be empowered, in his discretion, to pay to each prisoner a sum not less than £1, nor more than £5.

## Appendix

(B.B.B.B.B.)

30th May.

Our attention has been called to the great evils which arise from Convicts being discharged from Prison in the depth of winter, often far from home, without chance of employment, and with only a few shillings in their possession. We suggest to Your Excellency, whether the Judges might not, with benefit in many cases, sentence the criminals to such terms as would bring their discharge at a more auspicious season of the year.

Having thus submitted such a modification of the system of discipline now in operation at the Provincial Penitentiary, as we believe would conduce to its success as a Reformatory Institution, we proceed to lay before Your Excellency the conclusions to which we have arrived, after much anxious deliberation, as to the best mode of managing its affairs, so as to "secure the confidence of the public, and to increase its efficiency and utility."

The task of governing well such an Institution as the Kingston Penitentiary, is evidently one of no ordinary difficulty. It is true that so far as mere bodily coercion is concerned, the security is ample. The walls of the Prison Buildings are of massive thickness; locks and bolts and bars are there in profusion; the outer enclosure is so high as to defy escalade, and in short effectual precautions have been adopted to baffle any attempt at escape from within its precincts.

Whatever other objections may be offered to the plan on which this edifice has been erected, so far as regards the safe-keeping of the prisoners it is unobjectionable.

Our former Report has abundantly shown that, as in the construction of the Prison, in its internal economy and management, the idea of physical force alone has been kept in view; whilst the milder, but it is to be hoped the not less powerful influence of moral suasion, has been altogether lost sight of. Here indeed the Penitentiary system has been presented in its sternest aspect, and if the cat-o-nine-tails, the raw-hide, the box, the solitary cell, deprivation of food, or of the light of heaven, could ever have deterred the criminal from again preying on society, or violating its laws, here, at all events, the salutary effect would have been produced; but we cannot say that the experiment has proved successful, or that the torture which the inmates endured within the walls of the Penitentiary, have rendered their returns to it a matter of less frequent occurrence than in similar Institutions, where a milder influence has prevailed. Have the frequency and severity of punishment conduced even to the maintenance of the discipline of the Prison? The tables which we furnished under this head in our former report clearly show, that the only effect has been to render callous and to harden the offenders, and that each addition to the weight of punishment has increased the number of infractions of the Prison rules.

The history of the principal Penitentiaries in the United States, conducted on the Congregate System, tell a similar tale of harshness and cruelty, producing the very evils and disorders they are intended to prevent.

## REMOVAL OF OFFICERS.

From the facts disclosed in our first Report, we think the absolute necessity of extensive removals must be apparent. It is very clear, that unless the parties to whom the conduct of such an Institution is entrusted are men of high moral character as well

as efficient officers, no success can attend its administration. Convicts are exceedingly sharp in discovering the moral failings of others; and the misconduct of one unfaithful officer, may undo all the good effected by years of sound instruction. In no other Institution does so strong a necessity exist, as in a Penitentiary, that the responsible officers should have perfect confidence in those who are to execute their orders; and if those who are hereafter to conduct the Kingston Penitentiary are to be successful, they must be allowed the utmost latitude in the exchange of some of the present officers for men of a higher class in morals and general attainments.

We recommend to your Excellency the immediate removal of the present Head-keeper, the Clerk, the Architect, and the Matron; and that the Inspectors and Warden be authorized to make such removals among the inferior officers as, in their discretion they shall conceive necessary for the safe and successful management of the Institution.

## DUTIES OF THE WARDEN.

It must be conceded, as a general principle of government in a Penitentiary, that an arbitrary, almost an absolute authority should exist somewhere. The safety of the Institution, the well being of the inmates, require it. The question is, in whose hands can that be vested with the greatest safety, or rather with the smallest probability of its being abused? Shall it be divided between the Warden and the principal officers, giving to each a *quasi* independent course of action in his own department? Shall it be exercised through the Warden acting in concurrence with, or under the direction of a Board of Inspectors? Or, lastly, shall it be vested in the Warden alone, subject to no supervision, and responsible only to the Executive Government of the country?

The disadvantages of the first plan are so obvious, that it is unnecessary to dilate on them. Without some efficient control on the spot, with clashing powers, and with divided responsibility, such an Institution could scarcely be carried on for a single day without confusion.

The second plan is less objectionable, but there are still difficulties in carrying it out to advantage. If the Board have the appointment of the Warden, as well as the control and direction of his actions, he becomes their mere tool; the whole management of the Institution is virtually placed in the hands of persons but partially acquainted with the details of its internal economy, and abuses of every kind creep in. If the Board, on the other hand, have not the appointment of the Warden, and there is merely a concurrent jurisdiction, jealousy and hostility are but too apt to spring up and to lead to collisions. That vigorous and prompt action so essential to good government in a Penitentiary, is then at an end, and all the evils arising from distracted councils ensue. Nor is the case any better if there be a friendly understanding between the Board and the Warden; his thorough knowledge of the affairs of the Institution in all its branches, enables him, if so inclined, to impose on their comparative ignorance; and he uses them as a cloak to cover his misdeeds or his mismanagement. Under some plausible pretext or other, he deceives them into giving their assent to all his acts, however injurious to the interests of the Institution, or however iniquitous they may be: if the propriety of these acts be afterwards called in question, he pleads, as his vindication, the sanction of the Board. Few men like to admit that they have been duped; and a Board, so situated, will

Appendix

(B.B.B.B.B.)

30th May

Appendix  
(B. B. B. B.)  
30th May.

probably rather seek to defend their own actions, however improper or injurious they may be—than acknowledge that they were committed ignorantly and under sinister influence. In such Boards, also, there is generally some one member who, whether from greater ability or greater energy than his colleagues, takes the lead and sways the decisions; if between him and the Warden there be a community of opinion, of feeling, or of interest, all control over the actions of the latter, ceases, all responsibility is at an end, and the vilest mal-practices are perpetrated with impunity. From these remarks it will readily be inferred that our opinion is decidedly unfavourable to any division of the responsibility for the government of a Penitentiary between the Warden and a permanent Board of Inspectors; that we consider such a junction of authority, powerless for all good purposes, but that it may be made potent for evil.

We arrive, therefore, at the conclusion, that the safest depository of the power and responsibility attached to the government of the Provincial Penitentiary, is the Warden. The concentration of executive action in his hands, seems to be the best mode of securing these essentials:—uniformity of discipline—prompt and decided action on emergency—proper control over the subordinate officers—and active, business-like management of the financial and other affairs. While, however, we would entrust powers so important and so extensive, guarded by checks against their abuse, which we shall presently point out, to a single individual; we would, with all earnestness and with due respect, submit to your Excellency, that we do so, under the full conviction that the appointment will be conferred on some one highly endowed with the qualifications necessary to fulfil, adequately, the duties of so responsible and honourable an office. It is impossible to overrate the importance attached to the character and conduct of the Warden of a Penitentiary, or to overstate the influence which these must exercise in the working of the Institution. A glance at the economy and discipline of a prison will generally furnish a ready index to the disposition of the Warden; and an insight into his character, manner, and habits, will, in like manner, be a sufficient clue to the management of the prison. However important, therefore, the arrangement of a system of government may be, the appointment of proper officers to carry it out, is not less so.

With the authority thus proposed to be vested in the Warden of the Provincial Penitentiary, it is clear that his duties will be of the most varied character. On him will devolve the superintendence of every department, and to him every other officer must be subordinate and yield implicit obedience, except when such obedience would be in manifest infraction of the laws of the Prison. The mere mechanical routine performance of certain functions, prescribed by the *lex scripta* of an Act of Parliament, or of some rules and regulations furnished for his guidance, is not, however, the execution of his duties contemplated from a Warden; a higher, a holier purpose must guide his every action, or he is altogether unsuited for the office. His position, and so he must feel it, is that of a high minister of justice, appointed to fulfil the benevolent object of the Penitentiary—the reformation of the unfortunate men committed to his care.

The best safeguard then, against the tyrannical exercise of power by the Warden, is in his being a man thoroughly imbued with the spirit of philanthropy, and deeply interested in the moral welfare of those under his charge. The long uninterrupted

possession of such power, however, is but too apt to be the means of blunting the sensibilities of its possessor. The dispositions of the persons with whom a Warden has to deal, are not such as to excite and keep alive much sympathy in their behalf; and even in those cases where the religious and moral instruction conveyed within the walls, appears to have produced reformation, the flattering hope is too frequently disappointed, so soon as the subject of it is again exposed to the temptations of the world. It is not to be wondered at, therefore, if the Warden of a Penitentiary, finding his efforts less successful than he anticipated, should become lukewarm in the cause, and harsh in his treatment of men whom he is led to view as incorrigible.

This evil, in the government of Penitentiaries, is little felt in the United States; the spirit and character of democratic institutions being hostile to permanency of office. But, in avoiding this danger, our neighbours in some States, as has already been shown, have produced a greater evil. The maxim, “to the victors belong the spoils,” of more than questionable propriety in any department of civil government, is utter destruction to a benevolent or reformatory institution.

But whilst we would deprecate the system of making changes in such offices, on political or other extraneous grounds; we must contend that the incumbents should understand that they are subject to removal at any moment at the pleasure of the Executive Government, without specific charges of mal-administration being established against them. We consider it a good and valid reason for the removal of the Warden or any other Officer of a Penitentiary, that he has not come up to the full standard of efficiency. Sins of omission as well as sins of commission, we hold, should be summarily visited with dismissal.

#### THE INSPECTORS.

We have shown the little reliance to be placed in any checks that may be imposed on the Warden's conduct, through the intervention of Local Boards, however constituted; and we have further pointed out how likely the unrestricted and continued exercise of arbitrary power is to degenerate into apathy or tyranny; it remains then to consider the best solution of the difficulty. This, we think, will be found in bringing the direct action of the Executive Government to bear on the management of the Penitentiary.

To this end, we would suggest to Your Excellency, in lieu of the Local Board of Inspectors, as at present constituted, to appoint two Inspectors to hold office during pleasure, with full power and authority to make all necessary rules and regulations respecting the discipline and police of the Penitentiary; which rules and regulations the officers and others employed therein shall be bound to obey. The said Inspectors to visit the Prison at least four times in each year, and oftener if the interest of the Institution requires their attendance; and at each visit carefully to examine and inquire into all matters connected with the government, discipline, and police of the Penitentiary; the conduct of the officers; the punishment and employment of the prisoners; the financial concerns and contracts of every description, and the purchases and sales made for the Penitentiary; to examine and audit the accounts since their last meeting, and to make such alterations on the rules and regulations of the Prison, as they may think necessary. The said Inspectors should report fully to the head of the Government, at the end of each year, the

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

results of their examination into the whole affairs of the Institution. They should report also, from time to time, to the head of the Government, such new rules and regulations or such alterations on the rules and regulations in force, as they may have thought proper to adopt; all such rules and regulations of the Inspectors, to have full validity immediately on their being made, but subject to disallowance at any time by the Executive. The power now vested in the Board of Inspectors, such as the issuing of subpoenas to compel the attendance of witnesses; the right of visiting the Penitentiary at all times; of examining all books, papers, &c., relating to the Institution, with all other powers properly incident to the due performance of their office, to be conferred on the Inspectors proposed to be appointed.

The duties thus imposed on the Inspectors, would, it is manifest, be much more onerous, and the responsibility more direct than those assumed by the Inspectors under the present Penitentiary Act, (9th Vict. cap. 4,) and it would be necessary that a suitable compensation should be allowed them for their services. We are satisfied that this would be found to be far more economical than the present management. The experience of the last fifteen years abundantly proves the folly of relying on the gratuitous services of the Board of Inspectors to check extravagance and waste. During that time, in no single instance, was there anything like an examination of the financial branch of the management, and the results are described in our former report. There can be no question that, had there been periodically a strict audit of accounts, thousands of pounds would have been annually saved to the country.

But far higher grounds than a pecuniary saving may be assumed in advocating the appointment of Inspectors expressly to watch over the management of the Provincial Penitentiary. Such a body would form an appropriate organ of communication with those philanthropic associations and individuals in other countries, now so actively and zealously engaged in the amelioration of prison discipline; valuable information on every subject connected therewith, would be received and imparted, and a spirit of emulation excited to elevate and maintain the character of our Institution to a level, at least, with those of a similar nature elsewhere. The reports which it would be the duty of the Inspectors to make periodically to the head of the Government, to be laid before the Legislature, would thus be replete with the statistics of crime and punishment—a species of information difficult to be procured and arranged, except through some such medium, and which is most useful to the statesman, from its bearing on the principles of penal legislation.

We have taken the liberty, elsewhere, of suggesting to Your Excellency the appointment of Government Inspectors to control the discipline of the Common Gaols of the Province; and we would respectfully submit, whether in the case of such suggestion being approved, two efficient Officers might not fulfil the double duty of Gaol and Penitentiary Inspectors.

The State of New York has, by a law passed 14th December, 1847, sufficiently provided for the harmonious working of the State and County Prisons. Under this law, three Inspectors are chosen at a general election by a vote of the people, but are subject to be removed by the Governor for misconduct in office. They are required to visit each of the State Prisons together, at least four times in each year; to make rules for the Government; to see that these rules are observed, and to report concerning the same. Each of the three Inspectors is required

to spend at least one week in each month at the Prison assigned to him. Power is given to them to appoint and remove the subordinate Officers, and to each of them, during his month of office, to suspend such officers until the next meeting of the Board. They are constituted *ex officio* Inspectors of all the County Prisons throughout the State, and are required to visit, either separately or jointly, all the Prisons at least once in each year, and to make a detailed report of their condition and management.

## VISITORS.

As in the intervals between the periodical visits of the Penitentiary Inspectors, occasions may arise in which it would be advisable that the Warden should have the benefit of consultation with some party on the spot, we would recommend further that Your Excellency would be pleased to appoint a Board of Visitors whose duty it should be to meet as often as they might consider expedient, or as they might be invited so to do by the Warden. One of their number to take in rotation the office of Visitor for the week, and it is to be desired that he should visit the Institution, at least, once during that time. The Visitors to have, at all times, access to the Prison, and a general *surveillance* over the discipline; so far, only, as relates to the treatment of the prisoners.

They should also have the power to make rules and regulations for this portion of the discipline of the Prison, at their Board Meetings, at which the Warden should have a right to attend and vote; such rules to continue in force until the next meeting of the Board of Inspectors, and no longer, unless then sanctioned. The Visitors to exercise no control over the financial or business arrangements of the Penitentiary, their office being of a purely philanthropic character, designed more to protect the prisoners from any excess of authority, and to secure that the moral means intended for their reformation, are properly employed.

## STAFF OF OFFICERS.

The Officers to be employed under the Warden, for the general management of the different departments, we recommend, should be the following:—

A Protestant Chaplain.

A Roman Catholic Chaplain.

A Schoolmaster—all to reside near the Penitentiary, and to devote their time exclusively to the duties of their office.

A Physician and Surgeon—not prohibited from private practice, but to devote at least two hours daily to his duties at the Penitentiary, and in all cases of emergency, to attend as often as necessary, or as may be required by the Warden.

An Hospital Assistant—to be furnished with suitable apartments, rent-free, within the prison buildings, and to devote his whole time to the duties of his office.

A Deputy Warden.

A Clerk.

A Store-keeper.

A Clerk of the Kitchen.

Overseers.

Keepers.

Watchmen.

Appendix  
(B.B.B.B.B.)

30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

And for the Female Department :

A Matron.

An Assistant-Matron.

The Chaplains, the Physician, the Deputy Warden, and the Clerk to be appointed and removed by the Executive Government, and to hold their offices during pleasure; the other officers above enumerated, to be appointed and removed by the Warden, subject to the approval of the Inspectors. Each appointment to have the sanction of the Inspectors, but the Warden to appoint temporarily until that is had. Removals by the Warden, to be summary and final, unless appealed against by the discharged officer to the Inspectors, who shall have power to re-instate.

#### DUTIES OF THE DEPUTY-WARDEN.

The duties of the Deputy-Warden, we think, should be nearly those which were performed by Mr. Powers, when he held that office. He should have the general superintendence, under the direction of the Warden, of all but the pecuniary affairs of the prison, and should have the special direction of its police and discipline, with due precaution for the security of the prison and the safe-keeping of the Convicts. He should be responsible to the Warden for the strict observance of the Rules and Regulations of the Penitentiary. He should be constantly moving about the different yards and places of labour to see that every officer is vigilant and attentive to the performance of his duty, and that the Convicts are diligent, orderly, and attentive.

In case of the absence of the Warden, or of his inability from sickness or other causes, to attend to his duties, the charge of the Institution, so far as relates to the discipline and the safe-keeping of the Convicts, should devolve on the Deputy-Warden.

#### DUTIES OF THE CLERK.

The Duties of the Clerk to be nearly the same as those imposed on the present incumbent; but the whole system on which the Books and Accounts of the Penitentiary are kept to be completely remodelled; but it is unnecessary here to enter on the details of the improvements to be adopted.

#### DUTIES OF THE STORE-KEEPER.

The office of Store-Keeper is a new one in the Penitentiary, but one which we consider highly essential. His duty would be to receive and take charge of articles, of every description, received for the use of the Penitentiary, with the exception of those articles which are properly within the province of the Clerk of the Kitchen. Through him, all requisitions for supplies of every kind, should be made to the Clerk, and when received under his charge they should be carefully examined to ascertain if they correspond with the requisition; and the accounts accompanying the goods should be duly certified by the Store-Keeper and handed to the Clerk. He should also keep a regular stock account of the goods on hand, of the articles received, and of their expenditure, obtaining and preserving regular vouchers for all the articles distributed to the several departments. No tools or other stores should be manufactured in any of the workshops for Penitentiary use, except on a requisition by an officer or the Store-Keeper; the latter having obtained the counter-sign of the Warden to every such requisition, should cause the article ordered to be made, and when finished should receive it, charge it to the de-

partment for which it is intended, and deliver it to the proper Officer.

#### DUTIES OF THE CLERK OF THE KITCHEN.

The duties of this Officer to be precisely those at present performed by the Kitchen-keeper.

#### DUTIES OF OVERSEERS.

Overseers to be a class of officers to superintend and instruct the Convicts in the various mechanical labors carried on for account of the Prison.

#### DUTIES OF KEEPERS.

Keepers to be stationed in the workshops in which the Convicts whose labor may be let out to Contractors are employed, to see that the discipline of the Prison is maintained, and that the Convicts perform the labor assigned to them.

The Overseers and Keepers to perform all the other duties required of them, connected with the general police and routine of the Prison regulations.

#### WATCHMEN.

In addition to the above Officers of the Prison, the Warden to have authority to employ a Messenger, and a sufficient number of Gate-keepers and Watchmen, and to remove them when he may think fit; subject however, to such instructions as may be given to him by the Inspectors.

#### MATRONS.

The duties of the Matron and Assistant-Matron to be the same as at present imposed on them.

#### MEANS OF MORAL REFORMATION.

Having thus particularized the duties of the several Officers under the system which we recommend to Your Excellency's consideration, we proceed to offer a few remarks on some points intimately connected with the discipline and management of the Prison. And, as of first importance, we earnestly recommend that the means of moral, religious and secular instruction, shall occupy much greater prominence than they at present do in our own or any of the American Penitentiaries. The more deeply the subject is examined, the more forcibly is the truth pressed home to our conviction, that ignorance is the parent of crime. We conceive that the pecuniary interests of the Penitentiary should, in no manner stand in the way of the reformation of the criminal; and that, desirable as economy is, it is a sad mistake to sacrifice for that consideration, all the higher objects of such an Institution. We trust the Inspectors may be clothed with ample power to place the means of secular and religious instruction on the best footing.

A feature in the Provincial Penitentiary which distinguishes it from most others with which we are acquainted, is the admixture of Convicts belonging to so many religious persuasions. The present law provides a Chaplain to attend to the spiritual wants of the Convicts, and makes no stipulation as to the particular Church to which he shall appertain; but it is to be inferred that he is intended to be a Protestant, since further express provision is made for that large proportion of the Convicts confined in the Provincial Penitentiary who are Roman Catholics.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

The Roman Catholic Bishop of Kingston or his Coadjutor, or the ecclesiastical person administering the diocese, is authorized from time to time to direct the attendance of a Roman Catholic Priest at the Penitentiary, for the purpose of performing Divine Service according to the rules and ceremonies of that church, to the Convicts of that faith. And it is further provided, that it shall be lawful for the Board of Inspectors to make rules and regulations for the admission, at proper and convenient times, of the clergymen or ministers of any denomination of Christians, for the religious instruction of such Convicts as may belong to the same denomination as any such clergyman respectively.

The Board of Inspectors, in the Rules and Regulations for the government of the Provincial Penitentiary, defined the duties of the Chaplain and Roman Catholic priest in strict accordance with the spirit of the Act; and expressly enjoined both of these Reverend Gentlemen to "confine their religious instruction to such Convicts only whose names are included in their respective lists, furnished to them by direction of the Board; including in one, those of the Roman Catholic religion, and in the other, the remainder of the Convicts, which latter alone are to be under the spiritual guidance of the Chaplain."

They made the following further provisions:—  
"No attempt shall be made by either of the clergymen, directly or indirectly, to obtain converts to their respective congregations, and no change shall be allowed in this respect without the special direction of the Board."

"No controversial work or book tending to bring into disrepute or contempt either the Protestant or Roman Catholic religion, is to be brought into the establishment."

Notwithstanding the stringent character of these regulations, it cannot be denied that the very end they are intended to counteract, has existed to a very considerable extent. It is difficult, almost impossible, to define what works shall be considered controversial and classed in the category of those prohibited to be introduced in the rule above cited; nor would it be very easy to submit every work admitted into a Prison to such a censorship as would effectually preclude the introduction of such as might be considered obnoxious by one or the other party. The best security against the clashing of opinions, is to be found in a mutual good understanding between the clergymen of the two denominations; that neither shall encroach on the religious domain of the other; and in a firm determination on the part of the head of the institution to discountenance every attempt at proselytism among the Convicts. The former, we regret to state, has not existed heretofore. It is far from our intention to cast the slightest censure on any of the clergymen, whether Protestant or Roman Catholic, who have at any time officiated in the Prison; but we should be wanting in our duty to Your Excellency, were we to hesitate to probe the sore, in order to ascertain the nature of the remedy to be applied. The mutual misunderstandings, however, we believe, have arisen from circumstances which it would have been difficult to avoid, and for which neither party was, strictly speaking, censurable. The books—many of which, we have already observed, might be construed as of a controversial character—distributed to Convicts of the one persuasion, successively found their way into the hands of the Convicts of the other persuasion, notwithstanding the rule of the Institution, forbidding such an interchange. Polemical discussion on their dif-

Appendix  
(B.B.B.B.B.)  
30th May.

ferent religious tenets, thus arose amongst the Convicts, and were conducted with the acrimony too common in such disputes; opprobrious terms were bandied from one to the other, and were applied by each disputant to the clergy of the other denomination. Some of the Officers, also, setting all rules of discipline and good order at defiance, appear to have been mixed up in these unseemly contentions, and even to have encouraged the Convicts to cabal against their religious instructors. Of course these disputes came to the ears of the Pastors of both denominations, and the intelligence was most probably so conveyed as to leave the impression on each clergyman that Convicts under his charge had been tampered with, to induce them to change their faith. A spirit of mutual distrust ensued, leading to complaints, from each against the other, to the Board of Inspectors; who appear to have done little towards reconciling the differences so unhappily created.

Of late also another source of contention has sprung up. Some of the Convicts, either from that restless desire of novelty so natural to persons condemned to a monotonous state of existence, or from conviction, have evinced a desire to change their religion, and have made application to the Board of Inspectors, for its sanction to that step.

There appears to be nothing in the Penitentiary Act to authorize the withdrawal of the Convict, during the term of his incarceration, from the spiritual control to which he became amenable on his entering the Prison; and we can foresee numerous evil results almost certain to arise from permitting such a practice. Whilst we are ready to admit the force of the reasoning which would assert the inalienable right of every one to worship his Creator in that form which is consonant to his ideas of truth, and to attach himself to that class of Christians with whom his opinions coincide, we cannot but consider that there are peculiar circumstances which make the inmates of the Penitentiary an exception to any such general rules. Allow such changes, and you will have the consideration of the truths and precepts of Christianity give place to disputation on forms and ceremonies—the Pastor, instead of devoting the limited time allotted to his religious functions, in pointing out the enormity of sin, and the necessity of repentance, will employ himself in depicting the alleged errors of other persuasions—or the Convict, perhaps annoyed at the faithful admonitions and rebukes of his spiritual guide, or desirous to curry favour with his Keeper, will affect a conversion in which his heart has no share. A real change of opinion is altogether improbable, since the rules of the Prison, if properly enforced, will effectually prevent proselytism, directly through the clergymen themselves, or indirectly through the books which they circulate. We see no likelihood, therefore, that the consciences of any of the Convicts will be wounded by their being retained during their imprisonment, under the Chaplain to whom they were originally assigned.

We have been thus minute in describing and tracing to their source, the religious dissensions which have prevailed in the Penitentiary; because we consider it of the last importance to take effectual precautions against their repetition. Of this there will be more danger when the clergymen are constantly at the Prison, and hourly encountering each other, than when their ministrations were confined to a short daily visit. It will be most desirable that the gentlemen selected for the sacred office of Chaplain should be imbued with a truly Catholic Spirit, and should cordially co-operate for the reformation of the prisoners.

Appendix

(B. B. B. B.)

30th May.

Divine service we propose to have performed in the respective chapels, every Sunday morning and afternoon; also prayers morning and evening, daily. We also recommend that forms of Grace and Thanksgiving shall be prepared by the Inspectors, and be offered up by the Warden, Deputy-Warden, or Clerk of the Kitchen, at the commencement and close of every meal. A portion of the religious instruction from which the most beneficial influence over the minds of the Convicts is to be hoped, is that of the Sabbath School. There has, as yet, we believe, been no attempt made to establish one at the Provincial Penitentiary; the religious instruction which the prisoners receive on that day being merely Divine Service in the Hall, soon after breakfast. They are then removed to their cells, where they are confined for the remainder of the day except the short space of time allotted for dinner. From so irksome a manner of spending the Sabbath, little moral good can be expected to be produced; from the knowledge we have of the benevolent and charitable dispositions of the community at Kingston, we feel justified in asserting that they would vie with each other in promoting the efficiency of a Sabbath School in the Penitentiary. There must, of course, in such an Institution, be nothing of a sectarian character tolerated, and although the Chaplain, in virtue of his office, would preside over the school, Ministers and members of every religious denomination, it is to be hoped, would zealously co-operate.

It is probable that the Protestant and Roman Catholic Sabbath Schools would be held in different apartments.

While on the subject of Religious observances, we cannot but express our desire, that the Convicts should be supplied for the Sabbath with a dress different from that in which they are clothed during their days of labour; the additional expense of such a change of garments beyond that of the first outlay, would be so trifling as hardly to merit consideration. The effect upon the minds of the Convicts would be salutary, and in harmony with the feelings intended to be promoted by the religious observances of the day. In Charlestown State Prison where the practice is adopted, the Chaplain speaks of it as producing a highly beneficial influence. Our observation bears out his assertion so far as relates to the orderly appearance and demeanour of the Convicts there assembled for divine service.

The only portion of time at present set apart in the Provincial Penitentiary for ordinary secular instruction, is about half an hour daily after the Convicts have taken their dinner, and before they are marched back to their respective places of labor. That short interval is also made use of to go through the necessary operation of shaving. Part of the Convicts who are sufficiently advanced in learning, employ themselves in reading during this time; others are engaged in teaching such Convicts as are destitute of the ordinary elements of knowledge, and who are arranged in classes to receive instruction. There appears to be nothing like a strict supervision over these classes, and there can be no doubt that whilst apparently engaged in conveying and receiving instruction, the Convicts enjoy an opportunity of unrestricted conversation with each other. Under such a practice, the silent or Auburn System is manifestly a farce.

We are of opinion that common education should form a systematic part of the moral discipline, and should occupy the whole time of at least one teacher. The several gangs should be drafted off to school in rotation, and each Convict should be in school at

least one hour every second day. We would not hesitate to carry instruction beyond the ordinary studies of reading and writing, but the Inspectors would be guided in this by the success which they might find to attend their labors. To the Schoolmaster should probably be assigned the duty of taking charge and distributing, under the directions of the Chaplains, the books forming the library of the Institution. Holding, as we do, that ignorance is the most fruitful parent of crime, we would recommend the cultivation as well of the intellectual as of the moral faculties of the Convicts, and for that purpose that a small library, carefully selected, consisting principally of religious books, but in part of useful works of a general character, should be procured.

#### REWARDS AND PUNISHMENTS.

Much has been written in favor of a graduation in the severity of the Penitentiary discipline, founded on the conduct of the Convict during his confinement. It has been proposed as an incentive to good behaviour, that a regular record of the conduct of each individual should be kept, and the classification adopted in each case founded on the observance or non-observance of the Prison regulations. Exemplary obedience would thus purchase privileges denied to those who either occasionally or frequently infringed them. Convicts manifesting a determination habitually to violate the rules, to be subjected to a greater rigor than the ordinary discipline of the Prison imposes. This would open a wide door to favoritism, and even should the strictest impartiality be shown in the grading of the Convicts, it would be difficult to make them believe that such was the case. Each would consider himself entitled to a higher rank than that occupied by him, and comparing with the natural bias in favor of himself, the offence for which he was undergoing punishment, with that of others by whom he was surrounded, would draw the conclusion that he was treated with injustice. All Convicts should as far as possible be placed on the footing of perfect equality; each should know what he has to expect, and his rights and obligations should be strictly defined. If he break the Prison rules, he should also have the quantum of punishment to which he becomes subject. He should not witness the spectacle of offences similar in enormity treated with different degrees of severity, unless in cases of frequent repetition. One of the most important lessons to be impressed on the Convict's mind, is the justice of his sentence, and the impartiality with which it is carried into execution. This inflexibility by no means implies harshness as a necessary adjunct; on the contrary the rules of the Prison should be carried out in a mild and humane spirit. In place of wantonly seeking to degrade the criminal below his present position, every means should be taken to raise him above it. Each attempt to elevate the individual will act favorably on the general mass. The Convicts should, as much as possible, be made to understand that it is not the discipline to which they are subjected in the Penitentiary that degrades them, but that the crime which they committed outside has degraded them to the Penitentiary.

Another subject which has occupied a good deal of attention amongst Philanthropists in the United States and elsewhere, is the frequent granting of pardons to Convicts, prior to the termination of their sentences. In some States, the exercise of this power, by the Executive, is necessary, in order to reinstate the discharged Convict in his civil rights forfeited by his conviction of a criminal offence; but in this country no such necessity can be pleaded, because here his attain ceases with his imprisonment.

Appendix

(B. B. B. B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

The indiscriminate exercise of the pardoning power on account of good behaviour in prison, appears open to very grave objections. It tends to make the men hypocrites, and when the interest is so strong to deceive the officers, the most wily villain is most likely to be successful. It is well known that the worst men commonly make the best conducted Convicts; and so well is this understood in the British Prisons, that they generally employ, in preference, as monitors or in other confidential posts, those who have been frequently convicted, and who are up to the ways of the prison. Nothing can tend more to obliterate the distinctions between right and wrong, in the minds of the Convicts, than to confound with infractions of prison rules the flagrant violations of the laws of God or of the land, and to make obedience to the former, the means of mitigating the penalties due for disobedience to the latter. Where mitigating circumstances could by any possibility be pleaded at the trial, it is fairly to be presumed that they were adduced in most cases, and that the sentence passed by the Court, was founded on the law of the land, after a full and ample consideration of the evidence; it does seem, therefore, anomalous to reverse or alleviate that sentence, unless some good reason can be adduced to show that it was erroneous.

We have already exposed the cruel and indiscriminate character of the punishments formerly inflicted at the Provincial Penitentiary, and we need hardly add that we altogether deprecate the continuance of such harshness. It is conceded now, as an admitted principle in prison discipline, that there is no occasion to govern solely by terror, and in the best regulated Institutions the lash is seldom, if ever, resorted to. Some of the substitutes for the whip are perhaps more open to objection than the whip itself. The shower or the bolt bath has been proved to be dangerous to bodily health, and has produced, in some cases, fatal results. It is also most unequal, acting with much greater severity on some constitutions than on others. Another substitute adopted at present in some Congregate prisons, is the yoke, an iron bar of 30 to 50 pounds weight, fastened on the chest, and to the extremities of which, the arms are extended and the hands tied. This appeared to us a punishment of a revolting character, little calculated to produce any salutary effect. Confinement in a dark cellar on bread and water, is perhaps better adapted to subdue refractory spirits, but this also requires care in the application, lest either the mind or body should sink under it. The box, another *succedaneum* for corporal punishment, which was used to so fearful an extent in the Provincial Penitentiary, during the year 1847, we are convinced, is highly injurious to some constitutions, and we see no prospect of such reformatory effects likely to be produced by it, as to justify the experiment. With proper management, our conviction is, that the punishments in a Penitentiary may be few in number and mild in character. There are, however, a few characters in most prisons whom too much lenity only tends to make refractory, and who are only to be ruled by bodily fear. On such persons and for such offences as seriously involve the discipline of the prison, such as assaults on the officers, it will undoubtedly be a matter of necessity, sometimes, to inflict the severe punishment of the dark cell, or failing that, of the cat; but we conceive, that with proper management, the deprivation of comforts, and solitary confinement, and as little of these as possible, will be found sufficient aids to kindness and reason for the maintenance of good discipline.

The subject of appropriating to the Convict a share of the proceeds of his overplus labour, has also engaged our attention; and though favorably impres-

sed with it at first, an examination of the evils which have arisen from the practice in prisons where it has been tried, has convinced us that the adoption of such a system is not advisable. The plan has a tendency to break down those proper barriers which distinguish the honest artisan from the Convict labourer. It is also directly calculated to foster deception among the prisoners. The Convict manoeuvres to get his stated quantum of labour rated low, and that secured, he either spends a portion of his time in idleness, or makes it lucrative to himself, as he may see proper. In practice, it has also been found to deteriorate the character of the work done in the Prison. We cannot sympathize with those who conceive the Convict entitled to a portion of the proceeds of his labour. The State is exposed to great expense through his misconduct, and we think it entitled to his services during the confinement awarded him for the protection of society.

#### EMPLOYMENT OF CONVICTS.

The task of finding employment suited to the various capacities of the inmates of a Penitentiary, and beneficial to the public, is by no means easy. It is not possible to lay down any precise rules; much must be left to the judgment and discretion of the Warden; but a few guiding principles should be kept in view. The main object, as regards the prisoner, is to withdraw him from those evil influences which led to his ruin, and in general it may fairly be presumed that the acquirement of industrious and regular habits is a great safeguard against relapse. The selection of a trade which can be learned without much difficulty, and in which employment can readily be procured, is also very advisable in most instances. Neither should the pecuniary return be considered as a matter of trifling moment; we can see no reason why the labour of able-bodied men should not produce sufficient to pay for their sustenance; and we consider that Penitentiary, in a financial point of view, as ill-managed, that does not make its revenue nearly equal to its expenditure. Grave objections may be raised to the employment of Convicts as locksmiths, whitesmiths, gunsmiths, copper-plate printers, and in such other trades requiring skill and dexterity; the knowledge of which might assist them on their discharge in nefarious attempts to prey on society. Those occupations are evidently the most eligible for a prison in which the least communication is necessary among the men in carrying it on; in which the article produced is of wide demand and easy sale; in which the Convict can readily get employment on his discharge, and pursue it in his own house, and in which the least capital is required to carry it on.

One great point of economy in the management is to have but few trades and those simple in character, neither requiring various and expensive tools nor a number of skilful mechanics as instructors.

There are three modes by which the Convict labour can be made more or less productive; 1st, in making articles for sale for account, and at the risk of the Penitentiary; 2d, in manufacturing articles to order or on contract; 3d, by letting out on hire the Convict labour.

The first, we fear, would be hard to conduct profitably. The Warden of a Penitentiary could scarcely be supposed sufficiently conversant with the details of business to manage such a trade well. He would have to rely on agents to dispose of the goods, and the charges for agency, &c., would probably absorb a large portion of the proceeds.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

The second mode we consider decidedly preferable to any other, provided permanent employment in a suitable branch of trade, for a considerable number of Convicts, could be found, but it is difficult to meet with persons disposed to enter into such contracts. When opportunity offers however, we recommend that this system should have the preference. Casual orders can seldom be executed to advantage, and to rely on them for the employment of a large body of Convicts is quite out of the question. We can conceive nothing more absurd than the past management of the Penitentiary in this respect. Trifling jobs, such as mending shoes, repairing locks, &c., by which a few shillings were occasionally earned to the Institution at the cost of as many pounds.

The third plan, that of letting out the labor of the Convicts at a fixed rate per diem, offers the advantage of simplicity and certainty in the result. Great care requires to be used in contracts of this description, that there be no interference on the part of the contractors, in any way whatsoever, with the discipline of the prison; and that the Warden shall be the sole judge in all matters of complaint that may be made as to the conduct of the Convicts in performing their daily labor. With proper precaution on these heads, we are disposed, failing those of the second class, to recommend that contracts be entered into, if possible, for the surplus labor of the prison; to be employed in such trades as possess the recommendations to which we have already referred.

This system is open to much abuse from the intercourse necessarily permitted to the Contractor and his agents with the Convicts. These parties care little for anything but getting a great amount of work out of the men; and it is too often the case that consideration is secretly given by the Contractor to the Convict, in payment of over-work, in direct breach of the prison rules, and in detriment to the discipline. The utmost care and watchfulness is necessary on the part of the prison authorities, to prevent this abuse; and no contract should be made with any Contractor, which does not enable the Warden to secure that moral men only shall come in contact with the Convicts.

In some of the United States' Penitentiaries, a practice exists of fixing, according to the capacity of the Convict, a certain quantum of labor which he is obliged to perform, or he is punished for his failure. This plan may also lead to great abuse, but it may be necessary to adopt it under proper restrictions.

#### ADMISSION OF VISITORS.

The indiscriminate admission of visitors, for the purpose of indulging a prurient curiosity, we consider fraught with such evil, that we recommend its discontinuance. It is discordant with the intention of Penitentiary confinement, which is to separate, as far as possible, the Convict from all communication with the world without; it distracts his attention from his labor, and excites him to infringe the prison regulations, forbidding him from gazing at strangers; it is the means sometimes of bringing improper characters into the prison, and of enabling them to hold intercourse with the Convicts; and it affords opportunities of supplying surreptitiously forbidden articles, such as tobacco, to the Convicts. In the Provincial Penitentiary, about 2000 persons have been admitted annually; and one man has been kept almost constantly employed escorting them through the yard and premises. In most or all of the Penitentiaries in the United States, an admission fee is exacted, which amounts in some to fifteen hundred

to two thousand dollars annually; but no revenue can alleviate the disgust which every feeling mind must experience at the exhibition of so many fellow-beings, as in a menagerie, to the brutal or idle gaze of spectators. Such an outrage on decency, we consider as second only to the abomination which formerly existed of working the Convicts in chains on the public highways.

The only visitors whom we would permit to have the right of intercourse in any shape, or access to the prisoners, besides the officers of the prison, the Inspectors, and the official visitors, are the members of the Executive Government and of the Legislature, and the Judges of the Court of Queen's Bench. Under peculiar circumstances the Inspectors or the visitors might have the privilege of ordering the admission of strangers, but this permission ought rarely to be granted and not grow into a practice.

#### BUILDINGS.

To complete the Provincial Penitentiary, the following additions require to be made:—

##### PRISON FOR FEMALES.

The portion of the North-Wing which the female Convicts now occupy, is not adapted, in any way, to carry out the Penitentiary discipline; nor does it seem even to be attempted. By day, some kind of superintendence exists, but at night, the communication is perfectly unrestrained. The partitions between the cells are made of pine boards, and as has been noticed in the former report, they serve only to breed vermin. There is no attempt at proper ventilation.

The labour department has been as inefficiently conducted as every other part of the discipline. Female labour can scarcely be expected to prove a source of pecuniary profit to a Penitentiary; but we believe that occupation might easily be found which would conduce to the maintenance of order in the prison, at the same time that it would repay, in part, the cost of supporting the prisoners.

A suitable building must, however, be erected before any reform can be attempted with success.

##### CHAPELS AND SCHOOL ROOMS.

Divine worship is at present performed to the Protestant portion of the Convicts in the dining hall, and to the Roman Catholics in a part of a large room partitioned off for the purpose. Neither of them is adapted for the service to which it is applied; and the former especially, being the room in which not only the meals are served up, but where corporal punishment is inflicted, and other daily avocations performed, is destitute altogether of those religious associations calculated to exert a beneficial influence over the minds of the Convicts. Suitable places of worship for the use of the adherents of both churches, should be constructed and properly fitted up.

A school-room properly furnished, apart from those appropriated to religious worship, will also be required.

##### WATER WORKS.

Notwithstanding the lavish expenditure on the prison buildings, there are some points which have been neglected, and to which, the attention of the Inspectors, it is conceived, should be directed. The

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.)

30th May.

first is the supply of water. With so close proximity to the lake, a hydraulic engine of sufficient power might be constructed at a moderate expense, and the working of it would be a good employment for such Convicts, as it would be advisable to subject to hard labour for an hour or two in the day. Through this means, large tanks and reservoirs should be kept regularly filled; the Convicts might enjoy a benefit at present denied to them, but which is necessary to their personal cleanliness, that of frequent baths; and there would be at all times, in case of fire, an ample supply of water at hand.

## VENTILATION.

The ventilation of the Prison buildings is also extremely defective, especially in the south wing, where there are really no means of escape for the foul air. In both of the wings now occupied, there is required, an apparatus for the introduction of fresh air. The expense, under this item, would be very small, and the object is of the highest importance; it is much to be regretted that this obvious defect has not been sooner remedied.

We have thus gone through the various questions involved in the inquiry entrusted to us by Your Excellency; and set forth the improvements in the Management and Discipline of the Penitentiary, necessary, in our opinion, for the better administration of the institution, and for the physical and moral well-being of the Convicts. In our investigations we have spared no labour to arrive at the truth on every point, and our conclusions are the result of anxious deliberation. The time occupied has far exceeded our expectations; but, from the difficulties in our way, we feel that justice could not have been done to all parties, and the subject satisfactorily treated, by a shorter process. And if the result of our labours shall be, to replace the loose morality and the open mal-practices which have heretofore prevailed in the Penitentiary, by a high tone of moral feeling; if a system of discipline, harsh, cruel, and degrading, can be made to give way to one, firm, equable, mild and humanizing; if some success shall be here-

after attained in the work of reformation; the time we have devoted to the inquiry will not have been spent in vain. We are well satisfied that if the spirit of our recommendations is promptly carried out, all of these desirable results will be attained, and a large pecuniary saving, annually effected.

In all our proceedings and recommendations, we have endeavoured to keep steadily before us, that the great object of all penal Institutions, is the prevention of crime; and it has ever appeared to us that there are four great aims which a sound penal system should ever keep in view, viz.—to rescue the child of ignorance and vice from the almost certain destruction to which he hastens; to guard from contamination the venial offender, committed, before or after conviction, for a brief space to the common Gaol; to implant religious and moral principles and industrious habits on the inmate of the Penitentiary; and to strengthen and encourage him in his struggles with the world when he is discharged from confinement.

The result of all our researches has been, to impress us with the wisdom and truthfulness of the declaration so early made in that British Act of Parliament, which stands as an unperishable monument to the philanthropic labours of Howard, that the true principles of a prison system ought to be:—“To seclude the prisoners from their former associates; to separate those of whom hopes might be entertained from those who are desperate; to teach them useful trades; to give them religious instruction; and to provide them with a recommendation to the world and the means of obtaining an honest livelihood, after the expiration of their term of punishment.”

All which is respectfully submitted.

ADAM FERGUSSON,  
N. AMIOT,  
E. CARTWRIGHT THOMAS,  
W. BRISTOW,  
GEO. BROWN,  
Commissioners.

Montreal, 16th April, 1849.

Appendix  
(B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

[Translation.]

To His Excellency the Right Honorable JAMES, Earl of ELGIN and KINCARDINE, Knight of the Most Ancient and Most Noble Order of the Thistle, Governor General of British North America, and Captain General and Governor in Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, &c. &c. &c.

The undersigned, one of the Commissioners appointed by Your Excellency to inquire into the Government, Economy, Management, and Discipline of the Provincial Penitentiary at Kingston, has the honor to report to Your Excellency, that he cordially concurs in the views of his colleagues with respect to the alterations and improvements which it is necessary to make in the system of management and discipline of the Penitentiary at Kingston, as recommended in the Second Report made by the Commission to Your Excellency, with the exception of one point on which the undersigned cannot entertain the same opinions as the other members of the Commission. This point is one of great, vital, and paramount importance; and the undersigned feels it his duty respectfully to submit to Your Excellency the reasons and motives which force him to differ from his colleagues on a subject essentially concerning the interests of the prisoner, both in this world and in the life to come. This important subject is liberty of conscience.

Under the law which now governs the Provincial Penitentiary, (9 Vic. ch. 4,) the Inspectors are authorized to make such regulations as they may deem proper for the good management of the Penitentiary, subject, nevertheless, to Your Excellency's approval. Under this law the Inspectors passed a Resolution, which is still in force, and by which a prisoner who should wish to change his religion whether Catholic or Protestant, and become a convert to another, cannot do so without the consent and approbation of the Board of Inspectors. The principal object of this regulation was, to give the Inspectors an opportunity of satisfying themselves of the sincerity and firm conviction of any prisoner who should request such permission.

This regulation, wisely carried out, appeared sufficient, in the first place to prevent the possibility of a prisoner's obtaining permission to change his religion on any frivolous pretext; and secondly, to allow to a prisoner, influenced by sincere and conscientious motives, the right of satisfying the imperative dictates of his conscience.

But in the Second Report of the Commission to Your Excellency, it is recommended "that no change of religion be allowed in any case whatsoever."

The undersigned may perhaps be permitted to express his surprise, that in the age in which we live, when principles of religious toleration, freedom of worship, and liberty of conscience are recognized and recommended by the most eminent statesmen, the most celebrated political writers, and by all the distinguished men, who, under the inspiration of a philanthropic and Christian philosophy, dedicate themselves to the improvement and welfare of their fellow-creatures, it should be necessary to point out the propriety, the justice, and the necessity of allowing, even to a prisoner, full and entire liberty of conscience.

The undersigned, while he concurs in the opinion of his colleagues with respect to the propriety of al-

lowing any religious proselytism in the Penitentiary, on the part of any person whomsoever, considers the matter as wearing a very different aspect when it is the prisoner himself who applies to the chief authority of the Institution for permission and liberty to satisfy the desires, the dictates, and the aspirations of his conscience.

If society has the right of depriving a man of his liberty when he has violated the laws made for its protection; if it has the right of binding his body with chains, and keeping it within the walls of a prison, it cannot reasonably claim the right of fettering his soul and restraining its aspirations towards its Creator, and of depriving him of the enjoyment of the noblest part of his being, which the providential goodness of his Divine Master has given him.

But should not this question be considered in a higher, a more imposing, and more sublime point of view? Every one whose principles are orthodox will agree that conversion is an act of grace; it is the act of the Divinity itself; for though society cannot heal a wounded conscience, religion can, and this is its noblest attribute. Has society then a right to oppose the Divine inspirations which it may please God, in his heavenly mercy, to impart to man? Shall it have the right of forbidding the salutary communication which the Creator, in his paternal benevolence, deigns to hold with his creature? Ah! if tyranny, even applied to temporal and material objects, is so repugnant to the heart of man, how revolting and intolerable does it not become when applied to the faculties of the soul? These reasons become much more impressive and convincing when we consider that the Provincial Penitentiary contains a great number of prisoners condemned to prison for a long period, or for life. Is not the fate of these unfortunate beings already sufficiently hard and painful, without adding the sufferings and agonies of an agitated and unsatisfied conscience? Why deprive them of the only advantages which they can enjoy inoffensively, and without endangering the interests of society?

The undersigned thinks that the reasons alleged in the Second Report of the Commission to Your Excellency against any conversion or change of religion, are only casual and hypothetical, can only apply to exceptional cases, and cannot in any manner outweigh the great and powerful reasons in favour of allowing liberty of conscience to man whether he be at large or a prisoner.

In support of the great principle of liberty of conscience, Your Excellency will deign to permit me to point out the following fact. A considerable number of Convicts on their arrival at the Penitentiary, and on being asked to what religion they belong, often declare that they belong to none—that they have been brought up in no religious creed.—In such a case, would it not be just and reasonable to ask them what religion they prefer to adopt, whether Catholic or Protestant, and to allow them the religion of their choice? Yet they have, on the contrary, in such cases, without being consulted, been invariably sent to worship with the Protestants. This, the undersigned considers as a serious abuse, which he respectfully submits to the consideration and attention of Your Excellency.

The whole humbly submitted.

N. AMIOT,  
Commissioner, P. P.

Montreal, 19th April, 1849.

Appendix  
(B.B.B.B.B.)

30th May.

## APPENDIX A.

DEPOSITIONS taken in the matter of Dr. Sampson's complaint against Kitchen-keeper F. W. Smith, by the Board of Inspectors, Provincial Penitentiary October, 1847.

Eustach Coté—(a discharged Convict)—sworn:—

Has seen F. W. Smith shoot arrows at Convicts from a bow. Has been struck himself with the arrows; has also seen Smith strike a great many with arrows. Has seen him strike Convict Abraham with an arrow. Deponent was very familiar with Keeper Smith; used often to play with him. Keeper Smith threw witness down once, and kicked him on the knee; this was done in rough play. Has seen him strike Convict Wilson; he pushed him (Wilson) and knocked him about. Has seen Smith throw water on Convicts from a small tin spout, also from the engine; Smith was in the habit of doing so, and wetting them. Witness was struck in the eye with the cats by Keeper Smith. Has seen pins in the ends of Smith's arrows; has put them in by desire of F. Smith. Keeper Smith often went behind the Convicts when at dinner, and stuck pins into them. Has seen him prick them with pins in the yards and shops; this was done in sport. He blackened old Paschal Masson's face for sport; Masson was a Frenchman. Has several times got tobacco from F. Smith. Smith has thrown water on the Convicts through the air holes in the top of the punishment box, when they were in it; has been so wet himself several times. Smith bid witness open his mouth one day, and put tobacco in it.

Witness has been sent up stairs by Smith to throw water on Convict Wilson, by which he was wet. Witness has been in the habit of collecting arrows for Smith; has gone on top of the house and through the yard to collect them. Witness has taken, by Smith's orders, butcher's meat from a cart to increase the rations of the Convicts before the meat was weighed—Smith told witness to throw it in the cellar, where the rest of the meat was, for fear the butcher should see it—the meat was afterwards weighed, less the meat taken out.

Witness has seen Smith blow flour in Keeper Little's eyes, with a mill or machine he had, when the Convicts were marching out from dinner.

Witness has been sent for pigeons by F. Smith to the lofts &c., but does not know for whom they were intended.

Witness was reported once for talking by F. Smith, when he caught him with tobacco.—The punishment for talking was less than for having tobacco. M'Carthy and Fitzgerald were present.—The Convicts often get tobacco; they get it from carters and people about the yard, but witness declines giving their names.

Cross-examined:—These questions were never put to him before this by any one. Dr. Sampson never put them to him. Witness was at Dr. Sampson's house this morning for the first time; got his breakfast there by Dr. Sampson's orders. Has had no conversation with any one about this matter before this morning. Had conversation with Dr. Sampson about it this morning.

Witness has been twice in the box; both times for tobacco; got three days. He was reported by Keeper Smith for not opening his mouth to permit a search for tobacco. Has had no conversation with guard Fitzgerald; saw him one day in town, but had no talk about this matter.

Re-examined in chief:—Witness told the substance of this evidence to Micajah P. Guess, with whom he has been staying since he left the Penitentiary on 20th July.

By the Board:—Knew that F. Smith threw water on him when in the box, as he could see him through the air holes. Witness told F. Smith he would tell his father, and he (F. Smith) let him off a day of the box in consequence.

Witness being asked, why he first said he had talked to no one, and afterwards said he had spoken to Guess about this matter? says, he did not understand the question.

his  
EUSTACH X COTE.  
mark

Henry Wilson—(a discharged Convict)—sworn:—

Remembers seeing Dr. Sampson in town, after he got out of the Penitentiary. Remembers Dr. Sampson telling him he should probably call on him to give evidence about the eye of a Convict. Saw him (Dr. Sampson) also at the cattle show at Waterloo: Dr. Sampson spoke to him about it then, and told him he should subpoena him. Witness has seen arrows shot at Convicts by Mr. Frank Smith; has frequently seen him shoot at them; has been struck by an arrow once himself; was walking with his back to F. Smith, who struck him with one on the wrist. Was also struck on the collar bone; it hurt him much at the time, and thinks it caused a swelling or gathering in his neck. Has seen him (Smith) shoot at Convict Abraham, an Indian. Abraham was at work, before breakfast, at the south wing making splints for baskets; Mr. Frank came out with a bow and arrow—witness was in at the board pile making water, and Smith did not see him—Smith drew the bow and arrow, as witness thinks, intending to shoot Abraham's cap off, who was stooping, just as he fired Abraham raised his head, the arrow struck him in the eye. Smith went up to Abraham who had his hand on his eye, said, "I did not mean to strike you on the eye, merely to shoot your cap off. Abraham came in and witness came in after, and asked him what ailed him? Abraham said, he was making splints and some of them went in his eye. Witness asked him the question because he wished to see if he would tell him how it happened. Neither Abraham nor Smith saw witness, he thinks, as he was in the pile. He heard no after conversation between Abraham and Smith. Mr. Frank Smith went out of south wing. Abraham remained.

Witness has seen F. W. Smith throw water on the Convicts with the engine. Has seen him throw water twice on people confined in the box. Has seen him shake the box, and put a stick and poke them from the bottom. He threw the water over-



Appendix  
(B.B.B.B.B.)  
30th May.

head. F. W. Smith ordered witness to shake the box. He did it; no one helped him; but immediately after Smith ordered another man to do it, and he did it accordingly. The man was Heenan, a Convict now out. Mr. Frank talked short, and witness was rather frightened, so he shook the box according to his orders. Smith gave him a chew of tobacco for doing it.

Witness has seen Convicts plunged in water. They were taken by four, sometimes by five men, and plunged headforemost into a barrel of water in the wash-house. Did not hear F. W. Smith order this to be done, but he (Smith) was present, and saw it. Witness was so used himself by the wash-house men—Mr. F. W. Smith was present—witness went in for a bucket of water, when he was plunged in; Smith said nothing, but “kind of laughed,” and told witness to change his shirt. Witness has seen Conkright and Daniel Lewis so used. Believes Conkright is here, but Lewis is out.

Has never seen Convicts employed by Smith in throwing water. Has seen Keeper Smith stick pins in Convicts; he has stuck them in witness; does not know why he did it; Smith said nothing, just laughed and passed on. Sometimes he stuck them in the thigh, sometimes in the arm; just where he could get a chance. Has seen two Convicts with faces discoloured; one had his face blackened, the other whitened. One was Kelly, who is in the Shoe Shop. The other, whose face was whitened, was Daniel Lewis. F. Smith did it with something in a paper which he had in his hand. Saw him on one occasion search Lewis for tobacco, &c.

Witness, when he saw Frank Smith shoot his arrows, would go for them. He was not desired to do so by Smith; did it of his own accord. He was one of the sweepers in the Wing, and not particularly employed all the time.

Witness was employed for the best part of two months, off and on, winding thread for F. Smith. Did not know at first what the thread was for; Smith did not just tell him what it was for, but witness saw him making nets with it. Smith did not call witness from his work for the purpose; was not constantly employed, but was directed by Smith to do this when not otherwise engaged. Wound a great quantity.

At the corner of blacksmith's shop heard Convict Ilett tell the Warden that Keeper Smith threw water on him. He complained of it. The Warden made answer to Ilett, that he should take a brickbat and knock him down. Ilett said that he would not do it, it would be contrary to the rules of the Prison. Ilett went and changed his shirt; he went into the East Wing. Has seen a Convict called Pulchard and Smith netting together; they were in the little room of the Dining Hall, Mr. Costen's room.

Cross-examined:—Was standing on the pile of boards when he saw Smith strike the Indian. Abraham's shanty was behind the South Wing, on the east side of the South Wing. Shavings, where he worked, witness believes are there still.

By Board:—When in the box he could see a person outside; in the big round one; he could see them through a crack; could see to read; it was quite light. One of the Convicts on whom Smith threw water was old Hall, also a little boy who works in the blacksmith's shop; thinks his name is Bernard, but is not sure. He was crying in the box; Smith told him to hush, and as he did not cease threw water

on him. Knows not whether in other cases Convicts were making a noise, or if it was done in sport. Neither Hall nor he were making a noise. Supposes it is usual to search men for tobacco; has been himself searched for it by F. W. Smith. When in Prison shewed the Doctor the lump made by the arrow on his neck, and he lanced it. Did not tell the Doctor how he got it. Does not suppose F. Smith shot at him to injure him, but supposes he did it in sport; but it hurt him.

HENRY <sup>his</sup> WILSON.  
mark.

Francis Little—(one of the Keepers now employed in the Penitentiary)—Sworn:—

Cannot say that he ever saw F. W. Smith throw water on his gang; there never was water thrown on his men to his knowledge. Witness never told any one that water was thrown on his men. Never had flour thrown by F. W. Smith in his face; never had any flour thrown or puffed in his face.

By Board:—Wilson never was in his gang. Côté was, but not latterly; he was so probably four months before he went out, but is not certain how long. Never saw or heard of Mr. Frank Smith throwing water on men in the box; no such thing was done in the place since witness came to it, that he knows of. Cannot say that he ever heard of F. W. Smith shooting at a Convict or injuring his eye. He oversees one of the gangs of masons.

(Signed,) F. LITTLE.

Francis Bernard—(aged 13 years—does not know the nature of an oath)—not sworn:—

Has been in the box. Côté threw some water on him on one occasion. Did not cry. Has been more than once in the box. Mr. Frank never threw water on him. He was not there.

By Board:—No one spoke to him about what he was to say, nor did he know why he was sent for to the Board. No one spoke to him since he left the blacksmith's shop.

FRANCIS <sup>his</sup> BERNARD.  
mark.

Isaac Hall—(a Convict—knows the nature of an oath)—Sworn:—

Has been four or five times in the box. Has had water sometimes thrown on him from the wall as he was passing beneath. Is positive no water was thrown on him in the box. Does not know who threw water from the wall; it was not Mr. Frank Smith, who was in the dining-room at the time.

By Board:—Never heard that this trial was going on; never heard it spoken of; Mr. Costen told him to put on his coat, and brought him in. Heard Abraham lost his eye. Abraham said it was by a chip which flew in his eye when he was chopping. This was about a month before he went out. Witness works constantly at the pump all the time. Never saw any one plunged into the barrel in the wash-house; but seldom goes there.

ISAAC <sup>his</sup> HALL.  
mark.

Simon Conkright—(Convict)—Sworn:—

Is a Dutchman. Works in the sawing-house; never has been in the wash-house above once or twice; was plunged in the tub himself; a parcel of the Convicts seized him and plunged him in the tub; supposes it

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

was for sport or madness; never spoke to them; his Keeper, Mr. Swift, had sent him for water for the grindstone. Mr. F. Smith was there; he saw the Convicts duck witness; he (Smith) came up to the tub and said something, does not know what; it was done just as he (Smith) was going in; does not know but that they would have killed him had Smith not been there; thinks he (Smith) saved him; it was in the winter time; he was just ducked in, and got out again as quick as he could; perhaps they would have drowned him had Smith not been there; had had no disagreement with the people who did it. Complained to Swift of having been dipped; Swift made little answer. Has had water thrown on him in the new Wing below blacksmith's shop; Smith was not there; Convicts did it; never saw water thrown on others.

Never was in the box. Smith has stuck pins or something in witness; does not know why; supposes it was for sport, as deponent never did anything to deserve it; Smith did not speak to him when he did it; just pricked him and went along. Was not talking. It was done once or twice; twice, he thinks. The pin was in his hand; it was done on purpose; it was a sharp stick or pin, does not know which. Never saw him knock two Convicts' heads together at table that he remembers.

SIMON <sup>his</sup> ~~X~~ CONKRIGHT.  
mark.

John Kelly—(Convict—aged fifteen)—Sworn:—

Knows the nature of an oath. Never had his face blackened or painted in prison. Never saw any one's face blackened or painted in prison.

JOHN <sup>his</sup> ~~X~~ KELLY.  
mark.

Christopher Julian—Sworn:—

Was lately Hospital-keeper in the Penitentiary. Has frequently seen F. Smith shooting arrows from a bow in the Penitentiary. Has seen him shoot at Convicts. For several months before Deponent left, F. Smith was in the habit of shooting; sometimes at marks, sometimes at pigeons, more frequently at Convicts. The mark was put up in the passage between the Wings, and in the South Wing; the mark was sometimes a hat, sometimes a board. It was generally in the afternoon. Sometimes it was in the fourth gallery at the tailors' place. At the time of giving out supper, witness has frequently been obliged to dodge or keep out of the way of arrows. Has spoken to Keeper Hooper on the subject. Has often seen Convicts picking up arrows for Mr. F. Smith, generally two were so employed, sometimes three or four. Saw him shoot at the tailors at work in the fourth gallery. Has frequently spoken to Mr. Hooper on the subject, and asked him why he allowed it? Hooper said he was sorry for it, but could not help it. Was sorry to see the discipline of the prison reduced to that state, but that it was not in his power to do anything.

Witness has often seen water thrown on people by F. Smith. There is a small engine with a hose and pipe, with which he threw it on the Convicts passing. Saw this very often. Some were drenched, some sprinkled, some more or less wet, as it fell on them. Frequently arrows struck the upper porch of the hospital entrance room and made a great noise; it was a great annoyance to the sick and dying. This happened while several patients were in the hospital, two of whom were in a dying state, and died afterwards. The hollow boards made a great noise, when that sometimes the arrows came

in at the open windows, and struck the door of the large room leading to the hospital.

Remembers case of the Indian Abraham. The first time he came he shewed his eye to Deponent. Deponent thought it a severe contusion. The eye and eye-lid were much swollen at the time. Dr. Sampson, when he saw it, asked what happened it? but Dr. Sampson did not see it for perhaps ten days or a fortnight before he (Abraham) was put on the sick list. Deponent treated the eye himself till the inflammation had subsided. After the inflammation had subsided, but not till then, saw a deep seated injury in the eye, and told him (Abraham) he should go to Surgeon and put himself on sick list. Asked him how it happened? He said, a splint struck him in the eye, either when he was making a broom or shaving a stick, deponent forgets which. Could not say if Abraham said he was making a basket or shaving a stick. Does not know where Abraham now is. Dr. Sampson said to Abraham when he saw it: "you got some severe hurt or injury in the eye?" Abraham laughed, and said, "Oh no." He lost the sight of his eye; he was taken into the hospital for it. Dr. Sampson always said, "there was some mystery about this. There is some severe injury here." He made this remark very often. Witness does not know the cause of the hurt, and only heard a rumour of it by report, after a long time. When Abraham said it was caused by a splinter, Deponent could not believe it, as it seemed a severe injury. In cases of inflammation of this kind, it was usual for him to treat them, but after inflammation subsided, and he saw the injury, he put Abraham on the sick list. When the eye was opened, the sight or centre of the pupil or cornea, seemed injured; there was a white or grey round spot on it.

It was, a long time afterwards, talked of in the prison, that it was shot out by an arrow. Has heard several of the Convicts say so. Has heard the colored man Wilson say it (Henry Wilson the witness). He (Wilson) said it was shot out by an arrow. He appeared not to like to tell Deponent. Deponent asked him how he knew it? He said, he guessed it was done by an arrow. He said he knew how it was done. He appeared to tell it unwillingly, but did not say who did it. Deponent cannot say farther than it was a general rumour that it was shot out.

Witness has seen Convicts' faces blackened or discoloured; black and white streaked; did not know who did it. Has seen two in that state wrestling as they came out of the supper-room: Mr. Watt was present on that occasion; on another occasion Mr. F. Smith was present. Deponent asked Watt, what it was? he said, it was old Masson and Primeau.

On the other occasion when they were wrestling or dancing, and gesticulating with their faces blackened, Mr. F. Smith was present. He seemed to smile and laugh at them.

Witness was nearly ten years Keeper of the hospital. A Convict of the name of Richard M'Canna was in the box, making a great outcry, and using most unmeasured language, as he (witness) was going up the gallery. Mr. F. Smith was at the side of the box. The Convict spoke very unmeasured language against F. Smith, and the Warden. M'Canna said F. Smith had shook the box, but witness did not see it. M'Canna wanted a drink, and said he was dying of thirst. Witness asked if he would give him water? F. Smith said, "no, let him die." Witness afterwards ordered him drink. M'Canna said, F. Smith shook the Box, but witness was there

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

a long time, and did not see it or water thrown on him while witness was present. M'Canina was on the sick list in a day or two after he was let out; and witness thinks he was blistered. He said he was injured by the rolling of the box. Witness told Guard of wing to give him a drink of water. Guard's name was Fitzgerald.

Cross-examined:—Never heard of this examination till Wednesday evening last: met a gentleman then on the street, who said, "There is a blow up in the Penitentiary." Gentleman said, he did not know what it was, but it was between Dr. Sampson and F. Smith. It was the Chaplain, Mr. Rogers, who told him. Met also another gentleman, (Mr. Kirkpatrick,) who told him, something was going on at the Penitentiary, and that witness would probably be called on; this was on Wednesday evening last.

By Board:—The reason why he did not complain to the Warden about being retarded in his duty by the shooting of arrows was, that he made a rule when he came to the Prison, never to mention anything he heard. He never told Dr. Sampson about F. Smith being in the habit of shooting the arrows till after he left, but told Dr. Sampson he heard that Abraham's eye was injured by an arrow, but did not say by whom it was injured, as he did not know himself.

Had a conversation about this examination last night at Dr. Sampson's own door. Fitzgerald came in while they were together. He left Fitzgerald there. Witness came to ask Dr. Sampson what charges were to be made against F. Smith. Did not know, till then, what he was to be examined about.

Does not know how long Abraham was under Surgeon's hands, but the books will show. (Witness was shewn the book.) Find that Abraham was taken into Hospital, 15th April; and on 21st April discharged from Hospital, and got the range, but was not out of list. Was convalescent, 22d, 23d, 24th, 25th; and on 26th he was discharged. It was because he was past cure; his eye being out. May 7th, he again put himself on sick list, but was not admitted. Had he been re-admitted, witness does not think it would have saved his eye, as the sight was already lost. Dr. Sampson found no fault with witness for not putting him sooner in the Hospital. He treated him till the inflammation was down, then when he perceived the injury, he put him on the list. This is the usual course in slight accidents, as every day many came with slight injuries who do not require to be put on the list.

Does not think the Surgeon saw Abraham every Sunday while he was on the range. Those men with whom there is little the matter, continue their medicine on Sundays. When witness reports serious sickness, Surgeon goes to the cells. Convicts seldom report themselves sick upon Sundays. Witness never said to any one that the Surgeon did not stop long enough to do justice to the sick, that he recollects of. If he had said so, he would not have been doing the Surgeon justice. Never told the Messenger or his wife, that it only took Dr. Sampson five minutes to go over twenty-five or twenty-six patients. Remembers saying, on a question put, that it did not take the Doctor long to do his work to-day, although he had about twenty or more patients, because none of them were bad cases.

When Abraham came first, it appeared his eye had received a severe contusion. Gave him a lotion; thinks he gave him no medicine; is sure he did

not give him any. A Convict sometimes mixed medicine under his directions and superintendence. Henry Sinclair did so, and was capable of doing so, being Hospital Orderly. He is now out.

(Signed,) CHS. JULIEN.

Thomas Fitzgerald—(late Guard)—Sworn:—

Witness has frequently seen F. Smith shoot arrows at Convicts. Has seen him strike them. In the South wing, for instance, Mr. F. Smith used to fire at the Tailors when the Tailors were working. On one occasion he struck a Convict (named Jones witness thinks) on the eyebrow; and another time he struck a Convict named Davis, also in the South wing, on the arm; and at another time he struck a Convict named Sheenan on the ankle, which swelled in consequence. Has frequently seen him send Convicts to gather his arrows.

Has seen Convicts take another Convict and dip him in the water in the wash-house while F. Smith was standing by. On one occasion Convict M'Millan told him he was so put in, but witness did not see him. The man witness saw put in was a white man. Does not remember his name. Does not think he saw it oftener than once; but his men frequently complained. Wilson and Sheenan so complained. Did not say anything to them when they complained, did not think it his affair. Mr. F. Smith had the charge of the kitchen and wash-house, it was between him and Mr. Watts. When the man witness saw was dipped, F. Smith was standing by, laughing.

Has seen F. Smith frequently take the fire engine into the South wing; has seen him more than once throw water on tailors, sometimes on shoemakers, as they passed from the shops. Hooper has the charge of the tailors. M'Garvey has the charge of the shoeshop. Has seen Convicts employed to wind thread for Mr. F. Smith, who told witness he bought it in town for his own use. Has seen F. Smith throw potatoes at Convicts; has seen him also throw stones on more than one occasion. He would stand at the door of the South wing, and throw sometimes potatoes sometimes stones, from his pockets, at the Convicts going to their buckets, and when sitting on them.

Smith had a machine with a turning tube, with a stop, which had flour in it: made witness blow in it once, and the flour came into witness's eyes; supposes it was done in a joke. Saw him do this to Keeper Little, who got the flour in his eyes. Cannot recollect that ever he saw F. Smith do so to Convicts. Has not seen F. Smith throw water on Delille's gang. Has seen F. Smith use a small tin squirt; he frequently fired at Convicts as they passed by, and wet them. Has seen Convicts Abraham and Siches making arrows for F. Smith. Has seen him make Convicts open their mouths to see if there was any tobacco in them. On some occasions has seen him put salt in their mouths when they so opened them.

Witness being asked, why he did not complain? says, he was afraid to do so, for fear of losing his situation. If he insulted any of Mr. Smith's family, his place, he thought, would not be secure. Means, if he complained to Warden, would lose his situation.

Coté was under witness's care, as cleaner in the wing; he was often taken away by Mr. F. Smith; cannot tell what he wanted with him, but he sometimes sent him over the roofs to look for arrows. Has bought provisions in the Penitentiary from Mr. F. Smith; purchased potatoes and turnips; never

Appendix  
(B.B.B.B.B.)

30th May.

Appendix

(B. B. B. B.)

30th May.

purchased anything else; as far as witness recollects, paid one pound four shillings and twopence for them to Mr. F. Smith, and he still owes from four shillings and eightpence to a dollar of a balance on them. Mr. F. Smith told him that he (Mr. Smith) was to make a return of the potatoes and turnips he got, and that it was to be deducted from his pay. Has never been asked for the four shillings.

Cross-examined :—Had a conversation some time ago with Dr. Sampson about these charges in his own house; had not seen or read the charges before last night; has been three or four times at Dr. Sampson's since he left the Penitentiary; met Mr. Julien there on one occasion; has also met Robinson the Guard, and Sinclair; does not remember seeing any others belonging to the Penitentiary but these. Never met Mr. Manahan there. Never told Manuel, to his recollection, that there was to be a meeting at Dr. Sampson's to get up these charges against F. Smith; never told Manuel that all he wanted was to get Coté and Wilson; has no recollection of anything of the sort; has not seen Wilson since he left the prison, until to-day. Was at Dr. Sampson's this morning; they were talking about this matter. It was customary, in Mr. Costen's time, for the officers of the Institution to go to the parties furnishing provisions to the prison, to get what they wanted, and pay for them; never remembers paying Kitchen-keeper in Mr. Costen's time, only paid the man from whom he received them. Does not exactly remember how long it is since he left Penitentiary; was never told why he was dismissed; Mr. Costen merely told him his services were no longer required. Witness being asked, if it was for drunkenness? says no; and that Mr. Costen said, he did not know what it was for.

(Signed,) THOMAS FITZGERALD.

The Board adjourned until 6 o'clock, P.M.

Board met, and resumed.

John Hooper—(Keeper, Penitentiary)—sworn :—

Has never seen F. Smith shoot arrows up towards tailor's shop; has seen him outside shoot at pigeons; never saw him shoot at Convicts; he never shot at witness; never saw him break a window with an arrow; never heard of him shooting a man named Jones in his (witness's) shop; cannot say what he might have done in his (witness's) absence, but he never heard of it; has seen him shoot one or two arrows in the yard. Has seen him throw water from the engine outside the building; never saw him throw water on Convicts.

Cross-examined :—Never knew F. Smith bring fire-engine into south wing, and have it pumped on the men; never saw F. Smith throw water on the men in the box. Has seen Fitzgerald throw water on a boy passing by in the wing; does not know what it was about; it was one of the black or dumb boys; it was not a great quantity; it was five or six months ago. Never saw F. Smith throw stones or potatoes at the men on buckets; had no opportunity of seeing such things. Never heard anything about Smith's throwing water or shooting arrows at the men, nor heard complaints of it by any of his gang. Julien never spoke to him about the shooting of arrows, as far as he recollects.

(Signed,) JOHN HOOPER.

Julia Cox—(late Matron)—sworn :—

Has seen F. Smith take liberty with Convicts; once, when several women were coming down to

dinner or breakfast—does not remember which—he put his finger to the face of one of the women at the foot of the stairs, and chattered to her; witness was behind, and said to him, how very improper it was.

Cross-examined :—Cannot say which Convict it was, as they were all coming down stairs; thinks it might have been Gibson or Quin; the woman said, "Did you see that—I would have scratched his face." They were coming down the outer staircase to go to meals; there were two or three Keepers with Smith; does not remember which; they were putting a woman in the blackhole. Thinks Smith was twice there, (in female prison,) putting women in the blackhole; he very seldom comes there.

(Signed,) JULIA COX.

James Mills—(Guard)—sworn :—

Is generally stationed on the wall; has not seen Convicts fishing, but has seen F. Smith fishing, and a Convict with him. Convicts were working outside; it was one of those who were working outside; he (the Convict) was doing nothing; he was looking on at Smith fishing. Witness has bought provisions in the Penitentiary; has bought both from Costen and Smith—bought potatoes and turnips—both potatoes and turnips from Costen, and potatoes only from Smith; paid Smith for the potatoes; paid Costen once or twice; other times Costen charged it to him in the office. Three shillings a bushel he paid Smith; he paid for two half-bushels and a bushel—two bushels in all—at three different times; took them out in a bag; had no pass; no order is required for such things. Smith told him he used to buy from contractors. One day witness was going to buy half a bushel at the wharf, but afterwards changed his mind, and bought from Mr. Smith; took them from a waggon; does not know where the rest were taken from; they were sent by F. Smith to the lodge near witness's post; he paid Smith for them.

(Signed,) JAMES MILLS.

Edward Bannister—(Guard)—sworn :—

Has bought provisions at the north lodge from a farmer. Bought some out of the store; did not get them from F. Smith personally; paid Smith for a bushel potatoes; cannot recollect whether did or did not pay him for more; never, that he recollects, bought or paid for anything else; never bought any provisions in the Penitentiary, but potatoes; what he bought came out of the cellar. Mr. Frank kept potatoes to supply the men when they could not get them anywhere else, as they were close shut up; they have not time to go about them. Saw them (potatoes) measured; they were taken from a small heap in the cellar; believes he did not pay them at the time, but is sure he paid them afterwards; supposed they were F. Smith's potatoes; understood that he (Smith) got a load of some.

Cross-examined :—Notorious that Guards and Keepers always got potatoes from Kitchen-keeper; they frequently lay at the lodge, and were not taken away for a time. F. Smith often asked, "Whose bag is this?"

(Signed,) E. BANNISTER.

James Gleeson—sworn :—

Has paid for two small loaves of bread here. Witness came one morning, after being on guard all night, and when he was short of provisions, and asked F.

Appendix

(B. B. B. B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Smith to keep a small loaf for him from the baker, which he did. Paid Mr. F. Smith for it. Another time witness sent a messenger in when he saw the baker's cart go in, and requested Mr. Smith to get him a loaf; thinks he sent the money at the time, at all events paid for it afterwards. The first loaf mentioned, was given to him by Mr. Smith from the loaf-bin in the dining-hall. Told Smith that he had no change, but that he would pay him afterwards, and so he did. Won't be positive, but thinks it was either on or in the bin it was. The other time he saw the baker's cart go in, and sent a messenger who brought a loaf out. Paid for both.

Has seen arrows shot in the yard, by different of the Guards and Keepers, at the leisure hours of breakfast and dinner, also by F. Smith; and witness has fired some himself. Believes he has once, or twice, or three times seen arrows shot at Convicts. At the vacant hour, before opening of the hall, has seen them fired by the officers at each other, and at marks. Can't be positive who fired at Convicts. Mr. Smith may have fired at various persons of the officers, cannot be positive that he particularly saw him fire at Convicts. Never saw any other Keeper or Guard fire at Convicts. Cannot state distinctly that F. Smith fired at Convicts, he fired at Keepers and Guards, he fired at himself (witness) for instance. Cannot in safety mention any one Convict fired at in his presence, but believes he saw them fired at. As far as he recollects of arrows being fired at Convicts it was by F. Smith, but cannot positively say that he did so. Never that he recollects of, had any conversation about these charges, except within these two days, except that he and Waldron in going home spoke of there being something of the kind. It was as they went home of an evening. Had no conversation with Dr. Sampson on the subject.

(Signed,) JAMES GLEESON.

William Crawford—(Guard)—sworn :—

Has bought provisions in the Penitentiary. Has bought some potatoes, has also bought oatmeal. Bought also a peck of peas; bought no other eatables. Bought three bushels of potatoes; paid for them to Mr. Frank Smith. Saw the potatoes measured; they were taken from the cellar; could not say if from the general stock; it was from the heap of potatoes in the cellar; the heap was not very large; there was several heaps; he paid 2s. 6d. a bushel for them. Does not recollect what he paid for the meal, but did pay for it; it was taken from the Prison meal-chest; it was a peck of meal. Was not told what the peas were to cost; thought Smith would not ask pay for so few. Asked Smith's leave to let him have a peck of peas, and took them himself; having got it, asked how much he was to pay for the meal? but did not expect to pay for the peas; thought they were a present.

Cross-examined :—Has never got potatoes or other provisions from any one else but Mr. Smith in the prison. Paid 2s. 6d. a bushel for the potatoes; paid this some time in winter; could not specify the particular time. Is positive he paid F. Smith for three bushels of potatoes.

(Signed,) WILLIAM CRAWFORD.

James Kearns—(Guard)—sworn :—

Has bought provisions in the Prison; potatoes and oatmeal; nothing else: bought them from Mr. Frank Smith, and from Mr. Costen before Mr. Frank came. Bought potatoes and oatmeal from Mr. F. Smith; paid Mr. F. Smith for them:

supposed they were Penitentiary property: was never told that they were not. Bought potatoes frequently; does not recollect how many bushels. Could not say how much oatmeal he bought; bought it several times; two or three times: not over twenty-five pounds at once. Thought the money would come to the Bank—would be credited to the prison—but was never told so.

Has seen bows and arrows shot in prison; has seen F. Smith shoot them; has seen him shoot at pigeons and other things; never saw him shoot at Convicts: at marks, perhaps. Has seen the small engine at work: some water might fall on Convicts, but never saw it played at them.

Cross-examined :—Had no trouble getting potatoes out of the lodge: it is a common thing to buy such things from F. Smith: well known that it is a custom for the officers to buy: F. Smith never desired him to keep it secret.

(Signed,) JAMES KEARNS.

Robert Bowers—(Guard)—sworn :—

Has got a bushel of potatoes once in the prison: never got any thing else: paid for them to Smith: did not see them measured or taken from the cellar. One of the men in the hall left them at the Kitchen for him.

Has seen arrows shot here, and has shot them himself: cannot recollect seeing them shot at Convicts; they might or might not be so shot; thinks it would strike him as strange if he saw arrows shot at Convicts: they might have been so shot, but witness cannot recollect seeing them. Cannot, at present, say if F. Smith shot at a Convict; can't say he never saw F. Smith shoot at them. Cannot recollect that ever he saw arrows shot at any other time except during the leisure hours. Has never conversed with any one but his comrade, William Crawford, about this investigation.

(Signed,) R. BOWERS.

Richard Nursey—(Guard)—Sworn :—

Has seen arrows fired in the Prison. Has seen F. Smith fire at pigeons. Has seen him fire at the window of the porch of the Hospital, when the window was open; the arrows made a rattling sometimes; this was near the Hospital; does not think it was an annoyance. Arrows very seldom came in; does not recollect of any coming in. Never saw F. Smith fire at Convicts. Never saw water thrown on them. Never told Julien that it was a shame to annoy the sick. Never saw Convicts throw potatoes at each other; had no opportunity. Never bought provisions in the Prison, had no occasion. Does not know about other men's affairs, or if Crawford bought any, he never told witness.

(Signed,) RICHARD NURSEY.

Lawrence O'Neill—(Guard)—Sworn :—

Has bought provisions in the Prison. Bought them from Mr. F. Smith. Bought potatoes and peas. Can't recollect exactly the quantity of potatoes, thinks three bushels; did not see them measured or taken out of any place. They were sent down for him to North lodge. Does not know who took them there. Found them there and carried them home himself. Paid Mr. F. Smith for them. Does not recollect how much he paid, but there is some due yet, which he has not paid. Considered that Mr.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Frank Smith bought them from the man who brought in the potatoes. Has never seen Convicts out fishing with F. Smith. Never saw water thrown on Convicts, or arrows shot at them.

Cross-examined:—It is a common thing for the Guards and Keepers, when they want provisions, to come to F. Smith for them.

(Signed,) LAWRENCE O'NEILL.

Joseph Baldwin—(Guard)—Sworn:—

Never saw F. Smith take liberties with Convicts. Only when they were asleep at table he would wake them up. Never saw Convicts making nets in their cells on Sunday. Never said he saw them. Cannot properly say he saw arrows fired at Convicts. Has seen them fired in the yards "at pigeons and the like of that," but can't say at Convicts.

(Signed,) J. BALDWIN.

Richard Tyner—(Guard)—Sworn:—

Has seen Convicts, with fishing-rods, at wharf. There are fishing-rods there: they took them up. Has seen F. Smith often fishing there. Does not think he ever saw Convicts fishing with F. Smith, but has seen them fishing. Thinks Smith was not there at the time. Does not recollect of seeing a Convict going through the gate, with F. Smith, with worms. They often went through the gate and might have had worms with them, but he did not see them. Witness very often bought provisions. Bought them of Stewards from year to year. Bought potatoes; cannot say if from F. Smith, but paid him for them. Witness took them from the carts himself. He asked F. Smith for them. Never bought or paid for any other provisions but potatoes in the Prison.

Cross-examined:—It is a common thing for Guards and Keepers to go to the Steward for provisions; has always done so. Has been over twelve years in the Penitentiary.

(Signed,) RICHARD TYNER.

John Thorpe—(Guard)—Sworn:—

Never saw F. Smith call Convicts to go fishing. Never saw them fishing. Never bought provisions here.

(Signed,) J. THORPE.

Richard Robinson—(Guard)—Sworn:—

Has seen F. Smith shoot arrows at Convicts: has seen him hit Convicts occasionally with the arrows. Has seen him throw potatoes at Convicts when they assembled to take their buckets to go to their cells in the evening; at least they appeared to be potatoes. Has seen F. Smith knock Convicts' heads together when sitting down after their meals. Can't say why he did so: could form no idea why. Has seen him throw water on them when drowsy; has seen him go with a tin of water, and pour it on Convicts' heads: it was when they were going asleep at the meal-table: can't say why he did it: did not appear to be angry. Has seen Convicts fishing with a rod in the afternoon; Mr. F. Smith was with them; saw him frequently fishing in company with them in the afternoons. Has seen F. Smith give Convicts a tip across the face; cannot say if in sport or to hurt them.

Has bought provisions in the Prison. Bought from Mr. Costen and Mr. F. Smith. Bought po-

Appendix  
(B.B.B.B.B.)  
30th May.

tatoes and turnips from F. Smith; nothing else. Paid for part of them, and has part still to pay. Paid what he did to F. Smith. Did not see them measured; they came from the cellar where the potatoes are kept. Was asked once for the money: Mr. F. Smith told him that half of his pay was stopped for potatoes the officers had received, and that he must have pay for them. Witness thought from this that he had to account for them to the office.

Cross-examined:—It is a common thing for the other Guards to purchase from Smith. Has conversed with Dr. Sampson in his house, one night last week about this matter. His wife told him the Doctor wished to see him respecting a statement he had to give. Fitzgerald was there at the time. Cannot say if there was any one else. Did not know them if there were.

(Signed,) R. ROBINSON.

Henry Smith—(Warden)—sworn:—

Does not remember saying provisions must have been stolen when Dr. Sampson told him that F. Smith had been selling provisions to the Keepers. Understood the Doctor to say that he had heard that F. Smith had sold provisions belonging to the Penitentiary, and it was in reference to that, witness said, they must have been stolen. Did not know of any Penitentiary provisions being sold. Has no objections to the Guards and Keepers buying from the waggons so that what they buy never went into the Prison stores; does not approve of anything going from the stores; thinks it very wrong if such is done. Undoubtedly, when meal is put in the meal-chest, it is the property of the Penitentiary.

Would have considered such selling of provisions as warranting his reporting any Keeper; did so accordingly in Smith's case within an hour, by letter to the President. Would consider, if he were convicted of it, that he was highly culpable. Witness being asked if he ever found fault with F. Smith's taking liberties with Convicts? says, he never heard of it till this evening.

(Signed,) H. SMITH.

Thomas Cavanagh—(Convict)—sworn:—

No one has told him what to say; does not know why he is brought here. Has seen F. Smith sometimes strike Convicts with keys or a cane for amusement: does not know if he ever struck them to hurt them. He sometimes shot arrows at Convicts; only saw him hit one with an arrow, and it did not hurt; it was a boy named Jones: he hit him on the side of the head.

F. Smith once came to the tailor's shop, and said, in reference to Turney who was hanged, that he expected he was making a suit of clothes for the devil in hell. Smith once made him open his mouth, but without necessity; Smith spat in his mouth: he asked Mr. Costen for leave to go from dining-hall in consequence, but did not tell Mr. Costen why; it was because it made him sick; it was tobacco spit to which he was not used. He got two meals of bread and water on 28th May, on a Friday; asked F. Smith why? Smith looked the book and saw nothing there. Witness conceived he had no right to be punished; did not know why he got the two meals bread and water; did not know if F. Smith was angry. Smith told witness, once in the south wing, he had him in his black books, and would be damned but he would keep him there. Remembers perfectly well it was 28th May he got the two meals;

Appendix  
(B.B.B.B.B.)  
30th May.

It was the day before green branches were put in the dining-room; took sharp notice of it because F. Smith looked in the book and gave him no satisfaction, but told him to go to his seat. Knows no reason why F. Smith should have wished to punish him wrongfully; F. Smith seemed to have a dislike to him but he does not know why. Never was punished except for talking. F. Smith has stuck pins in witness, and struck him with a key on the elbow and back as he was going up stairs at night. Has seen F. Smith throw water on punishment box when Convicts were confined in it, but does not know what Convicts. He had the water in a piggins.

Cross-examined:—Has had a sore knee, and has been in the hospital for it; has had some conversation with Dr. Sampson before he left the hospital; told Dr. Sampson he had been badly treated, and had got cold from F. Smith throwing water on him.

(Signed,) THOMAS CAVANAGH.

(The Punishment Book was here produced, when it appeared the last witness was not punished at all in May, but got three meals bread and water on 28th April.)

Henry Smith—(Warden)—re-examined:—

Refers to Punishment Book; recollects the boy Cavanagh; is a boy of good character for a Convict. He came in 1844; has been punished twenty-four times in three years; does not count this bad for a Convict. Has got the raw-hide, but never the cats. Was once confined to his cell twenty-four hours, which must have been for something more serious than talking.

(Signed,) H. SMITH.

Dr. Sampson intimated that he had no farther evidence to produce for the prosecution. The Board adjourned until 3 o'clock, P.M., on Monday next.

Monday, 18th October, 3 o'clock, P.M.

Board all present, and the parties. Mr. F. W. Smith spoke in his own defence, and thereafter called the following witnesses:—

Julia Cox—(late Matron)—sworn:—

Did not know the name of the Convict with whom F. Smith took liberties; has found out since. Does not know the names of the Guards and Keepers who were present at the time; remembers now that Mr. Costen was present. Believes it was her duty to report improper conduct, which she witnessed, to Warden; did not do so, but was never told it was a part of her duty; does not remember if she spoke of it to Mr. Rogers, (the Chaplain,) or to any one but Dr. Sampson. F. Smith has been once or twice, she thinks, in the female prison. It may be six or seven months ago when the circumstance above stated occurred. Witness distinctly says, he (F. Smith) cherupped, and also said to a black woman, (M'Naught,) "There goes beauty." The Surgeon is in the habit of visiting the sick female Convicts every day; it may be he has not come every day, but has sent some one else; cannot say if Dr. Sampson always prescribes himself every day for the sick female Convicts. Witness expressed an opinion as to the medical treatment of a female Convict who died in 1846. The Surgeon did not see her every day till she died; thinks the Surgeon was not at the Penitentiary on the day of her death; cannot say if her death was hastened by the want of administering of medicine; thought she would have been the better of more nourishing things; that was her opinion. The Surgeon does not always attend the sick female

Convicts on Sunday; when he is wanted, word is left for him outside.

Cross-examined:—The reason why she did not report the cherupping of F. Smith to the Warden, was that it did not occur to her to do so at the time. Does not think she would have reported such conduct on the part of any other Keeper; not the Warden's son, because it never occurred to her to do so.

(Signed,) J. COX.

John Dyas—(Convict)—sworn:—

The Indian Abraham's shanty was at the back of the Warden's Kitchen. The Indian Abraham told witness he had hurt his eye with a piece of wood. Has seen F. Smith last winter pay for meal; it was just before the Convict Pritchard was put in solitary confinement. Has seen F. Smith purchase peas sometime in winter; saw the peas come in, they were put in one part of the pea-chest by themselves—witness is cook—F. Smith's peas were put in the same chest with those for the men; there were only a very few peas belonging to the prison in it at the time; there might be a little better than a peck in it at the time: F. Smith bought two bags—two bushels in each bag—a farmer brought them. There were two bags of meal—oatmeal—cannot say the size of the bags. Witness and Assistant-cook Primeau only, were present at the time the peas were put in.

(Signed,) JOHN <sup>his</sup> DYAS.  
mark

Gabriel Wright—(Convict)—sworn:—

Knows that the Indian Abraham's shanty has been since January last at the back of the Warden's Kitchen. Remembers the Indian having a bad eye; does not remember the month, but it was last spring; the Indian told him how it got hurt; he said it was splitting splints for baskets.

Has seen F. Smith purchase one load of twelve or fifteen bushels of potatoes; they were put in the west side of the cellar in the middle bin; witness helped to carry them down; does not remember the time; it was potatoes of the present season; there was no prison potatoes in the bin when they were put there.

Cross-examined:—Never heard it talked of or repeated in the prison, that the Indian lost his eye by the blow of an arrow. Saw the eye after it was hurt; does not know how long after: does not remember any pile of boards near Abraham's shanty when he was hurt.

(Signed,) GABRIEL <sup>his</sup> WRIGHT.  
mark

Frederick Brennan—(Convict)—sworn:—

The Indian Abraham's shanty, last year, was under the Warden's Kitchen; the same shanty is there still. Abraham told him when making broom splints struck his eye.

Has known F. Smith buy meal at the Prison Kitchen door; it was one sack; it was put beside the Kitchen in the Prison bin with the other meal.

Never saw F. Smith throw water on prisoners in the box; has seen Fitzgerald do so; after he (Fitzgerald) threw the water in, he shook the box to and fro. Has seen the prison socks on Fitzgerald's feet; the mark was on them. F. Smith bought the oatmeal from a waggon.

(Signed,) FREDERICK BRENNAN.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

Patrick Kelly—(Convict)—sworn :—

Knows the Indian Abraham; knew him to have a sore eye; Abraham told him he was making brooms and the dust flew into it; the dust of the brooms or a chip—a splint flew up when cutting a stick.

Witness has not often been on the sick list, but was a long time on it lately. Had a fall from a scaffold, and was sent to hospital; the Surgeon sent him off to his cell; the Surgeon said it was only a bruise; is still lame through the fall.

(Signed,) PATRICK <sup>his</sup> X KELLY.  
mark.

Martin Healy—(Convict)—sworn :—

Abraham's shanty is at the back of the Warden's Kitchen. Remembers Abraham having a bad eye; Abraham told witness he was cutting a piece of wood and got it hurt with a splint; did not see the eye till three or four weeks after it was hurt. Witness went on sick list with a sore leg; was not cured when discharged; it is still bad; has been on the list several times, but was always made to work. Keeper Matthewson has seen it, and knows it is sore.

(Signed,) MARTIN <sup>his</sup> X HEALY.  
mark.

Thomas M'Cormick—(Convict)—sworn :—

Has been frequently on the sick list: his complaint was chronic rheumatism: was sometimes not well, when discharged: did not get the treatment he was used to when sick; windows were open, and he got cold: witness complained to the Surgeon, who said, he was not a fit subject for hospital. Witness asked to be blistered for that complaint, and thought he should have been in a warm place.

(Signed,) T. M'CORMICK.

Patrick Carl—(Convict)—sworn :—

Asked Abraham, in latter end of May, how he got his eye hurt? He said, a piece of wood of a broom got into his eye. His shanty was along side of the wood pile at that time.

Witness has been on the sick list: had a cold; his head swelled: was discharged, but was barely fit to be so, at the time; was sick at the time he was discharged. Abraham's shanty was where the shops were burnt down; there was a pile of boards at the back of it; a person at the back of the boards could see where Abraham was working. He worked also a while in a shanty back of the Warden's Kitchen; he first worked sometimes at the one shanty, sometimes at the other: since his eye was hurt he worked at the one back of the Warden's Kitchen. Witness had no reason to think his eye was hurt any other way than before stated. Witness heard Mr. Costen tell Mr. Rogers it was hurt by a splint.

(Signed,) PATRICK <sup>his</sup> X CARL.  
mark.

Matthew Udell—(Convict)—Sworn :—

Has been on sick list several times: was worse when discharged than when put on it. Was treated bad himself, and saw others bad treated. Told the Doctor he had a pain in his stomach, and got a vomit: took four vomits in four days. The Doctor told him he was scheming or feigning sickness. Was sick after, and is still sick. Did not go to the Doctor because the Doctor would do nothing for him, but told him he was feigning.

(Signed,) MATTHEW UDELL.

Abraham Lero—(an Indian Convict)—Sworn :—

The Indian Abraham never told him how he got his eye hurt (witness did not seem to have understood the question); knew he had a sore eye. He told him it was hurt by shavings when making a basket.

Cross-examined :—Went to school with Abraham here; never heard his eye was hurt by an arrow; does not know where his shanty was.

(Signed,) ABRAHAM <sup>his</sup> X LERO.  
mark.

George Morton—(a negro Convict)—Sworn :—

Abraham had a sore eye; he said it was done by splints making baskets; it had been sore some days when witness saw it; it was not much swelled; it was running water. His shanty was down over the Warden's fence, near the kitchen; he was working there when his eye was sore; it was about March or April, thinks, but is not certain. Abraham had been part of the winter at a shanty near the wood pile. When his eye was sore, witness never saw him work anywhere but at back of Warden's kitchen; it was only a few days after it was hurt; he had a cloth on his eye just before, and was then at shanty, back of kitchen. He said he could see: that it was not out.

There was one or two men ducked in the wash-house. Conkright came every morning and stood about an hour, and the men told him, if he did not go they would duck him. F. Smith was not present when they ducked him; some one said he was coming, and they all quit and went to work: F. Smith was the Keeper in charge at the time. They ducked also Sampson, a black man, because they missed socks, and they were blamed, and they ducked him to keep him away. No Keeper was present. F. Smith was in the kitchen: F. Smith did not know they had ducked Sampson. They never ducked Henry Wilson, a coloured man.

(Signed,) GEORGE <sup>his</sup> X MORTON.  
mark.

John Kerney—(Convict)—Sworn :—

Works in the wash-house; remembers Abraham; told witness once he wanted water to bathe his eye. Abraham said he did not wish to go to the hospital for fear of making his eye worse; he told him next day he hurt it making a basket, and the "skivers" of basket when ramming them up touched his eye; his shanty was at this time near the Warden's window; thinks this happened in April. They were not in the habit of ducking Convicts, but did duck one or two men—Sampson and Conkright—F. Smith was not there. Never ducked Henry Wilson, a coloured man; ducked the two men because they came every day for water, and the wash-house men thought they came to idle their time. Has been in the wash house ten months.

(Signed,) JOHN <sup>his</sup> X KERNEY.  
mark.

John Swift—(Keeper)—Sworn :—

Received the letter which is produced (the letter is dated 13th October, 1847, and is from Mr. Manahan); cannot say how he got it; he got it in his house; it came there by his wife's father, Mr. McNalty; McNalty told him he got it from Dr. Sampson. (The letter was read and filed.) Never had any conversation with Dr. Sampson or Mr. Manahan about this matter; never heard of any other Keeper receiving a similar letter; witness paid no attention to the letter when he received it; witness gave the letter to Mr. Costen, and wished to get it

Appendix  
(B.B.B.B.B.)

30th May.



Appendix  
(B. B. B. B.)  
30th May.

back again; Mr. Costen said he had given it to Warden. Witness showed it to Mr. Costen to ascertain the nature of the thing, as he had heard nothing of it.

Cross-examined:—Believes his father-in-law left it (letter) in the house; he did not give it to witness; does not suppose he gave it in any secret manner at all; it was not sealed; there was no cover (envelope) on it.

(Signed,) JOHN SWIFT.

Mary Pollard—(Assistant Matron)—Sworn:—

Never saw F. Smith in female prison; never heard of any improper conduct on his part towards female prisoners; never heard any of the women say he had put his fingers to them and cherupped; witness asked them the question this morning: believes the Matron spoke to them on the subject this morning: is not aware that Mrs. Cox tried to persuade any of them that F. Smith had been guilty of improper conduct; never heard of the cherupping till yesterday; has been in the Prison six months.

The Surgeon is very attentive to female prisoners. Attends prisoners every day, either he or some one in his place. He orders diet for the Hospital. He sometimes visits female Prison on Sunday.

Cross-examined:—Never sent for Dr. Sampson that she did not get him. Refers only to female Prison. When there is a case of sickness on Sunday, word is left for the Doctor to call; he always calls when word is left for him.

(Signed,) MARY POLLARD.

Frances Bickerton—(Clerk of Penitentiary)—Sworn:—

F. Smith was appointed Keeper in November, 1846. Remembers F. Smith coming to the office saying, Fitzgerald owed him 5s., and that he doubted if he would receive it, as he (Fitzgerald) had been discharged. Witness told him to get from Fitzgerald an order for it on the office, and witness would stop it from his pay when he settled with him. Has frequently advanced F. Smith money on account of his pay. Cannot remember at what hours. Witness leaves the Prison between five and six. Sometimes F. Smith appeared in a hurry, as if he wanted money immediately. The money was due to F. Smith at the time: he got small sums very frequently.

Cross-examined:—F. Smith applied about Fitzgerald's money after he was dismissed, about a month ago. There is an order in the book against articles going out of the Penitentiary without a pass: the order never was rescinded, but confirmed by the last rules and regulations. (Rules and regulations of 1845 and also 1847 read.) Was not aware that Mr. F. Smith was in the habit of buying provisions. Witness could not know of any deficiency in the provision department till the end of the year. Witness could then have ascertained it.

Cross-examined by Board:—Had not the means of knowing if any provisions which had been receipted for had been misused; but at the end of the year, when the provisions were proportioned to the number of men, he would know if there was a deficiency, or if any surplus had been received. Gets the account of the delivery of the provisions from the Kitchen-keeper. Oatmeal might be taken from the meal-chest without witness having the means of knowing it, but they would know how much oat-

meal should have been used to supply Convicts. Has no means of ascertaining if all the provisions which come in are used for the Convicts, except what he has before stated. Has been in the Penitentiary since it was opened. The Kitchen-keeper delivers a certain quantity daily, and at the end of the year would know if there was an overplus or deficiency.

Cross-examined by Dr. Sampson:—When men are put on bread and water, and on hospital fare, there is a saving of other provisions; there is frequently a great surplus from this cause. Has no reason to suppose F. Smith has used Prison provisions. Does not recollect F. Smith, when asking money, saying, he wanted it to buy provisions. The surplus rations saved by punishments of bread and water and persons in hospital, might be taken without witness having the means of knowing it.

(Signed,) F. BICKERTON.

John Hooper—(Keeper)—sworn:—

Convict Abraham told him he had his eye hurt with shavings of baskets or brooms. He (Abraham) never said to witness it was hurt by an arrow. Has seen F. Smith's bow and arrows (bow produced); it is like the bow. The sight of the eye was injured; there was no other mark.

At the hour of muster, when the men muster to their buckets, the Keepers are all there. Never, to his knowledge, saw F. Smith at that time throw either stones or potatoes at Convicts. None of his men ever told him F. Smith hurt them. Has heard the men say, that the rations are better than they used to be formerly; that is, since F. Smith's appointment. The Dining-hall and Prison generally are kept cleaner than they were before Mr. Smith's appointment. Does not know how long Abraham's eye had been hurt.

(Signed,) JOHN HOOPER.

Mark Hermiston—(Keeper)—sworn:—

Is present at night when Prisoners meet for buckets. Never saw F. Smith throw potatoes or stones at Convicts. The men never complained of F. Smith's ill-treatment of them. They have sometimes complained of the ill-treatment of the Surgeon; they were sometimes not able to work when they came from hospital, and when witness told them to go back, they frequently said, they would rather have their heads chopped off than go there again. Prisoners have frequently told witness that they have got better rations since Mr. F. Smith came than before. The Dining-hall and other parts of the Prison, under F. Smith's control, are kept cleaner than before.

Cross-examined:—Convicts frequently said, they would rather have their heads chopped off than go back to the Hospital; that was the only alternative they mentioned.

(Signed,) MARK HERMISTON.

John Matthews—(Keeper)—sworn:—

Men never complained of the ill-treatment of F. Smith; they said their rations were larger and better since his appointment. Never saw him throw stones or potatoes at men at the evening muster, or at any time. The Dining-hall and East Wing are kept cleaner than they used to be before F. Smith's appointment.

(Signed,) JOHN MATTHEWS.

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.)

30th May.

Thomas Costen—(Head-keeper)—Sworn:—

Asked Abraham, the Indian, what ailed his eye? He (Abraham) told witness, a splinter from the basket stuff flew into his eye; it felt like a needle; he felt a continual pricking from it. Witness never heard a whisper of its being done by a bow and arrow; thinks if such had occurred, he would have heard of it. Has seen F. Smith have a bow and arrows, (bow produced); it is the bow; it would require a very strong arm to bend it; a blow from it would have broken his eye in his head. Witness attends always when female Convicts are punished: Mr. F. Smith assisted on two such occasions; observed no improper conduct on his part, to female prisoners, on either of these occasions: from his general knowledge of F. Smith's conduct, as an officer of the Institution, witness does not think he would have been guilty of such a thing. The boy Matthews was, as he (witness) understands, removed from tailor's shop to kitchen on account of ill-health; has seen him at water-side with F. Smith; he was fishing with him; witness made no objections, he saw no impropriety in it at the time. F. Smith said he took him to the water-side as he thought it would improve his health, and giving him a little fish would be a change of diet—the boy was very delicate. Never saw F. Smith take improper liberties with Convicts, and witness sees him every hour almost. The Convict Henry Wilson told witness he was going to live with Dr. Sampson when he got out, to get his jaw or neck cured; does not remember if he (Wilson) said, who told him to go there.

Never saw F. Smith throw stones or potatoes at the men at muster. Witness is always present and never saw or heard of anything of the kind. Witness heard Convict Pritchard express a wish to make nets, as it would be a means of support when discharged from the army. Witness knows F. Smith taught him. Smith never employed him when he had other work to do: generally in the evening, immediately before supper. When the Warden desired him to stop having such work done, he complied. Witness went into round punishment box, to try it; could see directly up through the air holes, but could see no one coming at the side.

When witness was Kitchen-keeper he always drew and cooked the same rations as if the whole Convicts were well, which made the rations for those who were well, so much the better. The Convicts get good wholesome food, and a sufficiency of it. The East and South Wing, and Kitchen and Dining-room, are much cleaner, and the comfort of the Convicts generally increased, since F. Smith had them in charge.

Cross-examined:—Is positive F. Smith could not possibly, when in the female prison, have put his hand under a woman's chin without witness seeing it, as he was there all the time.

(Signed,) THOMAS COSTEN.

The Board adjourned till half-past three o'clock.

Board met.

Thomas Costen—(Head-keeper, recalled)—Sworn:

Knows where the Guard Robinson's post is; he (Robinson) could not, from it, see F. Smith throw stones and potatoes at the Convicts at muster. This post is on the north-west corner of the yard.

Cross-examined:—Guard Robinson was occasionally on the South Wing; he could not see F. Smith

from his post, at the time of muster. Might have seen such conduct from the South Wing, if it had occurred.

(Signed,) THOMAS COSTEN.

Daniel M'Nalty—(Called by Board)—Sworn:—

(Shewn Mr. Manahan's letter. See Swift's evidence.) Witness got it from Dr. Sampson, and gave it to Swift. (Dr. Sampson here came forward and admitted he gave him the letter.)

Terence M'Garvey—(Keeper)—Sworn:—

Did not receive a letter from Mr. Manahan. A note was left at his place by Dr. Sampson, as he was told—he read it—he destroyed the letter. His reason for destroying it, was, because the names of the Warden and Mr. F. Smith, were mentioned in it, and he considered it would implicate him. His wife told him Dr. Sampson delivered it. The letter simply stated that an investigation would take place, and that he would likely be called upon. Witness consulted his father about it, and considered it was better for him to have nothing to do with the matter, in consequence of the situation he held. It was stated in the letter, for witness not to be afraid to come forward. (Letter to Swift read.) "There was nothing of that kind binding in his letter;" it was simply to come without fear; did not hear of any other letter; did not know if Keely got one. (Dr. Sampson here admitted that he did.) Cross-examined:—Witness was afraid, from his situation, to have anything to do with it, for fear he should get into trouble. That was the reason why he destroyed it.

Considered that if he was brought forward in the matter, he might, one way or other, get into trouble; he could not exactly see how, at the time. Has reason to believe that if he had come forward voluntarily in a case involving the character of Mr. F. Smith, it would have endangered his situation. His reasons are, that he is in a shop having many windows, and if he were brought forward to explain what he might have seen, he would gain ill-will. If he told all he saw, it would be very disagreeable to him, as he might be tormented in his situation, so as he would sooner leave it than be so tormented. It is principally to what he has seen of irregularities on the part of Mr. F. Smith, that he has reference, such as shooting bows and arrows often times at Convicts; has seen him in the yard sometimes firing at the men; has seen him fire into his shop, (shoemaker's,) and the tailor's (Hooper's); does not remember the name of any Convict he has struck, but he has frequently struck some of them. Has seen him, on one occasion, fire at Mr. Hooper; considers that the arrow was aimed at him; Mr. Hooper was at the time in charge of his gang; has seen him some few times fire at tailor's shop; did not count exactly; it might have been half a dozen or four or five times; considered the shooting would not endanger their bodies much in consequence of their clothes, but their eyes would be in danger if the arrow hit them. There has been a Convict tailor in the tailor's shop; never remembers of him getting a shot in his eye. Has seen Keeper Hooper on one occasion shoot at F. Smith; F. Smith and he fired a good many shots at each other—there were Convicts in the shop, and on the floor below: Mr. Hooper was on duty at the time. Has seen what he thought were potatoes, might have been stones, thrown in the yard; has seen Keeper F. Smith throw them; they went amongst Convicts.

Appendix  
(B.B.B.B.)

30th May.

Appendix

(B.B.B.B.B.)

30th May.

These were the principal irregularities to which he alluded. Never spoke to Dr. Sampson on the subject; never was taught by any one. Has seen Hooper shoot at F. Smith: (his) Hooper's shop is over witness's head: was out on the gallery at the time he saw him; it was not leaving his men to do this (go on the gallery) as he was very often advised to see if they would be talking. He considered that if he wished to catch them talking the best way was to go in front of the cells on the lower side of the shops.

(Signed,) T. M'GARVEY.

William Moore Connell—(Convict)—sworn:—

Is one of the Hospital-waiters or orderlies; Mr. Julien gave the Indian, Abraham, a lotion to put to his eye, previous to the Doctor seeing him. Always thought it Mr. Julien's duty to attend to the sick at night time; gave medicine at night according as the Doctor prescribed. Saw him (Julien) one night in a great state of intoxication; he was accompanied by Fitzgerald, the guard. Fitzgerald called Sinclair to strip Mr. Julien and put him to bed. Fitzgerald said to witness, "I hope you will keep this quiet and say nothing of it; Mr. Julien is rather top-heavy to-night." Fitzgerald was not sober, but was not nearly so far gone as Mr. Julien; he understood perfectly well what he was doing, still he was in a state of intoxication. Does not consider, that on that occasion, Julien was in a fit state to give medicine to sick Convicts.

Cross-examined:—Never heard that there was a new Surgeon to be appointed here.

(Signed,) WILLIAM M. CONNELL.

Thomas Smith—(Messenger to Penitentiary)—sworn:—

Has often seen Julien, the late Hospital-keeper, come to the prison at night drunk; not fit to give medicine to the sick. Has brought the Doctor (Sampson) out on one occasion at night, when Warden sent a note that a man was sick or dying. Dr. Sampson was twice or three times the worse of liquor when he came out.

Cross-examined:—Is not the worse of liquor now, nor never was since he was in the Penitentiary.

(Signed,) THOMAS SMITH.

John Watts—(Guard)—sworn:—

He puts the Convicts in the box: when a Convict is confined in the box he is kept there until his sentence expires, unless he is necessitated to go out, when he is let out for a short time under a Guard. Witness gives him his victuals in the box. Has an opportunity of seeing the Punishment Book every day, and does so see it. Remembers Convict Coté being put in the box. (Refers to Punishment Book.) On 3d April, finds Coté confined to box for chewing tobacco—three meals bread and water; finds also, 1st April, refusing to open his mouth when challenged for chewing tobacco—box, and three meals bread and water; on March 12, for having two suppers and tobacco in his cell—six meals bread and water. F. Smith reported him on these three occasions.

Witness receives and weighs the meat coming from the contractor every day. The butcher never

complained of short weight. Never saw Coté steal meat from butcher's cart and throw it into the cellar. Does not give out more meat to the Convicts than the law allows. Is aware that F. Smith has bought potatoes, turnips, and meal: has seen him pay for them: knows that he purchased them at the request of Keepers and Guards, and for the purpose of supplying them.

Never saw him sell anything belonging to the Penitentiary, and does not believe he did so. Never saw two Convicts, with blackened faces, wrestling in front of the Kitchen. F. Smith told witness he would not trust Robinson or Fitzgerald any more: he gave, as his reason, that they had not paid him, and he was out of pocket by them. No provisions or stores, belonging to the Penitentiary, could have been taken away without his knowledge. The potatoes Smith purchased were not mixed with the prison stock; they were put in the centre bin, on the west side of the cellar: the peas were put in an empty bin, in the west end of the bin where the peas lay—the end next the cellar door: the meal was put with the prison meal: the quantity F. Smith got was known, and an account kept. Never saw F. Smith throw stones or potatoes at the Convicts. Never saw him shoot arrows at prisoners; has seen him shoot at pigeons with Keepers and Guards, in the centre of the building, at meal time. Never saw him take improper liberties with Convicts. Has seen him two or three times purchase white bread; he bought it for some of the Guards and Keepers who wanted it, as they were not going home. Has been better than ten years an officer of the Penitentiary.

Has been to the boxes; a person confined in the round-box could not see any one in the gallery over him; witness has tried it himself; witness attends to the laying out of the bread and water for the punishments; there never was more bread and water set than was ordered in the Punishment Book; the full amount of provisions is served out every day without deduction for those who are punished and on the sick list; often gives out extra rations of meal for gruel for each, both at dinner and at night; Convicts say themselves they are better fed than they used to be. The present state of the prison is very clean, cleaner than formerly. Knows Convict Coté; was not at all a good character; was in the habit of carrying tales and stories about.

By Board:—Is in wash-house occasionally, back and forwards; never saw Convicts ducked there; never, to his knowledge, heard of any being ducked; never heard of colored men named Wilson or Lewis ducked; has seen Lewis go in himself to wash after sweeping chimneys; never heard of Conkright being ducked; is not aware why the present accusations are made against Mr. F. Smith.

(Signed,) JOHN WATT.

George Sexton—(Guard)—sworn:—

Never saw F. Smith throw stones or potatoes at Convicts; cannot say he has ever seen him take any improper liberties with them; never saw him throw water on prisoners confined in the box: has seen Fitzgerald do it; told him (Fitzgerald) he ought to be ashamed of himself; if witness saw it again, he would report it to the Warden; does not recollect seeing him do it more than once. Saw him (Fitzgerald) once with a can of water above the box, but cannot say if he threw it in. Richard M'Canna, a colored man, was in the box when he (Fitzgerald)

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)

30th May.

threw in the water. Knows Guard Robinson; is addicted to telling untruths; should say he has repeatedly told lies; would not believe him on his oath.

Cross-examined:—His reason for saying so is, that witness himself found him out in telling some things which he found to be falsehoods.

In chief:—Has heard the Convicts say they are much better satisfied with their provisions and rations since F. Smith was in charge. Is aware that the kitchen and wings are cleaner than before; so is the department in which witness's duty lies.

(Signed,) GEORGE SEXTON.

William Martin—(Guard)—Sworn:—

Has seen F. Smith purchase potatoes, peas, and meal; is a good deal in the kitchen, and has an opportunity of seeing; cannot say the quantity; has seen him get small quantities at different times. The potatoes were put in the spare bin in the centre of the cellar; the peas were put also in a spare bin; the turnips were put in bin with potatoes at one side; meal was put in one part of the bin where prison meal was. F. Smith bought them to accommodate the officers of the Institution, as far as witness knows. As long as witness has been about the place, it was always the custom for Kitchen-keepers to do so. Remembers a quantity of turnips sent in by Dr. Sampson to the Penitentiary; "there was difficulty in receiving them because there was cheatry in the measurement." Dr. Sampson's men were standing by, and when the Convicts were measuring them they always left a quantity in the bottom; the Convicts and Dr. Sampson's men did this; Dr. Sampson's men saw Convicts do it. Remembers another load of turnips sent in to Penitentiary by Dr. Sampson, which were rejected; the reason was, they were not very good. Remembers asking F. Smith to sell him some peas; F. Smith told him he had none of his own, none but the prison stores, therefore could not let him have any. From his knowledge of F. Smith, does not think he would take the prison stores and sell them. Has several times seen F. Smith purchase white bread. Has heard Convicts say they were better fed than heretofore. The general state of the Prison since F. Smith's appointment is in a great deal better order; many conveniences have been made. Never saw F. Smith shoot arrows at Convicts, or throw water on them. As far as witness has seen, F. Smith uses the Convicts very well. Witness has been off and on about the place ten years.

(Signed,) WILLIAM MARTIN.

Hugh Manuel—(Keeper)—Sworn:—

First heard about these charges a month ago last Wednesday night; Fitzgerald, the late Guard, told him this; it was after he was discharged. The first time he was in Fitzgerald's place he told witness he was going to law with the Warden for extra pay on night duty, and had been in to see Mr. McKenzie, the Lawyer, two or three times about it. Said another time another thing was going on; that he had been to Dr. Sampson's house with another from the Bay; that affidavits were taken, to go to Government. Witness said he supposed Dr. Sampson could not take affidavits, as he was not a Magistrate? Fitzgerald said, Mr. Manahan was there and could do so, also Dr. Robinson was there in the other room: he said Julien and Reid and another from the Bay were there; said they were going to bring charges against

Appendix  
(B.B.B.B.B.)

30th May.

F. Smith and he believes against Warden; mentioned about putting an Indian's eye out; did not say F. Smith did it, but that such a thing had been done. Mentioned also about taking Convicts out to fish, and about selling provisions belonging to the Institution; also about sticking pins in Convicts. Never saw F. Smith do any of these things. Fitzgerald asked, where he could find Coté? he said Dr. Sampson wanted to see him; said he could get something out of him; he was about the kitchen often, or something to that effect.

Never saw F. Smith throw stones or potatoes at Convicts at muster. Heard men under his charge say they would wish F. Smith to stop in the kitchen as long as they would be there, (in the Prison,) as they got better usage than before he came there; they got better rations and more of it. Knows Fitzgerald well; is a fellow that would drink. As Fitzgerald has of late expressed himself to witness no later than last Sunday night towards Warden and his family, witness could not give him credit on his oath on this occasion.

Cross-examined:—Never said he was drunk when he said there was a meeting at Dr. Sampson's house; never told Mr. Pollard so. Witness was not drunk when he said there was a meeting; does not remember telling Mr. Pollard there was a meeting at Dr. Sampson's house; never did tell him so to the best of his knowledge: told Mr. F. Smith about it, about a month ago; he laughed, and did not seem to believe it. Believes these charges would never have been brought at this time, only for the Petition that F. Smith wrote for the Keepers to sign. The Guards and Keepers were always grumbling about being kept till the sick were let out; this might come to F. Smith's ears, and he might make out a petition he thinks, and every one signed it; this is all witness knows about it. Witness signed the petition; it was praying the Board to get the Doctor to attend at some time without interfering with their dinner hour.

(Signed,) HUGH MANUEL.

Samuel Pollard—(Keeper)—Sworn:—

Has bought potatoes from Mr. F. Smith, and paid for them; thought he had a right to sell them; did not consider them as prison stock: it was notorious that the officers of the Institution were getting things of him; there was no concealment; it was generally known. The men never complained of being hit or hurt by Smith; on the contrary, he always heard them speak highly of him as an officer of the Institution. From his knowledge of F. Smith, witness undoubtedly does not think he would be guilty of selling prison stores. Witness met Dr. Sampson one evening shortly after the petition had been made to the Board respecting the irregularity of his attendance—it was near Dr. Sampson's door—the Doctor asked him how the petition came about? Witness said, the men wanted him (the Doctor) to come earlier, that they might not lose their dinners. The Doctor asked, if witness had signed it? Witness said he had. The Doctor damned him; called him a pretty fellow to do such a thing; and told him it would do him no good: that he (the Doctor) did not care for him or any one in the place. Witness assured him it was from no ill-feeling to him, but merely that he might come earlier, so that they might not lose their dinners. The Doctor swore at him; said there was not one in the Institution who was not over head and ears in his debt, or words to that effect. The Doctor was talking very violently; witness begged him not to talk so loud: the Doctor said, he did not care a damn for him; it would do him no good. He went

Appendix  
(B. B. B. B.)  
30th May.

into his house, and slammed the door in witness's face. Does not think these charges would have been made had this Petition not been got up.

Knows Guard Fitzgerald, lately dismissed; from his general conduct, and from what witness saw, he would say, he was a very bad undeserving officer.

Has seen him, Fitzgerald, scuffling with discharged Convict Wilson, many a time. Has several times seen him shake the box when Convicts were confined in it. Has seen him chase Wilson with a stick in his hand fifty times up the Wing, when Mr. Costen's back was turned, they would be fighting together. Has often seen him throw water on Convicts confined in the box. Witness would not, on any consideration, believe Fitzgerald on his oath. Knows Guard Robinson: witness would have great doubts of taking his word, from his general conduct here. One afternoon, witness saw one of the Convicts taking some food away from the kitchen; witness called to stop him, and as the Convict was in the act of running away; the Guard Robinson came and asked witness what was his business to interfere, as he Robinson, was on duty, and would do as he liked? Witness said, he might be on duty and not see Convict stealing. Robinson told him to go about his business, he was on duty. The Convict then ran into a cell with the provision, and witness not wishing to create a confusion, walked away. Next day witness looked and found Robinson had not reported the Convict. Went for two mornings afterwards, and found the Convict was never reported for stealing, or any notice taken of it.

Never saw Mr. F. Smith throw stones or potatoes at men at muster; would not take Robinson's oath, from what he knows of him; never saw F. Smith take improper liberties with Convicts.

(Signed,) SAMUEL POLLARD.

Thomas Costen—recalled by Board:—

Told Fitzgerald his services were no longer required, but witness did not tell him the reason. Witness has no doubt he knew perfectly well the reason, as he was making excuses about his face. His face had been hurt fighting; and he was away three days without leave.

(Signed,) THOMAS COSTEN.

Henry Smith—(Warden)—sworn:—

When Dr. Sampson first spoke of these charges, he asked,—“Did not Frank get up a petition against me?” Witness said, “I believe he wrote it, but no harm was done, as it was suppressed.” The Doctor asked, what right witness had to suppress it? Witness told him he merely obeyed the orders of the Board in doing so, it was their desire. The Doctor then said, “Now, I have a charge to bring against Mr. Frank;” and asked, if witness was aware that Frank shot at Convict Abraham, and shot out his eye, or caused him to lose his sight? Witness said, he was not aware of it. The Doctor then asked, if witness was aware that he had been selling the provisions of the Penitentiary, and receiving the money for them? Witness said, he did not know; and if any one had done so, he must have stolen them. The Doctor said, “there is an affidavit to that effect.” Witness said, he had better prefer his charges in writing, as of course witness could not conceal it. The Doctor said, he would not do so; and that wit-

ness did not give Reid the charges against him in writing.

Witness then wrote to the President of the Board, stating the substance of what had passed between Dr. Sampson and self. Frank Smith was then sent for immediately to come to the Penitentiary (he had gone to dinner); he came up, and witness told him what Dr. Sampson had said; and asked, if there was any truth in the charges? F. Smith said no; and that he was anxious an immediate investigation should take place into these charges. Witness could not but think, that in making these charges, Dr. Sampson was actuated by malice and revenge, particularly as he first mentioned about the petition. The Doctor told witness that Frank had given the Indian something to conceal his hurting his eye; witness took it to mean a bribe. Is positive that Dr. Sampson said, there was an affidavit to the effect, that F. Smith had sold and received money for the Provisions of the Penitentiary. Witness considers F. Smith's conduct, as an Officer of the Institution, as generally good; very good, in regard to cleanliness. The Convicts have also said, that they get better rations since his appointment. Has never known F. Smith guilty of stealing, if he had, witness would not have procured his appointment to the Penitentiary. Witness paid particular attention to the evidence of discharged Convict Henry Wilson; took it down. Witness never said to Convict Hett “Take a brick-bat, and knock him (meaning F. Smith) down.” Even if witness had said so, Wilson was too far off to have heard it. As to the characters of defendant's Convict-witnesses:—The conduct of Dyas is good; Udell's very good; Carl's excellent; Connell's very good indeed, he stands in the book with one punishment; Martin's generally good, he has been sometimes punished, but not for very heavy offences; M'Cormick's character, as a Convict, is between good and middling, “fair;” Patrick Kelly's good, very seldom punished, a very quiet orderly man; Gabriel Wright's generally good; Brennan's indifferent—the worst of any yet mentioned—he has been too often punished, though not for heavy offences; Watt, the Guard, is an excellent faithful man, seldom or never absent from his post, except on his pension days, when he gets half a day's leave to go to town; Martin, the Guard's character is very good; Hermiston, the Keeper, is a very good steady man. Witness would take the oaths of all the Guards and Keepers brought up by F. Smith in his defence; they are men to be relied on. The character of Costen, the Head-keeper, is very good; he carries out the witness's orders faithfully.

The small fire-engine, being in the east wing, is under F. Smith's control as the east wing is. Witness considers it F. Smith's business to keep it in proper order; would call him to account if it were not so kept.

Dr. Sampson came in one day and said he heard Mrs. Cox had been making observations as to his treatment of a woman who died.

The Convict Cavanagh was several times punished, both for stealing and fighting, besides talking.

The day before Convicts go out, witness takes their answers to a series of questions, and desires them to speak freely.

Witness thinks the Convict Abraham said his treatment was as good as he good expect in such a place, or some such words; that men were not punished unless they deserved it.

Appendix  
(B. B. B. B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Several, indeed most Convicts going out, say their provisions have been good and sufficient, particularly since Mr. Frank has been Steward; they have more of them and better. This latterly has been a general reply.

Never, until he was before the Board as a witness, heard of Convict Cavanagh being unjustly punished. Convicts have the privilege of coming to witness to state their grievances; witness, any way, has applications from them, some about grievances, some asking witness to write letters for them, or to inquire about answers. Witness thinks Cavanagh once came about getting good provisions; it was after dinner: witness found both the Head and Kitchen-keeper had examined his returns, and pronounced them good; thought the complaint was frivolous, as there was no complaint from any other Convict that day about the quantity or quality of the provisions.

(Signed,) H. SMITH.

(Keeper Smith stated that he had no further evidence to produce in his defence. Dr. Sampson said he wished to bring evidence to rebut statements made by defendant's witnesses; he was informed that he would be allowed to do so. Board adjourned till four o'clock.)

(Four o'clock, P.M., Board again met. Dr. Sampson proceeded to call the following persons to rebut Defendant's evidence.)

Richard Robinson—(Guard)—sworn :—

Abraham was under witness's charge for a considerable time in the South Wing, both previous and subsequent to getting his eye hurt: when his eye was hurt his usual place of work was a shanty outside the South Wing: if the day was wet he worked inside the shanty; if fine, outside. When witness saw potatoes thrown at the Convicts he was in the South Wing. It was reported by several of the Convicts that Abraham lost his eye by the stroke of an arrow. The person he saw fishing with F. Smith was a large Convict; witness would call him a man Convict.

(Signed,) R. ROBINSON.

Martin Keely—(Keeper)—sworn :—

Is a Carpenter-Keeper; has been in that situation between ten and eleven years. Knows late Guard Fitzgerald and present Guard Robinson, since they came to the Penitentiary: never saw anything wrong with the men more than with any others. Should consider them good characters; certainly considers their oaths would be worthy of belief, "as much so as those of any other men of that capacity." Thinks Keeper Pollard has been some where about six months Keeper.

Witness had a conversation with Manuel respecting a conversation he (Manuel) had had with Fitzgerald, regarding something which Manuel had told to Pollard. Manuel said nothing of a meeting at Dr. Sampson's house; but told him that he (Manuel) had been to Fitzgerald's house a few mornings before, and Fitzgerald told him a few words, and he told them to Pollard when he was a little the worse of liquor, and Pollard told them to the Warden.

Appendix  
(B.B.B.B.B.)  
30th May.

Cross-examined :—Manuel did not tell witness what he said to Pollard. The conversation which Manuel and witness, and the other Guards were engaged in at the time this occurred, was with reference to these charges.

(Signed,) MARTIN KEELY.

James M'Carthy—(Keeper)—sworn :—

Is Blacksmith-Keeper in the prison; has been so since the opening of the prison: he lighted the first fire. Has known Fitzgerald and Robinson since they came here: knows nothing wrong of Guard Robinson: has heard that Fitzgerald used to drink sometimes. Should think they ought to be believed on oath; does not see why they should not.

(Signed,) J. M'CARTHY.

John Swift—(Keeper)—sworn :—

Has been Keeper for about five years, or thereabouts. Has known Robinson and Fitzgerald since they were in the prison; has no reason to suppose they are not men of good character. Considers them men to be believed on oath, if not, they should not be entrusted with the situations they held. Witness does consider them men to be believed on oath.

(Signed,) J. SWIFT.

John Richardson—(Carpenter-Keeper)—Sworn :—

Has been Carpenter-Keeper nearly ten years. Knows Robinson and Fitzgerald; has no reason to suppose they are not to be believed on oath. Knows nothing to the contrary; knows nothing against them.

(Signed,) JOHN RICHARDSON.

Terence M'Garvey—(Keeper)—Sworn :—

Has been Shoemaker-Keeper between six and seven years. Has known Robinson and Fitzgerald a considerable time; knows nothing touching Robinson's character; knows nothing against him; never saw anything bad. Considers Fitzgerald's character pretty good, from what he knows. Has heard it reported about the Prison that a Convict had lost his eye; does not recollect the time—it was some months ago; heard some people say it was from a bow and arrow, others said it was a sore or inflammation. Anything witness heard of it was, that Mr. F. Smith was the cause of it, but it was a flying rumour only.

(Signed,) T. M'GARVEY.

Thomas Fitzgerald—(late Guard)—Sworn :—

Abraham, on wet days, was generally supposed to be inside South Wing in the Avenue; in fine days on the outside, on the east side of the South Wing, convenient to the wood-pile. Cannot say where he was when his eye was hurt.

Appendix  
(B.B.B.B.B.)  
30th May.

When witness saw potatoes thrown at Convicts, he was in the South Wing, that was witness's post every night, except when Robinson was on duty, and then witness was on the wall; was in a position fully to see potatoes thrown, as he was along with Mr. Frank; could not miss it. It was a Convict man he saw in company with Mr. F. Smith when he was fishing; the Convict had no fishing-rod in his hand, that witness saw. Witness did not know why he was dismissed? Mr. Costen did not tell him. Witness had had his face hurt, and sent word to Mr. Costen saying so; and that he could not come to his duty till his face was well. When he returned, Mr. Costen told him his services were no longer required. Asked Mr. Costen, why? Costen said, he did not know. Witness said he had done his duty, and turned on his heel and walked away. Said nothing to Mr. Costen at that time, about his face being hurt, as far as he recollects. Sent word he could not come immediately after he was hurt, that was next morning. Sent the word by Guard Shortless.

(Signed,) THOS. FITZGERALD.

Thomas Costen—(Head-Keeper, recalled)—Sworn:

The Indian, Abraham, when his eye was hurt, worked on the west side of the North Wing; his shanty is still there, back of Warden's kitchen. The Kitchen-keeper always had charge of him, he belonged to the kitchen gang.

(Signed,) THOMAS COSTEN.

Dr. Sampson wished it to be Minuted that he was not allowed to be heard in evidence in support of charges. The Doctor was informed that the Board were now ready to hear him on oath (the Defendant F. Smith expressing his willingness); the Doctor, however, now declined doing so; saying, he had nothing to say.

Both parties agreed to hold the evidence as closed.

The Board adjourned.

I, James Hopkirk, one of the Inspectors of the Provincial Penitentiary, do hereby declare that the foregoing is a just and true copy of the Minutes of Evidence taken by me at the request of the Board, on the investigation of the charges made by the Surgeon of the Institution against the Kitchen-keeper F. W. Smith, and that the said minutes were taken at the time as fully and correctly as I could take them; and do, to the best of my knowledge and belief, contain a just and true statement of all which was testified to by the respective witnesses, pertinent to the matter at issue, and that the evidence of each witness was read over to and signed by him in presence of the Board, and of the Surgeon and Kitchen-keeper, neither of whom objected to its credence.

JAMES HOPKIRK.

Kingston, 29th Nov. 1847.

Appendix  
(B.B.B.B.B.)  
30th May.

## APPENDIX B.

Copy.—Documents relating to the Cases of Insane Convicts James Brown and E. C. Reveille.

No. 1.

Copy—Letter, Warden to Surgeon.

PROVINCIAL PENITENTIARY,  
17th January, 1848.

SIR,

I am directed by the Board of Inspectors to inform you, that they have observed in the Punishment Book a remark made by you against the name of the Convict James Brown, who was ordered to receive 36 lashes with the cats for outrageous and insubordinate conduct, viz.: that he was "fit as to bodily health;" and that they have been informed that the punishment has not been carried into effect, in consequence of the peculiar wording of such remark, and of a verbal statement made by you to two of the Inspectors, that you had doubts as to the sanity of the Convict.

I am now directed by the Board to request you will inform me, for their information, with a full and explicit report as to the health, both mental and bodily, of the said Convict.

I am, Sir,  
Your most obedient Servant,

(Signed,) H. SMITH,  
Warden.

JAMES SAMPSON, Esquire,  
M. D.

No. 2.

Copy—Letter, Surgeon to Warden.

KINGSTON, 18th January, 1848.

SIR,

In reply to your letter of yesterday, conveying the directions of the Board of Inspectors, that I should furnish you, for their information, with a full and explicit report, as to the health, both mentally and bodily of the Convict James Brown:—I have to state, that this man having been recently presented to me, to report on his fitness to receive 36 lashes with the cats; I remembered, that not long since, I had witnessed the infliction of a similar punishment on him; and I also recollected that I had heard verbally, from yourself and others, of many and repeated acts of unprovoked violence which he had committed from time to time, and for which he was repeatedly punished; under these circumstances, the moral question naturally arose, "whether there was not some mental deficit in a person who could not only commit such numerous acts of outrages, but who seemed reckless of the certain consequences to himself of so doing?" and, therefore, on inspecting him, I reported him "fit, as to bodily health," not doubt-

ing that your more intimate acquaintance with the man's case would explain to you the import of this "peculiar wording."

Before coming to any final decision on this case, it would be necessary that I should have access to the records of all the various acts of violence which this Convict has committed in the Prison, as well as the means of making personal inquiry of such Officers or persons as have witnessed them.

I am, Sir, &c.

(Signed,) JAS. SAMPSON,  
Surgeon.

H. SMITH, Esq.,  
Warden.

No. 3.

Copy—Letter, Warden to Surgeon.

PROVINCIAL PENITENTIARY,  
21st January, 1848.

SIR,

I beg to acknowledge the receipt of your letter of the 18th inst., respecting the case of the Convict James Brown; and in order to render you every facility to enable you to come to a decision regarding it; I have enclosed a return of the acts of violence committed by the Convict in question during his confinement in this institution; I beg leave further to state that all the Keepers and Guards of the establishment are cognizant of the several acts of violence recorded.

In acknowledging the receipt of your letter of the 19th inst., I have to request you will be pleased to inform me, whether in either of the cases of frost-bites in the morning of the 11th inst., the patient was in irons, in order that I may report the same to the Board.

I am, Sir,  
Your most obedient Servant,

(Signed,) H. SMITH,  
Warden.

JAMES SAMPSON, Esq.,  
M. D.

(Copy.)

Return of the several Acts of Violence committed by the Convict James Brown, as recorded in the Punishment Books of the Provincial Penitentiary:—

- 1846.
- Nov. 12.—Disorderly conduct in his cell; cursing and swearing, talking aloud, disturbing the prisoners.
- Nov. 16.—For very outrageous and disorderly conduct when at work in the Mortar Shed; cursing and swearing, and being otherwise turbulent when ordered to his cell.
- Dec. 26.—Using indecent language.



Appendix  
(B.B.B.B.B.)  
30th May.

1847.

May 17.—Threatening to take the lives of Keeper McGarvy and Guard Funstan, and to raise a mutiny in the Prison; cursing and swearing in a violent way continually day and night.

July 8.—Talking at work.

Aug. 7.—Making a great noise in his cell; disturbing the prisoners; cursing and swearing, and threatening to take the life of the Keeper.

“ 19.—Quarrelling in the wash-house; biting Convict Hall on the cheek, and striking him on the head.

Oct. 26.—For very outrageous and violent conduct in his cell; singing songs, cursing and swearing, and making a very great noise during the night, disturbing the Prison, and continued the same conduct when put in his dark cell.

Dec. 30.—Attempting to throw stones at civilian teamsters; cursing and swearing, threatening to knock anybody down who came near him.

1848.

Jany. 3.—Making use of very obscene language; cursing and swearing, and disturbing the whole Prison.

Penitentiary, 21st January, 1848.

I certify that this is a true copy of the return made to the Surgeon of the Penitentiary of the 21st January, 1848.

(Signed,) F. BICKERTON,  
Clerk.

No. 4.

Copy—Letter, Surgeon to Warden.

KINGSTON, 24th January, 1848.

SIR,

In order to enable me to form a more correct opinion with respect to the mental state of Convict James Brown, it would be requisite that I should be acquainted with the several amounts and descriptions of punishments inflicted for the offences committed by him since his admission to the Prison: and I beg to submit, that instead of calling on all the Keepers and Guards to answer such questions as I might put to them touching this case, it would be more convenient if I were furnished with the names of the Officers who reported the Convict on the various occasions of violence for which he was punished.

(Signed,) JAMES SAMPSON.

To H. SMITH, Esquire,  
Warden, P. P.

No. 5.

Copy—Extract from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 3rd February, 1848:—

The Warden submitted to the Board two letters from the Surgeon respecting the case of the Convict

James Brown, on whose mental and bodily state he was requested to report, agreeable to the Minute of the 15th ult., and it appearing from his letter of the 24th ult. that he is unable to make his report in this case, unless he is made acquainted with the several amounts and descriptions of punishments inflicted upon the Convict. The Warden is directed to furnish the statement required.

The Warden is directed to request the Surgeon will furnish a return of the several cases of sickness, under which the Convict James Brown, has suffered from the month of August, 1843, to the present time, stating their character and the respective dates when they occurred.

A true extract.

(Signed,) F. BICKERTON,  
Clerk.

No. 6.

Copy—Letter, Warden to Surgeon.

PROVINCIAL PENITENTIARY,

3rd February, 1848.

SIR,

I have to inform you, that your letters of the 18th and 24th ult., respecting the case of the Convict James Brown, have been laid before the Board; and I am to say, they have directed me to lay the statement of punishments inflicted upon that Convict before you as soon as it can be prepared; although the Board are at a loss to conceive what assistance it will afford you in coming to a conclusion as to the present state of prisoner's mind, as in neither of the cases of John Donovan and Michael Sheehan, both of whom, previous to their being reported by you as insane, had been frequently punished for acts of violence, was it deemed necessary by you to be put in possession of a similar statement, to enable you to come to a conclusion on their respective cases.

I am further directed by the Board to state to you, that observing your statement, that you had formerly heard from the Warden and others, verbally, of many and repeated acts of unprovoked violence which the Convict had committed from time to time, and for which he was frequently punished, they regret that, notwithstanding the Minute of the late Board of the 18th February, 1846, expressly directing you to report all such cases, you should not sooner have made the Board aware of your doubts as to James Brown's sanity, which might possibly have induced them to countermand the only two corporal punishments inflicted on him under the immediate sanction of the present Board, after receiving your report of his fitness to undergo them.

I am, Sir,

Your most obedient Servant,

(Signed,) H. SMITH,  
Warden.

JAMES SAMPSON, Esquire,  
&c. &c. &c.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

STATEMENT of PUNISHMENTS Inflicted on the Convict JAMES BROWN, for Violent Conduct.

DATE.	OFFENCES.	PUNISHMENT.	BY WHOM REPORTED.	BY WHOM PUNISHED.
August 8, 1849...	Leaving his work, and concealing himself in the stone shed; throwing stones at the privy when another Convict was in it.	6 lashes with the cat.		
December 11, do ...	Striking another Convict.	6 lashes raw-hide; 1 meal bread and water.		Thos. Costen.
January 4, 1844...	Disobeying his Keeper, and using violence to the Officer in charge of him.	48 hours in in dark cell, on bread and water and put in irons.		Do. John Richardson.
do 5, do ...	Violent conduct in the dark cell, and running away from the Guard who was taking him to be ironed.	48 lashes with the cat; 1 meal bread and water		W. Smith.
do 9, do ...	Insubordinate conduct, and daring the Guard to fire at him.	24 lashes with the cat; 48 hours in dark cell on bread and water.		John Richardson.
February 19, do ...	Violent conduct in the quarry, and attempting to strike his Keeper.	36 lashes with cat; 40 hours in dark cell.		W. Smith.
April 17, do ...	Using threatening language to one of the Officers, and throwing a stone, with the intention of doing the said Officer bodily harm.	36 lashes with cat; 1 meal bread and water.		John Richardson.
July 16, do ...	Violent conduct, and striking another Convict.	12 lashes with cat; 1 meal bread and water, and to be ironed.		W. Smith.
October 28, do ...	Attempting to make his escape from the Penitentiary, armed with a hammer, and threatening to kill those who went in pursuit of him.	60 lashes with cats; to be ironed; 3 meals bread and water.		John Richardson.
December 7, do ...	Outrageous conduct during a mutiny in the quarry; saying he would clear out, and have the life of the Keeper before he would go out.	4 doz. with cats; 1 meal bread and water.		W. Smith.
January 28, 1845...	Outrageous conduct in the quarry; damning the soul of his Keeper to hell; would not work only as he thought fit himself; went off from his work without leave.	2 doz. lashes with cats; 2 meals bread and water.		John Hooper.
April 18, do ...	Drawing a knife upon the Guard when checked by him for talking at the dinner table; taking a poker and threatening the man who escorted him to his cell.	24 lashes with cats; 1 meal bread and water, to be ironed.	W. Smith.	W. Smith.
June 6, do ...	For talking in his cell three hours during the night; cursing and swearing and expressing himself in the most obscene manner, and causing laughter with other Convicts.	12 lashes with cats; 1 meal bread and water.	F. Little.	John Hooper.
July 18, do ...	Outrageous conduct in his cell; cursing and making use of filthy expressions, and repeating the same when removed to the dark cell.	36 lashes with cats; 1 meal bread and water.	Terence M'Garry.	W. Smith.
September 16, do ...	Refusing to work; and walked away swearing he would not work while he was in irons, and that he would knock out the brains of the first man that spoke a word to him.	2 doz. lashes with cats; confined to his cell 72 hours on bread and water.	John Cooper.	C. Reid.
October 8, do ...	Cursing and swearing in his cell; using violent language, and threatening to be the death of some of the Officers.	2 doz. lashes with cats; 48 hours in dark cell.		John Richardson.
February 17, 1846...	Talking in his cell more than half an hour, although repeatedly requested to be silent; saying he was aware that irons would be placed upon him; also using very indecent language, and saying he did not care about being punished.	1 doz. lashes with cats; 2 meals bread and water.	C. Reid.	C. Reid.
do 24, do ...	Talking, quarrelling, and fighting with another Convict in the quarry.	12 lashes with cats; 1 meal bread and water.		
March 25, do ...	Talking and making a noise in his cell at 2 o'clock in the morning; saying the most filthy and abominable language; disturbing the Prison, and preventing the Convicts from taking their rest.	1 doz. lashes with cats; 1 meal on bread and water.	F. Little.	C. Reid.
May 13, do ...	Cursing, swearing, and making a noise in his cell, and disturbing the Prison.	2 dozen lashes with cats; 48 hours in dark cell	James Baldwin	F. Gleeson.

STATEMENT of PUNISHMENTS Inflicted on the Convict JAMES BROWN, for Violent Conduct.—(Continued.)

DATE.	OFFENCES.	PUNISHMENT.	BY WHOM REPORTED.	BY WHOM PUNISHED.
June 9, 1846	Outrageous conduct; threatening the life of Guard Crawford, and throwing a shovel at him, when ordered to his cell; threatening the life of Guard Martin, and throwing a stone at him.....	36 lashes with cats; 48 hours in dark cell, to be ironed.....	W. Martin.....	J. Richardson.
do 16, do	Using threatening language to Guard Martin, when giving him his breakfast in his cell, and swearing he would take his life the first chance he got.....	1 doz. lashes with cats; 48 hours in dark cell.	Assistant Warden.....	A. Ballantine.
do 19, do	Outrageous conduct in his cell; making a very great noise; cursing and swearing, and using threatening language.....	24 lashes with cats; 48 hours in dark cell.....	Richard Tynner.....	do
do 23, do	Attempting, when going to the Blacksmith's shop to be ironed, to escape up the scaffold, and over the wall; and when Keeper Manuel prevented him, attempted to throw him off the scaffold, and threw a large stone at him.....	24 lashes with cats; 48 hours in dark cell, to be ironed.....	H. Manuel.....	.....
July 24, do	Cursing and swearing in his cell on Sunday morning.....	24 lashes with cats; 48 hours in dark cell.....	John Hooper.....	A. Ballantine.
do 27, do	Talking and cursing in his cell.....	1 doz. lashes with cats; 2 meals bread and water.....	F. Little.....	do
August 11, do	Cursing and swearing, and being very outrageous in his cell; disturbing the Prison during the night.....	2 doz. lashes with cats; 1 meal bread and water.....	H. Manuel.....	do
October 31, do	Violent and outrageous conduct; cursing and swearing; using obscene language; threatening to take the life of some one when at work in the mortar shed.....	Confined in the dark cell 24 hours, to be ironed	George Sexton.....	Thomas Costen.
November 12, do	Disorderly conduct in his cell; cursing and swearing, and talking aloud, disturbing the Prison.....	48 hours in dark cell on bread and water.....	R. Robinson.....	do
do 16, do	Outrageous and disorderly conduct when at work in the mortar shed; cursing and swearing, and being otherwise turbulent when ordered to his cell.....	48 hours in dark cell on bread and water.....	George Sexton.....	do
May 17, 1847	Threatening to take the lives of Keeper M'Garvey and G. Funstun, and to raise a mutiny in the Prison; cursing and swearing in a violent way, continually day and night.....	36 lashes with cats; 1 meal bread and water, to be kept in irons until further orders.....	Terence M'Garvey.....	John Richardson.
June 9, do	Fighting with another Convict when at work.....	Confined twice to the box, on bread and water.....	A. Ballantine.....	F. W. Smith.
August 7, do	Making a great noise in his cell; disturbing the Prison; cursing and swearing, and threatening to take the life of the Keeper.....	36 lashes with cats; 1 meal bread and water.....	Terence M'Garvey.....	Hugh Manuel.
do 19, do	Quarrelling in the wash-house; striking Convict Hill on the head, and biting his cheek.....	Confined to box twice; 6 meals bread and water.....	F. W. Smith.....	F. Little.
October 26, do	Very outrageous and violent conduct in his cell; singing songs; cursing, swearing, and making a very great noise during the night; disturbing the Prison, and continued the same conduct when put in the dark cell.....	Confined twice in the box; 6 meals on bread and water.....	M. Kelly.....	F. W. Smith.
December 30, do	Attempting to throw stones at a civilian teamster; cursing, swearing, and threatening to knock anybody down who came near him.....	.....	.....	.....
January 3, 1848	Making use of very obscene language; cursing, swearing, and disturbing the whole Prison.....	.....	.....	.....

Appendix  
(B.B.B.B.B.)  
30th May.

No. 8.

Copy—Letter, Warden to Surgeon.

Provincial Penitentiary,  
3d February, 1848.

Sir,

I am directed by the Board of Inspectors to request you will be pleased to furnish me, at your earliest convenience, with a Return of the several cases of sickness under which the Convict James Brown has suffered, from the month of August, 1843, to the present time, stating their character, and the respective date when they occurred.

I am, Sir,  
Your most obedient Servant,

(Signed;) H. SMITH,  
Warden.

JAMES SAMPSON, Esquire,  
&c. &c. &c.

No. 9.

(Copy.)

Return of cases of illness under which James Brown suffered :—

Admitted.	Disease.	Discharged.
1844.		1844.
July 29.....	Toothache—extracted.....	Sept. 24.....
Sept. 23.....	Pain in side.....	1846.
1846.		July 22.....
July 20.....	Abcess Axilla.....	Aug. 10.....
Aug. 8.....	Diarrhoea.....	1847.
1847.		April 15.....
April 13.....	Griping.....	Oct. 24.....
Oct. 22.....	Pain in the Iliac region.....	Nov. 20.....
Nov. 15.....	Rheumatism.....	

No. 10.

Copy—Letter, Surgeon to Warden.

Kingston, 7th February, 1848.

Sir,

With reference to the Convict James Brown, about the sanity of whose mind I have already expressed doubts, I have to state, that as far as I can understand the case, it is one of occasional paroxysms of insanity; but as I have never witnessed his conduct on such occasions; before coming to a final conclusion as to his actual state, and deciding on the cause of his malicious propensities; it is necessary that I should have an opportunity of hearing from those Guards and Keepers who have seen him committing the acts of outrage for which he was punished, or from any others who have had personal cognizance of his extravagancies, their account of the manner and bearing of the Convict immediately before, and while committing said acts; and I, therefore, have to request that you will be pleased to allow me the means of questioning such persons.

I am, &c. &c.

(Signed) JAMES SAMPSON.

To H. SMITH, Esq.,  
Warden, P.P.

Appendix  
(B.B.B.B.B.)  
30th May.

No. 11.

Copy—Letter, Warden to Surgeon.

Provincial Penitentiary,

7th February, 1848.

Sir,

I beg to acknowledge the receipt of your letter of this day's date, and in compliance with your request, I have directed the Head-keeper to assemble the several Keepers and Guards required for your examination into the case of the Convict James Brown, at 11 o'clock to-morrow morning.

I am, Sir,  
Your most obdt. Servant,

(Signed,) H. SMITH,  
Warden.

JAMES SAMPSON, Esq.  
&c. &c. &c.

No. 12.

Copy—Letter, Surgeon to Warden.

Kingston, 16th February, 1848.

Sir,

In compliance with the directions of the Board of Inspectors, conveyed in your letter of the 17th ultimo, that I should report to them on the mental and bodily state of the Convict James Brown, I have now to state for their information, that having maturely considered his case, I am opinion that this Convict is a person of unsound mind.

With respect to his bodily health, I consider this good.

I am, Sir, &c. &c.

(Signed,) JAMES SAMPSON,  
Surgeon.

H. SMITH, Esq.,  
Warden.

No. 13.

Copy—Letter, Surgeon to Warden.

Kingston, 23rd March, 1848.

Sir,

Observing that the Convict James Brown, whom I reported to the Board of Inspectors on 16th February last, as of insane mind, still carries heavy iron chains on his legs; and as these are a source of great bodily annoyance and mental disturbance to him, particularly during the night when in his bed, I recommend that they be removed.

I am, Sir, &c. &c.

(Signed,) JAMES SAMPSON,  
S. P. P.

H. SMITH, Esq.,  
Warden.

Appendix  
(B.B.B.B.B.)  
30th May.

CASE OF  
E. C. REVEILLE.

No. 1.

Copy—Extract from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 15th January, 1848 :—

The attention of the Board having been called to the case of the Convict Charlotte Reveille, who, since her first reception into the Penitentiary, has manifested a most violent and insubordinate temper, destroying her bedding and clothing, and breaking every article within her reach, and latterly attempting to commit suicide by hanging herself; the Warden is directed to call upon the Surgeon for a certificate as to the state of her mental condition, with the view of application being made to the Government for her removal to a Lunatic Asylum, should her case require it.

A true extract.

(Signed,) F. BICKERTON,  
Clerk.

No. 2.

Copy—Letter, Warden to Surgeon.

Provincial Penitentiary,  
17th January, 1848.

Sir,

I am directed by the Board of Inspectors to request you will be pleased to furnish me, for their information, with a report as to the state of the mental condition of Charlotte Reveille; their attention having been called to the state of this Convict in consequence of her having, since her first reception into the Penitentiary, manifested a most violent and insubordinate temper, by destroying her bedding and clothing, and breaking every article within her reach; and latterly having attempted to commit suicide by hanging herself.

I am, Sir,  
Your most obedient Servant,

(Signed,) H. SMITH,  
Warden.

JAMES SAMPSON, Esq., M.D.  
&c. &c. &c.

No. 3.

Copy—Letter, Surgeon to Warden.

Kingston, 18th January, 1848.

Sir,

In compliance with the directions of the Board of Inspectors, conveyed to me in your letter of yesterday, that I should report for their information, as to the mental condition of the Convict Charlotte Reveille; I have to state that this woman was, on the 17th October last, admitted to the female-sick-room, where she has been since treated for various and complicated bodily disorders, that I have of late paid much attention to her mental state, as well by personal observation as by the evidence of others; and

that I am of opinion that she labors under that species of mental derangement, which may be termed moral insanity.

I am, Sir,  
Your most obedient Servant,

(Signed,) JAMES SAMPSON,  
Surgeon P. P.

H. SMITH, Esq.,  
Warden.

No. 4.

Copy—Extract from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 3rd February, 1848 :—

The Warden laid before the Board the undermentioned reports of the Surgeon, made in pursuance of the Minute of the 15th ultimo, viz. :—

“ On the mental condition of Charlotte Reveille.

“ On the propriety of taking off the irons from such Convicts as have been placed in them for punishment, owing to the severity of the season.”

With regard to the first of these reports, the Board direct the Warden to apply to the Surgeon for advice as to what steps should be taken respecting the Convict referred to.

A true extract.

(Signed,) F. BICKERTON,  
Clerk.

No. 5.

Copy—Letter, Warden to Surgeon.

Provincial Penitentiary,  
3rd February, 1848.

Sir,

I beg to inform you that I have laid before the Board of Inspectors your letter of the 18th ultimo; and I am directed to request you will furnish me for their information, with your opinion whether it should be advisable that the Convict Charlotte Reveille, should be removed to a Lunatic Asylum, for the purpose of undergoing such treatment as may be necessary in her case of “ moral insanity,” or what other course you would recommend the Board to pursue under all the circumstances of her case.

I am, Sir,  
Your most obdt. Servant,

(Signed,) H. SMITH,  
Warden.

JAMES SAMPSON, Esq.  
&c. &c. &c.

No. 6.

Copy—Letter, Surgeon to Warden.

Kingston, 5th February, 1848.

Sir,

In reply to your letter of the 3rd instant, respecting the Convict Charlotte Reveille, I have to state

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

for the information of the Board of Inspectors, that I consider her a proper subject for a Lunatic Asylum; and would therefore recommend her removal to one so soon as might be practicable; but at present her state of bodily health is such as to unfit her for a land journey.

I am, &c. &c.

(Signed,) JAMES SAMPSON,  
Surgeon P.P.

H. SMITH, Esq.,  
Warden P.P.

No. 7.

Copy—Extracts from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 15th March, 1848:—

The attention of the Board having been called to a Report of the Surgeon of the Institution in the Hospital Register, in the case of Elizabeth C. Reveille, under date the 9th instant, in which that officer states, "I may remark, in this place, no credence is to be given to anything said, when animosity and deceit seems to govern the actions of persons in office. I reported this Convict as insane to the Board of Inspectors on the \_\_\_\_\_ last, and I feel convinced that no improvement can take place mentally, while in this Prison."

The Board consider it essential to the well-being of the Institution, with the management of which they are intrusted, to ascertain from the Surgeon to whom he alludes in the paragraph in question; and to investigate the circumstances which have led to so serious a charge against some person or persons in the Penitentiary. They therefore resolve to meet on Saturday, the 18th instant, at 3 o'clock, p.m., for the purpose of enquiring into the matter, when, as the Surgeon's evidence on oath may be necessary, his attendance is required. The Warden will accordingly furnish the Surgeon with a copy of this Minute, and notify him to attend for the above purpose, and also for the purpose of enabling the Board to hear his opinion as to the measures which he would recommend should be pursued in the case of the Convict Reveille.

A true extract.

(Signed,) F. BICKERTON,  
Clerk.

No. 8.

Copy—Letter, Warden to Surgeon.

Penitentiary, 16th March, 1848.

Sir,

Agreeable to the directions of the Board of Inspectors, I beg leave to forward to you a copy of a Minute made at their meeting yesterday; and in pursuance of their desire, I have now to request you will be pleased to appear before the Board at 3 o'clock, p.m., on Saturday next, the 18th instant, for the purpose therein mentioned.

I am, Sir,  
Your most obdt. Servant,

(Signed,) H. SMITH,  
Warden.

JAMES SAMPSON Esq.  
&c. &c. &c.

81

No. 9.

Copy—Letter, Surgeon to Board of Inspectors of Provincial Penitentiary.

Kingston, 17th March, 1848.

Gentlemen,

I have received the communication of the 15th instant, addressed to me by the Warden, by your direction.

Under the peculiar circumstances in which I am placed, with respect to your Board, it is my wish that every thing passing between us be in writing, and not by personal communication.

I beg leave to bring under your notice, that the Minute of your Board of the 15th instant enclosed in the Warden's letter, contains a very imperfect and erroneous view of the report as set forth in my Register, on the 9th instant, respecting the insane Convict Reveille, and therefore I have subjoined the whole of the said report, as well as that of the preceding day.

(Copy.)

"February 8th.—The bowels were opened on the 5th, and the tumid abdomen again subsided, but the pain never leaves the left side, which is tender on very slight pressure. No uterine discharge since last report, but the bloody vomiting has returned this morning. Mentally there has been evident improvement of late, which I attribute to a conciliatory and soothing mode of treatment. February 9th.—The uterine hemorrhage returned last night, and is rather copious to-day. The Matron reports, that this Convict was detected with the earthen vessel in which she vomits, under her, in order to procure blood, mix it with gravel and shew it to me as having come from her stomach. It is difficult to suppose that this trick could have been practiced when no uterine discharge existed, besides the liquid said to be vomited, contained very dark blood, while uterine discharge was of a pale scarlet color. I may remark, in this place, no credence is to be given to anything said, when animosity and deceit seem to govern the actions of persons in office. I reported this Convict as insane to the Board of Inspectors on \_\_\_\_\_, and I feel convinced that no improvement can take place mentally, while in this Prison."

I am aware that the remark made in this report, to which your attention has been drawn, involves matter of grave import, as connected with the conduct of those who have charge of the Convict in question; and further, very seriously affecting the due discharge of my professional duties towards her, but as it has been communicated to me by command of His Excellency the Governor General, that His Excellency intends to appoint a Commission of Inquiry, not only as to what personally concerns myself, but also as to the general management of this Institution, I beg leave respectfully to decline now entering further upon the subject; it being my intention to bring this case, in all its details and bearings, before this tribunal so soon as it is constituted.

I continue, as you are no doubt aware, in constant daily attendance upon this Convict, noting down occasionally whatever of importance arises in her case.

I have already reported her to you as insane, and I recommended her removal to a Lunatic Asylum so soon as her bodily health would permit.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix

(B.B.B.B.B.)

30th May.

I have now further to recommend that the Matron be directed not to attend upon this Convict in any way, or at any time, as her doing so appears to occasion great irritation in the patient, and may if continued greatly hazard her recovery; and it is my opinion that this Convict should be treated with great mildness and forbearance.

I am, Gentlemen,  
Your most obdt. Servant,

(Signed,) JAMES SAMPSON,  
Surgeon, P.P.

To the Board of Inspectors,  
Provincial Penitentiary.

No. 10.

Copy—Minutes of the Board of Inspectors, on the morning of the 18th March, 1848.

Provincial Penitentiary,  
18th March, 1848.

The Board met. Present:—Thomas A. Corbett, Esquire, President; James Hopkirk, and Henry Gildersleeve, Esquires.

The Board having met this morning especially to take into consideration a letter of yesterday's date, addressed by the Surgeon of the Penitentiary to them, in which that officer states, "that as it has been communicated to him, by desire of his Excellency the Governor General, that His Excellency intends to appoint a Commission of Inquiry, not only as to what concerns himself, but also, as to the general Management of the Penitentiary; he begs leave respectfully, to decline entering further on the subject, (viz.: his remarks in the Hospital Register, that the actions of certain persons in office are governed by animosity and deceit) it being his intention to bring this case in all its details and bearings before this tribunal, so soon as it is constituted.

The Board direct that the Surgeon be immediately informed that they have as yet received no intimation of the intention of His Excellency the Governor General to appoint such Commission of Inquiry; and that even had they received such intimation, they do not conceive that their functions as Inspectors would be thereby brought to a close or suspended; nor would they then consider themselves as thereby relieved in the meantime from performing the duties of inquiry into any matter effecting the good Government of the Institution or the conduct of any of its officers, as required by the "Statute," unless they are especially excused by competent authority for so doing.

Under these circumstances, therefore, and as the Surgeon states that the entry in the Hospital Register, already referred to, contains "matter of grave import as connected with the conduct of those who have charge of the Convict (Reveille); they consider that they are peremptorily called upon to take immediate cognizance of it, in order that not a moment may be lost in removing the parties alluded to, if guilty, from situations which they would in that case, be utterly unworthy to hold, and every hour of their continuance in which, would be highly detrimental to the interests of the Penitentiary and to the welfare of its unfortunate inmates, which the Inspectors are especially bound to protect.

The Board, therefore, resolve that they will proceed, at three o'clock to-day, with the inquiry intimated in their Minute of the 15th instant, and that the attendance of the Surgeon is indispensably required thereat, and that the Warden do notify the Surgeon to attend accordingly, by furnishing him, without delay, with a copy of the resolution.

(Signed,) THOMAS A. CORBETT, Pres.  
" JAMES HOPKIRK,  
" HENRY GILDERSLEEVE.

A true Copy.

(Signed,) F. BICKERTON,  
Clerk.

No. 11.

Copy—Letter, Surgeon to Board of Inspectors,  
Provincial Penitentiary.

Provincial Penitentiary,  
18th March, 1848.

Gentlemen,

I beg leave to acknowledge the receipt of the Warden's letter, and your Minute of this day; and in reply refer you to my letter of yesterday, in which I respectfully declined, for reasons therein stated, and to which I adhere, to appear personally before your Board. Everything necessary to the welfare of the Convict Reveille, will have been attended to, if my recommendations of yesterday be acted upon.

I am, Gentlemen,  
Your most obt. Servant,

(Signed,) JAS. SAMPSON,  
Surgeon, P. P.

To the Board of Inspectors,  
Provincial Penitentiary.

No. 12.

Copy—Extracts from the Minutes of the Board of Inspectors of the Provincial Penitentiary, on the afternoon of the 18th March, 1848.

The Board met at three o'clock, when a letter was delivered to them from the Surgeon, in which that officer, notwithstanding the notification sent him this morning requiring his attendance in terms of the Statute, declined coming before them.

The Board considering the extreme difficulty, under existing circumstances, of maintaining order and discipline in the Institution, and the absolute necessity which exists for a prompt inquiry into any charge of misconduct against any of those entrusted with the charge of the Convicts; which inquiry they are prevented, in the present instance, from entering into, by the refusal of the Surgeon to come before the Board after preferring a charge; considering, also, the extreme difficulty of carrying on the management of the Institution with credit to themselves and advantage to the public without the cordial co-operation of all the officers: Resolve, that the whole of these proceedings be immediately brought under the notice of His Excellency the Governor General. With reference to the late application for a Commission of Inquiry, with the view of showing the

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B. B. B. B.)  
30th May.

necessity of such commission being appointed without delay, should His Excellency deem it advisable to pursue that course, and they direct that the draft of a suitable letter to the Secretary of the Province be prepared for their approval.

The Board further took into consideration the case of the Convict Elizabeth Charlotte Reveille; with reference to the Surgeon's letter of the 17th instant, recommending, that until her bodily health will permit her removal, "the Matron be directed not to attend upon this Convict in any way or at any time, as her doing so appears to occasion great irritation in the patient, and may, if continued, greatly retard her recovery;" and stating, that in his opinion, "this Convict should be treated with great mildness and forbearance."

The Board being anxious, in all respects, to carry out the Surgeon's recommendations, and finding it impossible to avail themselves of the services of the Assistant-Matron to attend on the Convict, in consequence of her duty requiring her presence in a different part of the prison; and having also had evidence laid before them, that the freedom from all reproach, restraint, or punishment, accorded to this Convict, whatever she does or says, and the indulgences afforded to her by the Surgeon's orders, tend materially to interfere with the discipline of the other Convicts, had been considering the expediency, in order to obviate the difficulties, of placing her in a room by herself under the superintendance of a hired nurse; but as that officer has declined coming before them, though twice requested so to do, the Board were under the necessity of adopting these measures without having the benefit of a consultation with him; as, in their opinion, the best means of carrying his recommendation into effect without interfering with the discipline of the prison.

The Warden is accordingly directed to take the necessary steps to have Convict Reveille removed to a separate place of confinement, and to have a suitable nurse to attend her. He is further directed to impress on such attendant the necessity of treating the patient with the greatest mildness and forbearance, as recommended by the Surgeon, and of giving her every indulgence which he has recommended or may hereafter recommend, and generally, of attending to and following out his directions regarding her in every particular. The Warden will furnish the Surgeon with an extract of that part of this Minute relative to the arrangements to be made regarding the Convict Reveille.

A true Extract.

(Signed,) F. BICKERTON,  
Clerk.

No. 13.

Copy—Letter, President Board of Inspectors to  
Provincial Secretary.

Kingston, 20th March, 1848.

Sir,

I have the honour, by desire of the Board of Inspectors of the Provincial Penitentiary, to transmit you a copy of a correspondence which has taken place between them and the Surgeon of the Institution.

The Surgeon having in the Hospital Register, with reference to the case of the Convict Charlotte Reveille, made a remark that "no credence is to be

given to any thing said when animosity and deceit seem to govern the actions of persons in office," the Board considered it their duty at once to investigate the charge, and to ascertain who were the parties to whom it referred, with a view to their removal if guilty.

The Board accordingly required the attendance of the Surgeon that they might have his evidence and investigate the matter, in a resolution of which a copy is herewith transmitted for His Excellency's information.

On receipt of this resolution, the Surgeon, in a letter addressed to the Board, a copy of which also accompanies this, stated, that his remarks involved matter of grave import, as connected with the conduct of those who have charge of the Convict Reveille, and with the due discharge of his professional duties towards her; but declined attending the Board, on the ground of its having been communicated to him, by command of His Excellency the Governor General, that it was His Excellency's intention to appoint a Commission of Inquiry into the general management of the Penitentiary.

The Board could hardly think it possible, that such a communication of His Excellency's intention had been made to the Surgeon by His Excellency's desire, such an oversight of official courtesy would have been committed, or such a slight put on them, as the neglect to address a similar communication to them would imply; and considering also, that even had His Excellency's intention to appoint a Commission been communicated to them, they would not thereby in the meantime be relieved from performing the duties of inquiring into any matter affecting the good government of the Institution or the conduct of any of its Officers, as required by law, unless especially excused from so doing by competent authority, resolved to proceed with the inquiry, and transmitted a copy of their resolution to that effect to the Surgeon, with a request that he would attend accordingly.

The Surgeon, however, again declined obeying their directions by letter, dated 18th instant, a copy of which also accompanies this.

It will at once be obvious to His Excellency, that if there is any one institution in which order and subordination are indispensable; and where also the slightest misconduct on the part of those in charge, should be promptly inquired into and suppressed; it is in one where about 500 Convicts are congregated together, many of them the worst of characters; and any caballings or communications among whom may be productive of the most fearful consequences.

There is, however, too much reason to believe, that improper communications are held with the Convicts, either by connivance of some of the Keepers and Guards, or by means of some of the Carters, Messengers, or others admitted within the gates, as newspapers have, on more than one occasion, been found among the prisoners.

These circumstances, added to the facts of Convicts appearing to be cognizant of statements made against the management beyond the walls, of some of them having threatened their Keepers with making declarations when released, and of others, whose term of imprisonment had expired, proceeding, as if by previous arrangement as soon as they left the walls, to one particular place, where the depositions of some of them were taken down and immediately

Appendix  
(B. B. B. B.)  
30th May.



Appendix  
(B.B.B.B.B.)  
30th May.

after appeared in the newspapers; could lead the Board to no other conclusion but that some improper communication is carried on between the Convicts and some parties beyond the walls, by concert or connivance of persons employed in or about the Institution.

The Board have given their best endeavours to the discovery of those implicated in these matters; and they have no doubt that before long their endeavours will be crowned with success, and those guilty parties punished or removed; but they regret to say, while their exertions for that purpose, and for the maintenance of discipline and order are heartily seconded by the great majority of those employed in the Prison, who faithfully perform their respective duties; they are nevertheless thwarted by an apparent want of cordial co-operation on the part of a few of the inferior officers.

Such cordial co-operation, the Board deem it their duty to enforce by the most decisive measures, and are resolved to do so accordingly; but they cannot wonder that it should be wanting on the part of some of the inferior officers, when neither their authority nor that of the Statute is respected by the Surgeon of the Institution.

Under these circumstances, and being resolved to make no distinction of persons, on account of their position in the Institution, the Board have directed me to bring the refusal of the Surgeon to attend their meetings when required, under His Excellency's notice through you; and referring to their letter of the 11th instant, requesting Commission of Inquiry, they have now respectfully to recommend, that should His Excellency be of opinion that the appointment of such Commission, is under all circumstances expedient, it may take place with as little delay as is consistent with the necessary arrangements.

Should His Excellency, on the other hand, deem it inexpedient to issue a Commission of Inquiry, they would respectfully request his early consideration of, and decision upon, the various subjects lately brought under his notice by them.

I have the honor to be,  
Sir,  
Your most obedient Servant,

(Signed,) THOS. A. CORBETT,  
President of the Board of Insp.  
Provincial Penitentiary.

The Honorable  
R. B. SULLIVAN,  
Secretary of the Province,  
Montreal.

CASES OF CONVICTS BROWN AND  
REVELLE.

No. 1.

(Copy.)

Extract from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 24th February, 1848.

The Warden laid before the Board, the undermentioned communications received from the Surgeon:

Appendix  
(B.B.B.B.B.)  
30th May.

Letter, 5th February, 1848, respecting the case of the Convict Charlotte Reveille, who is not at present in a fit state to be removed to a Lunatic Asylum.

Letter, 10th February, 1848, referring to the case of Bridget Donnelly, requiring to be furnished with a statement of the acts of violence committed by her, and the punishments inflicted therefor, which has been furnished.

Letter, 12th February, 1848, reporting on the case of Bridget Donnelly, who, in the opinion of the Surgeon, "does not labour under any form of insanity or unsoundness of mind."

Letter, 16th February, 1848, respecting the mental state of James Brown, who, the Surgeon reports, "is a person of unsound mind, but whose bodily health is good.

The Warden also laid before the Board a return of the several cases of sickness, for which the Convict James Brown, has been treated, from the month of August, 1843, to the 4th instant. With regard to the cases of James Brown and Charlotte Reveille, as the Board do not concur in the reports of the Surgeon, on their respective cases, they now resolve that a Medical Board, consisting of Doctors Telfer and Bell, be requested to examine the Convicts in question as to their mental state, and to make their report thereon to the Board as early as may be convenient. The Board, therefore, direct the Warden to make application to Dr. Telfer, to ascertain when it will be convenient to him to undertake the examination required, and to state to him that all travelling and other expenses incurred by him in his attendance thereat will be paid to him.

A true Copy.

(Signed,) F. BICKERTON,  
Clerk.

No. 2.

Copy—Letter, Surgeon to Board of Inspectors, Provincial Penitentiary.

Provincial Penitentiary,

3rd April, 1848.

Gentlemen,

I consider it my duty to request that you will be pleased to inform me, whether my report on the state of mind of the Convict Charlotte Reveille, dated 3rd February last; and that respecting the mental condition of the Convict James Brown, dated 16th of the same month, have been submitted for the consideration of the Government; and further, to ask if any, and what steps have been taken for the future disposal of these two insane Convicts.

I am, Gentlemen, &c. &c.

(Signed,) JAMES SAMPSON,  
Surgeon.

The Board of Inspectors,  
Provincial Penitentiary.

Appendix

(B.B.B.B.B.)

30th May.

(Copy.)

No. 3.

Extracts from the Minutes of the Board of Inspectors of the Provincial Penitentiary, 8th April, 1848.

The time being now arrived when the navigation may shortly be expected to be fully opened between this and all parts of the Province; the Board consider it expedient to bring under the notice of the Governor General, the intentions expressed in their Minute of the 24th February last, relative to obtaining the advice of Doctors Telfer and Bell, in the case of the Convicts Reveille and Brown; and they, therefore, resolve that a suitable letter on the subject to His Excellency, be prepared for their approval; and a draft of said letter having been prepared, and amended, and approved, the President is requested to sign and transmit the same in the name of the Board.

The President then laid before the Board a letter from the Surgeon, inquiring whether his reports on the state of mind of the Convicts Elizabeth C. Reveille and James Brown have been submitted to the Government; and further, asking if any, and what steps have been taken for the future disposal of these two Convicts.

The Board having already done all which they consider necessary as to the cases of the Convicts in question, do not feel that they are called upon to take any action on this letter. The Warden will, therefore, simply inform the Surgeon, that the Board have taken, and will, with the approval of His Excellency the Governor General, continue to take such steps with reference to the Convicts in question, as their cases may from time to time appear to render expedient. The Warden will, therefore, for that purpose, furnish the Surgeon with an extract from this part of the Minutes.

A true Extract.

(Signed,) F. BICKERTON,  
Clerk.

No. 4.

Copy—Letter, President Board of Inspectors to Provincial Secretary, with documents accompanying said letter.

KINGSTON, 10th April, 1848.

Sir,

I have the honor, by direction of the Board of Inspectors, to request you will be pleased to bring under the notice of the Governor General the cases of the Convicts Elizabeth C. Reveille and James Brown; the former of whom the Surgeon of the Penitentiary has reported to be in a state of "moral insanity," and the latter to be of "unsound mind."

Elizabeth C. Reveille was tried in the District of Montreal, in the month of February, 1846, and convicted of Larceny, for which she was sentenced to three years imprisonment in the Penitentiary; and during the time of her confinement, has continually manifested, on all occasions, a most violent and turbulent disposition. The conduct of this woman, as the Board have been informed, was equally violent

while under confinement in the Montreal Gaol, so much so, that it became necessary to confine her with handcuffs, to prevent her from destroying her clothing.

The Convict James Brown, was received into the Penitentiary on the 21st November, 1840, from the Western District, where he was tried and sentenced to be hanged for Rape, but his sentence having been commuted to transportation for life, he was sent to the Penitentiary until a vessel should be provided for his transmission, as well as of other Convicts, to one of the Penal Settlements. On the removal of this man from Sandwich to the Penitentiary, as the Board have been given to understand, his conduct was most violent and unruly, so that it became necessary to use extraordinary means of restraint; and during the time he has been under confinement in the Penitentiary, his conduct has been an almost uninterrupted scene of violence and outrage; many times attempting to take the lives of the Officers of the establishment, and still threatening to commit murder.

As each of these Convicts has been sometime in the Penitentiary, and repeatedly under the eye of the Surgeon, without his having, until lately, made any report of his opinion as to their insanity—and as there has been no change in their conduct since they first entered this Institution, until the present time—the Board do not conceive themselves justified upon these reports, to make application to His Excellency for a free pardon to the Convicts, with a view of their removal to a Lunatic Asylum until further examination be had into their cases.

The Board are led to this conviction from a personal examination of the male Convict in question, as well as from the evidence of the Officers of the Institution, more immediately in contact with Elizabeth C. Reveille; and they can come to no other conclusion, as far as they are enabled to judge from the facts before them, as well as from the statements respecting these two Convicts, made by the Sheriff of the Western District, and the Keeper of the Montreal Gaol, copies of whose letters relative to their cases are transmitted herewith, than that they are actuated solely in their conduct by the most violent and reckless dispositions; unmoved by the certainty of punishment for the infractions of the rules of the Institution, and probably induced to expect their liberation, should they be successful in obtaining a belief of their insanity; and the Board further conceive that in these cases especially, to apply for the removal of the Convicts referred to, without further inquiry, would be virtually to cast a stigma upon the Courts before which they were tried, as it would in effect be to pronounce a want of judgment on the part of both Judges and Juries in sending insane persons to the Penitentiary.

In coming to this decision the Board have further had in view the case of a Convict recently tried in England for murder, in which a plea of "Moral Insanity" or uncontrollable impulse, was set forth in defence of the accused, but overruled by the Judge who presided on that occasion; a copy of whose opinion, as reported, the Board beg leave to forward for His Excellency's consideration.

Under these circumstances the Board feel disposed, should His Excellency see no objection to such a course, to obtain the opinion of the Medical Superintendent of the Provincial Lunatic Asylum, at Toronto, and of the Head of the Military Staff of Upper Canada, respecting these cases; as the In-

Appendix

(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

spectors do not conceive they would be faithfully performing the duty entrusted to them, were they tacitly to acquiesce in the opinion of the Surgeon of the Penitentiary, that Convicts of ungovernable tempers must be necessary insane, and thereby escape the punishment due to them, as well for their violation of the law as the infraction of the rules of the Penitentiary.

The Board would beg particularly, to bring under the notice of the Governor General that, as the law now stands, there is no power to remove a Convict from the Penitentiary to a Lunatic Asylum except by granting him a free pardon; and consequently, should it appear on his removal to such Asylum that he is not labouring under such a state of insanity as may render his confinement there absolutely necessary, he must immediately be let loose upon the world, however desperate his character or atrocious his crimes. His Excellency will, therefore, perceive how very necessary it is that the Board should exercise every possible precaution in cases of this kind, the more particularly as they have found that repeated attempts have been made by Convicts to feign madness with the view of obtaining their liberty. The Board have, further, the strongest grounds for believing that the Convict Elizabeth C. Reveille, at all events, is one actuated by such motives, in assuming the conduct which has led the Surgeon to report that she labours under "moral insanity."

The Board would further state, that in differing from the Surgeon in their opinion as to the insanity of the Convict in question, they would not be held as casting any doubts on that officer's professional skill, it being well known that nothing is so difficult as to determine the difference between an inferior grade of mental alienation and feigned insanity, and that it requires very special attention to that particular branch of the profession to enable a Physician to attain any great eminence in it.

I have the honour to be,

Sir,

Your most obdt. Servant,

(Signed,) THOMAS A. CORBETT,  
President Board of Inspectors,  
Provincial Penitentiary.

The Honourable

R. B. SULLIVAN, &c., &c.

A.

Copy—Letter, Gaoler, Montreal to Warden.

Montreal Gaol,

21st Feb., 1848.

Sir,

I have just received your letter of the 18th inst., making certain inquiries respecting Elizabeth C. Reveille, who was sent up from this Gaol, on the 8th May, last year, to be confined in the Penitentiary at Kingston; I beg to state, in reply, that at the time she was in my custody I was occasionally beset with the same doubts you expressed respecting the soundness of her mind; but a very attentive consideration

Appendix  
(B.B.B.B.B.)  
30th May.

of her case, founded upon close observation of her conduct, compelled me to relinquish this idea, and to regard her as the most mischievous and impracticable Convict I ever had to deal with: she was several times in my custody both under accusations and convictions, but it was during her last confinement, previous to her being sent up to you, that the most mischievous features of her character became apparent. I find, upon reference to our Punishment Register, that during the month of December, 1845, she was four times punished by solitary confinement, making one hundred and fifty-three hours in solitude during that very short space of time. Finding, as I have invariably found, that punishment produced no satisfactory results, but rather seems to produce a spirit of unyielding determination which inclined her rather to seek than to shun punishment, I tried kindness and moral suasion with her, and upon the whole I had reason to be better satisfied.

However, I was again obliged to resort to strong measures in the month of March, previous to her departure for Kingston; but this was more with the view of restraining than punishment.

She had torn her own clothes and acted very badly: I put handcuffs upon her with her hands behind her back, this is our most severe mode of punishment or restraint, and for several weeks she behaved much better; indeed, until the time she was sent up. Dr. Arnoldi, the Gaol Physician, who had daily opportunities of seeing and hearing of her, both before and after trial, refused to consider her a Lunatic; and I was fully of his opinion: and am satisfied that there was nothing in her case, either at the time of her trial or when sent up to the Penitentiary, that would justify any interference with the due course of law.

(Signed,) THOMAS M'GINN.

B.

Copy—Letter, Sheriff Foote to Warden, Provincial Penitentiary.

CHATHAM, 4th March, 1848.

Sir,

I have been absent from home for some days, which has prevented me replying to your letter of the 15th ultimo, respecting the sanity of James Brown, a Negro, who was sentenced to be hanged in this District, in 1840, and afterwards sent to the Provincial Penitentiary.

My impression at the time was, that he was not mad; that his conduct bore more the character of an untameable ruffian than anything else. I recollect well on his way to Kingston, and whilst passing on a waggon over the bridge at Chatham, that he called out that he would jump over the bridge and drown himself. The bailiff, who had him in charge, instantly pulled up, and desired him to carry his threat out; saying, at the same time, that he would get rid of a great nuisance, and the country would be saved the expense of supporting him in the Penitentiary; he, however, did not do so, and throughout the entire journey his conduct was untameable: whilst here none supposed him to be mad.

(Signed,) G. W. FOOTE.

Appendix  
(B.B.B.B.B.)  
30th May.

C.

Copy—Extract from the Trial and Conviction of  
W. A. Allnut, at the Central Criminal Court,  
on the 13th December, 1847, for Murder.

## ON THE DEFENCE.

Dr. Connolly, the Physician to the Hanwell Lunatic Asylum, said, that from the evidence he had heard in this case, he was of opinion that the prisoner was of unsound mind; he would say that his brain was diseased, and he considered that as he advanced in life, his insanity would become more apparent; but he was of opinion, that he would exhibit it more by a deranged conduct than a derangement of interest.

Mr. Baron Rolf then proceeded to sum up the case to the Jury, and he said it was one of a very important character, not only as regarded the nature of the charge, and the consequences that might result to the prisoner, but also with regard to the defence that had been set up, which was one that, when it rested upon slight grounds, if Juries did not put a check to, might be attended with very disastrous results. The witnesses called for the defence had described the prisoner as acting from uncontrollable impulse; and they had made other statements, of the value of which it would be for the Jury to decide; but he must say, that it was his opinion that such evidence ought to be scanned by Juries with very great jealousy and suspicion, because it might tend to the perfect justification of every crime that was committed. What was the meaning of not being able to resist moral influence? Every crime was committed under an influence of such a description, and the object of the law was to compel persons to control these influences, and if it was made an excuse for a person who had committed a crime, that he had been goaded to it by some impulse which medical men might choose to say he could not control, he must observe that such a doctrine would be fraught with very great danger to the interest of society.

No. 5.

Copy—Letter, Provincial Secretary to President  
Board of Inspectors, Provincial Penitentiary.

Secretary's Office,  
25th April, 1848.

Sir,

I have the honor to acknowledge the receipt of your letter of the 10th April, instant, requesting me to bring under the notice of His Excellency the Governor General, the cases of the Convicts Elizabeth C. Reveille and James Brown; the former of whom you state that the Surgeon of the Institution has reported to be in a state of moral insanity, and the latter to be of unsound mind.

You report Elizabeth C. Reveille to have been tried in the District of Montreal, and convicted of Larceny, and sentenced to three years imprisonment in the Penitentiary, in the month of February, 1846; that she has continually manifested, on all occasions, the most violent and turbulent disposition. You say that, as the Board of Inspectors are informed, her conduct was equally violent while under confine-

ment in the Montreal Gaol, so much so, that it became necessary to confine her with handcuffs, to prevent her from destroying her clothing.

You report the Convict James Brown to have been received into the Penitentiary, on the 21st November, 1840, from the Western District, where he was tried and sentenced to be hanged for Rape; that in consequence of the commutation of his sentence, he was received in the Penitentiary; that, as the Board have been given to understand, his conduct was most violent and unruly, so that it became necessary to use extraordinary means of restraint; and that during the time he has been under confinement in the Penitentiary, his conduct has been an almost uniformly uninterrupted scene of violence and outrage; he many times attempting the lives of the officers of the establishment, and threatening to commit murder: and you state, on behalf of the Board, that as each of these Convicts have been for some time in the Penitentiary, and repeatedly under the eye of the Surgeon, without his having, until lately, made any report of his opinion as to their insanity, and as there has been no change in their conduct since they first entered the Institution till the present time, the Board do not conceive themselves justified, on these reports, to make application to His Excellency for a free pardon to the Convicts, with a view to their removal to the Lunatic Asylum, until further examination be had into their cases.

You further state that the Board, from a personal examination of the male Convict in question, as well as from the evidence of the officers of the Institution immediately in contact with Elizabeth C. Reveille, can come to no other conclusion, so far as they are enabled to judge from the facts before them, as well as from the statements respecting these two Convicts made by the Sheriff of the Western District and the Keeper of the Montreal Gaol, than that they are actuated solely in their conduct by the most violent and reckless dispositions, unmoved by the certainty of punishment for infractions of the rules of the Institution, and probably induced to expect their liberation, should they be successful in obtaining a belief of their insanity.

Accompanying your Report, is a letter from the Montreal Gaoler regarding the female Convict; you having thought fit to make inquiries of that officer respecting her.

The Gaoler represents her conduct, while in his custody, to have been outrageous and violent; that occasionally he was beset with doubts as to her sanity, but upon observation of her conduct, relinquished the idea; and that Dr. Arnoldi, the Gaol Physician, refused to consider her as a lunatic.

You also send with your letter a copy of one from the Sheriff of the Western District, in which that Officer relates the outrageous conduct of the Convict Brown, in the year 1840, and his opinion that Brown was not then insane; though whether he was so or not appears to have been even then thought of as a question.

I lost no time in submitting these documents, and others, rather relating to the conduct of the Prison and its Officers than to the direct matter in question, to His Excellency the Governor General, and His Excellency commands me to make the following reply:—

First, with regard to the transference of prisoners unquestionably lunatic, to the Provincial Lunatic

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)

30th May.

Asylum from the Penitentiary: His Excellency is of opinion, that however such a course may be deemed advisable in clear cases of harmless lunacy or imbecility of mind considered hopeless and incurable, it is a most objectionable proceeding where the conduct of the prisoner is outrageous and violent, and when there are hopes of restoration of mind under judicious treatment in the prison.

In England, even in cases of acquittal for crimes charged, when the acquittal is on the ground of lunacy or unsoundness of mind in the person accused, there are means of confining the party found lunatic, so as to prevent the possibility of any injury to society from the exhibition of like violence in future; while by a removal of a violent lunatic Convict to the Asylum in this country, involving a free pardon for the offence, the community would be exposed, on the recovery of the lunatic, to his being set at large on his recovery, however properly convicted and however unworthy of clemency his crime or character may have made him.

His Excellency does not consider the arrangements in the Provincial Penitentiary by any means complete or judicious, unless Convicts who may happen to become lunatic, can be treated within the walls for insanity as well as for any other disease to which they may be subject. If so treated, they can, on recovery, be again subjected to penal imprisonment, according to their sentences; or finally relieved when it can be done with safety; or, in case of hopeless insanity, removed to a lunatic hospital on the expiration of the term of penal imprisonment.

In the cases of the two Convicts above-named, His Excellency does not see fit to direct or permit their removal to the Lunatic Asylum.

But as regards another question which the papers before the Governor General forces upon His Excellency's consideration, namely, whether persons reported by the Physician in charge at the Penitentiary to be insane, are, upon the responsibility of authorities not professional, to be treated as moral agents and fit subjects for punishment while they are so reported?—I am commanded to convey to you His Excellency's pleasure: The Surgeon of the Penitentiary, so long as he holds Her Majesty's Commission in that office, must be considered competent to express an opinion in all matters regarding the health of the prisoners under his medical charge. He must also, in the discharge of his duty, not be considered liable to be actuated by improper motives. It is a sufficient relief from responsibility of others concerned to produce his report, which is their justification, even if they should not concur with him in opinion; while, on the other hand, His Excellency knows of no justification for others, if they should happen mistakenly to overrule the professional opinion of the Surgeon, and to treat as criminal, acts proceeding from insanity.

It is His Excellency's opinion, that so long as Dr. Sampson continues to report the two Convicts above-named insane, means should be found within the Prison of treating them as lunatic patients, under his directions; exposed to no punishment, and subject only to the necessary restraints used in cases of persons of unsound mind.

His Excellency commands me to say, that he does not see fit, at present, to direct investigation by other medical men: for he does not see anything very extraordinary in the fact, that a woman who nearly three years ago was outrageous and violent in her

conduct, and reckless of continued punishment, and moreover suffering under disease, should have become insane, or in a state not any longer to be considered a moral agent. And he cannot see the probability of the suggestion, that the outrageous and violent conduct of the prisoner has been the result of a mere scheme to procure a pardon, when the term of imprisonment is to expire in next February, and the plan of feigning madness, if it existed at all, must have been in existence from the time the prisoner was in custody in Montreal up to the present period.

Neither in the case of the Convict James Brown, does His Excellency consider it any conclusive proof of the soundness of the Convict's mind, that for the space of eight years he has exposed himself to the severities consequent upon a perpetual breach of the prison rules, even in a remote hope that he might receive a pardon as an insane person; under these circumstances which His Excellency has had painfully to consider, as laid before him in the voluminous documents respecting the Penitentiary. The difficulty attending a conclusive opinion on the sanity or unsoundness of mind of these Convicts, to be pronounced by strangers, on contradictory evidence, would be very great; while the ends of criminal justice can suffer little by the treatment of the Convicts as lunatics, while the Surgeon is of opinion that they really are so.

With respect to the charges and recriminations contained in the papers relating to the two Convicts, Reveille and Brown, as well as in the other reports and papers before His Excellency, I am commanded to inform you that it has been for some time in contemplation to issue a Commission of Inquiry into the system, arrangement, conduct, and management of the Penitentiary, when all the matters before the Government relating to the Prison will be proper subjects of investigation. His Excellency only waits to make the necessary arrangements for the appointment of gentlemen who will undertake the Commission of Investigation, one of the objects of which will be the inquiry into the charges respecting individuals holding office in the Prison; and another, and much higher aim on the part of His Excellency, will be to ascertain if any improvements can be made in the Establishment, which may make it more efficient than it appears to be at present for the important purposes for which it was intended by the Legislature.

I have, &c.,

(Signed,) R. B. SULLIVAN.

THOMAS A. CORBETT, Esquire,  
President Board Inspectors,  
Provincial Penitentiary.

No. 6.

Copy—Letter, President Board of Inspectors to Provincial Secretary.

KINGSTON, 29th April, 1848.

Sir,

I have the honour to acknowledge the receipt of your letter of the 25th instant, relative to the cases of the Convicts Brown and Reveille, which I have laid before the Board of Inspectors of the Provincial Penitentiary.

Appendix  
(B.B.B.B.B.)

30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

The Board, in their letter of the 10th instant, expressed their opinion of the inexpediency of, in all cases, applying for the pardon of every Convict reported to be insane, with the view of his removal to the Provincial Lunatic Asylum; whereby, should it turn out that he was not labouring under such a state of mental insanity as would render his confinement there absolutely necessary, he must be let loose on the world, however desperate his character or atrocious his crime; and they are much gratified to learn by your letter that His Excellency the Governor General fully coincides with them in these views, and duly estimating the disadvantages to which, under such circumstances, the community would be exposed, on the recovery of the lunatic, to his being set at large, however properly convicted and however unworthy of clemency his crime or character may have made him; it therefore affords the Board much pleasure to know that His Excellency does not see fit to direct or permit the removal of the Convicts in question to the Lunatic Asylum.

It was in consequence of entertaining the same views of the subject taken by His Excellency, that the present Board departed from the practice pursued by their predecessors, of in every case, when a Convict was reported by the Surgeon to be of unsound mind, applying to the Head of the Government for a free pardon, with the view of his removal to an Asylum; and they are much gratified to learn that in this, the only instance in which they have taken it upon themselves to deviate from the advice tendered to them by the Surgeon as to the course which they ought to pursue with regard to Convicts whom he reported insane, their having done so has been so fully approved by His Excellency.

With regard to the question, "Whether persons reported by the Physician in charge of the Penitentiary to be insane, are, upon the responsibility of authorities not professional, to be treated as moral agents, and fit subjects for punishment while so reported?" the Board were also gratified to learn, that the signification of His Excellency's pleasure is in strict accordance with their uniform practice, namely, "that the Surgeon must be conceived competent to express an opinion in all matters regarding the health of the prisoners under his charge; and that it is a sufficient relief from responsibility of others concerned to produce his report, even should they not concur with him in opinion;" and it is for these reasons that in every case where even doubts have been expressed by the Surgeon as to the sanity of a prisoner, they have at once forbidden any punishment to be inflicted on such Convict. Nor have they ever, in any one instance, overruled the professional opinion of the Surgeon, or treated as criminal, acts which he considered proceeded from insanity; on the contrary, they have, on all occasions, directed that such Convicts should be treated in strict accordance with the Surgeon's directions; and the same course has always been followed regarding Convicts on the sick list, who are never, even although of sound mind, subjected to punishment, or treated otherwise than as he directs.

In the case of the Convict Brown, the instant the Surgeon hinted his doubts of his sanity—for that Officer did not at first express a decided opinion on the subject nor report fully on his case, although especially called upon by the Board to do so—they at once directed all punishment to be suspended, and that the Convict should be placed on the sick list, under the immediate superintendence of the Surgeon, and treated as he should direct; and he has never once been subjected to anything beyond necessary

restraint during his ebullitions of passion and attempts at violence. The Surgeon's directions have at all times been fully carried out regarding him, and he has lately, by order of that Officer, resumed hard labour with the other Convicts.

The other Convict, Charlotte Reveille, has in like manner, since the Surgeon reported that he considered her to be morally insane, been treated in every way in accordance with his desire; been subject to no punishment, and received every indulgence and luxury which he deemed she might have: and latterly, when the Surgeon became urgent on the Board to apply to His Excellency for her removal, while, as before stated, they did not feel themselves justified in applying for her pardon for that purpose; they, by their Minute of 18th March, expressed their anxiety in all respects to carry out the Surgeon's recommendations; and finding it impossible to avail themselves of the services of the Assistant-Matron to attend on the Convict, in consequence of her duty requiring her presence in a different part of the Prison, and having also had evidence laid before them, shewing that the freedom from all reproof, restraint, or punishment accorded to this Convict, whatever she does or says, and the indulgences afforded to her by the Surgeon's orders, tend materially to interfere with the discipline of the Convicts, had been considering of the expediency, in order to obviate these difficulties, of placing her in a room by herself, under the superintendence of a hired nurse, should the Surgeon on meeting them to-day see no objection to such a course: but as that Officer has declined coming before them, though twice requested to do so, the Board are under the necessity of adopting these measures without having the benefit of a consultation with him, as in their opinion the best means of carrying his recommendation into effect without interfering with the discipline of the Prison.

The Warden is, accordingly, directed to take the necessary steps to have the Convict Reveille removed to a separate place of confinement and to have a suitable nurse to attend her. He is further directed to impress on such attendant the necessity of treating the patient with the greatest mildness and forbearance, as recommended by the Surgeon; and of giving her every indulgence which he has recommended or may hereafter recommend; and generally of attending to and following out his directions regarding her in every particular. The Warden will furnish the Surgeon with part of the Minute relative to the arrangements to be made regarding the Convict Reveille.

Your Excellency will perceive the anxious desire of the Board to comply in every way with the Surgeon's recommendations regarding the Convict, which they have no doubt have been properly carried out, as no complaint has been made by the Surgeon to the Board that they have not been so.

While His Excellency will thus perceive that the Board entirely agree with him; that while the Surgeon of the Institution holds Her Majesty's Commission as such, his directions in regard to the medical treatment of Convicts shall be strictly followed out; they trust that His Excellency will also concur with them in thinking, that while they hold their Commissions as Inspectors, their authority should be respected by the Officers of the Institution.

As to the appointment of a Commission to inquire into the mental state of the Convicts, the Board sug-

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix  
(B.B.B.B.B.)  
30th May.

gested that course, in consequence of the urgency of the Surgeon for their removal, as expressed in his letters to them, and their disinclination to take upon themselves decidedly to go contra to his recommendations, while, at the same time, they did not feel that they would be justified in applying for their pardon and removal as he desired. The Board were, however, not insensible to the difficulties pointed out by you "attending a conclusive opinion on the sanity or unsoundness of mind of these Convicts, to be pronounced by strangers on contradictory evidence;" difficulties to which every inquest *delunatico inquerendo* is necessarily subjected.

You will perceive, in taking these steps—which they have done in regard to the Convicts Reveille and Brown—the Board have anticipated His Excellency's desire, that "means should be found within the Prison for treating them as Lunatic Patients, under the Surgeon's directions, exposed to no punishment, and subject only to the necessary restraints used in cases of persons of unsound mind;" they, however, beg to point out that the whole of the medical arrangements of the Institution, as well as the plans of the Hospital, and the accommodations for the sick, have been prepared or approved of by the Surgeon himself; and that no provision has in them been made for the management of insane patients, whose permanent treatment in the Institution the Surgeon has never contemplated, and whose immediate removal he has at all times urged.

Indeed, the Surgeon has always contended, that the Penitentiary being a Prison for those subject to punishment, insane patients ought not to be kept there, and he accordingly did not attend them, unless when labouring under bodily sickness, until the present Board especially directed him to do so; and desired that the names of all Convicts reported to be insane should be kept on the sick list, with a view of their receiving his continued attention, and to his having an opportunity of at once directing any alteration in their treatment which any change in their state — mental — might in his opinion render expedient.

The Governor General will thus perceive, that while the Board coincide with His Excellency's opinion, that the arrangements in the Penitentiary are incomplete, unless Convicts who may happen to become lunatics, can be treated within the walls for insanity, as well as any other disease to which they may be subject—such has not formerly been the case, nor does it seem to have been contemplated either by the former Boards, by the Surgeon, or indeed by the Law itself—and that while the present Board have done all which is in their power in anticipating His Excellency's desires, an alteration in the Law will be requisite to carry those desires into operation to the full extent which would be expedient.

It is, therefore, to be hoped that the Commissioners of Inquiry may be able to suggest such an

alteration in the law as may enable Lunatic Convicts to be treated within the walls as advantageously as in institutions for the care of the insane, unless it should be deemed more expedient to alter the law in such a manner as to grant the power of temporarily removing them to the Provincial Lunatic Asylum, without the necessity of granting them pardons, and subject to their re-transmission to the Penitentiary, in case of their being cured before the expiring of their sentences.

The Board have further to state, in reference to your remark, as to their having thought fit to make application to the Keeper of the Montreal Gaol, regarding the former conduct of Convict Reveille, that this was in accordance with the practice of the Institution in all cases where imposition is imputed, and that it has led to most beneficial results in assisting in its detection; of which the Board may state a very recent instance in the case of a Convict who feigned to be deaf and dumb, and to be afflicted with epilepsy, in consequence of which he was, by desire of the Surgeon, confined to his cell, and afterwards kept in the hospital for upwards of twelve months, thereby escaping from that part of his sentence, imposing hard labour, and creating doubts of his sanity in the minds of the Board; but who, through information received from the authorities of the Gore District, and the vigilance of the Hospital-keeper, was at last detected, confessed his deception, and is now, and has been for the last six months, at hard labour like the other prisoners.

The Board have only, in conclusion, to state their unqualified satisfaction, at learning that their reiterated wishes are about to be complied with, in the appointment, by His Excellency, of Commission of Inquiry into the affairs of the Institution; when they have no doubt that all matters relating to it, now before Government, will receive a strict and impartial investigation; and when every opportunity will be afforded to all persons having or pretending to have charges respecting individuals holding office in the Prison, of substantiating them; and when it is also to be hoped that those charged with the inquiry may be enabled to suggest further improvements, tending to make the establishment still more efficient than it now is, either by the framing of new regulations under the existing law, or by the improvement of the law itself; in the furtherance of which desirable object His Excellency may rest assured of the cordial assistance and co-operation of the Board, both collectively and individually.

I have the honor to be,  
Sir,  
Your most obedient Servant,

(Signed,) THOMAS A. CORBETT,  
President of the Board of Inspectors,  
Provincial Penitentiary.

Appendix  
(B.B.B.B.B.)  
30th May.

Appendix

(B. B. B. B.)

30th May.

Appendix

(B. B. B. B.)

30th May.

## APPENDIX C.

Correspondence between the Warden and the Commander of the Forces for Canada West, as to the Treatment of Soldiers committed to the Provincial Penitentiary.

No. 1.

Copy—Letter, Warden to Sir Richard Armstrong.

Provincial Penitentiary,  
16th September, 1848.

Sir,

I have the honor to request you will be pleased to inform me whether, during the time you held the Military Command of Canada West, any complaint of cruelty, oppression, or starvation, on my part, towards any of the Soldiers who have been sent to the Penitentiary, has been made to you; or if, on the contrary, so far as you have made inquiry into the same, they have, while under my charge, been treated with humanity and every kindness consistent with their position as prisoners.

I have the honor to be,

Sir,

Your most obedient Servant,

(Signed,) H. SMITH,  
Warden.

Major General

Sir R. ARMSTRONG,

&amp;c. &amp;c. &amp;c.

No. 2.

Copy—Letter, Sir Richard Armstrong to Warden.

"Kingston, 17th September, 1848.

"Sir,

"I have to acknowledge your letter of the 16th instant, and as it will save me the necessity of recapitulating a portion of its contents, I have much pleasure in replying hereon; that during upwards of six years, which I have held the Command of Canada West, no complaint of cruelty, oppression, or starvation, has ever reached me from any of the Military who have ever been confined in the Provincial Penitentiary, and they to a certainty would have complained, had there been occasion. The men, at the expiration of their periods of confinement, came out in good condition, affording a satisfactory proof they have been well fed. I must add, that I have, from time to time, seen the food prepared for the prisoners, and that it appeared to me to have been of wholesome good quality and abundant.

"The only complaints that have reached me during my command, have been, in two or three instances from soldiers, stating they had not been released until after twelve o'clock (while they should have been before), in consequence of Military escorts not having been sent for them in time; but for this I cannot consider you to have been responsible.

"I have the honor to be,

"Sir,

"Your most obedient Servant,

(Signed,) "R. ARMSTRONG,  
"Major General.

"To HENRY SMITH, Esquire,  
"Warden of the  
"Provincial Penitentiary,  
"Kingston."



**GENERAL STATEMENT**

OF

**BAPTISMS, MARRIAGES AND BURIALS,**

IN THE

**DISTRICTS OF**

**QUEBEC, MONTREAL, THREE RIVERS,**

**AND GASPE.**

---

Appendix  
(C.C.C.C.C.)  
30th May.

GENERAL STATEMENT AND RETURN OF BAPTISMS, MARRIAGES, AND BURIALS, made in the DISTRICT of QUEBEC, for the year 1848.

COUNTIES.	PARISHES NORTH OF THE RIVER ST. LAWRENCE.	RELIGIOUS DENOMINATIONS.		BAPTISMS.		MARRIAGES.	BURIALS.		Total Baptisms.	Total Burials.	Increase.	Decrease.	REMARKS.	
		Males.	Females.	Males.	Females.		Males.	Females.						
QUEBEC.	Notre-Dame de Québec.....	552	499	186	249	282	249	531	520					
	Hôtel Dieu, do.....	462	446	126	253	23	19	42	403	42				
	St. Roch, do.....				7	1		8						
	Hôpital Général.....	38	56	32	22	22	26	48	46					
	St. Foye.....	39	34	15	20	20	13	33	34					
	Ancienne Lorette.....	39	43	15	14	14	19	33	49					
	St. Ambroise.....													
	St. Gabriel de Valcartier and St. Edmond de Stonham.....	15	21	9	4	4	5	9	27					
	Charlebourg.....	40	32	16	23	23	15	38	34					
	Beauport and Mission de Laval.....	62	58	17	41	41	27	68	52					
	St. Dunstan.....													
	Marine Hospital.....													
	King's Posts and Seigneurie of Mingan.....													
	Metropolitan Church.....	70	65	37	51	51	43	94	41				No Return.	
	St. Andrew's do.....	50	35	52	25	25	11	36	49					
	St. John's do.....	17	29	4	2	2	1	3	43					
	St. Paul's Chapel.....	19	25	3	14	14	7	21	23					
	St. Peter's do.....	20	7	7	39	39	17	56	29					
	Military Congregation.....	12	8	3	11	11	5	16	4					
	Congregational Society.....	2	4	5	2	2	1	3	3					
	Wesleyan Methodist.....	34	22	22	14	14	7	21	35					
	Valcartier, Lake Beauport, and Stoneham.....	11	13	3	4	4	6	10	14					
	Valcartier and Stoneham.....	8	5	2	4	4		4	9					
Travelling Missionary for the Destitute Settle- ments for the District of Quebec.....	12	5	2	10	10	11	21	4						
	1496	1407	506	884	749	2903	1633	1880	116					
PORTNEUF.	Grondines.....	42	40	13	10	18	28	54						
	Deschambault.....	59	57	16	20	18	38	78						
	Cap Santé.....	49	70	8	20	24	44	75						
	Eureuils.....	11	14		4	4	8	17						
	St. Raymond.....	32	35	2	10	6	16	51						
	St. Bazile.....	12	4				4	12						
	Pointe aux Trembles.....	40	41	16	15	14	29	52						
	St. Augustin.....	33	29	10	18	19	37	25						
	St. Casimir.....	30	30	3	6	4	10	50						
	St. Catherine.....	31	25	4	11	7	18	38					No Return.	
	Portneuf, and of the Synod of Canada.....													do
	Bourg-Louis, Portneuf, Jacques Cartier, and St. Catherine.....													
		389	345	74	114	118	684	232	452					

Appendix  
(C.C.C.C.C.)  
30th May.

Appendix  
(C.C.C.C.C.)  
30th May.

Appendix  
(C.C.C.C.C.)  
30th May.

GENERAL STATEMENT AND RETURN OF BAPTISMS, MARRIAGES, AND BURIALS, &c.—(Continued.)

COUNTIES.	PARISHES NORTH OF THE RIVER ST. LAWRENCE.	RELIGIOUS DENOMINATIONS.	BAPTISMS.		MARRIAGES.	BURIALS.		Total Baptisms.	Total Burials.	Increase.	Decrease.	REMARKS.	
			Males.	Females.		Males.	Females.						
MONTMORENCY	L'Ange Gardien.....	Catholic.....	20	19	4	6	6	39	12	27			
	Chateau Richer.....	do.....	19	27	7	14	14	46	25	21			
	Ste. Anne.....	do.....	26	20	13	12	7	46	19	27			
	St. Férol.....	do.....	26	12	4	8	3	38	11	27			
	St. Joachim.....	do.....	25	23	11	13	11	48	24	24			
	St. Laurent, Isle d'Orléans.....	do.....	22	16	6	4	2	38	6	32			
	St. Jean, do.....	do.....	25	23	11	3	7	48	10	38			
	St. François, do.....	do.....	10	8	3	3	7	18	10	8			
	St. Pierre, do.....	do.....	17	17	6	4	1	34	5	29			
	Ste. Famille, do.....	do.....	13	13	7	6	4	26	10	16			
				203	178	72	70	62	381	182	249		
	SAGUENAY	Petite Rivière St. François-Xavier.....	Catholic.....	13	15	9	8	5	28	13	15		
		Baie St. Paul.....	do.....	80	88	31	41	38	168	79	89		No Return.
Ste. Agnès.....		do.....											
St. Urbain.....		do.....	20	25	7	12	8	45	20	25			
Eboulements.....		do.....	33	53	12	22	19	86	41	45			
St. Irénée.....		do.....	30	19	8	11	5	49	16	33			
Isle aux Coudres.....		do.....	12	11	6	3	4	23	7	16			
Malbaie.....		do.....	81	78	24	25	20	159	45	114			
St. François-Xavier de Chicoutimi.....		do.....	56	48	16	17	15	99	82	67		No Return.	
St. Nom de Jésus, do.....		do.....										do	
Escoumins and other places.....		do.....											
Pointe des Monts.....		do.....	21	18	7			39		39			
St. Alexis.....		do.....	101	118	41	44	36	219	80	139			
Ste. Zoé de l'Ance à l'Eau, Tadoussac.....	do.....	27	20	13	2		47	2	45				
Labrador.....	do.....											No Return.	
			474	488	174	185	150	962	385	627			

Appendix  
(C.C.C.C.C.)  
30th May.

Appendix  
(C.C.C.C.C.)  
30th May.

GENERAL STATEMENT AND RETURN OF BAPTISMS, MARRIAGES, AND BURIALS, &c.—(Continued.)

COUNTIES.	PARISHES SOUTH OF THE RIVER ST. LAWRENCE.	RELIGIOUS DENOMINATIONS.		BAPTISMS.		MARRIAGES.	BURIALS.		Total Baptisms.	Total Deaths.	Increase.	Decrease.	REMARKS.	
		Males.	Females.	Males.	Females.		Males.	Females.						
LOTBINIERE	St. Jean Deschailons.....	30	37	18	16	67	29	38						
	do Lotbinière.....	79	59	20	25	188	49	89						
	do Ste. Croix.....	74	47	19	26	121	39	82						
	do St. Antoine de Tilly.....	70	72	25	27	142	48	99						
	do St. Giles.....	26	29	6	2	55	8	47						
	do St. Sylvester.....	60	63	36	14	123	29	94						
	do Mission of St. Giles and adjacent parts.....	23	25	9	2	48	2	46						
			362	392	128	110	694	199	495					
	MEGANTIC	Mission of Leeds and adjacent parts.....	24	18	14	1	42	1	41					
		do Mission of Leeds, St. Sylvester, and Inverness.....	14	10	4		24		24					
do New Ireland.....		11	4	3		15	1	14						
do Township of Inverness, Congregational Society.....		2	2	4	1	4	2	2						
do Upper Ireland Mission.....		6	4	2		10		10						
do St. Ferdinand of Halifax, and other places.....		36	42	8	10	78	18	60					No Return.	
do St. Eusèbe de Stanfold.....														do
do Mission de St. Louis de Blanford.....														
			93	80	35	10	178	22	151					
DORCHESTER		St. Nicolas.....	53	33	23	26	86	46	40					
	do St. Jean Chrysostôme.....	83	65	16	24	148	49	99						
	do Pointe Lévi.....	168	186	45	56	394	122	182						
	do St. Henri.....	72	71	16	23	143	44	99						
	do St. Anselme.....	56	56	22	26	112	40	72						
	do Ste. Claire.....	62	61	17	23	123	39	84						
	do St. Isidore.....	60	64	16	20	124	91	93						
	do Ste. Marie, Nouvelle Beauce.....	69	83	22	32	152	59	93						
	do St. Eizéar, do.....	70	70	22	28	140	50	90						
	do St. François, do.....	75	101	24	22	176	46	180						
		768	740	228	254	1508	526	982						

Carried over.....

Appendix  
(C.C.C.C.C.)  
30th May.

Appendix  
(C.C.C.C.C.)  
30th May

GENERAL STATEMENT AND RETURN OF BAPTISMS, MARRIAGES, AND BURIALS, &c.—(Continued.)

COUNTIES.	PARISHES SOUTH OF THE RIVER ST. LAWRENCE.	RELIGIOUS DENOMINATIONS.		BAPTISMS.		MARRIAGES.	BURIALS.		Total Baptisms.	Total Burials.	Increase.	Decrease.	REMARKS.	
		Males.	Females.	Males.	Females.		Males.	Females.						
DORCHESTER— (Continued)	St. Joseph, Nouvelle Beauce.....	768	740	223	254	272	1508	526	982	No Return.				
	Township of Tring, Forsyth, &c.....	74	72	26	29	17	146	46	100	No Return.				
	St. Marguerite.....	27	23	8	3	3	50	6	44	No Return.				
	St. Vital de Lambton and St. Evariste de Forsyth.....	51	45	7	17	19	96	36	60	No Return.				
	St. Bernard.....	29	32	9	6	10	61	16	45	No Return.				
	St. George, Aubert Gallion.....	30	44	8	13	6	74	19	55	No Return.				
	St. Victor de Tring.....	34	25	10	8	1	59	9	50	No Return.				
	Frampton.....	88	72	11	19	20	160	39	121	No Return.				
	Somerset and St. Calixte.....	8	14	2	3	5	22	8	14	No Return.				
	Mission of Point Levi and adjacent parts.....													
	Kennebec Settlement Mission.....													
	Presbyterian Congregation.....													
	Frampton and Standon.....													
			1109	1067	304	332	353	2176	705	1471				
BELLECHASSE.....	Beaumont.....	26	24	15	6	3	50	9	41					
	St. Charles, Rivière Boyer.....	49	45	17	25	19	94	44	50					
	St. Gervais.....	132	116	37	38	47	248	85	163					
	St. Michel.....	48	48	18	18	13	96	31	65					
	St. Vallier.....	46	40	19	14	13	86	27	59					
	Berthier.....	21	24	4	5	6	45	11	34					
	St. François, Rivière du Sud.....	45	44	11	13	17	89	30	59					
		367	341	121	119	118	708	237	471					
KAMOURASKA.....	Ste. Anne La Pocatière.....	99	76	29	38	24	175	62	119					
	Rivière Ouelle.....	79	68	31	30	27	147	57	90					
	St. Denis.....	49	52	14	11	49	101	60	41					
	Carried forward.....	227	196	74	79	100	423	179	244					

Appendix  
(C.C.C.C.C.)  
30th May.

Appendix  
(C.C.C.C.C.)  
30th May.

GENERAL STATEMENT AND RETURN OF BAPTISMS, MARRIAGES, AND BURIALS, &c.—(Continued.)

COUNTIES.	PARISHES SOUTH OF THE RIVER ST. LAWRENCE.	RELIGIOUS DENOMINATIONS.	BAPTISMS.		MARRIAGES.	BURIALS.		Total Baptisms.	Total Burials.	Increase.	Decrease.	REMARKS.	
			Males.	Females.		Males.	Females.						
KAMOURASKA— (Continued)	St. Louis de Kamouraska.....	Brought forward.....	227	196	74	79	100	423	179	244			
	St. Paschal.....	Catholic.....	53	38	23	19	9	91	28	63			
	St. André.....	do.....	102	109	20	17	15	211	32	179			
			473	436	147	129	141	909	270	639			
L'ISLET.....	St. Pierre, Rivière du Sud.....	Catholic.....	36	18	13	15	9	54	24	30			
	St. Thomas.....	do.....	89	79	20	40	35	168	81	87			
	Cap St. Ignace.....	do.....	61	49	17	18	20	110	38	72			
	L'Islet.....	do.....	102	99	29	36	24	201	60	141			
	St. Jean Port Joli.....	do.....	83	90	35	29	26	173	55	118			
	St. Roch des Aulnets.....	do.....	60	62	30	22	17	122	39	83			
	Isle aux Grues.....	do.....	17	17	6	6	6	34	12	22			
	Grosse Isle, or St. Luc.....	do.....	13	8	1	72	42	21	114		93		
				461	422	151	244	170	883	423	553		
	RIMOUSKI.....	Rivière du Loup.....	Catholic.....	81	74	21	16	21	155	37	118		
Kakouna.....		do.....	76	89	20	23	27	165	50	115			
St. Jean Baptiste de l'Isle Verte.....		do.....	72	89	24	15	19	161	34	127			
Trois Pistoles.....		do.....	71	69	24	15	14	140	29	111			
St. Simon and St. Fabien.....		do.....	40	43	6	12	13	83	25	58			
St. Fabien (alone).....		do.....	24	22	2	6	8	46	14	32			
St. Germain.....		do.....	103	110	37	39	31	213	70	143			
St. Luce.....		do.....	85	89	53	33	18	175	51	124			
Matane, St. Jérôme, Ste. Anne des Monts, and other places.....		do.....	43	52	26	10	12	95	22	73			
Missions of Rivière du Loup.....		Church of England.....	3	2		1		5	1	4			
Metis.....		Protestant Episcopal Presbyterian Congregation.....	5	1	3			6		6			
				604	640	216	170	163	1244	339	911		

Appendix  
(C.C.C.C.C.)  
30th May.

Appendix  
(C.C.C.C.C.)  
30th May.

RECAPITULATION.

C O U N T I E S.	BAPTISMS.		MARRIAGES.	BURIALS.		Total Baptisms.	Total Burials.	Increase.	Decrease.	R E M A R K S.
	Males.	Females.		Males.	Females.					
Quebec.....	1496	1407	506	884	749	2903	1633	1386	116	
Portneuf.....	339	345	74	114	118	684	232	452		
Montmorency.....	293	178	72	70	62	381	132	249		
Saguenay.....	474	488	174	185	150	962	335	627		
Lotbinière.....	362	332	128	89	110	694	199	495		
Megantic.....	93	80	35	10	12	173	92	151		
Dorchester.....	1109	1067	304	352	353	2176	705	1471		
Bellechasse.....	307	341	121	119	118	708	237	471		
L'Islet.....	461	422	151	244	179	883	423	553	93	
Kamouraska.....	473	436	147	129	141	909	270	639		
Rimouski.....	604	640	216	170	163	1244	333	911		
	5981	5736	1938	2366	2155	11717	4521	7405	209	
Decrease.....								209		
Increase.....								7196		
BAPTISMS.—Males..... 5981										
Females..... 5736										
Total Increase..... 7196										
BURIALS.—Males..... 2366										
Females..... 2155										
Total Increase..... 4521										
Total Increase..... 7196										

BURROUGHS & FISET, P. Q. B.

PROTHONOTARY'S OFFICE,  
Quebec, 5th March, 1849.

Appendix  
(C.C.C.C.C.)  
30th May.

Appendix  
(C.C.C.C.C.)  
30th May.

PROVINCE OF CANADA, DISTRICT OF MONTREAL.

EXTRACT from the General Statement of the BAPTISMS, MARRIAGES, and BURIALS, made in the DISTRICT of MONTREAL, for the year 1848.

COUNTIES.	NUMBER OF PARISHES.		BIRTHS.	MARRIAGES.	BURIALS.
	Parishes	do			
Montreal.....	Nine	do	3637	783	2786
Ottawa.....	Five	do	347	104	53
Vaudreuil.....	Seven	do	1051	145	319
Two Mountains.....	Eight	do	1125	221	372
Trebonne.....	Eleven	do	1376	182	502
Lainster.....	Twelve	do	1414	223	521
Berthier.....	do	do	1452	196	552
Richelieu.....	Five	do	740	115	334
St. Hyacinthe.....	Twelve	do	1418	156	544
Rouville.....	Seven	do	1004	158	453
Verchères.....	Six	do	632	95	277
Chambly.....	Five	do	856	128	413
Huntingdon.....	Thirteen	do	1942	249	621
Beauharnois.....	do	do	1328	169	390
Missequoi.....	Six	do	305	122	112
Stanstead.....	Four	do	81	9	17
Shefford.....	Two	do	160	64	52
			18668	3119	8318

MONK, COFFIN, & PAPINEAU,

P. Q. B.

PROTHONOTARY'S OFFICE,  
Montreal, 3rd March, 1849.

GENERAL STATEMENT and RETURN of the BAPTISMS, MARRIAGES, and BURIALS in the DISTRICT of THREE RIVERS, for the year 1848.

COUNTIES.	BAPTISMS.		MARRIAGES.	BURIALS.		Increase of population, ascertained by the differences between the Baptisms and Burials.	Total increase of Population per County.	REMARKS.
	Males.	Females.		Males.	Females.			
ST. MAURICE.....	141	198	45	58	64	157		
Three Rivers, Catholic.....	3	3	1	5	1	7		
do do Protestant.....	4	3	2	.....	.....	1		
do do Methodist.....	3	7	1	.....	1	9		
do do Presbyterian.....	36	28	6	11	12	41		
Pointe du Lac.....								
Carried over.....	187	179	55	74	77	215		



Appendix  
(C.C.C.C.C.)  
30th May.

Appendix  
(C.C.C.C.C.)  
30th May.

GENERAL STATEMENT AND RETURN OF THE BAPTISMS, MARRIAGES, AND BURIALS, &c.—(Continued.)

COUNTIES.	PARISHES, SEIGNORIES, TOWNSHIPS OR CITIES.		BAPTISMS.		MARRIAGES.	BURIALS.		Increase of Population, ascertained by the difference between the Baptisms and Burials.	Total increase of Population per County.	REMARKS.	
	Males.	Females.	Males.	Females.		Males.	Females.				
ST. MAURICE. — (Continued)		<i>Brought over</i> .....	179	187	55	77	215				
		St. Anne d'Yamachiche.....	91	88	29	45	96				
		St. Barnabé.....	24	42	13	12	49				
		St. Leon LeGrand.....	70	77	21	37	26				
		St. Antoine de la Rivière du Loup, Catholic.....	66	77	27	29	87				
		do do Protestant.....	3	3	4	1	5				
		St. Ursule.....	38	47	18	19	45				
		St. Joseph de Maskinongé.....	70	85	35	47	70		614		
	CHAMPLAIN.		Cap la Magdeleine.....	13	13	6	6	15			
			St. Maurice.....	25	32	6	8	39			
		Champlain.....	34	34	13	12	51				
		St. François Xavier de Batiscan.....	24	23	2	12	26				
		St. Geneviève de Batiscan.....	38	48	17	13	14				
		St. Stanislas de Batiscan.....	69	67	21	23	92				
		St. Anne Lapérade.....	55	69	17	26	76				
NICOLET.			St. Pierre Les Bequets.....	61	77	25	33	76		358	
			St. Edouard de Gentilly.....	61	58	11	15	93			
			Mission de St. Louis de Blandford.....	3	3		3	2			
		Béancourt.....	74	82	33	37	90				
		St. Grégoire Le Grand.....	87	77	20	24	115				
		St. Jean Baptiste de Nicolet, Catholic.....	48	70	14	25	72				
		do do Protestant.....	3	1	1	2	1				
		St. Monique.....	54	56	5	21	79			528	
	YAMASKA.		St. Antoine de la Baie.....	75	70	28	17	104			
			St. Zéphirin.....	32	39	3	10	51			
		St. François sur le Lac St. Pierre.....	41	55	29	42	24				
		Indian Catholic Mission.....	40	30	5	4	62				
		Presbyterian Congregation, St. François.....	1	1	2	1					
		St. Michel d'Yamaska.....	60	60	20	20	76				
		St. David.....	83	78	19	20	128				
DRUMMOND.			St. Guillaume.....	31	35	9	13	50		445	
			Catholic Mission of Drummondville.....	58	58	12	14	87			
			Protestant Congregation, do.....	9	9	5	3	14			
		St. Norbert d'Arthabaska.....	58	60	19	18	86				
		St. Eusèbe de Stanfold.....	8	4		2	8				
			1808	1687	544	697	2220		245	2220	

Three Rivers, 1st March, 1849.

EDWARD BARNARD, P. Q. B.

Appendix  
(C.C.C.C.C.)  
30th May.

Appendix  
(C.C.C.C.C.)  
30th May.

GENERAL STATEMENT and RETURN of BAPTISMS, MARRIAGES, and BURIALS in the DISTRICT of GASPE, for the year 1847.

YEAR.	COUNTIES.	PARISHES, SEIGNORIES, TOWNSHIPS, OR CITIES.		BAPTISMS.		MARRIAGES.	BURIALS.		Increase of population, ascertained by the difference between Baptisms and Burials.	Total per Counties Increase of Population.	REMARKS.
		Males.	Females.	Males.	Females.		Males.	Females.			
1847	BONAVENTURE.	Risigouche, Church of Scotland.	9	10	.....	.....	1	.....	18	280	8
		do Roman Catholic.	19	30	5	.....	6	4	39		
		Carleton.	46	57	13	.....	14	11	78		
		New Richmond.	11	28	2	.....	2	2	35		
		Hamilton.	30	19	6	.....	7	11	31		
		Cox, &c., Church of England	21	34	4	.....	2	7	46		
		do Roman Catholic.	38	33	12	.....	18	11	42		
		Percé, &c.	77	70	20	.....	28	22	97		
		Douglas Town.	70	69	14	.....	25	21	93		
		Gaspé Basin, Church of England.	23	23	4	.....	.....	5	41		
Percé.	7	9	5	.....	7	1	8				
		351	382	94	.....	110	95	528	528		

NEW CARLEISLE, 31st March, 1849.

WILKIE & TREMBLAY, P. Q. B.

GENERAL STATEMENT and RETURN of BAPTISMS, MARRIAGES, and BURIALS in the DISTRICT of GASPE, for the year 1848.

YEAR.	COUNTIES.	PARISHES, SEIGNORIES, TOWNSHIPS, OR CITIES.		BAPTISMS.		MARRIAGES.	BURIALS.		Increase of population, ascertained by the difference between Baptisms and Burials.	Total per Counties Increase of Population.	REMARKS.
		Males.	Females.	Males.	Females.		Males.	Females.			
1848	BONAVENTURE.	Risigouche, Church of Scotland.	20	24	.....	.....	5	.....	37	297	No Return.
		do Roman Catholic.	53	36	10	.....	12	7	70		
		Carleton.	18	16	5	.....	2	3	29		
		New Richmond.	21	19	12	.....	2	1	37		
		Hamilton.	47	38	9	.....	10	2	73		
		Cox, &c.	27	17	13	.....	4	4	36		
		do Church of England	9	6	.....	.....	.....	.....	15		
		do do	.....	.....	.....	.....	.....	.....	.....		
		Percé, &c., Roman Catholic.	87	76	22	.....	10	13	131		
		do Church of England.	12	22	2	.....	4	1	29		
Gaspé Basin.	14	10	3	.....	3	5	16				
Douglas Town, Roman Catholic.	43	43	13	.....	20	10	56				
		351	307	107	.....	81	48	529	529		

NEW CARLEISLE, 14th April, 1849.

WILKIE & TREMBLAY, P. Q. B.

ROLLO CAMPBELL, PRINTER—PLACE D'ARMES HILL—MONTREAL.