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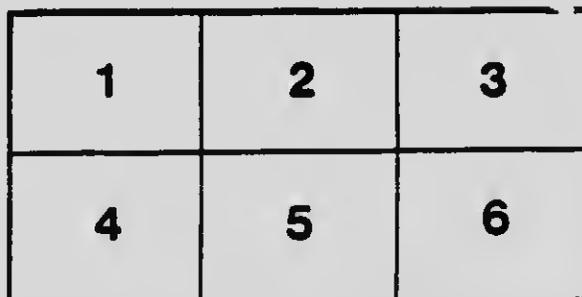
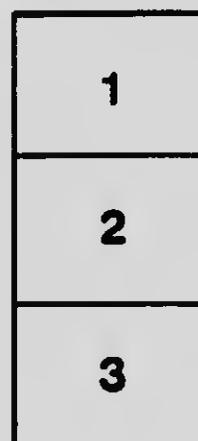
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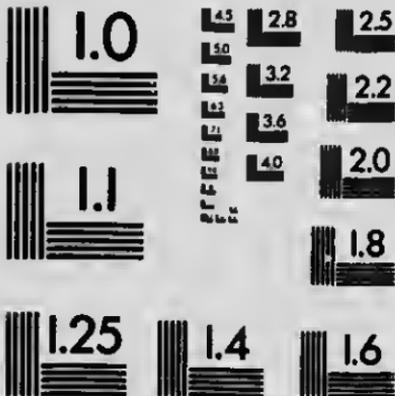
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CHIGNECTO SHIP RAILWAY CASE

MR. PROVAND ADDRESSES A MEETING OF SENATORS.

**He Explains the Position of British Investors in the Chignecto
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of the Government.**

Reprinted from the Ottawa Evening Journal 4th May 1901.

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Chignecto Ship Railway Case

Mr. Provand addresses a Meeting of Senators.

He explains the position of British Investors in the Chignecto Ship Railway Project and claims the Moral Obligation of the Government.

Mr. A. D. Provand, who is here urging the claims of the shareholders of the Chignecto Ship Railway Company to a settlement by the Government, addressed a meeting of Senators yesterday upon the subject. Senator Vidal presided, and among those present were Sir Mackenzie Lowell, Sir Alphonse Peltier, Senators Prowse, J. Wood, (Westmoreland;) Kirchhoffer, Bernier, Snowball, Perley, Dever, Baker, Yeo, Wood, (Hamilton;) McDonald, (British Columbia;) Casgrain, DeLanardiere, Gilmour, Macdonald, (Victoria;) McKay, Macdonald, (Cape Breton;) Sullivan, Macdonald (Charlottown;) McCallum, King, Lovitt, McSweeney, and others.

Mr. Chairman and Gentlemen of the Senate,

I am aware that this question of the Chignecto Railway may be said to be primarily one for the House of Commons, and I have already had the pleasure of addressing a meeting of members, but, as the Government has not granted to us the opportunity of laying our case before Parliament and the country, namely, by the appointment of a Select Committee or to allow a Judge to hear and report the facts I am obliged to adopt other means to bring the facts of our case under Parliamentary and public notice. On behalf of those I represent, namely, the unfortunate investors in the Company, I therefore thank you Gentlemen, for your courtesy in giving me this opportunity of addressing you on the subject of the Company's claim on the Government. And I hope I may be permitted to say that the responsibility for the Chignecto Railway was not alone that of the House of Commons. The acts by which we were induced to undertake the contract to construct the Railway were of your House also. Another reason why I have sought this meeting is because I believe the honour of Canada is involved in this case which I know is very dear to the gentlemen of the Senate.

Our claim is based on the moral and equitable liability of the Government not only according to their own methods of dealing with subsidies and charters, but by the precedents and practice of all Governments. Contracts to make Railways and large public works form a class by themselves and have to be dealt with by tolerant and equitable rules which have been settled to meet the difficulties which usually attend the execution of such undertakings, and these are recognized in all countries and by all Governments and public bodies for which such works are carried out. We court the fullest enquiry into all the circumstances of our case and shall abide by the result.

For convenient reference, I have circulated to members of both houses, a brief statement of the leading facts and also copies of the correspondence which has passed between the Government, the Trustees for the Investors and myself. And as I cannot touch upon details in the limited time at my disposal I shall have pleasure in answering any question on any point which I may not make sufficiently plain in the course of my observations.

There are certain broad features in our case, which I desire to bring before you. The first stage in the history of the Company was the way in which it was promoted, the main facts of which may still be remembered by some of those who are present. For fifty years there had been the idea of constructing a Ship Canal across the Isthmus of Chignecto, but the scheme of a Ship Railway was brought forward by Mr. Ketchum, the Civil Engineer, as a better proposition for the purpose than a canal would be. He placed his scheme before the Government who submitted it to Mr. Collingwood Schrieber, then Chief Engineer who reported favorably regarding it, and the Government therefore adopted the project and passed two Acts in 1852 subsidizing and incorporating the Company. These two Acts Mr. Ketchum took to London to seek for the capital to carry out the work which from the beginning was the openly stated object of the Government. They had intended to make the Ship Canal with their own money but they adopted the Ship Railway project because it was better and would be much cheaper if they obtained the capital in England.

On the original terms offered by the Government in the two Acts, Mr. Ketchum could not obtain the money in London, and therefore there were three more Acts passed by Parliament amending and reamending the two original Acts and altering the terms until we unfortunately agreed to find the capital to construct the Railway. No one came to Canada seeking the business, we did not ask for it. All the proposals made to us were those of the Government and Parliament in the Acts brought by Mr. Ketchum, through whom all the negotiations were carried out. But I need not say more to prove that the Government and Parliament were the promoters of the scheme because it has been put with point and clearness by the Hon. Sir Richard Cartwright, now Minister of Trade and Commerce.

"The fact of Parliament granting a subsidy of \$170,000 a year for twenty years to this railway will imply to the minds of English capitalists, from whose pockets I take it that this money is expected, that the Canadian Government has looked into the work, that they believe it to be a valuable work, and that it may fairly be implied that the Government believe it to be reasonably profitable to those people whose money we are practically securing in consequence of our having granted a subsidy."

The foregoing language is conclusive as to the Government and Parliament promoting the Railway and it correctly states that we understood by their offer of a subsidy that they had looked into the work, believed it to be valuable and that it was a reasonably good business venture in which we might safely invest our money. And in the Act itself it is also stated that the subsidy was given in consideration of the great advantages that would accrue to the Maritime Provinces from the construction of the Ship Railway. The bona fide character of the enterprise was beyond question. Every statement made to us showed that Canada was most anxious that the Railway should be constructed.

And when our investing classes were asked to subscribe the capital it was not on representations of ours, but, on the terms stated by your own Parliament as the subsidy clause in the Act setting out the conditions and terms was printed in every copy of the prospectus issued by the Company. Everything connected with obtaining the capital of the Company was done on the authority and representations of the Government and Parliament in the Acts that were passed for it.

I now beg to refer to the sole originating cause of the Company's difficulties, namely, by adding subsection 4 to clause 93 of the General Railway Act of 1888, which altered the law relating to issuing our bonds as it required one fifth of the whole cost of the Railway to be expended on it before we could issue any of them. By this change in the law we were therefore prevented having our bonds subscribed for when we could have done so and obtained all the capital, and made any default in completing the Railway by the agreed day impossible. We consequently issued only our preference shares which were subscribed for at par and out of the proceeds we expended more than a million dollars on the Railway before we could legally issue our bonds and when we could do so the monetary depression which took its rise in connection with the Argentine Republic was threatening all the world and we could obtain subscriptions for only about one-third of the total amount authorised. This mistaken law relating to Bond issues was repealed in 1892 because it was found to be mischievous in its effects but meantime it was the cause of all this Company's difficulties and when our contractor had exhausted the proceeds of the bonds issued and also his own means, he was forced to stop the work and the Railway has remained since then in an unfinished state after \$4,000,000 had been expended on it. The

good faith of those who subscribed for the bonds that were issued is shown by the fact that they were taken at £108½ for each £100 bond, and both the bonds and the shares are still nearly all held by those to whom they were originally allotted.

Since June 1894 we have been ready with our capital to recommence and finish the Railway and this is my eighth visit to Ottawa since then, pressing the Government to revoke our subsidy, to which I contend we are entitled, but so far without success. I have had only half promises and postponements. The only objections stated by the Government for not reinstating us are because they say they do not think the Railway would be commercially successful, and that we have had several extensions of time. The last statement is not the fact. We have had one extension only which was given to us by Parliament in 1891 after the reasons, namely, difficulties encountered in the construction of the docks and basins had been fully stated in the House by the Ministers.

It is now too late to consider whether the Railway would be commercially successful. The Government and Parliament had the scheme before them for six years which was ample time to discuss and consider everything relating to it, and they give the strongest proof they could that they believed the scheme was one in which we might safely invest our money by granting it a subsidy in order to induce us to do so. I might compare the business to a partnership under which they promised if the Company expended capital in building the Railway the Government would furnish their share in the form of a Subsidy. We have expended \$4,000,000 and are prepared to expend the balance required to complete the Railway in order to earn the subsidy but the Government do not fulfill their part of the bargain by allowing us to do so.

In regard to extensions of time I must draw your attention to the different treatment accorded by your Government to Canadian and to British investors. My examples shall be instances near at hand. From the windows of this building you can see the Interprovincial Bridge which has just been completed and opened. The charter was granted in 1882. The time for completion was extended in 1890, in 1892, in 1896 and again in 1898. No work was done until early in 1898 and then only sufficient to comply with a condition on which the subsidy of the City of Ottawa was granted, namely: that work to the value of \$50,000 must be done before the end of March 1898. And all these extensions of time were given to enable the company to obtain public money towards the cost of building the bridge, of which between \$400,000 and \$500,000 were given to it in subsidies. In our case we were spending our own money entirely and could not receive one cent of public money until we completed the work to the satisfaction of the Government, and yet we have been unable to get the necessary time to complete the work.

Another instance is that of the Pontiac Pacific Junction Railway Company's bridges at Alouette Island a few miles up the river from here. The charter was granted in 1887. A subsidy was voted in 1888. The time was extended in 1890. The subsidy was revoked in 1894. The time again extended in 1896, and my information is that no work whatever has been done.

Such instances could be multiplied indefinitely, and scores of them are given in *Carrier's Index to Railway Legislation*. It is the rule and practice of your Parliament to revive charters and revoke subsidies. *The Chicago Railway Company is the only exception you have made.*

Permit me to refer to another point which illustrates how different our treatment is from that given to Canadian Companies. Your Parliament, like others, has innumerable bills introduced seeking charters and subsidies, the terms of many of which are unreasonable and would be very unjust if passed; but the constant practice of Parliament has been to read such bills a second time and refer them to the Railway Committee. I have consulted the authorities and find that there has been no exception to this rule save one and that was the bill introduced by this Company in 1896 to revive the charter which was thrown out on a snap division by a majority of one. I mention this matter today because in the printed correspondence circulated this morning you will find that, as an inducement to us to reintroduce that bill, the Government has given me an assurance that they would assist me so far as necessary to secure a second reading of the bill and a reference to the Railway Committee. This is to be given as a favor for which we are expected to be grateful. May I ask, gentlemen, how I am to explain to the unfortunate investors, whom I represent, who have, on your invitation, expended \$4,000,000 on your Ship Railway scheme, why they were so treated in 1896 and also why, if that bill were reintroduced, that they will require as a favor the assistance of the Government to obtain for it a second reading and reference to the Railway Committee,—treatment which is always accorded to the bill of a Canadian Company, no matter how unreasonable its terms might be?

From the practice and precedents of your own Parliament and Government we were undoubtedly entitled to have our subsidy revoked in 1894 when we were ready to recommence work and complete the Railway. We are still ready to do so, or to accept as compensation a sum which may be fixed by arbitration. All the facts are known to the Government, but not generally, we are therefore willing to submit our case to a Select Committee or to a Judge sitting as a Commissioner to hear and report to Parliament, but none of these proposals has been accepted by the Government.

Permit me a brief reference to some of the facts I have placed before you. We came here by your invitation, your Government and Parliament promoted the Railway and we have expended \$4,000,000 on your own scheme for the benefit of your country. Furthermore we subscribed this money on the faith of the subsidy the terms of which, as in the Act, were reprinted in the prospectus.

The alteration made by Parliament in 1888 in the law relating to bond issues was the sole originating cause of our company's misfortunes.

Your treatment of us is totally contrary to your treatment of Canadian investors. According to all your precedents we were entitled to have had our subsidy revoked when we were ready to finish the Railway. I am forced to ask why this is so? Why are we made the sole exception to the rule and practice of your Parliament and refused our subsidy? And, let me add, that we are not only treated totally different from Canadian investors, but different also from what would be the case in any other country. There is no instance on record anywhere of investors expending their own money on a public work not being allowed the time necessary to complete it and if we could have supposed it possible we should have received such treatment it is certain none of our money would have come here.

Gentlemen, we have a substantial grievance. Ours is a case of great hardship. We court enquiry into the facts and the Government by not granting enquiry leaves it open to be said that they fear them. My object in asking you to hear me to-day was to lay before you some of the grounds on which we base our claim on Canada and appeal to your sense of fairness. And, Gentlemen, I ask is our treatment worthy of Canada. What can you hope to derive from it? You are the possessors of a country which is an empire in extent and for which enormous amounts of capital will be required for development during the longest future we may consider and I venture to say that in the case of the Chignecto Railway you are taking the surest method of preventing yourselves obtaining it on terms to which on other grounds you are entitled to secure its benefits.

REMARKS BY SENATORS.

Senator Dever said many of the Senators were familiar with the Chignecto Legislation and intimated he expected to be governed by it.

Senator Wood asked if the subsidy voted by Parliament had not been made conditional on the success of the Railway.

SIR MACKENZIE BOWELL.

Sir Mackenzie Howell said that was quite true. To earn the subsidy the Company had to complete the work and then operate it to the satisfaction of the Government. He said Mr. Provand did not claim he had any legal right, but put his claim on moral and equitable grounds and on the ground that all other sub

sidized enterprises except this one had been given renewals when they failed to carry out their work in the first instance. He knew of no other Company than the Ship Railway Company but had been treated otherwise. Mr. Provand's position was "treat us as you have treated others, otherwise give us compensation." He claimed the investors had looked at the Acts of Parliament, and seeing that they were ensured so much had therefore put their money into the project.

THE INVESTORS' RISK.

Senator Prowse said Mr. Provand appeared to blame the Government. He thought the investors had taken some of the risk. The fact that they had tried to secure 7 per cent. interest was evidence that they felt there was risk because money was not worth nearly that much in England. He said Mr. Provand's admissions showing that Mr. Ketchum and not the Government was the promoter.

A Senator—"Why did the Government listen to him (Mr. Ketchum)?"

Mr. Prowse asked if Mr. Ketchum had received any remuneration from the Company.

Mr. Provand said he had heard that part of his early expenses had been paid. He understood that Mr. Ketchum had seriously impaired his private fortune in the project.

Senator Prowse said that at the same time Mr. Ketchum had had a speculation on hand. The Company had paid him and that showed he was the Agent of the Company, and so it was unfair to say the Government was wholly responsible. The Senator said that he did not say the Company had no moral claim. After some enquiries as to the issue of stock and bonds by the company he said the Company had been premature in going on with the work and spending money until they were sure that they would have enough to complete the work. He contended the Company was as much to blame as the Government and perhaps more.

SIR RICHARD'S POSITION.

Senator Kiehhoffer asked Mr. Provand if he had approached Sir Richard Cartwright in regard to the claims of the company, doing so, because of a speech of Sir Richard's quoted by Mr. Provand in which Sir Richard had declared that by granting the subsidy to the company the government was virtually guaranteeing the scheme to the British investors.

Mr. Provand said Sir Richard would say nothing definite.

Sir Mackenzie Bowell contended that Sir Richard's statement made Mr. Provand's claims all the stronger.

Senator Bernier expressed no opinion upon the matter, but spoke of the case as he understood it was. He said Mr. Provand admitted the company has made no legal claim, but had a moral and equitable claim. Mr. Provand merely asked for an examination of the claim. He understood Mr. Provand drew a sharp distinction between the British investors and the original promoters. He understood Mr. Provand to say that Canada was being injured in England by its failure to come to the relief of the investors.

Senator Snowhall asked if the Railway was completed, but no vessels used it, would the company be able to earn the subsidy if it were re-voted.

Sir Mackenzie Bowell said that if such were the case the company could earn no subsidy.

Senator Snowball said that in that case his advice was that if the Railway were completed the company should build a fleet, because no other vessels would use the railway.

Senator Perley expressed himself as favorable to a settlement of the claims of the company.

Mr. Provand then thanked the Senators for meeting him.

MR. PROVAND EXPLAINS.

Editor Journal.—Misunderstanding a question put to me at the meeting of Senators yesterday my reply may have been misleading. Please therefore permit me a brief explanation. The late Mr. Ketchum spent his private means in the early surveys and other work connected with his advocacy of the Ship Railway. I have heard he was repaid part of these, but I am unaware by whom. The company paid none of them. He never represented the investors who had no existence until the year after his negotiations terminated. My acquaintanceship with him commenced in 1892 on my first visit to Canada about the Chignecto business. I have been told that several of the incorporators named in the act also spent money in advocating the ship railway and were likewise never repaid. Mr. Ketchum was an enthusiast. It was fame and not profit he looked for in projecting the scheme. The difficulties it met with hastened his death and by his desire he was buried on a piece of high ground overlooking the Tidnish end of the railway. I have always understood his private means suffered by his connection with it, on account of his payment of initial expenditure.

A. D. PROVAND.



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