

# THE CIVILIAN

VOL. I.

NOVEMBER 6th, 1908

No. 14

## The New Future.

### The Prime Minister's announcement to the Service.— The Effect on the Salary Question.— The Re- organization. — Superannuation.

This journal knows absolutely nothing about politics. We believe it, however, to be incontrovertible that a general election was held in Canada last week, and that the result was to sustain the previous administration by a large majority. Under ordinary circumstances, the civil servant would have no special or class interest in such an event. But the present circumstances are not ordinary, and the conduct and result of the elections are of very decided significance from the civil service standpoint. The points of chief significance are two in number. In the first place, the Cabinet with which the service has been in more or less constant communication since the present eventful phase in our history was entered upon has been continued, and there is, accordingly, no recasting of the general or fundamental position to be made. Secondly, we have the specific announcement of the Prime Minister, made in the course of the campaign, with reference to his personal position on certain matters of first importance—an announcement which may truly be said to have caused a new light to shine for the civil service.

#### The Prime Minister's Announcement.

The attitude of the Prime Minister in brief, as he announced it, amounts to this. He is personally convinced, and will urge that conviction

upon the cabinet, that the civil service is entitled to an immediate increase in general salaries on the score of the advanced cost of living. As to the extent of that increase he is willing to abide by the recommendations of the Royal Commission. Before these recommendations are put in force, however, he is of the opinion that the reorganization required under clause 8 of the new Act should be carried into effect. The reorganization presumably will involve an advance in salaries to a greater or less number, and it is to the residue that the more general provision will apply. The process is certainly logical. Finally, all increases, under whatever heading they fall, will be dated back to the coming into effect of the new Act. From September 1st every deserving employee of the inside civil service may confidently expect, if the views of the Prime Minister can avail it, a substantial improvement in his living wage.

#### The Salary Question Again.

The first and obvious comment on the foregoing is that it re-opens on a most satisfactory basis the whole question of the readjustment of salaries in the civil service. As we have many times pointed out, the need for such readjustment has its origin in two distinct quarters. With the enormous expansion of the service in the past ten years, offices and func-

tions have in numerous cases outgrown their original status and are in sore need of definition in the terms of present conditions. Coincidentally with this, there has been a tremendous advance in the cost of living, felt by everyone alike, and met in the case of practically every employer in Canada, the government alone excepted, by a corresponding increase in the rates of wages. Unfortunately, there has been a tendency in the past few months not always to appreciate the essential diversity in the nature of these varying claims. When, with the dissolution of Parliament, the hope of a general increase faded, the reorganization became for an interval the only possible means of meeting the situation created by the needs of the service. It is unnecessary to repeat that the reorganization could never have been made to play this dual part without great injury in the final resort to the service, and yet under the circumstances, the attempt to make it do so was practically unavoidable. It is, therefore, matter for genuine congratulation that the proper point of view has been restored, namely, that the readjustment of salaries to cost of living is a genuine part of civil service reform, that the reorganization is another part, and that the two have nothing whatever in common.

### The Reorganization.

As to the reorganization, which is the immediate item on the program, and, which we may expect to hear announced at any day upon the resumption of Cabinet Councils, we feel that we have already expressed the views of the service at sufficient length and with sufficient particularity. Everyone understands the process by which it is to be carried out. In brief, it is to be done for each Department by the Head and Deputy Head, working, of necessity, under very much the same influences as they have always worked in administering the Department. It is unnecessary

to enlarge upon the prospect thus opened up. It is possible to work oneself into feelings of the liveliest alarm over it. At the same time we would be the last to seek to place a damper on the present hopes of the service. We must remember that we have the commission, and that bad promotions, if they are suggested, must run their gauntlet before they pass. We fancy that it comes in the end to be a matter of what we mean by reorganization. Do we mean the readjustment and reevaluation of functions from within the several Departments according to the judgment of those who have been present during the development of the conditions which it is now proposed to correct — acting under the strongest possible appeal to their sense of justice and discrimination? Or does it mean a critical examination of the whole field of the service from one single and consistent point of view, implying consideration not alone of the position of the Departments separately, but the correlation of the several parts of the service and the reduction of all to a system of absolute uniformity in the treatment accorded to employees. If the first is meant we have not a doubt much good may be accomplished. The danger would be not so much the repetition or multiplication of the abuses which the same system has notoriously bred in the past, which we may now trust the Commission to prevent, as the failure, natural in the absence of a new eye, to admit the importance of the work done. If the second plan were given the preference and the duty handed over to the commissioners, we enter at once into a larger atmosphere. We would ourselves prefer to have this matter taken on the broadest and most serious basis. The plan that makes the service the most efficient piece of machinery for the purpose for which it is designed is the plan that will prove in the end the best for the individual civil servant. We would have the service

made a model to every business undertaking; and while the ridicule which it so constantly attracts to-day, and of which we print a sample as a curiosity in our present issue, is nine-tenths the merest balderdash, without the saving grace of being funny, we want to see the time when even an editor as far away as Vancouver will not feel constrained to crack a joke or barb an epigram whenever he thinks of the civil service. As we view it, the present is the time to set this matter straight once for all. If it be not immediately attainable, let it at least be set up as the goal towards which the effort shall be ceaseless until it is reached. If we succeed even in getting the principle acknowledged, it will be something.

#### The General Increase.

The general increase which is to follow the reorganization cannot be realized until the meeting of Parliament. That is probably two months ahead at least. It is the more necessary that the earliest possible attention should be paid to it by the new House. The Association should request the government to include the required bill among the first that are brought down.

#### Superannuation.

And, last in order, but second to no other question in true importance, comes Superannuation. Under this head, the service has been assured that the Government stands ready to take the matter up just so soon as the service itself is united in knowing what it wants. The service has doubtless observed with some surprise that it is supposed not to know its own mind upon the question. Let us, therefore, hasten to assure everyone that such is not the fact, but that, on the contrary, that part of the service which is directly concerned is as nearly a unit as possible in desiring the enactment of the Bill recommended by the Royal Commission.

The C. S. Association has made this manifest by indicating the desire of the service on more than one occasion to the Government. Let it not be said, therefore, that we are standing in our own light.

Although we cannot hope to break new ground in such a well-tilled area, we have yet to add a few words upon the general question.

There is still an idea abroad that Superannuation is an act of grace upon the part of an employer,—a species of charity, in other words. A falser view it would be hard to imagine; for in reality it is *business* of the strictest kind. Every large employer of labour, we venture to say, has had this driven home to him. The principle is now never questioned in Europe, where it is in full operation, and in this country there is not a large bank, railroad or industrial concern that has not either adopted the practice, or frankly recognized the need of such adoption. And, mark you, the motive is not charity, but their own advantage. They cannot keep their staffs at the maximum of efficiency by any other method that is not either unbusinesslike or crudely barbarous. A properly-administered superannuation system means that a service-body is enabled to slough off its waste tissue, thus keeping itself in health, instead of becoming poisoned through and through.

Even though the older employees in our service still enjoy superannuation rights, the present policy appears to run exactly counter to the wisdom of the business world. The aim appears to be to save as much as possible on superannuation allowances, paying as a result perhaps twice as much in indirect ways, besides doing injury to the service. One may see throughout the departments gray shadows of men still groping their uncertain way about, the pretence being that they are still on active service. But it is merely a pretence, for Nature herself has really superannuated them, and the Government

has added *full pay* instead of the regular allowance. What a travesty to require a daily attendance from the poor old souls, thus manumitted from everything but the semblance of toil. And what of the public service itself? Well, really, it should have some consideration, and, as we said, a properly-administered superannuation system enables it to consume its own smoke.

There are now upwards of 5,000 persons upon the Retirement Fund, and the number grows a-pace daily. Whether the service succeeds in getting superannuation restored or not, let no misguided soul amongst us be lulled into the belief that the Retirement Act is a substitute for superannuation. It is a savings bank scheme, utterly inadequate for superannuation purposes, and without the merit of allowing the savings to be used in time of need, howsoever extreme; and it is compulsory, without one single reason of public policy, or mutual advantageousness, that can justify such an exercise of compulsion.

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## CO-OPERATION.

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Looking to the future of the civil service, remote as well as immediate, THE CIVILIAN would be inclined to rank very few problems more prominently than those which group themselves about the subject of co-operation. It is undeniable that the opportunity lies at the door. The first condition of success — a stable membership — we have here in the highest potentiality. Moreover, it would be a membership of relatively large purchasing power, as well as being unusually strong numerically. No doubt the chief reason for the comparative unimportance of co-operative undertakings on this continent, as compared with Europe, is to be sought in the almost ceaseless flux of our population. Yet we have

several successful enterprises of the kind in Canada, in full vigour, at the present moment, demonstrating that after all the most necessary thing is business intelligence and a knowledge of the peculiar nature of the material which must be dealt with.

The first attribute, then, of the problem from the civil service standpoint is its inevitableness. The second is that it is to a degree technical, and one, therefore, which must be dealt with by experts, trained both as business men and as co-operators.

At the present moment the whole temper of the service calls for some consistent and well-thought-out policy on the subject. That this is so, we may attribute in no small measure to the success of the coal purchase and to the launching of the loan and savings society. The first of these in particular, being in the direct way of business, has had a far-reaching influence. The danger at present would seem to be the initiation of similar ventures in other fields on lines less carefully considered and without reference to the fact that under the circumstances of the case correlation is of the very great importance and that the whole movement should from the outset take on a consistent plan.

This brings us to the crux of the difficulty. There is at present no central guiding spirit in the matter. Schemes may arise by ones, by twos or by dozens, without reference to each other, with the widest dissimilarity in scope; and the individual civil servant will be left to his own unaided judgment of each. They may be uniformly excellent, as we may certainly expect them to be uniformly well-intentioned. But there will be no criterion of their excellence, and no guarantee that they represent the best returns, either separately or in the mass, that the conditions offer.

If we were allowed an opinion, it would be that the Association has here an unique opportunity of coming to the rescue of the situation. It is hard to see how such a task should

be left to individual initiative. If it is, what is everybody's business will probably remain nobody's business. At the same time it is equally clear that the Association cannot directly undertake co-operative enterprises. Its membership has been brought together on different grounds, and would not necessarily be co-extensive with that of any co-operative venture. But it has no less clearly a duty in a matter that promises so much for the service, and which stands so greatly in need of proper direction. In our view, a strong committee of the executive, charged with the duty primarily of making a full investigation of the subject of co-operation, and of its possibilities locally, for the benefit of the executive, and secondarily of using its influence in whatever way might prove feasible toward directing events along their proper channels, would represent the only logical solution of the difficulty. Such a committee might render invaluable service by directing attention to opportunities and calling for workers therein, or on the other hand by checking by the mere weight of its adverse opinion any venture that seemed precipitate or out of consonance with the real nature of the occasion. It is a matter of no small pride to THE CIVILIAN that it was able to perform precisely the function herein recommended for the Loan and Savings Society, by, first, inquiring into the need for such a society, second, by directing publicity to the matter and to the results of its inquiry, and obtaining the views of the service thereon, and third, by calling a meeting for final enquiry and action, the result being that the society gradually took form and was launched upon what we all believe will prove a successful and beneficent career. Why the Association should not perform a similar office as occasion demands is what we fail to perceive.

THE CIVILIAN has collected some miscellaneous information on the subject of co-operation, and will publish

from time to time during the next few months a selection of such items as may seem of most practical value to the Ottawa case. We may conclude with a sample:

The eighth quarterly report and balance sheet of the British Canadian Co-operative Society, Limited, of Glace Bay, N.S., for the quarter ended July 2, 1908, showed sales amounting to \$6,241.79, an increase of \$1,002.44 over the preceding quarter and of \$1,267.68 over the corresponding quarter of last year. The present membership numbers 101. Share and loan capital amount to \$3,002.92. The assets are \$5,790.41 and the liabilities \$5,126.22. The balance for the quarter allowed a dividend of 10 per cent. on members' purchases and of 5 per cent. on non-members' purchases, with a balance \$55.13 to be carried over to the next quarter. This Association is composed of miners living in and about a town of less than 10,000 inhabitants. The civil service in Ottawa would on the same basis maintain a business of at least ten times the extent. We will return to this subject of the Glace Bay store when space is more at command.

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### A POSER.

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A group of half a dozen physicists, all eminent; a sheet of paper; a pencil. With the latter one of the group draws a pulley, a cord over the pulley, a tree, a bough from which the pulley hangs. To one end of the cord is attached a stone; to the other end clings a monkey. The stone balances the monkey. If the monkey proceeds to climb up the cord, what will happen? Will the stone rise or fall? Heated discussion; break-up of the party; no result. Can any reader help to settle this question?

# THE CIVILIAN

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Communications on any subject of interest to the Civil Service are invited and will receive careful consideration.

Ottawa, Nov. 6th, 1908

"TODAY TO THEE; TOMORROW TO ME."

To-night will be held the Annual Convention of the Civil Service Association, when the officers will be chosen and the several departments announce the result of their election of representatives. Of the latter, there is published in another column of this issue as complete a list as could be obtained in advance.

To the delegates who will attend to-night's convention, a word while there is yet time:

The officers of such an Association as ours must furnish the motive-power for the machine. Other members of the Executive may be men of ideas and resourcefulness, but, if they are not supported by the official heads they may find themselves shorn of much of their power for good. In

other words, the titular leaders should be the real leaders, if the service is to get full value from its Association.

There will be most important work to do during the coming year. The Executive will scarcely have assumed office before being met by its first plain duty of furthering the cause of the service with the Government. But long before the Salary, Re-organization, and Superannuation question are finally laid at rest, the keels of many another goodly ship should be a-laying. The standing committees should be struck early, and given to understand that they are appointed for a purpose. Several of the special committees of the retiring Executive, although appointed months ago, have never reported, and were never censured for not reporting. There should be a group of Internal Economy committees, specially charged with branches of work initiated for the Common Good. The tree is large, and the branches numerous: How to acquire permanent assembly-rooms for the service? How to promote better sanitation, ventilation and lighting in Government offices? How to accomplish a federation of Canadian civil servants? How to spread a knowledge of things desirable to be known,—as Civil Service Insurance? How to deal with the Income Tax and Municipal question generally? Then there is Co-operation in its general and special bearings,—a wide subject, needing very careful consideration. Let us hope that the Executive will be successful in discovering what is sane and feasible in the movement, rejecting what is unsafe and impracticable.

The above sketch is, moreover, only a vague outline,—a part merely of the heavy grist that is even now lying on the floors of the Association mill. Seeing which, the delegates to this evening's Convention will contribute, we doubt not, their quota to the Common Good, thus enabling the Association not only to command success, but to deserve it.

## THE MORNING AFTER.

The Ottawa Evening Journal is of opinion that civil servants should be deprived of the suffrage. Read the following, which is the summing-up of its position, as expressed in an editorial on Oct. 30th ultimo:

"The point, however, is that during the campaign extraordinary efforts were made to catch what the politicians call the Civil Service vote. It is inevitable that so long as the civil servants continue to exercise the voting privilege political parties will vie with each other in catering for their vote. The civil servants will be subjected to annoyance at the hands of the party canvasser. In some instances civil servants will be not unnaturally seized with apprehension as to the effect a given election may have upon their individual fortunes. It is possible, therefore, that the interests of the individual civil servant, the interest of the whole service, and the interest of the country at large would be well served if the franchise now accorded the members of the Civil Service, both inside and outside, were remitted."

While THE CIVILIAN has no politics, and will resist to the uttermost any attempt to introduce politics into a service periodical, it has too much attachment to the rights of citizenship to allow such a cool proposal as this to pass unchallenged.

The Journal is, theoretically at least, a supporter of democratic institutions. Yet it would reduce to the condition of political *neuters* some thousands of Canada's most intelligent voters. And why? Because, forsooth, promises are sometimes made to them that may undermine their independence. Of what class in Canada can not the same be said? Why not disfranchise the manufacturers, because the tariff is in politics? Or the farmers, because rural mail delivery is an issue? Or the workmen, because the "full dinner pail" is dangled before their eyes? There is scarcely a class or group of men

in the country that does not hope to gain by having the party for which it votes returned to power. Even the journalists are subject to have their political independence undermined by the lure of prospective advertising. Shall we then disfranchise journalists as a class? Heavens! How their shrieks would rend the welkin were such a proposal to be made!

Less than two years ago, the citizens of Ottawa voted upon the question of whether a Federal District should be created here. The decision was adverse, chiefly, we believe, because our citizens refused to commit political suicide. What was The Journal's attitude upon that question? Why, simply this: that to give up one's right to the suffrage, no matter upon what consideration, would be base and slavish. In fact, from reading The Journal's fulminations of December, 1906, one would certainly infer that there was involved a principle that ran clear back, through the Reform Bill of the Forties and the Bill of Rights of 1688, to the Magna Charta itself. The following is from an editorial in The Journal of Dec. 29th, 1906:

"While the only vital issue to The Journal's mind in the Federal District question is the volunteering to barter the franchise for political pottage, an unsolicited offer to sell ourselves which we imagine ought to bring a blush to the cheek of every rightly-constituted man the inheritor of freedom from his fathers, it is well that no sort of assertions speciously made to sugar the pill should be allowed to go uncriticized."

Rather in the freedom-or-death strain, is it not? Except for the structure, Junius himself might have written it.

But let principles stand or fall, there is one practice that is now perfectly well-established: After an election, impeach the service for high crimes and misdemeanors unproved and unprovable. But, really, isn't the game becoming a little stale by this time?

## MR. A. G. KINGSTON.

Mr. A. G. Kingston, president of the Civil Service Association during the first year-and-a-half of its existence, is now about to retire from that office. The regret of THE CIVILIAN over this withdrawal is tempered by the consideration that Mr. Kingston's services will not be lost to the Association, inasmuch as he has been elected by his department as one of its representatives on the Executive Committee.

Mr. Kingston's tenure of the presidential chair embraced a period that was marked by agitation and unrest. Those were not the piping times of peace, nor have such times yet come. But the president always filled his place with dignity, neither yielding to empty clamor nor superciliously ignoring popular opinion. The gravest fault of the administration during his time (a fault that is chargeable to the whole Executive, and by no means to him alone), may be said to have been a certain lack of enterprise, and a too-restricted scope of activity. We believe the time to be now ripe for an enlargement of the policy of the Association.

The retiring president represents a high type of civil servant. His interest in matters publicly affecting the service is a rebuke to the stupid pride of many of his coevals, who, without heart to see, head to plan or hand to execute, wrap themselves up in their cloak of selfishness, serene but contemptible. This tradition is happily passing fast,—the faster because of Mr. Kingston's example of disinterested service.

## A GEOMETRICAL FIGURE.

When a fellow gets full and goes  
fishing that way,  
What manner of thing will he be?  
We're not good at guessing, but here  
we would say,  
A rye-tangled try angle, he.

## CIVIL SERVICE ASSOCIATION.

## The Departmental Elections. — The Financial Statement. — First Annual Banquet.

The interest displayed in many of the departments in connection with the election of the representatives and the advisory committees was most gratifying. The Association is entering upon what will, in many respects, be the most important year of its history. The Executive Committee will have some big propositions to deal with, and at least one or two knotty problems to solve. To achieve the fullest measure of success the collaboration of the entire service will be necessary. And judging from reports received from several quarters, this will not be lacking.

The annual meeting, at which the election of officers takes place, will be held this (Friday) evening, in the railway committee room of the House of Commons. The reports of the officers and the consideration of several proposed amendments to the constitution will be the other important features of the meeting. A full attendance is expected, and, in view of the amount of work to be done, it is hoped that everyone will be on hand at 8 o'clock.

The departmental elections which have been held up to the time of writing, have resulted as follows:

## Auditor General's Office.

Representative on the Executive—  
Edmund E. Stockton.

Advisory Committee—Chief clerks,  
Wm. Kearns; first class clerks,  
H. Brown; second class clerks, R. S.  
Glass; junior second class clerks, F.  
S. James; third class clerks, Miss C.  
McDonald; temporary clerks, Miss J.  
G. M. Low; messengers, H. Cottee.

## Finance.

Representative on the Executive—  
F. Grierson.



Advisory Committee—Chief clerks, M. D. Grant; first class clerks, F. A. Coffin; second class clerks, A. F. Bill; junior second class clerks, A. N. McTavish; ladies, Mrs. Sutton; messengers, Wm. Ostrom.

### Interior.

Representatives on the Executive—S. J. Willoughby and S. M. Genest. Advisory Committee—Chief clerks, J. M. Roberts; first class clerks, C. J. Steers; second class clerks, J. N. Ferguson; junior second class clerks, E. E. Wood; third class clerks, C. McDonald; messengers, A. Pegg; technical officers, N. B. Sheppard and T. Brown; outside service, H. P. D. Gibson and A. McCracken; secretary, A. Chisholm.

### Inland Revenue.

Representative on the Executive—W. A. Halliday. Advisory Committee—Chief clerks, Wm. Himsworth; first class clerks, T. Westman; second class clerks, P. E. S. Brodeur; junior second class clerks, C. Furlong; third class clerks, R. P. Yetts; messengers, E. Bourgeois; technical officers, A. Valin.

### Marine and Fisheries.

Representatives on the Executive—W. A. Found. Advisory Committee—Chief clerks, J. B. Halkett; first class clerks, W. A. Found; second class clerks, C. W. White; junior second class clerks, J. A. Sauriol; third class clerks, N. Potvin; messengers, W. L. Charbonneau; technical officers, F. J. Alexander.

### Public Works.

Representatives on the Executive—A. G. Kingston and U. Valiquet. Advisory Committee—Chief clerks, T. N. Doody; first class clerks, L. H. Colman; second class clerks, J. E. Marion; third class clerks, C. E. Davidson; fourth class clerks, I. Champagne; ladies, Mrs. Lemoyne; messengers, James Fahey; engineers,

G. E. Perley; architects, James Foulis; telegraph branch, D. H. Keeley; architects' assistants, W. R. Billings; architects' draughtsmen, Geo. Dorval; engineers' draughtsmen, J. U. Bray; chairman, Rene Steckel; secretary, S. E. O'Brien; treasurer, J. B. St. Laurent.

### Post Office.

Representatives on the Executive—H. S. Campbell and A. N. Payne. Advisory Committee—Chief clerks, W. J. Glover; first class, H. S. Campbell; second class, J. J. McNulty; junior second, J. C. O'Connor; third class, Miss F. G. Waddell; writer class, Miss I. B. Smith; temporaries, George Moore; packers and sorters, C. Keyes; messengers, E. Snowden.

### Public Printing and Stationery.

Representative on the Executive—G. S. Hutchinson. Advisory Committee—Chief clerks, F. Gouldthrite; first class clerks, R. E. Cook; second class clerks, J. O. Patenaude; junior second class clerks, P. A. Gay; temporary clerks, J. F. Neville; messengers, W. T. King.

### Railways and Canals.

Representative on the Executive—H. Le B. Ross. Advisory Committee—Chief clerks, C. W. Ross; first class clerks, L. N. Fortier; second class clerks, A. M. Dechene; junior second class clerks, F. W. Addy; technical officers, R. S. Reid; extra clerks, C. B. Robinson; messengers, E. Pelletier.

### R. N. W. M. Police.

Representative on the Executive—L. Fortescue.  
(Advisory Committee not elected.)

### Secretary of State.

Representative on the Executive—Gustave Emond. Advisory Committee—Ira W. Storr, Dr. John Francis Waters, Frank Fallon, Miss Emma Palmer, J. Fortunat Champagne, U. Ricard.

**Trade and Commerce.**

Representative on the Executive Committee—R. A. Lewis.

Advisory Committee—Chief clerks, W. A. Warne; first class clerks, J. Byrnes; second class clerks, Mrs. S. S. Cox; junior second class clerks, P. J. Connolly; third class clerks, H. Nutting; messengers, E. B. Wright.

**Financial Statement for the Year Ending Nov. 6th, 1908.**

The sole source of revenue for the year, with the exception of contributions to the Quebec Battlefields' Fund for which the treasurer of the Association was merely a temporary trustee,

consisted of membership fees. A detailed statement of these is given by departments, and also at the same time a detailed statement of the contributions of the departments to the Quebec Battlefields' Fund. These contributions, amounting in all to \$340.86, were transferred as received to the General Treasurer of the Fund.

The number of persons at present enjoying full membership in the Association is 2027, distributed among the various Departments of Government as shown in the following statement.

The amount held at date to the Association's credit is \$310.20.

**Statement Showing the Number of Members, the Revenue from Fees During the Year, and Contributions to the Quebec Battlefields' Fund.**

DEPARTMENT.	No. of Members.	Amount paid for Fees.	Amount of Contributions to Quebec Battlefields Fund.
Finance.....	80	\$20.00	\$46.26
Public Printing and Stationery .....	58	14.50	.....
Secretary of State .....	30	7.50	10.75
Marine and Fisheries .....	124	31.00	.....
Inland Revenue, .....	50	12.50	37.50
Customs .....	152	38.00	33.25
Indian Affairs .....	61	15.25	22.50
Public Works .....	194	48.50	14.75
Militia and Defence .....	59	14.75	16.75
Trade and Commerce .....	20	5.00	7.75
Railways and Canals .....	52	13.00	20.75
Post Office .....	339	84.75	50.10
Agriculture .....	154	38.50	3.00
Interior .....	480	120.00	28.75
Audit Office .....	68	17.00	.....
Privy Council .....	18	4.50	.....
Mines .....	65	16.25	16.00
N. W. Mounted Police .....	10	2.50	15.50
Labour .....	12	3.00	.....
Library of Parliament .....	...	.....	17.25
Single fee, paid direct .....	1	.25	.....
	2027	\$506.75	\$340.86

GENERAL ACCOUNT, 1907-8.

	Dr.
To Balance from previous year .....	\$ 59.00
Membership Fees for 1907-8 .....	506.75
Membership Fees for 1907 received during 1907-8 .....	3.75
	\$569.50

By Expenditure as follows:—

	Cr.
Receipt and Record Books .....	\$ 2.00
Stationery .....	41.65
Printing accounts .....	75.50
Typewriting services .....	30.25
Clerical assistance, \$4; elevator and messenger service, \$5; telegram, .90 .....	9.90
Civil Service Employees, St. John, N.B. ....	100.00
Balance .....	310.20
	\$569.50

(Examined and found correct.)

(Sgd.) M. D. GRANT,  
Treasurer.

(Sgd.) E. E. STOCKTON,  
R. A. LEWIS,  
Auditors.

**MUNRO'S HOUSE OF LORDS**

When Scotch Whiskey is prescribed by physicians, the kind and quality of the stimulant to be used is of much importance. The inquiry comes: "What brand is strictly pure and reliable?" Upon thorough investigation, **MUNRO'S** Dalwhinnie Pure Malt Whiskey, bottled at the Distillery, with an absolutely satisfactory guarantee of purity and original condition; will be found to answer the inquiry. It has been supplied to the House of Lords for many years and is a great favorite of the Connoisseurs and Medical Faculty of Great Britain. It is put up in square bottles only, wrapped in lithographed cardboard package. Ask for miniature samples.

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### The Banquet.

It is expected that the first annual banquet of the Association will be held on Tuesday evening, November 17th, at the Hotel Cecil. The retiring and incoming officers, members of the Executive and the Advisory Committees will attend. Invitations will probably be extended to the officers of the C.S.A.A.A., and the Savings and Loan Society. The gathering will tend to advance the well-being of the service. Suggestions will be made as to the work of the new year and a spirit of good-fellowship established. The arrangements are in the hands of a most capable committee, composed of Messrs. W. A. Code, A. L. Caron and A. N. Payne.

### Personal Notes.

The retirement of Lt.-Col. Toller means the loss to the Executive of one of its most genial and earnest members. His place will be taken by

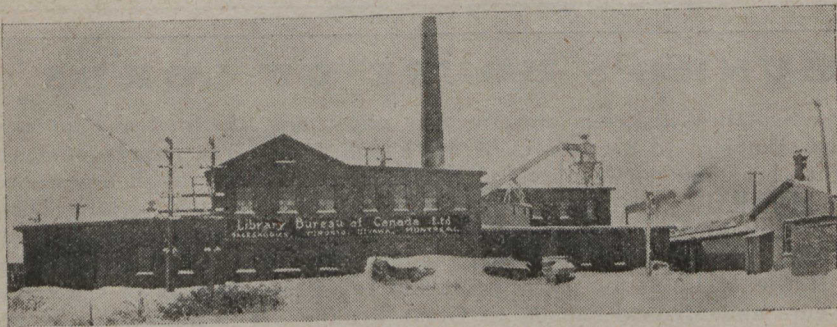
Mr. F. Grierson, ex-president of the C.S.A.A.A.

Mr. T. N. Doody, who has represented the Department of Public Works during the past eighteen months, will be missed. As a member of the Advisory Committee of his Department, the Association will retain the benefit of his superior judgment and continued effort.

Another faithful worker retires this year in the person of Mr. J. B. Halkett, of the Department of Marine and Fisheries. His place will be taken by Mr. W. A. Found — a young man of much promise. Mr. Halkett continues on the advisory committee of the Department.

Messrs. W. A. Code and J. J. McNulty, of the Post Office Department, are dropping out. Both have done excellent work and have earned the gratitude of their Department. They will be succeeded by two good men, Messrs. H. S. Campbell and A. N. Payne—the former having been

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on the executive last year, and the latter being prominent in athletic circles.

Mr. R. S. Bishop, the genial representative of the Department of the R. N. W. M. Police, will be succeeded by Mr. Lawrence Fortescue, one of the prominent officials of the service.

Mr. J. L. Payne, who issued "the call to arms" in connection with the organization of the Association, has announced his retirement from the office of secretary. Mr. Payne's departmental duties are of a most responsible nature; he is the president of the Athletic Association, and is actively identified with a number of fraternal organizations. It may be assumed that in justice to himself he finds it impossible to continue the responsible duties which he has so capably and faithfully discharged during the past eighteen months. His deep interest in the Association is a

guarantee that he retires (temporarily it is hoped) for reasons of a most importunate nature.

The office of Treasurer will also go to a new man. Mr. M. D. Grant, who has held this office since the Association was first organized, has announced, much to the regret of his friends, that he must retire from the Executive for the ensuing year. He has recently assumed the duties of his new office as Dominion Actuary; he has taken and, it is hoped, will continue to take, an active part in the administration of the Savings and Loan Society, and is connected with other civil service enterprises of an important character. It is felt, in view of these facts, that it would be unfair to urge his retention on the Executive. Mr. Grant will, however, retain an official connection with the Association as a member of the Advisory Committee of the Department of Finance.

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## THANKSGIVING.

By *Meicutio*.

### I.

Let us be thankful for the little gain,  
 The balance usward in the books of Time,  
 The vantage won, though there be heights  
 to climb,  
 And foes in ambush lie on hill and plain.  
 The scars of yesterday's grim fight remain,  
 And some have lost the lustre of their  
 prime ;  
 We all have missed the victory sublime,  
 Let us be thankful that we were not slain.  
 Thrice thankful let us be that we have kept  
 Faith with ourselves and fought an open  
 fight,  
 That we have marched like men and never  
 crept

Like serpent's fearful of the noonday light.  
 Our blunders patent and our schemes inept,  
 Let us be thankful that our cause is right.

### II.

Let us be thankful that we do not know  
 How futile are so many of our quests  
 Until the day is done and darkness tests  
 The fibre of the heart that urged the blow.  
 The misspent arrows and the broken bow,  
 The dinted helmet and the tarnished crests,—  
 We think of these, but feel the issue rests  
 On some Tomorrow unto which we go.  
 For Hope that leads when Logic bids us halt,  
 For Faith triumphant in the night of Fear,  
 For Pride itself that will not own a fault  
 Because the honour of the soul is dear,  
 For these be thankful,—lo, the day is near  
 When Fate redeems the pledges in her vault.

## HOBO PHILOSOPHY.

With one look at Goodman  
 Gourong's tattered garments, the  
 woman of the house slammed the door  
 in his face.

"Clothes may not make the man,"  
 he soliloquized as he turned away and  
 started for the next house," but they  
 sort o' seem to classify him."

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**"Mens Sana in Corpore Sano."**

To the Editors of THE CIVILIAN:

The first move in favor of a civil service chess club, under the auspices of the Civil Service Athletic Association, was very appropriately made by an anonymous amateur of chess as "Pawn," in the September number of THE CIVILIAN. We hope this first move will be followed by other moves, until the game is won.

During the summer season, ladies and gentlemen of the service enjoyed physical exercise and recreations on the beautiful grounds which encircle the parliament and departmental buildings. Those exercises, no doubt, were so beneficial that they are now entering upon the cold season in robust bodily health.

The winter season approaching, is an appropriate time to introduce athletics for the exercise and recreation of the mental faculties, which will realize the truth of the saying, "mens sana in corpore sano," "a sound mind in a sound body." Of all pastimes for mental recreation and exercise, there is none which excels the game of chess. It is a very intellectual recreation and attracts scholars and students, youths and old age, ladies and gentlemen. It is a game not only ancient but cosmopolitan. In Germany, it is said, the game of chess is considered so important as a mental exercise that it is made a part of the curriculum of study at school's.

A few years ago, when the Hon. Mr. Hyman was Minister of Public Works, a memorial was presented to him, requesting that a room in the public buildings be assigned to the Civil Service Chess Club for their mental recreations, etc. The reply was that a room would be assigned

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so soon as certain buildings were completed. On Mr. Hyman's retirement, the matter was dropped, but now it might be revived by the Civil Service Athletic Association.

C. F. STREET.

Dept. of Finance.

×

The Ladies Would Like to Participate  
in the Benefits of Insurance.

To the Editors of THE CIVILIAN:

I have heard much favorable comment upon the articles in your last issue dealing with civil service insurance. Your suggestion that its benefits might properly be extended to the women is, not unnaturally, very pleasing to a large number of your readers. Will THE CIVILIAN urge the Association to take steps in the direction of urging the government to amend the Act so as to make this possible?

ONE OF THE LADIES.

**CIVIL SERVICE SAVINGS AND  
LOAN SOCIETY.**

Annual Meeting, Nov. 10th.

Reports of the condition of the Savings and Loan Society continue to show the same feature of rapid growth as was noted in our last issue. The number of shareholders shows a steady increase, each week bringing in its quota of applications. The Society now has what may be called a corporate shareholder in the Civil Service Athletic Association, which recently showed its confidence in the Society by placing with it \$257.65 of its surplus funds. This is an example of the spirit that should animate civil service bodies in their mutual dealings: the spirit that recognizes different aims, but a common purpose. An amendment to the Constitution of the C. S. Association has been prop-

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posed, which, if effected, will admit of a similar use of the surplus funds of that organization, should the Executive deem it safe and expedient to so apply them.

Attention is called to the fact that the annual meeting of the Savings and Loan Society will be held this year on the 10th instant, in the lecture room of the Carnegie Library. Shareholders should make it a point to be present. The Society is your society, shareholders. Help along the good work by being present, and by doing your best to safeguard your own interests and those of your fellow-members.

**THE CIVIL SERVICE.**

From the Vancouver World.

The members of the Dominion Civil Service seem to be in perfect sympathy with the celebrated British peer who remarked that what he liked about the Order of the Garter was that there was no nonsense of merit about the gift of it. The employes in the public offices at Ottawa apparently like their positions because there is no nonsense of merit about the promotion. A man rises with his class from minimum pay to maximum pay without effort on his own part. He may work as hard as he likes, but he won't "find it in the pay envelope" a second sooner than if he contents himself with making no more effort than is necessary to hold his desk. He is in an enclosure where the struggle for the survival of the fittest no longer disturbs the fortunate tenants, and according to the Ottawa despatch he is profoundly disturbed by the suggestion that men should be dealt with according to their deserts.

Not all of those who glance through the palings at the sleek herd within, however, are anxious to find grazing-room on the other side of the fence. The sheltered life may appeal to the man who is not altogether sure of

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himself, and who is willing to sacrifice large possibilities for small certainties, but he who trusts in his own strong right arm generally demands all that the hand at the end of it can grasp, and if by any chance he finds himself in the public service he either stays in at his own price or goes where he can get it—stays in and harasses his subordinates with unheard of demands for efficiency or goes out and leaves the tranquility of the government buildings undisturbed.

And is it not better that he should go than that the many should suffer? For the Civil Service Commission not-

withstanding, there is surely an injustice in making government clerks live the strenuous life, an injustice against which we should be tempted to protest did we not know that it was also a fundamental impossibility. Materialistic taxpayers who demand results may grumble, but, founding himself on the ancient constitutional principle that the government office exists for the government servant the Ottawa clerk will rightly, and in the long run successfully, resist any infringement of the claim to promotion of the man who sits tight and waits for it. They want no "nonsense of merit" at Parliament Buildings.

### A LOSING GAME.

—Rex H. Lampman in *Neché Chronotype*.

There is some chance of winning at 'most every game that's played,  
From polo down to ping-pong, and from poker to old maid  
You always have some show to prove your strength or craft or skill,  
And if friendly fortune favors—call it luck, or what you will—  
You may carry off the honors, but one game you'll surely lose,  
And that's the game that people p'ay with

Old

Man

Booze.

No man was ever known to make a winning at this game;  
All kinds of men have tried it—the result was just the same;  
Your luck may change at faro, you may carry off a stake,  
But there's just one game that no one was ever known to break,  
And it has broken many—it will break you if you choose  
To go against the game that's played with

Old

Man

Booze.

You may dally with the ponies, buck the wheel, or take a round  
Out of fluctuating finance, and still 'scape safe and sound;  
You may margin May if hopeful the price go up or down,  
Or get a litt'e hatchet, carrienationize the town—  
Cut up any crazy caper a fickle fancy choose,  
But don't attempt to get the best of

Old

Man

Booze.

## ATHLETICS.

## The C. A. A. U.

Synchronizing with the issuance of the present number of THE CIVILIAN, the alliance existing between the Civil Service A. A. A. and the C. A. A. U., the governing body, comes to an end by lapse of time. There is no departure from the strict amateur principle indicated by the omission of the C.S.A.A.A. to renew its membership at this time. The Association will remain amateur and will ally itself with organizations that have with it the common purpose of improving "the game." We may be better armed for the future by glancing retrospectively over the incidents occurring during the term of this affiliation with the C.A.A.U. which had to do with the present lapsing of the membership.

In January last the C.A.A.U. met in regular session to discuss a proposal of the Canadian Olympic Committee to join with the managers of professional athletic clubs of Ottawa and Montreal in the choosing of amateurs to represent Canada in the Mother Country. The C.A.A.U. in session unanimously declined to accede to the proposal. Immediately after this meeting, the C.A.A.U. out of session as represented by President Stark, 2nd Vice-President J. G. Merrick and Secretary N. H. Crown, decided to agree to the proposal. The first intimation the other twenty governors of the union had of this departure from their recent decision was gleaned from the daily papers. The C.S.A.A.A. in annual meeting last April, upon hearing the report of the facts from its representative to the C.A.A.U., resolved to ask the C.A.A.U. for a mail-vote of all its members on the question in order to confirm or annul the arrangement made with the professional clubs. The secretary of the C.S.A.A.A. wrote the secretary of the C.A.A.U. enclosing the question to be voted

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upon. The secretary of the C.A.A.U. replied that he had handled the matter over to President Stark. President Stark put it in his pocket, or in the fire. The question was never put to vote. A dishonourable action had to be shielded by a discourteous one. These are in brief the facts.

Erstwhile, it has been considered that athletic clubs should be officered by men of probity, if possible by those who have risen from the ranks, who have developed, if not speed and endurance, at least a sense of what is manly and just.

Hereafter a man seeking to be a candidate for a position of responsibility in athletic government had much better take a course in Machiavelianism, paying special attention to the pages of the "Prince."

This criticism of the C.A.A.U. is written in sorrow, not in anger. As regards the underlying principle of the C.A.A.U., it is founded upon holy ground, honor and the golden rule. As regards the men in charge of this principle, it must be clear that we must have a better example shown in the future than in the past.

There is no doubt that the three above mentioned officers of the C.A.A.U. were subjected to the most powerful influence we have in the land, coupled with a temptation not easy to overcome. But it is not too much to say that the straight course would have paid them better, and the trip to England would have been theirs under more auspicious circumstances. We would not then have had to swallow at one gulp the humiliation of a Canadian athlete protested by a Canadian at the dictation of a foreign magnate.

\* \* \*

The Longboat case referred to reflects very little credit upon the present officers of the C.A.A.U. Has Longboat been an amateur since he left the West End Y. M. C. A. some three years ago? The Canadian Olympic Committee accepted Longboat upon the recommendation of the C.A.A.U., and this should have insured his immunity from attack until he returned to his native soil. Perhaps it would have been more to our credit if Longboat had been from the first exploited as a professional athlete by some historical or archaeological society. It would have been more edifying, more profitable and more honest.

\* \* \*

There is some talk of a banquet to be attended by the Executives, outgoing and incoming, of the C.S.A. Pleasant recollections of a supper-party given by the "alley-bowlers" last winter suggests the desirability of an entertainment of a larger scope than the one suggested. The Athletic Association might have a smoking concert. A good programme could be carried out by calling upon our own members. To begin with we have Gordon Rogers, who won a prize at the athletic meet, and who, although a veteran, will "with mirth and laughter let old wrinkles come," and keep our hearts from cooling with mortifying groans.

There are many others of the "talent" in our numbers. It would afford a splendid opportunity for some of the famous athletes of our club to reproduce in kaleidoscopic motions strokes they might have made in cricket and tennis, or wry faces they succeeded in

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### Lawn Bowling.

An enthusiastic lawn bowler has sent *THE CIVILIAN* the following valedictory at the close of season 1908:—  
To a departed season:

To those of the civil service who understand and love the game of bowls—and to some of the ladies as well—the close of the present season brings a time of peace and rest for shattered nerves. While it may have been of some interest to the male portion of the service that a Prime Minister was to be chosen, how can such a crisis be considered at all as long as the championship of the service was unsettled?

Until one knows who is the city's greatest bowler, how can one be expected to be interested in who is its greatest statesman?

It was a good season while it lasted; we're glad we had it, and we're glad it's gone. Some sad day when Mr. Caron threatens us with coal bills

and Parliament Hill is deep in snow, we will wish it back again.

For it represents our virtues and vices pretty well—this game of bowls. It is serious business, and at the same time good-natured; it is full of prejudices, but it is fair. It is clean and wholesome, and moderately efficient. It is worth making sacrifices for. So much for the game — now a few words for the committee who have had it in charge for the past season, the personnel of which follows: Geo. Lindsay, J. D. Clarke, Jos. Hoey, W. T. Urquhart, Jno. Kilgallin, R. W. Morley, secretary, and J. L. Payne, chairman. While we are in no mood for censure, certain it is that their was too much of the "willing" spirit in last season's committee. Some were willing to do *all* the work — while others were quite willing they should.

This is not as it should be—it is not in harmony with the co-operative spirit that is being fostered throughout the service. While it may be wrong to particularize in matters of this kind, we trust we are giving no offence when we say that the bulk of last season's work fell upon Jno.

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Kilgallin and R. W. Morley. A-I. bowlers, good sports, capital fellows, both of them,—THE CIVILIAN should recommend them for a place on next year's executive of the C.S.A.A.A.

\* \* \*

**Football.**

The championship of the C. S. Association Football League was won by the "Outside" team, which did not lose a game in the whole series of six played. The following is the final outcome of the series:—

	Played.	Won.	Lost.	Goals for.	Goals Against.	Points.
Outside ... ..	6	6	0	18	1	12
Topographical ...	4	2	2	6	8	4
Militia... ..	6	1	5	2	18	2
West, E. & Lan.	4	1	3	6	5	2

\* \* \*

**Ten Pins.**

The C. S. Bowling Club have completed organization for the coming season. The O.A.A.C. alleys have been engaged for every afternoon from 4 p.m. until 6.30 p.m. and on Saturdays from 2 p.m. until 6.30 p.m. from Nov. 15th to April 1st, 1909. Twelve teams have entered, and with such splendid accommodation and enthusiastic membership, a tremendous success is anticipated. A new rule has been put in force this season relative to senior bowlers. This was one of the drawbacks of last season, and it proved a puzzling question for this year's representatives to solve. Many solutions were advanced, but the one finally agreed upon was the Montreal senior rule—i.e., all are now considered juniors, but any member bowling one game in the C.A.B.L. becomes a senior and is no

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**D. HOSSACK**

MANAGER.

longer eligible to bowl in the C. S. League until such time as he has missed two games of his team; then he may be eligible for the C. S. League, or in other words he becomes a junior again. Otherwise, the rules are practically the same as last season. Further information may be had by addressing the secretary, Mr. Geo. Lindsay, Audit Office, corner Queen and O'Connor streets. The teams and representatives follow:—

Team.	Representative.
Topographical	} R. W. Morley.
Surveys .....	
Auditor General .....	Geo. Lindsay.
Customs Statistics..	H. W. Patterson.
Trade and Commerce	} J. F. Richards.
Customs Dept.	
Mounted Police	
Post Office .....	H. Doyle.
Printing Bureau .....	
Interior .....	E. Turcotte.
Railways and Canals...	A. H. McKee.
Militia .....	A. A. Lapointe.
Public Works	} Howard Stewart.
Agriculture.....	
Canadian Building	} H. Blatchley.
Geographers	
East Block .....	} J. A. Rodd.
Marine and Fisheries.	
Chairman—E. A. Thomas, Dept. of Agriculture.	

The first half of the schedule follows. No further notice will be given and representatives are requested to have their teams ready for their respective dates.

- Nov. 16—Customs Statistics vs. Geographers.
- 17—Interior and Langevin vs. Customs, etc.
- 18—Marine and Fisheries vs. Topographical.
- 19—Militia vs. Railways.
- 20—Audit vs. P.O.D.
- 21—Bureau vs. Agr. and P. W. D.
- 21—Geographers vs. Interior.
- 23—Railways vs. Audit.
- 24—P.O.D. vs. Marine, etc.
- 25—Topog. vs. Militia.
- 26—Agric. and P. W. D. vs. Geographers.

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 5—Bureau vs. Geographers.  
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 14—Railways vs. P. O. D.  
 15—Agric. and P.W.D. vs. Customs, etc.  
 16—Statistics vs. Topog.  
 17—Geographers vs. P.O.D.  
 18—Agric. and P.W.D. vs. Interior.  
 19—Bureau vs. Customs.  
 19—Railways vs. Bureau.  
 21—Geographers vs. Audit.  
 22—P. O. D. vs. Interior.  
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 Jan. 2—Interior vs. Railways.  
 2—Bureau vs. Militia.  
 4—Agr. and P.W.D. vs. Marine, etc.  
 5—Geographers vs. Topog.  
 6—Customs vs. P.O.D.  
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 8—Interior and Langevin vs. Audit.  
 9—Bureau vs. Marine, etc.  
 9—P. W. D. vs. Topog.  
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## CIVIL SERVANTS AND THE INCOME TAX.

### Judgment of the Supreme Court of Canada in the St. John Case and the Reasons Therefor.

THE CIVILIAN is enabled, by the courtesy of Lt.-Col. Coutlee, K.C., to furnish its readers with a full report of the judgment of the Supreme Court in the appeal of *Abbott vs. The City of St. John, N.B.*, by which it is held (Mr. Justice Girouard dissenting) that a civil or other officer of the Government of Canada may be lawfully taxed in respect to his income as such by the municipality in which he resides.

The findings of the judges are as follows:

#### Mr. Justice Girouard.

The appeal involves a very important question of constitutional law which has already received attention of the provincial courts of the Dominion on several occasions and has obtained the same solution, almost unanimously, so much so that the counsel of the City of St. John in this case relies only upon the judgment appealed from and also upon the recent decision of the Privy Council in *Webb v. Outrim*, an appeal from Australia, reported in *Appeal Cases for 1907*, at page 81. None of these cases has ever reached our own court. For at least twenty years the decisions of the provincial courts were accepted throughout the whole Dominion as being settled law. It is high time that the point involved should be carried to the Privy Council in order to set at rest what is becoming now the unsettled condition of the courts. I do not intend to review all those decisions. They number about twelve or fifteen. I will merely indicate some of them:—*Ex parte Owen* (1); *Ackman v. Moncton* (2); *Coates v. Moncton* (3); *Ex parte Burke* (4); *Evans v. Hudon* (5); *Crevier v. DeGranpre*

(6); *Leprohon v. City of Ottawa* (7); *Bucke vs. City of London* (8); *Reg. v. Bowell* (9).

I am not prepared to say that all these decisions, rendered by the most eminent judges of our country and accepted by the whole community, are wrong. I will wait till the Privy Council so declares under our own constitution. The New Brunswick judges in this case, without, however, offering any reasoning, express the view that the rule laid down in this very long array of decisions has been disapproved by the judicial committee in *Webb v. Outrim* (10). There the Privy Council held that the respondent, an officer of the Australian Commonwealth, resident in Victoria, and receiving his official salary in that state, is liable to be assessed in respect thereof for income taxes imposed by an Act of the Victorian Legislature. This decision has been severely criticized in the *Law Quarterly Review* (vol. 23, pages 129, 373), and has given very little satisfaction in Australia, especially in the High Court of that Commonwealth whose former decisions in *D'Emden v. Pedder* and *Deakin v. Webb* (1) were disapproved. On a subsequent occasion, in *Commissioners of Taxation v. Baxter* (2), and *Commissioners of Income v. Cooper* (3), the High Court of Australia refused to follow *Webb v. Outrim*. This may be strictly correct as it was not rendered on appeal from that court. On more than one occasion the courts of appeal in England refused to follow the rules laid down by the Privy Council, as that tribunal does not form part of the judicial hierarchy of the kingdom, although some, if not the majority of

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the learned judges sitting in that tribunal frequently sit in the House of Lords; see *Dulieu v. White* (4). The Commissioners of Taxation thereupon applied for special leave to appeal from that judgment of the High Court, but the Privy Council refused to interfere upon the ground that since the decision in *Webb v. Outrim*, the Commonwealth had passed a statute especially authorizing the states to impose taxation of the kind in question, so that the controversy was at an end.

If in the above cases the decisions of the Privy Council upon the Constitution of Australia were not binding upon all the courts of that Commonwealth, *a fortiori*, it cannot be binding upon us, unless clearly applicable to our constitution; and that is exactly the point which, with due deference, I cannot agree with the court below.

Section 91 of the British North America Act, 1867, declares that "the

exclusive legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated; that is to say:—

"Par. 8. The fixing of and providing for the salaries and allowances of the civil and other officers of the Government of Canada."

And the same clause of the Act adds:—"Any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the legislatures of the provinces."

The power of a province to impose this tax must be found in section 92 of the British North America Act, 1867, which enumerates all the powers given to the provinces under our system, which, in that respect, differs entirely from the Australian system.

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Whatever is not given by the British North America Act, 1867, to the provincial legislatures rests with the Parliament of Canada. Newcombe, p. 193. In the Commonwealth Constitution, the states retain exclusive control on all subjects, authority which has not been conferred even on the Commonwealth. Teece Companion, p. 34.

As I read clause 91, I believe the provincial legislatures have no power to do anything that may interfere with the "fixing of and providing for the salaries," etc.; and, if they do so, their legislation is *ultra vires*. The power of direct taxation as provided for in para. 2 of section 92 cannot mean taxation of these salaries as the effect of that taxation would, undoubtedly, be the reducing of the same more or less as the legislature or the municipality might deem proper, and this, I submit, is contrary to para. 8 of section 91. The local legislatures and municipalities might

by levying excessive taxation on the salaries of federal government officers either make it impossible for the government to maintain the present scale of remuneration or make it impossible to retain their present officials. That is the view taken by our own courts.

In the application on behalf of the Crown for leave to appeal to the Judicial Committee in the case of *Armstrong v. The Queen*, involving the question under the "Exchequer Court Act" of the liability of the Crown for negligence and other questions, Lord MacNaghten stated as a ground for refusing the application. "This seems to have been the law for eighteen years."

His Lordship was referring to the decisions of the Supreme Court of Canada in the case of the *City of Quebec v. The Queen* (1), and *Filion v. The Queen* (2).

This application is, therefore, a distinct precedent for the position that

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the committee will not grant leave to appeal from a decision, right or wrong, where it is in accordance with the law which has been observed in the colony for many years.

The case of Leprohon v. The City of Ottawa (3), is a distinct authority which has been uniformly followed for many years that the local legislatures cannot tax salaries of the Dominion officials. The decision proceeds upon reasons which are fully elaborated by the various judges who pronounced opinions in that case. Their conclusions may be right or wrong but, the fact remains that it was acquiesced in for a long period, and the only thing which has now happened to disturb it seems to be the decision of the Judicial Committee in the Australian case of Webb v. Outrim.

That decision, however, is not, owing to the difference of constitutional provisions in anywise incon-

sistent with the Leprohon Case, and if the Supreme Court of Canada were to follow the latter decision, the committee could not, consistently with what they state in the Armstrong Case, grant leave to appeal.

For these reasons, I am of opinion that the appeal should be allowed with costs.

**Mr. Justice Davies.**

This appeal raises for the first time before this court the important constitutional question of the right of the provinces of the Dominion to impose income taxes upon the Dominion officials resident in the respective provinces in respect of the official salaries paid to them in those provinces by the Dominion.

The same question had been raised years ago in several of the provinces and had been decided by the provincial courts adversely to such

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right. In the Province of New Brunswick the Supreme Court of that province so decided in the cases of *Ex parte Owen* (1) in 1881, and in *Ackman v. The Town of Moncton* (2) in 1884. When the case now in appeal came before that learned tribunal, the Chief Justice, speaking for the full court, held that its previous decision had been practically overruled by the Judicial Committee of the Privy Council in *Webb v. Outrim* (1), and that, as they could not distinguish that case from the one then before it, they were bound to reverse their previous decisions and uphold the constitutionality of provincial legislation imposing income taxation upon Dominion Government officials which they held that Act in dispute did.

On the argument before us it was contended that the radical and underlying differences in the constitutions of the Dominion and the Commonwealth were so great that little weight ought to have been given to a decision upon any one of them when sought to be applied to the other. Speaking generally, there is no doubt weight in the contention and care has to be taken, of course, so as to avoid necessarily applying observations alike apt and applicable to one constitution when the proper construction of the other is under consideration. In every case, it is a question as to the proper construction of the language of the constitutional Acts and, in reaching such construction, due weight must, necessarily, be given to the general scheme involved in the construction so far as that is apparent. But with this general and probably trite observation in every case

the meaning of any clause is a simple question of the construction of the language used. Chief Justice Barker in his judgment correctly summarizes, in my opinion, the cardinal distinction between the two constitutions when he says:

"In the case of Australia, general powers which the provinces had previous to federation, and given to the federal parliament, the residuum of power remaining in the provinces. In Canada, specific powers of legislation were given to the provinces and the residuum of power was given to the Dominion."

And so it has been laid down by the Judicial Committee as a canon of construction for the British North America Act, 1867, that, in order to ascertain whether any claimed power of legislation belongs to the provincial legislature you must seek and find it in some one of the various sub-sections of section 92. If you cannot find it there, then it must be held not to exist. But, even if you have found it there, you must go further and see whether the same or an equivalent power is not given to the Dominion Parliament under section 91. If it is not, then, of course, provincial legislation on the subject is constitutional. But, if it is found in section 91 also, then, at any rate in cases where the Dominion Parliament has legislated and to the extent it has legislated, the local legislature is incompetent to legislate.

Now, it seems to me the questions before us are, First—Whether the power to legislate upon the subject given to the provinces are wide and broad enough to cover the cases of

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Dominion officials resident within the province, and, if they are, whether such power is in conflict with or inconsistent with the powers given to the Dominion Parliament under the 91st section?

Section 92 gives the provincial legislatures power exclusively to make laws in relation to matters coming within the classes of subjects, next hereafter enumerated. Sub-sec. 2. Direct taxation within the province in order to the raising of a revenue for provincial purposes.

Now, it does not seem to me open to argument that these words are large and broad enough to cover a provincial income tax reaching all residents of the province.

Unless therefore there is some implied exception or some conflict with a power given to the Dominion Parliament in the 91st section, there would be an end to the case.

Such conflict, however, it is contended is found in sub-sec. 8 of section 91:—

The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.

I am unable, however, to see any necessary conflict between the two powers conferred.

The Dominion fixes and provides the salary and the province says "you shall pay to us the same income tax upon your salary as all other residents of the province have to pay upon their incomes." The conflict is, to my mind, an imaginary one. The

province does not attempt to interfere directly with the exercise of the Dominion power, but merely says that, when exercised, the recipients of the salaries shall be amenable to provincial legislation in like manner as all other residents.

But, then, it is suggested, the power, if conceded to the provincial legislature, may be so exercised as to practically defeat the power of the Dominion Government in fixing the salaries. In other words, the power which exists in plain language in sub-section 2 must be limited by the courts for fear of its improvident exercise by the legislature. Time and again the Judicial Committee have declined to give effect to this anticipatory argument or to assume to refuse to declare a power existed in the legislature of the province simply because its improvident exercise might bring it into conflict with an existing power of the Dominion.

It is said, the legislature might authorize an income tax denuding a Dominion official of a tenth or even a fifth of his official income and, in this way, paralyze the Dominion service and impair the efficiency of the service. But it must be borne in mind that the law does not provide for a special tax on Dominion officials but for a general indiscriminatory tax upon the incomes of residents and that Dominion officials could only be taxed upon their incomes in the same ratio and proportion as other residents.

*(To be continued.)*

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