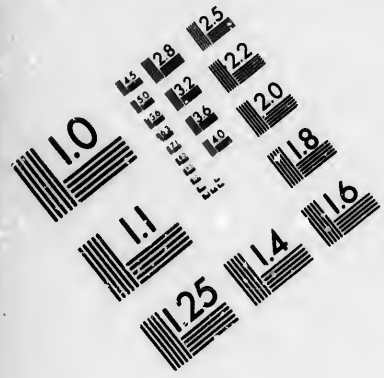


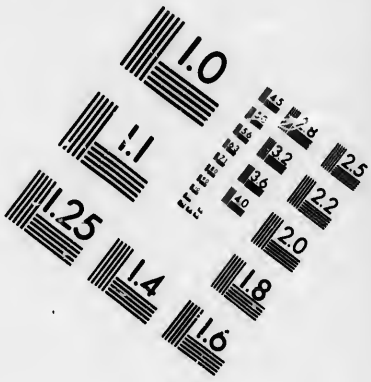


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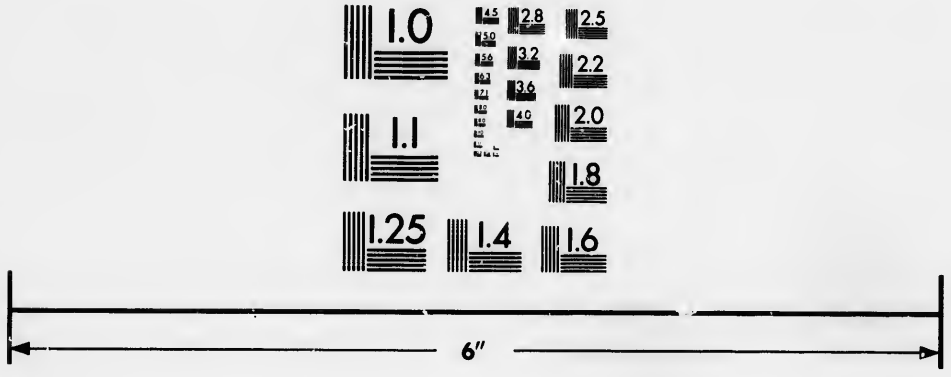


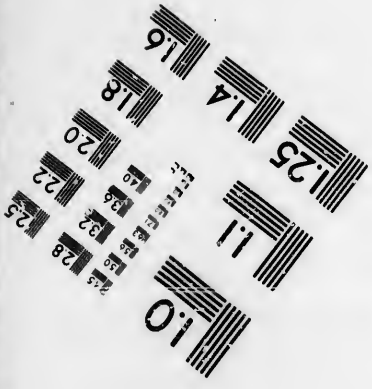


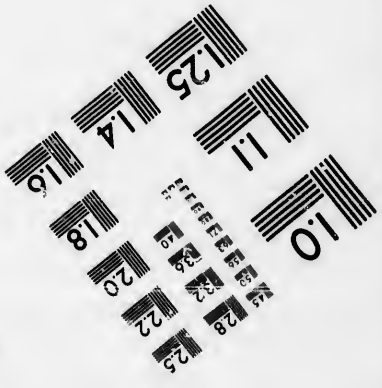


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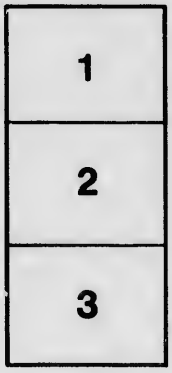


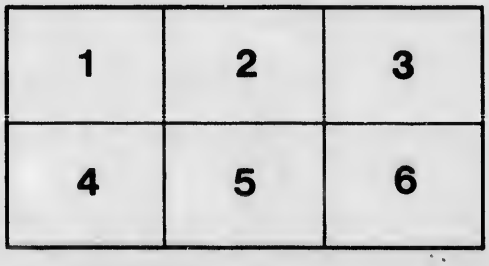

Sanford Flemming, D.C.L. &c.
with the compliments and grateful regards
of the author
Ottawa
11 May 1893.

# ADDENDA

TO

# WAIFS IN VERSE AND PROSE, &c.

BY

G. W. WICKSTEED, Q. C.

2-1782

# ADDENDA TO EDITION OF 1891.

## THE OTTAWA VALLEY CANAL.

Editor of THE CITIZEN.

SIR,—The Hon. Mr. Tassé's thoughtful commendation of the Ottawa Valley Ship Canal, in his first Senatorial speech at the opening of the present session, was followed by your insertion in THE CITIZEN of the 9th instant, of Mr. H. K. Wicksteed's elaborate explanation of the project, and of the proposed ship railway from Lake Huron to Lake Ontario; and then by Mr. MacNutt's criticisms, proving the critic to be a zealous friend of Ottawa, well acquainted with the route and an uncompromising advocate of it, yet scarcely allowing for the existing scale of navigation on the great lakes by vessels whose tonnage runs into thousands, though they are not intended to cross the Atlantic without breaking bulk, but to carry their cargoes to a port upon it. You have thus aroused an interest in a subject of great importance to the Dominion and of not a little to our neighbours south of us; and I think your readers will be glad to know what the best informed of those neighbours think about it, and therefore ask you to insert the extract I send you from an article in the May number of ENGINEERING NEWS, the best American authority on matters relating to railways and canals or connected with them. After citing and carefully commenting on Mr. Wicksteed's letter respecting the Ottawa Ship Canal and Mr. Carlisle's ship railway the editor says:

"We are disposed to agree in general and in detail with our correspondent's statements, with some trifling amendments tending to still further strengthen his position. The Ottawa River is a route marked out by nature for direct communication between the great lakes and the Atlantic." And after mentioning the amendments by which he proposes to strengthen Mr. Wicksteed's position, he says: "We should be glad to do whatever we might, in these columns or otherwise, to further so grand a project; but under existing conditions what is the use? So great a work cannot be carried through without Government aid. The United States Government will do nothing for it, because the route lies outside of its own territory. The Canadian Government is not likely to do anything for it, first, because it has rather overloaded itself with Governmental subsidies; and, secondly, because (from a superficial point of view at least) the chief benefit of the canal would accrue to the great cities and lakes along the American coast of the upper lakes, the Canadian side (with the exception of Manitoba) having small population and less commerce. Thus between two stools the project falls to the ground. The American Government would build it but can't: the Canadian Government could build it but won't. Had the route lain within American territory it would have been built long ago, and probably at Government expense, as a free highway of commerce, so great is the opportunity. Were the route to-day under American control it would not be two years before work on it would be under way: but with one country to reap the chief gain and another country to pay the chief price for it the prospect for any immediate action is poor."

Perhaps so. But may we not hope for a better result? We made the Welland Canal, and our neighbours benefit by it jointly with us; we have international railways, bridges and tunnels, owned partly on both sides of the line, and there are many other undertakings in which Canadians and Americans and Europeans have shares and stock; we have lived in peace

and goodwill for more than half a century; and there is nothing like a common interest for ensuring the continuance of those blessings. It is admitted the canal would pay if tolls were levied, and they would belong to the company making it, or the Government assisting them. May not men be found on both sides of the line who will become members of a great company to make the Ottawa Ship Canal aad receive Government ald in the undertaking?

W.

CITIZEN, 26th May, 1891.

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## A KIND WORD.

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*To the Editor of* THE WEEK:

SIR,—Old subscriber and constant reader as I am and have been of THE WEEK, I was never more convinced of its merits than by your last number, which I should readily offer to any supporter of the *Fad* that we have no Canadian literature, in proof of his error. Nor was I ever more sensible of its good fortune in the list of its contributors, and (don't be blushing) of its editor. To begin with the ladies: we have Emma C. Read, giving us a touch of Thomson and Niobe in her beautiful but mournful verses on the "Passing of Autumn," and wielding the sceptre of the poet of the seasons as his worthy successor in a realm where the Salic law does not prevail. Fidelis, ever tender and true, full of faith in the divine goodness, but sympathizing with Whittier in his aversion to theological rigidity, and the Shibboleths of ecclesiastical divisions, and his preference of the Sermon on the Mount to the Athanasian creed. Alice Jones dis-

coursing in language at once religious and poetical on "All Saints' Day" and the land of the great departed, the silent dead, in consonance with this period of the falling leaf and the death of nature. Seranus, she with the masculine name and sense, and the light hand and the delicate touch of woman—the sweet singer of the Rose, the Pine and Fleur de Lis, whose birthday book has given us, from Canadian poets, graceful memorials for our several natal days, and entertains us as a Lady Rambler, with the strange doings of Paris, the processions of genius from Boston, the Kilted Regiment of Toronto, and why we love a Man-of-War. Sarepta, the lord (or lady, for his or her sex is a mystery to me) of Sonnet, and to whose muse we owe many excellent specimens of this favourite form of poesy; and a mos- interesting article on Philomena, whose sex has been so strant gely dealt with by the poets who imagine that all things beautiful and lovely must be feminine, and so would certainly assign that gender to your said able contributor.

I have not much room left me to speak of those of the sterner sex as they deserve. I make my bow to them and acknowledge my indebtedness to them, and to you for enabling me to know them and benefit by their labours. Mr. N. F. Davin especially deserves our gratitude for showing us so clearly *what* our coming Canadian Ministers ought to be: but would not that gratitude have had a firmer *raison d'être* if he had also told us *who* they ought to be? The great teachers who have sought to direct our studies and tell us what they ought effect, have given us lists of the books we ought to read; would it not have been well that Mr. Davin should give us a list of the gentlemen who should form our Cabinet? How can he refuse to do so? Does not his article prove that, as he says of Mr. Abbott: "He is a man of judgment; he knows the opinion of Parliament, the necessity of the situation, the sentiments of the country." And has he not shown himself able—"The applause ef listening senates to

command?" Let him tell us the names of those whose advent to power we must pray for, and endeavour to secure?

On the principle laid down by the wise and peace-loving Chancellor of Queen's University, it would seem that a Government, like a Parliament, should be formed of able and honest men taken in *due proportion* from both sides of the House; and Mr. Abbott might consult Mr. Laurier as well as Mr. Davin in choosing them. The plan seems Christian and wise, but it would make a *coalition*, a form which does not suit the lovers of the loaves and fishes, or the spoils system: yet a coalition Government abolished the Seignorial Tenure and settled the Clergy Reserves question.

And now, sir, allow me, with all possible deference, to say a word to you. I know that you are as stern an opponent of annexation as Sir John himself, but wish as he did and as I do, for the most friendly feeling and the closest intercourse between Canadians and their American cousins, consistent with the honour of the Dominion, its control of its own tariff and its relation to the Mother Country; and that you would like, as I should, that travellers might pass across the line either way, or over or under the St. Clair River, without being stopped by Custom officers and asked for the keys of their trunks, or searched for contraband goods; but you seem to think, with Mr. Wiman, that this might be effected, without violation of the conditions above mentioned, under Unrestricted Reciprocity; and I believe many of its supporters think so too. Doctor Goldwin Smith says that Unrestricted Reciprocity would abolish the custom-houses, but he evidently must understand the term in a larger sense than our Opposition members admit. They limit it, I believe, to the productions and manufactures of the two countries respectively, with which limitation the customs officers must remain, and have the very difficult duty of ascertaining the origin of each article carried across the line. The two countries must have corresponding tariffs if the system is to

work effectually and fairly, and as they could hardly remain unaltered forever, some provision must be made for changing them on occasion, and a change may involve taxation which should be accompanied by the consent of the party taxed. The United States would hardly consent to Canada's lowering the duty on British manufactures, and so spoiling the Canadian market for American. I do not say that Mr. Wiman has no plan for obviating these objections, but he has not told us what it is; and you and he must pardon me if I have ventured to differ from you; but I believe *you* and I agree. Your poets, *genus irritabile* as they are supposed to be, seem to have no jealousy among them, and your critics, if you have any, are very mild. I have heard neither growl nor squeal from either, and I have, now and then, been a contributor to your columns in verse and prose.

W.

OTTAWA, Nov. 3, 1891.

NOTE—Our high opinion of our venerable and accomplished contributor has overcome our innate modesty, and led us to publish his very kind and generous letter.—ED.

*The Week, 13 November 1891.*

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## A PARALLEL.

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Editor of THE CITIZEN.

SIR,—Is there not a curious parallelism between the case in which our neighbours say we agreed to let their vessels use the Welland Canal on the same terms as our own but have made a protectionist exception against them, unless they are carrying

cargoes to be delivered at Canadian ports,—and that in which they affect to give copyright privileges to British works but impose a protectionist condition, that it shall not apply unless they are printed in the United States from plates made there: and if so might we not set our complaint against theirs, or would it be better to get the coming conference to remove both? Will some of your able correspondents tell us, and tell us also what is the right pronoun by which to designate the Great Republic? I find "It," "They," and even "She," used. "They" seems best, but the preference seems to be for the singular number, and to make "*E pluribus unum.*"

Ottawa, Nov. 27, 1891. W.

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## FEUILLES VOLANTES, POÉSIES CANADIENNES

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This is the title of a charming book of French poems, by Dr. Louis Fréchette, our French-Canadian Laureate, published and beautifully printed by Granger Brothers, Montreal, 1891, and containing twenty-one pieces on divers subjects, all interesting, written in graceful and effective verse, forcibly expressing the author's feelings and views on the matters he deals with; the first being a long and eloquent eulogy of Jean Baptiste de la Salle, a secular priest, founder of the schools for the people in France and of the Order of the Brothers of Christian teaching. De la Salle (a distant relative of Robert de la Salle who discovered and first explored the Mississippi,) was a citizen of Rouen, and for many years the director of a school there; and in remembrance of this, his statue in bronze, by the famous sculptor, Fulguière, was erected in the city, and in the same place with the statues of Napoleon and Corneille. Our poet's enthusiastic love for his fellow-men, and for those who have loved

them, and made their condition happier and better, finds eloquent expression in his eulogium, in which he tells us that De la Salle made humanity better, and that through his efforts four hundred thousand children learned to read and to pray.—Fronting the three statues, he saluted those of Napoleon and Corneille standing, but knelt to salute that of De la Salle, whose story and character are beautifully told. The next piece is a charming description of a town and country on the banks of La Creuse, a Breton River, the scenery on which, with the remembrances it calls up and the feelings it excites, moves our poet as poets only are susceptible of being moved; love and admiration for Britanny could find no more vivid expression.

We have next a burst of passionate indignation at the insults offered by the populace to Alphonso XII, of Spain on the occasion of his visit to Paris, with an enthusiastic enumeration of the glories of Spanish history and the benefits Spain conferred on the world by her discoveries and the acts of her illustrious sons, and a wail of bitter grief that France, the self proclaimed lover of liberty, should have so disgraced herself. "Le Pélerin" (the Pilgrim) is another tribute to the beauty and hospitality of Britanny, whence our Britain derives its name and Canada many of her foremost children. "A Quinze Ans," a sweet little poem, tells the tale of our poet's first and most enduring touch of the tender passion, born of the vision of the sweet face of an English girl at the window of an old country house, through the foliage that surrounded it and never seen again, but present to his fancy whenever he passed that spot, to which he was drawn by an irresistible attraction.

Seventeen other poems follow, on many subjects and addressed to divers persons; all characteristically treated, and evincing their author's warm attachment to his friends, deep religious feeling in "La Chapelle de Bethléem," "Noëls," "Première Communion" and "La Messe de Minuit," and kindly home feeling, family affection and playfulness in "Les Rois" (Twelfth

Night,) "Le Jour de l'An," and the address to "Madame F. X. Lemieux," on the birth of her fourteenth child. He tells a touching story in "La Poupée" of the arrest and imprisonment of a poor half-starved boy, who had stolen a doll for a New Year's gift to his dying sister, and expresses earnest regret that magistrates should be compelled by duty to pass the harsh sentence of the law on such an offender.

There is no political ill-feeling, no bitterness or race prejudice in the book. In the address to Mathew Arnold at Montreal, we have the expression of a hope that the English poet will sing the beauties of the scenery of our country and the glories of its magnificent future. And if in "Bienvenue," the welcome to our American visitors, we have an intimation that in some far distant time our two countries may have one flag in which the Stars and the Tricolor may both appear, we must remember that few among ourselves suppose that our State will for ever remain what it is, and if our poet forgets having told us that Lévis "bowed upon the golden fleurs de lys," and not on the ensign of the revolution, we must remember too that Canada was "deserted at her utmost need" by the white flag of the Bourbons, and that if some of her children forgot their allegiance to our Tricolor, England's "Red, White and Blue," it was for causes of which wo have since acknowledged the force, by removing them. Let us follow the hint Burns gives us as to such case,—to "suppose a change of places" and think how things would look to us from the opposite standpoint.

Dr. Frèchette has given us a modest volume which should tend to soften the tones of those who say that Canada has no literature, and we thank him for it. We wish more of our readers could read and appreciate his work, and that some at least of our English-speaking rulers could speak French as well as some of our French ones speak English, it would be useful, especially when we come to exercise that treaty making power some of them are so fond of claiming; for conferences between

nations are still often conducted in French, and those who are best versed in the language in which they are so, will always have a great advantage.

We conclude our notice with an English version made for us by a friend, of the Epilogue with which our book closes, a sort of brief epitome of a poet's life :—

EPILOGUE.

At twenty years a fretful bard,
In the sweet rosy hours of spring,
I wandered in the woods to ease
My wayward heart ;
And murmuring to the breeze, alas,
The dear name of some faithless fair,
I breathed the fragrance of the flowers,
Musing on her.

In sweet illusions still enwrapped,
My heart by every fancy swayed,
Later to Fame's seducing charms
Opened the door ;
And Glory the deceiving sprite
So apt to spread her wings and fly,
Surprised me often, in her turn,
Dreaming of her.

But now when I am growing old
Such lying visions cheat no more,
And my poor heart, more wisely sad,
Prompts graver thoughts :
There is for us another life
Open to every faithful soul,
And—late, alas—upon my knees
I think of heaven.

W.

*The Week*, 15 January, 1892.

## MADAME LAFONTAINE'S ALBUM.

Madame LaFontaine of Chambly, sends me her album with a request that I will write something new in it;

I answer—

I should be delighted to fill Madame LaFontaine's beautiful album with choicest flowers of poesy, wit and eloquence; of that she may be assured, for she knows my ancient and firm friendship for herself and her family, and that I am now as ever,

Her faithful friend,

G. W. WICKSTEED.

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But if ~~any~~ my fair petitioner supposes,
That her most kind encouragement enables
A worn out bard to write rhymes sweet as roses,
Her thought doth savour of her namesake's fables;
Yet have I given her something new, for—look!
Here's truth not fables in Lafontaine's book!

W.

OTTAWA, 31 March, 1892.

## IN MEMORIAM.

### The Hon. Alexander Mackenzie.

Integer vitæ scelerisque purus.—Hor. Ode 22.

Of Scottish birth and racy of the soil
In speech and shrewd intelligence,—he rose
By honest toil of skilful hand and brain,
To the chief place in his adopted land,—
Where, holding fast his firm unswerving faith
In equal rights and laws for rich and poor,
Ordained by rulers of the people's choice,
And strict frugality the surest source
Of public wealth,—by manly courtesy
To each and all, he won the deep respect
Of friend and generous foe,—nor lost it when
His power had passed to bolder hands,—nor when,
His patriot record closed, in death he slept,
And o'er Mackenzie's grave a sorrowing people wept.

W.

Ottawa, 19 April, 1891.

*To the Editor of* THE WEEK :

SIR,—Heartily thanking you and your contributors for your excellent number on Lady-Day, I beg leave to offer, very respectfully, some remarks on the articles in it.

As long ago as the 27th January, 1887, and on the 9th day of January, 1890, I took some pains in letters to the Ottawa *Citizen*, of which you have copies, to explain to our Liberals, as Mr. Chamberlain had done to some of them who interviewed him, that Commercial Union with the United States would not merely *tend* to Annexation, but would be *the thing itself*, and Unrestricted Reciprocity little less. And now I see with pleasure that your correspondent, Mr. Edward Fulton, of Harvard, tells them the same thing about the *Fad* of power to make their own treaties with foreign nations, saying plainly : "The assertion of such a claim would inevitably force England to choose between resisting it, and dissolving the connection entirely," and that "if Canadians are really determined upon acquiring the absolute control over their trade relations with foreign countries, there is but one way to go about it. Are they prepared to take that way?" That way is *the thing itself* independence. I said then, as now, that *Canada* does not want it, though she may possibly have a cranky child or two who does. No State in the American Union can enter into a treaty with any foreign country; nor, I believe, does any State complain of that provision of the Constitution.

I thank you for the article from the *Jewish Messenger*, on charity and the creeds. Though written by a Jew, it is conceived in the spirit of the Sermon on the Mount, and may be read and pondered upon with profit by men of every sect and creed, and it teaches a lesson which every Christian society may take to heart, and which your contributor, Mr. C. M. Sinclair, enforces in his plea for the starving Russians. If his suggestion were placed properly before the public, I think few who could

afford it would refuse six dollars to save the life of a Russian peasant, though the Government of that great empire ought to be able and willing to care for its own subjects.

Your Library Table brings vividly to remembrance the saying of the wise king, that of the making of books there is no end; and we are gratified for the hints you give us as to which are best worth reading, and their name is legion. But you do not mention "The Poets of America," published by the Publishers' Association of Chicago, carefully edited by Thomas W. Herringshaw, and splendidly printed and got up, with gilt edges and morocco binding, and containing 1,390 pages of extracts from 1,348 American poets, with photographic likenesses of about three-fourths of them. But—

> I tremble while I mention it I swear,
> Lest our own poets question my veracity.

Only two of them are Canadians, and only one of these two resides in Canada, that one being W.—*Ille ego qui adsum*—and the non-resident one that very amiable poet and pastor, the Rev. Arthur J. Lockhart, who resides in Maine, and to whose intervention W. owes his place in the book. I do not remember how many Canadian poets owe immortality to their place in the "Songs of the Great Dominion;" but taking the proportion of population of Canada to that of the United States to be five million to sixty, they ought to have been $\frac{1}{12}\frac{1}{6}$ —say 112, omitting the half poet. Mr. Lighthall should see to this, and find the missing ones, including Dr. Fréchette and Mr. Sulte and the other French-writing poets with whom you have dealt so handsomely and justly. Kindly suggest this and encourage him for the honour of Canadian literature.

W.

*Week*, 1st April, 1892.

## THE BEHRING SEA CONTROVERSY.

May we not hope that the difficulty said to have arisen between Lord Salisbury, acting for the British Government, and Mr. Harrison for that of the United States, will be soon settled in a manner honourable and satisfactory to all parties, and the treaty respecting the seal fishery in Behring Sea sanctioned and carried out. It seems that Mr. Harrison wants the *modus vivendi* of last season continued during that now approaching, that Lord Salisbury, in his first note in answer, expressed a wish that the arrangement should extend only to the distance of thirty marine miles from the Pribiloff Islands, that Mr. Harrison objected, and that by a note subsequently received Lord Salisbury has intimated that if he agreed to this, it must be understood that England did not undertake to indemnify the owners of British sealers for losses arising from such continuance—a condition from which it may, perhaps, be inferred that the continuance had been asked for or approved by the Canadian Government, who would, very properly, favor anything tending to the early settlement of our misunderstanding with our southern neighbor. On this the *New York Herald* says: "But what Lord Salisbury now claims is the liberty for Canadian poachers to catch all the seals they can with entire exemption from liability on the part of England if the arbitrators shall decide that these poachers have no business in Behring Sea:" and a Canadian paper rejoins: "The impudent pretension of the Americans that they own Behring Sea,—and this is implied in the above use of the word 'poaching'—raises no doubtful issue. They have exactly the same claim to the whole Pacific Ocean."—Which is true.

We however, assume that Lord Salisbury only intimated that if, under the award of the arbitrators, any sum should be paid to British sealers as damages arising from the continuance of the *modus vivendi* in compliance with the desire of the Canadian Government, such sum must be reimbursed to England by the said Government, as, of course, it ought to be. But if the award of the arbitrators be that the United States have no exclusive rights in the seal fisheries in Behring Sea outside of three marine miles from the shore of their possessions adjoining it, then such damages, if paid, must be repaid by the United States.

Unfortunately there is yet no Parliament of Nations, and therefore no written Act defining the international law in such a case; but it has always been understood that the exclusive jurisdiction of a country over the seas adjoining it extends only to three marine miles from the shore, and, as this rule has, beyond all question, been insisted on and allowed by England and the United States in all other places, it is for the United States to show that it does not apply to Behring Sea. On the Atlantic side of America, both parties have admitted it as unquestionable. All the arguments Mr. Harrison has hitherto urged against its applicability to the present case seem to have been abandoned by him or shown by his opponents to be futile. Russia, from whom Mr. Harrison claims to have derived such right, never claimed or exercised it against England, and therefore England cannot be said to have acquiesced in it: she disputed it, and so did the United States before they bought Alaska. England never seized a foreign ship and had her condemned for approaching St. Helena, or for fishing in a tract of sea north of Scotland, where Mr. Harrison says she prohibited such fishing, or for fishing for pearls near Ceylon; so that the *tu quoque* argument urged by Mr. Harrison fails; and neither England nor the United States ever declined to take fish outside the three-mile line on the Atlantic side because such fish were

bred and fed inside that line; and if Pribiloff seals go outside the three-mile line to catch fish for food, they feed on fish to which the United States have certainly no exclusive claim.

It would seem, therefore, that these arguments are futile; but as Mr. Harrison and many of his fellow-countrymen, whose opinions are entitled to the utmost respect, believe them to be valid (at least we are willing to assume good faith on their part), the arbitration is most desirable, and we have full confidence that the decision of such men as are to be appointed on it will command the assent of the "other powers" which the treaty wisely provides the high contracting parties shall endeavor to obtain; for if the United States have the rights they claim, they have them against the world, and no *other* nation has a right to catch a seal in Behring Sea if England has not.

It has been said that Lord Salisbury cannot consistently, by continuing the *modus vivendi*, aid the United States in enforcing a right of which he denies the existence, but he did so during the last season, and has at least equally good reasons for continuing it during the coming one and the pendency of the arbitration. And however firmly we may believe that England's contention is just and clear, our very consent to arbitrate shows that we admit that our opponents may honestly believe in the righteousness of their claim. A close season would be useless if agreed to only by England and the United States. The arbitration will settle the vexed question: Whether the United States have or have not the exclusive right they claim, and *that* relating to a close season if necessary, a point on which it has been said the experts employed by the contending parties have not agreed; and if they have, our Parliament has not yet had their report before it. The Hon. Mr. Tupper has not spoken on the subject from his seat, and he must undoubtedly have much valuable information bearing on many disputed points about the habits of the seal and its destruction or preservation. Let us hope, then, that the continuation of the *modus vivendi*

may be granted, and the arbitrators appointed, so that a decision may be assured, and peace and good will with it:—the costs such continuance may occasion must be paid by the party by whose fault or error they are occasioned, and will be as nothing in comparison with the mischief which would attend the prolongation of this dispute between two nations whose relations should be more than friendly, and between whom "a small unkindness is a great offence."

Since writing the above, we have seen it stated that Lord Salisbury has proposed modifications of the terms on which he will consent to a continuation of the *modus vivendi*, which the Senate may accept, and we shall be glad if this is true:—or the discussion may take some other turn before this number is distributed. All we desire is that the arbitration may proceed and a decision be given.

W.

OTTAWA, March 23.

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## CANADA UNDER BRITISH RULE.

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THE HISTORY OF CANADA, VOL. V. BY WILLIAM KINGSFORD, LL.D., F.R.S.

*Law Journal*

Honorably and bravely "*tenax propositi*," Dr. Kingsford, though he has not yet received that public recognition and encouragement to which, in our notice of his fourth volume, we expressed the opinion that he was fairly entitled, continues to carry out his declared purpose of bringing his history of Canada down to the union of the Upper and Lower Provinces in 1841. His fifth volume is now before us, and brings the

work down to the close of November 1775, when, he tells us after recounting the events consequent on the American revolution :—"The only scrap of territory which remained under British rule was the city of Quebec within the ramparts. The troops of Congress held the forts of St. Johns and Chambly; they were in possession of the city of Montreal, which had submitted to their authority, and Three Rivers had accepted the new rule."—A sufficiently remarkable epoch for the close of a very important and interesting volume—A table of contents is prefixed, but no verbal index, and the incidents related are so numerous and narrated in such detail, that it is impossible, in the space at our command, to give any adequate idea of them, however summary, or of the amount and value of the information the work contains. It is divided, like the preceding volumes, into books, and the books into chapters. Vol. IV. ended with chapter xi. of book xiv., and Vol. V. contains books xv. (eight chapters), xvi. (seven chapters), xvii. (six chapters), and xviii. (four chapters); filling, in all, 494 pages of the same type and size as those of the preceding volumes. Books xv. and xvi. relate to events in Canada from 1763 to 1775 inclusive. Our country was then in that unsettled state which inevitably attended its conquest and occupation by troops foreign to the native population and unacquainted with their language and habits, and of a race with whom they and their ancestors had been at war from the time of the first European settlement in America. The mass of the French the population still cherished a firm belief in the invincible power of France and in the speedy exercise of that power for the re-conquest of the country, and they had imbued with a like belief the Indian tribes who had sided with them in their wars with the people of the New England settlements, and whom they encouraged in constant resistance to English authority and influence, and so rendered them extremely troublesome and dangerous; and although the military incomers were kept under strict discipline by their

officers, who enforced order and prevented plunder or oppression, there were civilians among them who came in after the conquest in the hope and for the sake of gain, and who acted as it they thought the conquered had no rights, but must submit to any form of government the conquerors might impose for their own advantage.

The successive chapters of the book, narrate disputes and wars with the Indians, including Pontiac's plot; savage attacks on various forts, with their exciting incidents and varying results, up to the conclusion of a peace; the death of Pontiac, and the proclamation of 1763 for the protection of Indian lands, which the author correctly calls a noble monument of British national justice and tells us is acted upon to this day; the appointment of Murray as Governor-General, and the disputes as to his military rank; the trouble known as the Walker affair; Murray's arrival in Montreal; the instructions given to Canadian ecclesiastics; the consecration of Mgr. Briand as Bishop of Montreal; the paper money speculation; the departure and death of Murray; the arrival of Sir Guy Carleton, and his resolution to revive French laws; the appointment of Cramahé as Governor; the establishment of a House of Assembly discussed and considered impracticable; reports by Masères, Thurlow, Wedderburn, and Marryott, as to the law which ought to be established in Canada; discontent at the creation of a Legislative Council; a code recommended by Masères, and the opposition to it; Carleton's arrival at Quebec, his character and ability. This chapter is followed by copies of the Quebec Act, 14 Geo. III., c. 83, and of the address of the General American Congress to the inhabitants of the Province of Quebec in October, 1774. Book xvii. (six chapters) and book xviii. (four chapters) relate to the American revolution, its origin and progress, and its effect on Canada; and in them Dr. Kingsford treats critically and instructively of the political state of England, the views of the King and the Ministers on the American question;

the causes of discontent in the colonies: the effect of the destruction of Louisburg; the death of George II.; the Stamp Act at Boston; the feeling of George III. regarding America; the leaning of the Rt. Hon. Earl of Chatham in favor of the Americans; objectionable legislation in the House of Commons and threatened enforcement of the Act 36 Henry VIII., under which offences committed beyond seas might be tried in England; the letters of Junius and their effect; the so-called Boston massacre; the tax on tea, commercial restrictions, and laws against smuggling; the declaration and proclamation of rights; the Boston Port Bill; and the attack on tea ships. Chapter v. the author calls "a chapter of history to be profitably read," and it deals with; a crisis in the revolution in the winter of 1774-5; the claim of the supremacy of Parliament; the disturbing influence of the American question; Chatham's demand for the recall of troops from Boston; Franklin's duplicity as to the intentions of the Americans; pride in England no longer felt by the Americans; the author's opinion as to Canada's relations to the mother-country, and the causes of this feeling, his belief in its perpetuity, and his reasons for it, clearly and eloquently expressed; an American association discusses colonial rights and frames articles pledging its members to non-intercourse and non-importation; indifference in England and disbelief in armed resistance in the colonies; characters of Lords North, Dartmouth, and Suffolk, and of Governor Hutchinson; arrival in England of the news of the affair at Lexington; remarks respecting Sir William Howe, Henry Clinton, and General John Burgoyne, appointed to commands in America, and their several characters; call for troops by the colonies; the Continental Congress; affair at Bunker's Hill; George III., his character as now read in history, condition of society, and the King's example; the present United States and their mission; Washington; causes of the revolution considered; parties in Canada at that time; Ethan Allen surprises Ticonderoga; General

Arnold's first expedition by the Kennebec; he takes Crown Point and proceeds to St. Johns; Carleton leaves Quebec for Montreal; conduct of French-Canadians; Indians enrolled by Carleton, who proceeds to Quebec; the first Legislative Council; Carleton at Three Rivers and Montreal; his embarrassments; troops of Congress at Isle Aux Noix; Canadians join invaders; meeting at Quebec; sympathy with Congress; false theories entertained at London; Admiral Graves, at Boston, refuses to furnish troops; attack on Ticonderoga; Congress, embarrassed, petitions the King, Schuyler ordered to invade Canada; Montgomery determines to advance; French-Canadians form a camp at Point Olivier; Cramahé's proclamation at Quebec; Ethan Allen's attack on Montreal; he is sent prisoner to Quebec; cowardice of Major Stopford: Schuyler's manifesto; attack on St. Johns; surrender of Chambly; McLean moves and retires to Lake St. Peter; surrender of St. Johns; Carleton leaves Montreal; articles of capitulation; state of the troops surrendered; Montgomery enters Montreal, which capitulates; Three Rivers feels too weak to demand a capitulation and sends Badeaux and Morris to Montreal, who surrender it there; Wooster is in charge of Montreal; Washington issues an address to the people of Canada, which is given in full at the end of the volume; Arnold's advance by the Kennebec, the route taken by his expedition, its strength, and the facilities afforded it by the French-Canadians, who subsequently became attached to the British Government; Arnold fails to take Quebec and retires to Pointe aux Trembles; Carleton's determination to defend Quebec and his policy of defence, causes of the success of Congress. Copies of Washington's address in English and Hancock's proclamation in French close the volume.

We have thus endeavored to give some account, though a very incomplete one, of the work, as the best eulogy we could pronounce upon it. Want of space has, of course, compelled omissions, and our readers will understand that every incident

is given with full and graphic details, and that in his delineations of character the Doctor has exhibited the same skill and impartiality as in his former volumes, the same pleasure in praising the good and strong and censuring the bad and weak. Of the King he says, after admitting his weakness and obstinacy on some important points: "Nevertheless, the memory of George III. forms no painful passage in our history. As time has deadened the recollections of this obstinacy, his name is mentioned with invariable respect. The triumphs of the great admirals in after years achieved by the navy, and the bravery and endurance of the British soldier, have thrown into the background the want of statesmanship and the miserable mismanagement during the American war. The personal character of the monarch stands above reproach. His love of truth, his deep and sincere religious convictions, worked an effect upon the nation still to be traced. What is now especially remembered is the observance given by him to the sanctity of the family relations, and the simple habits which recoiled from the stupid dissoluteness of the revellers and gamblers of the day." —And of Washington he says: "One name alone, in the history of American independence, stands forth unapproachable in any other chronicle. Washington, in the world's text-book of political honesty, unfailing wisdom, and true liberty, is what Shakespeare is to the English-speaking race in literature, poetry, and nobility of thought. To how many of us the words of the great poet have become an incentive to exertion in our daily struggles, a hope in our disappointments, a consolation in our sorrows. Washington's example tells us all that can be effected by true and unselfish patriotism, unflinching honesty of purpose, and high principle, blended with a judgment which never slumbered and an all-seeing forethought never overmatched."— And we have mentioned in our summary many others whose characters are described with like felicity. As a law journal, we are bound to call the attention of our readers more especially

to the accounts given of the discussions respecting the law to be established in the newly acquired territory, with the reports of the law officers on this subject referred to in our said summary; and to the author's statement, in chapters v. and vi. and elsewhere, of the causes which led to the American revolution; and, repeating our former conviction of Dr. Kingsford's ability, conscientious labor, and fidelity to the truth, we again thank him for proving that Canada has a history UNSURPASSED by any other covering a like extent of time, in interest and in examples of courage, hardihood, devotion to duty and martyr spirit, and an historian worthy to write it.

W.

OTTAWA, March 1892.

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## WAIFS IN VERSE, ETC.

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BY G. W. WICKSTEED, Q. C. OTTAWA: A. BUREAU AND FRÈRES. 1891.

In noticing the previous issue of this volume we drew attention to the advanced age of its gifted author, and the remarkable clearness and strength of intellect shown by the later work of a life already prolonged far beyond "three score years and ten." Little did we anticipate that their venerable author would, like some ancient but virile oak, so soon put forth new verdure and charm and instruct us with the freshness and vigour of still later leaves. We saw a remarkable list of literary men who had attained great age which was published quite recently in the New York *Critic*. None of them were privileged to prolong their "labour of love" so near the limit of a

century of life as Mr. Wicksteed. Perhaps the bracing climate of Canada begets a sturdier growth. It was but yesterday that the well known initial "W" appeared in THE WEEK beneath a noble tribute to the memory of Alexander Mackenzie, and but a short time before, the same graceful and loving hand, paid its gracious tribute to our late Premier. The acute and scholarly review of the fourth volume of Kingsford's History of Canada, dated 16th January, 1891, and the fine poetic rendering into English of Frechette's verse in this volume, well attest the unfailing power of Mr. Wicksteed's pen. We shall close with the poetic answer by the author to a poetic greeting, sent him by a friend as he entered his 92nd year :—See page 255.

May we be permitted to express our confidence that when the parting time comes to our esteemed contributor, it will come as a welcome messenger, to one "whom THE KING delighteth to honour," and our hope that for the sake of Canadian literature it may yet be long deferred.

THE WEEK, 13th May 1892.

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*To the Editor of* THE WEEK :

SIR,—It seems to mo that your correspondent, Mr. Adams, is right and that our *litterateurs* must depend on their subscription lists until they produce something that will command the attention of the English or French-speaking world ; their Canadian audience is necessarily small, and the Americans shut them out by denying copyright unless they print in the United States, which they cannot in general afford to risk doing. It

would not do to put them into public offices requiring special qualifications which they do not possess. Dr. Bourinot and Mr. M. J. Griffin *have* such qualifications for the offices they fill. Our universities are bound to take the best men they can get for the subjects they are to teach, and they must do so regardless of the particular portion of the English-speaking world in which such men may have been born, for no such man is a foreigner in a literary or scholastic sense. In the world of letters, *Tros, Tyriusve nullo discrimine habetur*, provided he has the qualifications required for the purpose for which he is engaged. Our Parliament shows no signs of prorogation, and if, as seems probable, Ministers consent to the investigation demanded by the Opposition in Sir Adolphe Caron's case, and on which it seems as if he himself should insist, the session may go into the hot weather. There is no *new boodling* case before Parliament; those of last session have been dealt with, and the offenders are undergoing or waiting to undergo their trial and their punishment if found guilty. We have had *boodlers* of all sorts, from those in the first degree, in which the offenders have pleaded good intentions and that the *boodle* was applied to some useful public purpose, down to those of smaller dimensions without such extenuating circumstances, and in which the *boodle* was put into the boodler's own pockets; or smaller still, where it was obtained for work really done, but in violation of acknowledged official rules and by false pretences or concealment of the truth from those who had a right to know it. Is not much of the bribery and corruption of which each political party accuses the other, due to the laxity of public opinion on the subject? Would not *boodling*, bribery and corruption become rare if *society* treated them as disgraceful, and those guilty of them as unfit for association with honourable men; as hard drinking, profane swearing and open licentiousness did when so treated? for these things were practised by men who called themselves gentlemen and were received as such, as are the vices of which

honourable members accuse each other, in comparison with which the elder ones were venial sins, and the denial or concealment of which is a proof that their disgracefulness is felt. I have sometimes thought that useful as our ballot is in some respects, the demand for it is an acknowledgment of weakness upon the part of the electors, who have not the courage of their opinions, and whom it enables to accept a bribe and to add treachery to their offence by voting against the briber or the party he supports. What is your opinion ?—Mr. Ewart says very truly, that Government cannot teach religion ; but Government could and should provide that in all schools supported by it, the last six of the ten commandments shall be taught, learnt, explained and insisted on ; they contain no dogma or any doctrine disputed by honest men of any race or creed, nor command or forbid anything which is not equally commanded or forbidden in effect by Sir John Thompson's new Criminal Law Bill, though they do it in a much more condensed form and one more easily remembered and understood by those who are willing to understand and obey them ; and those who deny them the sanction of revelation, cannot refuse them that of the law. Our judges I hope a.e to be better paid, for no one can deny the importance of their services ; but the argument founded on the very large incomes enjoyed by successful advocates is not that by which the increase is best supported, for, as Sergeant Ballantyne tells us, and as I believe many of the most successful advocates have said, the men who are best paid on account of their being best able in contested cases to make the worse appear the better reason—or to prevent the other side from doing so—do not make the best judges or the only good ones.

W.

OTTAWA, May 3, 1892.

## SECTION 51 B. N. A. ACT.

*Editor* OTTAWA CITIZEN :

SIR,—Referring to the curious and important question raised by Messrs Davies, Mills and Laurier on the 51st section of the B. N. A. Act which runs thus: "On the completion of the census " in the year 1871 and of each subsequent decennial census, the " Representation of the four Provinces shall be re-adjusted, by " such authority, in such manner, and from such time, as the " Parliament of Canada from time to time provides ; subject to " the following provisions,"—(see the said Act and section " ending with the words ; such adjustment shall not take effect " until the termination of the then existing Parliament!"— This they interpret as meaning that such re-adjustment shall in every case, be made by *such authority*, and not by Parliament itself.—To me it seems that the intention must have been to enable Parliament to provide specially for the case which might probably arise, if the completion of the census should take place at a time when by the termination of the five years' life of the House of Commons, or its dissolution, there should be no Parliament which could make the re-adjustment, and when consequently, as no House of Commons could be elected until the re-adjustment should be made—there would be an absolute, incurable dead-lock, which could only be removed by the intervention of the Imperial Parliament :—and that there was no intention to prevent the Dominion Parliament from itself making the re-adjustment in any other case, if it should think proper to do so, as it probably would, and did after the completion of the census in 1871 and 1881, and intends to do now after that of 1891 : and

as it can certainly do better than any other authority could: though the provision in question was a wise one under the circumstances and might have been or be acted on, if Parliament had made or would make the necessary provision. On the present occasion, it "provides" itself and its Act, as such authority as the B. N. A. Act suggests.—It might be well now to provide for the case which I suppose section 51 to have been intended to meet; though the census of 1901, is yet far off.

OTTAWA, June 9th, 1892. *Citizen* of 11th. W.

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## THE APPEAL GRIEVANCE.

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*To the Editor of* THE CANADA LAW JOURNAL:

SIR:—In your now last number (2nd May instant) I find a very interesting editorial about the Ontario system of the administration of justice and the courts and judges engaged in it, and agree with you, that it would be greatly improved by the adoption of the changes you suggest. Some time ago you inserted a letter of mine in which I denounced the great abuses arising from heaping appeals on appeals and making it so easy to multiply them on trifling grounds, and so increasing the expenses in a suit to an extent amounting to little less than a denial of justice, and the probability of a suitor's being ruined by having obtained a judgment in his favour, and cited an article from a leading London paper to the same effect, of which I sent you a copy, and now inclose another. The writer, evidently a lawyer who knows well the matters he deals with, says: "The expense of litigation is enormously increased by the facilities which the law still gives for appeals, and appeals not only from the ulti-

mate decision, but also on minor and interlocutory points. Before a case gets into court at all it is possible for half a dozen appeals to have been made and heard, decided and overruled, on the question of whether the plaintiff who has brought an action to recover fifty thousand pounds for breach of a trade contract shall be forced to disclose some highly unimportant particulars connected with some subsidiary part of his claim. The retention of two courts of appeal is another fruitful cause both of delay and expense. When the Judicature Acts were framed it was proposed to take away the appellate jurisdiction of the House of Lords, and to create one strong court of final appeal instead. The spirit of compromise intervened, with the result that we have both the Court of Appeal and the appellate jurisdiction of the House of Lords—a profusion of judicial blessings which is more than the litigant expects, and a good deal more than he in any way desires." Would not Ontario be better for a reduction of the number of appeals and of courts of appeal, and for the adoption of the provision in the English Judicature Acts, that the judges shall meet from time to time and point out the defects found in them, and suggest amendments for simplifying and cheapening the administration of justice? Your editorial very clearly answers this question in the affirmative.

Another thing of which the English writer complains is that "for some reason or another commerce shuns the law," and that "some time ago it was recognized in judicial circles with dismay that merchants and bankers and city men generally were conspiring to give the courts a wide berth." Your article agrees with this, and notices the tendency towards arbitration as the best means of adjusting differences, and gives excellent reasons why it should be so. The courts are necessarily bound by the letter of the law when it is clear, and when it is doubtful can only interpret it within very narrow limits; and though they no doubt strive to make their interpretation consistent with substantial justice and the moral law, they can only effect

this in a very small degree; and, though it is said by good authority that Christianity is part of the law of England, a judge seldom cites the Sermon on the Mount, or the Ten Commandments, or even the last six of them. Sir John Thompson's new criminal law bill of 1007 clauses in 310 pages makes certainly an earnest endeavour to state their intention in detail, so that the courts may be able to apply and enforce them in what are called criminal cases, though they are, in fact, equally applicable to civil ones. Arbitrators dare, or ought to be, able so to apply and enforce them, and to a great extent they do so by taking into consideration circumstances, customs, practices, and understandings, all important to decisions consistent with equity, good conscience, and Christianity; and therefore arbitration, courts of conciliation, boards of trade, and like institutions, are preferred, not only by commerce, but for the settlement of disputes of any kind in which both sides really wish that justice may be done. And this arises, not from any fault of the courts or judges, but from the impossibility of making laws that shall clearly provide for all possible cases in any way but by the arbitrament of honest men perfectly competent *experts* in the matters submitted to them. It is but natural that commerce should prefer such arbitrament to the doubtful experiment of a lawsuit, which may be prolonged indefinitely by the ingenuity of brilliant advocates holding it their duty to raise every possible objection to the arguments on the opposite side, and by the doubts which the most able and impartial judge must often feel amongst the vast multitude of cases and precedents bearing more or less on the case before him. Equity is said to *follow* the law, and it certainly does not seem well calculated to outstrip it in speed. Might not some hints for improvement be found in the newer United States, in which it is said that the distinction between the two sister faculties is not admitted, nor separate courts provided for administering them?

Indeed, English law seems to stand alone in Europe in its estrangement from its more amiable and more generally esteemed relative. In your reconstruction of the Ontario courts, can you not abolish their supposed difference and make them one in name, practice, and spirit? Try.

OTTAWA, May 20th, 1892. W.

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## THE CANADIAN QUESTION.

*To the Editor of* THE WEEK:

SIR,—Your two politicians militant, Mr. Longley and Mr. Lawder, make a very pretty fight, in your number for the 15th instant, over the morits and demerits of Sir John C. Abbott's Government. Mr. Longley supports the opinion I expressed in my letter to you of the 3rd May last—"that much of the bribery, boodling and corruption, of which each of our great parties accuses the other, is due to the laxity of public opinion on these subjects," and would soon cease if society would brand them as disgraceful and those guilty of them as unfit to associate with gentlemen, as it does those guilty of the offences he mentions. I still hold the opinions expressed in my last letter, as fully as Mr. Longley does; and I agree with him in his indignant denunciation of gerrymandering. But I hold, with Mr. Lawder, that Mr. Longley is wrong in his violent attack on the National Policy, and in attributing the small increase in our population to it, and think Mr. Lawder's view far more reasonable. Nor does the smallness of the said increase seem to me so terrible as many deem it. Dr. Johnson complained rather illnaturedly of the migration of the Scotch into England, but Scotland made no

complaint about it; and in all ages the hardy inhabitants of the poorer countries, with less genial climates, have migrated largely into those more favoured by fortune and the sun. Canada may be considered as the Scotland of America, and her people may as naturally seek the richer country and milder climate south of them, as Dr. Johnson's Scotchmen did England, and they are made welcome for the same reasons. The Americans like them because they are hardy, frugal, industrious and intelligent, and, perhaps, a trifle more *biddable* than the natives, as having the touch of reverence for those in authority over them, which the natives sometimes lack; and this liking on the part of our good neighbours is a compliment to Canada, and so is their desire that she should become one of the stars in their banner; and she cannot but take both in good part, though she would resent compulsion in any shape, and objects to being *wooed* after the fashion adopted by the Romans towards the Sabine ladies. And as regards immigrants coming though or from the States, we must not forget that although we believe with Dr. Bourinot, and for the excellent reasons he gives us, that our form of Government is by far the best, Americans do not altogether share our belief; that there are Wimanites even in our midst, and that the working men of Europe are not unanimous as to the great advantage of kings and lords over presidents and congresses; and when we have taken these points into consideration we may perhaps conclude that we have not done so badly as our pessimists assert.

W.

OTTAWA, July 18th, 1892. *Week* of July 22nd, '92.

# BEHRING'S SEA ARBITRATION.

It will be of interest to those of our readers who have not followed closely the international negotiations in relation to the matters in dispute concerning the seal fisheries in Behring's Sea, and to those who have not read the treaty or the *modus vivendi*, to be given some account of these and of the case to which they relate.

The treaty between Great Britain and the United States in relation to the arbitration regarding the seal fisheries in Behring's Sea was signed at Washington on February 29th, and the ratifications were exchanged at London on May 7th, 1892. The preamble to the treaty recites that questions have arisen concerning the jurisdictional rights of the United States in the waters of Behring's Sea, and concerning also the preservation of the fur-seal and the rights of the citizens of either country as regards the taking of such seals therein; and the governments of the two countries having resolved to submit to arbitration the questions involved have appointed their respective plenipotentiaries, namely Sir Julian Pauncefote on behalf of the Queen of Great Britain, and James G. Blaine on behalf of the President of the United States, who have agreed to some fifteen articles, respecting such arbitration.

(The articles of the Treaty are then set forth either in substance or at full length :—and then the convention or *modus vivendi* which was signed at Washington on the 18th of April, 1892.

And, in like manner, the argument on the question of *Mare clausum* is stated at length, in an article by Mr. Thomas P. Gor-

man, in the *Toronto Week* of September 30th, 1892; in which the several Treaties to the United States, Russia, and Great Britain were parties, are cited and commented on, and it is clearly shown that, the plea of *Mare clausum* was resisted both by the United States and Great Britain, when made by Russia, and abandoned by the United States until after they had acquired Alaska from Russia, and the plea was renounced and abjured by Mr. Blaine and the President Harrison, in the clearest terms.)

Having thus laid before our readers a summary of the official documents, we will now endeavour to give a condensed but fair and tolerably sufficient *résumé* of the present state of the case itself, availing ourselves of what we find in print in other Canadian, or it may be American papers, coinciding with our own views and opinions. We find, then, that in January, 1891, President Harrison, through Mr. Secretary Blaine, sent a communication to the House of Representatives concerning the Behring's Sea controversy, in which he lays great stress on the fact of Great Britain having excluded vessels from coming within eight leagues of St. Helena when Napoleon was confined there, and also on the protection exercised by that power over the Ceylon pearl fisheries. Mr. Harrison objects to the form of the proposed arbitration, and says it will amount to something tangible if Great Britain consents to arbitrate the real questions discussed for the last four years;—What were the rights exercised by Russia in Behring's Sea? Was Behring's Sea included in the Pacific Ocean? Did the United States acquire all Russia's rights? What are the present rights of the United States? And if the concurrence of Great Britain is found necessary, then;—What shall be the protected limits in the close season? Secretary Blaine denies that the United States ever claimed Behring's Sea to be a closed sea, and quotes Minister Phelps, in 1888, where he says that the question is not applicable to the present case. Mr. Harrison objects to the form in which Lord Salisbury proposes arbitration, and seems to wish that a number

of special points should be expressly referred to, and *not* the main and real question, "Whether the United States have any exclusive right of catching seals in Behring's Sea outside the limit of their territorial jurisdiction under international law?" in the consideration of which question that of all those he mentions (including those he founds on England's precautions for preventing the escape of Napoleon from St. Helena, or for the regulation of the pearl fisheries off Ceylon) might of course be brought up as points affecting the decision, which would in fact be one determining the rights of the United States as against the rest of the world; for if British vessels have no right to take seals in the said open sea, neither have those of any other nation than the United States; nor could a close season agreed upon by Great Britain and the said States affect any country not a party to such agreement, except so far only as may be required by the comity of nations.

In his letter to Sir Julian Pauncefote (see Ottawa *Citizen*, May 5th, 1891), the President, using the pen of Mr. Blaine, continues the argument in the *Sayward* case, and re-states his six questions for the arbitrators. The first five remain as before. The sixth touching the close season, in case the concurrence of England is found necessary, is repeated with some points of detail as to the months over which it should extend and the waters to which it should apply. To these there seems no reason to object; and, on every consideration of policy and humanity, we think (though some good Canadian authorities doubt the necessity) that a close season should be established, if it be true that the time over which it is proposed to extend it is that in which the seals found in the open sea are mainly females seeking food for themselves and their young. The British Parliament, we believe, established an international close season for oil-producing seals, but had no fur-bearing ones to deal with. The difficulty seems to be that if the arrangement were only made between Great Britain and the United

States, it would close the sea to them and leave it open to all other nations who have now the same rights as Britain, and a general international agreement would be necessary, for there are many other nations who would take advantage of its absence to the utmost extent.

The President then speaks of damages, and not unnecessarily, for if either party has sustained damages from the illegal acts of the other, that other must pay the amount, as we did in the Alabama case, and the United States in that about the fisheries. He then repudiates the imputation that he called Behring's Sea a *mare clausum*, using words as vehement, though not quite the same, as Mr. Punch puts in the mouth of a seal rising through a hole in the ice, on either side of which John Bull and Jonathan are standing, and bitterly squabbling. The seal begins with "*Mare clausum* be blowed. That's all Blaine's big bow-wow. Give us a close time, we shall be very grateful," and urges the same reasons as we have done. The President then complains that Lord Salisbury has not answered his verbal difficulties about geographical and diplomatic expressions, which may very well be left to the arbitrators, and winds up with a new bit of argument in the "*tu quoque*" or "you're another" style, by urging that a British Act of Parliament makes it criminal to fish in certain ways in a tract of water off the Scottish shore, containing some 2,700 square miles, far outside the three-mile limit; and that therefore Mr. Bull cannot object to the United States doing the same thing with respect to a smaller tract outside the Pribiloff Islands in Behring's Sea. As Canadians we may not perhaps object to the United States using this peculiar figure of rhetoric, inasmuch as some of our smaller, sometimes, but never—well, hardly ever—any of our greater statesmen use it: but however powerful its rhetorical, we totally deny its logical effect, in order to which the cases supposed to balance each other should be alike, while neither in the Ceylon Sea case, nor the Scotch one, does the President

assert that the British Government seized a foreign vessel, carried her to a British possession and caused her to be condemned as forfeited for contravention of an alleged prohibition, as the United States did the *Sayward;* and it is only fair to hold that when a legislator prohibits the doing of any act, he must be understood to mean that such prohibition shall apply only to persons over whom his jurisdiction extends; though it is not necessary or usual to express this limit in every case. The President concludes by repeating the claim—that seals living on islands belonging to the United States, and returning to them at night, are the property of the United States, even when found sixty miles outside the three-mile limit, and may be claimed and seized as such. The point may be left to international law and the arbitrators. *Fiat justitia* is of course the honest wish of both sides; though John Bull looks at the question through British glasses, and Uncle Sam through American.

May we not hope that the difficulty between Lord Salisbury and Mr. Harrison may be settled by the arbitrators in a manner at once honourable and satisfactory to both parties? There was a difficulty, we believe, as to the renewal of the *modus vivendi;* but this has been arranged, as we thought and said it ought to be. Unfortunately there is no parliament of nations, and therefore no written Act defining the international law in the case before us; but it has always been understood that the exclusive jurisdiction of a country over the seas adjoining it extends only to three marine miles from the shore; and as this rule has, beyond all question, been allowed and insisted on by England and the United States in all other places, it rests on the United States to show that it does not apply to Behring's Sea. On the Atlantic side both parties have held it as unquestionable. All the arguments Mr. Harrison has urged against its applicability to the present case have been abandoned by him or shown to be futile. Russia, from whom the United States hold their title to Alaska, never claimed such exemption, or

exercised it against England, who therefore cannot be said to have acquiesced in it; she disputed it, and so did the United States, until they bought Alaska. Mr. Harrison's "*tu quoque*" arguments fail, as we have shown; neither England nor the United States ever declined to take the fish outside the three-mile line because such fish may have been bred and fed inside that line; and if Pribiloff seals go outside the three-mile line to catch fish for food, they feed on fish to which the United States have certainly no exclusive claim.

It would seem therefore that the arguments cited on the United States' side are futile; but as many of our neighbours, whose opinions are entitled to the utmost respect, believe them to be valid (at least we are willing to assume good faith on their part), we have always held the arbitration to be most desirable, and we have full confidence that the decision of the men appointed on it will command the assent of the "other powers" which the treaty wisely provides the high contracting powers shall endeavour to obtain; for if the United States have the rights they claim, they have them against the world, and no other nation has a right to catch a seal in Behring's Sea if England has not. The *modus vivendi* has been continued, as we have always contended it should be. The arbitration will settle the vexed question whether the United States have or have not the exclusive right they claim, and also that relating to a close reason, if necessary; a point on which it is said the experts employed by the contending parties do not agree. The costs of the arbitration and of the continuance of the *modus vivendi* must be paid by the party by whose fault or error they are occasioned, and will be as nothing in comparison with the mischief which would attend the prolongation of this dispute between two nations whose relations should be more than friendly and between whom "a small unkindness is a great offence."

## MANITOBA SEPARATE SCHOOL CASE.

*To the Editor of* THE CANADA LAW JOURNAL.

SIR,—I have seen no article in *The Law Journal* on the legal aspect of the questions resulting from the decision of the Judicial Committee of the Privy Council, read by Lord Macnaghten, declaring the validity of the Manitoba School Act, and reversing the unanimous decision of our Supreme Court, and contrary, I believe, to the opinion of our Minister of Justice and the expectation of our Government. Nor have I seen any such article in any of our public papers, except a startling letter from Mr. Edward Mahon in the Ottawa *Citizen* of the 16th of August last. In this Mr. Mahon says:

"The whole controversy turns upon the construction of section 22 of the Manitoba Act, 1870, passed when that province was entering into our present confederation. The section is as follows: 'In and for the province the Legislature (*of Manitoba*) may exclusively make laws in relation to education, subject and according to the following provisions: "Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice at the Union."'

"Lord Macnaghten then proceeds to define what was meant by the word 'practice' in the above context. Here is what he says:

"'It is not, perhaps, very easy to define precisely the meaning of such an expression as "having a right or privilege by practice," but the object of the enactment is tolerably clear. Evidently the word "practice" is not to be construed as equivalent to custom having the force of law. Their lordships are convinced that it must have been the intention of the Legislature to preserve every legal right or privilege, and every benefit or advantage in the nature of a right or privilege, with respect to denominational schools, which any class of persons practically enjoyed at the time of the Union.' Taking the above definition exactly as the judgment puts it, it is clearly and overwhelmingly decisive of the question.

"No controversy was raised on the facts as to the status of Roman Catholic separate schools at the time of the Union. All parties to the appeal admitted in the undisputed evidence given in the case that the Roman Catholics supported their own schools, and were not under obligation to and did not contribute to the support of any other schools. Surely, then, the conclusion is inevitable from Lord Macnaghten's own definition as applied to such a state of facts, that the Roman Catholics at the date of the Union had then a right or privilege '*by practice*' to support their own schools and be exempt from contributing towards the support of other schools.

"This would be a plain concluslon—so plain that any layman, however unskilled in questions of statutory construction, would have to reach it."

He then makes some by no means deferential remarks on the judgment, and, after saying that His Lordship simply begs the whole question, continues as follows :

"It is very noteworthy that although the facts admitted in the case disclosed that prior to the Union Catholics enjoyed the *privilege* of exemption from contributing to other schools, the judgment of the learned lord is remarkably reticent upon this point. This question of ante-Union exemption is scarcely dealt with at all ; yet this is the very privilege that was the substantial privilege at stake upon this appeal.

"In one passage he does indeed refer to it in this way ; speaking of the right of Catholics to denominational schools, he says :

"'Possibly this right, if it had been defined or recognized by positive enactment, might have had attached to it, as a necessary and appropriate incident, the right of exemption from any contribution under any circumstances to schools of a different denomination.'"

Now this last cited paragraph of the judgment explains the principle on which the decision rests. There was no positive enactment on the subject, and therefore there could be no legal privilege of exemption in favour of Catholics ; the arrangement for payments in support of the schools was purely voluntary and had no effect as law, and therefore there was no excess of jurisdiction in the omission of such exemption by the Manitoba Legislature.

It is certainly very probable that if there had been a positive enactment on the subject it would have contained the exemption, which would have been fair and reasonable, it being

apparently wrong to compel Catholics to pay for the support of schools to which they cannot conscientiously send their children. I believe our Minister of Justice and his colleagues think it so; but the Judicial Committee were judges and not arbitrators, and were therefore bound to abide by the strict rules of legal construction in applying the provisions of the British North America Act and the Dominion Manitoba Act to the case.

There is a provision in section 93 of the B. N. A. Act for an appeal to the Governor-General in Council in cases of this kind, and it is said an appeal has been made by the Catholics of Manitoba; but is it not questionable whether such appeal could be maintained in the face of the decision that the Manitoba School Act does not prejudicially affect any right or privilege which the Catholics of Manitoba had at the time of the Union?

W.

*Canada Law Journal*, 1st October, 1892.

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## A COMMENT.

*To the Editor of* THE WEEK:

SIR,—"Fidelis'" poem on Whittier in THE WEEK of 7th inst. is very beautiful—the best thing I have seen on the subject. I don't in general care for poems about poets, and prefer prose for critiques, but here is an exception. Your contributor, Mr. J. A. T. Lloyd's article on Mr. Carman's poem is very clever, and his examples of sound suiting the sense are good. But perhaps Pope's

> When Ajax strives some rock's vast weight to throw,
> The line, too, labours, and the words move slow,

is about the best. It is difficult to read it distinctly without a feeling of labour and strain. But the next lines, though good too, are not quite so good :—

> Not so when swift Camilla scours the plain,
> Flies o'er the unbending corn or skims along the main.

Imitating Virgil's

> Illa vel intactæ segetis per summa volaret
> Gramina, nec teneras, cursu læsisset aristas ;
> Vel mare per medium, fluctu suspensa tumenti
> Ferret iter, celeres nec tingeret æquore plantas.

But perhaps as good an example as any may be found in the first lines of the pretty little nursery song, which may have been the prototype of Mr. Carman's—

> See-saw,—Margery Daw
> Sold her bed and lay upon straw.

How charmingly that first line expresses laziness and the second its moral consequence.

If you think Mr. C. and his critic are too wise to be offended at my commentary, you may insert this as a sequel to your late article.

W.

*The Week*, 24 October, 1892.

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## THE OLD MENS' HOME.

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SOME VERSES FROM "ONE OF THE OLD MEN" TO MRS. STEWART.

Learning that after the recent Hallowe'en party in aid of the Ottawa Old Men's Home, Mrs. McLeod Stewart had received a touching letter from the venerable and respected Mr. G. W. Wicksteed, Q. C., formerly law clerk of the Senate, THE JOURNAL

saw Mr. Stewart, who was persuaded after some hesitation to allow, with Mr. Wicksteed's consent, the publication of the letter and verses.

BAY STREET, November 7, 1892.

DEAR MRS. MCLEOD STEWART,—An old man myself, I have always been much interested in the home for old men, and in your splendid reception and ball for their benefit. I did not feel able at 93 to go to them myself, but I sent my son and daughter and a few more. They tell me you were kind enough to express regret at my absence, and seeing in the paper on Saturday and to-day your thanks to those who had seconded your kindness to my old friends, I thought they ought to thank you, and that as perhaps the oldest man, or nearly so, in the city I ought to be their spokesman, and so I wrote what you will find on the other side and what will probably be my last bit of rhyme. Nobody has seen it, nor will unless you like it well enough to show it to Mr. Stewart and your friends. At any rate you will not be angry with me and will accept my congratulations and thanks for myself and my old friends, and believe me with all respect and good wishes.

Most truly yours,

(Signed) G. W. WICKSTEED.

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## THE VERSES.

The denizens of the Old Men's Home to Mrs. McLeod Stewart and the other benevolent lady friends of the Home.

Dear ladies, fair and wise and kind,
By whose benevolent aid
The scheme to help our pleasant home
A great success was made.

And you, good fellow-citizens,
Who patronized our ball
And danced to give us warmth and light,
We thank you each and all.

We joyed to think our quondam mayor
Would give his help, but then,
Of course, good city fathers must
Be friends of eldermen.

Your choice of secretary, too,
Augmented our delight,
And boded good, for well we knew
Waldo would do the right.

And pondering who might best express
Our gushing gratitude,
We tried to find a city bard
With love for us imbued.

There's one* who holds a lyric lamp
To light his fellow man.
And one¶ who bears the warlike name
Of a great Scottish clan.

Both good, but young, so not with us
To sympathize inclined,
And therefore we decided on
The oldest we could find.

He's old and so in sympathy
With us is strong and true,
And in desire to help our home
He tries to rival you.

And being so and feeling thus,
He thanks you for himself and us.

G. W. W.

* Archibald Lampman ¶ W. W. Campbell.

*Evening Journal*, 12 November, 1892.

*To the Editor of* THE WEEK:

SIR,—In a recent number my good friend, your esteemed contributor "Pastor Felix," notices my little addition to the *sum* of the learned criticisms on "Marjory Darrow" rather sharply, while he calls it good-natured, which I certainly intended it to be; though I thought the said *sum* was quite big enough, and about as heavy as poor Marjory could bear.

In that same number of yours, in referring to the United States, you do so by using the pronoun "she," to which form of reference I respectfully object, as well on the part of Lindley Murray as of our good neighbour, *Uncle Sam*, who is not generally supposed to be of the softer sex, and might make it a case of diplomatic offence on the part of the British Lion and give his tail an extra twist. I acknowledge the difficulty of the question—"What is the proper pronoun, relative or personal, to be applied to our good neighbour?" I have seen "it" and "they" so used, and "who" or "which;"—questionable all. But "She"!—And now that our neighbour is one hundred years old and rather touchy, will our Uncle stand being impliedly treated as "Aunt Samuel?" Surely it is time that, with all the Universities and Grammar Schools on both sides of the line, this important question should be settled—say by a convention at the Great Fair—where it is said conventions of faculties of various kinds are to meet and discuss difficult question of many kinds;—and they might at the same time agree upon the proper name for the inhabitants of the said *States*, who have at present none more definite than "Americans," to which we Canadians and the inhabitants of South America are equally entitled.

THE WEEK is, I am sure, anxious for the purity and correctness of our English tongue. Pray stir up the learned professors, of whom we have so many and so good, to take the question in hand and settle it.

W.

OTTAWA, November 17, 1892.

## MANITOBA SCHOOL CASE.

*To the Editor of* THE CANADA LAW JOURNAL :

From a paragraph in yesterday's *Citizen*, a paper generally well informed and ably conducted, I infer that the Catholic minority of Manitoba, in view of the decision of the Judicial Committee of the Privy Council that they had at the time of the union no right or privilege which was prejudicially affected by the Provincial School Act of 1890, have made a fresh appeal to the Governor-General in Council, founded on the 93rd section of the B. N. A. Act, to which I referred in my letter of the 14th of September last, printed in THE LAW JOURNAL of the 1st of October, and which section contains (among others), in addition to those repeated in the Dominion Act constituting the Province of Manitoba, and dealt with in the judgment of the Judicial Committee, the following provisions :

"(3) Where in any Province a system of separate or dissentient schools exists by law at the time of the union, *or is thereafter established by the Legislature of the Province*, an appeal shall lie to the Governor-General in Council from any Act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education ; "

"(4) In case any such Provincial law as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require,

the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor-General in Council under this section."

These provisions differ from those cited by their Lordships from the Act constituting the Province, inasmuch as they do *not* contain the words "or practice" after the words "by law," and *do* contain the words "*or is thereafter established by the Legislature of the Province*" after the word "union" in paragraph (3).

And as neither such insertion or omission in the Act constituting the Province can alter or impair the effect of the B. N. A. Act, then if, as the petitioners assert, the Provincial School Act of Manitoba passed in 1871 conferred on Catholics any right or privilege with respect to separate schools which is injuriously affected by the Provincial School Act of 1890, or any other, they would seem to be entitled to the benefit of the appeal given by the said paragraph (3), and of the provisions for enforcing the same in paragraph (4), subject always to the conditions mentioned in section 93 and the decision of the Governor-General in Council under it, to which the decision of the Judicial Committee does not relate, and which it cannot affect.

OTTAWA, Nov. 8, 1892. W.

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*To the Editor of* THE WEEK:

SIR,—In return you take me to task for my modest little remarks on *The Week's* use of "she" as the personal pronoun representing the United States of America, and I feel more modest from having seen the same use of "she" in an article, by an American I suppose, in The Forum for December; but I cannot think it quite right. A country or perhaps a nation may be referred to as "she," and is often so; but not the

people of a country or a group of countries associated together. We call France or England "she," but not the French or English nation, or even the United Kingdom of Great Britain and Ireland, or the Swiss cantons as such, and when the plural expression is used in the same sentence. Perhaps I am over nice, for it always jars on me to find a minor poet calling his lady-love "you" and "thou" in the same song.

As touching the number of The Forum before me, I may say I am much pleased to find from an able article on the silver question and banking, that it is clear the Americans will not make debts payable in silver of an enormously depreciated value, which they acknowledge would be a fraud on the creditors and a disgrace to the nation.

I agree with you that Mr. Ewart's argument in the Manitoba case was "cleverly conceived and ably put," but I do not think it valid under the Manitoba Act. The Judicial Committee decided that the School Act complained of violated no right or privilege existing at the time of the union, because there was then no law which created any right to Separate Schools; but I think the case is otherwise under Section 93 of the B. N. A. Act, which provides that the appeal to the Governor-General in Council shall exist if such right should be created and violated, as the Catholics say it was, by provincial Acts passed after the Union, in which case the said section (93) gives such appeal. What the Governor-General in Council will see proper to do is for them to consider and the Parliament after them. You will probably have seen my letter signed "W." in the last Canada Law Journal, by which I abide. Yours ever most truly.

OTTAWA, Augt. 1892. W.

To

G. W. WICKSTEED, OF OTTAWA, Q. C.

*On completing his ninety-third year,*

21 December, 1892.

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Crossing of late the mountainous divide
Which parts the streams that through Alberta run
From those that flow towards the setting sun ;
I rose at early dawning and discerned
The hosts of stars, and marked how one by one,
They fled before the light's advancing tide ;
While lustrous and serene, in kingly pride
The star of Jove still held dominion.

Esteemed and honoured friend ! I would that so
Thy natal star may still retain its glow,
Undimmed, unchanged, as roll the years away ;
Not fading out in shadows of the night,
Nor sinking in the West, but calm and bright
Waning most gently in the coming day.

MONTREAL, December 1892. E. T. F

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## PROVINCIAL RIGHTS.

*To the Editor of* THE WEEK:

SIR.—Are you quite right in your article on Provincial Rights in the now last number of *The Week*, if you suppose that any endeavour to modify the hardship of the Manitoba school law through the intervention of the Governor in Council, on appeal under the provisions of section 93 of the British North America Act, would be a gross violation of the federative compact, and that the decision of the British Privy Council has the effect of prevenfing such appeal or making the recourse to it unjust, or an intolerable disregard of Manitoba's rights, which are derived solely from that act of which the said section is a most important part? * The decision of the Judicial Committee takes no notice of the provision on which the contemplated appeal is founded, but merely decides that the Roman Catholics had no right to separate schools at the time of the union, because there was then no law conferring such right; but the cited section of the B. N. A. act especially enacts that if such right be given, (as the appellants allege it was), by the legislature of the Province after the union, the appeal shall lie, and provides for giving effect to the decision of the Governor in Council upon it; and the Judicial Committee expressly favours the supposition, that if there had been at the time of the union

NOTE.—Since I wrote the above, I have been assured by the Editor of the *Week*,—and I gladly accept and believe the assurance—that I mistook the meaning of his article to which I alluded, and that it did not refer to any thing to be done under an appeal to the Governor General in Council under the B. N. Act, but to the violent menaces of the opposition french papers in the Province of Quebec, in case the alleged violation of the rights of the Catholic minority should be sanctioned by the Dominion Parliament under cover of such appeal, or otherwise.

a law on the subject, it would have contained a provision exempting Roman Catholics from taxation for the support of schools to which they could not concientiously send their children.—It is not by Quebec as a province that the appeal will be made, but by H. M's Roman Catholic subjects there, of whom a very large proportion are of French descent, as well as Catholic.—And it is to be observed that the provision in question is equally in favor of the Protestant as of the Catholic minority in any Province, and carries out the intention apparent throughout the act, to prevent a majority of one persuasion from oppressing a minority of the other. Is there any injustice in such intention, or in giving it effect as the British Parliament has provided ?

OTTAWA, Jan. 6, 1893. W.

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## THE MANITOBA SCHOOL LAW QUESTION.

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*To the Editor of* THE WEEK :

SIR,—Your article in your last number on the question arising out of sub-section 3 of section 93 of the B. N. A. Act, which you cite, appears to me to be intended as an answer to a letter I sent you but did not ask you to insert, believing that the conviction I expressed, that the right to appeal, and the power of the Governor in Council and of the Dominion Parliament to grant relief as therein provided, were indisputable, though their right to use it or not, as they might think best for the welfare and good government of Canada, and in such manner as they might think best adapted for that purpose, was also beyond question. But as in your last number you deny this power, I ask you kindly to allow me to repeat the reasons why

I think you are in error. I admit that the cited provision of the B. N. A. Act does not prevent the Manitoba Legislature from repealing its own Act, under which for years the Catholics enjoyed the right of having Separate Schools; but such repeal is the very act of which the Catholics complain, and is the act of a provincial authority and the only act which could annul or impair the right it had given, or require the application of the relief comtemplated by the B. N. A. Act: for anything contrary to such right, done by any other authority would have been illegal, and so remediable by process of law; and the amendment of the said repealing act under the powers given by the B. N. A. Act, is the only way in which the contemplated relief can be given. It will only be given if the Governor in Council thinks fit to recommend it and Parliament to act upon the recommendation.

I am, Sir, very truly your,

OTTAWA, February 13th, 1893. W.

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## THE ARGUMENT ABOUT BI-METALLISM.

Your able correspondent, Mr. S. E. Dawson, has in your number of the 3rd instant, given us a very interesting and instructive article on Bi-metallism, and your readers, whether agreeing with him or not on all points, must acknowledge and thank him for the fairness of his statement of the case, and his correctness as to the facts on which he touches. We must all agree with him, that a certain uneasiness and anxiety pervades business circles by reason of the fall in prices, the apparent continual increase in the wealth of those who have already got too

much, and the unequal distribution of the proceeds of labour between the labourer and the capitalist who employs him, and the consequent dissatisfaction which breeds strikes by which both lose heavily,—and that it is very desirable to diminish this inequality in every possible way. And we cannot but agree with him, that abundance of money, and of the precious metals of which it is made, is also greatly to be desired, and that the increase in the supply of gold some years ago by discoveries in California and elsewhere, was attended by a rise of prices and property in the world of trade. But his objection to supplementing the supply of money by the use of paper in the shape of bank notes, bills, cheques, orders, etc., does not seem quite valid, or to be made so by the fact that they could not all be paid in metallic currency which he calls real money; and he does not seem to remember the great economy and convenience of these substitutes, and that although it would be difficult and most inconvenient to turn them all one after the other into his ready money, yet at the clearing houses now usual at all great centres of business, the balances arising out of their use are in fact, easily turned into metallic currency to the perfect satisfaction of all concerned. Credit, that is, confidence in each other among merchants, traders and dealers in money, is the very life and soul of business, and to stop the use of paper representing money, would be almost to stop trade and all business depending on it.

Nor can I agree with him that his argument for Bi-metallism is sound, if he means, as he appears to do, that two metals of fluctuating value with regard to each other, and to property of any kind, can be fairly and advantageously used as standards of value and made legal tender, in the same country and at the same time, in payment of debts of all kinds and to all amounts. The cheapest of the two would always be offered by the debtor and the dearest demanded by the creditor; and in the absence of any previous agreement on the point, how could the right of

each be determined ? Gold and silver, the two metals to which the argument relates, are both articles of merchandize rising and falling in value according to the law of supply and demand. A fixedre lative value of one to the other could only be established by the common consent and agreement of the whole civilized world, or by special agreement between the parties concerned (whether nations or individuals) in each case. The one alternative would be so difficult as to be nearly impossible, and the other almost equally so, as appears by the result of the late International Conference on the subject, ending in the very significant resolution of Austro-Hungary in favor of gold, which is in every way best suited for the purpose by its great value in proportion to bulk and weight, its consequent portability, and the apparent unlikelihood of any great or sudden increase or decrease in its production, and from the fact of its being and having been, used by the great majority of the civilized nations of the world at the best representative and standard of value ; so that gold and wealth have become almost synonyms.

The late Conference decided rightly :—There cannot be more than one standard of value in the same place and for all amounts of debt or obligation, and gold seems to be the best we can get.

There can be no objection to the use of silver, and of copper also, as accessories and for the payment of limited sums. England uses and has always used, all three metals for this purpose ; and we in Canada have followed her example. Our former currency Act, (45 V. C. 93) made American gold and silver dollars of certain weights and fineness, legal tender at certain rates in Canadian currency, in which ten such dollars were equal to £2, 13s. 4d. ; but no other foreign silver coins were to be current. In 1854 when we wisely adopted the decimal currency, we, with like wisdom, adopted the British use of the three metals, making the British sovereign of the weight and fineness prescribed by law, equal to four dollars and 86 2-3 cents, but limit-

ing the amount of silver as legal tender in one payment to ten dollars, and that of copper to 20 cents; no silver coins being made legal tender except such as should be struck by command of the Queen; our copper coins being British pence or half-pence, equal to one and two cents respectively. In the former Act there was no limit as to the amount which American dollars of legal weight and fineness should be legal tender, and it would seem that any amount might be paid in them.

In the United States there is no limit for such purpose, and it seems that any amount of debt or obligation may, between citizens, or between States of the Union, or between the Government and any citizen or State, be paid in them; but if the other party should be foreign, it might be a question of some difficulty unless there should have been a specific agreement on the point. The debtor would naturally wish to pay in the cheapest metal, and the creditor to be paid in the dearest. Much might depend on the currency in which the debt was understood to be contracted, as dollars, pounds, florins, marks, etc., current in the country in which the non-American party resides, but there would certainly be difficulty and probably litigation, with discomfort and loss to one of the parties concerned. This is avoided by the English use of several metals, but with only limited amounts payable in those of less value than the standard. It would seem that the Americans would do well to adopt this plan. They will no doubt act honourably by their foreign creditors and not attempt to make them accept less than they are entitled to. If the United States have purchased silver at too high a price they will bear the loss without grumbling, and not throw it upon their foreign creditors, nor, where it can be avoided, on the poorer classes of their citizens.

The case of India may be more difficult, but those who made their contracts in rupees must pay or be paid in rupees and there is no injustice in their having to do so. Silver might have risen, and if it had the creditors would have gained and

the debtors have lost, as men must do in case of rise or fall in the value of goods in which they deal. Yet the case of India is peculiar and may, from the poverty of the masses or otherwise, require peculiar treatment, and great injury might probably be done by changing their standard to gold ; and Bi-or Tri-metallism is only allowable to the limited extent in which England has always used it, and as it is used in Canada.

W.

*The Week*, 24th February, 1893.

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## CANADIAN LITERATURE.

### Waifs in verse, etc. Addenda to edition of 1891.

By G. W. Wicksteed, Q. C., Ottawa.

Notice by the Editor of the *Toronto Week*.

The hope expressed in our notice of the preceding issue of this admirable publication is being realized, and we now have some of the "later leaves" therein referred to. While sensible of the large part which this learned and graceful author has permitted *The Week* to play in this new edition and the modesty which becomes us, we cannot refrain from commending it to our readers in the warmest terms. As we write there is being set up for the issue in which this notice will appear, a contribution from the same pen on the great financial question of the day. An article that will not only do credit to our columns, but will show the keenness of insight, the breadth of knowledge and clearness of statement of this venerable Canadian Litterateur whose life is rapidly approaching the span of a century. In the addenda will be found articles upon such important questions as "The Ottawa Valley Canal"; "The Behring Sea Controversy";

"The Canadian Question;" "The Manitoba Separate School Case;" and "Commercial Union." Notices of the poet Frechette's "Feuilles Volantes, Poésies Canadiennes," and the historian Kingsford's fifth volume of the History of Canada. Legal questions such as "The Appeal Grievance" are dealt with; and that the graceful muse of the author has not been silent, Madame Lafontaine's album and Mrs. Stewart's memento of the Ottawa Old Men's Home testify. Our readers will, we are sure, be pleased with the graceful tribute to Mr. Wicksteed taken from page 310, of the addenda.

The Editor.

*The Week.* 24th February, 1893.

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## BI-METALLISM.

*Editor of* THE WEEK.

I thank you much for your kind and careful insertion of my article on Bi-metallism, in your last issue, and think the discussion of the subject cannot but do good. I have heard a rumour that Mr. Cleveland thinks of adopting silver, of which Uncle Sam has such store, as the basis for the issue of their own notes by the National Banks, instead of Government bonds or debentures. The plan was mentioned in that useful paper *The Shareholder* and might perhaps be worked out. But though the security would be excellent for the note holders, there would seem to be a dificulty for the banks, as the silver would not bear interest as the bonds or debentures would, and the banks would not have the double profit or income they would have from the interest on them and on the issue and loan of their own notes. The President may see a remedy for this difficulty, perhaps:

our cousins are too clever not to find a way out of their trouble, and I feel satisfied they will do all that can be done in the case. There is a rumour of a flood of American silver coins coming upon us: Sir Francis Hincks arrested such an invasion some years ago, by issuing silver of our own, bearing the image and superscription of the Queen; our Government should follow the same plan. We could absorb any quantity of halves, quarters, ten cents and fives, and the issue would be profitable. May we hope our Ministers will give it us. Paper fractionals are abominable. Let the Government give us plenty of our own silver, and we shall have the best currency in the world,—Decimal, Convenient, and Sound.

W.

OTTAWA, 26th February, 1893.

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## AFFAIRS AT THE CAPITAL.

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*To the Editor of* THE CANADA LAW JOURNAL:

SIR,—The session draws its slow length along, like the wounded snake in Pope's line; yet not more so than usual. Her Majesty's loyal Opposition, of course, as in duty bound, criticize both generally and particularly what the ministers say or do, and time is lost in disputes which decide nothing. Some object to Mr. Foster's proceeding gently in the reduction of the tariff, and demand an immediate change, in view of the probable changes the new administration in the United States will make in their tariff, and which must more or less affect Canada. The government, on the other hand, claims that the true policy is to make haste slowly. A legal journal, of course, can only speak

of such things to the tune of "confound their politics:" but you will not object to my remarking that we live in an age of contradictions: *E.g.*, farmers complain of cheap bread and cheap farms, while Henry George holds that land is the only thing man wants. Farmers want a low tariff, cheap manufactures and implements: Manufacturers insist on a high tariff: and I assume that the government holds the scales evenly and pleases neither, a position which moderate and cautious rulers often occupy. A great bone of contention is the Franchise Act, the amendments promised being small, and chiefly in matters of detail and reduction of costs. The Opposition demands the repeal of the Act, and a return to the old plan under which the voters' lists were made by provincial officers; and, in truth, it does seem as if the Provinces should appoint those who are to represent them, and by whose acts they are to be bound; though it is right that the Dominion authorities should have power to reject unfit persons for cause. Ambassadors are chosen by the countries they are to represent, and not by those to which they were sent.

Mr. Weldon has a bill to disfranchise voters accepting bribes, the bribers only being now punishable: but the bill, though reasonable, does not seem generally acceptable. Can bribery be abolished while it is not deemed disgraceful, and is not unfashionable, and is practised by men who would scorn to commit a breach of trust or a petty larceny, especially when it is practised on a great scale and on whole constituencies, for the advantage of a party—and the good of the country, of course? The law has tried all it could to protect the voter by giving him the secret ballot to enable him to vote as conscience dictates, and so cheat the briber. A useful thing is such ballot, I believe, though its admitted usefulness is no compliment to the voters. Should we like members of Parliament to vote under similar protection? Yet the voter is virtually the representative of those who have no vote.

The Judicial Committee of Her Majesty's Privy Council for Canada have determined that they cannot safely proceed in the Manitoba school case until they have the opinion of the Supreme Court on certain points of the law arising out of it; the principal question being whether the British North America Act applies to Manitoba. If it does, there seems no doubt that an appeal lies to the Governor in Council under section 93; for the report laid before Parliament shows that the repeal of the right given to the Roman Catholics to have separate schools, by the Provincial Act of 1871, passed immediately after the creation of the Provinces and enjoyed until the passing of the Act of 1891, which denied it, was an act by a provincial authority prejudicial to the Roman Catholic minority in the Province within the meaning of the said section; and that the section of the British North America Act, which denies certain powers to Provinces constituted under it applies to Manitoba, cannot be doubted, for if it did not Manitoba would have all the powers assigned to the Dominion by the twenty-nine paragraphs of section 91, and could pass customs laws, patent and post-office laws, etc., therein enumerated. The manner in which the Governor in Council shall exercise the powers given him, or whether he shall exercise them at all, is a matter of policy and not of law, and the Supreme Court can say nothing about it. But if the committee doubt the application of the British North America Act, they are clearly right in asking the opinion of the Supreme Court. The Governor in Council must hear the appeal, and let the opposing party and Mr. Ewart argue the case, if they choose to do so; and if, as appears probable, the Manitoba Government refuses to appear or plead, it must be supposed that it has nothing to say, and then the Dominion Government, and Parliament if called on, will do what they may think right in the case.

Our Premier has gone to Europe to attend the Behring Sea arbitration. The cases filed are said to be voluminous, and the

evidence supported by numberless affidavits. The facts and arguments appear fairly well summed up in THE LAW JOURNAL of the 16th September last. It is said that the United States now rely mainly upon rights they acquired from Russia; but Russia could not assign rights she never had, or alter international law, and extend her jurisdiction beyond the limits assigned by it. *Fiat justitia*, and I believe the arbitrators will do it.

The outgoing President entertained the incoming one to dinner at the White House on the 4th instant. I should have liked to hear their conversation, though I dare say they said little about politics. Will Sir John Thompson entertain Mr. Laurier, if, in the far distant future, they should change posts? Who knows; they are both very courteous, as great men always are.

Dr. Bourinot, who so ably defends our constitution as being better than the American or any other, has a very able article in *The Week* on the Swiss *referendum*, and seems inclined to favour it, in cases of any great changes in constitutional law, as better than our general elections, at which, he says very truly, it is impossible to keep the voter's attention to the one important question; and there is certainly much force in his argument. He illustrates his position by what occurs in our appeals to the whole body of electors in cases of money aid by municipalities, or local option.

Our government declines to interfere in the coal-mine monopoly case in Nova Scotia; holding that it ought not to interfere with the right of a Province to dispose of its property to the highest bidder, even though such sale may injuriously affect the people of the Dominion generally. Public or private combines are of course again attacked, but there seems to be no bill concerning them before Parliament.

We have the single-tax question before our city council. Our assessors favour it, and with some show of reason, for

there is certainly an immense amount of unearned increment in Ottawa since Mr. Sparks and others acquired the site of the city at almost nominal prices; but in most cases the property has passed into the hands of purchasers who have paid for such increment, i.e. the prices they gave. Where it is in the hands of the original proprietors or their heirs, it would be only fair to tax the increase; and vacant lots held for the rise are a fair mark for assessment.

As regards your humble correspondent, he still takes an interest in public matters, and has, in *The Week* of 24th February and 10th March instant, an article on bi-metallism, in answer to one favouring the double standard of value, and invites your comments on it. There are some law points in it, chiefly American, which may interest your readers.

Your faithful reader and subscriber,

W.

OTTAWA, March 11th, 1893.

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## CURRENT COMMENTS.

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To the Editor of the Week:

Sir.—The Dominion Parliament was prorogued yesterday by His Excellency the Governor General, who gave the Royal assent to ninety and nine Acts, of which 36 apply to the whole Dominion or to a whole Province, and 63 are private or local. Before you get this you will have received H. E.'s speech and the list of the Acts and will be able to judge of their importance respectively. I believe you receive copies of Bills when brought in. I inclose the list of those sanctioned, on which I have distin-

guished by a mark in the margin those of a public, general nature. The ceremony passed off well, and was well attended: H. E. looked well and spoke very feelingly of his regret at leaving Canada, and the affection and interest he would always feel for her and in her welfare. The most important Acts are those relating to—Representation in the House of Commons; The Supreme and Exchequer Courts; Public Officers; Civil Service; Superannuation; Voters' Lists; The Patent Act: Civil Service Insurance; The Criminal Code Act; Subsidies for Railways and for Ocean Steam Ships; Duties of Customs; House of Commons and Senate; Public Printing; Homestead Exemption; Merchant ships and load lines; and the Supply Act.

I have the pleasure of believing that my articles in The Week on Bi-metalism and Currency have met with general approval. Mr. Dawson has not complained, and I was fortunate in your having published them before the concurrence of Mr. Gladstone and the British House of Commons in my views was known in Canada. Our Southern neighbours may object to my saying that our currency is better than theirs, but they cannot deny the fact: and our Governors granted my prayer for plenty of our own silver and copper coins, before they heard it, by placing ninety thousand dollars of it in the hands of the Receiver General at Toronto.

The Manitoba School Law question has been well threshed out. Members of Parliament have talked about it; Newspapers of every shade of opinion have written about it; you and I in The Week and the Editor of the Law Journal in that excellent publication, have said more or less about it; and in your last number your clever correspondent LEX, has given us an elaborate and lawyer-like dissertation on it, by no means stinted in length or in well-turned phrases, though slightly failing in logic by not discriminating,—and supposing that the Judicial Committee of the Privy Council would not descriminate—between

a mere moral claim resting on a private agreement between religious denominations before the Union, and a legal right created by law, as soon as there was a legislature to create it, and enjoyed under such law, from 1871 to 1890; or between an appeal to a court on a point of law, and an appeal for the redress of a grievance to the Parliament of the Dominion expressly empowered to remove it, by Act of the Parliament of the Empire; and so has brought the matter to the position of the apocryphal case in chancery, *tempore* Eldon, when—

Mr. Parker
Made that darker,
Which was dark enough before;
And the Chancellor said,—I doubt.

But now, our Parliament is gone, our Premier is gone, and our Mr. Parker *stat nominis umbra*. What can we do but hope for the best, and pray that our darkness may be lightened, and that our sealers may be protected by the ability of our Premier and the justice of the Arbitrators. Would that we could hope that the lion of the Manitoba majority might be guided to lie down in peace with the lamb of the Manitoba minority, and the Province have rest, as it had under the laws of 1871. Why not? *Quid vetat?*

The Week, 7th April, 1893.

Though my Waifs are by no means melancholy, I find they contain divers Epitaphs and Verses *In Memoriam* of Canadian events and worthies, as,—The Queen's Jubilee—The double-shuffle—John Neilson—Old Christ Church—The Ottawa Times—By-Town—L. H. Holton—Sir George Cartier—Sir John A. Macdonald—Sir Alexander Mackenzie—and Champlain (p. 247) on tablet—in the Church at the Village bearing his name. But I have not given and must give the Inscription on that in St. Peter's Church, Sherbrooke, to the memory of the Hon. Mr. Justice Fletcher, my uncle by marriage, and the kind friend to whose invitation I owe my coming to Canada in 1821, and my being now a Canadian of more than 71 years standing;—a very remarkable man whom I remember hearing lecture on Electricity at the Royal Institution, London, when I was about eleven years old.

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"In memory of
The HONORABLE JOHN FLETCHER
For twenty-one years
The Judge of this district, and the first
Who held that office;
An able and upright Judge,
A profound lawyer,
A philosopher deeply versed
In almost every science,
A ripe and good scholar,
An honest, kind, and generous man;
And a sincere and liberal member
Of this Church."

DIED 11th October, 1844, Aged 77.

## CONCLUSION.

Under these circumstances, and in the lull of political excitement they have caused, and now that I have advanced some months into my ninety-fourth year,—it seems well that I should bring these *Addenda* to a close.—I believe that in them, as in the Waifs to which they are appended, I have avoided saying any thing savouring of prejudice of race or creed. I am English born, but I have been a resident of Canada for more than seventy-one years, and it has become my Country. I was brought up in the faith of the Church of England, and I believe that church to be the best, as every man should believe that to which he professes to belong, or change it; but I do not believe it to be the only good one, or that only within the pale thereof salvation can be found.—Faithful and learned followers of Christ differ on points of theological mystery and dogma, which as the Laureate sings,—

> " We who have not seen His face,
> " By faith and faith alone embrace,
> " Believing where we cannot prove."

But there is a second great commandment, on which even the Religious Congress of every race and creed, which America has called together for the World's Fair at Chicago,—as the Parliament of the Brotherhood Man,—can come but to one unanimous conclusion,—and about which another English Poet (Leigh Hunt) has taken up his parable thus.—

> Adhem Ben Ad em, (may his tribe increase)
> Awoke one night from a deep dream of peace,
> And saw within the moonlight in his room,
> Making it rich and like a lily in bloom,
> An Angel writing in a book of gold.

—Exceeding peace had made Ben Adhem bold,
And to the Presence in the room he said,
"What writest thou?" The Vision raised its head,
And with a look made of all sweet accord,
Answered,—"The names of those who love the Lord."
"And is mine one," said Adhem?—"Nay, not so,"
Replied the Angel.—Adhem spoke more low,
But cheerly still, and said,—"I pray thee then,"
"Write me as one who loved his fellow men."
The Angel wrote and vanished. The next night,
It came again with a great wakening light,
And showed their names whom love of God had blest;
And Lo!—Ben Adhem's name led all the rest.--

And with this parable, in the spirit of which I heartily agree, I conclude the *Addenda* to my Waifs.

W.

# ADDENDA.

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