

In the Privy Council.

No. 37 of 1931.

ON APPEAL FROM THE SUPREME COURT OF CANADA.

IN THE MATTER OF A REFERENCE ARISING OUT OF THE
TRANSFER OF THE NATURAL RESOURCES TO THE
PROVINCE OF SASKATCHEWAN.

BETWEEN

THE ATTORNEY GENERAL OF SASKATCHEWAN
AND THE ATTORNEY GENERAL OF ALBERTA *Appellants*

AND

THE ATTORNEY GENERAL OF CANADA - - - *Respondent.*

APPENDIX.

[NOTE.—Part of this Appendix forms part of the Record, but for convenience is printed separately. The pagination commences at page 7 and the numeration of the documents at No. 4.]

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5	The British North America Act, 1867, 30 Vict. chapter 3 (<i>Imperial</i>)	29th March 1867 - -	9
6	Rupert's Land Act, 1868, 31-32 Vict. chapter 105 (<i>Imperial</i>)	31st July 1868 - -	44
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No. 4

The Colonial Laws Validity Act, 1865, 28 & 29 Vict. c. 63
 An Act to remove Doubts as to the Validity of Colonial Laws.

[29th June, 1865.]

No. 4.
 The
 Colonial
 Laws
 Validity
 Act, 1865,
 28 & 29 Vict.
 c. 63
 (Imperial).

“ WHEREAS doubts have been entertained respecting the validity of divers laws enacted or purporting to have been enacted by the legislatures of certain of Her Majesty’s Colonies, and respecting the powers of such legislatures, and it is expedient that such doubts should be removed : ”

Be it enacted as follows :

- 10 **1.** The term “ Colony ” shall in this Act include all of Her Majesty’s possessions abroad in which there shall exist a legislature, as hereinafter defined, except the Channel Islands, the Isle of Man, and such territories as may for the time being be vested in Her Majesty under or by virtue of any Act of Parliament for the Government of India :
- The term “ legislature ” and “ Colonial legislature ” shall severally signify the authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any Colony :
- The term “ representative legislature ” shall signify any Colonial legislature which shall comprise a legislative body of which one half are
 20) elected by inhabitants of the Colony :
- The term “ Colonial law ” shall include laws made for any Colony either by such legislature as aforesaid or by Her Majesty in Council :
- An Act of Parliament, or any provision thereof, shall, in construing this Act, be said to extend to any Colony when it is made applicable to such Colony by the express words or necessary intendment of any Act of Parliament :
- The term “ Governor ” shall mean the officer lawfully administering the Government of any Colony :
- The term “ Letters Patent ” shall mean letters patent under the great
 30) seal of the United Kingdom of Great Britain and Ireland.
- 2.** Any colonial law which is or shall be in any respect repugnant to the provisions of any Act of Parliament extending to the Colony to which such law may relate, or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the Colony the force and effect of such Act, shall be read subject to such Act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.
- 3.** No Colonial law shall be or be deemed to have been void or inoperative on the ground of repugnancy to the law of England, unless the
 40) same shall be repugnant to the provisions of some such Act of Parliament, order, or regulation as aforesaid.
- 4.** No colonial law, passed with the concurrence of or assented to by the Governor of any Colony, or to be hereafter so passed or assented to, shall be or be deemed to have been void or inoperative by reason only of any

Definitions :
 “ Colony.”

“ Legisla-
 ture.”
 “ Colonial
 legislature.”

“ Repre-
 sentative
 legislature.”

“ Colonial
 law.”

“ Extend to
 Colony.”

“ Gov-
 ernor.”

“ Letters
 patent.”

Colonial
 law when
 void for
 repugnancy.

Colonial
 law when
 not void for
 repugnancy.

Colonial
 law not void
 for incon-
 sistency

No. 4—
continued.
with in-
structions.

instructions with reference to such law or the subject thereof which may have been given to such Governor by or on behalf of Her Majesty, by any instrument other than the letters patent or instrument authorising such Governor to concur in passing or to assent to laws for the peace, order and good government of such Colony, even though such instructions may be referred to in such letters patent or last-mentioned instrument.

Colonial
legislature
may estab-
lish, &c.
Courts of
law.
Repre-
sentative
legislature
may alter
constitu-
tion.

5. Every Colonial legislature shall have, and be deemed at all times to have had, full power within its jurisdiction to establish Courts of judica-
ture, and to abolish and reconstitute the same, and to alter the constitution
thereof, and to make provision for the administration of justice therein; 10
and every representative legislature shall, in respect to the Colony under
its jurisdiction, have, and be deemed at all times to have had, full power to
make laws respecting the constitution, powers, and procedure of such
legislature; provided that such laws shall have been passed in such manner
and form as may from time to time be required by any Act of Parliament,
letters patent, Order in Council, or Colonial law for the time being in force
in the said Colony.

Certified
copies of
laws to be
evidence
that they
are properly
passed.

6. The certificate of the clerk or other proper officer of a legislative
body in any Colony to the effect that the document to which it is attached 20
is a true copy of any Colonial law assented to by the Governor of such
Colony, or of any bill reserved for the signification of Her Majesty's pleasure
by the said Governor, shall be *primâ facie* evidence that the document
so certified is a true copy of such law or bill, and, as the case may be, that
such law has been duly and properly passed and assented to, or that such
bill has been duly and properly passed and presented to the Governor; and
any proclamation purporting to be published by authority of the Governor
in any newspaper in the Colony to which such law or bill shall relate, and
signifying Her Majesty's disallowance of any such Colonial law, or Her
Majesty's assent to any such reserved bill as aforesaid, shall be *primâ facie*
evidence of such disallowance or assent. 30

Proclama-
tion to be
evidence of
assent and
disallow-
ance.

“ And whereas doubts are entertained respecting the validity of certain
Acts enacted or reputed to be enacted by the legislature of South Australia : ”
Be it further enacted as follows :

Certain
Acts enacted
by legisla-
ture of
South
Australia to
be valid.

7. All laws or reputed laws enacted or purporting to have been enacted
by the said legislature, or by persons or bodies of persons for the time being
acting as such legislature, which have received the assent of Her Majesty
in Council, or which have received the assent of the Governor of the said
Colony in the name and on behalf of Her Majesty, shall be and be deemed 40
to have been valid and effectual from the date of such assent for all purposes
whatever; provided that nothing herein contained shall be deemed to give
effect to any law or reputed law which has been disallowed by Her Majesty,
or has expired, or has been lawfully repealed, or to prevent the lawful
disallowance or repeal of any law.

STATUTES AND ORDER IN COUNCIL

No. 5

No. 5

The British North America Act, 1867, 30 Vict., Chap. 3 (Imperial)

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith.

The
British
North
America
Act, 1867,
30 Vict.,
Chap. 3
(Imperial).

[29th March, 1867.]

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom:

10 And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual admission into the Union of other Parts of British North America:

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and
20 Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I.—PRELIMINARY

1. This Act may be cited as The British North America Act, 1867.

Short Title.

2. The Provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

Application
of Provisions
referring to
the Queen.

II.—UNION

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a
30 Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the Name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.

Declaration
of Union.

4. The subsequent Provisions of this Act, shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on

Construc-
tion of
subsequent
Provisions
of Act.

The British North America Act, 1867, 30 Vict. Chap. 3 (Imperial).
—Continued
Four Provinces.

and after the Day appointed for the Union taking effect in the Queen's Proclamation; and in the same Provisions, unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.

5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

Provinces of Ontario and Quebec

6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of Nova Scotia and New Brunswick.
Decennial Census.

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

8. In the general Census of the Population of Canada which is hereby required to be taken in the Year One thousand eight hundred and seventy-one, and in every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

III.—EXECUTIVE POWER

Declaration of Executive Power in the Queen.

9. The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen. 20

Application of Provisions referring to Governor General.

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of Canada on behalf and in the Name of the Queen, by whatever Title he is designated.

Constitution of Privy Council for Canada.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General. 30

All Powers under Acts to be exercised by Governor General with advice of Privy Council or alone.

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors

or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exerciseable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Members thereof, or by the Governor General individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
(Imperial).
—Continued

13. The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for Canada.

Application
of Provisions
referring to
Governor
General in
Council.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from Time to Time to appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that Capacity to exercise during the Pleasure of the Governor General such of the Powers, Authorities, and Functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any Limitations or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies shall not affect the Exercise by the Governor General himself of any Power, Authority, or Function.

Power to
Her Majesty
to authorize
Governor
General to
appoint
Deputies.

15. The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

Command of
Armed
Forces to
continue to
be vested in
the Queen.

16. Until the Queen otherwise directs the Seat of Government of Canada shall be Ottawa.

Seat of
Government
of Canada.

IV.—LEGISLATIVE POWER.

17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Constitution
of Parlia-
ment of
Canada.

18. The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the Members thereof respectively shall be such as are from Time to Time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.

Privileges,
&c., of
Houses.

19. The Parliament of Canada shall be called together not later than Six Months after the Union.

First Session
of the Par-
liament of
Canada.

—Continued

Yearly
Session of
the Parlia-
ment of
Canada.

20. There shall be a Session of the Parliament of Canada once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Parliament in one Session and its first Sitting in the next Session.

The Senate.

Number of
Senators.

21. The Senate shall, subject to the Provisions of this Act, consist of Seventy-two Members, who shall be styled Senators.

Representa-
tion of Pro-
vinces in
Senate.

22. In relation to the Constitution of the Senate, Canada shall be deemed to consist of Three Divisions:

1. Ontario;

2. Quebec;

10

3. The Maritime Provinces, Nova Scotia and New Brunswick; which Three Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by Twenty-four Senators; Quebec by Twenty-four Senators; and the Maritime Provinces by Twenty-four Senators, Twelve thereof representing Nova Scotia, and Twelve thereof representing New Brunswick.

In the Case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to Chapter One of the Consolidated Statutes of Canada.

Qualifica-
tions of
Senator.

23. The Qualifications of a Senator shall be as follows:

20

(1) He shall be of the full age of Thirty Years:

(2) He shall be either a Natural-born Subject of the Queen, or a Subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of One of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union:

(3) He shall be legally or equitably seised as of Freehold for his own Use and Benefit of Lands or Tenements held in free and common Socage, or seised or possessed for his own Use and Benefit of Lands or Tenements held in 30 Franc-alleu or in Roture, within the Province for which he is appointed, of the Value of Four thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages, and Incumbrances due or payable out of or charged on or affecting the same;

(4) His Real and Personal Property shall be together worth Four thousand Dollars over and above his Debts and Liabilities:

(5) He shall be resident in the Province for which he is appointed:

(6) In the case of Quebec he shall have his Real Property Qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

The British North America Act, 1867, 30 Vict Chap. 3 (Imperial).
—Continued

24. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified Persons to the Senate; and, subject to the Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator.

Summons of Senator.

25. Such Persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their Names shall be inserted in the Queen's Proclamation of Union.

Summons of First Body of Senators.

26. If at any Time on the Recommendation of the Governor General the Queen thinks fit to direct that Three or Six Members be added to the Senate, the Governor General may by Summons to Three or Six qualified Persons (as the Case may be), representing equally the Three Divisions of Canada, add to the Senate accordingly.

Addition of Senators in certain cases.

27. In case of such Addition being at any Time made the Governor General shall not summon any Person to the Senate, except on a further like Direction by the Queen on the like Recommendation, until each of the Three Divisions of Canada is represented by Twenty-four Senators and no more.

Reduction of Senate to normal number.

28. The Number of Senators shall not at any Time exceed Seventy-eight.

Maximum number of Senators.

29. A Senator shall, subject to the Provisions of this Act, hold his Place in the Senate for Life.

Tenure of Place in Senate.

30. A Senator may by Writing under his Hand addressed to the Governor General resign his Place in the Senate, and thereupon the same shall be vacant.

Resignation of Place in Senate

31. The Place of a Senator shall become vacant in any of the following Cases:—

Disqualification of Senators.

- (1) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate;
- (2) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power:
- (3) If he is adjudged Bankrupt or Insolvent, or applies for the Benefit of any Law relating to Insolvent Debtors, or becomes a public Defaulter:
- (4) If he is attainted of Treason or convicted of Felony or of any infamous Crime:

The British
North
America Act,
1867, 30 Vict.
Chap. 3
(Imperial).
—Continued

(5) If he ceases to be qualified in respect of Property or of Residence; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of the Government of Canada while holding an Office under that Government requiring his Presence there.

Summons on
Vacancy in
Senate.

32. When a vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.

Questions as
to Qualifica-
tions and
Vacancies in
Senate.

33. If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate. 10

Appoint-
ment of
Speaker of
Senate.

34. The Governor General may from Time to Time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead.

Quorum of
Senate.

35. Until the Parliament of Canada otherwise provides, the Presence of at least Fifteen Senators, including the Speaker, shall be necessary to constitute a Meeting of the Senate for the Exercise of its Powers.

Voting in
Senate.

36. Questions arising in the Senate shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative.

The House of Commons.

Constitution
of House of
Commons in
Canada.

37. The House of Commons shall, subject to the Provisions of this Act, consist of One hundred and eighty-one Members, of whom Eighty-two shall be elected for Ontario, Sixty-five for Quebec, Nineteen for Nova Scotia, and Fifteen for New Brunswick. 20

Summon-
ing of House
of Commons.

38. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons.

Senators not
to sit in
House of
Commons.

39. A Senator shall not be capable of being elected or of sitting or voting as a Member of the House of Commons.

Electoral dis-
tricts of the
four Pro-
vinces.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows: 30

1.—ONTARIO

Ontario shall be divided into the Counties, Ridings or Counties, Cities, Parts of Cities, and Towns enumerated in the First Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return One Member.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
(Imperial).
—Continued

2.—QUEBEC.

Quebec shall be divided into Sixty-five Electoral Districts, composed of the Sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under Chapter Two of the Consolidated Statutes of Canada, Chapter 10 Seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the Twenty-third Year of the Queen, Chapter One, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the Purposes of this Act an Electoral District entitled to return One Member.

3.—NOVA SCOTIA.

Each of the Eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return Two Members, and each of the other Counties One Member.

4.—NEW BRUNSWICK

20 Each of the Fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be an Electoral District. The City of St. John shall also be a separate Electoral District. Each of those Fifteen Electoral Districts shall be entitled to return One Member.

41. Until the Parliament of Canada otherwise provides, all Laws in force in the several Provinces at the Union relative to the following Matters or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the House of Assembly or Legislative Assembly in the several Provinces, the Voters at Elections of such Members, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the 30 Periods during which Elections may be continued, the Trial of controverted Elections, and Proceedings incident thereto, the vacating of Seats of Members, and the Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces.

Continuance
of existing
Election
Laws until
Parliament
of Canada
otherwise
provides.

Provided that, until the Parliament of Canada otherwise provides, at any Election for a Member of the House of Commons for the District of Algoma, in

The British
North
America Act,
1867, 30 Vict.
Chap. 3
(Imperial).
—Continued

addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

Writs for
first Elec-
tion.

42. For the First Election of Members to serve in the House of Commons the Governor General shall cause Writs to be issued by such Person, in such Form, and addressed to such Returning Officers as he thinks fit.

The Person issuing Writs under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the issuing of Writs for the Election of Members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the 10 Returning Officers to whom Writs are directed under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the returning of Writs for the Election of Members to serve in the same respective House of Assembly or Legislative Assembly.

As to casual
Vacancies.

43. In case a Vacancy in the Representation in the House of Commons of any Electoral District happens before the Meeting of the Parliament, or after the Meeting of the Parliament before Provision is made by the Parliament in this Behalf, the Provisions of the last foregoing Section of this Act shall extend and apply to the issuing and returning of a Writ in respect of such vacant District.

As to Elec-
tion of
Speaker of
House of
Commons.

44. The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker.

As to filling
up Vacancy
in Office of
Speaker.

45. In case of a Vacancy happening in the Office of Speaker by Death, Resignation, or otherwise, the House of Commons shall with all practicable Speed proceed to elect another of its Members to be Speaker.

Speaker to
preside.

46. The Speaker shall preside at all Meetings of the House of Commons.

Provision in
case of ab-
sence of
Speaker.

47. Until the Parliament of Canada otherwise provides, in case of the Absence for any Reason of the Speaker from the Chair of the House of Commons for a period of Forty-eight consecutive Hours, the House may elect another of its Members to act as Speaker, and the Member so elected shall during the Continuance of such Absence of the Speaker have and execute all the Powers, Privileges, and Duties of Speaker.

Quorum of
House of
Commons.

48. The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers; and for that Purpose the Speaker shall be reckoned as a Member.

—Continued

49. Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote. oting in
ouse of
ommons.

50. Every House of Commons shall continue for Five Years from the Day of the Return of the Writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer. tion of
e of
ons.

51. On the Completion of the Census in the Year One thousand eight hundred and seventy-one, and of each subsequent decennial Census, the Representation of the Four Provinces shall be readjusted by such Authority, in such Manner, and from such Time, as the Parliament of Canada from Time to Time provides, subject and according to the following Rules: Decenn
Re-adj
ment of
Represe
tation.

- (1) Quebec shall have the fixed Number of Sixty-five Members:
- (2) There shall be assigned to each of the other Provinces such a Number of Members as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the Number Sixty-five bears to the Number of the Population of Quebec (so ascertained):
- (3) In the Computation of the Number of Members for a Province a fractional Part not exceeding One Half of the whole Number requisite for entitling the Province to a Member shall be disregarded; but a fractional Part exceeding One Half of that Number shall be equivalent to the whole Number:
- (4) On any such Re-adjustment the Number of Members for a Province shall not be reduced unless the Proportion which the Number of the Population of the Province bore to the Number of the aggregate Population of Canada at the then last preceding Re-adjustment of the Number of Members for the Province is ascertained at the then latest Census to be diminished by One Twentieth Part or upwards:
- (5) Such Re-adjustment shall not take effect until the Termination of the then existing Parliament.

52. The Number of Members of the House of Commons may be from Time to Time increased by the Parliament of Canada, provided the proportionate Representation of the Provinces prescribed by this Act is not thereby disturbed. Increase of
number of
House of
Commons.

Money Votes; Royal Assent.

53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons. Appropriation and tax Bills.

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Recommendation of money votes

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North
America Act,
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(Imperial).
—Continued

Royal
Assent to
Bills, &c.

Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

55. Where a Bill passed by the Houses of the Parliament is presented to the Governor General for the Queen's Assent, he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.

Disallow-
ance by
Order in
Council of
Act assented
to by Gov-
ernor Gen-
eral.

56. Where the Governor General assents to a Bill in the Queen's Name, he shall by the first convenient Opportunity send an authentic Copy of the Act to one 10 of Her Majesty's Principal Secretaries of State, and if the Queen in Council within Two Years after Receipt thereof by the Secretary of State thinks fit to disallow the Act, such Disallowance (with a Certificate of the Secretary of State of the Day on which the Act was received by him) being signified by the Governor General, by Speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the Day of such Signification.

Significa-
tion of
Queen's
pleasure on
Bill re-
served.

57. A Bill reserved for the Signification of the Queen's Pleasure shall not have any Force unless and until within Two years from the Day on which it was presented to the Governor General for the Queen's Assent, the Governor General signifies, by Speech or Message to each of the Houses of the Parliament or by 20 Proclamation, that it has received the Assent of the Queen in Council.

An Entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a Duplicate thereof duly attested shall be delivered to the proper Officer to be kept among the Records of Canada.

V.—PROVINCIAL CONSTITUTIONS.

Executive Power.

Appoint-
ment of
Lieutenant
Governors
of
Provinces.
Tenure of
office of
Lieutenant
Governor.

58. For each Province there shall be an Officer, styled the Lieutenant Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.

59. A Lieutenant Governor shall hold Office during the Pleasure of the 30 Governor General; but any Lieutenant Governor appointed after the Commencement of the First Session of the Parliament of Canada shall not be removable within Five Years from his Appointment, except for Cause assigned, which shall be communicated to him in Writing within One Month after the Order for his Removal is made, and shall be communicated by Message to the Senate and to the

House of Commons within One Week thereafter if the Parliament is then sitting, and if not then within One Week after the Commencement of the next Session of the Parliament.

The British North America Act, 1867, 30 Vict. Chap. 3 (Imperial).
—Continued

60. The Salaries of the Lieutenant Governors shall be fixed and provided by the Parliament of Canada.

Salaries of Lieutenant Governors.

61. Every Lieutenant Governor shall, before assuming the Duties of his Office, make and subscribe before the Governor General or some Person authorized by him, Oaths of Allegiance and Office similar to those taken by the Governor General.

Oaths, &c., of Lieutenant Governor.

10 **62.** The Provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the Time being of each Province or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of the Province, by whatever Title he is designated.

Application of provisions referring to Lieutenant Governor.

63. The Executive Council of Ontario and of Quebec shall be composed of such Persons as the Lieutenant Governor from Time to Time thinks fit, and in the first instance of the following Officers, namely,—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in Quebec, the Speaker of the Legislative Council and the Solicitor General.

Appointment of Executive Officers for Ontario and Quebec.

20 **64.** The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.

Executive Government of Nova Scotia and New Brunswick.

30 **65.** All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice or with the Advice and Consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant Governor of Ontario and Quebec respectively, with the Advice or with the Advice and Consent of or in conjunction with the respective Executive Councils, or any Members thereof, or by the Lieutenant Governor individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of

Powers to be exercised by Lieutenant Governor of Ontario or Quebec with advice or alone.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
Imperial).
—Continued

Application
of provisions
referring to
Lieutenant
Governor in
Council.

Administra-
tion in ab-
sence, &c., of
Lieutenant
Governor.

Seats of
Provincial
Govern-
ments.

the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be abolished or altered by the respective Legislatures of Ontario and Quebec.

66. The Provisions of this Act referring to the Lieutenant Governor in Council shall be construed as referring to the Lieutenant Governor of the Province acting by and with the Advice of the Executive Council thereof.

67. The Governor General in Council may from Time to Time appoint an Administrator to execute the Office and Functions of Lieutenant Governor during his Absence, Illness, or other Inability.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Legislative Power

1.—ONTARIO

Legislature
for Ontario.

69. There shall be a Legislature for Ontario consisting of the Lieutenant Governor and of One House, styled the Legislative Assembly of Ontario.

Electoral
districts.

70. The Legislative Assembly of Ontario shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth 20 in the First Schedule to this Act.

2.—QUEBEC

Legislature
for Quebec.

71. There shall be a Legislature for Quebec consisting of the Lieutenant Governor and of Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

Constitu-
tion of
Legislative
Council.

72. The Legislative Council of Quebec shall be composed of Twenty-four Members, to be appointed by the Lieutenant Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, one being appointed to represent each of the Twenty-four Electoral Divisions of Lower Canada in this Act referred to, and each holding Office for the Term of his Life, unless the Legislature of 30 Quebec otherwise provides under the Provisions of this Act.

Qualifica-
tion of
Legislative
Councillors.
Resignation,
Disqualifi-
cation, &c.

73. The Qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec.

74. The Place of a Legislative Councillor of Quebec shall become vacant in the Cases, *mutatis mutandis*, in which the Place of Senator becomes vacant.

75. When a Vacancy happens in the Legislative Council of Quebec by Resignation, Death, or otherwise, the Lieutenant Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, shall appoint a fit and qualified Person to fill the Vacancy.

The British North America Act, 1867, 30 Vict. Chap. 3 Imperial).
—Continued
Vacancies

76. If any Question arises respecting the Qualification of a Legislative Councillor of Quebec, or a Vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

Questions as to Vacancies, &c.

77. The Lieutenant Governor may from Time to Time, by Instrument under the Great Seal of Quebec, appoint a Member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.

Speaker of Legislative Council.

78. Until the Legislature of Quebec otherwise provides, the Presence of at least Ten Members of the Legislative Council, including the Speaker, shall be necessary to constitute a Meeting for the Exercise of its Powers.

Quorum of Legislative Council.

79. Questions arising in the Legislative Council of Quebec shall be decided by a majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the negative.

Voting in Legislative Council.

80. The Legislative Assembly of Quebec shall be composed of Sixty-five Members, to be elected to represent the Sixty-five Electoral Divisions or Districts of Lower Canada in this Act referred to, subject to Alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant Governor of Quebec for Assent any Bill for altering the Limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the Second and Third Readings of such Bill have been passed in the Legislative Assembly with the Concurrence of the Majority of the Members representing all those Electoral Divisions or Districts, and the Assent shall not be given to such Bill unless an Address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed.

Constitution of Legislative Assembly of Quebec.

3.—ONTARIO AND QUEBEC

81. The Legislatures of Ontario and Quebec respectively shall be called together not later than Six Months after the Union.

First Session of Legislatures.

82. The Lieutenant Governor of Ontario and of Quebec shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

Summoning of Legislative Assemblies.

83. Until the Legislature of Ontario or of Quebec otherwise provides, a Person accepting or holding in Ontario or in Quebec any Office, Commission or Employment, permanent or temporary, at the Nomination of the Lieutenant

Restriction on election of holders of offices.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
Imperial).
—Continued

Governor, to which an annual Salary, or any Fee, Allowance, Emolument, or profit of any Kind or Amount whatever from the Province is attached, shall not be eligible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any Person being a Member of the Executive Council of the respective Province, or holding any of the following Offices, that is to say, the Offices of Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such Office. 10

Continuance
of existing
election
Laws.

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following Matters, or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the Assembly of Canada, the Qualifications or Disqualifications of Voters, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which such Elections may be continued, and the Trial of controverted Elections and the Proceedings incident thereto, the vacating of the Seats of Members and the issuing and Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of Ontario and Quebec. 20

Provided that until the Legislature of Ontario otherwise provides, at any Election for a Member of the Legislative Assembly of Ontario for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

Duration of
Legislative
Assemblies.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for Four Years from the Day of the Return of the Writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant Governor of the Province), and no longer.

Yearly Ses-
sion of
Legislature.

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Legislature in each Province in one Session and its first Sitting in the next Session.

Speaker,
Quorum, &c.

87. The following Provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the Provisions relating to the Election of a Speaker origin-

ally and on Vacancies, the Duties of the Speaker, the absence of the Speaker, the Quorum, and the Mode of voting, as if those Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
Imperial).
—Continued

4.—NOVA SCOTIA AND NEW BRUNSWICK.

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act; and the House of Assembly of New Brunswick existing at the passage of this Act shall, unless sooner dissolved, continue for the Period for which it was elected.

Constitu-
tions of
Legislatures
of Nova
Scotia and
New Brun-
swick.

10

5.—ONTARIO, QUEBEC, AND NOVA SCOTIA.

89. Each of the Lieutenant Governors of Ontario, Quebec and Nova Scotia shall cause Writs to be issued for the First Election of Members of the Legislative Assembly thereof in such Form and by such Person as he thinks fit, and at such Time and addressed to such Returning Officer as the Governor-General directs, and so that the First Election of Member of Assembly for any Electoral District or any Subdivision thereof shall be held at the same Time and at the same Places as the Election for a Member to serve in the House of Commons of Canada for that Electoral District.

First Elec-
tions.

6.—THE FOUR PROVINCES.

90. The following Provisions of this Act respecting the Parliament of Canada, namely,—the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

Application
to Legisla-
tures of
provisions
respecting
money votes,
&c.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

30

Powers of the Parliament.

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing

Legislative
Authority of
Parliament
of Canada.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
Imperial).
—Continued

Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics. 10
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign County or between Two Provinces.
14. Currency and Coinage. 20
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians. 30
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprized in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
Imperial).
—Continued

Exclusive Powers of Provincial Legislatures.

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

Subjects of
exclusive
Provincial
Legislation.

- 10 1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant Governor.
2. Direct Taxation within the Province in order to the Raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
- 20 6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:—
 - 30 a. Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:
 - b. Lines of Steam Ships between the Province and any British or Foreign Country:
 - c. Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general advantage of Canada or for the Advantage of Two or more of the Provinces.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
Imperial).
—Continued

11. The Incorporation of Companies with Provincial Objects.
12. The Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section. 10
16. Generally all Matters of a merely local or private Nature in the Province.

Education.

Legislation
respecting
Education.

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

- (1) 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 in the Province at the Union:
- (2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate School and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby 20 extended to the Dissident Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:
- (3) Where in any Province a System of Separate or Dissident Schools exists by Law at 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 30 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.

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick.

94. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

The British North America Act, 1867, 30 Vict. Chap. 3 (Imperial).
—Continued
Legislation for uniformity of Laws in three Provinces.

Agriculture and Immigration.

95. In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from Time to Time make laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

Concurrent powers of Legislation respecting Agriculture, &c.

VII.—JUDICATURE.

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Appointment of Judges.

97. Until the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

Selection of Judges in Ontario, &c.

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

Selection of Judges in Quebec.

99. The Judges of the Superior Courts shall hold office during good Behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

Tenure of office of Judges of Superior Courts.

100. The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New

Salaries, &c., of Judges.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
Imperial).
—Continued

Brunswick), and of the Admiralty Courts in Cases where the Judges thereof are for the Time being paid by Salary shall be fixed and provided by the Parliament of Canada.

General
Court of
Appeal, &c.

101. The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time, provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada.

VIII.—REVENUES; DEBTS; ASSETS; TAXATION.

Creation of
Consoli-
dated rev-
enue fund.

102. All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have 10 Power of Appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special Powers conferred on them by this Act, shall form One Consolidated Revenue Fund, to be appropriated for the Public Service of Canada in the Manner and subject to the Charges in this Act provided.

Expenses of
Collection,
&c.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the Costs, Charges, and Expenses incident to the Collection, Management, and Receipt thereof, and the same shall form the first Charge thereon, subject to be reviewed and audited in such Manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Interest of
Provincial
public debts.

104. The annual Interest of the Public Debts of the several Provinces of 20 Canada, Nova Scotia, and New Brunswick at the Union shall form the Second Charge on the Consolidated Revenue Fund of Canada.

Salary of
Governor
General.

105. Unless altered by the Parliament of Canada, the salary of the Governor General shall be Ten thousand Pounds Sterling Money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the Third Charge thereon.

Appropri-
ation from
time to
time.

106. Subject to the several Payments by this Act charged on the Consoli- dated Revenue Fund of Canada, the same shall be appropriated by the Parlia- ment of Canada for the Public Service.

Transfer of
stocks, &c.

107. All Stocks, Cash, Banker's Balances, and Securities for Money belong- 30 ing to each Province at the time of the Union, except as in this Act mentioned, shall be the Property of Canada, and shall be taken in Reduction of the amount of the respective Debts of the Provinces at the Union.

Transfer of
property in
schedule.

108. The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of Canada.

- 109.** All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.
- The British North America Act, 1867, 30 Vict. Chap. 3 (Imperial).
—Continued
Property in Lands, Mines, &c.
- 110.** All Assets connected with such Portions of the Public Debt of each Province as are assumed by that Province shall belong to that Province.
- Assets connected with Provincial debts.
- 111.** Canada shall be liable for the Debts and Liabilities of each Province existing at the Union.
- Canada to be liable for Provincial debts.
- 112.** Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the Debt of the Province of Canada exceeds at the Union Sixty-two million five hundred thousand dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.
- Debts of Ontario and Quebec.
- 113.** The Assets enumerated in the Fourth Schedule to this Act belonging at the Union to the Province of Canada shall be the Property of Ontario and Quebec conjointly.
- Assets of Ontario and Quebec.
- 114.** Nova Scotia shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Eight million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.
- Debt of Nova Scotia.
- 115.** New Brunswick shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Seven million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.
- Debt of New Brunswick.
- 116.** In case the Public Debts of Nova Scotia and New Brunswick do not at the Union amount to Eight million and Seven million Dollars respectively, they shall respectively receive by half-yearly Payments in advance from the Government of Canada Interest at Five per Centum per Annum on the Difference between the actual Amounts of their respective Debts and such stipulated Amounts.
- Payment of interest to Nova Scotia and New Brunswick.
- 117.** The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Right of Canada to assume any Lands or Public Property required for Fortifications or for the Defence of the Country.
- Provincial public property.

The British North America Act, 1867, 30 Vict. Chap. 3 (Imperial).
—Continued

Grants to Provinces.

118. The following Sums shall be paid yearly by Canada to the several Provinces for the Support of their Governments and Legislatures:

	Dollars
Ontario..	Eighty thousand
Quebec..	Seventy thousand
Nova Scotia..	Sixty thousand
New Brunswick..	Fifty thousand

Two hundred and sixty thousand;

and an annual Grant in aid of each Province shall be made, equal to Eighty Cents per Head of the Population as ascertained by the Census of One thousand eight hundred and sixty-one, and in the Case of Nova Scotia and New Brunswick, by each subsequent Decennial Census until the Population of each of those two Provinces amounts to Four Hundred Thousand Souls, at which Rate such Grant shall thereafter remain. Such Grants shall be in full Settlement of all future Demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such Grants, as against any Province, all Sums chargeable as Interest on the Public Debt of that Province in excess of the several Amounts stipulated in this Act.

Further grant to New Brunswick.

119. New Brunswick shall receive by half-yearly Payments in advance from Canada for the Period of Ten years from the Union an additional Allowance of Sixty-three thousand Dollars per Annum; but as long as the Public Debt of that Province remains under Seven million Dollars, a Deduction equal to the Interest at Five per Centum per Annum on such Deficiency shall be made from that Allowance of Sixty-three thousand Dollars.

Form of payments.

120. All Payments to be made under this Act, or in discharge of Liabilities created under any Act of the Provinces of Canada, Nova Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such Form and Manner as may from Time to Time be ordered by the Governor General in Council.

Canadian manufactures, &c.

121. All Articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

Continuance of customs and excise laws.

122. The Customs and Excise Laws of each Province shall, subject to the Provisions of this Act, continue in force until altered by the Parliament of Canada.

Exportation and Importation as between two Provinces.

123. Where Customs Duties are, at the Union, leviable on any Goods, Wares, or Merchandises in any Two Provinces, those Goods, Wares, and Merchandises may, from and after the Union, be imported from one of those Provinces into the

other of them on Proof of Payment of the Customs Duty leviable thereon in the Province of Exportation, and on Payment of such further Amount (if any) of Customs Duty as is leviable thereon in the Province of Importation.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
(Imperial).
—Continued

124. Nothing in this Act shall affect the Right of New Brunswick to levy the Lumber Dues provided in Chapter Fifteen of Title Three of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the Amount of such Dues; but the Lumber of any of the Provinces other than New Brunswick shall not be subject to such Dues.

Lumber
Dues in New
Brunswick.

125. No Lands or Property belonging to Canada or any Province shall be liable to Taxation.

Exemption
of Public
Lands, &c.

126. Such Portions of the Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick had before the Union Power of Appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the special Powers conferred upon them by this Act, shall in each Province form One Consolidated Revenue Fund to be appropriated for the Public Service of the Province.

Provincial
Consolidated
revenue
fund.

IX.—MISCELLANEOUS PROVISIONS.

General.

127. If any Person being at the passing of this Act a Member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a Place in the Senate is offered, does not within Thirty Days thereafter, by Writing under his Hand addressed to the Governor General of the Province of Canada or to the Lieutenant Governor of Nova Scotia or New Brunswick (as the Case may be), accept the same, he shall be deemed to have declined the same; and any Person who, being at the passing of this Act a Member of the Legislative Council of Nova Scotia or New Brunswick, accepts a Place in the Senate shall thereby vacate his Seat in such Legislative Council.

As to Legis-
lative Coun-
cillors of
Provinces
becoming
senators.

128. Every Member of the Senate or House of Commons of Canada shall before taking his Seat therein take and subscribe before the Governor General or some Person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall before taking his Seat therein take and subscribe before the Lieutenant Governor of the Province or some Person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of Canada and every Member of the Legis-

Oath of
Allegiance,
&c.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
(Imperial).
—Continued

lative Council of Quebec shall also before taking his Seat therein, take and subscribe before the Governor General, or some Person authorized by him, the Declaration of Qualification contained in the same Schedule.

Continu-
ance of ex-
isting Laws,
Courts,
Officers, &c.

129. Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parlia- 10
ment of the United Kingdom of Great Britain and Ireland,) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legis-
lature under this Act.

Transfer of
officers to
Canada.

130. Until the Parliament of Canada otherwise provides, all Officers of the several Provinces having Duties to discharge in relation to Matters other than those coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be Officers of Canada, and shall continue to discharge the Duties of their respective Offices under the same Liabilities, Res-
ponsibilities, and Penalties as if the Union had not been made. 20

Appoint-
ment of new
officers.

131. Until the Parliament of Canada otherwise provides, the Governor General in Council may from Time to Time appoint such Officers as the Governor General in Council deems necessary or proper for the effectual Execution of this Act.

Treaty obli-
gations.

132. The Parliament and Government of Canada shall have all Powers necessary or proper for performing the Obligations of Canada or of any Province thereof, as Part of the British Empire, towards Foreign Countries arising under Treaties between the Empire and such Foreign Countries.

Use of Eng-
lish and
French Lan-
guages.

133. Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective 30
Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

Ontario and Quebec.

The British North America Act, 1867, 30 Vict Chap. 3 (Imperial).
 —Continued
 Appointment of executive officers for Ontario and Quebec.

134. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following Officers, to hold Office during Pleasure, that is to say,—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the Case of Quebec the Solicitor General, and may, by Order of the Lieutenant Governor in Council, from Time to Time prescribe the Duties of those Officers and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof; and may also appoint other and additional Officers to hold Office during Pleasure, and may from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof.

135. Until the Legislature of Ontario or Quebec otherwise provides, all Rights, Powers, Duties, Functions, Responsibilities, or Authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any Law, Statute or Ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any Officer to be appointed by the Lieutenant Governor for the Discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the Duties and Functions of the Office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of Canada, as well as those of the Commissioner of Public Works.

136. Until altered by the Lieutenant Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same Design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their Union as the Province of Canada.

137. The words “and from thence to the End of the then next ensuing Session of the Legislature,” or Words to the same Effect, used in any temporary Act of the Province of Canada not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of Canada if the subject Matter of the Act is within the Powers of the same, as defined by this Act, or to the next Ses-

The British
North
America Act,
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—Continued

sions of the Legislatures of Ontario and Quebec respectively if the Subject Matter of the Act is within the Powers of the same as defined by this Act.

As to Errors
in names.

138. From and after the Union the Use of the Words "Upper Canada" instead of "Ontario", or "Lower Canada" instead of "Quebec", in any Deed, Writ, Process, Pleading, Document, Matter, or Things, shall not invalidate the same.

As to issue
of Procla-
mations be-
fore Union,
to commence
after Union.

139. Any Proclamation under the Great Seal of the Province of Canada issued before the Union to take effect at a Time which is subsequent to the Union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several Matters and Things therein proclaimed shall be and continue of like Force and Effect as if the Union had not been made.

10

As to issue
of Procla-
mations
after Union.

140. Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the Union, may be issued by the Lieutenant Governor of Ontario or of Quebec, as its Subject Matter requires, under the Great Seal thereof; and from and after the Issue of such Proclamation the same and the several Matters and Things therein proclaimed shall be and continue of the like Force and Effect in Ontario or Quebec as if the Union had not been made.

Penitentiary.

141. The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and 20 of Quebec.

Arbitration
respecting
debts, &c.

142. The Division and Adjustment of the Debts, Credits, Liabilities, Properties, and Assets of Upper Canada and Lower Canada shall be referred to the Arbitrament of Three Arbitrators, One chosen by the Government of Ontario, One by the Government of Quebec, and One by the Government of Canada; and the Selection of the Arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the Arbitrator chosen by the Government of Canada shall not be a Resident either in Ontario or in Quebec.

Division of
records.

143. The Governor General in Council may from Time to Time order that such and so many of the Records, Books, and Documents of the Province of Canada 30 as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the Property of that Province; and any Copy thereof or Extract therefrom, duly certified by the Officer having charge of the Original thereof, shall be admitted as Evidence.

Constitu-
tion of
townships in
Quebec.

144. The Lieutenant Governor of Quebec may from Time to Time, by Proclamation under the Great Seal of the Province, to take effect from a day

to be appointed therein, constitute Townships in those Parts of the Province of Quebec in which Townships are not then already constituted, and fix the Metes and Bounds thereof.

The British North America Act, 1867, 30 Vict. Chap. 3 (Imperial).
—Continued

X.—INTERCOLONIAL RAILWAY

145. Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that Provision should be made for its immediate Construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of Canada to provide for the Commencement within Six Months after the Union, of a Railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed.

Duty of Government and Parliament of Canada to make Railway herein described.

XI.—ADMISSION OF OTHER COLONIES

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

Power to admit Newfoundland, &c., into the Union.

147. In case of the Admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a Representation in the Senate of Canada of Four Members, and (notwithstanding anything in this Act) in case of the Admission of Newfoundland the normal Number of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the Three Divisions into which Canada is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of Prince Edward Island, whether Newfoundland is admitted or not, the Representation of Nova Scotia and New Brunswick in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provisions of this Act for the Appointment of Three or Six additional Senators under the Direction of the Queen.

As to Representation of Newfoundland and Prince Edward Island in Senate.

The British
North
America Act,
1867, 30 Vict.
Chap. 3
(Imperial).
—Continued

SCHEDULES.

The FIRST SCHEDULE.

Electoral Districts of Ontario.

A.

EXISTING ELECTORAL DIVISIONS.

COUNTIES.

- | | | |
|---------------|-------------------|----|
| 1. Prescott. | 6. Carleton. | |
| 2. Glengarry. | 7. Prince Edward. | |
| 3. Stormont. | 8. Halton. | |
| 4. Dundas. | 9. Essex. | 10 |
| 5. Russell. | | |

RIDINGS OF COUNTIES.

- | | |
|---|----|
| 10. North Riding of Lanark. | |
| 11. South Riding of Lanark. | |
| 12. North Riding of Leeds and North Riding of Grenville. | |
| 13. South Riding of Leeds. | |
| 14. South Riding of Grenville. | |
| 15. East Riding of Northumberland. | |
| 16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan). | 20 |
| 17. East Riding of Durham. | |
| 18. West Riding of Durham. | |
| 19. North Riding of Ontario. | |
| 20. South Riding of Ontario. | |
| 21. East Riding of York. | |
| 22. West Riding of York. | |
| 23. North Riding of York. | |
| 24. North Riding of Wentworth. | |
| 25. South Riding of Wentworth. | |
| 26. East Riding of Elgin. | 30 |
| 27. West Riding of Elgin. | |

28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.
31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

CITIES, PARTS OF CITIES, AND TOWNS.

35. West Toronto.
- 10 36. East Toronto.
37. Hamilton.
38. Ottawa.
39. Kingston.
40. London.
41. Town of Brockville, with the Township of Elizabethtown thereto attached.
42. Town of Niagara, with the Township of Niagara, thereto attached.
43. Town of Cornwall, with the Township of Cornwall thereto attached.

B.

NEW ELECTORAL DIVISIONS.

- 20 44. The Provisional Judicial District of ALGOMA.
The County of BRUCE, divided into Two Ridings to be called respectively the North and South Ridings:—
45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albermarle, Amabel, Arran, Bruce, Elderslie, and Langeen [Saugeen?], and the Village of Southampton.
46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinross [Kinloss?], Culross, and Carrick.
- 30 The County of HURON, divided into Two Ridings, to be called respectively the North and South Ridings:—
47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including the Village of Clinton, and McKillop.
48. The South Riding to consist of the Town of Goderich and the Townships of Goderich, Tuckersmith, Stanley, Hay, Usborne, and Stephen.

The County of MIDDLESEX, divided into Ridings, to be called respectively the North, West, and East Ridings:—

49. The North Riding to consist of the Townships of McGillivray and Biddulph taken from the County of Huron), and Williams East, Williams West, Adelaide, and Lobo.

50. The West Riding to consist of the Townships of Delaware, Carradoc, Metcalfe, Mosa and Ekfrid, and the Village of Strathroy.

[The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.]

51. The County of LAMBTON to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.

52. The County of KENT to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.

53. The County of BOTHWELL to consist of the Townships of Sombra, Dawn, and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford, and Howard (taken from the County of Kent).

The County of GREY, divided into Two Ridings, to be called respectively the South and North Ridings:—

20

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.

55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint-Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of PERTH, divided into Two Ridings, to be called respectively the South and North Ridings:—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Elice, Mornington, and North Easthope, and the Town of Stratford.

57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullerton, Hibbert, and the Villages of Mitchell and Ste. Mary's.

The County of WELLINGTON, divided into Three Ridings, to be called respectively North, South and Centre Ridings:—

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.

59. The Centre Riding to consist of the Township of Garafraxa, Erin, Eramosa, Nichol, and Pilkington, and the Villages of Fergus and Elora.

60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

The county of NORFOLK, divided into Two Ridings, to be called respectively the South and North Ridings:—

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.
62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.
63. The County of HALDIMAND to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Rainham, Walpole, and Dunn.
- 10 64. The County of MONCK to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunnville (taken from the County of Haldiman), the Townships of Caister and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).
65. The County of LINCOLN to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catherines.
66. The County of WELLAND to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold and Welland.
- 20 67. The County of PEEL to consist of the Townships of Chinguacousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.
68. The County of CARDWELL to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe).

The County of SIMCOE, divided into two ridings, to be called respectively the South and North Ridings:—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Tossorontio, Mulmur, and the Village of Bradford.
70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.
- 30

The County of VICTORIA, divided into Two Ridings, to be called respectively the South and North Ridings:—

71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.
72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville, and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Townships lying to the North of the said North Riding.

The County of PETERBOROUGH, divided into Two Ridings, to be called respectively the West and East Ridings:—

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith, and Ennismore, and the Town of Peterborough.
74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any other surveyed Townships lying to the North of the said East Riding.

The County of HASTINGS, divided into Three Ridings, to be called respectively the West, East and North Ridings:—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.
76. The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.
77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake and the Village of Stirling and any other surveyed Townships lying to the North of the said North Riding.
78. The County of LENNOX, to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernest Town and Amherst Island, and the Village of Napanee.
79. The County of ADDINGTON to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.
80. The County of FRONTENAC to consist of the Townships of Kingston, Wolfe Island, Pittsburg, and Howe Island, and Storrington.

The County of RENFREW, divided into two Ridings, to be called respectively the South and North Ridings:—

81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.
82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petewawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards, and any other surveyed Townships lying North-westerly of the said North Riding.

Every Town and incorporated Village existing at the Union, not specially mentioned in this Schedule, is to be taken as Part of the County or Riding within which it is locally situate.

The British
North
America Act
1867, 30 Vict.
Chap. 3
(Imperial).
—Continued

The SECOND SCHEDULE.

Electoral Districts of Quebec specially fixed.

COUNTIES OF—

Pontiac.	Missisquoi.	Compton.
Ottawa.	Brome.	Wolfe and Richmond.
Argenteuil.	Shefford.	Megantic.
10 Huntingdon.	Stanstead.	
	Town of Sherbrooke.	

The THIRD SCHEDULE.

Provincial Public Works and Property to be the Property of Canada.

1. Canals, with Lands and Water Power connected therewith.
2. Public Harbours.
3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges, and Public Vessels.
5. Rivers and Lake Improvements.
6. Railways and Railway Stocks, Mortgages, and other Debts due by Railway Companies.
7. Military Roads.
8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the Use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordnance Property.
10. Armouries, Drill Sheds, Military Clothing, and Munitions of War, and Lands set apart for general Public Purposes.

The British
North
America Act
1867, 30 Vict.
Chap. 3
(Imperial).
—Continued

The FOURTH SCHEDULE.

Assets to be the Property of Ontario and Quebec conjointly.

Upper Canada Building Fund.	
Lunatic Asylums.	
Normal School.	
Court Houses	} Lower Canada.
in	
Aylmer,	
Montreal,	
Kamouraska,	
Law Society, Upper Canada.	
Montreal Turnpike Trust.	
University Permanent Fund.	
Royal Institution.	
Consolidated Municipal Loan Fund, Upper Canada.	
Consolidated Municipal Loan Fund, Lower Canada.	
Agricultural Society, Upper Canada.	
Lower Canada Legislative Grant.	
Quebec Fire Loan.	
Tamisonata [Temiscouata?] Advance Account.	20
Quebec Turnpike Trust.	
Education—East.	
Building and Jury Fund, Lower Canada.	
Municipalities Fund.	
Lower Canada Superior Education Income Fund.	

The FIFTH SCHEDULE

OATH OF ALLEGIANCE

I, *A. B.*, do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

Note.—*The Name of the King or Queen of the United Kingdom of Great Britain and Ireland for the Time being is to be substituted from Time to Time, with Proper Terms of Reference therein.*

DECLARATION OF QUALIFICATION

I, *A. B.* do declare and testify, That I am by Law duly qualified to be appointed a Member of the Senate of Canada [*or as the Case may be*], and that I am legally
10 or equitably seised as of Freehold for my own Use and Benefit of Lands or Tenements held in Free and Common Socage [*or seised or possessed for my own Use and Benefit of Lands or Tenements held in Franc-allevu or in Roture (as the Case may be),*] in the Province of Nova Scotia [*or as the Case may be*] of the Value of Four thousand Dollars over and above all Rents, Dues, Debts, Mortgages, Charges, and Incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a Title to or become possessed of the said Lands and Tenements or any Part thereof for the Purpose of enabling me to become a Member of the Senate of Canada [*or as the Case may be*], and that my Real and Personal Property are together worth Four thousand Dollars
20 over and above my Debts and Liabilities.

No. 6

Rupert's
Land Act,
1868,
31-32 Vict.,
Chap. 105
(Imperial).

No. 6

Rupert's Land Act, 1868, 31-32 Vict. Chap. 105 (Imperial)

An Act for enabling Her Majesty to accept a Surrender upon Terms of the Lands, Privileges, and Rights of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and for admitting the same into the Dominion of Canada.

[31st July, 1868.]

Recital of
Charter of
Hudson's
Bay Com-
pany, 22
Car. 2.

WHEREAS by certain Letters Patent granted by His late Majesty King Charles the Second in the Twenty-second Year of His Reign certain Persons therein named were incorporated by the Name of "The Governor and Company of Adventurers 10 of England trading into Hudson's Bay," and certain Lands and Territories, Rights of Government, and other Rights, Privileges, Liberties, Franchises, Powers, and Authorities, were thereby granted or purported to be granted to the said Governor and Company in His Majesty's Dominions in North America:

And whereas by the British North America Act, 1867, it was (amongst other things) enacted that it should be lawful for Her Majesty, by and with the Advice of Her Majesty's most Honourable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such Terms and Conditions as are in the Address expressed and as Her Majesty thinks fit to approve, subject to the provisions 20 of the said Act:

Recital of
Agreement
of surrender.

And whereas for the Purpose of carrying into effect the Provisions of the said British North America Act, 1867, and of admitting Rupert's Land into the said Dominion as aforesaid upon such Terms as Her Majesty thinks fit to approve, it is expedient that the said Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers, and Authorities, so far as the same have been lawfully granted to the said Company, should be surrendered to Her Majesty, Her Heirs and Successors, upon such Terms and Conditions as may be agreed upon by and between Her Majesty and the said Governor and Company as hereinafter mentioned:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with 30 the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

1. This Act may be cited as "Rupert's Land Act, 1868."

Definition of
"Rupert's
Land."

2. For the Purposes of this Act the Term "Rupert's Land," shall include the whole of the Lands and Territories held or claimed to be held by the said Governor and Company.

3. It shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty by any Instrument under Her Sign Manual and Signet to accept a Surrender of all or any of the Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers, and Authorities whatsoever granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, upon such Terms and Conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company; provided, however, that such Surrender shall not be accepted by Her Majesty until the Terms and Conditions upon which Rupert's Land shall be admitted into the said Dominion of 10 Canada shall have been approved of by Her Majesty, and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada in pursuance of the One hundred and forty-sixth Section of the British North America Act, 1867; and that the said Surrender and Acceptance thereof shall be null and void unless within a Month from the Date of Such Acceptance Her Majesty does by Order in Council under the Provisions of the said last recited Act admit Rupert's Land into the said Dominion; provided further, that no Charge shall be imposed by such Terms upon the Consolidated Fund of the United Kingdom.

Rupert's
Land Act,
1868,
31-32 Vict.,
Chap. 105
(Imperial).
—Concluded
Power to
Her Majesty
to accept
Surrender of
Lands, &c.,
of the Com-
pany upon
certain
Terms.

4. Upon the acceptance by Her Majesty of such Surrender all Rights of Govern- 20 ment and Proprietary Rights, and all other Privileges, Liberties, Franchises, Powers, and Authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, and which shall have been so surrendered, shall be absolutely extinguished; provided that nothing herein contained shall prevent the said Governor and Company from continuing to carry on in Rupert's Land or elsewhere Trade and Commerce.

Extinguish-
ment of all
Rights of the
Company.

5. It shall be competent to Her Majesty by any such Order or Orders in Council as aforesaid, on Address from the Houses of the Parliament of Canada, to declare that Rupert's Land shall, from a Date to be therein mentioned, be admitted into and become Part of the Dominion of Canada; and thereupon it shall be lawful for the Parliament of Canada from the Date aforesaid to make, ordain, and establish 30 within the Land and Territory so admitted as aforesaid all such Laws, Institutions, and Ordinances, and to constitute such Courts and Officers, as may be necessary for the Peace, Order, and good Government of Her Majesty's Subjects and others therein: Provided that, until otherwise enacted by the said Parliament of Canada, all the Powers, Authorities, and Jurisdiction of the Several Courts of Justice now established in Rupert's Land, and of the several Officers thereof, and of all Magis- trates and Justices now acting within the said Limits, shall continue in full force and effect therein.

Power to
Her Majesty
by Order in
Council to
admit Ru-
pert's Land
into and
form Part of
the Domin-
ion of
Canada.

Jurisdiction
of present
Courts and
Officers
continued.

No. 7

Act, 32-33
Vict., Chap. 3
(Canada).

No. 7

Act, 32-33 Vict., Chap. 3 (Canada)

An Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada.

[Assented to 22nd June, 1869.]

Preamble.

WHEREAS it is probable that Her Majesty the Queen may, pursuant to "The British North America Act, 1867," be pleased to admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, before the next Session of the Canadian Parliament: And whereas it is expedient to prepare for the transfer of the said Territories from the Local Authorities to the Government of Canada, at 10 the time appointed by the Queen for such admission, and to make some temporary provision for the Civil Government of such Territories until more permanent arrangements can be made by the Government and Legislature of Canada; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Name of territories.

1. The said Territories when admitted as aforesaid, shall be styled and known as "The North-West Territories."

Appointment and functions of Lieutenant Governor.

2. It shall be lawful for the Governor, by any Order or Orders, to be by him from time to time made, with the advice of the Privy Council (and subject to such conditions and restrictions as to him shall seem meet) to authorize and empower such 20 Officer as he may from time to time appoint as Lieutenant-Governor of the North-West Territories, to make provision for the administration of Justice therein, and generally to make, ordain, and establish all such Laws, Institutions and Ordinances as may be necessary for the Peace, Order and good Government of Her Majesty's subjects and others therein; provided that all such Orders in Council, and all Laws and Ordinances, so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

Power to him to make laws.

Proviso.

Instructions to Lieutenant Governor.

3. The Lieutenant-Governor shall administer the Government under instructions from time to time given him by Order in Council.

30

Appointment of Council to Lieutenant Governor.

4. The Governor may, with the advice of the Privy Council, constitute and appoint, by Warrant under his Sign Manual, a Council of not exceeding fifteen nor less than seven persons, to aid the Lieutenant-Governor in the administration of affairs, with such powers as may be from time to time conferred upon them by Order in Council.

5. All the Laws in force in Rupert's Land and the North-Western Territory, at the time of their admission into the Union, shall so far as they are consistent with "The British North America Act, 1867,"—with the terms and conditions of such admission approved of by the Queen under the 146th section thereof,—and with this Act,—remain in force until altered by the Parliament of Canada, or by the Lieutenant Governor under the authority of this Act.

Act, 32-33
Vict., Chap. 3
(Canada).
—Concluded

Existing
laws to
remain
in force.

6. All Public Officers and Functionaries holding office in Rupert's Land and the North-Western Territory, at the time of their admission into the Union, excepting the Public Officer or Functionary at the head of the administration of affairs, shall
10 continue to be Public Officers and Functionaries of the North-West Territories with the same duties and powers as before, until otherwise ordered by the Lieutenant Governor, under the authority of this Act.

Public
officers,
&c., to retain
office.

7. This Act shall continue in force until the end of the next Session of Parliament.

Duration of
this Act.

No. 8

The
Manitoba
Act, 1870,
33 Vict.,
Chap. 3
(Canada).

No. 8

The Manitoba Act, 1870, 33 Vict., Chap. 3 (Canada)

An Act to amend and continue the Act 32 and 33 Victoria, chapter 3; and to establish and provide for the Government of the Province of Manitoba.

[Assented to 12th May, 1870.]

Preamble.

WHEREAS it is probable that Her Majesty The Queen may, pursuant to the British North America Act, 1867, be pleased to admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, before the next Session of the Parliament of Canada:

And Whereas it is expedient to prepare for the transfer of the said Territories 10 to the Government of Canada at the time appointed by the Queen for such admission:

And Whereas it is expedient also to provide for the organization of part of the said Territories as a Province, and for the establishment of a Government therefor, and to make provision for the Civil Government of the remaining part of the said Territories, not included within the limits of the Province:

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

Province to
be formed
out of N.W.
territory
when united
to Canada.

1. On, from and after the day upon which the Queen, by and with the advice and consent of Her Majesty's Most Honourable Privy Council, under the authority 20 of the 146th Section of the British North America Act, 1867, shall, by Order in Council in that behalf, admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, there shall be formed out of the same a Province, which shall be one of the Provinces of the Dominion of Canada, and which shall be called the Province of Manitoba, and be bounded as follows: that is to say, commencing at the point where the meridian of ninety-six degrees west longitude from Greenwich intersects the parallel of forty-nine degrees north latitude,—thence due west along the said parallel of forty-nine degrees north latitude (which forms a portion of the boundary line between the United States of America and the said North-Western Territory) to the meridian of ninety-nine degrees of 30 west longitude,—thence due north along the said meridian of ninety-nine degrees west longitude, to the intersection of the same with the parallel of fifty degrees and thirty minutes north latitude,—thence due east along the said parallel of fifty degrees and thirty minutes north latitude to its intersection with the before-mentioned meridian of ninety-six degrees west longitude,—thence due south along the said meridian of ninety-six degrees west longitude to the place of beginning.

Its name and
boundaries.

(Boundaries extended; 44 Victoria, chapter 14.)

—Continued

- 2.** On, from and after the said day on which the Order of the Queen in Council shall take effect as aforesaid, the provisions of the British North America Act, 1867, shall, except those parts thereof which are in terms made, or, by reasonable intendment, may be held to be specially applicable to, or only to affect one or more, but not the whole of the Provinces now composing the Dominion, and except so far as the same may be varied by this Act, be applicable to the Province of Manitoba, in the same way, and to the like extent as they apply to the several Provinces of Canada, and as if the Province of Manitoba had been one of the Provinces originally united by the said Act.
- 3.** The said Province shall be represented in the Senate of Canada by two Members, until it shall have, according to decennial census, a population of fifty thousand souls, and from thenceforth it shall be represented therein by three Members, until it shall have, according to decennial census, a population of seventy-five thousand souls, and from thenceforth it shall be represented therein by four Members.
- 4.** The said Province shall be represented, in the first instance, in the House of Commons of Canada, by four Members, and for that purpose shall be divided by proclamation of the Governor General, into four Electoral Districts, each of which shall be represented by one Member: Provided that on the completion of the census in the year 1881, and of each decennial census afterwards, the representation of the said Province shall be re-adjusted according to the provisions of the fifty-first section of the British North America Act, 1867.
- 5.** Until the Parliament of Canada otherwise provides, the qualification of voters at Elections of Members of the House of Commons shall be the same as for the Legislative Assembly hereinafter mentioned: And no person shall be qualified to be elected, or to sit and vote as a Member for any Electoral District, unless he is a duly qualified voter within the said Province.
- 6.** For the said Province there shall be an officer styled the Lieutenant-Governor, appointed by the Governor General in Council, by instrument under the Great Seal of Canada.
- 7.** The Executive Council of the Province shall be composed of such persons, and under such designations, as the Lieutenant-Governor shall, from time to time, think fit; and, in the first instance, of not more than five persons.
- 8.** Unless and until the Executive Government of the Province otherwise directs, the seat of Government of the same shall be at Fort Garry, or within one mile thereof.

Certain provisions of B.N.A. Act, 1867, to apply to Manitoba.

Representation in the Senate.

Representation in the House of Commons.

Qualification of voters and members.

Lieutenant-Governor.

Executive Council.

Seat of Government.

—Continued
Legislature.

9. There shall be a Legislature for the Province, consisting of the Lieutenant-Governor, and of two Houses styled respectively, the Legislative Council of Manitoba, and the Legislative Assembly of Manitoba.

Legislative
Council.

10. The Legislative Council shall, in the first instance, be composed of seven Members, and after the expiration of four years from the time of the first appointment of such seven Members, may be increased to not more than twelve Members. Every Member of the Legislative Council shall be appointed by the Lieutenant-Governor in the Queen's name, by Instrument under the Great Seal of Manitoba, and shall hold office for the term of his life, unless and until the Legislature of Manitoba otherwise provides under the British North America Act, 1867. 10

Members
and their
appoint-
ment, &c.

Speaker.

11. The Lieutenant-Governor may, from time to time, by Instrument under the Great Seal, appoint a Member of the Legislative Council to be Speaker thereof, and may remove him and appoint another in his stead.

Quorum.

12. Until the Legislature of the Province otherwise provides, the presence of a majority of the whole number of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

Voting.

13. Questions arising in the Legislative Council shall be decided by a majority of voices, and the Speaker shall, in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

Equality of
votes.

Legislative
Assembly.

14. The Legislative Assembly shall be composed of twenty-four Members, to be elected to represent the Electoral Divisions into which the said Province may be divided by the Lieutenant-Governor, as hereinafter mentioned. 20

Quorum.

15. The presence of a majority of the Members of the Legislative Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a Member.

Electoral
Divisions.

16. The Lieutenant-Governor shall (within six months of the date of the Order of Her Majesty in Council, admitting Rupert's Land and the North-Western Territory into the Union), by Proclamation under the Great Seal, divide the said Province into twenty-four Electoral Divisions, due regard being had to existing Local Divisions and population. 30

Qualifica-
tion of
voters.

17. Every male person shall be entitled to vote for a Member to serve in the Legislative Assembly for any Electoral Division, who is qualified as follows, that is to say, if he is:—

1. Of the full age of twenty-one years, and not subject to any legal incapacity.
2. A subject of Her Majesty by birth or naturalization:

3. And a *bonâ fide* householder within the Electoral Division, at the date of the Writ of Election for the same, and has been a *bonâ fide* householder for one year next before the said date; or,

4. If, being of the full age of twenty-one years, and not subject to any legal incapacity, and a subject of Her Majesty by birth or naturalization, he was, at any time within twelve months prior to the passing of this Act, and (though in the interim temporarily absent) is at the time of such election a *bonâ fide* householder, and was resident within the Electoral Division at the date of the Writ of Election for the same:

10 But this fourth sub-section shall apply only to the first election to be held under this Act for Members to serve in the Legislative Assembly aforesaid. Proviso.

18. For the first election of Members to serve in the Legislative Assembly, and until the Legislature of the Province otherwise provides, the Lieutenant-Governor shall cause writs to be issued, by such person, in such form, and addressed to such Returning Officers as he thinks fit; and for such first election, and until the Legislature of the Province otherwise provides, the Lieutenant-Governor shall, by Proclamation, prescribe and declare the oaths to be taken by voters, the powers and duties of Returning and Deputy Returning Officers, the proceedings to be observed at such election, and the period during which such election may be continued, and such other provisions in respect to such first election as he may think fit. Proceedings at first election, &c.,—how regulated.

19. Every Legislative Assembly shall continue for four years from the date of the return of the writs for returning the same (subject nevertheless to being sooner dissolved by the Lieutenant-Governor), and no longer; and the first Session thereof shall be called at such time as the Lieutenant-Governor shall appoint. Duration of Legislative Assembly.

20. There shall be a Session of the Legislature once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in one Session and its first sitting in the next Session. Sessions at least once a year.

21. The following provisions of the British North America Act, 1867, respecting the House of Commons of Canada, shall extend and apply to the Legislative Assembly, that is to say:—Provisions relating to the election of a Speaker, originally, and on vacancies,—the duties of the Speaker,—the absence of the Speaker and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to the Legislative Assembly. Certain provisions of B. N. A. Act, 1867, to apply.

22. In and for the Province, the said Legislature may exclusively make Laws in relation to Education, subject and according to the following provisions:— Legislation touching schools subject to certain provisions.

(1) 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 in the Province at the Union:—

The Manitoba Act, 1870, 33 Vict., Chap. 3 (Canada).
—Continued
Special,—for first election only.

The
Manitoba
Act, 1870,
33 Vict.,
Chap. 3
(Canada).
—Continued

(2) An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the Province, or 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:—

Power
reserved to
Parliament.

(3) 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 Laws¹⁰ for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section.

English and
French
languages to
be used.

23. Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective Records and Journals of those Houses; and either of those languages may be used by any person, or in any Pleading or Process, in or issuing from any Court of Canada established under the British North America Act, 1867, or in or from all or any of the Courts of the Province. The Acts of the Legislature shall be printed and published in both those languages.

Interest
allowed to
the Province
on a certain
amount of
the debt of
Canada.

24. Inasmuch as the Province is not in debt, the said Province shall be entitled²⁰ to be paid, and to receive from the Government of Canada, by half-yearly payments in advance, interest at the rate of five per centum per annum on the sum of four hundred and seventy-two thousand and ninety dollars.

Subsidy to
the Province
for support
of Govern-
ment, and in
proportion
to its
population.

25. The sum of thirty thousand dollars shall be paid yearly by Canada to the Province, for the support of its Government and Legislature, and an annual grant, in aid of the said Province, shall be made, equal to eighty cents per head of the population, estimated at seventeen thousand souls; and such grant of eighty cents per head shall be augmented in proportion to the increase of population, as may be shown by the census that shall be taken thereof in the year one thousand eight hundred and eighty-one, and by each subsequent decennial census, until its popula-³⁰ tion amounts to four hundred thousand souls, at which amount such grant shall remain thereafter, and such sum shall be in full settlement of all future demands on Canada, and shall be paid half-yearly, in advance, to the said Province.

Canada
assumes
certain ex-
penses.

26. Canada will assume and defray the charges for the following services:—

1. Salary of the Lieutenant-Governor.
2. Salaries and allowances of the Judges of the Superior and District or County Courts.
3. Charges in respect of the Department of the Customs.

The
Manitoba
Act., 1870,
33 Vict.,
Chap. 3
(Canada).
—Continued

4. Postal Department.
5. Protection of Fisheries.
6. Militia.
7. Geological Survey.
8. The Penitentiary.

9. And such further charges as may be incident to, and connected with the ^{General pro-}vision. services which, by the British North America Act, 1867, appertain to the General Government, and as are or may be allowed to the other Provinces.

27. The Customs duties now by Law chargeable in Rupert's Land, shall be ^{Customs} continued without increase for the period of three years from and after the passing ^{duties.} of this Act, and the proceeds of such duties shall form part of the Consolidated ¹⁰ Revenue Fund of Canada.

28. Such provisions of the Customs Laws of Canada (other than such as ^{Customs} prescribe the rate of duties payable) as may be from time to time declared by the ^{laws.} Governor General in Council to apply to the Province of Manitoba, shall be applicable thereto, and in force therein accordingly.

29. Such provisions of the Laws of Canada respecting the Inland Revenue, ^{Inland} including those fixing the amount of duties, as may be from time to time declared by ^{Revenue} the Governor General in Council applicable to the said Province, shall apply thereto, ^{laws and} and be in force therein accordingly. ^{duties.}

30. All ungranted or waste lands in the Province shall be, from and after the ^{Ungranted} date of the said transfer, vested in the Crown, and administered by the Government ^{lands vested} of Canada for the purposes of the Dominion, subject to, and except and so far as ^{in the Crown} the same may be affected by, the conditions and stipulations contained in the ^{for} agreement for the surrender of Rupert's Land by the Hudson's Bay Company to ^{Dominion} Her Majesty. ^{purposes.}

31. And whereas, it is expedient, towards the extinguishment of the Indian ^{Provisions as} Title to the lands in the Province, to appropriate a portion of such ungranted lands, ^{to Indian} to the extent of one million four hundred thousand acres thereof, for the benefit of ^{title.} the families of the half-breed residents, it is hereby enacted, that, under regulations ^{Grant for} to be from time to time made by the Governor General in Council, the Lieutenant- ^{half-breeds.} ³⁰ Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed heads of families residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to settlement and otherwise, as the Governor General in Council may from time to time determine.

—Concluded

Quieting titles.

32. For the quieting of titles, and assuring to the settlers in the Province the peaceable possession of the lands now held by them, it is enacted as follows:—

Grants by H. B. Company.

1. All grants of land in freehold made by the Hudson's Bay Company up to the eighth day of March, in the year 1869, shall, if required by the owner, be confirmed by grant from the Crown.

The same.

2. All grants of estates less than freehold in land made by the Hudson's Bay Company up to the eighth day of March aforesaid, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

Titles by occupancy with permission.

3. All titles by occupancy with the sanction and under the licence and authority of the Hudson's Bay Company up to the eighth day of March aforesaid, of 10 land in that part of the Province in which the Indian Title has been extinguished, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

By peaceable possession.

4. All persons in peaceable possession of tracts of land at the time of the transfer to Canada, in those parts of the Province in which the Indian Title has not been extinguished, shall have the right of pre-emption of the same, on such terms and conditions as may be determined by the Governor in Council.

Lieut.-Governor to make provisions under Order in Council.

5. The Lieutenant-Governor is hereby authorized, under regulations to be made from time to time by the Governor General in Council, to make all such provisions for ascertaining and adjusting, on fair and equitable terms, the rights 20 of Common, and rights of cutting Hay held and enjoyed by the settlers in the Province, and for the commutation of the same by grants of land from the Crown.

Governor in Council to appoint form, &c., of grants.

33. The Governor General in Council shall from time to time settle and appoint the mode and form of Grants of Land from the Crown, and any Order in Council for that purpose when published in the *Canada Gazette*, shall have the same force and effect as if it were a portion of this Act.

Rights of H. B. Company not affected.

34. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company, as contained in the conditions under which that Company surrendered Rupert's Land to Her Majesty.

Lieut.-Governor to govern N.W. Territory for Canada.

35. And with respect to such portion of Rupert's Land and the North-30 Western Territory, as is not included in the Province of Manitoba, it is hereby enacted, that the Lieutenant-Governor of the said Province shall be appointed, by Commission under the Great Seal of Canada, to be the Lieutenant-Governor of the same, under the name of the North-West Territories, and subject to the provisions of the Act in the next section mentioned.

Act 32 and 33 V., c. 3, extended and continued.

36. Except as hereinbefore is enacted and provided, the Act of the Parliament of Canada, passed in the now last Session thereof, and entitled, "An Act for the Temporary Government of Rupert's Land, and the North-Western Territory when united with Canada," is hereby re-enacted, extended and continued in force until the first day of January, 1871, and until the end of the Session of Parliament 40 then next succeeding.

No. 9

**Order of Her Majesty in Council Admitting Rupert's Land and
the North-Western Territory into the Union**

At the Court at *Windsor*, the 23rd day of *June*, 1870.

PRESENT,

The QUEEN'S Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Lord Chamberlain.

Mr. Gladstone.

10

WHEREAS by the "*British North America Act, 1867*," it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honorable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such terms and conditions in each case as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act. And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland:

20 And whereas by an Address from the Houses of the Parliament of Canada, of which Address a copy is contained in the Schedule to this Order annexed, marked A, Her Majesty was prayed, by and with the advice of Her Most Honorable Privy Council, to unite Rupert's Land and the North-Western Territory with the Dominion of Canada, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government upon the terms and conditions therein stated:

30 And whereas by the "*Rupert's Land Act, 1868*," it was (amongst other things) enacted that it should be competent for the Governor and Company of Adventurers of England trading into Hudson's Bay (hereinafter called the Company) to surrender to Her Majesty, and for Her Majesty, by any Instrument under Her Sign Manual and Signet to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers, and authorities whatsoever, granted or purported to be granted by certain Letters Patent therein recited to the said Company within Rupert's Land, upon such terms and conditions as should be agreed upon by and between Her Majesty and the said Company; provided, however, that such surrender should not be accepted by Her Majesty until the terms and conditions

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upon which Rupert's Land should be admitted into the said Dominion of Canada should have been approved of by Her Majesty and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada, in pursuance of the 146th Section of the "*British North America Act, 1867*":

And it was by the same Act further enacted that it should be competent to Her Majesty, by Order or Orders in Council, on Addresses from the Houses of the Parliament of Canada, to declare that Rupert's Land should, from a date to be therein mentioned be admitted into and become part of the Dominion of Canada:

And whereas a second Address from both the Houses of the Parliament of Canada has been received by Her Majesty praying that Her Majesty will be pleased, 10 under the provisions of the hereinbefore recited Acts, to unite Rupert's Land on the terms and conditions expressed in certain Resolutions therein referred to and approved of by Her Majesty, of which said Resolutions and Address copies are contained in the Schedule to this Order annexed, marked B, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by and on the terms and conditions contained in the hereinbefore first recited Address, and also approved of by Her Majesty:

And whereas a draft surrender has been submitted to the Governor-General of Canada containing stipulations to the following effect, viz.:—

1. The sum of 300,000*l.* (being the sum hereinafter mentioned) shall be paid 20 by the Canadian Government into the Bank of England to the credit of the Company within six calendar months after acceptance of the surrender aforesaid, with interest on the said sum at the rate of 5 per cent per annum, computed from the date of such acceptance until the time of such payment.

2. The size of the blocks which the Company are to select adjoining each of their forts in the Red River limits, shall be as follows:—

	Acres.	
Upper Fort Garry and town of Winnipeg, including the inclosed park around shop and ground at the entrance of the town,.....	500	30
Lower Fort Garry (including the farm the Company now have under cultivation),.....	500	
White Horse Plain,.....	500	

3. The deduction to be made as hereinafter mentioned from the price of the materials of the Electric Telegraph, in respect of deterioration thereof, is to be certified within three calendar months from such acceptance as aforesaid by the agents of the Company in charge of the depots where the materials are stored. And the said price is to be paid by the Canadian Government into the Bank of England

to the credit of the Company within six calendar months of such acceptance, with interest at the rate of 5 per cent. per annum on the amount of such price, computed from the date of such acceptance until the time of payment:

And whereas the said draft was on the fifth day of July, one thousand eight hundred and sixty-nine, approved by the said Governor-General in accordance with a Report from the Committee of the Queen's Privy Council for Canada; but it was not expedient that the said stipulations, not being contained in the aforesaid second Address, should be included in the surrender by the said Company to Her Majesty of their rights aforesaid or in this Order in Council.

10 And whereas the said Company did by deed under the seal of the said Company, and bearing date the nineteenth day of November, one thousand eight hundred and sixty-nine, of which deed a copy is contained in the Schedule to this Order annexed, marked C, surrender to Her Majesty all the rights of government, and other rights, privileges, liberties, franchises, powers and authorities granted, or purported to be granted to the said Company by the said Letters Patent herein and hereinbefore referred to, and also all similar rights which may have been exercised or assumed by the said Company in any parts of British North America not forming part of Rupert's Land, or of Canada or of British Columbia, and all the lands and territories (except and subject as in the terms and conditions therein
20 mentioned) granted or purported to be granted to the said Company by the said Letters Patent:

And whereas such surrender has been duly accepted by Her Majesty, by an instrument under her Sign Manual and Signet, bearing date at Windsor the twenty-second day of June, one thousand eight hundred and seventy:

It is hereby Ordered and declared by Her Majesty, by and with the advice of the Privy Council, in pursuance and exercise of the powers vested in Her Majesty by the said Acts of Parliament, that from and after the fifteenth day of July, one thousand eight hundred and seventy, the said North-Western Territory shall be admitted into and become part of the Dominion of Canada upon the terms and
30 conditions set forth in the first hereinbefore recited Address, and that the Parliament of Canada shall from the day aforesaid have full power and authority to legislate for the future welfare and good government of the said Territory. And it is further ordered that, without prejudice to any obligations arising from the aforesaid approved Report, Rupert's Land shall from and after the said date be admitted into and become part of the Dominion of Canada upon the following terms and conditions, being the terms and conditions still remaining to be performed of those embodied in the said second address of the Parliament of Canada, and approved of by Her Majesty as aforesaid:—

1. Canada is to pay to the Company 300,000*l.* when Rupert's Land is transferred to the Dominion of Canada.

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2. The Company are to retain the posts they actually occupy in the North-Western Territory, and may, within twelve months of the surrender, select a block of land adjoining each of its posts within any part of British North America not comprised in Canada and British Columbia, in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the Schedule of the aforesaid Deed of Surrender. The actual survey is to be proceeded with, with all convenient speed.

3. The size of each block is not to exceed [10] acres round Upper Fort Garry, [300] acres round Lower Fort Garry; in the rest of the Red River Territory a number of acres to be settled at once between the Governor in Council and the Company, but so that the aggregate extent of the blocks is not to exceed 50,000 acres.

4. So far as the configuration of the country admits, the blocks shall front the river or road by which means of access are provided, and shall be approximately in the shape of parallelograms, of which the frontage shall not be more than half the depth.

5. The Company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt, in which land is set out for settlement, grants of land not exceeding one-twentieth part of the land so set out. The blocks so granted to be determined by lot, and the Company to pay a rateable share of 20 the survey expenses, not exceeding 8 cents Canadian an acre. The Company may defer the exercise of their right of claiming the proportion of each township for not more than ten years after it is set out; but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

6. For the purpose of the last Article, the Fertile Belt is to be bounded as follows:—On the south by the United States boundary; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan; on the east by Lake Winnipeg, the Lake of the Woods, and the waters connecting them.

7. If any township shall be formed abutting on the north bank of the northern 30 branch of the Saskatchewan River, the Company may take their one-twentieth of any such township, which for the purpose of this Article shall not extend more than five miles inland from the river, giving to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.

8. In laying out any public roads, etc., through any block of land reserved to the Company, the Canadian Government may take, without compensation, such land as is necessary for the purpose, not exceeding one twenty-fifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, or which has been built upon, or which is 40

necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, they shall pay to the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

9. It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause shall be appropriated for public purposes.

10. All titles to land up to the eighth day of March, one thousand eight hundred and sixty-nine, conferred by the Company are to be confirmed.

11. The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity, and no exceptional tax is to be placed on the company's land, trade or servants, nor any import duties on goods introduced by them previous to the surrender.

12. Canada is to take over the materials of the electric telegraph at cost price—such price including transport—but not including interest for money, and subject to a deduction for ascertained deterioration.

13. The Company's claim to land under agreements of Messrs. Vankoughnet and Hopkins is to be withdrawn.

14. Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government; and the Company shall be relieved of all responsibility in respect of them.

15. The Governor in Council is authorized and empowered to arrange any details that may be necessary to carry out the above terms and conditions.

And the Right Honourable Earl Granville, one of Her Majesty's principal Secretaries of State, is to give the necessary directions herein accordingly.

SCHEDULES

SCHEDULE (A)

ADDRESS TO HER MAJESTY THE QUEEN from the Senate and House of Commons
30 of the Dominion of Canada.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing:—

That it would promote the prosperity of the Canadian people, and conduce to the advantage of the whole Empire, if the Dominion of Canada, constituted under the provisions of the "*British North America Act, 1867,*" were extended westward to the shores of the Pacific Ocean.

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That the colonization of the fertile lands of the Saskatchewan, the Assiniboine, and the Red River districts; the development of the mineral wealth which abounds in the region of the Northwest; and the extension of commercial intercourse through the British possessions in America from the Atlantic to the Pacific, are alike dependent on the establishment of a stable government for the maintenance of law and order in the North-Western Territories.

That the welfare of a sparse and widely scattered population of British subjects of European origin, already inhabiting these remote and unorganized territories, would be materially enhanced by the formation therein of political institutions bearing analogy, as far as circumstances will admit, to those which exist 10 in the several Provinces of this Dominion.

That the 146th section of the "*British North America Act, 1867*," provides for the admission of Rupert's Land and the North-Western Territory, or either of them, into union with Canada, upon the terms and conditions to be expressed in addresses from the Houses of Parliament of this Dominion to your Majesty, and which shall be approved of by your Majesty in Council.

That we do therefore most humbly pray that your Majesty will be graciously pleased, by and with the advice of your Most Honourable Privy Council, to unite Rupert's Land and the North-western Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and 20 good Government; and we most humbly beg to express to your Majesty that we are willing to assume the duties and obligations of government and legislation as regards these territories.

That in the event of your Majesty's Government agreeing to transfer to Canada the jurisdiction and control over the said region, the Government and Parliament of Canada will be ready to provide that the legal rights of any corporation, company or individual within the same shall be respected, and placed under the protection of Courts of competent jurisdiction.

And furthermore that, upon the transference of the territories in question to the Canadian Government, the claims of the Indian tribes to compensation for 30 lands required for purposes of settlement will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.

All which we humbly pray your Majesty to take into your Majesty's Most Gracious and favourable consideration.

The Senate, Tuesday, December 17th, 1867.

(Signed), JOSEPH CAUCHON, Speaker.

House of Commons, Monday, December 16th, 1867.

(Signed), JAMES COCKBURN, Speaker.

SCHEDULE (B).

1. *Resolutions.*

May 28th, 1869.

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Resolved,—That the Senate and Commons of the Dominion of Canada, during the first session of the first Parliament of Canada, adopted an Address to Her Majesty, praying that Her Majesty would be graciously pleased, by and with the advice of Her Most Honorable Privy Council, under the provisions of 146th section of "*The British North America Act, 1867*"; and on the terms specified in the Address, to unite Rupert's Land and the North-west Territory with this Dominion,
10 and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, and assuring Her Majesty of the willingness of the Parliament of Canada to assume the duties and obligations of government and legislation as regards those territories.

Resolved,—That the Joint Address of the Senate and Commons of Canada was duly laid at the foot of the throne, and that Her Majesty, by despatch from the Right Honorable the Secretary of State for the Colonies, to the Governor General of Canada, under date of 23rd of April, 1868, signified Her willingness to comply with the prayer of the said Address; but She was advised that the requisite powers of government and legislation could not, consistently with the existing charter of the
20 Hudson's Bay Company, be transferred to Canada without an Act of Parliament, which Act was subsequently passed by the Imperial Parliament, and received Her Majesty's Assent on the 31st July, 1868.

Resolved,—That by despatch dated 8th August, 1868, from the Honorable Secretary of State for the Colonies, the Governor-General was informed, that in pursuance of the powers conferred by the Act for the surrender of the Hudson Bay Territories to Her Majesty, he proposed to enter into negotiations with the Company as to the terms of such surrender, whereupon, under authority of an order of the Governor-General in Council of the 1st October, 1868, the Honorable Sir George Et. Cartier, Baronet, and the Honorable William MacDougall, C.B., were appointed
30 a Delegation to England, to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the admission of the North-west Territory into union with Canada, either with or without Rupert's Land, as it might be found practicable and expedient.

Resolved,—That the Delegates proceeded on their mission to England and entered into negotiations with his Grace the Duke of Buckingham and Chandos, the Secretary of State for the Colonies, and afterwards with the Right Honorable Earl Granville, his successor in office, for the acquisition by Canada of the territorial and other rights claimed by the Hudson's Bay Company in Rupert's Land, and in any

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other part of British North America, not comprised in Ruperts Land, Canada, or British Columbia. That terms of agreement were conditionally assented to by the Delegates on behalf of the Dominion, and on their return to Canada were submitted with a Report dated 8th May, 1869, which was approved by His Excellency the Governor in Council, on the 14th day of the same month.

Resolved,—That the Senate will be prepared to concur in accepting the transfer of the territorial and other rights of the Hudson's Bay Company in Rupert's Land, and in any other part of British North America, not comprised in Rupert's Land, Canada or British Columbia, on the terms conditionally agreed to on behalf of the Government of Canada, by the Hon. Sir George Et. Cartier, Baronet, and the Hon. William MacDougall, C.B., and on behalf of the Hudson's Bay Company, by Sir Stafford H. Northcote, Governor of that Company, and approved by His Excellency in Council as aforesaid, which terms are set forth in a letter from Sir Frederic Rogers, Under-Secretary of State for the Colonies, of the 9th March, 1869, communicated to the Delegates by direction of Earl Granville, and in two subsequent Memorandums dated respectively 22nd and 29th March, 1869, containing a modification of such terms, and are in the words and figures following:

“ Terms, as stated in the Letter from Sir Frederic Rogers, of March, 1869.

“1. The Hudson's Bay Company to surrender to Her Majesty all the rights of Government, property, &c., in Rupert's Land which are specified in 31 & 32 Vict., 20 cap. 105, sec. 4; and also all similar rights in any other part of British North America, not comprised in Rupert's Land, Canada or British Columbia.

“2. Canada is to pay to the Company 300,000*l.*, when Rupert's Land is transferred to the Dominion of Canada.

“3. The Company may, within twelve months of the surrender, select a block of land adjoining each of its stations, within the limits specified in Article 1.

“4. The size of the blocks not to exceed _____ acres in the Red River Territory, and the aggregate extent of the blocks is not to exceed 50,000 acres.

“5. So far as the configuration of the country admits, the blocks are to be in the shape of parallelograms, of which the length is not more than double the breadth. 30

“6. The Hudson's Bay Company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt in which land is set out for settlement, select grants of land, not exceeding one-twentieth of the land so set out. The blocks so granted to be determined by lot, and the Hudson's Bay Company to pay a rateable share of the survey expenses, not exceeding _____ an acre.

“7. For the purpose of the present agreement, the Fertile Belt is to be bounded as follows:—On the south by the United States' boundary; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan; on the east by Lake Winnipeg, the Lake of the Woods, and the waters connecting them.

" 8. All titles to land up to the 8th March, 1869, conferred by the Company, are to be confirmed.

" 9. The Company is to be at liberty to carry on its trade without hindrance, in its corporate capacity and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duty on goods introduced by them previous to the surrender.

" 10. Canada is to take over the materials of the electric telegraph at cost price, such price including transport but not including interest for money, and subject to a deduction for ascertained deteriorations.

10 " 11. The Company's claim to land under agreement of Messrs. Vankoughnet and Hopkins to be withdrawn.

" 12. The details of this arrangement, including the filling up the blanks in Articles 4 and 6, to be settled at once by mutual agreement."

" MEMORANDUM

" *Details of Agreement between the Delegates of the Government of the Dominion, and the Directors of the Hudson's Bay Company.*

" 1. It is understood that, in surrendering to Her Majesty, all the rights, &c., of the Company in any part of British North America not comprised in Rupert's Land, Canada or British Columbia, the Company are to retain the posts they actually occupy in the North West Territory.

" 2. It is understood that it will be a sufficient act of selection under Article III., that the Company should, within twelve months, name the number of acres which they will require adjoining each post. The actual survey to be proceeded with, with all convenient speed.

" 3. It is understood that in the Red River Settlement, the size of the blocks to be retained round Upper Fort Garry shall not exceed (10) acres; and that round Lower Fort Garry shall not exceed (300) acres.

" 4. It is understood that a list of the stations round which the Company will require blocks of land, with the size of the blocks they will require, shall be made out forthwith, and communicated to the Canadian Ministers.

" 5. It is understood that Article V. shall be construed to mean that the blocks shall front the river or road, by which means of access are provided, and shall be approximately in the form of parallelograms, of which the frontage shall not be more than half the depth.

" 6. It is understood that the Company may defer the exercise of their right of claiming their proportion of each township for not more than ten years after it is set out; but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

Order of Her Majesty in Council admitting Rupert's Land and the North-Western Territory into the Union, 23rd June, 1870.
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"7. It is understood that the Blank in Article 6 shall be filled up with 8 cents (Canadian).

"8. It is understood that any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government, in communication with the Imperial Government, and that the Company shall be relieved of all responsibility in respect of them.

(Signed.) "STAFFORD H. NORTHCOTE.

"G. E. CARTIER.

"W. MACDOUGALL.

"March 22, 1869.

10

*"Memorandum of a further Agreement between Sir Geo. Et. Cartier
and Sir Stafford Northcote.*

"Inasmuch as the northern branch of the Saskatchewan River is the northern boundary of the Fertile Belt, and therefore any land on the northern bank is not within the territory of which the Company are to have one-twentieth part, it is understood that, in forming the townships abutting on the northern bank, the Company shall be at liberty to take their one-twentieth of any such townships, giving up to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.

"It is understood that the townships on the northern bank shall not for the 20 above purpose extend more than five miles inland from the river.

"It is understood that, in laying out any public roads, canals, &c., through any block of land reserved to the Company, the Canadian Government may take, without compensation, such land as is necessary for the purpose, not exceeding one-twenty-fifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, or which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, they shall pay the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

30

"It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause shall be appropriated for public purposes.

(Signed.)

"GEO. ET. CARTIER.

"STAFFORD NORTHCOTE.

"London, March 29, 1869."

Resolved,—That this House learns with satisfaction, by letter from the Under-Secretary of State for the Colonies, of 9th March last, that, in fulfilment of the expectations held out in Mr. Cardwell's despatch of 17th June, 1865, Her Majesty's Government will be prepared to propose to Parliament that the Imperial guarantee be given to a loan of 300,000*l.*, the amount which is proposed to be paid over by Canada on the transfer of the Company's rights.

Order of Her Majesty in Council admitting Rupert's Land and the North-Western Territory into the Union, 23rd June, 1870.

Resolved,—That the Senate will be ready to concur with the House of Commons in an Address to Her Majesty, that she will be graciously pleased, by and with the advice of Her Most Honorable Privy Council, under the 146th clause of "*The British North America Act, 1867*," and the provisions of the Imperial Act, 31 & 32 Vict., cap. 105, to unite Rupert's Land on the terms and conditions expressed in the foregoing Resolutions, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by, and on the terms and conditions contained in the joint Address of the Senate and the House of Commons of Canada, adopted during the first session of the first Parliament of Canada, and hereinbefore referred to.

Resolved,—That upon the transference of the territories in question to the Canadian Government, it will be the duty of the Government to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer.

Resolved,—That the Governor in Council be authorized and empowered to arrange any details, that may be necessary to carry out the terms and conditions of the above agreement.

2. Address.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

WE, your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing:—

30 That, during the first session of the first Parliament of this Dominion, we adopted an Address to your Majesty, praying that that your Majesty would be graciously pleased, by and with the advice of your Majesty's Most Honorable Privy Council under the provisions of the 146th Section of "*The British North America Act, 1867*," and on the terms specified in that Address, to unite Rupert's Land and the North-West Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, and assuring your Majesty of the willingness of the Parliament of Canada to assume the duties and obligations of Government and legislation as regards those territories.

Order of
Her Majesty
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Rupert's
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Western
Territory
into the
Union, 23rd
June, 1870.
—Continued

That our joint Address was duly laid at the foot of the Throne, and that your Majesty, by despatch from the Right Honorable the Secretary of State for the Colonies to the Governor General of Canada, under date of the 23rd April, 1868, signified your Majesty's willingness to comply with the prayer of the said Address, but that your Majesty was advised that the requisite powers of government and legislation could not, consistently with the existing charter of the Hudson's Bay Company, be transferred to Canada without an Act of Parliament, which Act was subsequently passed by the Imperial Parliament, and received your Majesty's assent on the 31st July, 1868.

That by a despatch dated 8th August, 1868, from the Honorable the Secretary of State for the Colonies, the Governor General was informed that in pursuance of the powers conferred by the Act for the surrender of the Hudson's Bay territories to your Majesty he proposed to enter into negotiations with the company as to the terms of such surrender, whereupon, under authority of an Order of the Governor-General in Council, of the 1st October, 1868, the Honorable Sir George Et. Cartier, Baronet, and the Honorable William MacDougall, C.B., were appointed a delegation to England to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the admission of the North West Territory into union with Canada either with or without Rupert's Land, as might be found practicable and expedient. 20

That the delegates proceeded on their mission to England, and entered into negotiations with his Grace the Duke of Buckingham and Chandos, then Secretary of State for the Colonies, and afterwards with the Right Honorable Earl Granville, his successor in office, for the acquisition by Canada of the territorial and other rights claimed by the Hudson's Bay Company in Rupert's Land, and in any other part of British North America not comprised in Rupert's Land, Canada or British Columbia, on the terms conditionally agreed to on behalf of the Government of Canada by the Honorable Sir George Et. Cartier, Baronet, and the Honorable William MacDougall, C.B., and on behalf of the Hudson's Bay Company by Sir Stafford H. Northcote, Governor of that Company, and approved by His Excellency in Council as aforesaid, which terms are set forth in a letter from Sir Frederic Rogers, Under-Secretary of State for the Colonies, of the 9th March, 1869, communicated to the delegates by direction of Earl Granville, and in two subsequent Memorandums dated respectively 22nd and 29th March, 1869, containing a modification of such terms, and are in the words and figures following:

*“ Terms, as stated in the Letter from Sir Frederic Rogers of 9th March, 1869
(These terms as set forth on pages 62, 63 supra are here recited at length.)*

“ MEMORANDUM

*“ Details of Agreement between the Delegates of the Government of the Dominion
and the Directors of the Hudson’s Bay Company.*

(This memorandum as set forth on pages 63, 64 supra is here recited at length.)

*“ Memorandum of a further Agreement between Sir Geo. Et. Cartier and Sir Stafford
Northcote.*

(This memorandum, also above set forth, is here recited at length.)

10 That we learn with satisfaction by letter from the Under-Secretary of State for the Colonies, of the 9th March last, that, in fulfilment of the expectations held out in Mr. Cardwell’s despatch of the 17th of June, 1865, your Majesty’s Government will be prepared to propose to Parliament that the Imperial guarantee be given to a loan of 300,000*l.* the amount which is proposed to be paid over by Canada on the transfer of the Company’s rights.

That upon the transference of the territories in question to the Canadian Government it will be our duty to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer, and we authorize and empower the Governor in Council to arrange any details that may
20 be necessary to carry out the terms and conditions of the above agreement.

We therefore most humbly pray that your Majesty will be graciously pleased, by and with the advice of your Most Honorable Privy Council, under the 146th clause of “ *The British North America Act, 1867,*” and the provisions of the Imperial Act 31 and 32 Vict. cap. 105, to unite Rupert’s Land on the terms and conditions expressed in the foregoing resolutions and also to unite the North-Western Territory with the Dominion of Canada as prayed for by and on the terms and conditions contained in our joint Address adopted during the first session of the first Parliament of this Dominion, and hereinbefore referred to.

The Senate, Monday, May 31, 1869.

(Signed,) JOSEPH CAUCHON, Speaker.

House of Commons, Ottawa, May 29, 1869.

(Signed,) JAMES COCKBURN, Speaker.

Order of
Her Majesty
in Council
admitting
Rupert’s
Land and
the North-
Western
Territory
into the
Union, 23rd
June, 1870.
—Continued

Order of
Her Majesty
in Council
admitting
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Land and
the North-
Western
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SCHEDULE (C).

The Governor and Company of Adventurers of England trading into Hudson's Bay to HER MAJESTY QUEEN VICTORIA

DEED OF SURRENDER.

—Continued To all whom these presents shall come unto, or concern, the Governor and Company of Adventurers of England, trading into Hudson's Bay, send greeting.

WHEREAS the said Governor and Company were established and incorporated by their said name of "The Governor and Company of Adventurers of England, trading into Hudson's Bay," by Letters Patent granted by His late Majesty King Charles the Second in the twenty-second year of his reign, whereby His said Majesty granted unto the said company and their successors the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds in whatsoever latitude they should be, that lay within the entrance of the straits commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid, that were not already actually possessed by, or granted to, any of His Majesty's subjects, or possessed by the subjects of any other Christian Prince or State, and that the said land should be from thenceforth reckoned and reputed as one of His Majesty's Plantations or Colonies in America, called Rupert's Land; and whereby His said Majesty made and constituted the said Governor and Company and their successors the absolute lords and proprietors of the same territory, limits and places aforesaid, and of all other the premises saving the faith, allegiance and sovereign dominion due to His said Majesty, his heirs and successors for the same; and granted to the said Governor and Company and their successors, such rights of Government and other rights, privileges and liberties, franchises, powers, and authorities in Rupert's Land as therein expressed. And whereas ever since the date of the said Letters Patent, the said Governor and Company have exercised and enjoyed the sole right thereby granted of such trade and commerce as therein mentioned, and have exercised and enjoyed other rights, privileges, liberties, franchises, powers, and authorities thereby granted; and the said Governor and Company may have exercised or assumed rights of Government in other parts of British North America not forming part of Rupert's Land, or of Canada, or of British Columbia. And whereas by "*The British North America Act, 1867*," it is (amongst other things) enacted that it shall be lawful for Her present Majesty Queen Victoria, by and with the advice and consent of Her Majesty's Most Honourable Privy Council, on address from the Houses of Parliament of Canada, to admit Rupert's Land and the North Western Territory or either of them into the Union of the Dominion of Canada on such terms and conditions as are in the Address expressed, and as Her Majesty

thinks fit to approve, subject to the provisions of the said Act. And whereas, by the "*Rupert's Land Act, 1868*," it is enacted (amongst other things) that for the purposes of that Act the term "Rupert's Land" shall include the whole of the lands and territories held or claimed to be held by the said Governor and Company, and that it shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty, by any instrument under Her Sign Manual and Signet to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers and authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, upon such terms and conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company; provided, however, that such surrender shall not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada shall have been approved of by Her Majesty, and embodied in an Address to Her Majesty from the Houses of the Parliament of Canada, in pursuance of the 146th Section of "*The British North America Act, 1867*," and that upon the acceptance by Her Majesty of such surrender, all rights of Government and proprietary rights, and all other privileges, liberties, franchises, powers and authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, and which shall have been so surrendered, shall be absolutely extinguished, provided that nothing in the said Act contained shall prevent the said Governor and Company from continuing to carry on in Rupert's Land or elsewhere trade and commerce. And whereas Her said Majesty Queen Victoria and the said Governor and Company have agreed to terms and conditions upon which the said Governor and Company shall surrender to Her said Majesty, pursuant to the provisions in that behalf in the "*Rupert's Land Act, 1868*," contained, all the rights of Government and other rights, privileges, liberties, franchises, powers and authorities, and all the lands and territories (except and subject as in the said terms and conditions expressed or mentioned) granted or purported to be granted by the said Letters Patent, and also all similar rights which have been exercised or assumed by the said Governor and Company in any parts of British North America not forming part of Rupert's Land, or of Canada, or of British Columbia, in order and to the intent that, after such surrender has been effected and accepted under the provisions of the last-mentioned Act, the said Rupert's Land may be admitted into the Union of the Dominion of Canada, pursuant to the hereinbefore mentioned Acts or one of them. And whereas the said terms and conditions on which it has been agreed that the said surrender is to be made by the said Governor and Company (who are in the following articles designated as the Company) to Her said Majesty are as follows (that is to say):—

Order of
Her Majesty
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Union, 23rd
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—Continued

Order of
Her Majesty
in Council
admitting
Rupert's
Land and
the North-
Western
Territory
into the
Union, 23rd
June, 1870.
—Continued

1. The Canadian Government shall pay to the Company the sum of 300,000*l.* sterling when Rupert's Land is transferred to the Dominion of Canada.

2. The Company to retain all the posts or stations now actually possessed and occupied by them or their officers or agents whether in Rupert's Land or any other part of British North America, and may within twelve months after the acceptance of the said surrender select a block of land adjoining each of their posts or station, within any part of British North America, not comprised in Canada and British Columbia in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the annexed schedule. The actual survey is to 10 be proceeded with, with all convenient speed.

3. The size of each block is not to exceed in the Red River Territory an amount to be agreed upon between the Company and the Governor of Canada in Council.

4. So far as the configuration of the country admits, the blocks shall front the river or road by which means of access are provided, and shall be approximately in the shape of parallelograms, and of which the frontage shall not be more than half the depth.

5. The Company may, at any time within fifty years after such acceptance of the said surrender, claim in any township or district within the fertile belt in 20 which land is set out for settlements, grants of land not exceeding one-twentieth part of the land so set out; the blocks so granted to be determined by lot, and the Company to pay a rateable share of the survey expenses, not exceeding 8 cents Canadian an acre. The Company may defer the exercise of their right of claiming their proportion of each township or district for not more than ten years after it is set out, but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

6. For the purpose of the last article the fertile belt is to be bounded as follows:—On the south by the United States' boundary; on the west by the Rocky Mountains; on the north by the Northern Branch of the Saskatchewan River; on 30 the east by Lake Winnipeg, the Lake of the Woods and the waters connecting them.

7. If any township shall be formed abutting on the north bank of the northern branch of the Saskatchewan River, the Company may take their one-twentieth of any such township, which, for the purpose of this article, shall not extend more than five miles inland from the river, giving to the Canadian Dominion an equal quantity of the portion of land coming to them of townships established on the southern bank of the said river.

8. In laying out any public roads, canals or other public works, through any block of land reserved to the Company, the Canadian Government may take without compensation such land as necessary for the purpose, not exceeding one-twenty-fifth 40

of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, the said Government shall pay to the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

Order of
Her Majesty
in Council
admitting
Rupert's
Land and
the North-
Western
Territory
into the
Union, 23rd
June, 1870.

—Continued

9. It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause, shall be appropriated for public purposes.

10. All titles to land up to the eighth day of March, one thousand eight hundred and sixty-nine, conferred by the Company, are to be confirmed.

11. The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity; and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duty on goods introduced by the said Company previously to such acceptance of the said surrender.

12. Canada is to take over the materials of the electric telegraph at cost price; such price including transport, but not including interest for money, and subject to a deduction for ascertained deterioration.

13. The Company's claim to land under an agreement of Messrs. Vankoughnet and Hopkins is to be withdrawn.

20 14. Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government; and the Company shall be relieved of all responsibility in respect of them.

And whereas the surrender hereinafter contained is intended to be made in pursuance of the agreement, and upon the terms and conditions hereinafter stated.

Now know ye, and these presents witness, that, in pursuance of the powers and provisions of the "*Rupert's Land Act, 1868*," and on the terms and conditions aforesaid, and also on condition of this surrender being accepted pursuant to the provisions of that Act, the said Governor and Company do hereby surrender to the
30 Queen's Most Gracious Majesty, all the rights of Government, and other rights, privileges, liberties, franchises, powers and authorities, granted or purported to be granted to the said Governor and Company by the said recited Letters Patent of His late Majesty King Charles the Second; and also all similar rights which may have been exercised or assumed by the said Governor and Company in any parts of British North America, not forming part of Rupert's Land or of Canada, or of British Columbia, and all the lands and territories within Rupert's Land (except and subject as in the said terms and conditions mentioned) granted or purported to be granted to the said Governor and Company by the said Letters Patent. In witness whereof,
40 the Governor and Company of Adventurers of England trading into Hudson's Bay, have hereunto caused their Common Seal to be affixed, the nineteenth day of November, One thousand eight hundred and sixty-nine.

Order of Her Majesty in Council admitting Rupert's Land and the North-Western Territory into the Union, 23rd June, 1870.
—Continued

THE SCHEDULE ABOVE REFERRED TO.

Northern Department, RUPERT'S LAND.

District.	Post.	Acres of Land.	
English River.....	Isle à la Crosse.....	50	
	Rapid River.....	5	
	Portage La Loche.....	20	say 10 acres each end of portage.
	Green Lake.....	100	
	Cold Lake.....	10	
	Deer's Lake.....	5	
			190 acres in English River (Dist.)
Saskatchewan.....	Edmonton House.....	3,000	
	Rocky Mountain House.....	500	
	Fort Victoria.....	3,000	
	St. Paul.....	3,000	
	Fort Pitt.....	3,000	
	Battle River.....	3,000	
	Carlton House.....	3,000	
	Fort Albert.....	3,000	
	Whitefish Lake.....	500	
	Lac La Biche.....	1,000	
	Fort Assiniboine.....	50	
	Lesser Slave Lake.....	500	
	Lac St. Anne.....	500	
	Lac La Nun.....	500	
	St. Albert.....	1,000	
	Pigeon Lake.....	100	
Old White Mud Fort..	50		
		25,700 acres in Saskatchewan District.	30
Cumberland.....	Cumberland House....	100	
	Fort La Cocue.....	3,000	
	Pelican Lake.....	50	
	Moose Woods.....	1,000	
	The Pas.....	25	
	Moose Lake.....	50	
	Grande Rapid Portage	100	50 acres at each end of portage.
		4,325 acres in Cumberland District.	
Swan River.....	Fort Pelly.....	3,000	
	Fort Ellice.....	3,000	
	Q'Appelle Lakes.....	2,500	
	Touchwood Hills.....	500	
	Shoal River.....	50	
	Manitobah.....	50	
	Fairford.....	100	
		9,200 acres in Swan River District.	40

Northern Department, RUPERT'S LAND—Continued.

Order of Her Majesty in Council admitting Rupert's Land and the North-Western Territory into the Union, 23rd June, 1870.
—Continued

District.	Post.	Acres of Land.
10	Red River..... Upper Fort Garry and Town of Winnipeg.....	} Such number of acres as may be agreed upon between the Company and the Governor of Canada in Council.
	Lower Fort Garry (including the farm the Company now have under cultivation).....	
	White Horse Plain..)	
Manitobah Lake.....	Oak Point.....	50
Portage La Prairie.....		1,000
		1,050
20	Lake La Pluie..... Fort Alexander.....	500
	Fort Frances.....	500
	Eagle's Nest.....	20
	Big Island.....	20
	Lac du Bonnet.....	20
	Rat Portage.....	50
	Shoal Lake.....	20
	Lake of the Woods...	50
	Whitefish Lake.....	20
	English River.....	20
	Hungry Hall.....	20
	Trout Lake.....	20
30	Clear Water Lake....	20
	Sandy Point.....	20
		1,300 acres in Lac La Pluie District.
	York..... York Factory.....	100
	Churchill.....	10
	Severn.....	10
	Trout Lake.....	10
	Oxford.....	100
	Jackson's Bay.....	10
	God's Lake.....	10
40	Island Lake.....	10
		260
Norway House.....	Norway House.....	100
	Berens' River.....	25
	Grand Rapid.....	10
	Nelson's River.....	10
		145
Total in Northern Department....		42,170 acres.

Order of Her Majesty in Council admitting Rupert's Land and the North-Western Territory into the Union, 23rd June, 1870.
—Continued

Southern Department, RUPERT'S LAND.

District.	Post.	Acres of Land.	
Albany.....	Albany Factory.....	100	635
	Martin's Falls.....	10	
	Osnaburg.....	25	
	Lac Seul.....	500	
East Main.....	Little Whale River....	50	125
	Great Whale River....	50	
	Fort George.....	25	
Moose.....	Moose Factory.....	100	145
	Hannah Bay.....	10	
	Abitibi.....	10	
	New Brunswick.....	25	
Rupert's River.....	Rupert's House.....	50	20
	Mistassing.....	10	
	Temiskamay.....	10	
	Woswonaby.....	10	
	Mechiskun.....	10	
	Pike Lake.....	10	
	Nitchequou.....	10	
	Kamapiscan.....	10	
Kinogumissee.....	Matawagamique.....	50	120
	Kuckatoosh.....	10	
		60	
Total in Southern Department.....		1,085 acres	30

Montreal Department, RUPERT'S LAND.

District.	Post.	Acres of Land.	
Superior.....	Long Lake.....	10	
Temiscaminque.....	Kakababeagino.....	10	20
Labrador.....	Fort Nascopie.....	75	40
	Outposts, ditto.....	25	
	Fort Chimo (Ungava).	100	
	South River, outposts.	30	
	George's River.....	50	
	Whale River.....	50	
	North's River.....	25	
False River.....	25		
		380	
Total in Montreal Department.....		400 acres.	

Northern Department, NORTH WEST TERRITORY.

Order of
Her Majesty
in Council
admitting
Rupert's
Land and
the North-
Western
Territory
into the
Union, 23rd
June, 1870.
—Concluded

District.	Post.	Acres of Land.	
Athabasca.....	Fort Chippewyan.....	10	
	Fort Vermilion.....	500	
	Fort Dunvegan.....	50	
	Fort St. John's.....	20	
	Forks of Athabasca River.....	10	
	Battle River.....	5	
	Fond du Lac.....	5	
	Salt River.....	5	
			605 acres in Athabasca District.
	McKenzie's River... 10	Fort Simpson.....	100
Fort Liard.....		300	
Fort Nelson.....		200	
The Rapids.....		100	
Hay River.....		20	
Fort Resolution.....		20	
Fort Rae.....		10	
Fond du Lac.....		10	
Fort Norman.....		10	
Fort Good Hope.....		10	
20	Peel's River.....	10	
	Lapierre's House.....	10	
	Fort Halkett.....	100	
			900 acres in McKenzie's R. District
Total in North West Territory.....		1,505 acres.	

RECAPITULATION.

	Acres.
30 Northern Department, Rupert's Land.....	42,170
Southern " ".....	1,085
Montreal " ".....	400
Northern Department, Northwest Territory.....	1,505
	<hr/> 45,160

No. 10

The British
North
America
Act, 1871,
34-35 Vict.,
Chap. 28
(Imperial).

No. 10

The British North America Act, 1871, 34-35 Vict., Chap. 28 (Imperial)

An Act respecting the establishment of Provinces in the Dominion of Canada.

[29th June, 1871.]

WHEREAS doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in Territories admitted, or which may hereafter be admitted, into the Dominion of Canada, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice 10 and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The British North America Act, 1871."

Parliament
of Canada
may estab-
lish new
Provinces
and provide
for the con-
stitution,
&c., thereof.

2. The Parliament of Canada may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament.

20

Alteration of
limits of
Provinces.

3. The Parliament of Canada may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

Parliament
of Canada
may legislate
for any ter-
ritory not
included in a
Province.

4. The Parliament of Canada may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.

Confirma-
tion of Acts
of Parlia-
ment of
Canada, 32
& 33 Vict.,
(Canadian)
cap. 3, 33
Vict. (Cana-
dian), cap. 3

5. The following Acts passed by the said Parliament of Canada, and intituled 30 respectively,—“An Act for the temporary government of Rupert's Land and the “North Western Territory when united with Canada”; and “An Act to amend and “continue the Act thirty-two and thirty-three Victoria, chapter three, and to “establish and provide for the government of the Province of Manitoba,” shall be and be deemed to have been valid and effectual for all purposes whatsoever from the

date at which they respectively received the assent, in the Queen's name, of the Governor General of the said Dominion of Canada.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last-mentioned Act of the said Parliament in so far as it relates to the Province of Manitoba, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.

The British
North
America Act
1871, 34-35
Vict.,
Chap. 28
(Imperial).
—Concluded

Limitation
of powers of
Parliament
of Canada
to legislate
for an estab-
lished Pro-
vince.

No. 11

Act,
34 Vict.,
Chap. 16
(Canada).

No. 11

Act, 34 Vict., Chap. 16 (Canada)

An Act to make further provision for the government of the North West Territories

[Assented to 14th April, 1871.]

Preamble.

WHEREAS the Act passed in the Session held in the thirty-second and thirty-third years of Her Majesty's Reign, Chapter Three, entitled, "An Act for the temporary government of Rupert's Land and the North Western Territory when united with Canada," as re-enacted, amended, extended and continued in force, with respect to such portion of the said Land and Territory as is not included in the Province of Manitoba by the Act passed in the thirty-third year of Her Majesty's Reign, Chapter 3, entitled "An Act to amend and continue the Act 32 and 33 Victoria, Chapter 3, and to establish and provide for the government of the Province of Manitoba," will expire at the end of the present Session of Parliament; And whereas, it is expedient to make provision for the government, after the expiration of the Act first above mentioned, of the North West Territories, that being the name given by the thirty-fifth section of the Act secondly above mentioned to such portion of Rupert's Land and the North Western Territory as is not included in the Province of Manitoba; Therefore, Her Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Appointment
and functions
of Lieutenant
Governor.

1. It shall be lawful for the Governor, by any Order or Orders to be by him from time to time made, with the advice of the Privy Council, (and subject to such conditions and restrictions as to him shall seem meet) to authorize and empower such officer as he may from time to time appoint as the Lieutenant-Governor of the North West Territories, to make provision for the administration of Justice therein, and generally to make, ordain, and establish all such Laws, Institutions and Ordinances as may be necessary for the Peace, Order, and good Government of Her Majesty's subjects, and others therein; provided that all such Orders in Council, and all Laws and Ordinances, so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

Governor in
Council may
make laws.

Proviso.

30

Instructions
to Lieutenant
Governor.

2. The Lieutenant-Governor shall administer the Government under instructions from time to time given him by Order in Council.

Appointment
of Council to
Lieutenant
Governor.

3. The Governor may, with the advice of the Privy Council, constitute and appoint, by Warrant under his Sign Manual, a Council of not exceeding fifteen nor less than seven persons, to aid the Lieutenant-Governor in the administration of affairs, with such powers as may be from time to time conferred upon them by Order in Council.

4. All the Laws in force in the North West Territories at the time of the passing of this Act shall, so far as they are consistent with "The British North America Act, 1867,"—with the terms and conditions of the admission of Rupert's Land and the North Western Territories into the Union, approved of by the Queen under the 146th section thereof,—and with the said above cited Acts and this Act,—remain in force therein, until altered by the Parliament of Canada, or by the Lieutenant-Governor under the authority of this Act.

Act,
34 Vict.,
Chap. 16
(Canada).
—Concluded
Existing laws
continued:
subject to
B. N. A. Act,
1867.

5. The Lieutenant-Governor and all Public Officers and Functionaries holding office in the North West Territories at the time of the passing of this Act, shall continue to be Public Officers and Functionaries of the North West Territories with the same duties and powers as before, until otherwise ordered under the authority of this Act.

Public
officers
to retain
office
until other-
wise ordered.

No. 12

Act, 34 Vict.,
Chap. 29
(Canada).

No. 12

Act, 34 Vict., Chap. 29 (Canada)

An Act to continue for a limited time the Acts therein mentioned.

[Assented to 14th April, 1871.]

Preamble.

WHEREAS it is expedient to continue for a limited time the Acts hereinafter mentioned, which would otherwise expire at the end of the present Session; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Act of the late Province of Canada, 4 and 5 V., c. 32, continued for one year.

1. The Act of the Parliament of the late Province of Canada, passed in the Session thereof held in the fourth and fifth years of Her Majesty's Reign, intituled: 10
"An Act to encourage the establishment of and regulate Savings Banks in this Province," shall be and is hereby continued and shall remain in force as regards the Savings Banks now established and in operation under its provisions, until the first day of January, one thousand eight hundred and seventy-two, and from thence until the end of the next ensuing Session of the Parliament of Canada, and no longer.

Act 32, 33 Vict., cap. 3, as amended by 33 V., c. 3, continued for one year, subject to certain provisions. See cap. 16.

2. The Act of the Parliament of Canada passed in the Session held in the thirty-second and thirty-third years of Her Majesty's Reign, chaptered three, and intituled "An Act for the temporary government of Rupert's Land and the North-Western Territory, when united with Canada," as amended by and subject to the provisions of the Act of the said Parliament, passed in the Session held in the thirty- 20
third year of Her Majesty's Reign, chaptered three, and intituled "An Act to amend and continue the Act 32 and 33 Victoria, chapter 3, and to establish and provide for the government of the Province of Manitoba" is hereby continued to the first day of January, one thousand eight hundred and seventy-two, and from thence to the end of the then next ensuing Session of the Parliament of Canada, and no longer.

Not to affect any Act of the present Session, &c.

3. Nothing herein contained shall prevent the effect of any Act passed during the present Session, repealing, amending, rendering permanent, or continuing to any further period than that herein appointed, the Acts hereinbefore mentioned and continued, nor shall continue any provision or part of the Acts in this Act mentioned, which may have been repealed by any Act passed during the present Session or in 30 any previous Session.

No. 13

Dominion Lands Act, 35 Vict., Chap. 23 (Canada)

An Act respecting the Public Lands of the Dominion.

No. 13
 —
 Dominion
 Lands Act,
 35 Vict.,
 Chap. 23
 (Canada).

[Assented to 14th April, 1872.]

WHEREAS it is expedient with a view to the proper and efficient administration and management of certain of the public lands of the Dominion that the same should be regulated by statute: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

PRELIMINARY—INTERPRETATION

- 10 **1.** This Act shall apply exclusively to the Lands included in Manitoba and the North-West Territories, which lands shall be styled and known as *Dominion Lands*; and this Act shall be known and may be cited as the "*Dominion Lands Act*," and the following terms and expressions therein shall be held to have the meaning hereinafter assigned them, unless such meaning be repugnant to the subject or inconsistent with the context; that is to say:
1. The term *Secretary of State*, means the Secretary of State of Canada. "Secretary of State."
 2. The term *Surveyor-General* means the said officer, or in his absence the chief clerk performing his duties for the time being. "Surveyor General."
- 20 **3.** The term *Agent* or *Officer* means any person or Officer, employed in connection with the administration and management, sale or settlement of Dominion lands; and the term *Local Agent* means the Agent for Dominion lands employed as aforesaid, with respect to the lands in question; and the term *Land Office* means the office of any such Agent. "Agent."
 "Officer."
4. The term *Deputy Surveyor* means a Surveyor duly authorized under the provisions of this Act to survey Dominion lands. "Deputy Surveyor."
5. The term *Crown Timber Agent* means the local officer appointed to collect dues and to perform such other duties as may be assigned to such officer, in respect to the timber on Dominion lands. "Crown Timber Agent."
- 30 **6.** The term *Island*, as used in connection with timber, means an isolated grove or clump of timber in Prairie. "Island."
7. The term *Belt*, as used in connection with timber, means a strip of timber along the shore of a lake, river or water course. "Belt."
8. The term *Clause* means a section of this Act distinguished by a separate number, and the term *Sub-Clause*, means a subdivision of any clause distinguished by a separate number in smaller type. "Clause."
 "Sub-Clause."
9. The term *Canada Gazette* means the official Gazette of the Government, published at Ottawa. "Canada Gazette."

DOMINION LANDS OFFICE.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).

—Continued
Administra-
tion and
management
of Dominion
Lands.
Office.

Copies of
Documents.

Employees
not to pur-
chase.

2. The Department of the Secretary of State of Canada, shall be charged with the administration and management of the Dominion lands.

1. Such administration and management shall be effected through a Branch of the said Department, to be known and designated as "*The Dominion Lands Office.*"

2. Copies of any records, documents, plans, books, or papers, belonging to or deposited in the said office, attested under the signature of the Secretary of State or of the Surveyor General, shall be competent evidence in all cases in which the original records, documents, books, plans, or papers, could be evidence.

3. No person employed in or under the Dominion Lands Office shall purchase 10 any of such lands, except under authority of an Order in Council.

SYSTEM OF SURVEY.

System of
Survey.

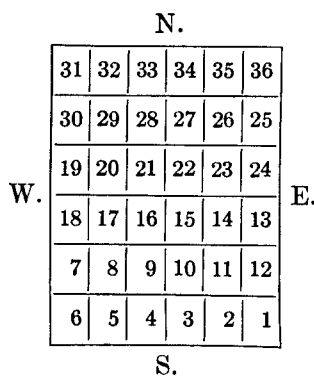
3. Subject always to the provisions hereinafter made with respect to special cases,—

Townships
to contain
thirty-six
square
miles,
exclusive of
road
allowances.

1. The Dominion lands shall be laid off in quadrilateral Townships, containing thirty-six sections of one mile square in each, (except in the case of those sections rendered irregular by the convergence or divergence of meridians as hereinafter mentioned) together with road allowances of one chain and fifty links in width, between all townships and sections.

Sections.

2. The sections shall be bounded and numbered as shewn by the following 20 diagram:



Townships
to measure
on each
side 489
chains.

Proviso:
as to re-
duction of
width of
road allow-
ances, in
certain
places.

3. The township therefore will, subject to deficiency or surplus from converging or diverging meridians, as the case may be, measure on each side, from centre to centre of the road allowances bounding the same, four hundred and eighty-nine chains; Provided that the Governor in Council may hereafter, should the same be deemed expedient, reduce the width of the road allowances on township and

section lines in that part of the territory lying north of the line between townships eighteen and nineteen, and east of the tenth range east of the principal meridian, and west of the fourteenth range west of the said meridian.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued

4. The lines bounding townships on the east and west sides shall in all cases be true meridians, and those on the north and south sides shall be chords intersecting circles of latitude passing through the angles of the townships.

Lines
bounding
townships.

5. The townships shall be numbered in regular order northerly from the international boundary or forty-ninth parallel of latitude, and shall lie in ranges numbered, in Manitoba, east and west from a certain meridian line run in the year 1869, styled the "Principal Meridian," drawn northerly from the said forty-ninth parallel at a point ten miles or thereabouts westerly from Pembina.

Townships
shall be
numbered.

6. In the territories east and west of Manitoba such other governing or guide meridians may be adopted and confirmed by the Governor in Council as may from time to time become expedient.

Other
governing
or guide
meridians.

7. The townships shall be laid out the precise width of four hundred and eighty-nine chains, as aforesaid, on the base lines hereinafter mentioned, and the meridians between townships shall be drawn from such bases, north or south to the depth of two townships, that is to say, to the correction lines hereinafter mentioned.

Townships
to be 489
chains wide
on the base
lines.

8. The said forty-ninth parallel or international boundary shall be the first base line, or that for townships one and two. The second base line shall be between townships four and five, the third between townships eight and nine, the fourth between townships twelve and thirteen, the fifth between townships sixteen and seventeen, and so on northerly in regular succession.

Base
lines for
townships.

9. The correction lines, or those upon which the "jog" resulting from want of parallelism of meridians shall be allowed, will be as follows, that is to say:— On the line between townships two and three, on that between six and seven, on that between ten and eleven, and so on. In other words, they will be those township lines running east and west which are equi-distant from the bases, at the depth of two townships.

Correction
lines, what
township
lines to be.

10. Each section shall be divided into quarter sections of one hundred and sixty acres, more or less, subject to the provisions hereinafter made.

Division of
sections.

11. In the survey of any and every township, the deficiency or surplus, as the case may be, resulting from convergence or divergence of meridians shall be allowed in the range of quarter sections adjoining the west boundary of the town-

Allowances
for deficiency
or surplus
in survey of
townships.

Dominion Lands Act, 35 Vict., Chap. 23 (Canada).
—Continued

ship, and the north and south error in closing on the correction lines from the north or south shall be allowed in the ranges of quarter sections adjoining, and north or south respectively of the said correction lines.

Dimensions and area of irregular quarter sections, how to be returned.

12. The dimensions and area of the irregular quarter sections resulting from the provision in the next preceding clause, whether the same be deficient or in excess, shall, in all cases, be returned by the surveyor at their actual measurements and contents.

Country to be laid out into blocks of four townships each in the first instance, and how. Corners.

13. Preliminary to the subdivision into townships and sections of any given portion of country proposed to be laid out for settlement, the same shall be laid out into blocks of four townships each, by projecting the base and correction lines, 10 and east and west meridian boundaries of each block:

1. In these lines, at the time of the survey, all township, section and quarter section corners shall be marked, which corners shall govern, respectively, in the subsequent subdivision of the block.

Posts and monuments.

2. Only a single row of posts or monuments to indicate the corners of townships, or sections (except as hereinafter provided), shall be placed on any survey line. These posts or monuments as an invariable rule (with the exception above referred to) shall be placed in the west limit of the road allowances, on north and south lines, and in the south limit of road allowances, on east and west lines; and in all cases shall fix and govern the position of the boundary corner between 20 the two adjoining townships, sections, or quarter sections on the opposite side of the road allowance.

Proviso as to correction lines.

3. Provided that in the case of the township, section and quarter section corners on correction lines, posts or monuments shall in all cases be planted and marked independently for the townships on either side; those for the townships north of the line, in the north limit of the road allowance; and those for the townships south, in the south limit.

Surveys to be performed by contract.

14. The surveys of the Dominion lands, according to the system above described, shall be carried out and shall be performed by contract at a certain rate per mile or per acre, fixed from time to time by the Governor in Council. 30

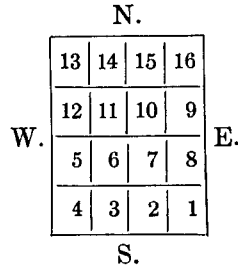
Legal subdivisions of townships.

15. Legal subdivisions as applicable to the survey, sale and granting of the Dominion lands, shall be as follows: and it shall be sufficient that such legal subdivisions be severally, as the case may require, designated and described by such names or numbers and areas for letters patent, that is to say:

- 1. A section or 640 acres;
- A half section or 320 acres;
- A quarter section or 160 acres;
- A half quarter section or 80 acres.

2. To facilitate the descriptions for Letters Patent of less than a half quarter section, the quarter sections composing every section in accordance with the boundaries of the same as planted or placed in the original survey, shall be supposed to be divided into quarter quarter sections, or forty acres, and such quarter quarter sections shall be numbered as shewn in the following diagram:

Dominion Lands Act, 35 Vict., Chap. 23 (Canada).
—Continued
Quarter quarter sections.



3. The area of any legal subdivision as above set forth, in Letters Patent, shall be held to be more or less, and shall in each case be represented by the exact quantity as given to such subdivision in the original survey:

16. Provided that nothing in this Act shall be construed to prevent the lands upon the Red and Assineboine Rivers surrendered by the Indians to the late Earl of Selkirk from being laid out in such manner as may be necessary in order to carry out section thirty-two of the Act thirty-third Victoria, chapter three or to prevent fractional sections or lands bordering on any river, lake, or other water course or public road, from being divided; or such lands from being laid out in lots of any certain frontage and depth, in such manner as may appear desirable; or to prevent the subdivision of sections or other legal subdivisions into wood lots as hereinafter provided; or from describing the said lands upon the Red and Assineboine Rivers, or such subdivisions of fractional sections, or other lots, or wood lots, for patent, by numbers according to a plan of record, or by metes and bounds, or by both, as may seem expedient.

DISPOSAL OF THE DOMINION LANDS.

LANDS RESERVED BY THE HUDSON'S BAY COMPANY.

17. Whereas by article five of the terms and conditions in the deed of surrender from the Hudson's Bay Company to the Crown, the said Company is entitled to one-twentieth of the lands surveyed into townships in a certain portion of the territory surrendered, described and designated as the "Fertile Belt:"

And whereas by the terms of the said deed, the right to claim the one-twentieth is extended over the period of fifty years, and it is provided that the lands comprising the same shall be determined by lot; and whereas the said Company and the Government of the Dominion have mutually agreed that with a view to an

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued

equitable distribution throughout the territory described of the said one-twentieth of the lands, and in order further to simplify the setting apart thereof, certain sections, or parts of sections, alike in numbers and position in each township throughout the said territory, shall as the townships are surveyed, be set apart and designated to meet and cover such one-twentieth:

Preamble.

And whereas it is found by computation that the said one-twentieth will be exactly met, by allotting in every fifth township two whole sections of six hundred and forty acres each, and in all other townships one section and three-quarters of a section each, therefore—

Certain
sections and
parts of
sections in
certain town-
ships to be
known as
Hudson's
Bay Com-
pany's lands.

In every fifth township in the said territory; that is to say: in those townships 10 numbered 5, 10, 15, 20, 25, 30, 35, 40, 45, 50, and so on in regular succession northerly from the international boundary, the whole of sections Nos. 8 and 26, and in each and every of the other townships the whole of section No. 8, and the south half and north-west quarter of section 26 (except in the cases hereinafter provided for) shall be known and designated as the lands of the said Company.

In certain
townships
the Com-
pany's one-
twentieth
to be set
apart by lot.

18. Provided, that the next preceding clause shall not apply to fractional townships or those broken by lakes, but only to whole townships, and that in the cases above mentioned the Company's one-twentieth shall be set apart by lot, by the Secretary of State and the said Company, or some person duly authorized by them respectively.

20

Company
may select
land in
lieu of
allotted land
found to be
settled upon
under
lawful
authority.

19. Provided further, that on the survey of a township being effected, should the sections so allotted, or any of them, or any portion of them, be found to have been *bonâ fide* settled on under the authority of any Order in Council, or of this Act, then if the Company forego their right to the sections settled upon as aforesaid, or any one or more of such sections, they shall have the right to select a quantity of land equal to that so settled on, and in lieu thereof, from any lands then unoccupied.

Company's
lands to
form no
part of tim-
ber limits.

20. Provided also, as regards the sections and parts of sections as mentioned in clause seventeen, that where the same may be situate in any township withdrawn from settlement and sale, and held as timber lands under the provisions hereinafter contained, the same shall form no part of the timber limit or limits included in such 30 townships, but shall be held to be the property of the Company.

Title to
lands to
pass to
Company
without
Patent in
certain cases,
and under
patents in
other cases.

21. As townships are surveyed and the respective surveys thereof confirmed, or as townships or parts of townships are set apart and reserved from sale as timber lands, the Governor of the said Company shall be duly notified thereof by the Surveyor General, and thereupon this Act shall operate to pass the title in fee simple in the sections or three-quarter parts of sections to which the Company will be entitled under clause seventeen, as aforesaid, and to vest the same in the said Company, without requiring a patent to issue for such lands; and as regards the

lands set apart by lot, and those selected to satisfy the one-twentieth in townships other than the above, as provided in clauses eighteen and nineteen, returns thereof shall be made in due course by the Local Agent or Agents to the Dominion Lands Office, and patents shall issue for the same accordingly.

Dominion
Lands Act,
35 Vict..
Chap. 23
(Canada).

—Continued

EDUCATIONAL ENDOWMENT

22. And whereas it is expedient to make provision in aid of education in Manitoba, and the North-West Territories, therefore sections eleven and twenty-nine in each and every surveyed township throughout the extent of the Dominion lands, shall be and are hereby set apart as an endowment for purposes of education.

10 1. The sections so dedicated shall be thereafter dealt with in such manner as may be prescribed by law, and the same are hereby withdrawn from the operation of the clauses in this Act relating to purchase by private entry, and to homestead right, and it is hereby declared that no such right of purchase by private entry or homestead right shall be recognized in connection with the said sections or any part or parts thereof:

2. Provided, that on a township being surveyed, should such sections, or either of them, or any part of either, be found to have been settled on and improved, then and in such case the occupant or occupants, conforming to the requirements of this Act shall be confirmed in such possession, and the Secretary of State shall select a quantity equal to that found to have been so settled on from the unclaimed lands in such township, and shall withdraw the land so selected from sale and settlement, and shall set apart and publish the same as school lands, by notice in the *Canada Gazette*.

Sections 11
and 29 in
every sur-
veyed town-
ship set
apart as an
educational
endowment.

Such sec-
tions not
to be sub-
ject to
right of pur-
chase by
private
entry or pre-
emption or
homestead
right.

Proviso:
if such
sections
are found
settled on
and
improved.

MILITARY BOUNTY LAND CLAIMS

23. In all cases in which land has heretofore been or shall hereafter be given by the Dominion for military services, warrants shall be granted in favor of the parties entitled to such land by the Minister of Militia and Defence, and such warrants shall be recorded in the Dominion Lands Office in books to be kept for the purpose, and shall be located as hereinafter provided, and patents for the lands so located shall be issued accordingly.

1. Such warrants may be located by the owners thereof, in any of the Dominion lands open for sale, or may be received in payment for a homestead claim for the same number of acres, or in payment in part or in full, as the case may be, for the purchase at public or private sale of Dominion lands, at the value shewn upon their face, estimating the number of acres in the warrant at the price mentioned therein.

2. In accepting warrants as so much purchase money, any deficiency shall be payable in cash. But should any payment by warrant or by amount in warrants, be in excess, the Government will not return any such excess.

Warrants to
be granted
for lands
given for
military
services.

Such war-
rants may
be located
in lands
open for
sale, or
given in
payment
for lands.

As to
warrants
accepted
as purchase
money.

Dominion
Lands Act,
35 Vict.,
Chap. 25
(Canada).
—Continued
As to
locating
warrants.

3. In locating a warrant, should the same be for any aliquot part of a section, it must be located in a legal subdivision of corresponding extent; for instance, a warrant calling for one hundred and sixty acres must be located in a certain quarter section intact.

Assignments
of Military
Bounty
Land
Warrants.

24. Assignments of Military Bounty land warrants duly made and attested before any person entitled by law to take affidavits shall be recognized as conveying the beneficial interest therein, but no assignment of the interest of the original owner (except in the case of Red River soldiers' warrants as hereinafter mentioned) will be held as transferring such interest, unless the assignment be endorsed on the back of the warrant; and in subsequent assignments the warrant, unless the same has 10 been lost, (as hereinafter mentioned) must be attached to and form part of the claimant's or locatee's papers.

Warrant or
Patent to
issue in
favour of
legal repre-
sentatives
of deceased
officer or
soldier.

25. In all cases where an officer or soldier entitled to Military Bounty land dies before the issue of the warrant, or between the issue of the warrant and the location thereof, the warrant or the patent, or both, as the case may be, shall issue in favor of the legal representatives of such deceased officer or soldier, according to the law of the Province or Territory where the lands in question lie, who shall be ascertained in such manner and by such Court, Commissioners or other tribunal, as the Legislature of such Province shall prescribe by any Act passed for that purpose, and shall be certified to the Governor under such Act,—or if the lands be in any territory in which 20 there is then no Legislature, then in such manner and by such Commissioners as the Governor in Council may from time to time direct,—and any Order in Council in that behalf may vest in any Commissioners under its power to summon witnesses and examine them on oath and to compel the production of documents, and generally may vest in them all such powers and impose upon all other persons all such obligations, as the Governor in Council may deem necessary in order to ascertain and certify to the Governor the person or persons to whom the Patent ought to issue,—and on any such certificate under this clause the Patent shall issue in accordance therewith.

New
warrant may
issue in
lieu of war-
rant lost or
destroyed.

26. Whenever any warrant for Military Bounty land issued in pursuance of 30 this Act, is lost or destroyed, whether the same may or may not have been sold and assigned by the original owner, the Minister of Militia and Defence, (such loss or destruction having been proved to his satisfaction,) may, and he is hereby required to cause a new warrant of like tenor to be issued in lieu thereof, in favor of the person to whom the warrant belonged at the time of its loss or destruction, if he be still living, or of his legal representatives as aforesaid, if he be no longer living, which new warrant may be assigned, located, and patented, and shall be of like value in every respect, with the original warrant, and in any and all such cases of re-issue, the original warrant, in whosoever hands it may be, shall be null and void.

27. And whereas by order of the Governor in Council, dated the 25th April, 1871, it is declared that,—

The officers and soldiers of the 1st or Ontario and the 2nd or Quebec Battalion of Rifles, then stationed in Manitoba, whether in the service or depôt companies, and not having been dismissed therefrom, should be entitled to a free grant of land without actual residence, of one quarter section,—such grant is hereby confirmed, and the Minister of Militia and Defence is hereby authorized and required to issue the necessary warrants therefor accordingly:

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).

—Continued

Free grant
of land by
Order in
Council of
25th April,
1871,
confirmed.

28. And whereas effect could not be given to the above mentioned Order in Council, until the lands in Manitoba had been surveyed, and in the mean time many of the said men so entitled as above have assigned their interest in such free grants,—such assignments duly made and attested, and having the certificate of discharge in the case of non-commissioned officers or private soldiers attached thereto, and filed in the Dominion Lands Office before the issue of the warrant, shall be held to transfer in each case the interest of the man so entitled in the warrant when issued, which latter, in every such case, shall be attached, after registry, to the assignment on file, and held for delivery to the party entitled thereto, or for location.

Assignments
of interest
in such free
grants
recognized.

ORDINARY PURCHASE AND SALE OF LANDS.

29. Unappropriated Dominion lands, the surveys of which may have been duly made and confirmed, shall, except as otherwise hereinafter provided, be open for purchase at the rate of one dollar per acre; but no such purchase of more than a section or six hundred and forty acres, shall be made by the same person; provided that whenever so ordered by the Secretary of State, such unoccupied lands as may be deemed by him expedient from time to time shall be put up at public sale (of which sale due and sufficient notice shall be given) at the upset price of one dollar per acre, and sold to the highest bidder.

Surveyed
Dominion
lands open
for purchase
at \$1 per
acre.

Proviso.

PAYMENTS FOR LANDS

30. Payments for lands, purchased in the ordinary manner, shall be made in cash, except in the case of payment in military bounty warrants as hereinbefore provided.

Payments
for lands to
be in cash,
as a rule.

TOWN PLOTS, ETC.

31. The Secretary of State shall have power, from time to time, to set apart and withdraw from purchase and from the homestead clauses of this Act, any tract or tracts of land which it may be considered by him expedient to lay out into Town or Village Plots, and to cause the same to be surveyed and laid out, and the lots so laid out to be sold, either by private sale and for such price as he may see fit, or at public auction.

Secretary
of State
may reserve
tracts of land
for Town
or Village
Plots.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued

Governor
in Council
may set
apart lands
for other
public
purposes.

32. The Governor in Council may also set apart and appropriate such Dominion lands as he may deem expedient, for the sites of market places, gaols, court houses, places of public worship, burying grounds, schools, benevolent institutions, squares and for other like public purposes, and at any time before the issue of letters patent therefor, may alter or revoke such appropriation, as he deems expedient, and he may make free grants for the purposes aforesaid of the lands so appropriated, the trusts and uses to which they are to be subject being expressed in the letters patent.

HOMESTEAD RIGHTS OR FREE GRANT LANDS

Steps to be
taken for
the purpose
of securing
a homestead
right in
respect of
land, and
provisions
respecting
the same.
Proviso,
as to extent.
More than
one settler.

If both
have
improved.

Interfering
claims.

Time for
application.

Occupants of
contiguous
lands.

33. Any person who is the head of a family, or has attained the age of twenty-10 one years, shall be entitled to be entered for one quarter section or a less quantity of unappropriated Dominion lands, for the purpose of securing a homestead right in respect thereof. (Form A.)

1. Provided that the limitation of quantity in this clause, shall not prevent the granting of a wood lot to the same person, under the provisions hereinafter made with respect to timber in surveyed Townships.

2. When two or more persons have settled on and seek to obtain a title to the same land, the homestead right shall be in him who made the first settlement.

3. Provided, that in cases where both parties may have made valuable improvements, the Secretary of State may order a division of such land, in legal subdivisions, 20 in such manner as may preserve to the said parties, as far as practicable, their several improvements, and further, may direct that what the land of each of such parties, as so divided, may be deficient of a quarter section, shall be severally made up to them in legal subdivisions from unoccupied quarter sections adjoining.

4. Questions as to the homestead right arising between different settlers shall be investigated by the Local Agent of the division in which the land is situated, whose report and recommendation, together with the evidence taken, shall be referred to the Secretary of State for decision.

5. Every person claiming a homestead right from actual settlement must file his application for such claim, describing the land settled, with the Local Agent 30 within whose district such land may be, within thirty days next after the date of such settlement, if in surveyed lands; but if in unsurveyed lands the claimant must file such application within three months after such land shall have been surveyed; and in either case proof of settlement and improvement shall be made to the Local Agent at the time of filing such application.

6. Persons owning and occupying Dominion lands may be entered for other land lying contiguous to their lands, but the whole extent of land, including that previously owned and occupied, must not exceed one hundred and sixty acres, and must be in legal sub-divisions.

7. A person applying for leave to be entered for lands with a view of securing a homestead right therein, shall make affidavit before the Local Agent (Form B) that he is over twenty-one years of age, that he has not previously obtained a homestead under the provisions of this Act, that to the best of his knowledge and belief there is no person residing on the land in question, or entitled to enter the same as a homestead, and that the application is made for his exclusive use and benefit, and for the purpose of actual settlement.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued
Affidavit to
be made.

8. Upon making this affidavit, and filing it with the Local Agent, and on payment to him of an office fee of ten dollars for which he shall receive a receipt from the Agent, he shall be permitted to enter the land specified in the application.

9. In entries of contiguous lands, the settler must describe in his affidavit the tract he owns and is settled upon as his original farm. Actual residence on the contiguous land entered is not required but *bonâ fide* improvement and cultivation of it must be thereafter shewn for the period required by the provisions of this Act.

Entry of
contiguous
lands.

10. No patent shall be granted for the land until the expiration of three years from the time of entering into possession of it except as hereinafter provided.

No patent
for three
years.

11. At the expiration of three years the settler or his widow, her heirs or devisees, or, if the settler leaves no widow, his heirs or devisees, upon proof, to the satisfaction of the Local Agent that he, or his widow or his or her representatives as aforesaid, or some of them, have resided upon or cultivated the land for the three years next after the filing of the affidavit for entry, the settler or such claimant shall be entitled to a patent for the land, provided such claimant is then a subject of Her Majesty by birth or naturalization.

Issue of
patent.

12. When both parents die, without having revised the land, and leaving a child or children under age, it shall be lawful for the executors (if any) of the last surviving parent, or the guardian or guardians of such child or children, with the approval of a Judge of a Superior Court of the Province or Territory in which the lands lie, to sell the lands for the benefit of the infant or infants, but for no other purpose; and the purchaser, in such case, shall acquire the homestead right by such purchase, and on carrying out the unperformed conditions of such right, shall receive a patent for the land, upon payment of the office fees.

When
parents
die without
devising.

13. The title to lands shall remain in the Crown until the issue of the patent therefor, and such lands shall not be liable to be taken in execution before the issue of the patent.

Title
before
patent.

14. In case it is proved to the satisfaction of the Local Agent that the settler has voluntarily relinquished his claim, or has been absent from the land entered by him, for more than six months in any one year, then the right to such land shall be forfeited; and the settler so relinquishing or abandoning his claim shall not be permitted to make more than a second entry.

Settler
abandoning
his claim.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued

Patent be-
fore three
years on
payment of
price, &c.

Proof of im-
provement.

Assignments
void.

Provisions
to apply
only to
homesteads.

15. Any person who has availed himself of the foregoing provisions may, before the expiration of the three years, obtain a patent for the land entered upon by him, including the wood lot, if any, forming an addition to the grant thereof, as herein- after provided, on paying the Government price thereof at the date of entry, and making proof of settlement and cultivation for not less than twelve months from the date of entry.

16. Proof of actual settlement and cultivation shall be made by affidavit of the claimant before the Local Agent, corroborated on oath by two credible witnesses.

17. All assignments and transfers of homestead rights before the issue of the patent shall be null and void, but shall be deemed evidence of abandonment of the 10 right; and the person so assigning or transferring shall not be permitted to make a second entry.

18. The above provisions relating to homesteads shall only apply to agricultural lands, and shall not be held to apply to lands set apart as timber lands, or to those lands on which coal or minerals are at the time of entry known to exist.

GRAZING LANDS.

Unoccupied
Dominion
lands may
be leased
to neigh-
boring
settlers for
grazing
purposes.
Conditions.

34. Leases of unoccupied Dominion lands may be granted for grazing purposes to any person or persons whomsoever being *bonâ fide* settlers in the vicinity of the land sought to be leased, at such rent and for such term as the Secretary of State shall deem expedient; but every such lease of grazing land shall, among other things, 20 contain a condition making such land liable for settlement or for sale as herein- before provided by this Act, at any time during the term of such lease, without compensation, save by a proportionate deduction of rent, and a further condition by which the Secretary of State may, on giving the lessee six months notice, cancel the lease at any time during the term.

HAY LANDS.

Unoccupied
Dominion
lands may
be leased to
neighboring
settlers for
the purpose
of cutting
hay thereon,
but not to
the
hindrance of
the sale or
settlement
thereof.

35. Leases of unoccupied Dominion lands, not exceeding a half quarter section, or eighty acres, to any one person, may be granted for the purpose of cutting hay thereon, to any person or persons whomsoever being *bonâ fide* settlers in the vicinity of such hay land, for such term and at such rent as the Secretary of State may deem 30 expedient; but such lease shall not operate to prevent at any time during the term thereof the sale or settlement of the lands described therein under the provisions of this Act, the lessee being paid in such case by the purchaser or settler, for fencing or other improvements made on such land, such sum as shall be fixed by the Local Agent, and allowed to remove any hay he may have made.

MINING LANDS

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).

—Continued

36. No reservation of gold, silver, iron, copper, or other mines or minerals shall be inserted in any patent from the Crown granting any portion of the Dominion lands.

Mines or
minerals
not to be re-
served in
patents of
lands.

37. Any person or persons may explore for mines or minerals on any of the Dominion lands, surveyed or unsurveyed, and not then marked or staked out and claimed or occupied, and may, subject to the provisions hereinafter contained, purchase the same.

Any person
may explore
and purchase
mining
lands.

38. Mining lands, if in surveyed townships, may be acquired under the provisions herein contained, and shall be sold in legal subdivisions. When situate in unsurveyed territory and without the limits of the Fertile Belt, such lands shall be sold in blocks to be called mining locations; and every such mining location, except as hereinafter provided, shall be bounded by lines due north and south and due east and west, astronomically; and each such location shall correspond with one of the following dimensions, namely, eighty chains in length by forty in width, containing three hundred and twenty acres,—or forty chains square, containing one hundred and sixty acres,—or forty chains in length by twenty in width, containing eighty acres.

Mining
lands in
surveyed
townships
to be sold
in legal
subdivisions.

Those in
unsurveyed
territory,
without the
limits of
the Fertile
Belt, to be
sold in
blocks, to
be called
mining
locations.

1. Provided further that in case of certain lands proving to be rich in minerals, the Secretary of State shall have the power to withdraw such lands from sale, and in lieu thereof institute a system of lease.

Description
of such
blocks.

2. The rent payable to the Crown under any such lease shall be a royalty, not to exceed two and a half per cent, on the net profits of working.

Proviso.
Rent.

3. Provided further, that when there are two or more applicants for the same tract, and a prior right in either or any of the applicants is not established to the satisfaction of the Secretary of State, the same may be tendered for by the claimants on stated terms of lease, and sold to the highest bidder.

Proviso:
when no
prior right
exists.

4. Provided also that in territory supposed to contain minerals the Secretary of State may in his discretion reserve from sale, alternate locations, or quarter sections, or other legal subdivisions with the view of subsequently offering the same either for sale or lease at public competition.

Further
provision.

39. Mining locations in unsurveyed territory shall be surveyed by a Deputy Surveyor, and shall be connected with some known point in previous surveys, or with some other known point or boundary (so that the tract may be laid down on the maps of the territory in the Dominion Lands Office) at the cost of the applicants, who shall be required to furnish, with their application, the Surveyor's plan, field notes and description thereof.

Mining
locations
to be sur-
veyed by
Deputy
Surveyors.

Dominion Lands Act, 35 Vict., Chap. 23 (Canada).
—Continued

Lands supposed to contain minerals, to be sold at the same price as farming lands.

Secretary of State may exempt certain lands from the preceding provisions. Duty of Governor in Council with respect to lands so excepted.

As to lands still under Indian title.

Coal lands may not be taken for homesteads.

Steps to be taken by persons desiring to carry on coal mining in unsurveyed territory.

40. No distinction in price shall be made between lands supposed to contain mines or minerals and farming lands, but both classes shall be sold at the uniform price of one dollar per acre; provided that clause twenty-nine of this Act as regards offering lands at public sale shall apply to coal and mineral lands also, when the same are in surveyed townships.

41. It shall also be lawful for the Secretary of State to exempt from the preceding provisions of this Act, such of the Dominion lands upon or adjoining the banks of rivers or other waters as may be supposed to contain valuable "Bar," "Bench," or "Dry" "Diggings" for gold or other precious metals; and the Governor in Council shall regulate, from time to time, as the same may become neces- 10 sary and expedient, the nature and size of the claims containing such diggings, and shall fix the terms and conditions upon which the same shall be held and worked, and the royalty payable in respect thereof, and shall appoint and prescribe the duties of such officers as may be necessary to carry out such regulations.

INDIAN TITLE

42. None of the provisions of this Act respecting the settlement of Agricultural lands, or the lease of Timber lands, or the purchase and sale of Mineral lands, shall be held to apply to territory the Indian title to which shall not at the time have been extinguished.

COAL LANDS

43. Coal lands designated by the Government as such are hereby withdrawn from the operation of this Act as regards the rights of squatters to homesteads on the Dominion lands in advance of the Surveys.

44. Any person or persons desiring to carry on coal mining in unsurveyed territory, shall be protected in the possession of the lands on which such mining may be carried on,—provided, that before entering on the working of such mines, such person or persons make written application to the Local Agent to purchase such land: such application must be accompanied by a description by a Deputy Surveyor setting forth generally the situation and the dimensions of such land, and shall also be accompanied by payment of the price thereof, estimating the 30 number of acres (which shall not exceed six hundred and forty) at the rate of one dollar per acre. Such application shall be filed by the Agent receiving the same—and on the survey of the Township containing the land applied for being effected, the claimant or claimants shall be entitled to a patent for such number of acres, in legal subdivisions, including and covering the mine worked, as shall correspond to the application and to the extent of land paid for.

Provided that such mine shall have been continuously worked during the interim between the application and the survey; but if the same should at any time during such interim cease to be worked for twelve consecutive months, unless the lands in question be no longer valuable for mining purposes, then the claim of the parties to the land shall lapse, and the mine shall be forfeited to the Crown, together with any and all purchase money which may have been paid to the Government on account thereof.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued
Proviso:
for con-
tinuous
working.

45. The Secretary of State, with the view of preventing undue monopoly in coal lands, may in his discretion, on a township being surveyed, exempt from the sale and settlement provisions of this Act the sections or other legal subdivisions of land which may be said to contain coal, except those on which mining may have been carried on under the next preceding clause; and the same shall be subsequently sold or otherwise dealt with in such manner as may be deemed expedient by the Governor in Council.

Coal lands
may be
exempted
from
sale and
settlement.
Provisions
of Act.

TIMBER AND TIMBER LANDS

TIMBER IN TOWNSHIPS SURVEYED FOR SETTLEMENT

46. And whereas it is expedient that the timber forming Islands or Belts in townships thrown open for settlement, should be so disposed of as to benefit the greatest possible number of settlers and to prevent petty monopoly, it is therefore enacted as follows:—

Timber
forming
islands or
belts in
townships
thrown
open for
settlement,
to be dis-
posed of
so as to
benefit the
greatest
possible
number of
settlers and
prevent
petty
monopoly,
and how.

1. In the subdivision of townships which may consist partly of prairie and partly of timber land, such of the sections or subdivisions of sections containing Islands, Belts, or other tracts of timber, shall be subdivided into such number of wood lots of not less than ten, and not more than twenty acres in each lot, as will afford, so far as the extent of wood land in the township may permit, one such wood lot to each quarter section prairie farm in such township.

2. Provided, that neither the sections and parts of sections in each township vested in the Hudson's Bay Company by this Act nor those sections set apart herein for schools, shall be subject in any way to the operation of the next preceding sub-
30 clause.

3. The division of such wood lots shall be by squared posts, numbered from one upwards, marked with a marking iron, and planted in the section lines bounding the timber tract so laid out; and each wood lot shall front on a section road allowance.

4. Provided, that in case an Island or Belt of timber be found in the survey of any township to lie in a quarter section or several quarter sections, but in such manner that no single quarter section shall have more of such timber than twenty-five acres, such timber shall be taken to be appurtenant to such quarter section or quarter sections, and shall not be further divided into wood lots.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued

5. The Local Agent, as settlers shall apply for homestead rights in the township, and in the same order as such applications shall be made, shall apportion to each quarter section so applied for, one of the adjacent wood lots, and such wood lot shall appertain to and form an addition to such grant, and shall be entered on the Local Agent's books and be returned by him as in connection therewith; and the wood lot set apart with any homestead quarter section shall be a free gift in connection with such homestead, and in addition thereto, and on such homestead claimant fulfilling all the requirements of this Act in that behalf, the patent for such quarter section shall also include such wood lot.

6. Provided, that any homestead claimant, who, previous to the issue of the 10 patent shall sell any of the timber on his claim or on the wood lot appertaining to his claim, to saw mill proprietors or to any other than settlers for their own private use, shall be guilty of a trespass, and may be prosecuted therefor before a Justice of the Peace, and upon conviction thereof, shall be subject to a fine or imprisonment, or both; and further, such person shall forfeit his claim absolutely.

OTHER TIMBER AND TIMBER LIMITS

Reservation
of timber
lands.

47. Any tract of land covered by forest timber may be set apart as timber lands, and reserved from sale and settlement.

Each
township
to form a
timber limit.

48. Except where it may be thought expedient by the Secretary of State to divide a township into two or more timber limits, the several townships composing 20 any such tract shall each form a limit.

What
"timber"
includes
under this
heading.

49. In the enactments and provisions under the present heading, *Timber and Timber Lands*, the word "timber" includes all lumber, and all products of timber hereinafter mentioned, or of any other kind whatever, including firewood or bark.

Right of
cutting
timber to
be sold to
highest
bidder.

50. The right of cutting timber on such limits shall be put up at a bonus per square mile, varying according to the situation and value of the limit, and sold to the highest bidder by competition, either by tender or at public auction.

Purchaser
to have a
lease for
21 years.

51. The purchaser shall receive a lease granting the right of cutting timber on the land for twenty-one years, and containing the following conditions, with such others as shall have been embodied in the notice of sale, that is to say:— 30

Conditions
of lease.

1. The lessee to erect a saw mill or mills in connection with such limit and lease, and subject to any special conditions which may be agreed upon and stated in the lease, such mill or mills to be of capacity to cut at the rate of a thousand feet, board measure, in twenty-four hours, for every two and a half square miles of limits in the lease, or shall establish such other manufactory of wood goods as may be agreed

Mills.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued

upon as the equivalent of such mill or mills, and the lessee to work the limit, in the manner and to the extent provided in the lease, within two years from the date thereof, and during each succeeding year of the term.

2. To take from every tree he cuts down all the timber fit for use, and manufacture the same into sawn lumber or some other such saleable product as may be provided in the lease or by any Regulations made under this Act. To take all timber.

3. To prevent all unnecessary destruction of growing timber on the part of his men, and to exercise strict and constant supervision to prevent the origin or spread of fires. To prevent destruction.

10 4. To make returns to the Government monthly, or at such other periods as may be required by the Secretary of State, or by Regulations under this Act, sworn to by him or by his agent or employee cognizant of the facts, declaring the quantities sold or disposed of as aforesaid, of all sawn lumber, timber, railway car stuff, ship timbers and knees, shingles, laths, cordwood or bark, or any other product of timber from the limit, in whatever form the same may be, sold or otherwise disposed of by him during such month or other period, and the price or value thereof. Monthly returns.

5. To pay, in addition to the bonus, an annual ground rent of two dollars per square mile, and further a royalty of five per cent on his monthly account. Rent.

20 6. To keep correct books of such kind and in such form, as may be provided by his lease or by Regulation under this Act, and to submit the same for the inspection of the collector of dues whenever required, for the purpose of verifying his returns aforesaid. Books.

30 7. The lease shall describe the lands upon which the timber may be cut, and shall vest in the lessee during its continuance, the right to take and keep exclusive possession of the lands so described, subject to the conditions hereinbefore provided, or referred to; and such lease shall vest in the holder thereof, all right of property whatsoever in all trees, timber, lumber and other products of timber, cut within the limits of the lease during the continuance thereof, whether such trees, timber and lumber or products be cut by authority of the holder of such lease or by any other person, with or without his consent; and such lease shall entitle the lessee to seize in replevin, revendication or otherwise, as his property, such timber where the same is found in the possession of any unauthorized person, and also to bring any action or suit at law or in equity against any party unlawfully in possession of any such timber, or of any land so leased, and to prosecute all trespassers thereon and other such offenders as aforesaid, to conviction and punishment, and to recover damages, if any; and all proceedings pending at the expiration of any such lease may be continued and completed as if the lease had not expired. Rights of lessee.

40 8. Such lease shall be subject to forfeiture, for infraction of any one of the conditions to which it is subject, or for any fraudulent return; and in such case the Secretary of State shall have the right, without any suit or other proceeding Forfeiture of lease.

Dominion
Lands Act,
35 Vict.,
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(Canada).
—Continued

at law or in equity, or compensation to the lessee, to cancel the same, and to make a new lease or disposition of the limit described therein, to any other party, at any time during the term of the lease so cancelled: Provided, that the Secretary of State, if he sees fit, may refrain from forfeiting such lease for non-payment of dues, and may enforce payment of such dues in the manner hereinafter provided.

Renewal
of lease.

9. The Lessee who faithfully carries out the above conditions, shall have the refusal of the same limits, if not required for settlement, for a further term not exceeding twenty-one years, on payment of the same amount of bonus per square mile as was paid originally, and on such lessee agreeing to such conditions, and to pay such other rates, as may be determined on for such second term. 10

Lease of
land
previously
leased, sold,
granted
or set apart
to be void.

52. If, in consequence of any incorrectness in survey, or other error or cause whatsoever, a lease is found to comprise lands included in one of prior date, or any lands sold, granted, leased or lawfully set apart for any other purpose under this Act, the lease first mentioned shall be void in so far as it interferes with any such previous lease, sale, grant or setting apart.

FURTHER OBLIGATIONS OF PARTIES OBTAINING LICENSES.

Dues to the
Crown
to bear
interest
and be a
lien on
timber cut
on limits.
Such timber
may be
seized and
sold in
payment.

53. Any ground rent, royalty or other dues to the Crown, on timber cut within any such limit, which are not paid at the time when they become due and payable, shall bear interest at the rate of six per cent per annum, until paid, and shall be a lien on any timber cut within such limits. And whenever the ground rent on any 20 limit, or any royalty on any timber is not paid within three months after it becomes due under the lease or regulations in that behalf, the Crown Timber Agent may, with the sanction of the Secretary of State, seize so much of the timber cut on such limits, and in the possession of the lessee or on his premises, whether sold or unsold, as will in his opinion be sufficient to secure the payment of such rent and royalty on the timber seized, and all interest and expenses of seizure and sale, and may detain the same as security for the payment thereof: and if such payment be not made within three months after such seizure, the Crown Timber Agent may, with such sanction as aforesaid, sell such timber by public auction, and after deducting the sum due to the Crown, the interest thereon and expenses aforesaid, he shall 30 pay over the balance, if any, to the lessee or owner of the timber.

Timber cut
under lease
to be liable
for dues, &c.

54. All timber cut under lease shall be liable for the payment of the Crown dues thereon, so long as and wheresoever the said timber or any part of it may be found (whether it be or be not manufactured into deals, boards or any other products); and all officers or agents employed in the collection of such dues may follow all such timber and may seize and detain the same wherever they are found until the dues thereon are paid or secured, and if payment be not made or secured

within three months after such seizure, the timber may be sold by the Crown Agent, and the proceeds disposed of as provided by the next preceding clause.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).

—Continued

55. And in case the payment of the Crown dues on any timber has been evaded by any lessee or other party, by the removal of such timber or products out of Canada, or otherwise, the amount of dues so evaded, and any expenses incurred by such officer or the Government in enforcing payment of the said dues under this Act, may be added to the dues remaining to be collected on any other timber cut on Dominion lands by the same lessee or by his authority, and be levied and collected, or secured, on such timber, together with such last mentioned dues, in the manner provided by clause fifty-three; or the amount due to the Crown, of which payment has been evaded, may be recovered by action at law, in the name of the Secretary of State, or his resident Agent, in any Court having jurisdiction in civil cases to the amount.

Mode of
enforcing
payment in
case of re-
moval of
timber out
of Canada.

56. The Secretary of State may, in his discretion, take or authorize the taking of bonds or promissory notes for any money due to the Crown, interest and costs, as aforesaid, or for double the amount of all dues, fines and penalties and costs, incurred or to be incurred, and may then release any timber upon which the same would be leviable, whether under seizure or not; but the taking of such bonds or notes shall not affect the lien and right of the Crown to enforce payment of such money on any other timber cut on the same limit, if the sums for which such bonds or notes are given are not paid when due.

Bonds or
notes may
be taken for
dues, &c.,
but without
prejudice
to lien on
timber.

LIABILITY OF PERSONS CUTTING WITHOUT AUTHORITY.

57. If any person without authority cuts, or employs or induces any other person to cut or assist in cutting, any timber of any kind, on any Dominion lands wheresoever situate, or removes or carries away, or employs or induces, or assists any other person to remove or carry away any timber of any kind, so cut from any Dominion lands as aforesaid, he shall not acquire any right to the timber so cut, or any claim for remuneration for cutting the same, preparing the same for market, or conveying the same to or towards market; and when the timber has been removed out of the reach of the Crown Timber Officers, or it is otherwise found impossible to seize the same, he shall, in addition to the loss of his labour and disbursements, forfeit a sum not exceeding three dollars for each tree, which, or any part of which he is proved to have cut, or carried away; and such sum shall be recoverable with costs, at the suit and in the name of the Crown, in any Court having jurisdiction in civil matters to the amount of the penalty;—and in all such cases the burden of proof of his authority to cut and take the timber shall lie on the party charged, and the averment of the party seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary.

Penalty
for cutting
timber on
Dominion
lands
without
authority.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued
Seizure on
affidavit, &c

1. Whenever satisfactory information, supported by affidavit made before a Justice of the Peace, or before any other competent officer or person, is received by any Crown Timber Officer or Agent, that any timber has been cut without authority on Dominion lands, and describing where the same can be found,—or if any Crown Timber Officer or Agent, from other sources of information, or his own knowledge, is aware that any timber has been cut without authority on such lands, the said agent, or officer, or either of them, may seize or cause to be seized in Her Majesty's name, the timber so reported or known to be cut, wherever it is found, and place the same under proper custody, until a decision can be had in the matter by competent authority;

10

If the
timber has
been mixed
with other
timber.

2. And where the timber so reported or known to have been cut without authority, has been made up with other timber into a crib, dram, or raft, or in any other manner has been so mixed up at any mill or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut without authority, from other timber with which it is mixed up, the whole of the timber so mixed shall be held to have been cut without authority, and shall be liable to seizure and forfeiture accordingly, until satisfactorily separated by the holder.

May be
released on
security.

3. In case any timber cut without authority on Dominion lands, or any product thereof, is seized under the provisions of this Act, by any Crown Timber Agent or Officer, he may allow such timber or product thereof to be removed and disposed of, on receiving sufficient security, by bond or otherwise, to his satisfaction for the full value thereof, or for payment of double the amount of all dues, fines, penalties and costs incurred or imposed thereon as the case may be.

RESISTING SEIZURE—REMOVING TIMBER SEIZED—CONDEMNATION OF SUCH TIMBER

Officer
seizing
timber
may call in
assistance.

Resistance
or obstruc-
tion, a
felony.

58. Any officer or person seizing timber in the discharge of his duty under this Act may, in the name of the Crown, call in any assistance necessary for securing and protecting the timber so seized; and if any person under any pretence, either by assault, force or violence, or by threat of such force or violence, in any way resists or obstructs any officer or person acting in his aid, in the discharge of his duty under this Act, such person shall be guilty of felony, and being convicted thereof, shall be punishable accordingly.

Carrying
away
timber
seized
without
permission,
a felony.

59. If any person, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away, or causes to be taken and carried away, without permission of the officer or person who seized the same, or of some competent authority, any timber seized and detained for any lawful cause under this Act, before the same has been declared by competent

authority to have been seized without due cause, such person shall be deemed to have stolen such timber, being the property of the Crown, and to be guilty of felony, and being convicted thereof, shall be punishable accordingly.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued

60. All timber seized under this Act on behalf of the Crown as being forfeited, shall be deemed to be condemned, unless the person from whom it was seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer, or to the Crown Timber Agent or Officer, under whose authority the seizure was made, that he claims or intends to claim the same; pending which the Officer or Agent seizing shall report the facts to the Secretary of State, who may order the sale of the said timber, by the said Officer or Agent, after a notice on the spot, or at the residence or office of the person from whom it was seized, of at least thirty days: or if, within fifteen days after the claim has been put in, the claimant shall not have instituted proceedings before a court of competent jurisdiction to contest the seizure; or if the decision of the court be against him; or should the claimant fail duly to prosecute such proceedings in the opinion of the Judge before whom such case may be tried, (and who may for that cause dismiss the suit on the expiration of three months from the date on which it was instituted, anything to the contrary hereinbefore enacted notwithstanding,) the timber may be confiscated and sold for the benefit of the Crown, by order of the Secretary of State, after a notice on the spot of at least thirty days: Provided nevertheless, that in all cases of timber being ascertained to have been cut without authority on any of the Dominion lands, or admitted to have been so cut by the holder thereof, the Secretary of State, should he see cause for doing so, may impose and receive for the Crown a fine or penalty, to be levied on such timber, in addition to all costs incurred, instead of seizing or selling the same.

Timber
seized as
forfeited
shall be
deemed
to be con-
demned in
default of
owner
claiming it
within one
month.

Proviso.

GENERAL PROVISIONS

61. Whenever any Crown Timber Agent, or other Officer or Agent of the Secretary of State is in doubt as to whether any timber has, or has not, been cut without authority, or is, or is not, liable to Crown dues on the whole or any part thereof, he may enquire of the person or persons in possession or in charge of such timber as to when and where the same was cut: and if no satisfactory explanation, on oath or otherwise, as he may require, be given to him, he may seize and detain such timber until proof be made to the satisfaction of the Secretary of State or of such Crown Timber Agent or Officer, that such timber has not been cut without authority, and is not liable, either in whole or in part, to Crown dues of any kind; and if such proof be not made, within thirty days after such seizure, such timber may be dealt with as timber cut without authority, or on which the Crown dues have not been paid, according to the circumstances of the case, and the dues thereon may be recovered as provided in the fifty-fifth clause.

In the
absence of
satisfactory
explanations
timber
may be
seized as
cut without
authority,
or for
dues.

Dominion Lands Act, 35 Vict., Chap. 23 (Canada).
—Continued

The burden of proof where timber was cut, or of payment of dues to lie on the owner or claimant.

Right to slides, &c., not to be affected by sales or grants of land, unless expressly mentioned.

Free use of slides not affected.

Free use of streams and lakes not affected.

Patent may be signed by a Deputy Governor.

Patent issued in error may be cancelled

62. And whenever any timber is seized for non-payment of Crown dues or for any cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid on such timber, or whether the said timber was cut on other than any of the Dominion lands aforesaid, the burden of proving payment, or on what land the said timber was cut, shall lie on the owner or claimant of such timber, and not on the officer who seizes the same or the party bringing such prosecution.

SLIDES, &C.

63. No sale or grant of any Dominion lands shall give or convey any right or title to any slide, dam, pier or boom, or other work, for the purpose of facilitating the descent of timber or saw-logs, previously constructed on such land, or on any stream passing through or along such land, unless it be expressly mentioned in the letters patent or other documents establishing such sale or grant, that such slide, dam, pier or boom, or other work, is intended to be thereby sold or granted.

1. The free use of slides, dams, piers, booms or other works on streams, to facilitate the descent of lumber and saw-logs, and the right of access thereto for the purpose of using the same and keeping them in repair, shall not in any way be interrupted or obstructed, by, or in virtue of, any sale or grant of Dominion lands made subsequent to the construction of such works.

64. The free use, for the floating of saw-logs and other timber rafts and drams, of all streams and lakes that may be necessary for the descent of timber from Dominion lands, and the right of access to such streams and lakes, and of passing and repassing on or along the land on either side thereof, and wherever necessary for such use thereof, and over all existing or necessary portage roads past any rapids or falls, or connecting such streams or lakes, and over such roads, other than road allowances, as owing to natural obstacles may be necessary for the taking out timber or saw-logs from Dominion lands, and the right of constructing slides where necessary, shall continue uninterrupted. and shall not be affected or obstructed by, or in virtue of, any sale or grant of such lands.

PATENTS

65. A Deputy Governor may be appointed by the Governor General, who shall have the power in the absence or under instructions of the Governor General, to sign letters patent of Dominion lands; and the signature of such Deputy Governor to such patents, shall have the same force and virtue as if such patents were signed by the Governor General.

66. Whenever a patent has been issued to or in the name of a wrong party or contains any clerical error, misnomer or wrong or defective description of the land thereby intended to be granted, or there is in such patent an omission of the

conditions of the grant, the Secretary of State may (there being no adverse claim) direct the defective patent to be cancelled and a correct one to be issued in its stead, which corrected patent shall relate back to the date of the one so cancelled and have the same effect as if issued at the date of such cancelled patent.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued

67. In all cases in which grants or letters patent have issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land inconsistent with each other, the Secretary of State may order a new grant equivalent in value to the land of which any grantee or purchaser is thereby deprived, at the time the same was granted; or may, in cases of sale, cause repayment to be made of the purchase money with interest; or when the land has passed from the original purchaser, or has been improved before the discovery of the error, or when the original grant was a free grant, the Secretary of State may assign land or grant a certificate entitling the party to purchase Dominion lands of such value as to him, the said Secretary of State, may seem just and equitable under the circumstances; but no claim under this clause shall be entertained unless it is preferred within five years after discovery of the error.

Remedy
in cases
of sales
or patents
of land
inconsistent
with each
other.

68. Whenever by reason of false survey, or error in the books or plans in the Dominion Lands Office, any grant, sale or appropriation of land is found to be deficient, the Secretary of State may order a free grant equal in value to the ascertained deficiency at the time such land was granted or sold; or in case any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Secretary of State may order the purchase money of so much land as is deficient, with interest thereon from the time of the application therefor, to be paid back to the purchaser; or if the land has passed from the original purchaser, then the purchase money which the claimant (provided he was ignorant of the deficiency at the time of his purchase), has paid for so much of the land as is deficient, with interest thereon, from the time of the application therefor, to be paid to him in land or in money, as he, the said Secretary of State, may direct: or, in case of a free grant, he may order a grant of other land, equal in value to the land so intended as a free grant, at the time such grant was made; but no such claim shall be entertained unless application has been made within five years from the date of the patent, nor unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the particular lot or parcel of land granted.

Remedy
in cases of
deficiency
in quantity
of land
sold or
granted.

69. In all cases wherein patents for lands have issued through fraud, or in error, or improvidence, any Court having competent jurisdiction in cases respecting real property in the Province or place where such lands are situate, may, upon action, bill or plaint respecting such lands and upon hearing of the parties interested, or upon default of the said parties after such notice of proceeding as the said Court shall order, decree such patent to be void; and upon the Registry

Patents
issued
through
fraud,
or in error
or impro-
vidence
may be
decree
to be void.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued

Remedy
in cases
of refusal to
deliver up
possession
of for-
feited land
or to
vacate
land
wrongfully
held.

of such decree in the Office of the Registrar General of the Dominion, such patent shall be void to all intents.

70. When any settler, purchaser or other person refuses or neglects to deliver up possession of any land after forfeiture of the same under the provisions of this Act, or whenever any person is wrongfully in possession of Dominion land, and refuses to vacate or abandon possession of the same, the Secretary of State may apply to a Judge of any Court having competent jurisdiction in cases respecting real property in the Province or place in which the land lies, for an order in the form of a writ of ejectment or of *habere facias possessionem*, and the said Judge, upon proof to his satisfaction that such land was so forfeited, and should properly 10 revert to the Crown, shall grant an order upon the settler or person or persons in possession, to deliver up the same to the Secretary of State or person by him authorized to receive such possession; and such order shall have the same force as a writ of *habere facias possessionem*, and the Sheriff shall execute the same in like manner as he would execute the said writ in an action of ejectment or petitory action.

Assignments
of Dominion
lands to be
registered.

71. The Secretary of State shall keep a book for registering, at the option of the parties interested, any assignment of rights to Dominion lands which are assignable under this Act, upon proof to his satisfaction that such assignment is in conformity with this Act; and every assignment so registered shall be valid 20 against any other previously made but subsequently registered, or unregistered; but any assignment to be registered must be unconditional, and all conditions on which the right depends must have been performed, or dispensed with by the Secretary of State, before the assignment is registered.

Patent
may be
issued
in favour
of repre-
sentative
of party
dying
entitled
thereto.

72. On any application for a patent by the heir, assignee, devisee or legal representative of a party dying entitled to such patent, the Secretary of State may receive proof of the facts in such manner as he may see fit to require, and upon being satisfied that the claim has been justly established may allow the same and cause a patent to be issued accordingly: but nothing in this clause shall limit the right of the party claiming a patent to make his application as provided for in 30 clause twenty-five of this Act.

SURVEYS AND SURVEYORS.

WHO SHALL BE COMPETENT TO SURVEY THE DOMINION LANDS.

Qualifica-
tions
required
of Deputy
Surveyors
of Dominion
lands.

73. No person shall act as a surveyor of Dominion lands unless he shall, previously to the passing of this Act, have been duly qualified by certificate, diploma or commission, to survey the Crown lands in some one of the Provinces of the Dominion, or shall have become qualified under the provisions hereinafter set forth, that is to say:

1. Except such persons as at the time of the passing of this Act hold certificates, diplomas or commissions to practice as surveyors, as hereinbefore set forth, no person shall be competent to act professionally as a surveyor of Dominion lands in Manitoba, or the North-West Territories, unless he shall undergo an examination before the Board of Examiners hereinafter mentioned, or be exempt from undergoing such examination under the provisions hereinafter contained, and receive a commission certifying that he is qualified to act as such.

2. Persons so qualified shall be styled "Deputy Surveyors of Dominion lands." Name.

BOARD OF EXAMINERS.

10 **74.** There shall be a Board of Examiners for the examination of candidates for such commission as Deputy Surveyors, to consist of the Surveyor General and eight other competent persons to be appointed from time to time by Order in Council: and the times and places of the meetings of the Board shall from time to time be fixed and made public by notice in the *Canada Gazette*.

1. Each member of the said Board shall take an oath of office according to form C, to be administered by a judge of any one of the Superior Courts in any Province of the Dominion, who is hereby authorized and required to administer such oath; and any three of the said members shall form a quorum.

2. The said Board shall from time to time appoint a fit and proper person to be Secretary thereof, who shall keep a record of its proceedings.

ADMISSION OF DEPUTY SURVEYORS.

75. No person shall receive a commission from the said Board authorizing him to practice as a Deputy Surveyor of Dominion lands, until he has attained the full age of twenty-one years, and has passed a satisfactory examination before the said Board in the following subjects, that is to say: Euclid (first six books), Plane Trigonometry, Mensuration of Superficies, the keeping of Field Notes, Plotting and Map Drawing, Spherical Trigonometry, Astronomy and Geology, practical surveying operations, and the use of instruments; nor unless he shall be perfectly conversant with the system of survey as embodied in this Act, and with the manual of standing instructions and regulations published from time to time for the guidance of Deputy Surveyors employed in surveys of Dominion lands.

76. No person shall be entitled to be examined before such Board (except as hereinafter provided) unless he shall have previously served regularly and faithfully for and during the period of three successive years, under articles in writing, in the form D, duly executed before two witnesses, as pupil to a Land Surveyor lawfully practising during the said period as a Deputy Surveyor of Dominion lands, nor

Dominion
Lands Act,
35 Vict.,
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(Canada).
—Continued
Exceptions.

Surveyor
General,
with
eight
Colleagues,
appointed
by the
Governor
to form
Board.
Members
of Board
to be
sworn.

Secretary
of Board of
Examiners.

Qualifica-
tions for
commission
as Deputy
Surveyor.

Conditions
precedent
to examina-
tion for
Commission

Dominion Lands Act, 35 Vict., Chap. 23 (Canada).
—Continued

unless he shall produce a certificate from such practising Deputy Surveyor of his having so served during the said period, and shall also produce satisfactory testimony as to his character for probity and sobriety.

Future Provincial Land Surveyors to be entitled to examination for Commissions as Deputy Surveyors without having served under articles to a Deputy Surveyor.

77. It shall not be necessary for any person who may, after the passing of this Act, become duly qualified by diploma, certificate or commission to survey the Crown Lands in some one of the Provinces of the Dominion, to serve under articles as aforesaid to entitle such person to examination by the said Board for a commission as a Deputy Surveyor of Dominion lands, but such person shall be entitled to such examination without any further service, at any regular meeting of the Board, and if found competent shall receive such commission: Provided, nevertheless, that in case such person should not on the first examination be found qualified, the Board may grant him a second examination after he shall have passed through such further course of theory or practice as may have been recommended by the Board; Provided further that any person who may have acquired a certificate, diploma or commission in any one of the Provinces of the Dominion where the course and examination prescribed are similar to those in clause seventy-five of this Act shall not be required to be re-examined by the Board, but shall, upon proof of the facts, and payment of the admission fee fixed by sub-clause four of clause eighty-four of this Act, receive from the Board a Commission as a Deputy Surveyor of Dominion lands.

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Duplicate of articles of clerkship to be transmitted to Secretary within three months after their date.

78. No person claiming to be examined before the said Board as having served the necessary period fixed by this Act under articles to a Deputy Surveyor shall have the right to such examination, unless he shall have transmitted to the Secretary of the Board within three months of the date of such articles, a duplicate thereof, together with a fee of two dollars for receiving and filing the same; and the said Secretary shall acknowledge by post the receipt of such papers and shall carefully file and keep the same with the records of the Board.

Pupil of a Deputy Surveyor may complete his term with another.

79. If any Deputy Surveyor dies or leaves the Dominion or is suspended or dismissed, his pupil may complete his term under articles as aforesaid with any other Deputy Surveyor.

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Assignment of Articles of Clerkship.

80. Any Deputy Surveyor may by an instrument in writing transfer a pupil, with his own consent, to any other Deputy Surveyor, with whom such pupil may serve the remainder of his term.

Surveyors in H. M. Dominions, other than Canada, entitled to examination after six months practice.

81. Any person who may have been duly admitted as a surveyor of lands in any part of Her Majesty's Dominions other than Canada, shall be entitled to an examination by the said Board, and to a commission if found qualified, on his producing a written certificate of a Deputy Surveyor that such person has within the previous two years served for six months with him continuously engaged in

surveying the Dominion lands, and that he considers such person as in every way qualified to pass an examination for a commission as a Deputy Surveyor.

Dominion Lands Act, 35 Vict., Chap. 23 (Canada).
—Continued

82. Any person who shall have followed a regular course of study in all the branches of education required by this Act for admission as a Deputy Surveyor through the regular sessions for at least two years, in any college or university where there may be organized a complete course of such instruction, and who has thereupon received from such college or university a certificate, diploma, or degree, vouching therefor, shall not be obliged to serve three years as aforesaid but shall be entitled to examination after one year's service under articles with 10 a Deputy Surveyor as aforesaid.

Graduates of Colleges and Universities to be entitled to examination after one year's service.

83. Every person desiring to be examined before the said Board for a commission as a Deputy Surveyor shall give due notice thereof in writing to the Secretary at least two months previous to the meeting of the Board, enclosing with such notice the fee of two dollars.

Candidates for examination to give notice to Secretary.

84. The following fees shall be paid under the provisions of this Act:

Table of fees payable under this Act.

1. To the Secretary of the Board of Examiners by each pupil, at the time of transmitting to such Secretary the Indenture or Articles of such pupil, two dollars.

2. To the Secretary of the Board by each candidate for examination, with his 20 notice thereof, two dollars.

3. To the Secretary of the Board by each applicant obtaining a commission, as his fee thereon, two dollars.

4. To the Secretary of the Board as an admission fee by each applicant receiving a commission, twenty dollars, but such amount shall be paid over to the Surveyor General, and be accounted for in like manner as other public moneys received by him.

85. Each of the members in attendance at the said Board during examinations and the Secretary shall receive five dollars for each day's sitting, and the actual travelling and living expenses incurred by such member, and consequent upon such 30 attendance; and the Secretary of State is hereby authorized and required to pay such sums: Provided, that no member of the Board, if at the time of the meeting, he be over one hundred miles distant from the place of meeting, shall receive any allowance for being present at such meeting, unless such member shall have been previously specially notified to attend the same by the Secretary.

Allowances to Members of Board of Examiners. Proviso.

86. The Board may examine any candidate on oath (which oath may be administered by any one of the Examiners) as to his actual practice in the field, and with regard to his instruments.

Board may examine candidate on oath.

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Lands Act,
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(Canada).

—Continued

Successful
candidates
to receive
commis-
sions, and
give
security
and take
oath of
office.

87. Each person passing the Examination prescribed by this Act shall receive a commission from the Board in accordance with form E in the schedule to this Act, and each applicant, after receiving such commission shall, jointly and severally with two sufficient sureties to the satisfaction of the Board, enter into a bond in the sum of one thousand dollars, to Her Majesty, Her Heirs and Successors, conditioned for the due and faithful performance of the duties of his office, and shall take and subscribe the oath of allegiance, and the following oath, before the Board of Examiners, any one of whom is hereby empowered to administer the same:—

“ I, _____, do solemnly swear (or affirm, as the case may be) that I will faithfully discharge the duties of a Deputy Surveyor of Dominion lands according to law, without favour, affection or partiality. So help me God.”

1. Until the above formalities shall have been gone through the said commission of Deputy Surveyor shall have no effect.

2. The said oaths of allegiance and of office shall be deposited in the Dominion Lands Office.

3. The said bond shall be deposited and kept in the manner prescribed by law with regard to the bonds given for the like purposes by other public officers of the Dominion, and shall be subject to the same provisions, and shall enure to the benefit of any party sustaining damage by breach of any condition thereof; and the commission shall be registered in the office of the Registrar General of the Dominion.

Board
may sus-
pend or
dismiss
negligent
or corrupt
Deputy
Surveyor.

88. The said Board may, in their discretion, suspend or dismiss from the practice of his profession any Deputy Surveyor whom they may find guilty of gross negligence or corruption in the execution of the duties of his office; but the Board shall not suspend or dismiss such Deputy Surveyor without having previously summoned him to appear in order to be heard in his defence, nor without having heard the evidence offered either in support of the complaint, or on behalf of the Deputy Surveyor inculpated.

STANDARD OF MEASURE

Standard
of the
English
measure
of length
and copies
thereof
to be pro-
cured by
Deputy
Surveyors.

89. The measure of length used in the surveys of Dominion lands, shall be 30 the English measure of length, and every Deputy Surveyor shall be in possession of a subsidiary standard thereof, which subsidiary standard tested and stamped as correct by the Department of Inland Revenue, shall be furnished him by the said Department, on payment of a fee of three dollars therefor; and all Deputy Surveyors shall from time to time regulate and verify by such standard the length of their chains and other instruments for measuring.

Cases where
the original
mound,
post or
monument
cannot be
found, pro-
vided for.

HOW TO RENEW LOST CORNERS AND OBLITERATED LINES

90. In all cases when any Deputy Surveyor is employed to run any dividing line or limit between sections, or other legal subdivisions, or wood lots, and the mound, post or monument, erected, marked or planted in the original survey to 40

define the corner of such section, or other legal subdivisions, or wood lot, cannot be found, he shall obtain the best evidence that the nature of the case may admit of respecting such corner mound, post or monument; but if the same cannot be satisfactorily ascertained, then he shall measure the true distance between the nearest undisputed corner mounds, posts or monuments and divide such distance into such number of sections or other legal subdivisions, or wood lots, (as the case may be) as the same contained in the original survey, giving to each a breadth proportionate to that intended in such original survey, as shewn on the plan and field notes thereof of record in the Dominion Lands Office; and if any portion of the township or section line (as the case may be) on which such corner mound, post or monument was or should have been planted in the original survey, should be obliterated and lost, then the Deputy Surveyor shall renew such township or section line (as the case may be) and shall draw and define the same on the ground, in such manner as to leave each and every of the adjoining sections or other legal subdivisions, (as the case may be) of a width and depth proportionate to that severally returned for such section or legal subdivision in the original survey, and shall erect, plant or place such intermediate mounds, posts or monuments as he may be required to erect, plant or place, in the line so ascertained, having due respect to any allowance for a road or roads, and the corner or division, or limit so found shall be the true corner, or division, or limit of such section or other legal subdivision or wood lot.

HOW LEGAL SUBDIVISIONS ARE TO BE SURVEYED AND LAID OUT

91. In all cases when a Deputy Surveyor is employed to lay out a given half section or quarter section, he shall effect the same by connecting the opposite original quarter section corners (should the same be existing, or if the same be not existing, by connecting the several points in lieu thereof found in accordance with the preceding clause) by straight lines; and in laying out other and minor legal subdivisions, in any quarter section, or any wood lot, he shall give such legal subdivision or wood lot, as the case may be, its proportionate share of the frontage and interior breadth of such quarter section, and connect the points so found, by a straight line; and the lines or limits so drawn as above on the ground, shall in the respective cases be the true lines or limits of such half-section or quarter section or other legal subdivision, or wood lot, whether the same shall or shall not correspond with the area expressed in the respective patents for such lands.

Method of proceeding to be adopted by Deputy Surveyor employed to lay out a given half-section or quarter-section.

TO DRAW DIVISION LINES IN FRACTIONAL SECTIONS.

92. The dividing lines or limits between legal subdivisions or wood lots in fractional sections shall be drawn from the original corners (or the points representing such corners, as defined on the ground in accordance with the provisions of this Act,) in the section line intended as the front of such subdivision or wood lot, at right angles to such section line.

Dividing lines to be drawn from original corners.

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—Continued

ORIGINAL BOUNDARY LINES

Boundaries placed under the authority of this Act, or of any Order in Council to be deemed the true ones, &c.

93. All boundary lines of townships, sections, or legal subdivisions, towns, or villages, and all boundary lines of blocks, gores and commons, all section lines and governing points, all limits of lots surveyed, and all mounds, posts or monuments, run and marked, erected, placed or planted at the angles of any townships, towns, villages, sections or other legal subdivisions, blocks, gores, commons and lots or parcels of land, under the authority of this Act or of any order of the Governor in Council, shall be the true and unalterable boundaries of such townships, towns and villages, sections or other legal subdivisions, blocks, gores, commons and lots or parcels of land respectively, whether the same upon admeasurement be, or be not found to contain the exact area or dimensions mentioned or expressed in any patent, grant or other instrument in respect of any such township, town, village, section or other legal subdivision, block, gore, common, lot or parcel of land.

Townships, &c., to comprise all the space included within their boundaries.

94. Every township, section or other legal subdivision, town, village, block, gore, common, lot or parcel of land, shall consist of the whole width included between the several mounds, posts, monuments or boundaries respectively so erected, marked, placed or planted as aforesaid, at the several angles thereof, and no more or less, any quantity or measure expressed in the original grant or patent thereof notwithstanding.

As to aliquot parts of townships, &c.

95. Every patent, grant or instrument purporting to be for any aliquot part of any section, or other legal sub-division, block, gore, common, lot or parcel of land, shall be construed to be a grant of such aliquot part of the quantity the same may contain on the ground, whether such quantity be more or less than that expressed in such patent, grant or instrument.

Road allowances in towns, &c., to be public highways.

96. In every town and village in Manitoba, or the North-West Territories, which may be surveyed and laid out under the provisions of this Act, all allowances for any road, street, lane, lot or common, laid out in the original survey of such town or village, shall be public highways and commons; and all mounds, posts or monuments, placed or planted in the original survey of such town or village, to designate or define any allowance for a road, street, lane, lot or common, shall be the true and unalterable boundaries of such road, street, lane, lot or common; and all Deputy Surveyors, employed to make surveys in such town or village, shall follow and pursue the same rules and regulations in respect of such surveys, as are by law required of them when employed to make surveys in townships.

Deputy Surveyors may examine witnesses on oath.

97. For better ascertaining the original corner or limits of any township, section or other legal subdivision, lot or tract of land, every Deputy Surveyor of Dominion lands acting in that capacity, may administer an oath or oaths to each and every person whom he may examine concerning any corner mound, post,

monument or other boundary, or any original land mark, line, limit or angle, of any township, section or other legal subdivision, lot or tract of land which such Deputy Surveyor is employed to survey.

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Lands Act,
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(Canada).
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EVIDENCE BEFORE SURVEYORS.

98. When any Deputy Surveyor is in doubt as to the true corner, boundary or limit of any township, section, lot or tract of land which he is employed to survey, and has reason to believe that any person is possessed of any important information touching such corner, boundary or limit, or of any writing, plan or document tending to establish the true position of such corner, boundary or limit, then if such person does not willingly appear before, and be examined by such Deputy Surveyor, or does not willingly produce to him such writing, plan or document, such Deputy Surveyor may apply to any Justice of the Peace for an ordinary *Subpœna* as witness, or a *Subpœna duces tecum*, as the case may require, accompanying such application by an affidavit or solemn declaration to be made before such Justice of the Peace, of the facts on which the application is founded, and such Justice may issue a *Subpœna* accordingly, commanding such person to appear before the Deputy Surveyor at a time and place to be mentioned in the *Subpœna*, and (if the case require it) to bring with him any writing, plan or document mentioned or referred to therein.

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20 1. Such *Subpœna* shall be served on the person named therein by delivering a copy thereof to him or by leaving the same for him with some grown person of his family at his residence, exhibiting to him or such grown person the original.

2. If the person commanded to appear by such *Subpœna* after being paid his reasonable expenses, or having the same tendered to him, refuses or neglects to appear before the Surveyor at the place and time appointed in the *Subpœna*, or to produce the writing, plan or document (if any) therein mentioned or referred to, or to give such evidence and information as he may possess touching the boundary or limit in question, a warrant by the Justice for the arrest of such person may be issued, and he may be punished accordingly by fine not exceeding one hundred dollars, or imprisonment not exceeding ninety days, or both, in the discretion of such Justice.

99. All evidence taken by any Deputy Surveyor as aforesaid shall be reduced to writing and shall be read over to the person giving the same, and be signed by such person, or if he cannot write, he shall acknowledge the same as correct before two witnesses, who shall sign the same, as also the Deputy Surveyor, and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by any Deputy Surveyor, with reference to any survey by him

Course
to be
adopted
by Deputy
Surveyors
to ascertain
boundaries.
when
doubtful.

Subpœnas
may be
issued.

How
subpœnas
may be
served.

Conse-
quence of
disobeying
subpœna.

Evidence
taken by
Deputy
Surveyors
to be
reduced
to writing
and signed,
&c.

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performed, may be filed and kept at the Registry Office of the place in which the lands to which the same relates are situate, subject to be produced thereafter in evidence in Court.

When
Deputy
Surveyors
may pass
over private
lands.

100. Any Deputy Surveyor when engaged in the performance of his duties as such, may pass over, measure along, and ascertain the bearings of any township or section line, or other Government line, and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person.

PROTECTION TO SURVEYORS

Penalty for
molesting a
Deputy
Surveyor
in the
discharge of
his duty.

101. If any person in any part of the Dominion lands interrupts, molests or hinders any Deputy Surveyor, while in the discharge of his duty as a Deputy Surveyor, such person shall be guilty of a misdemeanor, and being thereof lawfully convicted in any Court of competent jurisdiction, shall be punished either by fine or imprisonment, or both, in the discretion of such Court, such imprisonment being for a period not exceeding two months, and such fine not exceeding twenty dollars, without prejudice to any civil remedy which such Deputy Surveyor or any other party may have against such offender for damages occasioned by such offence.

Penalty
for pulling
down
original
or other
land
marks
placed by
Surveyor.

102. If any person knowingly and wilfully pulls down, defaces, alters, or removes any mound, post or monument erected, planted or placed in any original survey under the provisions of this Act, or under the authority of any Order in Council, such person shall be deemed guilty of felony; and if any person knowingly and wilfully defaces, alters or removes any other mound or land mark, post or monument placed by any Deputy Surveyor to mark any limit, boundary or angle of any township, section or other legal subdivision, lot or parcel of land in Manitoba, or the North-West Territories, such person shall be deemed guilty of a misdemeanor, and being convicted thereof before any competent Court, shall be liable to be punished by fine or imprisonment, or both, at the discretion of such Court, such fine not to exceed one hundred dollars, and such imprisonment not to be for a longer period than three months, without any prejudice to any civil remedy which any party may have against such offender or offenders for damages occasioned by reason of such offence: Provided that nothing in this Act shall extend to prevent Deputy Surveyors, in their operations, from taking up posts or other boundary marks when necessary, after which they shall carefully replace them as they were before.

Proviso.

Deputy
Surveyors
to keep
journals
and field
notes, and
furnish
copies to
parties
concerned.

103. Every Deputy Surveyor shall keep exact and regular journals and Field Notes of all his surveys of Dominion lands, and file them in the order of time in which the surveys shall have been performed, and shall give copies thereof to the parties concerned when so required, for which he is hereby allowed the sum of one dollar for each copy, if the number of words therein do not exceed four hun-

dred; but if the number of words therein exceed four hundred, he is allowed ten cents additional for every hundred words over and above four hundred words.

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—Continued

104. There shall be allowed to every Deputy Surveyor summoned to attend any Court, civil or criminal, for the purpose of giving evidence in his professional capacity as a Surveyor, for each day he so attends (in addition to his reasonable travelling and living expenses), and to be taxed and paid in the manner by law provided, with regard to the payment of witnesses attending such Court, five dollars.

Allowance
to Deputy
Surveyor
for atten-
dance as a
witness.

GENERAL PROVISIONS

105. The Governor in Council shall, at any time hereafter, subject to then existing rights, as defined or created under this Act, withdraw from the operation of this Act, such lands as have been reserved for Indians or may be required to satisfy the Half Breeds claims created under section 31 of the Act 33 Victoria, chapter 3, and also land to such extent as may be required for Railway purposes, and further, may, from time to time, make such Orders as he may deem necessary to carry out the provisions of this Act according to their true intent, or to meet any cases which may arise and for which no provision is made by this Act, and may, from time to time, alter or revoke the same and make others in their stead, and such Orders shall be published in the *Canada Gazette*, and in such newspapers as the Secretary of State may direct, and shall be laid before Parliament within the first ten days of the session next after the date thereof.

Governor
in Council
may with-
draw Indian
Reserves
and half-
breed lands
from the
operation
of this Act,
and may
alter price
of lands
and terms
of sale and
settlement
thereof.

106. All affidavits, oaths, solemn declarations or affirmations required to be taken or made under this Act may be taken before the Judge or Clerk of any County or Circuit Court, or any Justice of the Peace, or any Commissioner for taking affidavits, or any Dominion Lands Agent or Officer, or any person specially authorized to take such affidavits by the Secretary of State.

Before
whom
affidavit,
&c., may be
taken.

107. In any case where an affidavit or oath is required by this Act, a solemn affirmation may be administered and made instead of an oath, by any person who is by law permitted in civil cases to make a solemn affirmation instead of taking an oath.

Affirmations
in lieu of
oaths.

PREVIOUS ORDERS IN COUNCIL.

108. All proceedings properly taken under the respective Orders in Council on the subject of the *Public Lands in the Province of Manitoba*, dated the twenty-fifth of April, one thousand eight hundred and seventy-one, and the twenty-sixth of May following the said date, are hereby confirmed, and the said respective orders, (except such of the provisions thereof as may be inconsistent with the provisions of this Act, and which are hereby revoked), shall be and remain in force.

Orders in
Council of
25th April,
1871, and
26th May,
1871, con-
firmed.

SCHEDULE.

FORM A.—See Clause 33.

APPLICATION FOR A HOMESTEAD RIGHT.

I, _____ of _____ do hereby apply to be entered, under the provisions of the *Act respecting the Public Lands of the Dominion*, for quarter quarter sections, numbers _____ and _____ forming part of section number _____ of the Township of _____ containing _____ acres, for the purpose of securing a homestead right in respect thereof.

FORM B.—See Clause 33, Sub-clause 7.

AFFIDAVIT IN SUPPORT OF CLAIM FOR HOMESTEAD RIGHT.

10

I, A. B., do solemnly swear (*or affirm as the case may be*), that I am over twenty-one years of age, and that my application for leave to be entered for lands with a view of securing a homestead right therein, is made for my exclusive use and benefit, and that the entry is made for the purpose of actual settlement. So help me God.

FORM C.—See Clause 74, Sub-clause 1.

OATH OF MEMBERS OF BOARD OF EXAMINERS.

I, A. B., do solemnly swear (*or affirm as the case may be*), that I will faithfully discharge the duty of an Examiner of Candidates for Commissions as Deputy Surveyors of Dominion lands, according to law, without favor, affection or partiality. So help me God.

FORM D.—See Clause 76.

ARTICLES OF PUPIL TO DEPUTY SURVEYOR OF DOMINION LANDS.

THESE ARTICLES OF AGREEMENT, made the _____ day of _____ one thousand eight hundred and _____ between A. B. of _____ a Deputy Surveyor of Dominion lands (*or, as the case may be*), now practising in the capacity of a Deputy Surveyor of Dominion lands, of the one part, and C. D. of _____ and E. F. son of the said C. D. of the other part, witness:—

That the said E. F. of his own free will, and by and with the consent and approbation of the said C. D. doth, by these presents, place and bind himself pupil to the said A. B. to serve him as such from the day of the date hereof, for and during and until the full end and term of three years from hence next ensuing, and fully to be completed and ended.

And the said C. D. doth hereby, for himself, his heirs, executors and administrators, covenant with the said A. B., his executors, administrators and assigns,

that the said E. F. shall well, and faithfully, and diligently according to the best and utmost of his power serve the said A. B. as his pupil in the practice or profession of a Deputy Surveyor of Dominion lands, which he the said A. B. now followeth, and shall abide and continue with him from the day of the date hereof, for and during and unto the full end of the said term of three years.

And that he the said E. F. shall not, at any time during such term, cancel, obliterate, injure, spoil, destroy, waste, embezzle, spend or make away with any of the books, papers, writings, documents, maps, plans, drawings, field notes, moneys, chattels or other property of the said A. B., his executors, administrators
10 or assigns, or of any of his employers; and that, in case the said E. F. shall act contrary to the last mentioned covenant, or, if the said A. B., his executors, administrators or assigns, shall sustain or suffer any loss or damage by the misbehavior, neglect or improper conduct of the said E. F., the said C. D., his heirs, executors, or administrators, will indemnify the said A. B., his executors, administrators or assigns, and make good and reimburse him or them the amount or value thereof.

AND FURTHER, that the said E. F. shall at all times keep the secrets of the said A. B. in all matters relating to the said business and profession, and will, at all times during the said term, be just, true and faithful to the said A. B. in all matters and things, and from time to time pay all moneys which he shall receive of or
20 belonging to or by order of the said A. B. into his hands, and make and give true and fair accounts of all his acts and doings whatsoever in the said business and profession, without fraud or delay, when and so often as he shall thereto be required; and will readily and cheerfully obey and execute his lawful and reasonable commands, and shall not depart or absent himself from the service or employ of the said A. B. at any time during the said term without his consent first had and obtained, and shall, from time to time, and at all times during the said term, conduct himself with all due diligence, and with honesty and sobriety.

And the said E. F. doth hereby, for himself, covenant with the said A. B., his executors, administrators and assigns, that he the said E. F. will truly, honestly and diligently serve the said A. B. at all times, for and during the said term,
30 as a faithful pupil ought to do in all things whatsoever in the manner above specified.

IN CONSIDERATION WHEREOF, and of of lawful money by the said C. D. to the said A. B., paid at or before the sealing and delivery of these presents, (the receipt whereof is hereby acknowledged) the said A. B. for himself, his heirs, executors and administrators, doth covenant with the said C. D., his heirs, executors and administrators, that the said A. B. will accept and take the said E. F. as his pupil, and that he the said A. B. will, by the best ways and means he may or can, and to the utmost of his skill and knowledge, teach and instruct, or cause
40 to be taught and instructed, the said E. F. in the first six books of Euclid, in plane

Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).

—Continued

trigonometry, in mensuration of superficies, in the keeping of field notes, in plotting and map drawing, in spherical trigonometry, in astronomy and geology, in practical surveying operations and in the use of instruments, and generally in the art, practice and profession of a Deputy Surveyor of Dominion lands, which he the said A. B. now doth, and shall at all times during the said term, use and practice, and also will provide the said E. F. with all the necessary and reasonable expenses incurred in transacting or performing the business of the said A. B., and also will, at the expiration of the said term, give to the said E. F., a certificate of servitude and use his best means and endeavours, at the request, costs and charges of the said C. D. and E. F., or either of them, to cause and procure him 10 the said E. F. to be examined before the Board of Examiners of candidates for commissions as Deputy Surveyors of Dominion lands: Provided the said E. F. shall have well, faithfully and diligently served his said intended pupilage.

And for the true performance of all and every the covenants and agreements aforesaid, according to the true intent and meaning thereof, each of them the said A. B. and C. D., both bind himself, his heirs, executors and administrators, unto the other, his heirs, executors, administrators and assigns, in the penal sum of Five Hundred Dollars, firmly by these presents.

IN WITNESS WHEREOF the parties aforesaid have hereunto set their hands and seals, the day and year first above written. 20

A. B. (Seal.)

C. D. (Seal.)

E. F. (Seal.)

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF

G. H.

J. K.

FORM E.—See Clause 87

COMMISSION AS DEPUTY SURVEYOR OF DOMINION LANDS

This is to certify to all whom it may concern that A. B., of 30
hath duly passed his examination before the Board of Examiners, and hath been found duly qualified to fill the office and perform the duties of Deputy Surveyor of Dominion lands, he having complied with all the requirements of the law in that behalf: Wherefore he the said A. B. is hereby duly admitted to the said office, and commissioned for the discharge of the duties thereof, and is by law authorized to practice as a Surveyor of Dominion lands in Manitoba and the North-West Territories.

In Witness whereof We, the President and Secretary of the said Board, have signed this Commission, at _____, on this _____ day of _____, one thousand eight hundred and _____

—
Dominion
Lands Act,
35 Vict.,
Chap. 23
(Canada).
—*Concluded*

C. D.,
Surveyor General.

E. F.,
Secretary.

No. 14
 Act, 36 Vict.,
 Chap. 5
 (Canada)

No. 14
 Act, 36 Vict., Chap. 5 (Canada)

An Act to amend the Act intituled: *An Act to make further provision for the Government of the North West Territories*

[Assented to 3rd May, 1873.]

Preamble. **WHEREAS** under the third section of Chapter sixteen of the Acts passed in the thirty-fourth year of Her Majesty's Reign, the Governor by and with the advice of the Privy Council, hath by warrant under his sign manual constituted and appointed a Council of eleven persons to aid the Lieutenant Governor in the administration of the affairs of the North West Territories, with certain powers which have been defined by an Order in Council in that behalf; and whereas it will become necessary, from time to time, to make similar appointments, and power for that purpose is not given in the said Act;

34 Vic. c. 16,
 s. 3 cited.

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

Power to
 appoint
 councilors
 from time
 to time.

1. The Governor may with the advice of the Privy Council, from time to time, constitute and appoint by warrant under his sign manual such and so many persons not exceeding at any one time twenty-one nor less than seven, to be members of the Council to aid the Lieutenant Governor in the administration of the affairs of the North West Territories with such powers as may be, from time to time, conferred upon them by Order in Council.

No. 15

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada)

An Act to amend and consolidate the Laws respecting the North-West Territories

No. 15.
 The North-
 West
 Territories
 Act, 1875,
 38 Vict.,
 Chap. 49
 (Canada).

[Assented to 8th April, 1875.]

WHEREAS it is expedient to amend and consolidate the laws respecting the Preamble.
 North-West Territories; Therefore, Her Majesty, by and with the advice and
 consent of the Senate and House of Commons of Canada, enacts as follows:—

GOVERNMENT AND LEGISLATION

1. The Territories formerly known as "Rupert's Land" and the North-Western North-West
 10 Territory, (with the exception of such portion thereof as forms the Province of Territories
 Manitoba), shall continue to be styled and known as the North-West Territories; defined.
 and the word "Territories," in this Act, means the said Territories.

2. For the North-West Territories there shall be an officer styled the Lieutenant-
 Lieutenant-Governor, appointed by the Governor General in Council, by instrument Governor.
 under the great seal of Canada, who shall hold office during the pleasure of the
 Governor General; and the Lieutenant-Governor shall administer the government
 under instructions from time to time given him by Order in Council, or by the His instruc-
 Secretary of State of Canada: tions.

20 2. Every Lieutenant-Governor so appointed shall, before assuming the duties Oath
 of his office, make or subscribe before the Governor General or some person duly of office.
 authorized to administer such oaths, an oath of allegiance or office similar to those
 prescribed to be taken by a Lieutenant-Governor, under "The British North America
 Act, 1867."

3. The Governor-General, with the advice of the Queen's Privy Council for Council
 Canada, by warrant under his privy seal, may constitute and appoint such and so may be
 many persons from time to time, not exceeding in the whole five persons,—of which appointed.
 number the Stipendiary Magistrates hereinafter mentioned shall be members *ex* Number,
officio,—to be a Council to aid the Lieutenant-Governor in the administration of powers and
 30 the North-West Territories, with such powers, not inconsistent with this Act, as quorum.
 may be, from time to time, conferred upon them by the Governor General in
 Council; and a majority shall form a *quorum*.

4. The seat of government of the North-West Territories shall be fixed, and Seat of
 may, from time to time, be changed by the Governor General in Council. Govern-
 ment.

The North-
West
Territories
Act, 1875,
38 Vict.,
Chap. 49
(Canada).
—Continued

Salaries
and allow-
ances.

5. There shall be payable out of the Consolidated Revenue Fund of Canada, the following sums, annually, that is to say:—

To the Lieutenant-Governor, not exceeding	\$7,000
To the Stipendiary Magistrates, each, not exceeding	3,000
To two members of Council, each, not exceeding	1,000
To the Clerk of the Council, who shall also act as and perform the duties of Secretary to the Lieutenant-Governor, not exceeding	1,800

Together with such sums of money as may, from time to time, be fixed by the Governor in Council in respect of travelling allowances for any of the officers above 10 named.

Existing
laws
continued.

6. All laws and ordinances now in force in the North-West Territories, and not repealed by or inconsistent with this Act, shall remain in force until it is otherwise ordered by the Parliament of Canada, by the Governor in Council, or by the Lieutenant-Governor and Council under the authority of this Act.

Lieutenant-
Governor
and Council
may make
ordinances
for certain
purposes.

7. The Lieutenant-Governor, by and with the advice and consent of the Council of the North-West Territories, may make, ordain and establish ordinances as to matters coming within the classes of subjects next hereinafter enumerated, that is to say:—

- (1) Taxation for local and municipal purposes; 20
- (2) Property and civil rights in the Territories;
- (3) The administration of justice in the Territories, including maintenance and organization of courts, both of civil and criminal jurisdiction, and including procedure in civil matters in these courts, but the appointment of any judges of the said courts shall be made by the Governor General in Council;
- (4) Public health;
- The licensing of inns and places of refreshment;
- Landmarks and boundaries;
- Cemeteries;
- Cruelty to animals; 20
- Game and wild animals and the care and protection thereof;
- Injury to public morals;
- Nuisances;
- Police;
- Roads, highways and bridges;
- The protection of timber;
- Gaols and lock-up houses;
- (5) Generally, all matters of a merely local or private nature;

(6) The imposition of punishment, by fine or penalty or imprisonment, for enforcing any ordinance of the Territories made in relation to any matter coming within any classes of subjects herein enumerated:

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).
—Continued

(7) Provided that no ordinance to be so made by the Lieutenant-Governor with the advice and consent of the Council of the said Territories, shall,—(1) be inconsistent with or alter or repeal any provision of any Act of the Parliament of Canada in Schedule B. of this Act, or of any Act of the Parliament of Canada, which may now, or at any time hereafter, expressly refer to the said Territories, or which or any part thereof may be at any time made by the Governor in Council applicable to or to be in force in the said North-West Territories; or,—(2) impose any fine or penalty exceeding one hundred dollars;

Proviso: restrictions to be observed as to such ordinances.

(8) And provided that a copy of every such ordinance made by the Lieutenant-Governor and Council shall be mailed for transmission to the Governor General within ten days after its passing, and may be disallowed by him at any time within two years after its passing; provided also, that all such Orders in Council, and all ordinances so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

Copies to be sent to Governor General. Ordinances may be disallowed. And must be laid before Parliament.

8. The Governor in Council may, by proclamation, from time to time, direct that any Act of the Parliament of Canada, or any part or parts thereof, or any one or more of the sections of any one or more of any such Acts shall be in force in the North-West Territories generally, or in any part or parts thereof to be mentioned in the said proclamation for such purpose.

Governor in Council may apply Acts, &c., of Canada to North-West Territories.

9. Provided further, that when and so often as any electoral district shall be established as hereinafter provided, the Lieutenant-Governor by and with the consent of the Council or Assembly, as the case may be, shall have power to pass ordinances for raising within such district by direct taxation, or on shop, saloon, tavern or any other such licences, a revenue for local and for municipal purposes of such district, and for the collection and appropriation of the same in the promotion of such purposes respectively.

Taxes for local purposes in electoral districts when established.

10. Whenever any electoral district shall be found to contain not less than one thousand inhabitants, the Lieutenant-Governor, by and with the consent of the Council or Assembly, as the case may be, may pass ordinances erecting the same into a municipal corporation or corporations as they may think fit: and thenceforth the power of the Lieutenant-Governor and Council or Assembly as herein conferred in respect of taxation for municipal purposes shall cease; and every such municipal corporation shall thenceforth have the right to pass by-laws for raising within such municipality by taxation a revenue for municipal purposes in such dis-

On what conditions electoral districts may be made municipalities, and with what powers.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).
—Continued

Proviso: as to taxation for local purposes.

district, and for the collection and appropriation of the same in the promotion thereof; and the Lieutenant-Governor and Council or Assembly, as the case may be, shall pass an ordinance or ordinances prescribing the powers and authorities which may be exercised by any such municipal corporation and the mode and extent of such taxation: Provided that the power herein given to the Lieutenant-Governor and Council or Assembly, as the case may be, of taxation for local purposes of such district shall not be prejudiced by the erection of the same into a municipality or municipalities, but such power shall continue vested in them in respect of local purposes not comprised within such municipal purposes as to which powers may be conferred by any ordinance or ordinances as aforesaid.

10

Ordinances respecting education,—when they may be passed and what provisions they must contain.

11. When, and so soon as any system of taxation shall be adopted in any district or portion of the North-West Territories, the Lieutenant-Governor, by and with the consent of the Council or Assembly, as the case may be, shall pass all necessary ordinances in respect to education; but it shall therein be always provided, that a majority of the ratepayers of any district or portion of the North-West Territories, or any lesser portion or sub-division thereof, by whatever name the same may be known, may establish such schools therein as they may think fit, and make the necessary assessment and collection of rates therefor; and further, that the minority of the rate-payers therein, whether Protestant or Roman Catholic, may establish separate schools therein, and that, in such latter case, the rate-payers 20 establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they may impose upon themselves in respect thereof.

Separate schools.

Certain copies of laws, &c., to be evidence.

12. Any copy of any proclamation or order made by the Governor in Council, or ordinance, proclamation or order made by the Lieutenant-Governor and Council or Assembly, as the case may be, of the North-West Territories, printed in the *Canada Gazette*, or purporting to be printed by the Queen's Printer at Ottawa, or Printer to the Government of Manitoba at Winnipeg, or to the Government of the North-West Territories, shall be *primâ facie* evidence of such proclamation or order, and that it is in force.

ELECTION OF MEMBERS OF COUNCIL OR ASSEMBLY

30

Formation of Electoral districts.

13. When and so soon as the Lieutenant-Governor is satisfied by such proof as he may require, that any district or portion of the North-West Territories, not exceeding an area of one thousand square miles, contains a population of not less than one thousand inhabitants of adult age, exclusive of aliens or unenfranchised Indians, the Lieutenant-Governor shall, by proclamation, erect such district or portion into an electoral district, by a name and with boundaries to be respectively declared in the proclamation, and such electoral district shall thenceforth be entitled

to elect a member of the Council, or of the Legislative Assembly, as the case may be.

2. The Lieutenant-Governor shall thereafter cause a writ to be issued by the Clerk of the Council in such form and addressed to such Returning Officer as he thinks fit; and until the Lieutenant-Governor and Council of the Province otherwise provides, he shall by proclamation prescribe and declare the mode of providing voters' lists, the oaths to be taken by voters, the powers and duties of Returning and Deputy Returning Officers, the proceedings to be observed at such election, and the period during which such election may be continued, and such other provisions in respect to such election as he may think fit.

3. The persons qualified to vote at such election shall be the *bonâ fide* male residents and householders of adult age, not being aliens, or unenfranchised Indians, within the electoral district, and shall have respectively resided in such electoral district for at least twelve months immediately preceding the issue of the said writ.

4. Any person entitled to vote may be elected.

5. When and so soon as the Lieutenant-Governor is satisfied as aforesaid, that any electoral district contains a population of two thousand inhabitants of adult age, exclusive of aliens or unenfranchised Indians, he shall issue his writ for the election of a second member for the electoral district.

6. When the number of elected members amounts to twenty-one, the Council hereinbefore appointed shall cease and be determined, and the members so elected shall be constituted and designated as the Legislative Assembly of the North-West Territories, and all the powers by this Act vested in the Council shall be thenceforth vested in and exercisable by the said Legislative Assembly.

7. The number of members so to be elected, as hereinbefore mentioned, shall not exceed twenty-one, at which number the representation shall remain; the members so elected shall hold their seats for a period not exceeding two years.

DESCENT OF REAL ESTATE

14. Whenever any person dies seized in fee simple or for the life of another, of any real estate in the North-West Territories, without having lawfully devised the same, such real estate shall descend or pass by way of succession in manner following, that is to say:—

Firstly, To his lineal descendants, and those claiming by or under them, *per stirpes*;

Secondly, To his father;

Thirdly, To his mother; and

Fourthly, To his collateral relatives,—

Subject in all cases to the rules and regulations hereinafter prescribed.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).
—Continued

Powers of Lieutenant-Governor thereupon.

Who may vote.

Or be elected.
Additional member for any district.

Legislative Assembly, when to be constituted in lieu of Council.

Number of members and term of service.

Succession to real estate.

The North-
West
Territories
Act, 1875,
38 Vict.,
Chap. 49
(Canada).

—Continued

Descendants
in equal
degrees
of con-
sanguinity.

Division
among
children
and their
descendants.

Rule of
descent
defined
in case of
unequal
degrees
of con-
sanguinity.

Succession
in case
there are no
descendants.

Succession
if father
be not
living, or
cannot
inherit.

15. If the intestate leaves several descendants in the direct line of lineal descent, and all of equal degree of consanguinity to such intestate, the inheritance shall descend to such persons in equal parts, however remote from the intestate the common degree of consanguinity may be.

16. If any one or more of the children of such intestate be living, and any one or more be dead, the inheritance shall descend to the children who are living, and to the descendants of such children as have died, so that each child who shall be living shall inherit such share as would have descended to him if all the children of the intestate who have died leaving issue, had been living; and so that the descendants of each child who shall be dead shall inherit in equal shares the 10 share which their parent would have received if living.

17. The rule of descent prescribed in the last preceding section shall apply in every case where the descendants of the intestate, entitled to share in the inheritance, shall be of unequal degrees of consanguinity to the intestate, so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants who have died, shall respectively take the shares which their parents, if living, would have received.

18. In case the intestate dies without lawful descendants, and leaving a 20 father, then the inheritance shall go to such father, unless the inheritance came to the intestate on the part of his mother, and such mother be living; and if such mother be dead, the inheritance descending on her part shall go to the father for life, and the reversion to the brothers and sisters of the intestate and their descendants, according to the law of inheritance by collateral relatives, hereinafter provided; and if there be no such brothers or sisters or their descendants living, such inheritance shall go to the father.

19. If the intestate dies without descendants and leaving no father, or leaving a father not entitled to take the inheritance under the last preceding section, and leaving a mother and a brother or sister, or the descendant of a brother or 30 sister, then the inheritance shall descend to the mother during her life, and the reversion to such brother or sister of the intestate as may be living, and the descendants of such as may be dead, according to the same law of inheritance hereinafter provided; and if the intestate in such case leaves no brother or sister, nor any descendant of any brother or sister, the inheritance shall descend to the mother.

20. If there be no father or mother capable of inheriting the estate, it shall descend, in the cases hereinafter specified, to the collateral relatives of the intestate; and if there be several of such relatives, all of equal degree of consanguinity to the intestate, the inheritance shall descend to them in equal parts, however remote from the intestate the common degree of consanguinity may be.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).
—Continued

If all the brothers and sisters of the intestate be living, the inheritance shall descend to such brothers and sisters: and if any one or more of them be living, and any one or more be dead, then to the brothers and sisters and every of them who are living, and to the descendants of such brothers and sisters as have died, so that each brother or sister who may be living shall inherit such share as would have descended to him or her, if all the brothers or sisters of the intestate who have died leaving issue, had been living, and so that such descendants shall inherit in equal shares the share which their parent, if living, would have received.

If neither father and mother be living or entitled to inherit. Succession of brothers and sisters, and their descendants.

22. The same law of inheritance as prescribed in the last section shall prevail as to the other direct lineal descendants of every brother and sister of the intestate, to the remotest degree, whenever such descendants are of unequal degree.

As to lineal descendants in unequal degree.

23. If there be no heir entitled to take under any of the preceding nine sections, then the inheritance, if the same came to the intestate on the part of his father, shall descend—

If there be no heir under foregoing provisions.

Firstly. To the brothers and sisters of the father of the intestate in equal shares, if all be living;

Secondly. If one or more be living, and one or more have died leaving issue, then to such brothers and sisters as are living, and to the descendants of such of the said brothers and sisters as have died, in equal shares.

Thirdly. If all such brothers and sisters have died, then to their descendants; and in all such cases the inheritance shall descend in the same manner as if all such brothers and sisters had been the brothers and sisters of the intestate.

24. If there be no brothers or sisters, or any of them, of the father of the intestate, and no descendants of such brothers or sisters, then the inheritance shall descend to the brothers and sisters of the mother of the intestate, and to the descendants of such of the said brothers and sisters as have died, or if all have died, then to their descendants, in the same manner as if all such brothers and sisters had been the brothers and sisters of the father.

Further provision.

25. In all cases not herein provided for, where the inheritance came to the intestate on the part of his mother, the same instead of descending to the brothers and sisters of the intestate's father, and their descendants, as prescribed in the preceding twenty-third section, shall descend to the brothers and sisters

If the estate came by the mother's side.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada). —Continued

of the intestate's mother, and to their descendants, as directed in the last preceding section; and if there be no such brothers and sisters or descendants of them, then such inheritance shall descend to the brothers and sisters, and their descendants, of the intestate's father, as before prescribed.

If it came neither on father's or mother's side.

26. In cases where the inheritance has not come to the intestate on the part of either the father or the mother, the inheritance shall descend to the brothers and sisters both of the father and mother of the intestate in equal shares, and to their descendants, in the same manner, as if all such brothers and sisters had been the brothers and sisters of the intestate.

As to relatives of half-blood

27. Relatives of the half-blood shall inherit equally with those of the whole blood in the same degree, and the descendants of such relatives shall inherit in the same manner as the descendants of the whole blood, unless the inheritance came to the intestate by descent, devise or gift of some one of his ancestors; in which case all those who are not of the blood of such ancestors shall be excluded from such inheritance.

In case of failure of heirs.

28. On failure of heirs under the preceding rules, the inheritance shall descend to the remaining next of kin of the intestate, according to the rules in the English statute of distributions of personal estate.

Co-heirs to be tenants in common.

29. Whenever there is but one person entitled to inherit according to the provisions hereinbefore contained, he shall take and hold the inheritance solely; 20 and wherever an inheritance or a share of an inheritance shall descend to several persons under such provisions, they shall take as tenants in common, in proportion to their respective rights.

Posthumous heirs to inherit.

30. Descendants and relatives of the intestate begotten before his death, but born thereafter, shall in all cases inherit in the same manner as if they had been born in the lifetime of the intestate, and had survived him.

Illegitimates not to inherit.

31. Children and relatives who are illegitimate shall not be entitled to inherit under any of the provisions of this Act.

Dower.

32. The estate of a widow as tenant in dower, shall not be affected by any of the provisions hereinbefore contained.

OTHER PROVISIONS AS TO REAL ESTATE

Aliens.

33. Aliens may acquire, inherit, grant, lease and devise real estate within the North-West Territories.

Lands to lie in grant. Deeds of grant.

34. All lands, tenements and hereditaments, and any share or interest therein shall, as regards the conveyance of the immediate freehold thereof, be deemed to

lie in grant as well as in livery. Deeds of grant shall be executed and delivered in duplicate attested by one witness, and the execution and delivery thereof duly proved on oath, for the purpose of registration.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).
—Continued
Feoffment.

35. A feoffment, otherwise than by deed, shall be void at law; and no feoffment shall have any tortious operation.

36. Any corporation aggregate in the North-West Territories capable of taking and conveying land, shall be deemed to be capable of taking and conveying land by deed of bargain and sale in like manner as any person in his natural capacity.

Corporations may hold and convey.

37. No deed of bargain and sale of land in the North-West Territories, shall require enrolment or registration to supply the place of enrolment, for the mere purpose of rendering such bargain and sale a valid and effectual conveyance for passing the land thereby intended to be bargained and sold.

Enrolment or registration not necessary to validity of deed.

WILLS

38. Every person may devise, bequeath, or dispose of, by will executed in manner hereinafter mentioned, all real estate and personal estate which he shall be entitled to, either at law or in equity, at the time of his death, and which, if not so devised, bequeathed or disposed of, would devolve upon his heir at law, or upon his executor or administrator.

Wills and intestacy.

39. No will made by any person under the age of twenty-one years shall be valid.

Testator must be of age.

40. No will shall be valid unless it shall be in writing, and executed in manner hereinafter mentioned; that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses, present at the same time; and such witnesses shall attest and shall subscribe the will in the presence of the testator—but no form of attestation shall be necessary.

Execution of wills.

41. Every will executed in manner hereinbefore required, shall be valid without any other publication thereof.

No other publication required.

42. If any person who attests the execution of a will shall, at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid.

Subsequent incompetency of witness.

43. No person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof.

Executor may be witness.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).
—Continued

Devise or legacy to witness, to be void, and witness may prove execution.

Revocation of wills.

How will shall be construed.

When no limitation, fee simple to pass.

Separate rights of married women in real estate.

Her own earnings to be hers absolutely.

44. If any person shall attest the execution of any will, to whom, or to whose wife or husband, any beneficial devise or legacy affecting any real or personal estate (other than charges for payment of debts) shall be thereby given,—such devise or legacy shall so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person, wife or husband, be utterly null and void; and such person so attesting shall be admitted to prove the execution of such will, or the validity or invalidity of such will, notwithstanding such devise or legacy.

No will or codicil, or any part thereof, shall be revoked otherwise than by marriage or by another will or codicil executed in manner hereinbefore required, 10 or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same, by the testator, or by some person in his presence and by his direction with the intention of revoking the same.

46. Every will shall be construed with reference to the real and personal estate comprised in it to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will.

47. Where any real estate is devised to any person without any words of limitation, such devise shall be construed to pass the fee simple, or other the whole 20 estate or interest, which the testator had power to dispose of by will, in such real estate, unless a contrary intention shall appear by the will.

AS TO MARRIED WOMEN

48. The real estate of any married woman, which is owned by her at the time of her marriage, or acquired in any manner during her coverture, and the rents, issues and profits thereof respectively, shall without prejudice, and subject to the trusts of any settlement affecting the same, be held and enjoyed by her for her separate use, free from any estate or claim of her husband during her lifetime, or as tenant by the courtesy, and her receipt alone shall be a discharge for any rents, issues and profits; and any married woman shall be liable on any contract made by 30 her respecting her real estate, as if she were a *feme sole*.

49. All the wages and personal earnings of a married woman, and any acquisitions therefrom, and all proceeds or profits from any occupation or trade which she carries on separately from her husband, or derived from any literary, artistic or scientific skill, and all investments of such wages, earnings, moneys or property, shall hereafter be free from the debts or dispositions of the husband, and shall be held and enjoyed by such married woman, and disposed of without her husband's

consent, as fully as if she were a *feme sole*; and no order for protection shall hereafter become necessary in respect of any such earnings or acquisitions; and the possession, whether actual or constructive, of the husband, of any personal property of any married woman, shall not render the same liable for his debts.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).
—Continued

50. A married woman may make deposits of money in her own name in any savings or other bank, and and withdraw the same by her own check; and any receipt or acquittance of such depositor, shall be a sufficient legal discharge to any such bank.

No order for protection required.
Deposits in banks.

51. Nothing hereinbefore contained in reference to moneys deposited, or investments by any married woman, shall, as against creditors of the husband, give validity to any deposit or investment of moneys of the husband made in fraud of such creditors; and any moneys so deposited or invested may be followed as if this Act had not passed.

Fraud to affect validity of deposit or investment.

52. A husband shall not by reason of any marriage, be liable for the debts of his wife contracted before marriage, but the wife shall be liable to be sued therefor, and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried; and a husband shall not be liable for any debts of his wife in respect of any employment or business in which she is engaged on her own behalf, or in respect of any of her own contracts.

As to liability for her debts before her marriage.

53. A married woman may maintain an action in her own name for the recovery of any wages, earnings, money and property, declared by this Act or which may be hereafter declared to be her separate property, and shall have in her own name the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money and property, and of any chattels or other her separate property, for her own use, as if such wages, earnings, money, chattels and property belonged to her as an unmarried woman; and any married woman may be sued or proceeded against separately from her husband, in respect of any of her separate debts, engagements, contracts or torts as if she were unmarried.

Suits by and against a married woman.

REGISTRATION OF DEEDS

54. The Governor may appoint a Registrar of Deeds in and for the North-West Territories, who shall hold office during pleasure, and who shall reside and keep his office in a place to be named for that purpose in his commission, or at such other place as may be appointed for that purpose from time to time by the Governor in Council, and who shall register all deeds and other instruments relat-

Registrar of deeds, his appointment, duties and salary.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada). —Continued

How his fees shall be fixed and accounted for.

ing to lands situate in any part of the North-West Territories, and which have been laid out and surveyed by the Crown: and the Governor in Council may order an annual salary, not exceeding two thousand dollars, to be paid to the said registrar: and the Lieutenant-Governor and Council shall fix the fees to be paid for the registration of all such deeds and instruments,—which fees shall be collected by the registrar, and being first verified on oath, shall by him be paid over to the Lieutenant-Governor, at the end of every quarter in each year, on account of the Consolidated Revenue Fund of Canada; and the forms incident to, and effect of such registration shall be governed by laws to be made under this Act.

ADMINISTRATION OF JUSTICE

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Sheriff: his appointment, duties and salary.

55. The Governor may appoint a Sheriff in and for the North-West Territories, who shall hold office during pleasure, and who shall reside, and keep his office in a place to be named for that purpose in his commission; or at such other place as may, from time to time, be named by the Governor in Council, and who shall perform the duties of such office under the laws then in force in the said Territories. The Governor in Council may order an annual salary not exceeding twelve hundred dollars to be paid to such sheriff.

Police force: disposal of.

36 V., c. 25, 37 V., c. 22.

56. The Lieutenant-Governor shall, (but subject to any orders in that behalf from time to time of the Governor General), have the local disposition of the Police Force in and for the North-West Territories, established under "*An Act respecting the Administration of Justice, and for the establishment of a Police Force in the North-West Territories,*" and of any Act passed or to be passed in amendment thereof; and may exercise such power in aid of the administration of civil and criminal justice, and for the general peace, order and good government of the said Territories, and for or in aid of the performance of all duties which are now, or may at any time, by any law or ordinance, or by order of the Lieutenant-Governor, be assigned to sheriff's officers, bailiffs, constables or other officers in connection with the orders or process of any Justice of the Peace, Stipendiary Magistrate, or court.

Justices of the Peace.

57. The Lieutenant-Governor may appoint Justices of the Peace for the North-West Territories, who shall have jurisdiction as such throughout the same. 30

Judicial Districts.

58. The Lieutenant-Governor and Council or Assembly, as the case may be, may, by ordinance, subject to the provisions of this Act, from time to time, set apart any portion of the said Territories as and for a judicial district, and may, from time to time, alter the limits and extent of any such district.

Courts of civil and criminal jurisdiction.

59. A Court or Courts of Civil and Criminal Jurisdiction shall be held in the said Territories, and in every judicial district thereof when formed, under such names, at such periods and at such places as the Lieutenant-Governor may from time to time order.

60. For every such court there shall be a clerk, who may be appointed by the Governor, who shall hold office during pleasure, and be paid an annual salary, not exceeding five hundred dollars.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).
—Continued
Clerk.

61. The Governor may, from time to time, appoint, by commission under the great seal, one or more fit and proper person or persons, not exceeding three, to be and act as a Stipendiary Magistrate or Stipendiary Magistrates within the North-West Territories, who shall hold office during pleasure, and who shall reside at such place or places as may, from time to time, be ordered by the Governor in Council.

Stipendiary Magistrates.

62. Each Stipendiary Magistrate shall have jurisdiction throughout the North-West Territories, as hereinafter mentioned, and shall also have jurisdiction and may exercise within the North-West Territories, the magisterial, judicial and other functions appertaining to any Justice of the Peace, or any two Justices of the Peace, under any laws or ordinances which may, from time to time, be in force in the North-West Territories.

Functions.

63. Each Stipendiary Magistrate shall preside over such courts in the North-West Territories as shall, from time to time, be assigned to him by the Lieutenant-Governor, and to qualify him to do so, he shall take the following oath before the Lieutenant-Governor or any Stipendiary Magistrate, that is to say:—

Jurisdiction and oath of office.

“ I do swear that I will truly and faithfully execute the several powers, duties and trusts committed to me by or under ‘ *The North-West Territories Act, 1875,*’
“ without fear, without favour, and without malice. So help me God.”

64. The Chief Justice or any Judge of the Court of Queen’s Bench of the Province of Manitoba, with any one of the Stipendiary Magistrates as an associate, shall have power and authority to hold a court under section fifty-nine, and therein to hear and determine as hereinafter mentioned, any charge preferred against any person for any offence alleged to have been committed within the North-West Territories, viz:—

Court for trial of certain offences, how to be held.

1. In any case in which the maximum punishment for such offence does not exceed five years imprisonment,—in a summary way, and without the intervention of a jury;

Without a jury.

2. In any case in which the maximum punishment for such offence exceeds five years imprisonment but is not punishable with death,—then either in a summary way and without the intervention of a jury, if the accused assents thereto; or, if the accused demands a jury, then with the intervention of a jury not exceeding six in number, who shall be then and there, or as soon thereafter as can be, chosen and sworn by the Judge or Stipendiary Magistrate, as a jury in such case;

With a jury of six.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).

—Continued
With a jury of eight.

To be of record.

Imprisonment for 2 years or more.

Ordinance respecting juries.

No Grand Jury.

Returns by Judges, &c.

Appeal to Q. B. Manitoba.

Persons charged with certain offences may be committed to and tried in Manitoba.

3. In any case in which the punishment for such offence is death,—then with the intervention of a jury not exceeding eight in number, who shall be then and there or as soon thereafter as can be, chosen and sworn by the judge as a jury in such case;

4. And every such court shall be a court of record; and if imprisonment in gaol for not less than two years or in a penitentiary, be awarded in any case, the court may order the convict to be imprisoned in the North-West Territories, or to be conveyed to the penitentiary in the Province of Manitoba; and he shall in any such case, undergo such punishment therein, as if convicted in the Province of Manitoba;

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5. The Lieutenant-Governor and Council or Assembly, as the case may be, may, from time to time, make any ordinance in respect to the mode of calling juries, and when and by whom and how they may be summoned or taken, and in respect of all matters relating to the same; but no grand jury shall be called in the North-West Territories;

6. On the first day of January and June in each year, each Justice of the Peace, Stipendiary Magistrate, and other Judge residing in the North-West Territories, or who has presided at any court therein, shall send in to the Lieutenant-Governor, in such form as he may prescribe, a return shewing all trials and proceedings, civil and criminal, had before him during the preceding six months.

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65. A person convicted of any offence punishable by death may appeal to the Court of Queen's Bench of Manitoba, which shall have jurisdiction to confirm the conviction or to order a new trial; and the mode of such appeal and all particulars relating thereto, shall be determined from time to time by ordinance of the Lieutenant-Governor and Council or Assembly, as the case may be.

66. Any Stipendiary Magistrate of the said Territories, or the Chief Justice or any Judge of the Court of Queen's Bench of the Province of Manitoba, shall have power and authority to commit and cause to be conveyed to gaol in the Province of Manitoba, for trial by the Court of Queen's Bench according to the laws of criminal procedure in force in the said Province, any person or persons at any time charged with the commission of any offence against any of the laws or ordinances in force in the North-West Territories, punishable by death or imprisonment in the penitentiary; and the said Court of Queen's Bench or any judge thereof, shall have power and authority to have any person arraigned before the said court on any such charge; and the jury laws and laws of criminal procedure of the said Province shall apply to any such trial, except that the punishment to be awarded upon conviction of any such person, shall be according to the

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laws in force in the North-West Territories: and the sentence may be carried into effect in a penitentiary or other place of confinement in the North-West Territories, or in the said Province, as if the same were in the North-West Territories.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).

—Continued

67. Whenever any convict or accused person is ordered to be conveyed to gaol or to the penitentiary in Manitoba, any constable or other person in whose charge he is to be so conveyed, shall have the same power to hold and convey him, or to re-take him in case of an escape, and the gaoler or warden of the penitentiary in Manitoba shall have the same power to detain and deal with him, in the said Province, as if it were within the North-West Territories, or as if the said convict or accused person had been ordered to be conveyed to such gaol or penitentiary by some competent court or authority in the said Province.

N. W. T. Laws to govern as to punishment.

Conveyance of prisoners.

68. Where it is impossible or inconvenient, in the absence or remoteness of any gaol or other place of confinement, to carry out any sentence of imprisonment, any Justice of the Peace, or Stipendiary Magistrate, or the Chief Justice or any Judge of the Court of Queen's Bench of Manitoba, may, according to their several powers and jurisdictions, sentence such person so convicted before him or them, and sentenced, as aforesaid, to such imprisonment, to be placed and kept in the custody of the police force of the North-West Territories, with or without hard labour, the nature and extent of which shall be determined by the Justice of the Peace or Stipendiary Magistrate or Judge, by or before whom such person was convicted.

Imprisonment at a distance from a gaol.

69. The Governor in Council may cause to be erected, in any part or parts of the North-West Territories, any building or buildings, or enclosure or enclosures, for the purpose of a gaol or lock-up, for the confinement of prisoners charged with the commission of any offence, or sentenced to any punishment therein; and confinement or imprisonment therein shall be held lawful and valid, whether under sentence of imprisonment in a penitentiary, gaol or other place of confinement.

Gaols and lock-ups.

70. Whenever in any Act of the Parliament of Canada in force in the North-West Territories, any officer is designated for carrying on any duty therein mentioned, and there shall be no such officer in the North-West Territories, the Lieutenant-Governor and Council may order by what other person or officer, such duty shall be performed; and anything done by such person or officer, under such order, shall be valid and legal in the premises; or if it be in any such Act ordered that any document or thing shall be transmitted to any officer, court, territorial division or place, and there is then in the said North-West Territories no such officer, court or territorial division or place, then the Lieutenant-Governor and Council may

Lieutenant Governor may supply absence of officers required to carry out Acts of Canada.

The North-
West
Territories
Act, 1875,
38 Vict.,
Chap. 49
(Canada).
—Continued

order to what officer, court or place such transmission shall be made, or may dispense with the transmission thereof.

ADMINISTRATION OF CIVIL JUSTICE

Powers of
courts in
civil cases.

71. Every Stipendiary Magistrate of the said Territories, and the Chief Justice and any Judge of the Court of Queen's Bench of Manitoba, or any one of them, shall respectively have power, jurisdiction, and authority to hear and determine within the North-West Territories, and at a court held under section fifty-nine, any claim, dispute or demand as hereinafter mentioned, viz:—

Limit of
summary
trial.

1. Where the claim, dispute or demand is for a tort, wrong or grievance, in which the amount claimed does not exceed five hundred dollars, or if for a debt or on contract, in which the amount claimed does not exceed one thousand dollars, in a summary way and without the intervention of a jury;

Trials in
other cases.

2. In all other claims, disputes or demands than those above-mentioned, or for the recovery of the possession of real estate, if neither party demands a jury, in a summary way and without the intervention of a jury; but if either party demands a jury, then with the intervention of a jury not exceeding six in number, who shall be returned instantly by the clerk of the court to try the facts of the matter in dispute; and the Stipendiary Magistrate or Judge shall make such orders, judgments and decrees as appear to him just and agreeable to equity and good conscience: but

No action
for gambling
debt,
liquors, &c.

neither the Stipendiary Magistrate nor any other judge or the court shall have cognizance of any action for any gambling debt or for any intoxicating liquor or intoxicant, or of any action by any person on a note of hand or other document, the consideration or any part of the consideration for which was for a gambling debt or for any such intoxicating liquor or intoxicant.

Judgment,
how to be
given.

72. Every judgment of the Stipendiary Magistrate or presiding judge shall be openly pronounced in court as soon as may be after the hearing of the case, except that in any case where the Stipendiary Magistrate is not prepared to pronounce judgment instanter, he may postpone judgment and name a subsequent day and hour for the delivery thereof at the clerk's office in writing; and at such day and hour it shall be lawful for the clerk to read the judgment to the parties or their agents if present, and if not, then to enter the said judgment in their absence; and such judgment shall be as effectual as if rendered in court at the trial;

Execution.

2. Execution of any such judgment shall be carried into effect in the manner prescribed by any ordinance of the Lieutenant-Governor and Council or Assembly, as the case may be,—or if no such ordinance be then in force, then in like manner as a judgment to the same amount in the Province of Manitoba.

Appeal in
certain
cases.

73. Any person feeling himself aggrieved by the decision of any Stipendiary Magistrate, or presiding judge, or court, in a claim, dispute or demand under the

second subsection of the seventy-first section of this Act, may appeal to the Court of Queen's Bench of Manitoba, which shall have jurisdiction to confirm the decision or to order a new trial; and the mode of such appeal and all particulars relating thereto, shall be determined from time to time by ordinance of the Lieutenant-Governor and Council or Assembly, as the case may be.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).
—Continued

PROHIBITION OF INTOXICANTS

74. Intoxicating liquors and other intoxicants are prohibited to be manufactured or made in the said North-West Territories, except by special permission of the Governor in Council, or to be imported or brought into the same from any Province of Canada, or elsewhere, or to be sold, exchanged, traded or bartered, except by special permission in writing of the Lieutenant-Governor of the said Territories: and if any such intoxicating liquor or intoxicant is imported or manufactured or made in the said Territories, or brought into the same, or is sold, exchanged, traded or bartered, in contravention of this Act, it shall be absolutely forfeited, and may be seized by any officer of the customs or excise, or by any constable or other duly qualified person wheresoever found; and on complaint made before him, any Judge, Stipendiary Magistrate, or Justice of the Peace, may, on the evidence of one credible witness that this Act has been contravened in respect thereof, order the said intoxicating liquor or intoxicant so seized, to be forthwith destroyed; or in case of the same not having been seized, then on complaint as aforesaid, such Judge, Stipendiary Magistrate, or Justice of the Peace, may issue a search warrant, as in cases of stolen goods under the Acts in force respecting the duties of Justices of the Peace out of Sessions in relation to persons charged with indictable offences, and upon the same being found, may cause them to be forthwith destroyed and the still, machinery, keg, barrel, case, box, package or receptacle whence or in which any intoxicating liquor or intoxicant has been manufactured, imported or made, sold, exchanged, traded or bartered, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the balance of the contents thereof, if such still, machinery, barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified, may be seized by any officer of the customs or excise, or by any constable or other duly qualified person, wheresoever found within the said Territories; and on complaint before any Judge, Stipendiary Magistrate or Justice of the Peace, he may on the evidence of any credible witness, that this Act has been contravened in respect thereof, declare such intoxicating liquor or intoxicant, still, machinery, vessel, or receptacle forfeited, and cause the same to be forthwith destroyed: and the person in whose possession any of them were found may be condemned to pay a penalty not exceeding one hundred dollars, nor less than

Manu-
facture of
intoxicants
prohibited,
or importa-
tion with-
out special
permission.

Search for,
seizure and
forfeiture
thereof, and
of stills,
packages,
&c., used for
making or
importation

Penalty and
costs.

The North-
West
Territories
Act, 1875,
38 Vict.,
Chap. 49
(Canada).
—Continued

Penalty for
manufac-
turing or
importing.

Penalty for
having the
same in
possession.

Forfeiture
of acces-
sories to
offence.

Penalty for
refusing to
assist con-
stable, &c.

Intoxicating
liquor de-
fined.

Recovery of
penalties.

fifty dollars, and the costs of prosecution; and one-half of such penalty shall belong to the prosecutor, and the other half to Her Majesty.

1. Any person who manufactures, makes, imports, sells, exchanges, trades or barterers any intoxicating liquor, or intoxicant, except by special permission as aforesaid, or in whose possession, or on whose premises such intoxicating liquor or intoxicant of any kind may be or may have been found, shall be liable to a penalty not exceeding two hundred dollars, nor less than fifty dollars,—one-half of which shall go to the informer.

2. Any person who knowingly has in his possession any article, chattel, commodity or thing purchased, acquired, exchanged, traded or bartered, either wholly or in part, for any intoxicating liquor or intoxicant, shall forfeit and pay for each offence a penalty not exceeding two hundred dollars, nor less than fifty dollars,—one-half of which shall go to the informer.

3. Every article, chattel, commodity or thing, in the purchase, acquisition, exchange, trade or barter of which, the consideration either wholly or in part may be any intoxicating liquor or intoxicant, shall be forfeited to Her Majesty, and shall be seized as hereinbefore mentioned, in respect to any receptacle of any intoxicating liquor or intoxicant.

4. Every person who refuses or neglects to aid any constable, sub-constable, or other duly authorized person, in the execution of any act or duty required by this section, or who knowingly refuses to give information, or gives false information in respect to any matter arising therefrom, shall be subject to a penalty not exceeding two hundred dollars, nor less than fifty dollars,—one-half of which shall go to the informer.

5. The expression "intoxicating liquor" shall mean and include all spirits, strong waters, spirituous liquors, wines, fermented or compounded liquors, or intoxicating fluids; and the expression "intoxicant" shall include opium, or any preparation thereof, and any other intoxicating drug or substance, and tobacco or tea mixed, compounded or impregnated with opium, or with any other intoxicating drug, spirit or substance, and whether the same or any of them be liquid or solid.

6. Any penalty incurred under this section shall be recoverable, with costs of prosecution, by summary conviction on the evidence of one credible witness, before any Judge, Stipendiary Magistrate or Justice of the Peace having jurisdiction in the North-West Territories,—who shall, on payment of the same, pay the informer his share thereof; and in case of non-payment of the penalty and costs immediately after conviction, the convicting judge, magistrate or justice may, in his discretion, levy the same by distress and sale, or commit the person so convicted and making default in payment of the said penalty and costs, to any com-

mon gaol or house of correction or lock-up house within the North-West Territories for a period not exceeding six months, unless the said penalty and costs be sooner paid.

The North-West Territories Act, 1875, 38 Vict., Chap. 49 (Canada).

7. And upon conviction for a second offence, the offender shall be liable to a penalty, not less than two hundred and not exceeding four hundred dollars, and, in the discretion of the convicting judge, magistrate or justice, to imprisonment for a period not exceeding six months.

—Continued
Second offence.

8. No seizure, prosecution, conviction or commitment under this Act shall be invalid on account of want of form so long as the same is according to the true intent and meaning of this Act.

Want of form not to invalidate.

9. Intoxicating liquors imported or brought into the North-West Territories from any Province of Canada, or elsewhere, by special permission in writing of the Lieutenant Governor of the said Territories, are subject to the several customs and excise laws of Canada, if in excess of one gallon.

Excise and Customs laws to apply.

75. Nothing in this Act shall affect the provisions of an Act passed in the thirty-seventh year of Her Majesty's reign, entitled "*An Act to amend certain Laws respecting Indians, and to extend certain Laws relating to matters connected with Indians, to the Provinces of Manitoba and British Columbia.*"

Act not to affect 37 V., c. 21.

76. The several Acts and parts of Acts mentioned and contained in Schedule A, of this Act, if not expired, are hereby repealed; but such repeal shall not affect any duty accrued, right acquired, or penalty, forfeiture or liability incurred under the said Acts, or any of them, or any offence committed under any or either of them.

Acts in Schedule A. repealed.

Saving clause.

77. The several Acts and parts of Acts mentioned and contained in Schedule B, of this Act, as limited in the said schedule, shall apply to and be in force in the North-West Territories; but except the Acts mentioned and contained in Schedule B to this Act, and except such Acts of the Parliament of Canada or any part or parts thereof as may, under the eighth section of this Act, be made applicable to the North-West Territories, no Act of the Parliament of Canada heretofore passed, and no part thereof, shall apply to or be in force in the said Territories; and no Act of Parliament hereafter to be passed and no part thereof, shall apply to or be in force in the said Territories, unless the same be, by any such Act or under the eighth section of this Act, made applicable to or of force in the said Territories.

Acts in Schedule B. to be in force in N.W. Territories.

Provision as to Acts not mentioned in B.

78. This Act shall come into force and effect upon, from and after such day as shall be named in a proclamation to be issued by the Governor in Council for that purpose.

Commencement of Act.

79. This Act may be cited as "*The North-West Territories Act, 1875.*"

Short title.

SCHEDULE A

Acts and parts of Acts of the Parliament of Canada, expired or repealed

Section	Chapter	TITLE
		<i>32, 33 Victoria, 1869.</i>
5 and 6	3	An Act for the temporary government of Rupert's Land and the North-Western Territory, when united with Canada.
		<i>33rd Victoria, 1870.</i>
35	3	An Act to amend and continue the Act 32 and 33 Victoria, Chapter 3, and to establish and provide for the government of the Province of Manitoba. 10
		<i>34th Victoria, 1871.</i>
5	10	An Act to amend the Acts relating to duties of Customs.
	16	An Act to make further provision for the government of the North-West Territories.
2	29	An Act to continue for a limited time the Acts therein mentioned.
		<i>36th Victoria, 1873.</i>
	5	An Act to amend the Act entitled: "An Act to make further provision for the Government of the North West Territories."
	34	An Act further to amend the "Act to make further provision for the government of the North West Territories." 20
1 to 9	35	An Act respecting the Administration of Justice, and for the establishment of a Police Force in the North-West Territories.
		<i>36th Victoria, 1873.</i>
1	39	An Act to make further provision as to duties of Customs in Manitoba and the North-West Territories. (<i>In so far as the same refers to the North-West Territories.</i>)
		<i>37th Victoria, 1874.</i>
2	7	An Act to amend "An Act to make further provision as to duties of Customs in Manitoba and the North-West Territories," and further to restrain 30 the importation or manufacture of Intoxicating Liquors into or in the North-West Territories.

SCHEDULE B

Acts of the Parliament of Canada extended to the North-West Territories

The North-
West
Territories
Act, 1875,
38 Vict.,
Chap. 49
(Canada).
—Continued

Chapter	TITLE.
	<i>31st Victoria, 1867-1868.</i>
1	An Act respecting the Statutes of Canada.
6	An Act respecting the Customs.
7	An Act imposing duties of customs with the tariff of duties payable under it. <i>As amended by subsequent Acts.</i>
8	An Act respecting the Inland Revenue.
10	10 An Act respecting the regulation of the Postal service. <i>Or any Act amending it or substituted for it.</i>
12	An Act respecting the public works of Canada. <i>As amended by any subsequent Act.</i>
14	An Act to protect the inhabitants of Canada against lawless aggression from subjects of foreign countries at peace with Her Majesty.
15	An Act to prevent the unlawful training of persons to the use of arms, and the practice of military evolutions, and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.
36	An Act respecting commissions, and oaths of allegiance and of office.
20	69 An Act for the better security of the Crown and of the Government. <i>As amended by 32, 33 Vict., chap. 17.</i>
70	An Act respecting riots and riotous assemblies.
71	An Act respecting forgery, perjury and intimidation in connection with the Provincial Legislatures and their Acts.
72	An Act respecting Accessories to and Abettors of indictable offences.
73	An Act respecting the Police of Canada.
74	An Act respecting persons in custody charged with high treason or felony.
94	An Act respecting the Treaty between Her Majesty and the United States of America, for the apprehension and surrender of certain offenders. <i>As amended by 33 Vict., chap. 25.</i>

SCHEDULE B.—Continued

Chapter	TITLE.
	32, 33 Victoria, 1869.
18	An Act respecting offences relating to the Coin.
19	An Act respecting Forgery.
20	An Act respecting Offences against the Person.
21	An Act respecting Larceny and other similar offences. <i>As amended by any subsequent Act.</i>
22	An Act respecting Malicious Injuries to Property. <i>As amended by 35 Vict., chap. 34.</i> 10
23	An Act respecting Perjury. <i>As amended by 33 Vict., chap. 26.</i>
24	An Act for the better preservation of the peace in the vicinity of Public Works. <i>As amended by 33 Vict., chap. 28.</i>
27	An Act respecting Cruelty to Animals. <i>As amended by 33 Vict., chap. 29.</i>
29	An Act respecting Procedure in Criminal Cases, and other matters relating to Criminal Law,—sections 1 to 7, both inclusive, relating to the apprehension of offenders; sections 81 to 87, both inclusive, relating to the punishment of offences; and sections 125 to 138, both inclusive, relating to pardons, undergoing sentence, limitation of actions and prosecutions, and general provisions. The whole Act will apply in Manitoba, to offences committed in the North-West Territories, but triable in Manitoba, and to the persons committing them.
30	An Act respecting the duties of Justice of the Peace out of Sessions in relation to persons charged with indictable offences,—so far as respects indictable offences, committed in the North-West Territories and triable in Manitoba, or committed in some Province of Canada, and the offender is apprehended in the North-West Territories.
31	An Act relating to the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders. Except so much of this Act (or of any Act amending it) as gives any appeal from any conviction adjudged or made under it. 30
	33rd Victoria, 1870.
9	An Act to amend the Acts respecting Customs and Inland Revenue; and to make certain provisions respecting vessels navigating the Inland waters of Canada above Montreal.
25	An Act to amend the "Act respecting the extradition of certain offenders to the United States of America."

SCHEDULE B.—*Concluded*

No. 15.
—
The North-
West
Territories
Act, 1875,
38 Vict.,
Chap. 49
(Canada).
—*Concluded*

Chapter	TITLE.
	<i>33rd Victoria 1870.</i>
28	An Act to amend "An Act for the better preservation of the peace in the vicinity of Public Works."
29	An Act to amend "An Act respecting cruelty to animals."
	<i>34th Victoria, 1871.</i>
4	An Act to establish one uniform currency for the Dominion of Canada.
	<i>35th Victoria, 1872.</i>
10 1	An Act to amend the Act respecting the Statutes of Canada.
23	An Act respecting the Public Lands of the Dominion.
24	An Act to remove doubts under the Act respecting the Public Works of Canada.
33	An Act for the avoidance of doubts respecting Larceny of Stamps.
34	An Act to correct a clerical error in the "Act respecting malicious injuries to property."
	<i>36th Victoria, 1873.</i>
3	An Act to amend the "Act respecting Procedure in Criminal Cases."
50	An Act to amend the "Act respecting Offences against the Person."
20 51	An Act further to amend the law respecting certain matters of procedure in Criminal Cases.
	<i>37th Victoria, 1874.</i>
13	An Act to amend "An Act respecting the Public Works of Canada."
14	An Act to provide for the construction of the Canadian Pacific Railway.
19	An Act to amend the "Dominion Lands Act."
	<i>38th Victoria, 1875.</i>
	Any Act of the present Session amending or substituted for any Act mentioned in this Schedule.

No. 16

The North-West Territories Act, 1877, 40 Vict., Chap. 7 (Canada).

No. 16

The North-West Territories Act, 1877, 40 Vict., Chap. 7 (Canada)

An Act to amend the "North-West Territories Act, 1875."

[Assented to 28th April, 1877.]

Preamble.
38, V. c. 49.

IN amendment of the Act passed in the thirty-eighth year of Her Majesty's reign, intituled "*An Act to amend and consolidate the laws respecting the North-West Territories*"; Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Section two amended.

1. The second section of the said Act is hereby amended by repealing sub-section two and inserting the following sub-sections:—

10

Administrator may be appointed.

"2. The Governor in Council may, from time to time, appoint an Administrator to execute the office and functions of the Lieutenant-Governor during his absence, illness or other inability.

Lieutenant-Governor or Administrator to take oath of office.

"3. Every Lieutenant-Governor or Administrator so appointed shall, before assuming the duties of his office, take and subscribe before the Governor General or some person duly authorized to administer such oaths, an oath of allegiance or office similar to those prescribed to be taken by a Lieutenant-Governor under "*The British North America Act, 1867.*"

Section three repealed.

2. The third section of the said Act is repealed, and the following substituted for it:—

20

New section substituted.

"3. The Governor General with the advice of the Queen's Privy Council for Canada, by warrant under his privy seal, may constitute and appoint such and so many persons, from time to time, not exceeding in the whole six persons, of which number the Stipendiary Magistrates hereinafter mentioned shall *ex officio*, form part, to be a Council to aid the Lieutenant-Governor in the administration of the North-West Territories: Before entering upon the duties of their offices, the persons so appointed shall take and subscribe before the Lieutenant-Governor such oath of allegiance and such oath of office as the Governor in Council may prescribe; and the majority of the Council so appointed shall form a quorum.

Appointment of Council.

Oaths of allegiance and office.

Quorum.

Clerk's oath.

"2. The Clerk of the said Council shall take before the Lieutenant-Governor such oath of office as the Governor in Council may prescribe."

Section seven repealed.

3. The seventh section of the said Act is repealed, and the following substituted for it:—

New section substituted.

"7. The Lieutenant-Governor in Council or the Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly, as the case may be, shall

have such powers to make ordinances for the government of the North-West Territories as the Governor in Council may, from time to time, confer upon him; Provided always, that such powers shall not at any time be in excess of those conferred by the ninety-second section of "*The British North America Act, 1867*," upon the Legislatures of the several Provinces of the Dominion:

The North-West Territories Act, 1877, 40 Vict., Chap. 7 (Canada).
—Continued
Powers of Council.
Proviso.

"2. Provided that no ordinance to be so made shall,—(1) be inconsistent with or alter or repeal any provision of any Act of the Parliament of Canada in Schedule B of this Act, or of any Act of the Parliament of Canada, which may now, or at any time hereafter, expressly refer to the said Territories, or which or any part of
10 which may be at any time made by the Governor in Council, applicable to or declared to be in force in the said Territories, or,—(2) impose any fine or penalty exceeding one hundred dollars:

Further proviso as to ordinances.

"3. And provided that a copy of every such ordinance shall be mailed for transmission to the Secretary of State, within ten days after its passing, and it may be disallowed by the Governor in Council at any time within two years after its receipt by the Secretary of State; Provided, also, that all ordinances so made, and all Orders in Council disallowing any ordinance so made, shall be laid before both Houses of Parliament, as soon as conveniently may be after the making and enactment thereof respectively."

Copy to Secretary of State.
May be disallowed.
Proviso: information to Parliament.

20 **4.** The Lieutenant Governor shall sit in Council with the Councillors as an integral part thereof, and not separately from them, and such ordinances as aforesaid shall be made by the Lieutenant-Governor in Council, and shall be expressed to be so made; and wherever in the Act hereby amended the expression—"The Lieutenant-Governor and Council" occurs, the expression "The Lieutenant-Governor in Council" shall be understood, and is hereby substituted for it; but this section shall cease to have effect when the number of members of the Council elected under section thirteen of the said Act amounts to twenty-one, and a Legislative Assembly has been formed for the said Territories.

Lieutenant Governor to sit with Council.

Form of enacting ordinances.

Until a Legislative Assembly is formed.

30 **5.** The word "Province," in the fourth line of the second sub-section of the thirteenth section of the said Act is hereby struck out, and the words "said Territories" substituted for it.

Clerical error in section 13 corrected.

6. Sections fifty-nine and sixty of the said Act are hereby repealed.

Sections 59, 60 repealed.

7. Sections sixty-two, sixty-three and sixty-four of the said Act are hereby repealed and the following sections, respectively, substituted in lieu thereof:—

Sections 62, 63, 64 repealed and new substituted.

"**62.** Each Stipendiary Magistrate having taken the following oath before the Lieutenant-Governor or any Stipendiary Magistrate in the North-West Territories, that is to say:—"I do swear that I will truly and faithfully execute the several powers, duties and trusts committed to me by or under '*The North-West Terri-*

Stipendiary Magistrates oath of office.

The North-West Territories Act, 1877, 40 Vict., Chap. 7 (Canada). —Continued
And jurisdiction.

tories Acts, 1875 and 1877,' without fear, without favor, and without malice; So help me God;"—shall have jurisdiction throughout the North-West Territories, as hereinafter mentioned, and shall also have jurisdiction and may exercise within the North-West Territories, the magisterial, and other functions appertaining to any Justice of the Peace, or any two Justices of the Peace, under any laws or ordinances which may, from time to time, be in force in the North-West Territories."

Further powers, for summary trial of certain offenders under sec-3 of 36 V. c. 35.

"63. Each Stipendiary Magistrate shall further have power to try in a summary way, and without the intervention of a jury, in addition to any other charge which he may by law have the power so to try, any charge against any person or 10 persons for any offence committed within the North-West Territories, mentioned in the third section of the Act passed in the thirty-sixth year of Her Majesty's reign, chapter thirty-five, intituled 'An Act respecting the Administration of Justice and for the establishment of a Police Force in the North-West Territories,'— Which section is hereby re-enacted and shall be and remain in force notwithstanding the coming into force of the Act hereby amended.

Said section to remain in force.

Trial without a jury by assent of offender in certain cases.

"64. When the maximum punishment for a crime not triable in a summary way under the next preceding section, or under any other provision of the criminal law, does not exceed seven years' imprisonment, the Stipendiary Magistrate—if the accused assents thereto—may try in a summary way and without the inter-20 vention of a jury, any charge against any person or persons for any such crime, but if the accused does not so consent then the trial shall be had as provided in the next following sub-section:

Trial by jury of six.

"2. When the maximum punishment for a crime other than punishment by death exceeds seven years' imprisonment, the Stipendiary Magistrate and a Justice of the Peace, with the intervention of a jury of six, may try any charge against any person or persons for any such crime:

When the crime is capital.

"3. When the punishment for a crime is death, one Stipendiary Magistrate and two Justices of the Peace, with the intervention of a jury of six, may try any charge against any person or persons for any such crime: 30

Procedure in such cases.

"4. The procedure upon trials under sub-sections two and three of this section shall be as far as possible similar to the procedure upon summary trials; but the Stipendiary Magistrate shall, upon every such trial, take, or cause to be taken, in writing, full notes of the evidence and other proceedings thereat; and all persons tried under the said sub-sections shall be admitted after the close of the case for the prosecution to make full answer and defence by counsel learned in the law:

Notes by Magistrate.

Defence by Counsel.

Death sentence to be reported.

"5. When any person is convicted of a capital offence and is sentenced to death, the Stipendiary Magistrate shall forward to the Minister of Justice, full

notes of the evidence with his report upon the case, and the execution shall be stayed until such report is received and the pleasure of the Governor thereon is communicated to the Lieutenant-Governor:

The North-West Territories Act, 1877, 40 Vict., Chap. 7 (Canada).

“ 6. In default of any ordinance in that behalf, made under sub-section nine of this section, persons required as jurors for a trial under the said sub-sections two and three, shall be summoned by a Stipendiary Magistrate from among such male persons as he may think suitable in that behalf; and the jury required on such trials shall be called from among the persons so summoned as such jurors, and sworn by the Stipendiary Magistrate who presides at the trial:

—Continued
Stay of execution.

Summoning jurors: until ordinance is made.

10 “ 7. Any person arraigned for treason or felony may challenge peremptorily and without cause not more than six jurors:

Peremptory challenges by prisoners.

“ Every peremptory challenge beyond the number so allowed shall be entirely void;

Void beyond six.

“ The Crown may peremptorily challenge not more than four jurors;

By Crown.

“ Challenges for cause shall be the same as now provided for under the Act, chapter twenty-nine, thirty-second and thirty-third Victoria, (1869) intituled: “ *An Act respecting procedure in criminal cases and other matters relating to criminal law* ”;

Challenges for cause.

20 “ If, from challenges or otherwise, the jurors summoned for the trial are exhausted, the Stipendiary Magistrate shall direct some constable or other person to summon by word of mouth from among the by-standers or from the neighbourhood, such number of persons as may be necessary to make up a jury, the person so summoned being subject to challenge as those summoned by the Magistrate in the first instance, and the like proceedings shall be repeated, if necessary, until a jury be formed, competent to try the case; and any person summoned, as hereby provided, to serve as a juror, and making default or refusing to serve as such without lawful excuse to the satisfaction of the Magistrate, may be fined by him in a sum not exceeding ten dollars, and committed to prison until such fine be paid:

Provision if the list of jurors is exhausted.

Tales.

Fine on juror summoned and not serving.

30 “ 8. If imprisonment in jail for not less than two years, or in the penitentiary, be awarded in any case, the convict may be ordered to be imprisoned in the North-West Territories or to be conveyed to the penitentiary in the Province of Manitoba; in which latter case he shall undergo such punishment therein as if convicted in the Province of Manitoba, and shall be so conveyed by any constable or constables, and received and detained therein by the authorities of the penitentiary on the warrant of the Stipendiary Magistrate:

Provision when imprisonment for two years or more is awarded.

“ 9. The Lieutenant-Governor in Council, or the Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly, as the case may be, may, from time to time, make any ordinance in respect to the mode of calling juries, and

Lt.-Governor in Council or with Assembly, may make jury laws.

The North-West Territories Act, 1877, 40 Vict., Chap. 7 (Canada).
 —Continued
 No Grand Jury.
 Returns to Lt.-Governor
 Section 71 repealed.

when, and by whom, and how they may be summoned or taken, and in respect of all matters relating to the same; but no Grand Jury shall be called in the North-West Territories:

“ 10. Returns of all trials and proceedings, civil and criminal, shall be made to the Lieutenant-Governor in such form and at such times as he may direct.”

8. Section seventy-one of the said Act is hereby repealed, and the following substituted for it:—

New section.

“ **71.** Every Stipendiary Magistrate shall have jurisdiction, power and authority to hear and determine any claim, dispute or demand as hereinafter mentioned, that is to say:—

10

Jurisdiction in civil cases.

“ 1. Where the claim, dispute or demand is for a tort, wrong or grievance in which the amount claimed does not exceed five hundred dollars, or if for a debt or on a contract, in which the amount claimed does not exceed one thousand dollars, in a summary way, and without the intervention of a jury:

Without a jury.

With a jury, in a summary way.

“ 2. In all other claims, disputes or demands than those above-mentioned, or for the recovery of the possession of real estate, if neither party demands a jury, in a summary way and without the intervention of a jury; but if either party demands a jury, then with the intervention of a jury of six in number, summoned in the manner hereinbefore provided as to criminal trials: and the Stipendiary Magistrate shall give such judgments and make such orders and decrees as shall appear to him just and agreeable to equity and good conscience; but the Stipendiary Magistrate shall not have cognizance of any action for a gambling debt, or for any intoxicating liquor or intoxicant, or of any action by any person on a note of hand or other document, the consideration or any part of the consideration for which was for a gambling debt or for any such intoxicating liquor or intoxicant:

Judgment according to equity and good conscience. No suit allowed for gambling debt or intoxicant.

20

Execution of judgment.

“ 3. Execution of any such judgment shall be carried into effect in the manner prescribed by any ordinance of the Lieutenant-Governor in Council or the Lieutenant-Governor and Legislative Assembly, as the case may be, or if no such ordinance be then in force, then in like manner as a judgment to the same amount, in the Province of Manitoba.”

30

Part of s. 74 repealed.

9. Sub-section nine of the seventy-fourth section of the said Act is hereby repealed, and the following substituted for it:—

New provision substituted.

“ 9. Intoxicating liquors imported or brought from any place out of Canada into the North-West Territories, by special permission, in writing, of the Lieutenant-Governor of the said Territories, shall be subject to the several Customs and Excise laws of Canada.

“ 10. The Act passed in the thirty-ninth year of Her Majesty’s reign, intituled ‘ *An Act to amend the Acts therein mentioned as respects the importation or manufacture of intoxicants in the North-West Territories,*’ is hereby repealed.”

The North-West Territories Act, 1877, 40 Vict., Chap. 7 (Canada).
—Concluded.

10. Schedule B of the said Act is amended by striking out of the article referring to the Act *thirty-two and thirty-three Victoria, chapter thirty*, the words “ committed in the North-West Territories and triable in Manitoba, or ”—.

39 V. c. 22, repealed. Schedule B amended.

11. Either the English or the French language may be used by any person in the debates of the said Council, and in the proceedings before the Courts, and both those languages shall be used in the records and journals of the said Council, and the ordinances of the said Council shall be printed in both those languages.

English or French language may be used in Council or Courts.

12. Stipendiary Magistrates appointed under the said Act or under this Act shall have the same power and authority for trying offences in the District of Keewatin as, under the said Act, they have in the North-West Territories, and the provisions herein made as to such trials and as to imprisonments under sentences shall apply to the District of Keewatin.

Powers of Stipendiary Magistrates in Keewatin.

2. The Chief Justice or any Judge of the Court of Queen’s Bench, of the Province of Manitoba, shall have the same power and authority for trying offences in the District of Keewatin as under the said Act or this Act a Stipendiary Magistrate or two Stipendiary Magistrates or a Stipendiary Magistrate and two Justices of the Peace have in the North-West Territories, and the provisions herein made as to trials shall so far as applicable, apply to trials before such Chief Justice or Judge in the District of Keewatin: Provided always, that the chief Justice or Judge shall not proceed to any such trial unless requested by the Governor in Council.

Powers of County Judges and Judges of Q.B., Manitoba, in N.W.T.

Proviso.

13. This Act shall be construed as forming one Act with that amended by it.

Interpretation.

14. This Act may be cited as “ *The North-West Territories Act, 1877,*” and the Act hereby amended and this Act may be together cited as “ *The North-West Territories Acts, 1875 and 1877.*”

Short titles.

No. 17.
Order in
Council
(Canada),
11th May
1877.

No. 17

Order in Council (Canada)

Government House, Ottawa.

Friday 11th day of May, 1877.

Present :

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

WHEREAS by the second section of the "North West Territories Act, 1877," it is amongst other things in effect enacted, that the persons to be appointed Members of the Council of the North West Territories, before entering upon the duties of their offices, shall "take and subscribe before 10
" the Lieutenant-Governor such Oath of Allegiance and such Oath of
" Office as the Governor in Council may prescribe," and the same section
further provides that "the Clerk of the said Council shall take before the
" Lieutenant-Governor such Oath of Office as the Governor in Council
" may prescribe."

Now in pursuance of the powers so by the said Statute conferred as aforesaid, His Excellency, by and with the advice of the Privy Council, has been pleased to order, and it is hereby ordered.

I. That the Members of the Council of the North West Territories shall make and subscribe before the Lieutenant Governor, or some one 20
authorized by him, the Oath of Allegiance and of Office in the following words, viz. :

OATH OF ALLEGIANCE.

I , do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Dominion of Canada, dependent on and belonging to the said Kingdom, and that I will defend her to the utmost of my power against all traitorous conspirators or attempts whatever, which shall be made against Her person, crown and dignity, and that I will do 30
my utmost endeavour to disclose and make known to Her Majesty, Her heirs or successors, all treasons or traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion, or secret reservation. So help me God.

THE OATH OF THE MEMBERS OF THE COUNCIL.

You, , do solemnly promise and swear that you will serve Her Majesty truly and faithfully in the place of Her Council in these Her Majesty's North West Territories; You will keep close and secret all such matters as shall be treated, debated and 40
resolved on in Council relative to your executive functions, without

publishing or disclosing the same or any part thereof, by word, writing, or any otherwise, to any person out of the same Council, but to such only as be of the Council; and yet if any matter so propounded, treated and debated in any such Council shall touch any particular person sworn of the same Council, upon any such matter as shall in any wise concern his loyalty and fidelity to the Queen's Majesty, you will in no wise open the same to him, but keep it secret, as you would from any person, until the Queen's Majesty's pleasure be known in that behalf. You will, in all things to be moved, treated and debated, in any such Council, faithfully, honestly and truly declare your mind and opinion to the honour and benefit of the Queen's Majesty and the good of Her subjects, without partiality or exception of persons, in no wise forbearing so to do from any manner of respect, favour, love, meed, displeasure, or dread of any person or persons whatsoever. In general, you will be vigilant, diligent and circumspect in all your doings touching the Queen's Majesty's affairs; all which matters and things you will faithfully observe and keep, as a good Councillor ought to do, to the utmost of your power, will and discretion. So help you God.

No. 17.
Order in
Council
(Canada),
11th May
1877—con-
tinued.

II. That the Clerk of the Council shall take and subscribe before the Lieutenant Governor the following oath of office :

20

OATH OF OFFICE.

I, do swear that I will bear faith and true obedience to Our Sovereign Lady the Queen, Her Heirs and Successors. I will, according to the best of my power and ability, faithfully perform such services as may be required of me as Clerk of the Council of the North West Territories; and moreover, I do swear that the secrets of the Lieutenant Governor in Council I will in no way reveal. So help me God.

AND WHEREAS, by the third section of the said Act, it is further enacted that "the Lieutenant Governor, by and with the advice of the Legislative Assembly, as the case may be, shall have such powers to make Ordinances for the Government of the North West Territories as the Governor in Council may from time to time confer upon him; Provided always, that such powers shall not at any time be in excess of those conferred by the ninety-second section of 'The British North America Act, 1867,' upon the Legislatures of the several Provinces of the Dominion;"

Now, in pursuance of the powers by the said Statute conferred, His Excellency, by and with the advice of the Privy Council, has been pleased further to order, AND IT IS HEREBY ORDERED, that the Lieutenant Governor in Council shall be and he is hereby empowered to make Ordinances in relation to the following subjects, that is to say :

1. The establishment and tenure of territorial offices, and the appointment and payment of territorial officers.

2. The establishment, maintenance and management of prisons in and for the North West Territories.

No. 17.
Order in
Council
(Canada),
11th May
1877—*con-
tinued.*

3. The establishment of municipal institutions in the Territories, in accordance with the provisions of the "North West Territories Acts, 1875 and 1877."

4. The issue of Shop, Auctioneer and other licenses, in order to the raising of a revenue for territorial or municipal purposes.

5. The solemnization of marriage in the Territories.

6. The Administration of Justice, including the constitution, organization and maintenance of territorial courts of civil jurisdiction.

7. The imposition of punishment by fine, penalty or imprisonment for enforcing any territorial ordinance. 10

8. Property and Civil Rights in the Territories, subject to any legislation by the Parliament of Canada upon these subjects, and

9. Generally on matters of a merely local or private nature in the Territories.

W. A. HIMSWORTH,
Clerk of the Queen's Privy Council for Canada.

No. 18.
The North-
West Terri-
tories Act,
Revised
Statutes of
Canada,
1886,
Chap. 50
(Canada).

No. 18

The North-West Territories Act (Revised Statutes of Canada), 1886
Chapter 50 (Canada)

An Act respecting the North-West Territories. 20

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

SHORT TITLE.

Short title.

1. This Act may be cited as "*The North-West Territories Act*," 43 V., c. 25, s. 97.

INTERPRETATION.

Interpreta-
tion.

2. In this Act, unless the context otherwise requires :—

" Terri-
tories."

(a) The expression " Territories " means the North-West Territories, as defined in this Act;

" Lieu-
tenant
Governor."

(b) The expression " The Lieutenant Governor " means the Lieu- 30
tenant Governor of the North-West Territories;

" Lieu-
tenant-
Governor in
Council."

(c) The expression " Lieutenant Governor in Council " means the
Lieutenant Governor of the Territories in Council, or the
Lieutenant Governor by and with the advice and consent of the
Legislative Assembly of the Territories, as the case may be;

- (d) The expression "Supreme Court" means the Supreme Court of the North-West Territories; "Supreme Court."
- (e) The expression "intoxicating liquor" means and includes all spirits strong waters, spirituous liquors, wines, fermented or compounded liquors or intoxicating fluids; "Intoxicating liquor."
- (f) The expression "intoxicant" includes opium or any preparation thereof, and any other intoxicating drug or substance, and tobacco or tea mixed, compounded or impregnated with opium, or with any other intoxicating drug, spirit or substance, and whether the same or any of them is liquid or solid. "Intoxicant."

10

GOVERNMENT AND LEGISLATION.

3. The Territories formerly known as "Rupert's Land" and the North-West Territory shall, with the exception of such portions thereof as form the Province of Manitoba and the District of Keewatin, continue to be called and known as the North-West Territories. Territories defined.

4. There shall be for the Territories, an officer called the Lieutenant Governor, appointed by the Governor in Council, by instrument under the Great Seal of Canada, who shall hold office during pleasure: Lieutenant Governor.

2. The Lieutenant Governor shall administer the Government, under instructions, from time to time, given him by the Governor in Council, or by the Secretary of State of Canada. His powers.

5. The Governor in Council may, from time to time, appoint an Administrator to execute the office and functions of the Lieutenant Governor during his absence, illness or other inability. Administrator.

6. Every Lieutenant Governor or Administrator so appointed shall, before assuming the duties of his office, take and subscribe, before the Governor General, or before some person duly authorised to administer such oaths, an oath of allegiance and an oath of office similar to those required to be taken by a Lieutenant Governor under "*The British North America Act, 1867.*" Oaths to be taken.

7. The Governor in Council, by warrant under his privy seal, may constitute and appoint such and so many persons, from time to time, not exceeding in the whole six persons, to be a council to aid the Lieutenant Governor in the administration of the Territories: Appointment of Council.

2. The judges of the Supreme Court shall be eligible for appointment as members of the Council without emolument: Judges may be appointed.

3. Before entering upon the duties of their offices, the persons so appointed shall take and subscribe, before the Lieutenant Governor, such oath of allegiance and such oath of office as the Governor in Council prescribes, and the majority of the council so appointed shall form a quorum. Oaths to be taken. Quorum.

8. The Governor in Council may appoint a clerk of the said Council, who shall act as and perform the duties of Secretary to the Lieutenant Clerk of the Council.

40

No. 18— Governor, and who shall take before the Lieutenant Governor, such oath
continued. of office as the Governor in Council prescribes.

Seat of Gov- 9. The seat of Government of the Territories shall be fixed, and may,
ernment. from time to time, be changed by the Governor in Council.

Lieutenant 10. The Lieutenant Governor shall preside at all Sittings of the
Governor to Council; and he shall, on all subjects, have the same right to vote as
preside at Councillors have, and shall also have a casting vote in the event of a tie;
Council and the ordinances to be made as hereinafter provided, shall be made by
meetings. the Lieutenant Governor in Council, and shall be expressed to be so made;
but this section shall cease to have effect when the number of members of 10
the Council elected under section eighteen of this Act amounts to twenty-
one, and when a Legislative Assembly has been formed for the Territories.

Laws of 11. Subject to the provisions of this Act, the laws of England relating
England on to civil and criminal matters, as the same existed on the fifteenth day of
July 15, July, in the year of our Lord one thousand eight hundred and seventy,
1870, in shall be in force in the Territories, in so far as the same are applicable to the
force in Territories, and in so far as the same have not been, or are not hereafter
Territories repealed, altered, varied, modified, or affected by any Act of the Parliament
with certain of the United Kingdom applicable to the Territories, or of the Parliament
exceptions. of Canada, or by any ordinance of the Lieutenant Governor in Council. 20

Laws in 12. All laws and ordinances in force in the Territories, and not repealed
force con- by or inconsistent with this Act, shall remain in force until it is otherwise
tinued. ordered by the Parliament of Canada, by the Governor in Council, or by
the Lieutenant Governor in Council, under the authority of this Act.

Powers of 13. The Lieutenant Governor in Council shall have such powers to
Lieutenant make ordinances for the Government of the North West Territories as the
Governor and Governor in Council, from time to time, confers upon him; but such
Council or powers shall not, at any time, be in excess of those conferred by the ninety-
Assembly. second and ninety-third sections of "*The British North America Act, 1867,*"
Ordinances upon the Legislatures of the several Provinces of Canada : 30
respecting Government.

Limitation 2. No such ordinance shall be so made which is inconsistent with or
of powers. alters or repeals any provision of any Act of the Parliament of Canada in
force in the Territories.

Ordinances 14. The Lieutenant Governor in Council shall pass all necessary
respecting ordinances in respect to education; but it shall therein always be provided,
education. that a majority of the ratepayers of any district or portion of the Territories,
Majority or of any less portion or subdivision thereof, by whatever name the same is
schools. known, may establish such schools therein as they think fit, and make the
necessary assessment and collection of rates therefor; and also that the
Minority minority of the ratepayers therein, whether Protestant or Roman Catholic, 40
schools. may establish separate schools therein,—and in such case, the ratepayers
establishing such Protestant or Roman Catholic separate schools shall be

liable only to assessment of such rates as they impose upon themselves in respect thereof: No. 18—
continued.

2. The power to pass ordinances, conferred upon the Lieutenant Governor by this section is hereby declared to have been vested in him from the seventh day of May, one thousand eight hundred and eighty. Declaratory
as to ordi-
nances.

15. The Lieutenant Governor in Council may, from time to time, but subject to the provisions of this Act, make ordinances in relation to the administration of justice in the Territories, and to the constitution, maintenance and organisation of the Supreme Court, including procedure therein in civil matters, in as full and ample a manner as the Legislature of any Province of Canada could, under the fourteenth paragraph of the ninety-second section of "*The British North America Act, 1867*," or otherwise, make laws in relation to the administration of justice in the Province, and to the constitution, maintenance and organisation of a provincial Court, both of civil and criminal jurisdiction, including procedure in civil matters in such Court. Ordinances
respecting
administra-
tion of
justice.

16. The Lieutenant Governor in Council may, from time to time, make ordinances in respect to the mode of calling juries, other than grand juries, in criminal as well as civil cases, and when and by whom and the manner in which they may be summoned or taken, and in respect to all matters relating to the same. Ordinances
respecting
juries.

17. An authentic copy of every ordinance shall be transmitted by mail to the Secretary of State within thirty days after its passing; and if the Governor in Council, at any time within one year after its receipt by the Secretary of State, thinks fit to disallow the ordinance, such disallowance, when signified by the Secretary of State to the Lieutenant Governor, shall annul the ordinance from and after the date of such signification; and all ordinances so made, and all Orders in Council disallowing any ordinances so made, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively. Disallow-
ance of
ordinances.

Submission
to Parlia-
ment.

ELECTION OF MEMBERS OF COUNCIL AND ASSEMBLY.

18. Whenever the Lieutenant Governor is satisfied, by such proof as he requires, that any district or portion of the Territories, not exceeding an area of one thousand square miles, contains a population of at least one thousand inhabitants of adult age, exclusive of aliens and unenfranchised Indians, he shall, by proclamation, erect such district or portion into an electoral district by a name and with boundaries, which shall be respectively declared in the proclamation; and such electoral district shall thenceforth be entitled to elect a member of the Council or of the Legislative Assembly, as the case may be. Erection of
electoral
districts.

No. 18—
continued.
Proceedings
thereupon
upon elec-
tions.

19. The Lieutenant Governor shall thereafter cause a writ to be issued by the clerk of the Council, in such form and addressed to such returning officer as he thinks fit, and until the Lieutenant Governor in Council otherwise provides, he shall, by proclamation, prescribe and declare the mode of providing voters' lists, the oaths to be taken by voters, the powers and duties of returning officers and deputy returning officers, the proceedings to be observed at such elections, and the period during which such elections may be continued, and such other provisions in respect to such elections as he thinks fit.

Voting
qualifica-
tion.

20. The persons qualified to vote at such election shall be the *bonâ fide* male residents and householders of adult age, who are not aliens or unenfranchised Indians, within the electoral district, and who have respectively resided in such electoral district for at least twelve months immediately preceding the issue of the said writ. 10

Election
qualification.

21. Any person entitled to vote shall be eligible for election.

Additional
member.

22. Whenever the Lieutenant Governor is satisfied, as aforesaid, that any electoral district contains a population of two thousand inhabitants of adult age, exclusive of aliens and unenfranchised Indians, he shall issue his writ for the election of a second member for the electoral district, or he may, in the manner aforesaid, erect such electoral district into two electoral districts, each of which shall be entitled to elect a member, or he may, with the advice of his Council or Assembly as the case may be, from time to time, re-arrange such electoral districts or any of them, so as to secure as far as possible in the Council or Assembly of the Territories the representation of each district not exceeding one thousand square miles and containing one thousand inhabitants of adult age. 20

Sub-division
of electoral
districts.

Powers of
elected
members.

23. Elected members of the Council shall take the same oaths and have the same powers, rights and privileges as members appointed by the Governor in Council, and so soon as any members have been elected, a majority of those appointed and elected shall form a quorum for the transaction of business. 30

CONSTITUTION AND POWERS OF LEGISLATIVE ASSEMBLY.

When
Legislative
Assembly
shall
succeed
Council.

24. When the number of elected members amounts to twenty-one, the Council hereinbefore appointed shall cease and determine; and the members so elected shall be constituted and designated as the Legislative Assembly of the Territories, and all the powers by this Act vested in the Council shall be thenceforth vested in and exercisable by the Legislative Assembly :

2. The Legislative Assembly shall be summoned at least once a year, and shall sit separately from the Lieutenant Governor, and shall present bills passed by it to the Lieutenant Governor for his assent, who may approve or disapprove of the same, or reserve the same for the assent of the Governor General.

No. 18—
continued.
Sittings and
powers of
Assembly.

10 25. The number of members so to be elected, as hereinbefore mentioned, shall not exceed twenty-one, at which number the representation of the Territories shall remain; and the members so elected shall hold their seats for a term not exceeding two years, when they shall retire and others shall be elected in their stead, unless they are re-elected, as they may be; and another member shall be elected in the place of any member who dies or resigns his seat.

Number of
members
and term of
service.

* * * * *



No. 19.
The British
North
America
Act, 1886,
49-50 Vict.,
Chap. 35
(Imperial).

No. 19

The British North America Act, 1886, 49-50 Vict., Chap. 35 (Imperial)

An Act respecting the Representation in the Parliament of Canada of Territories which for the time being form part of the Dominion of Canada, but are not included in any Province.

[25th June, 1886.]

WHEREAS it is expedient to empower the Parliament of Canada to provide for the representation in the Senate and House of Commons of Canada, or either of them, of any territory which for the time being forms part of the Dominion of Canada, but is not included in any province : 10

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Provision by
Parliament
of Canada
for represen-
tation of
territories.

1. The Parliament of Canada may from time to time make provision for the representation in the Senate and House of Commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any province thereof.

Effect of
Acts of
Parliament
of Canada.

2. Any Act passed by the Parliament of Canada before the passing of this Act for the purpose mentioned in this Act shall, if not disallowed by the Queen, be, and shall be deemed to have been, valid and effectual from the date at which it received the assent, in Her Majesty's name, of the Governor-General of Canada. 20

34 & 35 Vict.
c. 28.
30 & 31 Vict.
c. 3.

It is hereby declared that any Act passed by the Parliament of Canada, whether before or after the passing of this Act, for the purpose mentioned in this Act or in the British North America Act, 1871, has effect, notwithstanding anything in the British North America Act, 1867, and the number of Senators or the number of Members of the House of Commons specified in the last-mentioned Act is increased by the number of Senators or of Members, as the case may be, provided by any such Act of the Parliament of Canada for the representation of any provinces or territories of Canada. 30

Short title
and con-
struction.
30 & 31 Vict.
c. 3.
34 & 35 Vict.
c. 28.

3. This Act may be cited as the British North America Act, 1886.

This Act and the British North America Act, 1867, and the British North America Act, 1871, shall be construed together and may be cited together as the British North America Acts, 1867 to 1886.

No. 20

The North-West Territories Amendment Act, 1888, 51 Vict., Chap. 19
(Canada)

No. 20.
The North-
West Terri-
tories
Amendment
Act, 1888,
51 Vict.,
Chap. 19
(Canada).

An Act to amend the Revised Statutes of Canada, chapter fifty, respecting
the North-West Territories.

[Assented to 22nd May, 1888.]

WHEREAS it is expedient to amend "*The North West Territories Act*" as hereinafter provided: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.
R.S.C.,
c. 50.

1. Sections seven, eight and ten and sections eighteen to twenty-five both inclusive, of the Act cited in the preamble are hereby repealed.

Certain
sections
repealed.
Legislative
Assembly,
its powers
and duties.

2. There shall be a Legislative Assembly for the North West Territories which shall have the powers and shall perform the duties heretofore vested in and performed by the Council of the North West Territories, and shall be composed of twenty-two members elected to represent the electoral districts set forth in the schedule to this Act, and of legal experts, not exceeding three in number, appointed by the Governor in Council:

20 2. Such legal experts shall retain their seats for the whole term of the Legislative Assembly in the course of which they are appointed; they may take part in the debates and shall have the like privileges as the elected members of the Legislative Assembly, except that they shall not be entitled to vote:

Legal
experts.

* * * * *

3. Every Legislative Assembly shall continue for three years from the date of the return of the writs for choosing the same and no longer; and the first session thereof shall be called at such time as the Lieutenant Governor appoint.

Duration of
Assembly.

30 4. There shall be a session of the Legislative Assembly at least once in every year, so that twelve months shall not intervene between the last sitting of the Assembly in one session and its first sitting in another session; and such Assembly shall sit separately from the Lieutenant Governor, and shall present Bills passed by it to the Lieutenant Governor for his assent, who may approve or reserve the same for the assent of the Governor General.

Limit of
time for
session.
Proceedings
on Bills.

5. Until the Legislature of the North West Territories otherwise provides, as it may do, the law in force therein at the time of the passing of this Act relating to the election of members of the Council of the North West Territories shall, subject to the provisions of this Act, apply to the election of members of the Legislative Assembly.

Proceedings
at elections.

* * * * *

No. 20—
continued.
Advisory
Council to
be ap-
pointed.

13. The Lieutenant Governor shall select from among the elected members of the Legislative Assembly four persons to act as an advisory council on matters of finance, who shall severally hold office during pleasure; and the Lieutenant Governor shall preside at all sittings of such advisory council and have a right to vote as a member thereof, and shall also have a casting vote in case of a tie.

Money votes
to be first
recom-
mended.

14. The Legislative Assembly shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to the Assembly by message of the Lieutenant Governor in the session in which such vote, resolution, address or bill is proposed. 10

No. 21

No. 21.
The North-
West Terri-
tories
Amendment
Act, 1891,
54-55 Vict.,
Chap. 22
(Canada).

The North-West Territories Amendment Act, 1891, 54-55 Vict., Chap. 22
(Canada)

An Act to amend the Acts respecting the North-West Territories.

[Assented to 30th September, 1891.]

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

Interpreta-
tion.
R.S.C.,
c. 50.

1. In this Act, unless the context otherwise requires :—

(a) The expression “the Act” or “the said Act” means “*The North-West Territories Act,*” chapter fifty of the Revised Statutes; 20

(b) The expression “amending Act” means the Act fifty first Victoria, chapter nineteen, passed to amend the said Act.

51 Vict.
c. 19.

51 Vict.
c. 19, s. 2,
repealed.

Legislative
Assembly.
Electoral
districts.

2. Sub-sections one, two and three of section two of the amending Act are hereby repealed, and the following is substituted therefore :—

“2. There shall be a Legislative Assembly for the Territories which shall be composed of twenty-six members elected to represent the electoral districts set forth in the schedule to this Act :

“(2.) The Assembly shall have power to alter the boundaries of the electoral districts from time to time.” 30

* * * * *

R.S.C.,
c. 50, s. 13
repealed.
Powers of
Assembly.

6. Section thirteen of the Act is hereby repealed, and the following is substituted therefor :—

“13. The Legislative Assembly shall, subject to the provisions of this Act, or of any other Act of the Parliament of Canada, at any time in force in the Territories, have power to make ordinances for

the government of the Territories in relation to the classes of subjects next hereinafter mentioned, that is to say:—

No. 21.
The North-
West Terri-
tories
Amendment
Act, 1891,
54-55 Vict.,
Chap. 22
(Canada)—
continued.

(1) The mode of providing voters' lists, the oaths to be taken by voters, the appointment, powers and duties of returning officers and deputy returning officers, election and poll clerks, and their oaths of office, the proceedings to be observed at elections, the periods during which such elections may be continued, and such other provisions with respect to such elections as may be thought fit;

10 (2) Direct taxation within the Territories in order to raise a revenue for territorial or municipal or local purposes;

(3) The establishment and tenure of territorial offices, and the appointment and payment of territorial officers out of territorial revenues;

(4) The establishment, maintenance and management of prisons in and for the Territories, the expense thereof being payable out of territorial revenues;

(5) Municipal institutions in the Territories;

(6) Shop, saloon, tavern, auctioneer and other licenses, in order to raise a revenue for territorial or municipal purposes;

20 (7) The incorporation of companies with territorial objects, with the following exceptions:—

(a) Such companies as cannot be incorporated by a Provincial Legislature;

(b) Railway, steamboat, canal, transportation, telegraph and irrigation companies;

(c) Insurance companies;

(8) The solemnization of marriage in the Territories;

(9) Property and civil rights in the Territories;

30 (10) The administration of justice in the Territories, including the constitution, organization and maintenance of territorial courts of civil jurisdiction, including procedure therein, but not including the power of appointing any judicial officers;

(11) The imposition of punishment by fine, penalty or imprisonment, for enforcing any territorial ordinances;

(12) The expenditure of territorial funds and such portion of any moneys appropriated by Parliament for the Territories, as the Lieutenant Governor is authorised to expend by and with the advice of the Legislative Assembly or of any Committee thereof;

40 (13) Generally, all matters of a merely local or private nature in the territories;

2. Nothing in this section contained gives, or shall be construed to give, to the Legislative Assembly any greater powers with respect to the Limitation.

No. 21—
continued. subjects therein mentioned than are given to Provincial Legislatures under the provisions of section ninety-two of “*The British North America Act, 1867,*” with respect to the similar objects therein mentioned.”

No. 22.
The North-
West Terri-
tories
Amendment
Act, 1894,
57-58 Vict.
Chap. 17
(Canada).

No. 22

The North-West Territories Amendment Act, 1894, 57-58 Vict., Chap. 17
(Canada)

An Act further to amend the Acts respecting the North-west Territories.
[Assented to 23rd July, 1894.]

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows :—

10

R.S.C.,
c. 50, s. 13
amended.

1. Sub-paragraph (b) of paragraph seven of subsection one of the section substituted by section six of chapter twenty-two of the Statutes of 1891 for section thirteen of *The North-west Territories Act*, is hereby repealed and the following substituted therefor :—

Powers of
Assembly.

“(b) Railway companies (not including tramway and street railway companies), and steamboat, canal, transportation, telegraph and irrigation companies.”

Section 15
repealed.

2. Section fifteen of *The North-west Territories Act* is hereby repealed.

No. 23.
The North-
West Terri-
tories
Amendment
Act, 1895,
58-59 Vict.
Chap. 31
(Canada).

No. 23

The North-West Territories Amendment Act, 1895, 58-59 Vict., Chap. 31 20
(Canada)

An Act further to amend the Acts respecting the North-west Territories.
[Assented to 22nd July, 1895.]

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

R.S.C.,
c. 50, s. 13,
amended.

1. Paragraph (5) of subsection one of the section substituted for section thirteen of *The North-west Territories Act*, chapter fifty of the Revised Statutes, by section six of chapter twenty-two of the Statutes of 1891, is hereby repealed and the following substituted therefor :—

Powers of
Legislature.

“(5) Municipal institutions in the Territories, including the incorporation and powers, not inconsistent with any Act of Parliament, of irrigation districts, that is to say, associations of the land owners, and persons interested in the lands, in any district or tract of land for the purpose of constructing and operating irrigation works for the benefit of such lands.” 30

2. Sub-paragraph (b) of paragraph (7) of subsection one of section thirteen of the said Act, as the said sub-paragraph is enacted by section one of chapter seventeen of the Statutes of 1894, is hereby repealed and the following substituted therefor:—

“(b) Railway companies (not including tramway and street railway companies) and steamboat, canal, telegraph and irrigation companies.”

No. 23—
continued.
Section 13
further
amended.

Powers of
Legislature.

No. 24

10 The North-West Territories Amendment Act, 1898, 61 Vict., Chap. 5
(Canada)

No. 24.
The North-
West Terri-
tories
Amendment
Act, 1898,
61 Vict.,
Chap. 5
(Canada).

An Act further to amend the Acts respecting the North-west Territories.
[Assented to 13th June, 1898.]

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

1. Subsection 1 of section 14 of *The North West Territories Act*, Chapter 50 of the Revised Statutes, is hereby amended by striking out the words “Lieutenant Governor in Council” and substituting therefor the words “Legislative Assembly.”

R.S.C.,
c. 50, s. 14
amended.

2. Subsection 2 of the said section 14 is hereby repealed.

Further
amended.

20 3. Section 49 of the said Act is hereby repealed and the following is substituted therefor:—

New sec-
tion 49.

“49. The Court shall sit in banc at such times and places as the Lieutenant Governor in Council appoints; the Senior judge present shall preside, and three judges of the Court shall constitute a quorum.”

Sittings of
Supreme
Court.

The Saskatchewan Act, 4-5 Edw. VII, Chap. 42 (Canada)

The Sas-
katchewan
Act, 4-5
Edw. VII
Chap. 42
(Canada).An Act to establish and provide for the government of the Province of
Saskatchewan

[Assented to 20th July, 1905.]

WHEREAS in and by *The British North America Act, 1871*, being chapter 28 of Preamble. the Acts of the Parliament of the United Kingdom passed in the session thereof held in the 34th and 35th years of the reign of her late Majesty Queen Victoria, it is enacted that the Parliament of Canada may from time to time establish new
10 provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province and for its representation in the said Parliament of Canada;

And whereas it is expedient to establish as a province the territory hereinafter described, and to make provision for the government thereof and the representation thereof in the Parliament of Canada: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

20 **1.** This Act may be cited as *The Saskatchewan Act*.

Short title.

2. The territory comprised within the following boundaries, that is to say,— Province of
commencing at the intersection of the international boundary dividing Canada from Saskatchewan
the United States of America by the west boundary of the province of Manitoba, its bound-
thence northerly along the said west boundary of the province of Manitoba to the
north-west corner of the said province of Manitoba; thence continuing northerly
along the centre of the road allowance between the twenty-ninth and thirtieth ranges
west of the principal meridian in the system of Dominion lands surveys, as the said
road allowance may hereafter be defined in accordance with the said system, to the
second meridian in the said system of Dominion lands surveys, as the same may
30 hereafter be defined in accordance with the said system; thence northerly along the
said second meridian to the sixtieth degree of north latitude; thence westerly along
the parallel of the sixtieth degree of north latitude to the fourth meridian in the
said system of Dominion lands surveys, as the same may be hereafter defined in
accordance with the said system; thence southerly along the said fourth meridian to
the said international boundary dividing Canada from the United States of America;

The Sas-
katchewan
Act, 4-5
Edw. VII
Chap. 42
(Canada).
—Continued

B. N. A.
Acts, 1867
to 1886,
to apply.

thence easterly along the said international boundary to the point of commencement,—is hereby established as a province of the Dominion of Canada, to be called and known as the province of Saskatchewan.

3. The provisions of *The British North America Acts*, 1867 to 1886, shall apply to the province of Saskatchewan in the same way and to the like extent as they apply to the provinces heretofore comprised in the Dominion, as if the said province of Saskatchewan had been one of the provinces originally united, except in so far as varied by this Act and except such provisions as are in terms made, or by reasonable intendment may be held to be, specially applicable to or only to affect one or more and not the whole of the said provinces.

10

Representa-
tion in the
Senate.

4. The said province shall be represented in the Senate of Canada by four members: Provided that such representation may, after the completion of the next decennial census, be from time to time increased to six by the Parliament of Canada.

Representa-
tion in the
House of
Commons.

5. The said province and the province of Alberta shall, until the termination of the Parliament of Canada existing at the time of the first readjustment herein-after provided for, continue to be represented in the House of Commons as provided by chapter 60 of the statutes of 1903, each of the electoral districts defined in that part of the schedule to the said Act which relates to the North-west Territories, whether such district is wholly in one of the said provinces, or partly in one and partly in the other of them, being represented by one member.

20

Readjust-
ment after
next quin-
quennial
census.

6. Upon the completion of the next quinquennial census for the said province, the representation thereof shall forthwith be readjusted by the Parliament of Canada in such manner that there shall be assigned to the said province such a number of members as will bear the same proportion to the number of its population ascertained at such quinquennial census as the number sixty-five bears to the number of the population of Quebec as ascertained at the then last decennial census; and in the computation of the number of members for the said province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded, and a fractional part exceeding one-half of that number shall be deemed equivalent to the whole number, and such readjustment shall take effect upon the termination of the Parliament then existing.

Subsequent
readjust-
ments.

2. The representation of the said province shall thereafter be readjusted from time to time according to the provisions of section 51 of *The British North America Act*, 1867.

Election of
members of
House of
Commons.

7. Until the Parliament of Canada otherwise provides, the qualifications of voters for the election of members of the House of Commons and the proceedings at and in connection with elections of such members shall, *mutatis mutandis*, be those

prescribed by law at the time this Act comes into force with respect to such elections in the North-west Territories.

8. The Executive Council of the said province shall be composed of such persons, under such designations, as the Lieutenant Governor from time to time thinks fit.

9. Unless and until the Lieutenant Governor in Council of the said province otherwise directs, by proclamation under the Great Seal, the seat of government of the said province shall be at Regina.

10. All powers, authorities and functions which under any law were before the coming into force of this Act vested in or exercisable by the Lieutenant Governor of the North-west Territories, with the advice, or with the advice and consent, of the Executive Council thereof, or in conjunction with that council or with any member or members thereof, or by the said Lieutenant Governor individually, shall, so far as they are capable of being exercised after the coming into force of this Act in relation to the government of the said province, be vested in and shall or may be exercised by the Lieutenant Governor of the said province, with the advice or with the advice and consent of, or in conjunction with, the Executive Council of the said province or any member or members thereof, or by the Lieutenant Governor individually, as the case requires, subject nevertheless to be abolished or altered by the legislature of the said province.

11. The Lieutenant Governor in Council shall, as soon as may be after this Act comes into force, adopt and provide a Great Seal of the said province, and may, from time to time, change such seal.

12. There shall be a Legislature for the said province consisting of the Lieutenant Governor and one House, to be styled the Legislative Assembly of Saskatchewan.

13. Until the said Legislature otherwise provides, the Legislative Assembly shall be composed of twenty-five members, to be elected to represent the electoral divisions defined in the schedule to this Act.

14. Until the said Legislature otherwise determines, all the provisions of the law with regard to the constitution of the Legislative Assembly of the North-west Territories and the election of members thereof shall apply, *mutatis mutandis*, to the Legislative Assembly of the said province and the election of members thereof respectively.

15. The writs for the election of the members of the first Legislative Assembly of the said province shall be issued by the Lieutenant Governor and made returnable within six months after this Act comes into force.

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—Continued
Executive Council.

Seat of Government.

Powers of Lieutenant Governor and Council.

Great Seal.

Legislature.

Legislative Assembly.

Election of members of Assembly.

Writs for first election.

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(Canada).
—Continued

Laws,
courts and
officers
continued.

Proviso.

Province
may
abolish
Supreme
Court of
N.W.T.
Proviso.

As to cer-
tain cor-
porations in
N. W. T.

As to joint-
stock com-
panies.

16. All laws and all orders and regulations made thereunder, so far as they are not inconsistent with anything contained in this Act, or as to which this Act contains no provision intended as a substitute therefor, and all courts of civil and criminal jurisdiction, and all commissions, powers, authorities and functions, and all officers and functionaries, judicial, administrative and ministerial, existing immediately before the coming into force of this Act in the territory hereby established as the province of Saskatchewan, shall continue in the said province as if this Act and *The Alberta Act* had not been passed; subject, nevertheless, except with respect to such as are enacted by or existing under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the said province, according to the authority of the Parliament or of the said Legislature: Provided that all powers, authorities and functions which under any law, order or regulation were, before the coming into force of this Act, vested in or exercisable by any public officer or functionary of the North-west Territories shall be vested in and exercisable in and for the said province by like public officers and functionaries of the said province when appointed by competent authority.

2. The Legislature of the province may, for all purposes affecting or extending to the said province, abolish the Supreme Court of the North-west Territories, and the offices, both judicial and ministerial, thereof, and the jurisdiction, powers and authority belonging or incident to the said court: Provided that, if, upon such abolition, the Legislature constitutes a superior court of criminal jurisdiction, the procedure in criminal matters then obtaining in respect of the Supreme Court of the North-west Territories shall, until otherwise provided by competent authority, continue to apply to such superior court, and that the Governor in Council may at any time and from time to time declare all or any part of such procedure to be inapplicable to such superior court.

3. All societies or associations incorporated by or under the authority of the Legislature of the North-west Territories existing at the time of the coming into force of this Act which include within their objects the regulation of the practice of, or the right to practice, any profession or trade in the North-west Territories, such as the legal or the medical profession, dentistry, pharmaceutical chemistry and the like, shall continue, subject, however, to be dissolved and abolished by order of the Governor in Council, and each of such societies shall have power to arrange for and effect the payment of its debts and liabilities, and the division, disposition or transfer of its property.

4. Every joint-stock company lawfully incorporated by or under the authority of any ordinance of the North-west Territories shall be subject to the legislative authority of the province of Saskatchewan; if—

(a.) the head office or the registered office of such company is at the time of the coming into force of this Act situate in the province of Saskatchewan; and

(b.) the powers and objects of such company are such as might be conferred by the Legislature of the said province and not expressly authorized to be executed in any part of the North-west Territories beyond the limits of the said province.

17. Section 93 of *The British North America Act, 1867*, shall apply to the said province, with the substitution for paragraph (1) of the said section 93, of the following paragraph:— Education.

“(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the North-west Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.”

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29, or any Act passed in amendment thereof or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression “by law” is employed in paragraph (3) of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30; and where the expression “at the Union” is employed, in the said paragraph (3), it shall be held to mean the date at which this Act comes into force.

18. The following amounts shall be allowed as an annual subsidy to the province of Saskatchewan, and shall be paid by the Government of Canada, by half-yearly instalments in advance, to the said province, that is to say:— Subsidy to
province.

(a.) for the support of the Government and Legislature, fifty thousand dollars; For
government.

(b.) on an estimated population of two hundred and fifty thousand, at eighty cents per head, two hundred thousand dollars, subject to be increased as hereinafter mentioned, that is to say:—a census of the said province shall be taken in every fifth year reckoning from the general census of one thousand nine hundred and one, and an approximate estimate of the population shall be made at equal intervals of time between each quinquennial and decennial census; and whenever the population, by any such census or estimate, exceeds two hundred and fifty thousand, which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased accordingly, and so on until the population has reached eight hundred thousand souls. In propor-
tion to
population.

19. Inasmuch as the said province is not in debt, it shall be entitled to be paid and to receive from the Government of Canada, by half-yearly payments in advance, an annual sum of four hundred and five thousand three hundred and Annual
payment to
province.

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Compensa-
tion to
province for
public lands.

seventy-five dollars, being the equivalent of interest at the rate of five per cent per annum on the sum of eight million one hundred and seven thousand five hundred dollars.

20. Inasmuch as the said province will not have the public land as a source of revenue, there shall be paid by Canada to the province by half-yearly payments, in advance, an annual sum based upon the population of the province as from time to time ascertained by the quinquennial census thereof, as follows:—

The population of the said province being assumed to be at present two hundred and fifty thousand, the sum payable until such population reaches four hundred thousand, shall be three hundred and seventy-five thousand dollars; 10

Thereafter, until such population reaches eight hundred thousand, the sum payable shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

Further
compensa-
tion.

2. As an additional allowance in lieu of public lands, there shall be paid by Canada to the province annually by half-yearly payments, in advance, for five years from the time this Act comes into force, to provide for the construction of necessary public buildings, the sum of ninety-three thousand seven hundred and 20 fifty dollars.

Property in
lands, etc.

21. All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under *The North-west Irrigation Act*, 1898, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the North-west Territories.

Division of
assets and
liabilities
between
Alberta
and Saskat-
chewan.

Arbitration.

22. All properties and assets of the North-west Territories shall be divided 30 equally between the said province and the province of Alberta, and the two provinces shall be jointly and equally responsible for all debts and liabilities of the North-west Territories: Provided that, if any difference arises as to the division and adjustment of such properties, assets, debts and liabilities, such difference shall be referred to the arbitrament of three arbitrators, one of whom shall be chosen by the Lieutenant Governor in Council of each province, and the third by the Governor in Council. The selection of such arbitrators shall not be made until the Legislatures of the provinces have met, and the arbitrator chosen by Canada shall not be a resident of either province.

23. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Rupert's Land to the Crown.

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24. The powers hereby granted to the said province shall be exercised subject to the provisions of section 16 of the contract set forth in the schedule to chapter 1 of the statutes of 1881, being an Act respecting the Canadian Pacific Railway Company.

Rights of
H. B. Co.
Provision
as to C.P.R.
Co.

25. This Act shall come into force on the first day of September, one thousand nine hundred and five.

Commence-
ment of Act.

10

SCHEDULE

(Section 13.)

The province of Saskatchewan shall be divided into twenty-five electoral divisions which shall respectively comprise and consist of the parts and portions of the province hereinafter described.

In the following descriptions where "meridians between ranges" and "boundaries of townships" or "boundaries of sections" are referred to as the boundaries of electoral divisions, these expressions mean the meridians, boundaries of townships or boundaries of sections, as the case may be, in accordance with the Dominion lands system of surveys, and include the extension thereof in accordance with the said system.

Names and Descriptions of Divisions

(1) The electoral division of Souris, bounded as follows:—

Commencing at the south-east corner of the said province of Saskatchewan; thence northerly along the east boundary of the said province of Saskatchewan to the north boundary of the 6th township; thence westerly along the said north boundary of the 6th townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

(2) The electoral division of Cannington, bounded as follows:—

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 6th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 11th township; thence westerly along the said north boundary of

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the 11th townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 6th township; thence easterly along the said north boundary of the 6th townships to the point of commencement.

(3) The electoral division of Moosomin, bounded as follows:—

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 11th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 19th township; thence westerly along the said north boundary of the 19th townships to the 2nd meridian; thence southerly along the said 2nd meridian to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(4) The electoral division of Whitewood, bounded as follows:—

Commencing at the 2nd meridian where it is intersected by the north boundary of the 11th township; thence northerly along the said 2nd meridian to the north boundary of the 20th township; thence westerly along the said north boundary of the 20th townships to the meridian between the 4th and 5th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 4th and 5th ranges to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

20

(5) The electoral division of Grenfell, bounded as follows:—

Commencing at the meridian between the 4th and 5th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 11th township; thence northerly along the said meridian between the 4th and 5th ranges to the north boundary of the 20th township; thence westerly along the said north boundary of the 20th townships to the meridian between the 6th and 7th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 6th and 7th ranges to the north boundary of the 21st township; thence westerly along the said north boundary of the 21st township to the meridian between the 7th and 8th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 7th and 8th ranges to the north boundary of the 22nd township; thence westerly along the said north boundary of the 22nd township to the meridian between the 8th and 9th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 8th and 9th ranges to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(6) The electoral division of Wolseley, bounded as follows:—

Commencing at the meridian between the 8th and 9th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 11th township; thence northerly along the said meridian between the 8th and 9th ranges to the north

boundary of the 22nd township; thence westerly along the said north boundary of the 22nd townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 19th township; thence westerly along the said north boundary of the 19th township to the meridian between the 11th and 12th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 11th and 12th ranges to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(7) The electoral division of Saltcoats, bounded as follows:—

- 10 Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 19th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 3rd and 4th ranges, west of the 2nd meridian thence southerly along the said meridian between the 3rd and 4th ranges to the north boundary of the 20th township; thence easterly along the said north boundary of the 20th townships to the 2nd meridian; thence southerly along the said 2nd meridian to the north boundary of the 19th township; thence easterly along the said north boundary of the 19th townships to the point of commencement.

- 20 (8) The electoral division of Yorkton, bounded as follows:—

Commencing at the meridian between the 3rd and 4th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 20th township; thence northerly along the said meridian between the 3rd and 4th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 22nd township; thence easterly along the said north boundary of the 22nd townships to the meridian between the 7th and 8th ranges, west of the 2nd meridian; thence southerly along the said meridian between
30 the 7th and 8th ranges to the north boundary of the 21st township; thence easterly along the said north boundary of the 21st township to the meridian between the 6th and 7th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 6th and 7th ranges to the north boundary of the 20th township; thence easterly along the said north boundary of the 20th townships to the point of commencement.

(9) The electoral division of South Qu'Appelle, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 2nd meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 10th and

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11th ranges to the north boundary of the 11th township; thence westerly along the said north boundary of the 11th township to the meridian between the 11th and 12th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 11th and 12th ranges to the north boundary of the 19th township; thence westerly along the said north boundary of the 19th townships to the meridian between the 16th and 17th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 16th and 17th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

(10) The electoral division of North Qu'Appelle, bounded as follows:— 10

Commencing at the meridian between the 10th and 11th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 19th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 16th and 17th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 16th and 17th ranges to the north boundary of the 19th township; thence easterly along the said north boundary of the 19th townships to the point of commencement.

(11) The electoral division of South Regina, bounded as follows:—

Commencing at the meridian between the 16th and 17th ranges, west of the 20 2nd meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 16th and 17th ranges to where it is intersected by the centre of the track of the main line of the Canadian Pacific Railway; thence westerly along the said centre of the track of the main line of the Canadian Pacific Railway to where it is first intersected by the north boundary of the 17th township; thence westerly along the said north boundary of the 17th townships to the meridian between the 23rd and 24th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 23rd and 24th ranges to the southern boundary of the said province of Sas-30 katchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement. Excepting and reserving out of the said electoral division of South Regina all that portion thereof comprised within the limits of the city of Regina as incorporated by ordinance of the North-west Territories.

(12) The electoral division of Regina City, comprising the city of Regina as incorporated by ordinance of the North-west Territories.

(13) The electoral division of Lumsden, bounded as follows:—

Commencing at the meridian between the 16th and 17th ranges, west of the 2nd meridian, where it is intersected by the centre of the track of the main line of

the Canadian Pacific Railway; thence northerly along the said meridian between the 16th and 17th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 23rd and 24th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 23rd and 24th ranges to the point where it is first intersected by the east shore of Last Mountain lake, thence southerly along the said east shore of the said lake to its intersection with the meridian between the 23rd and 24th ranges in township 24; thence southerly along the said meridian between the 23rd and 24th ranges to the north boundary of the 17th township; 10 thence easterly along the said north boundary of the 17th townships to where it is first intersected by the centre of the track of the main line of the Canadian Pacific Railway; thence easterly along the said centre of the track of the main line of the Canadian Pacific Railway to the point of commencement.

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(14) The electoral division of Moosejaw, bounded as follows:—

Commencing at the meridian between the 23rd and 24th ranges, west of the 2nd meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 23rd and 24th ranges to the point where the said meridian intersects the east shore of Last Mountain lake in township 24; thence northerly along the said east shore of Last 20 Mountain lake to its intersection with the northern boundary of township 26, thence westerly along the said north boundary of the 26th townships to the meridian between the 7th and 8th ranges, west of the 3rd meridian; thence southerly along the said meridian between the 7th and 8th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement;— excepting and reserving out of the said electoral division of Moosejaw all that portion thereof comprised within the limits of the city of Moosejaw as incorporated by ordinance of the North-west Territories.

(15) The electoral division of Moosejaw City, comprising the city of Moose- 30 jaw as incorporated by ordinance of the North-west Territories.

(16) The electoral division of Maple Creek, bounded as follows:—

Commencing at the meridian between the 7th and 8th ranges, west of the 3rd meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 7th and 8th ranges to the north boundary of the 26th township; thence westerly along the said north boundary of the 26th townships to the western boundary of the said province of Saskatchewan; thence southerly along the said western boundary of the province of Saskatchewan to the southern boundary of the said province of Saskatchewan;

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thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

(17) The electoral division of Humboldt, bounded as follows:—

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 34th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 42nd township; thence westerly along the said north boundary of the 42nd townships to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 24th and 25th ranges to the north boundary of the 34th township; thence easterly along 10 the said north boundary of the 34th townships to the point of commencement.

(18) The electoral division of Kinistino, bounded as follows:—

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 42nd township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north-east corner of the said province; thence westerly along the northern boundary of the said province of Saskatchewan to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 24th and 25th ranges to the north limit of the Indian Reserve Chief Muskoday; thence easterly along the said north limit of the Indian Reserve Chief Muskoday 20 to the South Saskatchewan river; thence along the South Saskatchewan river up stream to the north boundary of the 45th township; thence easterly along the said north boundary of the 45th townships to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 24th and 25th ranges, to the north boundary of the 42nd township; thence easterly along the said north boundary of the 42nd townships to the point of commencement.

(19) The electoral division of Prince Albert, bounded as follows:—

Commencing at the meridian between the 24th and 25th ranges, west of the 2nd meridian, where it is intersected by the northern boundary of the said province 30 of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the meridian between the 5th and 6th ranges, west of the 3rd meridian; thence southerly along the said meridian between the 5th and 6th ranges to the north boundary of the 47th township; thence easterly along the said north boundary of the 47th townships to the meridian between the first and 2nd ranges, west of the 3rd meridian; thence southerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 46th township; thence easterly along the said north boundary of the 46th townships to the 3rd meridian; thence southerly along the said 3rd meridian to the South Saskatchewan river; thence

along the said South Saskatchewan river down stream to the north limit of the Indian Reserve Chief Muskoday; thence westerly along the said north limit of the Indian Reserve Chief Muskoday to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 24th and 25th ranges to the point of commencement; excepting and reserving out of the said electoral division all those portions described as follows:—

Firstly, the city of Prince Albert as incorporated by ordinance of the North-west Territories; and

Secondly, those portions of lots 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82 of the Prince Albert settlement which lie to the south of the said city of Prince Albert as incorporated and that portion of the Hudson Bay reserve outside of and adjoining the said city on the east and south and which lies to the north of the production in a straight line easterly of the southern boundary of the said lot 82 in the Prince Albert settlement; and

Thirdly, fractional sections 13 and 24 in the 48th township in the 26th range west of the 2nd meridian.

(20) The electoral division of Prince Albert City, comprising:—

Firstly, the city of Prince Albert as incorporated by ordinance of the North-west Territories; and

Secondly, those portions of lots 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82 of the Prince Albert settlement which lie to the south of the said city of Prince Albert as incorporated and that portion of the Hudson Bay reserve outside of and adjoining the said city on the east and south and which lies to the north of the production in a straight line easterly of the southern boundary of the said lot 82 in the Prince Albert settlement; and

Thirdly, fractional sections 13 and 24 in the 48th township in the 26th range west of the 2nd meridian.

(21) The electoral division of Batoche bounded as follows:—

Commencing at the meridian between the 23rd and 24th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 26th township; thence northerly along the said meridian between the 23rd and 24th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th township to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 24th and 25th ranges to the north boundary of the 45th township; thence westerly along the said north boundary of the 45th townships to where it first intersects the South Saskatchewan river; thence along the said South Saskatchewan river up stream to the north boundary of the 40th township; thence easterly along the said north

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boundary of the 40th township; thence easterly along the said north boundary of the 40th townships to the meridian between the 1st and 2nd ranges, west of the 3rd meridian; thence southerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 26th township; thence easterly along the said north boundary of the 26th townships to the point of commencement.

(22) The electoral division of Saskatoon, bounded as follows:—

Commencing at the meridian between the 1st and 2nd ranges, west of the 3rd meridian, where it is intersected by the north boundary of the 26th township; thence northerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 40th township; thence westerly along the said north bound- 10
ary of the 40th township to the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the north boundary of the 41st township; thence westerly along the said north boundary of the 41st townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the meridian between the 13th and 14th ranges west of the 3rd meridian; thence southerly along the said meridian between the 13th and 14th ranges to the north boundary of the 25th township; thence easterly along the said boundary of the 26th townships to the point of commencement.

(23) The electoral division of Rosthern, bounded as follows:—

Commencing at the north boundary of the 41st township where it is inter- 20
sected by the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the 3rd meridian; thence northerly along the said 3rd meridian to the north boundary of the 46th township; thence westerly along the said north boundary of the 46th township to the meridian between the 1st and 2nd ranges, west of the 3rd meridian; thence northerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 47th township; thence westerly along the said north boundary of the 47th townships to the meridian between the 5th and 6th ranges, west of the 3rd meridian; thence southerly along the said meridian between the 5th and 6th ranges to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 41st town- 30
ship; thence easterly along the said north boundary of the 41st townships to the point of commencement.

(24) The electoral division of Redberry, bounded as follows:—

Commencing at the meridian between the 5th and 6th ranges, west of the 3rd meridian, where it is intersected by the North Saskatchewan river; thence northerly along the said meridian between the 5th and 6th ranges, to the northern boundary of the said province of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the meridian between the 13th and 14th ranges,

west of the 3rd meridian; thence southerly along the said meridian between the 13th and 14th ranges, to the North Saskatchewan river; thence along the said North Saskatchewan river down stream to the point of commencement.

The Sas-
katchewan
Act, 4-5
Edw. VII
Chap. 42
(Canada).
—*Concluded*

(25) The electoral division of Battleford, bounded as follows:—

Commencing at the meridian between the 13th and 14th ranges, west of the 3rd meridian, where it is intersected by the north boundary of the 26th township; thence northerly along the said meridian between the 13th and 14th ranges, to the northern boundary of the said province of Saskatchewan thence westerly along the said northern boundary of the province of Saskatchewan to the western boundary 10 of the said province of Saskatchewan; thence southerly along the said western boundary of the province of Saskatchewan to the north boundary of the 26th township; thence easterly along the said north boundary of the 26th townships to the point of commencement.

No. 26

The Ontario Boundaries Extension Act, 1912, 2 Geo. V., Chap. 40
(Canada)

An Act to extend the Boundaries of the Province of Ontario.

[Assented to 1st April, 1912.]

No. 26.
The
Ontario
Boundaries
Extension
Act, 1912,
2 George V.,
Chap. 40
(Canada).
Preamble.

WHEREAS on the thirteenth day of July, One thousand nine hundred and eight, the House of Commons resolved that the limits of the province of Ontario should be increased by the extension of the boundaries of the province so as to include the territory hereinafter described, as in the said resolution is more particularly set out, upon such terms and conditions as
10 may be agreed to by the Legislature of Ontario and by the Parliament of Canada: Therefore, subject to the consent of the said Legislature, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as The Ontario Boundaries Extension Act. Short title.

2. The limits of the province of Ontario are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said province, the territory bounded and described as follows:—Com-
20 mencing at the most northerly point of the westerly boundary of the province of Ontario as determined by "The Canada (Ontario Boundary) Act, 1889" chapter 28 of the statutes of 1889 of the United Kingdom (the said westerly boundary being the easterly boundary of the province of Manitoba); thence
30 continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence north-easterly in a right line to the most eastern point of Island lake, as shown in approximate latitude 53° 30' and longitude 93° 40' on the railway map of the Dominion of Canada, published, on the scale of thirty-five miles to one inch, in the year one thousand nine hundred and eight, by the authority of the Minister of the
40 Interior; thence north-easterly in a right line to the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay; thence easterly and southerly following the shore of the said bay to the point where the northerly boundary of the province of Ontario as established under the said Act intersects the shore of James bay; thence westward along the said boundary as established by the said Act to the place of commencement; and all the land embraced by the said description shall, from and after the commencement of this Act, be added to the province of Ontario, and shall, from and after the said commencement, form and be part of the said province of Ontario, upon the following terms and conditions
and subject to the following provisions:—

(a) That the province of Ontario will recognize the rights of the Indian inhabitants in the territory above described to the same extent, and will obtain surrenders of such rights in the same manner, as
Indian rights in new territory.

- No. 26—
continued.
- Surrenders. the Government of Canada has heretofore recognized such rights and has obtained surrender thereof, and the said province shall bear and satisfy all charges and expenditure in connection with or arising out of such surrenders;
- Trusteeship. (b) That no such surrender shall be made or obtained except with the approval of the Governor in Council;
- (c) That the trusteeship of the Indians in the said territory, and the management of any lands now or hereafter reserved for their use, shall remain in the Government of Canada subject to the control of Parliament.
- Hudson's Bay Co. rights preserved. 3. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Ruperts Land to the Crown.
- Commencement of Act. 4. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council published in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Ontario shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid.
- Consent of Ontario legislature.

10

No. 27.
The Quebec Boundaries Extension Act, 1912, 2 George V., Chap. 45 (Canada).
Preamble.

No. 27

The Quebec Boundaries Extension Act, 1912, 2 George V., Chap. 45 (Canada) 20

An Act to extend the Boundaries of the Province of Quebec.
[Assented to 1st April, 1912.]

WHEREAS on the thirteenth day of July, one thousand nine hundred and eight, the House of Commons resolved that the limits of the province of Quebec should be increased by the extension of the boundaries of the province northwards so as to include the territory hereinafter described, as in the said resolution is more particularly set out upon such terms and conditions as may be agreed to by the Legislature of Quebec and by the Parliament of Canada: Therefore, subject to the consent of the said Legislature, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

30

Short title. 1. This Act may be cited as The Quebec Boundaries Extension Act, 1912.

Boundaries extended. 2. The limits of the province of Quebec are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said province, the territory bounded and described as follows: Commencing at the point at the mouth of East Main river where it empties into James bay, the said point being the western termination of the northern boundary of the province of Quebec as established by chapter 3 of the

1898, c. 3.

40

- statutes of 1898 intituled *An Act respecting the north-western, northern and north-eastern boundaries of the province of Quebec*; thence northerly and easterly along the shores of Hudson bay and Hudson strait; thence southerly, easterly and northerly along the shore of Ungava bay and the shore of the said strait; thence easterly along the shore of the said strait to the boundary of the territory over which the island of Newfoundland has lawful jurisdiction; thence south-easterly along the westerly boundary of the said last mentioned territory to the middle of Bay du Rigolet or Hamilton Inlet; thence westerly along the northern boundary of the province of Quebec as established by the said Act to the place of commencement; and all the land embraced by the said description shall, from and after the commencement of this Act, be added to the province of Quebec, and shall, from and after the said commencement, form and be part of the said province of Quebec upon the following terms and conditions and subject to the following provisions:—
- 10
- (a) That the population of the territory hereby added to the province of Quebec shall be excluded in ascertaining the population of the said province for the purposes of any readjustment of representation of the other provinces consequent upon any census;
- 20
- (b) That in the general census of the population of Canada which is required to be taken in the year one thousand nine hundred and twenty-one and in every tenth year thereafter the population of the territory hereby added to the province of Quebec shall be distinguished from that of the said province as heretofore constituted, and the representation of the said territory in the House of Commons shall be determined according to the rules enacted by section 51 of "The British North America Act 1867" regulating the representation of the provinces other than Quebec:
- 30
- (c) That the province of Quebec will recognize the rights of the Indian inhabitants in the territory above described to the same extent, and will obtain surrenders of such rights in the same manner, as the Government of Canada has heretofore recognized such rights and has obtained surrender thereof, and the said province shall bear and satisfy all charges and expenditure in connection with or arising out of such surrenders;
- (d) That no such surrender shall be made or obtained except with the approval of the Governor in Council:
- 40
- (e) That the trusteeship of the Indians in the said territory, and the management of any lands now or hereafter reserved for their use, shall remain in the Government of Canada subject to the control of Parliament.
3. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Ruperts Land to the Crown.
- No. 27.
The Quebec
Boundaries
Extension
Act, 1912,
2 George V.,
Chap. 45
(Canada)—
continued.
- Population
as affecting
representa-
tion.
- Population
under
decennial
census.
- B.N.A. Act,
s. 51.
- Indian
rights in
new terri-
tory.
- Surrenders.
- Trusteeship.
- Hudson's
Bay Co.
rights
preserved.

No. 27—
continued.
Commence-
ment of Act.
Consent of
Quebec
legislature.

4. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council published in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Quebec shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid.

No. 28.

The Alberta Natural Resources Act, 1930, 20-21 George V. Chapter 3 (Canada).

An Act respecting the transfer of the Natural Resources of Alberta. [Assented to 30th May, 1930.]

No. 28. The Alberta Natural Resources Act, 1930. 20-21 George V, Chap. 3 (Canada).

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

1. This Act may be cited as The Alberta Natural Resources Act.

Short title.

2. The agreement set out in the schedule hereto is hereby approved, subject to the proviso that, in addition to the rights accruing hereunder to the province of Alberta, the said province shall be entitled to such further rights, if any, with respect to the subject matter of the said agreement as are required to be vested in the said province in order that it may enjoy rights equal to those which may be conferred upon or reserved to the province of Saskatchewan under any agreement upon a like subject matter hereafter approved and confirmed in the same manner as the said agreement.

Agreement confirmed. Proviso.

SCHEDULE.

MEMORANDUM OF AGREEMENT.

20 Made this fourteenth day of December, 1929.

Between

The GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the HONOURABLE ERNEST LAPOINTE, Minister of Justice, and the HONOURABLE CHARLES STEWART, Minister of the Interior,

Of the First Part,

and

30 The GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the HONOURABLE JOHN EDWARD BROWNLEE, Premier of Alberta, and the HONOURABLE GEORGE HOADLEY, Minister of Agriculture and Health - - - - - Of the Second Part.

WHEREAS by section twenty-one of The Alberta Act, being chapter three of four and five Edward the Seventh, it was provided that " All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the Province under The North-west Irrigation Act, 1898, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before

No. 28.
The Alberta
Natural
Resources
Act, 1930.
20-21
George V,
Chap. 3
(Canada)—
continued.

the coming into force of this Act, which shall apply to the said Province with the substitution therein of the said Province for the North-west Territories ” :

And whereas it is desirable that the Province should be placed in a position of equality with the other Provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation in 1905 :

And whereas it has been agreed between Canada and the said Province that the provisions of *The Alberta Act* should be modified as herein set out :

10

Now Therefore This Agreement Witnesseth :

TRANSFER OF PUBLIC LANDS GENERALLY.

1. In order that the Province may be in the same position as the original Provinces of Confederation are in virtue of section one hundred and nine of the *British North America Act*, 1867, the interest of the Crown in all Crown lands, mines, minerals (precious and base) and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties, shall, from and after the coming into force of this agreement and subject as therein otherwise provided, belong to the Province, subject to any trusts existing in respect thereof, and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject, until the Legislature of the Province otherwise provides, to the provisions of any Act of the Parliament of Canada relating to such administration; any payment received by Canada in respect of any such lands, mines, minerals or royalties before the coming into force of this agreement shall continue to belong to Canada whether paid in advance or otherwise, it being the intention that, except as herein otherwise specially provided, Canada shall not be liable to account to the Province for any payment made in respect of any of the said lands, mines, minerals or royalties before the coming into force of this agreement, and that the Province shall not be liable to account to Canada for any such payment made thereafter.

20

30

2. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person has become entitled to any interest therein as against the Crown, and further agrees not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto other than Canada or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who may be the parties thereto.

40

3. Any power or right, which, by any such contract, lease or other arrangement, or by any Act of the Parliament of Canada relating to any

of the lands, mines, minerals or royalties hereby transferred or by any regulation made under any such Act, is reserved to the Governor in Council or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by such officer of the Government of the Province as may be specified by the Legislature thereof from time to time and until otherwise directed, may be exercised by the Provincial Secretary of the Province.

4. The Province will perform every obligation of Canada arising by virtue of the provisions of any statute or Order in Council or regulation
10 in respect of the public lands to be administered by it hereunder to any person entitled to a grant of lands by way of subsidy for the construction of railways or otherwise or to any railway company for grants of lands for right of way, road bed, stations, station grounds, workshops, buildings, yards, ballast pits or other appurtenances.

5. The Province will further be bound by and will, with respect to any lands or interests in lands to which the Hudson's Bay Company may be entitled, carry out the terms and conditions of the Deed of Surrender from the said Company to the Crown as modified by the *Dominion Lands Act* and the Agreement dated the 23rd day of December, 1924, between
20 His Majesty and the said Company, which said Agreement was approved by Order in Council dated the 19th day of December, 1924 (P.C. 2158), and in particular the Province will grant to the Company any lands in the Province which the Company may be entitled to select and may select from the lists of lands furnished to the Company by the Minister of the Interior under and pursuant to the said Agreement of the 23rd day of December, 1924, and will release and discharge the reservation in patents referred to in clause three of the said agreement, in case such release and discharge has not been made prior to the coming into force of this agreement. Nothing
30 in this agreement, or in any agreement varying the same as hereinafter provided, shall in any way prejudice or diminish the rights of the Hudson's Bay Company or affect any right to or interest in land acquired or held by the said Company pursuant to the Deed of Surrender from it to the Crown, the *Dominion Lands Act* or the said Agreement of the 23rd day of December, 1924.

SCHOOL LANDS FUND AND SCHOOL LANDS.

6. Upon the coming into force of this agreement, Canada will transfer to the Province the money or securities constituting that portion of the school lands fund, created under sections twenty-two and twenty-three of *The Act to amend and consolidate the several Acts respecting Public*
40 *Lands of the Dominion*, being chapter thirty-one of forty-two Victoria, and subsequent statutes, which is derived from the disposition of any school lands within the Province or within that part of the Northwest Territories now included within the boundaries thereof.

7. The School Lands Fund to be transferred to the Province as aforesaid and such of the school lands specified in section thirty-seven of the *Dominion Lands Act*, being chapter one hundred and thirteen of

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Natural
Resources
Act, 1930.
20-21
George V,
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(Canada)—
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(Canada)—
continued.

the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the *Dominion Lands Act*, for the support of schools organized and carried on therein in accordance with the law of the Province.

WATER.

8. Canada agrees that the provision contained in section four of the *Dominion Water Power Act*, being chapter two hundred and ten of the Revised Statutes of Canada, 1927, that every undertaking under the said Act is declared to be a work for the general advantage of Canada, shall stand repealed as from the date of the coming into force of this agreement in so far as the same applies to undertakings within the Province; nothing in this paragraph shall be deemed to affect the legislative competence of the Parliament of Canada to make hereafter any declaration under the tenth head of section ninety-two of the *British North America Act, 1867*. 10

FISHERIES.

9. Except as herein otherwise provided, all rights of fishery shall, after the coming into force of this agreement, belong to and be administered by the Province, and the Province shall have the right to dispose of all such rights of fishery by sale, licence or otherwise, subject to the exercise by the Parliament of Canada of its legislative jurisdiction over sea-coast and inland fisheries. 20

INDIAN RESERVES.

10. All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the appropriate Minister of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof. 30

11. The provisions of paragraphs one to six inclusive and of paragraph eight of the agreement made between the Government of the Dominion of Canada and the Government of the Province of Ontario on the 24th day of March, 1924, which said agreement was confirmed by statute of Canada, fourteen and fifteen George the Fifth chapter forty-eight, shall (except so far as they relate to the *Bed of Navigable Waters Act*) apply to the lands included in such Indian reserves as may hereafter be set aside under the last preceding clause as if the said agreement had been made between the parties hereto, and the provisions of the said paragraphs shall likewise 40

apply to the lands included in the reserves heretofore selected and surveyed, except that neither the said lands nor the proceeds of the disposition thereof shall in any circumstances become administrable by or be paid to the Province.

12. In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided, however, that the said Indians shall have the right, which the Province
10 hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.

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The Alberta
Natural
Resources
Act, 1930.
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(Canada)—
continued.

SOLDIER SETTLEMENT LANDS.

13. All interest in Crown lands in the Province upon the security of which any advance has been made under the provisions of the *Soldier Settlement Act*, being chapter 188 of the Revised Statutes of Canada, 1927, and amending Acts, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada.

NATIONAL PARKS.

20 14. The parks mentioned in the Schedule hereto shall continue as national parks and the lands included therein, as the same are described in the Orders in Council in the said Schedule referred to (except such of the said lands as may be hereafter excluded therefrom), together with the mines and minerals (precious and base) in each of the said parks and the royalties incident thereto, shall continue to be vested in and administered by the Government of Canada as national parks, but in the event of the Parlia-
ment of Canada at any time declaring that the said lands or any part thereof are no longer required for park purposes, the lands, mines, minerals (precious and base) and the royalties incident thereto, specified in any such declaration,
30 shall forthwith upon the making thereof belong to the Province, and the provisions of paragraph three of this agreement shall apply thereto as from the date of such declaration.

15. The Parliament of Canada shall have exclusive legislative jurisdic-
tion within the whole area included within the outer boundaries of each of the said parks notwithstanding that portions of such area may not form part of the park proper; the laws now in force within the said areas shall continue in force only until changed by the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force, which are not repugnant to any law or regulation made applicable
40 within the said area by or under the authority of the Parliament of Canada, shall extend to and be enforceable within the same, and that all general taxing acts passed by the Province shall apply within the same unless expressly excluded from application therein by or under the authority of the Parliament of Canada.

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(Canada)—
continued.

16. The Government of Canada will introduce into the Parliament of Canada such legislation as may be necessary to exclude from the parks aforesaid certain areas forming part of certain of the said parks which have been delimited as including the lands now forming part thereof which are of substantial commercial value, the boundaries of the areas to be so excluded having been heretofore agreed upon by representatives of Canada and of the Province, and the Province agrees that upon the exclusion of the said areas as so agreed upon, it will not, by works outside the boundaries of any of the said parks reduce the flow of water in any of the rivers or streams within the same to less than that which the Minister of the Interior may deem necessary adequately to preserve the scenic beauties of the said parks. 10

SEED GRAIN, ETC., LIENS.

17. Every lien upon any interest in any unpatented land passing to the Province under this agreement, which is now held by Canada as security for an advance made by Canada for seed grain, fodder or other relief, shall continue to be vested in Canada, but the Province will, on behalf of Canada, collect the sums due in respect of such advances, except so far as the same are agreed to be uncollectible, and upon payment of any such advance, any document required to be executed to discharge the lien may be executed by such officer of the Province as may be authorized by any provincial law in that behalf; the Province will account for and pay to Canada all sums belonging to Canada collected hereunder, subject to such deduction to meet the expenses of collection as may be agreed upon between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be designated in that behalf under the laws thereof. 20

GENERAL RESERVATION TO CANADA.

18. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any lands for which Crown grants have been made and registered under the *Land Titles Act* of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become the registered owner at the date upon which the agreement comes into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration. 30

HISTORIC SITES, BIRD SANCTUARIES, ETC.

19. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between 40

the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be specified under the laws thereof.

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The Alberta
Natural
Resources
Act, 1930.
20-21
George V,
Chap. 3
(Canada)—
continued.

FINANCIAL TERMS.

20. In lieu of the provision made by subsection one of section twenty of *The Alberta Act*, Canada will, from and after the date of the coming into force of this agreement, pay to the Province by half-yearly payments in advance, on the first days of January and July in each year, an annual sum based upon the population of the Province as from time to time ascertained by the quinquennial census thereof, as follows:—

10 The sum payable until the population of the said Province reaches eight hundred thousand shall be five hundred and sixty-two thousand five hundred dollars;

 Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

 And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

21. If at the date of the coming into force of this agreement any payment has been made under subsection one of section twenty of *The Alberta Act* in respect of any half-year commencing before but terminating after the said date, a proportionate part of the payment so made shall be taken as having been made under the provisions hereof.

22. It is agreed that the Honourable W. F. A. Turgeon, a Judge of the Court of Appeal of Saskatchewan, Charles M. Bowman, of the Town of Waterloo, in the Province of Ontario, Esquire, Chairman of the Board of Directors of the Mutual Life Assurance Company of Canada, and Fred E. Osborne, Esquire, Mayor of the City of Calgary, or, if any of the foregoing cannot act, then such other person or persons as may be agreed upon, will be appointed commissioners under Part One of the *Inquiries Act* to enquire and report whether any, and, if any, what consideration, in addition to the sums provided in paragraph twenty hereof, should be paid to the Province in order that the Province may be placed in a position of equality with the other Provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation in 1905, such commissioners to be empowered to decide what financial or other considerations are relevant to the enquiry, and the report to be submitted to the Parliament of Canada and to the Legislature of Alberta; and if by the said report, the payment of any additional consideration is recommended, then, upon agreement between the Governments of Canada and of the Province following the submission of such report, the said Governments will respectively introduce the legislation necessary to give effect to such agreement.

RECORDS.

23. Canada will, after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals

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Natural
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continued.

or complete copies of all records in any department of the Government of Canada relating exclusively to dealings with Crown lands, mines and minerals, and royalties derived therefrom within the Province, and will give to the Province access to all other records, documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the Crown lands, mines, minerals and royalties.

AMENDMENT OF AGREEMENT.

24. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada 10 and the Legislature of the Province.

WHEN AGREEMENT COMES INTO FORCE.

25. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after the day upon which His Majesty gives His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same.

In witness whereof the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable John Edward Brownlee, Premier of Alberta, and the Honourable George Hoadley, Minister of Agriculture and Health thereof, have hereunto set their hands on behalf of the Province of Alberta. 20

Signed on behalf of the GOVERNMENT OF CANADA by the HONOURABLE ERNEST LAPOINTE, Minister of Justice, and the HONOURABLE CHARLES STEWART, Minister of the Interior, in the presence of

O. M. BIGGAR.

ERNEST LAPOINTE.

CHAS. STEWART.

30

Signed on behalf of the PROVINCE OF ALBERTA by the HONOURABLE JOHN EDWARD BROWNLEE, Premier of the said Province, and the HONOURABLE GEORGE HOADLEY, Minister of Agriculture and Health thereof, in the presence of

J. F. LYMBURG.

J. E. BROWNLEE.

GEO. HOADLEY.

DOCUMENTS RELATING TO THE NEGOTIATIONS BETWEEN THE GOVERNMENT
OF CANADA AND THE COLONIAL SECRETARY AND THE HUDSON'S
BAY COMPANY FOR THE ADMISSION OF RUPERT'S LAND AND THE
NORTH-WESTERN TERRITORY INTO THE DOMINION OF CANADA.

No. 29

Order in Council (Canada)

18th February, 1864.*

No. 29.
Order-in-
Council
(Canada),
18th Febru-
ary 1864.

The Committee of the Executive Council have had under consideration a despatch, No. 49, from His Grace the Duke of Newcastle, dated 1st May, 10 1863, with enclosures, on the subject of a proposal of the "Atlantic and Pacific Transit and Telegraph Company," to establish telegraphic and postal communication from Lake Superior to New Westminster, in British Columbia. * * * * *

The Committee have not been able to persuade themselves that the people of Canada would be likely to receive benefits corresponding to the cost of constructing a line of telegraph from the seat of government to the head of Lake Superior, and guaranteeing half the interest of the cost of constructing a line from that point to the Pacific Coast, unless at the same time the fertile valleys and plains of the Great North-West are made 20 accessible to Canadian settlers, and to European emigrants, who are in quest of cheap lands under the protection of the British flag and a free Constitutional Government.

A "telegraph line" will not accomplish these objects, though it may serve an important purpose and lead ultimately to their attainment. But unless "The Atlantic and Pacific Transit and Telegraph Company" are prepared to undertake the construction of a road *pari passu* with the telegraph line, the Committee cannot, in the present condition of the Canadian exchequer, and with the important questions of boundary, territorial jurisdiction and form of government in the vast territory proposed 30 to be opened, still unsettled, recommend acceptance of the heads of proposal as submitted by them, and conditionally approved by His Grace.

The Committee are of opinion that in view of the recent change in the constitution and objects of the Hudson's Bay Company, which, from the correspondence laid before the House of Lords, appears to have been effected, and the claims which the new organization have reiterated with the apparent sanction of His Grace the Duke of Newcastle, to territorial rights over a vast region not included in their original Charter, it is highly expedient that steps be taken to settle definitely the North-Western boundary of Canada.

* Sess. Papers, Canada, 1864, Vol. 23, No. 62.

No. 29.
Order-in-
Council
(Canada),
18th Febru-
ary 1864—
continued

The Committee therefore recommend that correspondence be opened with the Imperial Government with a view to the adoption of some speedy, inexpensive and mutually satisfactory plan to determine this important question, and that the claim of Canada be asserted to all that portion of Central British America which can be shown to have been in the possession of the French at the period of the cession, in 1763.

Certified.

WM. H. LEE, C.E.C.

No. 30.
Despatch,
Colonial
Secretary to
Governor-
General,
1st July
1864.

No. 30

Despatch, The Colonial Secretary to the Governor-General.*

10

Downing Street,
1st July, 1864.

MY LORD,—I have had under my consideration your Lordship's despatch, No. 18, of the 19th of February, enclosing to the Duke of Newcastle the Minute of your late Executive Council on the subject of the pending negotiation between Her Majesty's Government and the Hudson's Bay Company, for the cession of the rights of that Company in the Hudson's Bay Territory to the Crown.

In that Minute the Executive Council say they "are of opinion that, in view of the recent change in the constitution and objects of the Hudson's Bay Company, which, from the correspondence laid before the House of Lords, appears to have been effected, and the claims which the new organization have reiterated, with the apparent sanction of His Grace the Duke of Newcastle, to territorial rights over a vast region not included in their original Charter, it is highly expedient that steps be taken to settle definitely the North-Western boundary of Canada. 20

"The Committee therefore recommend that correspondence be opened with the Imperial Government with the view to the adoption of some speedy, inexpensive, and mutually satisfactory plan to determine this important question, and that the claim of Canada be asserted to all that portion of Central British America which can be shown to have been in the possession of the French at the period of the cession in 1763." 30

If the proposed cession shall take place, it will be necessary to make provision for the future government of the Red River Settlement, and prospectively of such parts of the Territory as may from time to time become the seats of settled occupation and industry.

The Committee of the House of Commons, which in the year 1857 considered the state of the British possessions in North America which are under the administration of the Hudson's Bay Company, expressed them-

* Journals, Legislative Assembly, Canada, 1865, Vol. 25, p. 45.

selves in the following terms:—"Your Committee consider that it is essential to meet the just and reasonable wishes of Canada, to be enabled to annex to her territory such portion of the land in her neighbourhood as may be available to her for the purposes of settlement, with which lands she is willing to open and maintain communication, and for which she will provide the means of local administration. Your Committee apprehend that the districts on the Red River and the Saskatchewan are among those likely to be desired for early occupation. It is of great importance that the peace and good order of those districts should be effectually secured.

10 "Your Committee trust that there will be no difficulty in effecting arrangements, as between Her Majesty's Government and the Hudson's Bay Company, by which these districts may be ceded to Canada on equitable principles; and within the districts thus annexed to her, the authority of the Hudson's Bay Company would, of course, entirely cease."

Before taking any further steps in the negotiations with the Company, I am desirous of being informed whether your advisers are prepared to assist in these negotiations, with a view of accepting the government of any portion of the territory, and undertaking the duties contemplated by the Committee, in case sufficiently favourable terms can be obtained. If they
20 are prepared to do so, it will be desirable that they should send over to this country some person duly authorized to communicate with me upon the subject, in order that the negotiations may be proceeded with during the recess, and the necessary measures prepared for obtaining the sanction of the Imperial Parliament and of the Legislature of Canada. If they are not prepared to assist in the negotiations, I shall be glad to hear from you their views upon the subject of the north-western boundary of Canada.

I have, etc.,

EDWARD CARDWELL.

No. 30.
Despatch,
Colonial
Secretary to
Governor-
General,
1st July
1864—con-
tinued.

No. 31

Order in Council (Canada)

11th November, 1864.*

30

The Committee of Council have had under their consideration the despatch of the Right Honourable Edward Cardwell, Her Majesty's Secretary of State for the Colonies, of 1st July, 1864, in reply to your Excellency's despatch of 19th February, 1864, transmitting Minute of Council on the subject of the pending negotiations between Her Majesty's Government and the Hudson's Bay Company, for the cession to the Crown of the rights of that Company in the North-Western Territories.

40 In the Minute of Council transmitted by your Excellency, the Government of Canada recommended that "correspondence be opened with the

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ember 1864.

* Journals, Legislative Assembly, Canada, 1865, Vol. 25, p. 46.

No. 31.
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Council
(Canada),
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ember 1864
—continued.

Imperial Government, with a view to the adoption of some speedy, inexpensive, and mutually satisfactory plan” to “settle definitely the north-western boundary of Canada,” and that “the claim of Canada be asserted to all that portion of Central British America which can be shown to have been in the possession of the French at the period of the cession in 1763.”

Mr. Cardwell, in acknowledging this Minute, remarks, that “if the proposed cession shall take place, it will be necessary to make provision for the future government of the Red River Settlement and prospectively of such parts of the territory as may from time to time become the seats of settled occupation and industry.” He quotes from the Report of the Select Committee of the House of Commons of 1857, in which it is said:—“Your Committee consider that it is essential to meet the just and reasonable wishes of Canada, to be enabled to annex to her territory such portion of the land in her neighbourhood as may be available to her for the purpose of settlement, with which lands she is willing to open and maintain communications, and for which she will provide the means of local administration. 10

“Your Committee apprehend that the districts on the Red River and the Saskatchewan are among those likely to be desired for early occupation. It is of great importance that the peace and good order of those districts should be effectually secured. Your Committee trust that there will be no difficulty in effecting arrangements as between Her Majesty’s Government and the Hudson’s Bay Company, by which those districts may be ceded to Canada on equitable principles, and within the districts thus annexed to her the authority of the Hudson’s Bay Company would, of course, entirely cease.” 20

And Mr. Cardwell concludes by asking, whether the Government of Canada are prepared to assist in those negotiations with the view of accepting the government of any portion of the territory, and undertaking the duties contemplated by the Committee, in case sufficiently favourable terms can be obtained; and he suggests that if prepared so to do, it would be desirable that some person duly authorized to communicate the views of the Canadian Government, should be sent to England for that purpose. 30

The Committee of Council recommend that Mr. Cardwell be informed that the government of Canada is more than ever impressed with the importance of opening up to settlement and cultivation the lands lying between Lake Superior and the Rocky Mountains. The great extent of these lands and their adaptability for settlement are now established beyond a doubt; and it is not to be contemplated that a region so fertile, and capable of sustaining so vast a population, should longer be closed to civilization for the benefit of a trading company, however long established and respectable that company may be. The rapid progress of British Columbia adds to the expediency of opening, without delay, an overland route to the Pacific, and gives feasibility to the hope, long cherished by many, that the Atlantic and Pacific Oceans, ere many years elapse, may be connected by one direct line of railway through British territory, from Halifax to British Columbia. 40

The close relations springing up between the Red River settlers and the Americans of Pembina and St. Paul, and the removal of many Americans into the territory, render it doubly expedient that a settled government, under the British Crown, should be established in the country at an early date. The effort now being made, with every prospect of success, by the Governments of Canada, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island, for the union of all these Provinces under one Government, presents another strong reason for settling now the future position of the North-West country, more especially as the parties to the proposed
 10 British American Federation have unanimously agreed that the people of the North-West Territory, and of British Columbia and Vancouver, may, at any time, join the Federation on equitable terms, and the whole British America thus become united in one system of government under the protecting rule of Great Britain.

The Government of Canada, is ready and anxious to co-operate with the Imperial Government in securing the early settlement of the Territory and the establishment of local government in its settled portions. The Government looks forward with interest to the day when the valley of the Saskatchewan will become the back country of Canada, and the land of
 20 hope for the hardy youth of the Province when they seek new homes in the forest; and it anticipates with confidence the day when Canada will become the highway of immigration from Europe into those fertile valleys. To attain these ends the Government is prepared to render all the aid in its power towards opening up the country.

The Committee of Council are, however, clearly of the opinion that the first step towards the settlement of the territory is the extinction of all claim by the Hudson's Bay Company to proprietary rights in the soil or exclusive right of trade. The Committee do not deem it necessary now to raise the question of the validity or invalidity of the Company's charter.
 30 Were all the pretensions of the Company as to their title fully admitted for the sake of argument, the necessity of its speedy extinction would still remain. It is not to be entertained for a moment, that half a continent should continue to be shut off from the world on the strength of a parchment title, however good.

The Committee are, however, conscious that it is for the Imperial Government, and not for the Government of Canada, to assume the duty of bringing to an end a monopoly originating in an English charter, and exercised so long under Imperial sanction; and while acknowledging with thanks the courtesy of Mr. Cardwell, in inviting the Government of Canada
 40 to assist in negotiations with the Hudson's Bay Company for the cession to the Crown of their claims, the Committee are of the opinion that the negotiations will be advantageously left in the hands of the Imperial Government. When the negotiations have been brought to a close the Government of Canada will be ready to arrange with the Imperial Government for the annexation to Canada of such portion of the land in her neighbourhood as may be available for settlement, as well as for the

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opening up of communications into the territory and providing means of local administration; or should the Imperial Government prefer to erect the territory into a Crown colony, the Government of Canada will gladly co-operate in the opening up of communication into the territory and the settlement of the country.

The Committee express the hope that until the Government of Canada has been communicated with, no cession of large sections of land will be made by the Imperial Government for any purpose or any right of way granted through the territory. The history of the American continent is replete with examples of the great evils resulting from the locking up of extensive tracts of land in the hands of wealthy corporations, whose whole object is the realization of large profits. The existence of such an evil in these North Western regions would seriously embarrass the efforts of any Government for the early and satisfactory settlement of the country. 10

In suggesting that the negotiations with the Hudson's Bay Company should remain in the hands of the Imperial Government, the Committee are anxious that Mr. Cardwell should not interpret this as arising from any diminution of interest on the part of Canada in the just and speedy settlement of this great question; on the contrary, the public interest in the question, and the desire for the early occupation of the country, have of late much increased, and the best proof of this is furnished in the desire unanimously expressed by the recent Conference of the Atlantic Provinces, for a political union with the great Western Territories. The Government will observe the progress of the negotiations with profound interest, and will most gladly communicate with Mr. Cardwell on any point which he may deem proper to submit to it. The Honourable the President of the Executive Council of Canada [Mr. Brown], sails for England on the 16th instant; he has given much attention to the Hudson's Bay question, and will be able to communicate more fully to Mr. Cardwell the views of the Government on the subject, of which he is fully possessed. 20 30

Certified.

WM. H. LEE, C.E.C.

No. 32.
Report of
the Honour-
able George
Brown,
President
of the
Executive
Council of
Canada,
26th Janu-
ary 1865.

No. 32

Report of the Honourable George Brown, President of the
Executive Council of Canada*

QUEBEC,
26th January, 1865.

To His Excellency the Governor-General of Canada in Council.

MY LORD,—I have the honour to report that while recently in England, in compliance with your Excellency's instructions, I placed myself in 40

* Journals, Leg. Assembly, Canada, 1865, Vol. 25, p. 48.

communication with Her Majesty's Secretary of State for the Colonies, on the subject of opening up to settlement the North-Western Territories.

In Your Excellency's despatch of 19th January, 1864, to the Colonial Secretary, the anxious desire of the Canadian Government was communicated "for some speedy, inexpensive, and mutually satisfactory plan for settling definitely the North-Western boundary of Canada," and the claim of Canada was asserted to "all that portion of Central British America which can be shown to have been in the possession of the French at the period of the session in 1763."

- 10 In reply to this despatch, Mr. Cardwell, on 1st July, 1864, requested to be informed whether the Government of Canada was prepared to assist in negotiations with the Hudson's Bay Company, with the view of accepting any portion of the territory now claimed by that Company, and providing the means of local administration therein; and he suggested that if so prepared it would be desirable that some person duly authorized to communicate the views of the Canadian Government should be sent to England for that purpose.

- 20 On the 11th November, 1864, a Minute of Council was approved by Your Excellency, in reply to Mr. Cardwell's despatch. It set forth that the Government of Canada was ready and anxious to co-operate with the Imperial Government in securing the early settlement of the North-West Territories; and the establishment of local government in its settled portions; but that in its opinion the first step towards that end was the extinction of all claim by the Hudson's Bay Company to proprietary rights in the soil or exclusive rights of trade. It suggested that it was for the Imperial Government, and not for the Government of Canada, to assume the duty of bringing to an end a monopoly originating in an English charter, and exercised so long under Imperial sanction; but that when the negotiations were brought to a close, the Government of Canada would be ready to
- 30 arrange with the Imperial Government for the annexation to Canada of such portions of the territory as might be available for settlement, as well as for the opening up of communications into the territory and providing means of local administration; or should the Imperial Government prefer to erect the territory into a Crown colony, the Canadian Government would gladly co-operate in the opening up of communication into the territory, and the settlement of the country. The Minute finally suggested that the undersigned, while in England, would communicate more fully to Mr. Cardwell the views of the Canadian Government.

- 40 While in London I had the honour of several interviews with Mr. Cardwell, at which the whole question was fully discussed; and I gratefully acknowledge the courtesy and attention extended to me by that gentleman.

I found that negotiations for the cession to the Crown of the territorial claims of the Hudson's Bay Company had been proceeding for a year past between the Colonial Minister and the Company; and it may not be without

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advantage that I should state here briefly the point to which these negotia-
tions had been brought :—

I. In July, 1863, the whole interests of the Hudson's Bay Company were transferred to Mr. Edward W. Watkin and certain gentlemen acting with him; and Sir Edmund Head was elected Governor of the Company. The capital stock of the old Company was £500,000 sterling, but at the time of the sale and for some time previous each £100 share was worth £200 on the London Stock Exchange. The market value of the Company's interests was therefore £1,000,000 sterling. The new Company agreed to pay £1,500,000, and did pay that sum, for the transference to them of all the interests of the old Company. 10

II. On the 28th of August, 1863, Sir Edmund Head, as Governor of the new Hudson's Bay Company, communicated to His Grace the Duke of Newcastle a resolution expressive of the conviction that the time had arrived for introducing into the North-West Territories the direct authority of the Crown.

III. On the 9th of October, 1863, Sir Frederick Rogers, by instruction of the Duke of Newcastle, informed the Company that His Grace was ready to consider any proposals submitted to him by the Hudson's Bay Company with reference to the introduction of the direct authority of Her Majesty's Government in Rubert's Land. 20

IV. On 11th November, 1863, Sir Edmund Head acknowledged the receipt of Sir Frederick Rogers' communication, and proceeded to explain the views of the Company in the following terms :—

“ With regard to the extent of the proposed colony, of which the seat of government would be Red River (or Fort Garry), the Committee presume that His Grace would wish it to include the whole country from the frontier of the United States to the north branch of the Saskatchewan, and to extend eastward towards Lake Superior, as far as the frontier of Canada, wherever the precise line of that frontier may be found. Perhaps the most convenient limit for the northern boundary would be either the Saskatchewan itself, or a line running from the Rocky Mountains eastward through Edmonton House and Fort Cumberland, and, from the latter, following the Saskatchewan down to Lake Winnipeg. Nothing would be gained by going further to the northward, nor by including the eastern side of Lake Winnipeg; but from the mouth of the Winnipeg River, where it enters the lake the line of demarcation might be run eastward until it cut the Canadian frontier somewhere north of Lake Superior or Lake Huron.” 30

After hinting at the purchase by Government of the whole territorial claims of the Company for a sum of money, payable down or by instalments—but which he admits is probably an impracticable solution—Sir Edmund Head goes on to propose, as the condition of the Company's consent to the erection of a Crown colony, that “ the Company should retain the ownership 40

in fee simple of one half of the lands in the colony, and the other half should be conveyed by the Company to the Crown." And this compromise he explains the Company suggests, only subject to the following stipulations :—

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10 " 1st. The Hudson's Bay Company should have the sole right to erect, and should bind themselves to complete within five years, an electric telegraph to connect British Columbia and Canada. The line for this telegraph should be approved by the Secretary of State, and it should be maintained by the Company, who would, of course, engage to convey the messages of the Imperial and Colonial Govern-
ments at a fixed and moderate rate.

" It would be necessary as a condition precedent to the erection of the telegraph,—

" (a) That the Government of British Columbia and Canada should pledge their faith respectively to the Secretary of State to pay the yearly sum set forth in the enclosures to the despatch of July 31, 1862, with all the advantages as to lands to be granted by Her Majesty's Government, and other terms therein specified.

20 " (b) That a road should be laid out along the line of telegraph, but the soil on which the telegraph stands, and the space, say one mile in width, on one side of its course, should belong to the Hudson's Bay Company, to be reckoned as part of the half of the land which they would retain. The other side of the road might be included in the half belonging to the Crown.

" (c) That the Company in constructing the telegraph should be entitled to use wood or other materials taken from ungranted land.

30 " 2nd. The Crown shall resume the grant of mines, and diggings of gold and silver throughout the colony, on condition of paying to the Hudson's Bay Company one-third of the receipts of all dues, royalties, rents, etc., from such mines or diggings, whether raised by way of export duty or otherwise, but the Company should not be liable for expenses of collection or escort.

" 3rd. The buildings required for military or Government purposes at Fort Garry or Red River should be valued and purchased of the Company.

" 4th. The Company should retain as a portion of their half of the lands, all lots already laid out and surveyed, as well as five thousand acres round each of their forts as posts."

40 V. On 11th March, 1864, Mr. Chichester Fortescue, Under Secretary of State for the Colonies, by direction of the Duke of Newcastle, rejected the proposal of the Company. In the course of his communication the following passages occur :—

" In an unsettled colony, there is no effectual mode of taxation for purposes of government and improvement, and the whole progress

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of the colony depends on the liberal and prudent disposal of its land. These considerations afford decisive reasons against leaving that land in the possession of a corporation. And I am to observe that these objections, conclusive in any case, are greatly enhanced in the case of the Hudson's Bay Company, as I learn from your letter that it has been the 'unvarying opinion' of the Committee on whose behalf you speak that the Company would 'lose fully as much as they would gain by the increase of settlement in the chartered territory.' It is therefore (to say the least) a question whether the Company would not be under a direct inducement to use their proprietary rights to thwart the colonizing efforts of the Government. . . . The conclusive objection to the scheme is that it would reproduce in a gigantic shape the inconveniences which, on a far smaller scale, were found intolerable in Canada. It is evident as a matter of reasoning, and notorious as a matter of fact, that the interposition of large blocks of property between tracts or districts of Crown land must obstruct the opening up of those districts, unless it fortunately happens that the private proprietor is ready to expend money *pari passu* with the Government in the construction of roads and other improvements, and to conform his land policy to that of the authorities. It is also clear that colonists of the Anglo-Saxon race look upon the land revenue as legitimately belonging to the community; and that the diversion of half or more than half of that revenue to the purpose of increasing the dividends of a private corporation would cause a continual and growing discontent which could not be allayed by any abstract argument of right, and the full force of which the Government would be expected by the Company to sustain. His Grace cannot consent to make himself responsible for these consequences, and he is therefore obliged to treat as inadmissible any proposal for the proprietary partition of those territories which may be placed under the Government of the Crown." 10 20 30

Mr. Fortescue then proceeds to state, "the only terms which, after very grave consideration, His Grace feels himself able to propose for the acceptance of the Company," as follows:—

"1. That within certain geographical limits (coinciding more or less with those laid down in your letter) the territorial rights of the Company should be surrendered to the Crown.

"2. That the sum of 1*s.* *per* acre on every acre sold by Government should be paid to the Company, and payment to cease when their aggregate receipts from this source shall exceed £150,000, or on the expiration of 50 years. 40

"3. That one-fourth of the sum received by the Government as an export duty for gold, or on leases of gold mines, or licences for gold mining, shall be payable to the Company for 50 years, or until the aggregate receipts shall amount to £100,000.

“ 4. That on these conditions a Government be established in the ceded territories—Great Britain undertaking the expense and risk of that Government until the colony is able to support it, as in British Columbia and other colonies.

“ It must be clearly understood that the payments contemplated in the second and third of these articles are entirely dependent on the Government receipts, and that the Government will not be pledged to any particular form of levying a tax upon gold.”

Appended to Mr. Fortescue's letter was the following postscript :—

10 “ P.S.—Since the above letter was drafted, His Grace has received from the Governor-General of Canada a despatch, from which it appears that the Canadian Government contemplate the assertion of a claim to all that portion of Central America which can be shown to have been in the possession of the French in 1763. It must, of course, be understood that the above suggestions are made on the supposition that the cession by the Company will place Her Majesty's Government in possession of an indisputable title to the territory ceded by them.”

20 VI. On the 14th March, 1864, Sir Edmund Head replied to Mr. Fortescue's letter of the 11th March, taking strong exception to the postscript of that letter. Among other passages was the following :—

30 “ We believe the title of the Hudson's Bay Company to be good, and we are prepared to defend it in any court in which it may be impugned ; but we are not prepared to originate any enquiry of the kind, or to undertake to give any guarantee, or to present to the Secretary of State any title other than that which I have already said is as well known to His Grace as it is to ourselves. Such as it is, it must be taken for better for worse, for we have no other to offer, and we believe that to be sufficient. If, therefore, any such guarantee or undertaking is a condition precedent to the completion of an arrangement on the basis suggested in your letter of the 11th instant, it will, we fear, be wholly useless for us to enter into the consideration of the principle of that offer, or any discussion how far the details involved in it are or are not acceptable to the Company, or how far the amount of compensation would be sufficient. If indeed the question were one only of some few miles, more or less, of boundary, the case would be wholly different. But in the form in which the claim is presented to us in your postscript, it appears to the Committee to make all further action impracticable.”

40 Sir Edmund Head goes on to say :—

“ But for this preliminary difficulty arising from the postscript to your letter, it would now be my duty to call your attention to the fact that that letter makes no allusion to a substantive portion of our offer, to which we attach great importance, that, namely, of erecting on certain terms, an electric telegraph across the Hudson's

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Bay Territory. We have ceded to no one the right to do this, and we are perfectly ready, on fair conditions, and as part of the arrangement, to undertake to do it ourselves. Nor is anything said in the counter proposal made by you as to the portions of land which the Company might be allowed to retain as private property, nor as to the manner in which their buildings and improvements would be dealt with."

VII. On the 5th April, 1864, Sir Frederick Rogers addressed Sir Edmund Head, in rejoinder to his letter of the 14th March. In reference to the Company's objection to the postscript of Mr. Fortescue's letter, he 10
said :—

"It appears to the Duke of Newcastle that the Company has somewhat misapprehended the intention with which that postscript was written. It is assumed, for the present purpose, that the grant to the Hudson's Bay Company is a valid grant. But it appears to be contended on the part of Canada that whether valid or not, an instrument which only granted to the Company land not in possession of a foreign power in the year 1670, could not, from its very terms, comprehend, in 1763, a territory which then belonged to the French, and which it is contended must therefore have then belonged and 20
belongs now to Canada. If this claim on the part of Canada were established, it would be evidently impossible for Her Majesty's Government to secure that land to which it is extended, should, when sold, be subject to a payment of 1s. an acre to the Hudson's Bay Company. It is therefore impossible for His Grace to make any pledge of this kind except as to land which is beyond the scope of the Canadian claim."

Sir Frederick Rodgers, however, then went on to modify somewhat this position. He said :—

"As regards the territories west of the Mississippi, to which the 30
present negotiation in the main relates, the Duke of Newcastle, after a careful examination, is prepared, for the purpose of the present negotiation, to assume that the Canadian claim is groundless. And he therefore authorizes me to renew the proposals contained in the body of my letter of the 11th, subject to the following stipulation :—That in case it should be found advisable to cede or annex to Canada any territory lying eastward of a line passing through Lake Winnipeg, and from thence to and through the Lake of the Woods. Her Majesty's Government should be at liberty to exempt the annexed territory from all payments to the Hudson's Bay Company, which 40
payments would thenceforth be exclusively leviable (without any deduction from their amount) on the territories acquired by the Crown to the west of the above line of demarcation."

In regard to the second part of Sir Edmund Head's letter of 14th March, Sir Frederick Rogers explained that the Duke of Newcastle was quite

willing to recognise the transference to the Hudson's Bay Company of the rights and responsibilities of the Atlantic and Pacific Telegraph and Transit Company—"if it is recognized by the colonies concerned." And he goes on to say, that His Grace "is further willing that on the completion of the road and telegraph from the frontier of Canada to that of British Columbia, lands adjacent to the line shall be granted to the Company at the rate of one square mile for every lineal mile of road and telegraph constructed on Crown lands between the line of demarcation above described and the frontier of British Columbia."

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10 VIII. On the 13th April, the Company accepted the offer of Government in principle, but considered that the amount of the payments within fifty years out of the land and gold revenues should not be limited, or if limited, should be limited to £1,000,000 instead of £250,000. They asked in addition to be allowed—

(1) To retain as private property their "Posts and Stations" (on which buildings had been erected) "outside the Red River Settlement, with an area of 6,000 acres round each such post."

(2) To retain "all lots set out and occupied by them."

(3) To receive for every 50,000 acres of land sold by the Crown,
20 "a grant of 5,000 acres of wild land" of their own choice.

They also require exemption from exceptional taxation and relief from every expense of government.

As the basis of an arrangement for "through communication," they expressed their readiness to adopt Mr. Watkin's plan (modified, as it necessarily would be by the amalgamation of the Hudson's Bay Company, and the Transit and Telegraph Company), but they required five square miles of land *per* lineal mile of telegraph and road, instead of one square mile as offered by Government.

30 IX. On the 6th of June, Mr. Cardwell declined to accept these proposals without considerable modifications, but deferred any counter-proposal until after consultation with the Treasury and with the Canadian Government.

This was the position of the negotiation when the undersigned reached London, early in December, 1864, and when Mr. Cardwell placed in his hands the papers of which a summary has been given.

Mr. Cardwell, in explaining verbally the state of the negotiations, added, that in case the Hudson's Bay Company's offer of 13th April, 1864, was accepted by the Government of Canada, as containing in principle a basis on which negotiations might be continued with the hope of a satisfactory solution, he was of opinion that considerable modifications of the terms
40 might be obtained.

That there might be no misunderstanding as to the offer of the Company, I requested that a map might be obtained from Sir Edmund Head, so coloured as to show clearly the territory now claimed by the Hudson's Bay Company as their property; and also a second map so coloured as to show what portion of the land claimed to be theirs, they now proposed

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the Honour-
able George
Brown,
President
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ary 1865—
continued.

to surrender to the Crown. Two maps, coloured in this manner, were accordingly obtained from the Company, and are appended to this report.

Accompanying these maps was a letter from Sir Edmund Head, dated 7th December, 1864, which, without abating his proposal of 13th April, offered as an alternative:—

1. That the Company be paid £1,000,000 sterling.
2. That the Government of British North America acknowledge the Company's right to trade, without exclusive privileges of any kind, within the territory.
3. That the Company should hold in fee simple all their posts now occupied, with a reasonable area round each post. All previous sales and bargains made by them at Red River shall be confirmed. 10
4. That the Government of British North America shall impose no exceptional taxes on the Company, its property or its servants.
5. That the disputed matter of the Company's lands in Canada be settled by issuing grants on the footing formerly agreed upon between Mr. Vankoughnet and Mr. Hopkins.
6. That the Company shall be bound to hand over to the Government of British North America all the materials for the construction of the telegraph on the payment of the cost price and expenses already incurred. 20

In discussing with Mr. Cardwell these demands of the Hudson's Bay Company, I pointed out what appeared to me the utterly untenable character of their pretensions. I endeavoured to show that they were seeking to sell to Her Majesty's Government, for an enormous sum, territory to which they had no title under their charter; and I contended that if the solution of the question was to be sought in the purchase of a portion of the Company's territorial claims, the first step was clearly to ascertain what validity there was in those claims—what land the Company really had to sell.

I further stated, as my personal view of the matter, that no solution would be satisfactory to the people of Canada short of the entire extinction of the Hudson's Bay Company's territorial claims and exclusive rights of trade. I pointed out, that to recognize and maintain the exclusive pretensions of the Company over a large portion of the continent, and to give it thereby a monopoly of the lucrative fur trade, would be simply erecting a barrier in the way of the rapid settlement of the country, and laying the foundation for serious difficulty when the country became settled, and for a further demand on the part of the Hudson's Bay Company, some years hence, for the final extinction of its claims. 30

I urged that in view of the present unsettled position of the American continent, it was of the highest importance to attract to British America as large a share as possible of the European emigration—that the opening up of the North-West Territories, with all their agricultural, mineral and fur-trading advantages, would conduce vastly to that end—and that a further delay of this step would (from the immigration of Americans now 40

going on into the territory) render the establishment of British institutions in the settled portions of the country much more difficult than if action were taken now.

Denying the claims set up by the Hudson's Bay Company, I further contended that, even were all their pretensions admitted for the sake of argument, the sum demanded by the Company—namely, one million sterling—was much more than they are entitled to receive for the entire extinction of their claims from the Atlantic to the Rocky Mountains, and from the American line to the extreme north. I pointed out, that it was
 10 only eighteen months since the rights of the Hudson's Bay Company had passed by purchase into the hands of the present proprietors; that they paid £1,500,000 for those rights, which was fifty *per cent.* above the then market value of the property; and I referred to the official prospectus on which the new company was formed in July, 1863, for proof that the demand now made on Her Majesty's Government by the Company was utterly unreasonable. I drew Mr. Cardwell's attention to the fact, that the prospectus declared that the assets of the new Hudson's Bay Company, exclusive of the landed territory, had been "recently valued by competent valuers at
 20 of "goods in the interior, on ship-board, and other stock-in-trade, including shipping, business premises, and other buildings necessary for carrying on the fur trade." I pointed out that in addition to this large amount of convertible property, "a cash balance" derived from the old Hudson's Bay Company was spoken of in the prospectus; and that other large landed possessions, besides those in the east of the Rocky Mountains and north of the American line, were thus set forth in the prospectus as being part of the property purchased by the new Company.

"In addition to its chartered territory, the Company possess the following valuable landed property:—Several plots of land in British
 30 Columbia, occupying most favourable sites at the mouths of rivers, the titles to which have been confirmed by Her Majesty's Government; farms; building sites in Vancouver's Island; and in Canada, ten square miles at La Cloche, on Lake Huron, and tracts of land in fourteen other places."

In addition to all this, I directed Mr. Cardwell's attention to the fact that the Hudson's Bay Company held a claim against the American Government, and which was at that moment under consideration by arbitrators, for the surrender of their rights on the Pacific, south of the boundary line established under the Oregon Treaty. I stated, on information that had reached me, but without personal knowledge of its correctness,
 40 that the American Government had expressed its willingness to pay \$1,000,000 for the extinction of that claim, but that the Company rejected it, and were in expectation of receiving a much larger sum.

In view of all these facts, I contended that it was utterly unreasonable on the part of the Company to claim any such sum as £1,000,000 sterling, even for the entire extinction of their territorial and trade claims east of the Rocky Mountains. But I admitted that it was for Her Majesty's Imperial Government to settle with the Hudson's Bay Company the

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 able George
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 Council of
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 26th Janu-
 ary 1865—
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the Honour-
able George
Brown,
President
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ary 1865—
continued.

consideration to be paid for the extinction of their claims, as it could not be expected that the people of Canada should bear the burden of extinguishing a monopoly that they did not create and have never recognized, and the advantages from the extinguishing of which they would only share in common with the rest of Her Majesty's subjects. I urged that the Imperial Government should, without delay, secure the extinction of the Company's claims; and that the Government of Canada would be prepared to assume the duty and cost of opening up communications into the country and establishing local government in the settled portions.

I had the honour of interviews with several of Her Majesty's Ministers, 10
who were then in London, in which I was permitted to urge these views to a greater or less extent. But the Christmas holidays having intervened, and being compelled to leave England in time to be present at the opening of the Canadian Parliament on the 19th January, I was unable to press the matter to a close. I therefore suggested to Mr. Cardwell that I would report to Your Excellency the point to which the discussion had been brought, and that when the proposed deputation of members of the Canadian Government visited England in spring, the negotiation might be resumed, and, if possible, brought to a satisfactory termination.

Mr. Cardwell kindly consented to this arrangement. 20

I have the honour to be, My Lord,
Your most obedient servant,
GEORGE BROWN.

No. 33.
Order-in-
Council
(Canada),
24th March
1865.

No. 33

Order in Council (Canada) 24th March, 1865*

The Committee respectfully recommend that four Members of Your Excellency's Council do proceed to England to confer with Her Majesty's Government:—

1st. Upon the proposed Confederation of the British North American Provinces, and the means whereby it can be most speedily 30
effected.

2nd. Upon the arrangements necessary for the defence of Canada, in the event of war arising with the United States, and the extent to which the same should be shared between Great Britain and Canada.

3rd. Upon the steps to be taken with reference to the Reciprocity Treaty, and the rights conferred by it upon the United States.

* Journals, Legislative Assembly, Canada, 1865, Vol. 25, p. 8.

4th. Upon the arrangements necessary for the settlement of the North-West Territory and Hudson's Bay Company's claims. No. 33. Order-in-Council (Canada), 24th March 1865—continued.

5th. And, generally, upon the existing critical state of affairs by which Canada is most seriously affected.

The Committee further recommend that the following members of Council be named to form the delegation, viz :—Messrs. Macdonald, Cartier, Brown and Galt.

Certified.

WM. H. LEE, C.E.C.

10

No. 34

Order in Council (Canada)

27th March, 1865.*

No. 34. Order-in-Council (Canada), 27th March 1865.

The Committee have under consideration the Report (hereunto appended) of the Honourable the President of the Executive Council, on the subject of his communications with the Right Honourable the Secretary of State for the Colonies, in London, in reference to the opening up to settlement the North-West Territories.

The Committee respectfully recommend that the negotiations be taken up, by the deputation of Members of Council now about to proceed to London, at the point to which they had been so ably brought by the President of the Council, and carried, if possible, to a successful termination.

Certified.

WM. H. LEE, C.E.C.

No. 35

Despatch, The Colonial Secretary to the Governor-General†

Downing Street,
17th June, 1865.

No. 35. Despatch, Colonial Secretary to Governor-General, 17th June 1865.

My Lord,—I have the honour to inform your Lordship that several conferences have been held, between the four Canadian Ministers who were deputed, under the Minute of your Executive Council of March 24th, to proceed to England to confer with Her Majesty's Government on the part of Canada, and the Duke of Somerset, the Earl DeGrey, Mr. Gladstone, and myself, on the part of Her Majesty's Government. * *

On the fourth point, the subject of the North-West Territory, the Canadian Ministers desired that that Territory should be made over to

* Journals, Legislative Assembly, Canada, 1865, Vol. 25, p. 54.

† *Ibid.*, p. 13.

No. 35.
Despatch,
Colonial
Secretary to
Governor-
General,
17th June
1865—*con-
tinued.*

Canada, and undertook to negotiate with the Hudson's Bay Company for the termination of their rights, on condition that the indemnity, if any, should be paid by a loan to be raised by Canada under the Imperial guarantee. With the sanction of the Cabinet, we assented to this proposal, undertaking that if the negotiation should be successful, we, on the part of the Crown, being satisfied that the amount of the indemnity was reasonable, and the security sufficient, would apply to the Imperial Parliament to sanction the agreement and to guarantee the amount * * *

I have, etc.,

EDWARD CARDWELL. 10

Governor-General Viscount Monck, etc., etc., etc.

No. 36.
Report of
the Cana-
dian Dele-
gates to
England,
12th July
1865.

No. 36

Report of the Canadian Delegates to England*

To His Excellency the Right Honourable Viscount Monck, Governor-General of British North America, etc., etc.

May it please Your Excellency,

The undersigned having, by Order in Council of 24th March, 1865, been appointed a Committee of the Executive Council of Canada to proceed to England and confer with Her Majesty's Government on certain subjects of importance to the Province, sailed for England in April last; and having discharged the duty entrusted to them and returned to Canada we now beg to submit, for Your Excellency's information, a statement of our proceedings while in London.† * * *

The important question of opening up to settlement and cultivation the vast British Territories on the north-west borders of Canada next obtained the attention of the Conference. Your Excellency is aware that the desire of the Government of Canada for a satisfactory and final adjustment of this matter has been often formally expressed. In Your Excellency's despatch of the 19th February, 1864, to the Colonial Secretary, the anxious desire of the Canadian Government was communicated "for some speedy, inexpensive, and mutually satisfactory plan" for settling definitely "the North-western boundary of Canada," and the claim of Canada was asserted to "all that portion of Central British America which can be shown to have been in the possession of the French at the period of that cession in 1763." 30

In reply to this despatch, Mr. Cardwell, on 1st July, 1864, requested to be informed whether the Government of Canada was prepared to assist in negotiations with the Hudson's Bay Company, with the view of accepting any portion of the territory now claimed by that Company, and providing the means of local administration therein; and he suggested

* *Ibid.*, p. 9. † The omitted portions of this Report do not relate to the matters in issue. 40

that if so prepared it would be desirable that some person duly authorized to communicate the views of the Canadian Government should be sent to England for that purpose.

On the 11th November, 1864, a Minute of Council was approved by Your Excellency, in reply to Mr. Cardwell's despatch. It set forth that the Government of Canada was ready and anxious to co-operate with the Imperial Government in securing the early settlement of the North-West Territories, and the establishment of local government in its settled portions; but that in its opinion the first step towards that end was the extinction of all claim by the Hudson's Bay Company to proprietary rights in the soil and exclusive rights of trade. It suggested that it was for the Imperial Government, and not for the Government of Canada, to assume the duty of bringing to an end a monopoly originating in an English charter, and exercised so long under Imperial sanction; but that when the negotiations were brought to a close, the Government of Canada would be ready to arrange with the Imperial Government for the annexation to Canada of such portions of the territory as might be available for settlement, as well as for the opening up of communications into the territory and providing means of local administration. Or should the Imperial Government prefer to erect the territory into a Crown colony, the Canadian Government would gladly co-operate in the opening up of communication into the territory, and the settlement of the country. The Minute finally suggested that the Honourable President of the Council while in England would communicate more fully to Mr. Cardwell the views of the Canadian Government.

The negotiations that followed on this despatch satisfied us of the impossibility of enforcing the end sought by Canada without long-protracted, vexatious and costly litigation. The Hudson's Bay Company were in possession, and if time were their object, could protract the proceedings indefinitely; and Her Majesty's Government appeared unwilling to ignore pretensions that had frequently received *quasi* recognition from the Imperial authorities. Calling to mind, therefore the vital importance to Canada of having that great and fertile country opened up to Canadian enterprise, and the tide of immigration into it directed through Canadian channels—remembering also the danger of large grants of land passing into the hands of mere moneyed corporations and embarrassing the rapid settlement of the country—and the risk that the recent discoveries of gold on the eastern slopes of the Rocky Mountains might throw into the country large masses of settlers unaccustomed to British institutions—we arrived at the conclusion that the quickest solution of the question would be the best for Canada. We accordingly proposed to the Imperial Ministers that the whole British territory, east of the Rocky Mountains and north of the American and Canadian lines, should be made over to Canada, subject to such rights as the Hudson's Bay Company might be able to establish; and that the compensation to that Company (if any were found to be due) should be met by a loan guaranteed by Great Britain. The Imperial Government consented to this, and a careful investigation of the case satisfies us that the

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tinued.

compensation to the Hudson's Bay cannot, under any circumstances, be onerous. It is but two years since the present Hudson's Bay Company purchased the entire property of the old Company: they paid £1,500,000 for the entire property and assets—in which were included a large sum of cash on hand, large landed properties in British Columbia and elsewhere not included in our arrangement, a very large claim against the United States Government under the Oregon Treaty; and ships, goods, pelts, and business premises in England and Canada valued at £1,023,569. The value of the territorial rights of the Company, therefore, in the estimation of the Company itself, will be easily arrived at.

10

The results of our communications with the Committee of Her Majesty's Government were placed, by Mr. Cardwell, in the form of a despatch to Your Excellency; that document bears date the 17th June, 1865, and has already reached your Excellency's hands. It contains a correct statement of the result of the conference. * * *

JOHN A. MACDONALD.

GEO. ET. CARTIER.

GEO. BROWN.

A. T. GALT.

Quebec, 12th July, 1865.

No. 37.
Letter,
Under-
Secretary
for the
Colonies
to the
Governor
of the Hud-
son's Bay
Company,
20th Febru-
ary 1866.

No. 37

20

Letter, the Under Secretary for the Colonies to the Governor of the Hudson's Bay Company*

Downing Street,
20th February, 1866.

SIR,—I am directed by Mr. Secretary Cardwell to acknowledge the receipt of your letter of the 6th inst., enclosing a copy of one addressed to you by Mr. McEwen, enquiring if the Hudson's Bay Company are willing to dispose of such portion of their Territory as is capable of cultivation to a party of Anglo-American capitalists.

You also enclose a copy of the reply which the Company have returned to this enquiry.

30

Having regard to the reference you have made in your letter to the probable concurrence of Her Majesty's Government in the establishment of some new government, Mr. Cardwell is desirous of reminding you that at the conferences which took place during last summer, between the Canadian Ministers and certain members of Her Majesty's Government, the Provincial Ministers expressed their desire that the North-Western Territory should be made over to Canada, and they undertook to negotiate with the Hudson's Bay Company for the termination of their rights, on

* Sess. Papers, Canada, 1867-8, Vol. 1, No. 19.

condition that the indemnity, if any, should be paid by a loan to be raised by Canada under the Imperial Guarantee. To this proposal, Her Majesty's Ministers assented, engaging that if the negotiation should be successful, they, on the part of the Crown, being satisfied that the amount of the indemnity was reasonable, and the security sufficient, would apply to the Imperial Parliament to sanction the arrangement and guarantee the amount.

Until this engagement shall have been disposed of, it will be necessary for Her Majesty's Government to keep it in view in any steps which they may be called upon to take in the matter.

I am, etc.,

E. E. FORSTER.

Rt. Honourable Sir E. Head, Bart., etc., etc.

No. 37.
Letter,
Under-
Secretary
for the
Colonies
to the
Governor
of the Hud-
son's Bay
Company,
20th Febru-
ary 1866—
continued.

No. 38

Order in Council (Canada)

22nd Day of June, 1866.*

The Committee of the Executive Council have given their careful consideration to the despatches of the Secretary of State for the Colonies, bearing date the 24th February and 3rd March last, relative to a proposal made to the Hudson's Bay Company by a party of Anglo-American capitalists, for the purchase "of such portion of the territory claimed by the Company as may be capable of cultivation;" and they have the honour to submit to your Excellency the following remarks on the subject:—

In the first place, the Committee do not admit that the Company have a legal title to that portion of the North-Western Territory which is fit for cultivation and settlement.

This fertile tract is a belt of land stretching along the northern frontier of the United States to the base of the Rocky Mountains, and Canada has always disputed the title of the Company to it.

Even if it be admitted that the Charter of 1670, recognized as it has been by several Imperial Statutes, gives to the Company a freehold right in the soil in Rupert's Land, Canada contends that the cultivable tract in question forms no part of that land.

It is not now necessary to repeat the grounds on which this opinion is founded, as they have been already more than once submitted to Her Majesty's Government, and it is only alluded to lest silence on the subject might be assumed as an acquiescence on the part of Canada in the right of the Company to sell. Assuming, however, that such right exists, the Committee see grave objections to the proposition of Mr. McEwen being entertained. Canadian experience has shown that sales of large tracts

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of land to individuals, or commercial corporations, have operated prejudicially to the best interests of the Province, and retarded rather than promoted its settlement and progress. Companies or individuals purchasing for the purpose of speculation, are governed solely by the one view of obtaining a profitable return of the money invested in the purchase. All other considerations are set aside. No general or comprehensive system of settlement is or can be established. The best tracts are withheld from settlement in order that their value may be increased by the improvement of the surrounding country, and by the labour of the settlers, and the price paid to the Company for the lands, instead of being expended in the opening up of roads and in developing the resources of the country, is divided among a number of non-resident shareholders having no interest in the prosperity of the country further than as such prosperity contributes to the value of their shares. 10

In the correspondence which took place in 1863 and 1864 between the Hudson's Bay Company and the Colonial Office, with reference to the introduction of the direct authority of Her Majesty's Government in Rupert's Land, it appears that the Company proposed, as a condition of their assenting to the erection of a Crown colony, that they should retain the ownership in fee simple of one-half of the lands of the colony. This proposition was rejected by the Duke of Newcastle, in language which appears to the Committee to be conclusive: 20

“ In an unsettled colony there is no effectual mode of taxation for purposes of government and improvement, and the whole progress of the colony depends on the liberal and prudent disposal of its land. These considerations afford decisive reasons against leaving that land in the possession of a corporation. And I am to observe that these objections, conclusive in any case, are greatly enhanced in the case of the Hudson's Bay Company, as I learn from your letter that it has been ‘ the unvarying opinion ’ of the Committee on whose behalf you speak that the Company would ‘ lose fully as much as they would gain, by the increase of settlement in the chartered Territory.’ It is, therefore, to say the least, a question whether the Company would not be under a direct inducement to use their proprietary rights to thwart the colonizing efforts of the Government. 30
. . . . The conclusive objection to the scheme is that it would reproduce in a gigantic shape the inconveniences which, on a far smaller scale, were found intolerable in Canada. It is evident as a matter of reasoning, and notorious as a matter of fact, that the interposition of large blocks of property between tracts or districts of Crown land must obstruct the opening up of those districts, unless it fortunately happens that the private proprietor is ready to expend money *pari passu* with the Government in the construction of roads and other improvements, and to conform his land policy to that of the authorities. It is also clear that colonists of the Anglo-Saxon race look upon the land revenue as legitimately belonging to the community, and that the diversion of half or more than half of that revenue to the purpose of increasing the dividends of a private corporation would cause a continual and growing discontent, which could 40

not be allayed by any abstract argument of right, and the full force of which the Government would be expected by the Company to sustain. His Grace cannot consent to make himself responsible for these consequences and he is therefore obliged to treat as inadmissible any proposal for the proprietary partition of those territories which may be placed under the government of the Crown.”*

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(Canada),
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tinued.*

If such objections exist to the tenure of large tracts of land by so ancient and responsible a corporation as the Hudson's Bay Company, with large powers of government, and a political as well as a commercial status,
10 with how much greater pressure must they weigh against the transfer of such tracts to a private association of speculators.

The Committee are further of opinion that before any steps are taken to introduce a large body of settlers into that country, provision should be made for the efficient administration of the government there.

So long as the Great North-West is only occupied by the Hudson's Bay Company's servants, and by the few scattered settlers at Fort Garry, the system of government now obtaining there may work sufficiently well; but whenever a large population shall settle in the country, it is to be feared that the Company's power will be altogether insufficient to preserve order
20 and good government, and that its authority will be set at nought.

It is evident that the old policy of exclusion of strangers from the Territory must shortly be at an end.

The neighbouring territories belonging to the United States are fast being settled up to the boundary line, and if the statements as to the existence of gold in the Valley of the Saskatchewan be at all verified, there will, ere long, be an influx of population which no power that can be exerted by the Hudson's Bay Company can either resist or control. This population will mainly come from the United States, and although there may be a good many of Her Majesty's subjects among them, by far the greater portion will
30 be aliens, ignorant and regardless of the laws of England, and perhaps hostile to the British Government. They will utterly disregard the authority of the Company, will endeavour to establish a government and tribunals of their own, and, as similar bodies have done elsewhere on this continent, assert their political independence.

Such a community would sever the British North American possessions in twain and be the means of retarding, if not altogether preventing, the formation of a railway connection between the Atlantic and Pacific Oceans.

The future interests of Canada and all British North American possessions are, therefore, vitally concerned in the immediate establishment
40 of a strong Government there, and in its settlement as a part of the British colonial system.

Impressed with this conviction, Canada would ere this have opened negotiations with the Hudson's Bay Company for the extinction of their claims, had it not been for the prospect of her speedy absorption in the

* From letter of Mr. Fortescue, Under-Secretary of State for the Colonies, of 11th March, 1864, quoted in Report of Hon. George Brown, *ante*.

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proposed Union of the British North American Colonies. It would obviously have been improper for the Canadian Government to commence negotiations which they could not hope to complete, or to enter into engagements, the fulfilment of which must fall on the whole Confederated Provinces. At the same time, the Committee beg leave to observe that if the Company had thought proper to submit for consideration formal proposals for the transfer of their claims, the final settlement of the question would have been greatly advanced.

Recent events serve to show that in a few months that union will be effected, and the Committee have no doubt that the Confederate Government and Legislature will feel it to be one of their first duties to open negotiations with the Hudson's Bay Company, for the transfer of their claims to the territory. Meanwhile Canada invites the aid of Her Majesty's Government in discountenancing and preventing any such sales of any portion of the territory as is now applied for.

W. H. LEE, C.E.C.

No. 39.
Despatch,
Governor-
General to
Colonial
Secretary,
23rd June
1866.

No. 39

Despatch, the Governor-General to the Colonial Secretary*

Government House,
Ottawa, 23rd June, 1866. 20

SIR,—Referring to your despatches (Nos. 18 and 20) of February 24th and March 3rd, I have the honour to transmit, for your information and consideration, an approved Minute of the Executive Council of this Province, on the subject of the Hudson's Bay Territory.

I have, etc.,
MONCK.

The Right Honourable
Edward Cardwell, M.P., etc., etc.,
Secretary of State.

No. 40.
Letter,
The Gov-
ernor of the
Hudson's
Bay Com-
pany to
Under-
Secretary
for the
Colonies,
17th July
1866.

No. 40

Letter, the Governor of the Hudson's Bay Company to the
Under Secretary for the Colonies*

Hudson's Bay House,
London, 17th July, 1866. 30

SIR,—I have the honour to enclose, for the information of the Right Honourable the Secretary of State, a copy of a pamphlet which I received on the 12th instant.

* Sess. Papers, Canada, 1867-8, Vol. 1, No. 19.

This pamphlet purports to be a report addressed to the Secretary of the Treasury of the United States, and it contains certain statements to which the Committee of the Hudson's Bay Company desire to call the special attention of the Earl of Carnarvon.

At page 26 the following passage occurs :—

10 “ Twenty years later, in 1865, the American territory of Montana adjoins the region which excited the enthusiasm of DeSmet. Its population of 25,000, to be increased during 1866 to 50,000, have been drawn to the sources of the Missouri by discoveries of gold and silver mines close to the international border, and rumours of gulches and ledges in the Saskatchewan District, yielding even greater prizes to the prospector, are already rife, and will soon precipitate a strong, active and enterprising people into the spacious void. What is called the ‘ Americanization ’ of the Red River Settlements has been slow, although sure, since the era of steam navigation; but the Americanization of the Saskatchewan will rush suddenly and soon from the camps of treasure-seekers in Montana.”

20 You, Sir, are aware of the correspondence which during the last three years has passed between myself as Governor of this Company and the Colonial Office, on the subject of establishing in the Hudson's Bay Territory some government administered in the name of Her Majesty. You know also that Mr. Cardwell decided to offer to Canada an option of acquiring the rights of this Company, and that so far back as the 1st of March last I ventured respectfully to ask the question (which has not yet been answered) how long this option was to remain open.

 In a letter addressed to me by Mr. Forster, and dated the 20th of February last, we were told :—

30 “ Having regard to the reference you have made in your letter, to the probable concurrence of Her Majesty's Government in the establishment of some new government, Mr. Cardwell is desirous of reminding you, that at the conferences which took place during last summer between the Canadian Ministers and certain Members of Her Majesty's Government, the Provincial Ministers expressed their desire that the North-Western Territory should be made over to Canada, and they undertook to negotiate with the Hudson's Bay Company for the termination of their rights, on condition that the indemnity, if any, should be paid by a loan to be raised by Canada, under the Imperial guarantee. To this proposal Her Majesty's Ministers assented, engaging that if the negotiation should be successful, they, on the part of the Crown, being satisfied that the amount of the indemnity was reasonable and the security sufficient, would apply to the Imperial Parliament to sanction the arrangement and guarantee the amount.

40 “ Until this arrangement shall have been disposed of, it will be necessary for Her Majesty's Government to keep it in view in any steps which they may be called upon to take in the matter.”

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Letter,
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ernor of the
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Letter,
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ernor of the
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pany to
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for the
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tinued.

Under these circumstances, it is clear that the Company thus cautioned can take no steps of themselves to meet any inroad or immigration within their territory, if it be on their territory that it will first take place—a point to which I shall afterwards revert.

Indeed, the powers of the Charter were probably not given to be used for any such purpose; but if they were sufficient for such an emergency, our hands are at the present moment tied by Mr. Forster's letter.

We think, therefore, that we are the more bound most respectfully to suggest whether, if it is intended to retain the territory north of the 49th parallel as British soil, some steps ought not to be taken for asserting its British character, and maintaining law and order within it. 10

This may, no doubt, either be effected by the direct action of the English Government, or be attempted by the agency of Canada; but as we understand the latter course to have been deliberately selected, the Committee (provided this Company are fairly dealt with in the matter of compensation) can have no right to offer any remarks on the subject.

In the face, however, of the confident predictions and statements contained in this report to the Secretary of the United States Treasury, we should not be justified if we failed to point out the necessity of speedy action of some kind. 20

With regard to the particular strip of country where the first overflow of settlers or miners may be expected from the United States Territory of Montana, I think it probable that the Hudson's Bay Company have no immediate interest or responsibility connected with it. So far as I can judge from the imperfect maps accessible to us, I believe that on the north of Montana there is a narrow belt running along the 49th parallel, watered by streams, which fall not into Hudson's Bay but into Milk River, a tributary of the Upper Missouri. If this be so, this strip of land, though British ground as being north of the 49th parallel, is not included in the grant made by the charter of Charles II. to the Hudson's Bay Company. 30

I have, etc.,

EDMUND HEAD,
Governor.

Sir Frederic Rogers, Baronet,
etc., etc., etc.

No. 41

Despatch, the Colonial Secretary to the Governor-General*

Downing Street,
1st August, 1866.No. 41.
Despatch,
Colonial
Secretary to
Governor-
General,
1st August
1866.

10 MY LORD,—I have the honour to transmit to you, to be laid before your responsible advisers, the accompanying copy of a letter from the Governor of the Hudson's Bay Company, enclosing, in the form of a pamphlet, a letter from the Secretary of the United States Treasury, in answer to a resolution from the House of Representatives, calling for information in regard to commercial relations with British America.

I have, etc.,

CARNARVON.

Governor the Right Honourable Viscount Monck,
etc., etc., etc.

No. 42

Despatch, the Governor-General to the Colonial Secretary*

Government House.
Ottawa,
18th August, 1866.No. 42.
Despatch,
Governor-
General to
Colonial
Secretary,
18th August
1866.

20 MY LORD,—I have the honour to acknowledge the receipt of your despatch (No. 15) of the 1st instant, transmitting copy of a letter from the Governor of the Hudson's Bay Company, respecting the proposed purchase by the Canadian Government of the territorial rights of that Company.

I shall not fail to bring before my advisers your Lordship's despatch and enclosure; but I wish to remark, for your information, that this is one of the subjects upon which it is considered undesirable to decide, pending the discussion of the Union of the Provinces of B.N.A.

30 As the completion of that Union may now be looked for at an early day, I trust the solution of the difficulties which surround the position of the Hudson's Bay Company may also soon be attempted.

I desire to make this statement in order to explain to your Lordship, by anticipation, any delay which may occur in answering your despatch.

I have, etc.,

MONCK.

The Right Hon. the Earl of Carnarvon,
etc., etc., etc.

* Sess. Papers, Canada, 1867-8, Vol. 1, No. 19.

No. 43.
Resolutions
of Parlia-
ment of
Canada
respecting
transfer of
Rupert's
Land and
North-
Western
Territory to
Dominion,
December
1867.

No. 43

Resolutions of the Parliament of Canada respecting the transfer of Rupert's
Land and the North-Western Territory to the Dominion.

December, 1867.*

[The first seven resolutions correspond exactly with the seven paragraphs of the address which was founded upon them, being the next following document.]

8. *Resolved*, That in case any negotiation between the Canadian Government and the Hudson's Bay Company for the termination of the rights of the latter, entered into in accordance with the despatch of the 17th June, 1865, from the then Secretary of State for the Colonies to His Excellency the Governor-General, should result in an agreement between them, it is hereby declared that such agreement must be submitted to, and sanctioned by the Parliament of Canada before the same shall have any force or effect whatever. 10

No. 44.
Joint
Address to
Her Majesty
from the
Canadian
Parliament
16th-17th
December
1867.

No. 44

Joint Address to Her Majesty from the Houses of the Parliament of Canada
founded on above Resolutions.

16-17th December, 1867.†

To the Queen's most Excellent Majesty.

20

Most Gracious Sovereign,—

We, Your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada, in Parliament assembled, humbly approach Your Majesty for the purpose of representing :

That it would promote the prosperity of the Canadian people, and conduce to the advantage of the whole Empire, if the Dominion of Canada, constituted under the provisions of the British North America Act of 1867, were extended westward to the shores of the Pacific Ocean.

That the colonization of the fertile lands of the Saskatchewan, the Assiniboine, and the Red River Districts,—the development of the mineral wealth which abounds in the regions of the North-West,—and the extension of commercial intercourse, through the British possessions in America, from the Atlantic to the Pacific,—are alike dependent upon the establishment of a stable government, for the maintenance of law and order in the North-Western Territories. 30

*Journals, House of Commons, Canada, 1867-8, pp. 66, 67 ; Prefix to Dom. Stats., 1872.

†Journals, House of Commons, Canada, 1867-8, pp. 56, 67 ; Prefix to Dom. Stats., 1872.

That the welfare of a sparse and widely-scattered population of British subjects, of European origin, already inhabiting these remote and unorganized territories, would be materially enhanced by the formation therein of political institutions bearing analogy, as far as circumstances will admit, to those which exist in the several Provinces of this Dominion.

That the 146th section of the British North America Act of 1867 provides for the admission of Rupert's Land and the North-Western Territory, or either of them, into Union with Canada, upon terms and conditions to be expressed on Address from the Houses of Parliament of this Dominion to Your Majesty, and which shall be approved of by Your Majesty in Council.

That we do therefore most humbly pray that Your Majesty will be most graciously pleased by and with the advice of Your Most Honourable Privy Council, to unite Rupert's Land and the North-Western Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government; and we most humbly beg to express to Your Majesty that we are willing to assume the duties and obligations of government and legislation as regards these territories.

20 That in the event of Your Majesty's Government agreeing to transfer to Canada the jurisdiction and control over the said region, the Government and Parliament of Canada will be ready to provide that the legal rights of any corporation, company, or individual within the same, shall be respected and placed under the protection of Courts of competent jurisdiction.

And furthermore, that upon the transference of the territories in question to the Canadian Government, the claims of the Indian Tribes to compensation for lands required for purposes of settlement, will be considered and settled in conformity with the equitable principles which
30 have uniformly governed the British Crown in its dealings with the aborigines.

All which we humbly pray Your Majesty to take into Your Majesty's most gracious and favourable consideration.

The Senate, Tuesday, December 17th, 1867.

JOSEPH CAUCHON,
Speaker.

House of Commons, Monday, December 16th, 1867.

JAMES COCKBURN,
Speaker.

No. 45.
Despatch,
Governor-
General to
Colonial
Secretary,
21st Dec-
ember 1867.

No. 45

Despatch, the Governor-General to the Colonial Secretary*

GOVERNMENT HOUSE,
OTTAWA,
21st December, 1867.

MY LORD DUKE,—I have the honour to transmit a joint Address to Her Majesty the Queen, from the Senate and House of Commons of the Dominion of Canada, praying that Her Majesty will be graciously pleased to direct that an Order in Council may be passed in conformity with the provision of the 146th Section of the British North America Act, 1867, 10 for annexing to the Dominion of Canada the territory of Prince Rupert's Land and the Red River Settlement.

I have the honour to request that your Grace will lay this Address at the foot of the Throne.

I have, etc.,
MONCK.

His Grace the Duke of Buckingham and Chandos,
etc., etc., etc.

No. 46.
Order-in-
Council
(Canada),
28th Dec-
ember 1867.

No. 46

Order in Council (Canada)

28th December, 1867.†

20

The Committee have had under consideration the annexed Memorandum from the Honourable the Minister of Public Works, submitting, for the approval of Your Excellency in Council, certain recommendations on the subject of the negotiation with the Imperial Government for the transfer of Rupert's Land and the North-West Territory to Canada, and they respectfully advise that a copy of the same, when approved by Your Excellency, be forwarded to his Grace the Secretary of State for the Colonies, as embodying the views of the Canadian Government on that important question.

30

Certified.

W. H. LEE,
Clerk, P.C.

* Sess. Papers, Canada, 1867-8, Vol. 1, No. 59.

† Sess. Papers, Canada, 1867-8, Vol. 1, No. 19.

No. 47

Report of the Dominion Minister of Public Works,
28th December, 1867.*

No. 47.
Report of
Dominion
Minister of
Public
Works,
28th Dec-
ember 1867.

The undersigned has the honour to submit, for the consideration of Your Excellency in Council, the following recommendations on the subject of the negotiations with the Imperial Government for the transfer of Rupert's Land and the North-West Territory to Canada.

I. That in addition to the joint Address of both Houses on the subject, Your Excellency will be pleased to transmit to the Secretary of State for the Colonies, the resolutions as they were finally adopted by the House of Commons and the Senate, with the votes and proceedings of both Houses thereon.

II. That the attention of his Grace the Duke of Buckingham be specially called to the Eighth Resolution, which was not embodied in the Address, and was not intended by the Canadian Parliament to express a term or condition of the Order in Council, authorized by the 146th Section of the British North America Act.

III. That Your Excellency will be pleased to express to his Grace, as the opinion of the Canadian Government, that it is highly expedient that the transfer, which the Imperial Parliament has authorized and the Canadian Parliament approved, should not be delayed by negotiations or correspondence with private or third parties, whose position, opinions and claims have heretofore embarrassed both Governments in dealing with this question.

IV. That in the opinion of the Canadian Government, the terms of the Address cannot be materially altered or extended without causing injurious delay, and greatly embarrassing the people and Government of Canada in their efforts to open communications with the Territory, to encourage emigration and settlement, to establish law and order, and to provide for the speedy organization of Municipal and Local Governments therein.

V. That recent proposals of the Congress of the United States in reference to British America, the rapid advance of mining and agricultural settlements westward, and the avowed policy of the Washington Government to acquire territory from other powers by purchase or otherwise, admonish us that not a day is to be lost in determining and publishing to the world our policy in regard to these Territories.

VI. That Your Excellency will be pleased to request his Grace to inform Your Excellency by Atlantic Cable (if the information can be so

No. 47.
Report of
Dominion
Minister of
Public
Works,
28th Dec-
ember 1867
—continued.

communicated), whether the Imperial Cabinet will at once advise Her Majesty to approve of the transfer on the terms of the Address, in order that the Canadian Government may be prepared to submit appropriate measures on the subject on the re-assembling of Parliament in March next.

December, 28th, 1867.

Respectfully submitted,
WM. McDOUGALL.

No. 48.
Letter,
Governor of
Hudson's
Bay Com-
pany to
Colonial
Secretary,
15th Janu-
ary 1868.

No. 48

Letter, the Governor of the Hudson's Bay Company to the
Colonial Secretary*

HUDSON'S BAY HOUSE, LONDON,
15th January, 1868.

10

MY LORD DUKE,—In addressing this letter to your Grace on behalf of the Committee of the Hudson's Bay Company, I think that some apology is necessary for anticipating the official communication from the Colonial Office, of the Resolutions passed in the Parliament of Canada, as well as the Address to be founded upon them; but as from the tone of the debate in the Canadian Parliament, and from the terms of the Resolutions passed there, it is manifestly the object of that Parliament to have the power to establish in the Dominion of Canada, including the territory of Rupert's Land, Courts which shall have jurisdiction in all matters arising in any part of British North America, and thus to give power to the tribunals so constituted to determine upon the rights claimed by this Company under their Charter a course of proceeding which this Committee consider to be so injurious to the interests of the Hudson's Bay Company, they are desirous to bring the matter before your Grace, and to submit their views upon the subject to Her Majesty's Government, before any assent is given or determination come to in reference to Her Majesty's approval of the proposed admission of Rupert's Land into the Union of British North America. 20

I beg to remind your Grace that the rights of this Company, under their Charter, have at various times been brought under the consideration of the Government, and that the result of those discussions has been a clear and distinct recognition on the part of the Crown that the general validity of the Charter cannot now be called in question, and, in particular, that the territorial ownership of the lands granted by the Charter and the *rights* necessarily incidental thereto, must now be considered as valid. 30

It is true that questions have from time to time been raised in Canada as to the extent of the territory claimed by this Company under their Charter, and in some respects as to other rights which the Charter confers; but while Her Majesty's Government have at all times declined to be any party, 40

* Journals, Coms., Canada, 1867-8, p. 368.

to proceedings on the subject, the opportunity has always been afforded to the authorities of Canada to bring any questions for adjudication before Her Majesty in Council—a course to which this Company have always been prepared to accede, and which appears to be the only legitimate mode of deciding their rights, if they are to be called in question.

The Canadians have altogether abstained from availing themselves of the opportunity thus afforded them; but it is now obviously the object of the Canadian Legislature to secure to tribunals of their own nomination the decision of those rights.

10 I may here state that, so far as the mere political powers granted by the Charter are concerned, such as the rights of government, taxation, and exclusive administration of justice, the Company have long since expressed their willingness that these powers should be vested in officers deriving their authority directly from the Crown; but before any such powers can with justice be transferred to the Colonial Government, I submit that the extent of the territorial rights of the Company shall either be fully recognized, or that if the Canadian Government are desirous of procuring those rights for the benefit of Canada in general, they should in the first instance arrange with the Hudson's Bay Company the terms upon which they should be so
20 acquired.

But should the Canadian Legislature still desire that any judicial investigation into the territorial rights of the Company should take place, such inquiry should be referred to the Judicial Committee of the Privy Council, in accordance with the opinion of the Law Officers of the Crown, given so long ago as July, 1857, as the only tribunal to which ought to be delegated the construction of a Charter emanating from the Sovereign of Great Britain. This opinion your Grace will find at page 404 of the Report from the Select Committee on the Hudson's Bay Company, ordered by the House of Commons to be printed, the 31st July and 11th August, 1857.

30

I have, etc.,

EDMUND HEAD,
Governor.

His Grace the Duke of Buckingham and Chandos, etc., etc., etc.

No. 49

Letter, the Governor of the Hudson's Bay Company to the Colonial Secretary.*

Hudson's Bay House, London,
28th January, 1868.

40 MY LORD DUKE,—I have the honour to acknowledge Mr. Elliot's letter, of the 18th instant, enclosing a copy of Address to the Queen, forwarded by

No. 49.
Letter, The Governor of the Hudson's Bay Company to Colonial Secretary, 25th January 1868.

* Journals, Coms., Canada, 1867-8, Vol. 1, p. 370.

No. 49.
Letter, The
Governor
of the
Hudson's
Bay Com-
pany to
Colonial
Secretary,
25th Janu-
ary 1868—
continued.

the Governor-General of Canada, and to thank your Grace for communicating these papers to the Hudson's Bay Company.

On this Address I beg to request your Grace's attention to the following observations on behalf of myself as Governor, and the Committee of the Company :—

1. It seems necessary in the first place to distinguish the two classes of rights conferred on the Company by the Charter. Some of these are, no doubt, of a public or political character, such as belong to a proprietary government; but others are practically of a private nature, such as might have been vested in any individual subject, or any private corporation clothed with no public functions of any kind. Of these latter, it is only necessary at present to refer to the right of private property in the soil and in the mines and minerals. 10

Report of
1857, Ap-
pendix, p. 404,
para. 2.

2. It may be that the public or political rights of the Company, are in the Charter ill-defined and of doubtful expediency at any time. It may be, too, as the Law Officers in their letter of 1857 appear to hint, that for any effectual exercise they require the aid of the right of private property, as vested in the Company by the same instrument.

Sir E. Head
to Sir F.
Rogers,
28th August
1863.

3. The Committee need scarcely remind your Grace that, so far from opposing a resumption by the Crown of the political powers of the Company, almost the first important step taken by them in 1863 was the adoption of the following resolution :—“ Resolved that the time has come when, in the opinion of this Committee, it is expedient that the authority, executive and judicial, over the Red River Settlement and the south-western portion of Rupert's Land, should be vested in officers deriving such authority directly from the Crown, and exercising it in the name of Her Majesty. 20

“ That the Governor be empowered to communicate this resolution to his Grace the Duke of Newcastle, and to discuss the subject with him, or with the Under Secretary of State for the Colonies, reporting from time to time to this Committee thereon.” 30

Mr. C. Fortes-
cue to Sir E.
Head,
11th March
1864.

4. In the correspondence which ensued with the Colonial Office, it appears to be implied on the part of his Grace the Duke of Newcastle, that the fact of the right of private property in the soil being no longer possessed by the Crown, was one of the chief obstacles to a compliance with the suggestion made in the above resolution. If this be so, the very fact of making this objection involves an admission in favour of the Company. Most assuredly if the Crown had alienated its right of property in the soil and minerals of the Hudson's Bay Territory, it had granted it to no other party than the Hudson's Bay Company, and by no instrument other than the Charter of Charles II. 40

See Post,
para. 9.

5. On Mr. Fortescue's letter of March 11, 1864, an offer of a contingent money payment, as the consideration for the cession of the territorial rights of the Company, was distinctly made by the Secretary of State. The proviso inserted in the postscript to that letter will be adverted to afterwards, and had reference only to the supposed rights of Canada.

6. It is unnecessary for the Committee to refer to the undisputed enjoyment of these rights, at any rate since the time of the Treaty of Utrecht.

7. In addition to all this, it remains, to quote the express words of the Law Officers in their letter of 1857, already referred to. They say, "In our opinion the Crown could not now, with justice, raise the question of the general validity of the Charter; but that on every legal principle the Company's territorial ownership of the lands granted, and the rights necessarily incidental thereto, ought to be deemed to be valid."

Moreover, in a passage alluded to above, the Law Officers imply indirectly their belief in the validity of this right of private property, when they say that "rights of government, taxation, exclusive administration of justice, or exclusive trade, otherwise than as a consequence of the right of ownership of the land, could not legally be insisted on by the Company." What other opinions of the Law Officers of the Crown may be found in the records of the Colonial Office it is not for us to say, but the evidence given by the Right Honourable Edward Ellice before the Committee of 1857, as to the opinion taken by him both for and against the Company, is well worth referring to.

8. One other point is a mere technicality no doubt, but it may be worth observing that the title of the Company to their land is an English title, since it is granted "to be holden as of the Manor of East Greenwich, in our County of Kent, in free and common soccage."

9. The Committee do not intend to impute to the Parliament or the Ministry of Canada, any deliberate intention of violating such rights of the Hudson's Bay Company as they admit to exist, but it must be remembered that a theory has been started, and is referred to in the debate on this Address by which the admissions of the English Government and the opinion of the English Law Officers as to the right of ownership in the soil are directly negatived. It has been supposed, we believe, that France was in possession of these territories, or a large portion of them, when the Charter was granted; that they were therefore within the exception which that Charter contains with regard to other territories belonging to "any other Christian Prince;" and that this French title remained good and was transferred to the English Crown with Canada at the final cession of that Province by France.

10. This is not the place for entering on a discussion of the facts and law involved in this argument,—an argument, as we have said, inconsistent with the continued recognition of the Company's rights in various ways by the English Government and their legal advisers for a long series of years; but if this objection to the Company's title shall be presented in a tangible form before a proper tribunal, the Hudson's Bay Company will be quite ready to meet it and demonstrate its futility.

11. The very existence, however, of such a theory in the minds of the Canadian Ministers or the Canadian people, is a sufficient reason why, in

No. 49.
Letter, The
Governor
of the
Hudson's
Bay Com-
pany to
Colonial
Secretary,
25th Janu-
ary 1868—
continued.

Letter of the
Law Officers
to Mr. Meri-
vale, Ap-
pendix to
Report, 1857,
page 404, last
paragraph.

Answers to
questions 5,
8, 2, 3.

See postscript
to letter of
Mr. C. Fortes-
cue to Sir E.
Head, 11th of
March, 1864,
and letter
April 5, 1864.

No. 49.
 Letter, The
 Governor of the
 Hudson's Bay Com-
 pany to Colonial
 Secretary,
 25th Janu-
 ary 1868—
continued.
 Despatch of
 Mr. Cardwell
 to Lord
 Monck,
 June 17, 1865.
 Letter of
 Mr. Forster to
 Sir E. Head,
 20th Febru-
 ary 1866.
 Minute,
 June 22, 1866.
 Letter from
 Sir F. Rogers
 to Sir E.
 Head,
 31st July
 1866.
 Mr. Elliot to
 Sir E. Head,
 April 15,
 1867.
 Extract No. 1
 enclosed.

justice to the Company, it should be set aside, or its truth or falsehood should be conclusively tested before their rights of property under the Great Seal of England, and in fact their future existence, is placed under the legislation and the absolute control of Canada.

12. The Committee cannot but feel that the Company has already had great reason to complain of the course pursued during the last few years. In 1865 the Canadian Delegates sent to this country to promote the scheme of Confederation solemnly "undertook," with Mr. Cardwell, to negotiate with the Hudson's Bay Company. The answer given by the Committee was that they would be ready to consider any proposal. The fact of this undertaking was recited again in a subsequent letter, as a reason why no other step should be taken. No negotiation, however, was opened, and, in 1866, the Canadian Council resolved that such negotiation must devolve on the Government of the Confederation when constituted, rather than on the Government of Canada. This was confirmed by the resolutions of the Delegates in England, of April 3rd, 1867. After all, when the Confederation is formed, and the Parliament has met, resolutions are passed, and an Address to the Queen is adopted, praying that the powers of legislation and government over the Hudson's Bay Territory and the North-Western Territory may be conveyed to Canada first, and that the judicial decisions or negotiations as to the Company's rights should take place afterwards. 10 20

13. We desire in the first place to remark that this inversion of the order of proceeding is entirely contrary to the expectation raised by the acts of the delegates, and by the communications from the Colonial office to us. We may have erred in thinking so, but certainly we conceived that the negotiations which the delegates in 1865 undertook to initiate were intended, under the Act of last session, to form the preliminary step for transferring the supreme control to Canada, not to follow after such transfer with all the disadvantages to the Company which must then ensue from the change of the relative position of the parties. It would appear, too, from a passage in a speech of the Honourable Mr. Holton in the Canadian Parliament, as reported in the *Canadian News*, as per extract herewith, that the Committee were not the only parties who supposed this to be the intention of the Government. 30

The Committee, moreover, thought that it was expressly in anticipation of this original undertaking to negotiate being thus carried out, that the Secretary of State for the Colonies intimated his wish in the following terms that the Company should abstain from any other arrangements likely to interfere with the views then entertained :

" It is of course for the Hudson's Bay Company to consider for themselves what course is most proper and conducive to their own interests. But it appears to Lord Carnarvon that any effective negotiation being for the moment impossible, it is for the interest of both parties that the question should remain open for arrangement so soon as an authority exists capable of dealing with it on the part of the Colony or Colonies interested. He would therefore regret to learn that the Company contemplates any 40

Mr. Elliot to
 Sir E. Head,
 January 23,
 1867.

immediate action which was calculated to embarrass the negotiations, which would then become possible, and which in the opinion of the Executive Council it would be the duty of the Confederate Government to open.”

14. The Committee felt no anxiety respecting the wide powers of transfer conferred on the Crown by the Act of last session, because they did not believe that their rights of ownership in the soil and minerals could be affected by it; and because, after the undertaking to negotiate formally communicated to them, and the correspondence relating to it, they relied, as they continue to rely, on the honour and good faith of the English Government.

15. But the case assumes a very different aspect if the plan of giving to the Canadian Parliament and Government legislative and administrative control over these territories, without defining and providing for the rights and interests of the Company *as a condition precedent* should be carried out. So far as we now see, no security of any kind would exist against such a use of this control in taxation and other matters as might be thought best fitted for compelling the Company to accept any terms, however disadvantageous. No specific guarantee it seems is proposed to be given as to the legislation which might take place before these claims were finally disposed of, or as to the impartiality and competency of the Courts before which the Company, if aggrieved, would have to seek redress. At any rate, the relative position of the two parties to any such suit or discussion respecting these rights would, *after* the transfer of the legislative and administrative control, be one which must leave the Company as defendant, more or less at the mercy of the plaintiff, and would, to say the least, taint the voluntary character of any agreement to be subsequently arrived at. The only reliance of the Company would be on the honesty and the considerate disinterestedness of the Canadian Parliament and people.

The Committee, moreover, venture to think that their apprehensions on this score are reasonably increased, rather than diminished by all that is reported to have passed in the debates, and especially by the extract of the accompanying report of the speech of Sir John A. Macdonald, K.C.B., the Canadian Premier. The Report is taken from the *Canadian News*. It is probably condensed, and, as a matter of course, it may be more or less inaccurate.

16. The Act of last Session provides that the incorporation of Rupert's Land and the North-Western Territory with Canada may be made by the Queen “on such terms and conditions in each case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf, shall have effect as if they had been enacted by Parliament of the United Kingdom of Great Britain and Ireland.”

Now, looking to the previous correspondence between the Hudson's Bay Company and the Colonial Office, it is not unreasonable to suppose, that so far as regards the Territory of the Company, the Act contemplated the insertion of certain terms and conditions in any Address relating to the transfer of such Territory.

No. 49.
Letter, The
Governor
of the
Hudson's
Bay Com-
pany to
Colonial
Secretary,
25th Janu-
ary 1868—
continued.
30 & 31 Vict.
c. 3, sec. 146.

Extract from
the *Canadian
News*, in-
closed 2.

30 & 31 Vict.
cap. 3, s. 146.

No. 49.
Letter, The
Governor
of the
Hudson's
Bay Com-
pany to
Colonial
Secretary,
25th Janu-
ary 1868—
continued.

But the Address, a copy of which your Grace has had the goodness to transmit to us, contains no "terms and conditions" whatever, except a vague assurance that the "Parliament of Canada will be ready to provide that the legal rights of any corporation, company, or individual within the same shall be respected and placed under the protection of courts of competent jurisdiction."

Such an assurance is of little value, when the party making it disputes the very existence of the rights in question, and at any rate it amounts to no more than a statement that British subjects on British soil shall be entitled to the protection of a Court of Law of some kind, hereafter to be established by the act of one of the parties. 10

It might be presumed that redress before a competent tribunal would be the right of any one who was wronged, and such an assurance can hardly be deemed a "term or condition" of the kind which the Statute intended to be set out specifically in the Address from the Legislature.

17. The Committee trust it may not for one moment be supposed that they arrogate to themselves any right or entertain the smallest desire to impede or even to comment on the general policy of transferring the government of the North-Western Territory and of the Hudson's Bay Territory to the Confederate Government of Canada. In this, as in everything else, they would bow with submission to the authority of the Crown, and rejoice in any measure which was really calculated to strengthen loyalty and promote union in British North America. 20

18. What is asked for as a matter of justice to a proprietary consisting of upwards of 1,700 shareholders, who have paid a very large sum on the faith of our Charter, and of the protection of their rights of property in the soil by English law, is the adoption by Her Majesty's Government of one of the following alternatives:—

1st. That some conclusive agreement as to the extent, value and compensation to be made for the claims of the Company, as owners of the soil and minerals of the Hudson's Bay Territory, and some arrangement, by which burthens assumed by them in their political capacity, such as the endowment of the bishoprics, may, when that capacity ceases, be transferred to others, should be completed before not after, the transfer of the government of the North-Western Territory or Hudson's Bay Territory to Canada. 30

2nd. That before any incorporation of Rupert's Land or the North-Western Territory with Canada, the rights of private property vested in the Company, and the exact limits of such rights, should be ascertained, acknowledged and efficiently protected by law, in a manner binding on any Colonial Government, so that they should not be at any time hereafter impeached or violated without proper compensation. 40

I have, etc.,

EDMUND HEAD,
Governor.

His Grace the Duke of Buckingham and Chandos,
etc., etc., etc.

No. 50

Despatch, the Colonial Secretary to the Governor-General*

Downing Street,
23rd April, 1868.No. 50.
Despatch,
Colonial
Secretary to
Governor-
General,
23rd April
1868.

10 MY LORD,—I have already acknowledged, on the 18th of January, Your Lordship's despatch, No. 107, of the 21st of December, transmitting a Joint Address from the Senate and House of Commons of Canada to Her Majesty, praying the annexation to Canada of Rupert's Land and the North-West Territory. Your Lordship will have the goodness to inform the Senate and House of Commons that their Address has been duly laid before the Queen.

Her Majesty's Government will be willing to recommend a compliance with the prayer of the Address so soon as they shall be empowered to do so with a just regard to the rights and interests of Her Majesty's subjects interested in those territories. They are advised, however, that the requisite powers of government and legislation cannot, consistently with the existing Charter of the Hudson's Bay Company, be transferred to Canada without an Act of Parliament. Before such an Act can be obtained it is necessary to consider the position of the Hudson's Bay Company.

20 The Company have held their Charter, and exercised privileges conferred by it, for 200 years, including rights of government and legislation, together with the property of all the lands and precious metals; and various eminent Law Officers consulted in succession have all declared that the validity of this Charter cannot be justly disputed by the Crown.

I have, on behalf of Her Majesty's Government, called upon the Company to state the terms on which they would be prepared to surrender to the Crown whatever rights they have over the lands and precious metals, including the rights of government, with the intimation that no present payment in money will be made to them, but that in the transference of their rights to Canada they might have a reservation made to them of defined portions of land, and of a share of the future proceeds of the lands and precious metals of the territory up to a certain fixed amount.

I enclose copies of the letters which have passed up to the present time between the Company and this Department upon the subject.

40 I purpose to introduce a Bill into the Imperial Parliament with the view of authorizing any arrangement which may be effected on the basis thus indicated; of defining the territory over which it extends; and authorizing the subsequent transfer to the Canadian Government of the rights and powers to be acquired by the Crown in respect to government and property, in accordance with the prayer of the Address.

With respect to the North-West Territory, the same obstacles do not exist to the transfer of the greater part by the Crown to Canada at the present time, subject to proper reservations of the rights and property of Her Majesty's subjects now settled therein, and for the protection of Her Majesty's native subjects; but I apprehend that while it remains separated

H. B. Co.,
15th Jan.,
1868.
C. O., 18th
Jan., 1868.
C. O., 18th
Jan., 1868.
H. B. Co.,
25th Jan.,
1868.
C. O., 23rd
April 1868.

* Journals, Coms., Canada, 1867-8, Vol. 1, p. 367.

No. 50.
Despatch,
Colonial
Secretary to
Governor-
General,
23rd April
1868—*con-
tinued.*

from Canada by the Hudson's Bay Company's Territory, still under the Company's government, it will not be the desire of Canada to undertake the government of this more remote country. A portion of the North-West Territory immediately adjacent to British Columbia, I am of opinion that it will be necessary for the public advantage to retain in the possession of the Crown, with a view to its incorporation with British Columbia.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble servant,

BUCKINGHAM & CHANDOS.

10

No. 51

No. 51.
Letter,
The Under-
Secretary
for the
Colonies to
the Deputy-
Governor of
the Hud-
son's Bay
Company,
23rd April
1868.

Letter, the Under-Secretary for the Colonies to the Deputy-Governor of the Hudson's Bay Company*

Downing Street,
23rd April, 1868.

SIR,—I am directed by the Duke of Buckingham and Chandos to acquaint you that he has had under his consideration the Address from the Parliament of Canada to Her Majesty, praying that Rupert's Land and the North-West Territory may be united with the Dominion of Canada, and placed under the authority of the Canadian Parliament, and the letter from the Governor of the Hudson's Bay Company, dated the 25th of January, on that subject. 20

Her Majesty's Government think that it will be right to comply, under proper conditions, with the wish expressed by the Parliament of Canada, and they propose to introduce a Bill for the purpose into the Imperial Parliament.

They desire, however, to pay due regard to the interests of Her Majesty's subjects already concerned in the Territory; and with that view they will be prepared to make provision for any reasonable terms which may be agreed upon with the Hudson's Bay Company. 30

I am directed to call your attention to the negotiations which took place in 1864 between the Secretary of State and the Company, as recorded in the correspondence referred to in the margin, and I am to request that you will state what are the terms which the Company would be prepared to accept, proceeding on the principles then adopted—namely, that the compensation should be derived from the future proceeds of the lands, and of any gold which may be discovered in Rupert's Land, coupled with reservations of defined portions of land to the Company.

I am, etc.,

C. B. ADDERLEY.

40

To Sir Curtis Lampson.

* Journals, Coms., Canada, 1867-8, Vol. 1, p. 374.

Colonial
Office, 11th
March 1864.
5th April,
1864.
6th June,
1864.
Hudson's Bay
Company,
13th April,
1864.
7th Dec-
ember, 1864.

No. 52

Despatch, the Colonial Secretary to the Governor-General*

Downing Street,
8th August, 1868.No. 52.
Despatch,
Colonial
Secretary to
Governor-
General,
8th August
1868.

MY LORD,—I have the honour to transmit to you, for your Lordship's information, the enclosed copy of an Act of Parliament,† conferring powers for the surrender to Her Majesty by the Hudson's Bay Company of their territories and privileges.

In pursuance of the powers conferred by this Act, I propose to enter into negotiations with the Hudson's Bay Company as to the terms on which they will surrender their rights, and I shall not fail to keep your Lordship informed of the course of such negotiations.

I have, &c.,

BUCKINGHAM & CHANDOS.

Governor the Right Honourable Viscount Monck.

No. 53

Telegram, the Governor-General to the Colonial Secretary*

Quebec, 9th September, 1868.

Privy Council wish to send a delegation to London to take part in treaty with Hudson's Bay Company.

They are anxious that negotiations with the Company should be postponed till arrival of delegates in London.

Please inform me by Cable how soon you will be able to receive them.

They are prepared to go immediately.

MONCK.

No. 53.
Telegram,
Governor-
General to
Colonial
Secretary,
9th Sept-
ember 1868.

No. 54

Order in Council (Canada)

1st October, 1868.*

In view of the great importance of the immediate settlement of the Hudson's Bay question, and in consequence of the passage by the Imperial Parliament of the Act 31 and 32 Vic., cap. 105, and in accordance with the despatch of his Grace the Secretary of State, No. 173, and dated 8th August, 1868, the Committee of Council advise that a delegation

No. 54.
Order-in-
Council
(Canada),
1st October
1868.

* Sess. Papers, Canada, 1869, No. 25.

† The Rupert's Land Act, 1868.

No. 54.
Order-in-
Council
(Canada),
1st October
1868—con-
tinued.

proceed to England composed of the Hon. Sir G. E. Cartier and the Hon. W. McDougall, for the purpose of arranging terms for the acquisition by Canada of Rupert's Land, such terms to be subject to the approbation of the Governor in Council.

WM. H. LEE,
Clerk, P. C.

No. 55.
Memo-
randum of
Sir George
E. Cartier
and Hon.
William
McDougall,
Canadian
Delegates,
1st October
1868.

No. 55

Memorandum of Sir George E. Cartier and the Hon. William McDougall,
Canadian Delegates to England*

We have the honour to acknowledge communication of a Minute of Council of this day's date, appointing us a delegation to England to arrange with the Imperial Government the terms upon which Canada may acquire Rupert's Land, and to state that we have much pleasure in accepting the mission. 10

We would, however, beg to call the attention of the Committee to the terms of the recent Act of the Imperial Parliament to "enable Her Majesty to accept a surrender upon terms of the lands, privileges and rights" of the Hudson's Bay Company which declares that Rupert's Land for the purposes of that Act "shall include the whole of the lands and territories held or claimed to be held" by the Company. 20

We would also call the attention of the Committee to the terms of the British North America Act, which provides for the admission of Rupert's Land and the North-West Territory, or either of them, into the Union.

We respectfully recommend that we be authorized to arrange with the Imperial Government for the admission of the North-West Territory into union with Canada, either with or without Rupert's Land as may be found practicable and expedient.

GEO. ET. CARTIER.
W. McDOUGALL.

October 1st, 1868.

30

No. 56.
Order-in-
Council
(Canada),
1st October
1868.

No. 56

Order in Council (Canada)

1st October, 1868.*

The Committee have had under consideration a memorandum dated this day from the Hon. Sir George E. Cartier, Bart., and the Hon. Wm. McDougall, stating that they have received communication of the Minute in Council appointing them a delegation to England to arrange

* Sess. Papers, Canada, 1869, No. 25.

with the Imperial Government the terms upon which Canada may acquire Rupert's Land, and expressing their readiness to accept that mission. No. 56.

They however bring under the notice of the Government the terms of the recent Act of the Imperial Parliament, to enable Her Majesty "to accept a surrender upon terms, of the lands, privileges, and rights" of the Hudson's Bay Company, which declares that "Rupert's Land" for the purposes of that Act "shall include the whole of the lands and territories held or claimed to be held" by the Company. Order-in-Council (Canada), 1st October 1868—*continued.*

They also call Your Excellency's attention to the terms of the British North America Act, which provides for the admission of Rupert's Land and the North-West Territory, or either of them, into the Union, and they recommend that they be authorized to arrange with the Imperial Government for the admission of the North-West Territory into union with Canada, either with or without Rupert's Land as may be found practicable and expedient. 10

The Committee advise that the authority requested by the delegates be granted, and that a copy of this Minute, if approved by Your Excellency, be transmitted to his Grace the Secretary of State for the Colonies.

WM. H. LEE,
Clerk, P. C.

20

No. 57

Letter, the Governor of the Hudson's Bay Company to the Under-Secretary for the Colonies*

Hudson Bay House,
London,
October 27th, 1868.

No. 57.
Letter,
Governor of
Hudson's
Bay Com-
pany to
Under-
Secretary
for the
Colonies,
27th Octo-
ber 1868.

SIR,—The Committee of the Hudson's Bay Company have received from Sir C. Lampson and myself reports of the interviews which we have had the honour to have with his Grace the Duke of Buckingham and Chandos, on the subject of the proposed cession to Canada of the Company's territorial rights, and they have anxiously considered how far they would be justified in altering the terms proposed in my letter of May 13th, with a view to meet the objections which have been raised to them. 30

They understand his Grace to suggest that instead of the Company being entitled to a free grant of 5,000 acres, to be selected by them for every 50,000 acres which shall be alienated by the Government, the whole territory should be at once divided into sections on the map, and that a certain portion of each section should be allotted to the Company by fixed geographical rules, the Company taking the chance as to the value of the land which might fall to its share; and further, that in order to meet the evils which might arise from the existence of so many blocks of wild 40

* Sess. Papers, Canada, 1869, No. 25.

No. 57.
Letter,
Governor of
Hudson's
Bay Com-
pany to
Under-
Secretary
for the
Colonies,
27th Octo-
ber 1868—
continued.

land free from taxation, the exemption of the Company's wild land from taxes should continue only for a limited period, say for example, twenty years.

The Committee regret that they are unable to agree to this mode of allotment. One of the chief inducements to their shareholders to accept the proposed arrangements would be that, according to the plan of the Committee, if, as it is hoped, the colonization of the country proceeded rapidly under the new government, the Company would receive blocks of land of moderate size in the vicinity of the new settlements, which would possess an actual value in the market. But if the plan suggested by the Duke of Buckingham were adopted, instead of the grants to the Company proceeding equally with the progress of colonization, the whole country would be dotted over with isolated tracts of wild land belonging to the Company, many of which, even if ultimately available for settlement, must necessarily remain entirely valueless until long after the expiration of the twenty years, and if taxed would be a heavy burden instead of a source of profit to the Company. 10

The Committee are willing, however, to agree that the exemption from taxes on the Company's wild land should only apply to each block of 5,000 acres; which they may be entitled from time to time to select, for a period of twenty years from the date of selection. This would give the Company a reasonable time within which to turn each block to profitable account, and at the same time the ultimate liability to taxation would prevent these lands from becoming an obstruction to the free progress of settlement. 20

The Committee think it right to add that they do not propose that land purchased by the Company should be reckoned in the 50,000 acres; and that the selection of the land by the Company naturally implies that the Company shall bear the cost of such a survey as may be necessary to define the land selected, it being understood that the Company shall have the option of making the survey by means of their own officers. 30

The Committee are quite willing that land granted for such purposes as roads, churches or schools shall not be liable to the payment of one shilling per acre to the Company, provided that the exemption is restricted to the land actually used in the construction of the work, and that the exceptions are specified in the agreement with the Government for the cession of the Company's rights. They also admit that it is proper that a similar exemption should apply to land set apart as Indian Reserves, on the understanding that these reserves will be made by Her Majesty's Government, as they are informed it is his Grace's intention they shall be, before the Company's territory is transferred to Canada, and that, if at any time before the million sterling is paid to the Company, such land shall be used or granted for other purposes, it shall become liable to the payment of a shilling an acre in common with other land. 40

With respect to the land which the Committee have asked that the Company may retain as private property round their posts and stations, if 6,000 acres are thought to be too much in that part of Rupert's Land

which is suited for settlement, the Committee will consent that the 6,000 acres shall only apply to posts which do not lie within the limits referred to under article 10, in my letter of May 13th, as laid down in Sir E. Head's letter of November 11th, 1863, and that within these limits the extent of land to be retained round each post shall not exceed 3,000 acres, all the lands retained to be free from taxation, except when reclaimed from a wild state.

10 Lastly, the Committee cannot deny that the stipulation that the Committee shall have power to bring before the Judicial Committee of Her Majesty's Privy Council matters in dispute, is open to the objection that the Privy Council acts only as a Court of Appeal, and as they presume that the Company would be entitled to appeal from the local Courts to the Privy Council, they do not think it indispensable to insist on this demand.

20 The Committee, in declaring their willingness to make these alterations in the terms which they proposed, are actuated by a sincere desire to arrive at an agreement with Her Majesty's Government; but they are conscious that they would be wanting in their duty if they did not add that at the half-yearly meeting of shareholders, held since my letter of May 13th was written, opinions were expressed strongly adverse to any arrangement for the cession of the Company's territorial rights which did not secure the payment as compensation of a sum of hard money.

30 Sir Edmund Head, in the concluding paragraph of his letter of April 13th, 1864, in which terms were proposed similar to those now under discussion, but involving the cession of a part only of the Company's territory, avowed to the Duke of Newcastle the apprehensions of the Committee that it might be difficult to convince the shareholders that the offers then made were to their advantage; and although the Committee have felt bound not to recede from the terms contained in my letter of May 13th, which were based on their former offers, they cannot conceal from his Grace that they anticipate a very serious opposition on the part of their shareholders to any such arrangement as that which they have put forward.

His Grace will recollect that at our first interview, before the Canadian delegates had started for England, Sir C. Lampson and I strongly insisted upon this point, and that we suggested that if Canada would agree to pay to the Company one million sterling in bonds, such a settlement might be acceptable to our proprietors.

40 The Committee entirely share this view. The more they consider the very complicated arrangements which have been devised as a substitute for the payment of a sum of money at once, the more they are convinced that it is as much for the interest of Canada as of the Company, that the claims of the Company should be provided for by a direct compensation, and not by contingent payments extending over a long series of years, and by grants of land under stipulations, which, although indispensable to protect the Company from spoliation, would be invidious in the eyes of the future settlers and embarrassing to the Colonial Government.

No. 57.
Letter,
Governor of
Hudson's
Bay Com-
pany to
Under-
Secretary
for the
Colonies,
27th Octo-
ber 1868—
continued.

No. 57.
Letter,
Governor of
Hudson's
Bay Com-
pany to
Under-
Secretary
for the
Colonies,
27th Octo-
ber 1868—
continued.

At the same time the Committee desire me to assure his Grace, that if their terms as now modified are agreed to by Her Majesty's Government, the Committee will use all their influence to induce the proprietors to confirm them.

I have the honour to be, Sir,
Your most obedient servant,

The Right Honourable C. B. Adderley, M.P.,
Colonial Office.

KIMBERLEY.

No. 58.
Letter,
Under-
Secretary
for the
Colonies to
Governor of
Hudson's
Bay Com-
pany,
1st Dec-
ember 1868.

No. 58

Letter, the Under-Secretary for the Colonies to the Governor of the
Hudson's Bay Company* 10

1st December, 1868.

MY LORD,—I am directed by the Duke of Buckingham and Chandos to acknowledge the receipt of your Lordship's letter of the 27th October, and to express his Grace's regret that the serious illness of Mr. McDougall, one of the two delegates sent from Canada, which prevented his Grace from communicating with him, should have caused so long a delay in the answer.

His Grace regrets to perceive that the letter under reply does not afford much prospect of an arrangement being come to. 20

Her Majesty's Government, in the letter of Mr. Adderley of 23rd April to Sir Curtis Lampson, referring to the negotiations which took place in 1864, requested to be informed "what terms the Company would be prepared to accept, proceeding on the principles then adopted, namely, that the compensation should be derived from the future proceeds of the lands, and of any gold which may be discovered in Rupert's Land, coupled with reservations of defined portions of land to the Company."

To this your Lordship replied that the Committee were prepared to recommend—

1. That the Company shall surrender all the territory which they hold under their charter, with the reservation of all their posts and stations, with an area of 6,000 acres round each such post or station; this reservation of 6,000 acres, however, not to apply to the Red River Settlement. 30

2. That the Company shall be entitled to receive 1s. for every acre of the land surrendered, which shall be disposed of by the Government whether by sale, lease, or free grant, or parted with in any other manner.

3. That one quarter of the sum received by the Government as an export duty for gold and silver, or on leases of gold and silver mines, or for licenses for gold and silver mining, shall be paid to the Company, the

* *Sess. Papers, Canada, 1869, No. 25.*

amount to be received under this and the preceding article being limited to a total sum, conjointly of £1,000,000 sterling.

4. That the Canadian Government shall confirm all titles to land that has been alienated by the Company at Red River, or elsewhere.

5. That whenever the Government shall have sold, leased, granted, or otherwise parted with 50,000 acres, the Company shall be entitled for every such 50,000 acres to a free grant of 5,000 acres of wild land to be selected by them.

6. That no tax be imposed upon any land belonging to the Company not under cultivation, and no exceptional tax shall be imposed upon the Company's other lands or property, or upon the Company's servants.

7. That the disputed matter of the Company's lands in Canada be settled by issuing grants on the footing formerly agreed upon by Mr. Vankoughnet and Mr. Hopkins.

8. That the Canadian Government shall take over from the Company all the materials for the construction of the telegraph now in Rupert's Land, and the North-West Territory, on payment of the cost price, and the expenses already incurred, with interest.

9. That full liberty to carry on their trade shall be secured to the Company, free from any special or exceptional taxation.

10. That until £1,000,000 sterling, stipulated by articles 2 and 3, shall be paid to the Company, no export duties shall be levied by Canada upon furs exported by the Company, and no import duties shall be levied upon articles imported by the Company into the North-Western Territory, and into that part of Rupert's Land which is not included within the geographical limits laid down in Sir E. Head's letter of 13th November, 1863, the Company to be further entitled to import goods in bond free of duty, through any part of the surrendered territory into the North-Western territory and the aforesaid part of Rupert's Land.

30 Lastly. That in order to afford to the Company a guarantee for the due fulfilment of these provisions by the Canadian Government, power shall be given to the Company to bring before the Judicial Committee of Her Majesty's Privy Council for decision any matters connected with the carrying into effect the foregoing provisions, in respect of which they may consider themselves aggrieved.

His Grace intimated in reply, that there were "certain points in the terms set forth to which he would not feel at liberty to agree in their present shape," and at the meetings which ensued his Grace expressed his strong objections to the principle of the proposals of the Company respecting reserves of land to be selected from time to time at the discretion of the Company, and to the principle of special exemption from taxation in their favour, and expressed his opinion that there were many points in the other proposals requiring material modification.

Your Lordship's present letter intimates that the Company are unable to agree to certain modifications which suggested themselves during the

No. 58.
Letter,
Under-
Secretary
for the
Colonies to
Governor of
Hudson's
Bay Com-
pany,
1st Dec-
ember 1868
—continued.

No. 58.
Letter,
Under-
Secretary
for the
Colonies to
Governor of
Hudson's
Bay Com-
pany,
1st Dec-
ember 1868
—continued.

discussions as modes of avoiding the objections entertained by his Grace, and proceeds to state the changes which the Company are willing to agree to, and which his Grace understands to be as follows :

1st. That the exemption from taxes on the Company's wild lands shall only last for a period of twenty years from the date of selection.

2nd. That any lands purchased by the Company shall not reckon in the quantities of 50,000 acres, in respect of which the Company should be entitled to select 5,000 acres.

3rdly. That the Company shall bear the expense of surveying their blocks of 5,000 acres.

4thly. That lands granted for such purposes as roads, churches or schools, shall not be liable to the payment of one shilling *per* acre to the Company.

5thly. That the same exemption shall apply to land set apart by Her Majesty's Government as Indian Reserves before the Company's territory is transferred to Canada.

6thly. That with regard to land around posts beyond what is designated the fertile belt, 6,000 acres shall be granted, and that only 3,000 acres shall be the quantity within that belt.

7thly. That the proposed recourse to the Privy Council as a Court of first instance, shall be abandoned. 20

His Grace is unable to recommend the adoption by Her Majesty's Government of such terms for the surrender of the territorial rights of the Company. Whatever be the future government of the territory, whether by the Hudson's Bay Company, or by Canada, or by any other authority, very considerable annual outlay will have, as in all other unsettled countries, to be incurred in clearing roads, maintenance and opening of navigation, etc., and surveying.

For these charges, the produce of the early sales of land is the natural resource. 30

But by the Company's proposals they would deprive the future Government of any prospect for a long time at least of receiving any income.

1st. They first stipulate, not for a share of the receipts from land, but for a definite sum *per* acre, a sum in all probability far in excess of what is likely in practice to be obtained for a greater portion.

2ndly. They stipulate that they shall retain certain reserves around their posts, amounting, therefor, according to the lists of posts handed in by Sir C. Lampson, to upwards of 500,000 acres of the land most likely to be made available for settlement and sale, as being the land surrounding the established posts of the Company, they have, after long experience, retained as the most advantageous positions for trade and occupation, and of which nearly 100,000 acres surround the posts in what is called the fertile belt of the territory. 40

3rdly. And that they shall also receive a share of mineral rights, and confirmation of all titles. No. 58.

4thly. They proceed to stipulate for a further reserve of one-tenth of the whole territory, and that the Company shall have this tenth in blocks of 5,000 acres to be selected as each successive 50,000 acres is alienated, and not merely to select in the same locality, but anywhere; so that for instance, if land is alienated on the higher parts of the Rocky Mountains, at Jasper House for example, in consequence of the mining operations in that district, or for fishing stations or for mining purposes on the coast of Hudson's Bay or Labrador, the Company should be entitled to select the proportionate reserve in such part of the most fertile region as they may consider will realize the utmost profit to them, whether by its cultivation or development, or by its power of obstruction to others. Letter,
Under-
Secretary
for the
Colonies to
Governor of
Hudson's
Bay Com-
pany,
1st Dec-
ember 1868
—continued.

These lands moreover are to be exempt from taxation for a period of 20 years from selection, and the lands retained round the posts to be entirely free from taxation unless reclaimed.

These conditions his Grace cannot accede to. His Grace would, however, recommend Her Majesty's Government to agree to a surrender on the following conditions :

20 1st. That the land to be retained by the Company in the neighbourhood of their posts shall vary according to the importance of the post : in no case whatever exceeding 6,000 acres in all for any one post, including the cultivated or reclaimed land now occupied, and in no case exceeding 3,000 acres within the fertile belt for principal posts, and 500 acres for minor posts ; the additional land to be set out so as not to include frontage to rivers or tracks, roads, or portages.

2nd. The company to receive one-fourth share of all receipts from land. If any free-grants of land be made for other than public purposes, such lands shall be deemed to have been sold at one shilling *per* acre.

30 3rd. That one quarter of the sum received by the Government as an export duty for gold and silver mines, or for licenses for gold and silver mining, shall be paid to the Company, the amount to be received under this and the preceding article being limited to a total sum co-jointly of £1,000,000 sterling.

4th. That the Imperial Government shall confirm all titles to land that has been alienated by the Company at Red River or elsewhere.

5th. That the Company shall have the option of selecting five lots of not less than 200 acres each in each township, whenever it is set out, on payment of rateable cost of survey.

40 6th. That no exceptional tax shall be imposed on the Company's lands, trade, or servants.

7th. That full liberty to carry on their trade shall be secured by the Company.

8th. The Company to have similar reserves granted them in connection with their posts in the North-West Territory.

No. 58.
Letter,
Under
Secretary
for the
Colonies to
Governor of
Hudson's
Bay Com-
pany,
1st Dec-
ember 1868
—continued.

9th. The boundary lines between Hudson's Bay and Canada to be defined, and between Hudson's Bay and North-West Territory to be defined by a natural or geographical boundary agreed on.

10th. No wild lands to be taxable until surveyed and marked.

11th. That whenever the payment of £1,000,000 sterling under Article 3 shall have been made as therein provided in cash, or otherwise extinguished by any payment or commutation by Canada to the satisfaction of the Company, the rights of the Company to further selections of lots, to royalties, and share of land receipts shall cease.

12th. Such lands as Her Majesty's Government shall deem necessary to be set aside for the use of the native Indian population shall be reserved altogether from this arrangement, and the Company shall not be entitled to the payment of any share of receipts or any royalty therefrom, or right of selection in respect thereof under previous articles, unless for such part, if any, of these lands as may be appropriated with the consent of the Crown to any other purpose than that of the benefit of the Indian natives.

If these terms are approved, Her Majesty's Government will be prepared to conclude an arrangement, and to submit it to the Canadian Government for their favourable consideration; but if the Company shall not assent to these conditions, Her Majesty's Government will consider themselves unpledged by any of the offers that have been made.

I am, etc.,

C. B. ADDERLEY.

The Earl of Kimberley.

No. 59.
Letter,
Deputy-
Governor of
Hudson's
Bay Com-
pany to
Under-
Secretary
for the
Colonies,
22nd Dec-
ember 1868.

No. 59

Letter, the Deputy-Governor of the Hudson's Bay Company to the Under-Secretary for the Colonies*

Hudson's Bay House,
London,

22nd December, 1868. 30

SIR,—I have the honour to enclose for the information of the Right Honourable the Secretary of State for the Colonies, extracts of letters recently received from Governor Mactavish, dated Fort Garry, Red River Settlement, October 10th and November 11th, from which it will be seen that the Canadian Government have intimated through an agent sent to Red River by the direction of the Canadian Commissioner for Public Works, their intention to construct a road from Fort Garry to the Lake of the Woods, through the territory of the Company. A trespass upon the

* Sess. Papers, Canada, 1869, No. 25.

freehold territory of the Company must be committed in order to carry out this intention.

The Committee cannot but look upon this proceeding as a most unusual and improper one, especially as negotiations are at present pending for the transfer of the territory of the Company to Canada. This trespass will be an actual encroachment on the soil of the Company, and that too by a Government which has constantly up to this time and still disputes the right of this Company over that soil.

The Committee therefore ask for the intervention of Her Majesty's Government, but at the same time they beg leave to say that any application by Her Majesty's Government or the Canadian Government for permission to make this road will be favourably entertained.

No. 59.
Letter,
Deputy-
Governor of
Hudson's
Bay Com-
pany to
Under-
Secretary
for the
Colonies,
22nd Dec-
ember 1868
—continued.

I have, &c.,

C. M. LAMPSON,
Deputy-Governor.

Sir Frederic Rogers, Bart., etc., etc., etc.,
Colonial Office.

No. 60

20 Letter, the Under-Secretary for the Colonies to Sir George E. Cartier,
one of the Canadian Delegates*

Downing Street,
30th December, 1868.

SIR,—I am directed by Earl Granville to transmit to you a copy of a letter which his Lordship has received from the Deputy Chairman of the Hudson's Bay Company, relating to some steps which have been taken under authority of the Canadian Government, and from which they apprehend some invasion of their territorial rights.

30 His Lordship will be glad to receive from you or from Mr. McDougall any explanation with which you or he may be able to furnish him of the steps taken by the Canadian Government.

I am, Sir,
Your obedient Servant,

FREDERIC ROGERS.

Sir G. E. Cartier, Bart.

* Sess. Papers, Canada, 1869, No. 25.

No. 61.
Letter,
Canadian
Delegates to
Under-
Secretary
for the
Colonies,
16th Janu-
ary 1869.

No. 61

Letter, the Canadian Delegates to the Under-Secretary for the Colonies *

Westminster Palace Hotel,
London.

January 16th, 1869.

SIR,—We have the honour to acknowledge receipt of your letter of the 30th ult. (with its enclosures), stating that you were directed by Earl Granville to transmit to us a copy of a letter which his Lordship had received from the Deputy Chairman of the Hudson's Bay Company, relating to some steps which have been taken under the authority of the Canadian Government, and from which the Company apprehend some invasion of their territorial rights. 10

You inform us that his Lordship will be glad to receive from us any explanation which we may be able to furnish him of the steps taken by the Canadian Government.

We have read the letter of the Deputy Chairman, and extracts from the letters of Governor Mactavish, and have much pleasure in being able to furnish his Lordship with what we hope will prove satisfactory information on the subject of the Hudson's Bay Company's complaint.

1. In the month of September last, very precise information reached the Canadian Government that, in consequence of the complete destruction of their crops by locusts, the people of the Red River Settlement, numbering probably from 12,000 to 15,000 souls, were in imminent danger of starvation during the winter about to set in. 20

2. Numerous and earnest appeals for aid had already been made to the Canadian public by writers in the newspapers, and by clergymen and others acquainted with the country. The Right Reverend Robert Machray, Lord Bishop of Rupert's Land, a member of the Council of Assiniboia, and so far a representative of the Company, visited Ottawa, and urged upon members of the Canadian Government the duty of prompt assistance to avert the threatened calamity. 30

3. No steps had been taken (so far as the Government could learn) by the Hudson's Bay Company to provide supplies, and aware that a few days' delay at that season might render it impossible to get provisions to Red River in time to afford relief, the Canadian Government appropriated the sum of twenty thousand dollars (\$20,000) towards the construction of a road from Lake of the Woods to Fort Garry. The Minister of Public Works (one of the undersigned) was directed to expend the principal part of this sum in the purchase of provisions, which were to be forwarded with all possible despatch to the Red River settlement, and offered to the settlers, not as alms, but in exchange for their labour on a public work in their own vicinity, and of the highest utility to their settlement. 40

* Sess. Papers, Canada, 1869, No. 25.

4. A confidential and experienced agent proceeded at once to St. Paul's, Minnesota, and succeeded in forwarding a considerable supply of provisions before the close of navigation. A further quantity has reached Fort Abercrombie, an American post in Dakota Territory, from which point it can be sent to the settlement in the spring.

5. Information has reached the undersigned since their arrival in England, that the Government Agent had, in accordance with his instructions, conferred with the local authorities on his arrival at Fort Garry; that he had received their approval and promise of assistance; that his timely aid was a cause of much joy and thankfulness in the settlement, and that he had proceeded with a large force of labourers to the limit of the prairie country, some thirty miles from Fort Garry, towards Lake of the Woods, and had there commenced the construction of the road.

6. The immediate object of the Canadian Government in taking the steps complained of, was, to supply food to a starving community about to be imprisoned for six months in the heart of a great wilderness, without roads, or means of communication with their fellow-subjects, and to supply it in the way most acceptable to a high-spirited people, viz., in exchange for their labour. It was thought that even the Hudson's Bay Company might look with favour upon a public work which, when completed, will prove a valuable protection to those under their government against similar dangers in the future. On behalf of the Canadian Government, we deny that a "trespass" has been committed, or that our action in this matter was intended to forestal or embarrass negotiations which the Imperial Parliament had directed to be undertaken for the transfer of the North-Western Territories and Rupert's Land to the Dominion of Canada.

The foregoing explanation may perhaps be deemed sufficient to enable Earl Granville to answer the complaint of the Hudson's Bay Company against the Canadian Government, but the undersigned beg leave to add one or two observations which in their opinion this extraordinary demand for the "intervention of Her Majesty's Government," both invites and justifies. If the Hudson's Bay Company, who claim the right to hold and govern the territory in which the alleged "trespass" has taken place, had performed the first duty of a government towards its people, by providing them with easy means of communication with the outer world, or if they had shown themselves either able or willing to meet the threatened calamity by a prompt effort to forward sufficient supplies to the settlement before the close of navigation, the Canadian Government would have rested happy in the belief that neither humanity nor public policy required or justified their interference.

The assertion of the deputy Governor of the Hudson's Bay Company that the country between Lake of the Woods and Red River is "the freehold territory of the Company," and that the so-called "trespass" of the Canadian Government in sending provisions to the starving settlers, and assisting them to make a road for their own convenience and safety hereafter, is "an actual encroachment on the soil of the Company," might,

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if unnoticed by us, be claimed as another proof or admission of the rights of the Company in that part of the Continent. We, therefore, beg to remind his Lordship that the boundaries of Upper Canada on the north and west were declared under the authority of the Constitutional Act of 1791, to include "all the territory to the westward and southward" of the "boundary line of Hudson's Bay, to the utmost extent of the country commonly called or known by the name of Canada." Whatever doubt may exist as to the "utmost extent" of old or French Canada, no impartial investigator of the evidence in the case can doubt that it extended to and included the country between Lake of the Woods and Red River.

The Government of Canada, therefore, does not admit, but, on the contrary, denies, and has always denied the pretensions of the Hudson's Bay Company to any right of soil beyond that of squatters, in the territory through which the road complained of is being constructed.

We have, etc.,

G. E. CARTIER,
WM. McDOUGALL.

Sir Frederic Rogers, Bart., etc., etc., etc.
Colonial Office.

10

No. 62.
Letter,
Governor of
Hudson's
Bay Com-
pany to
Under-
Secretary
for the
Colonies,
2nd Febru-
ary 1869.

No. 62

20

Letter, the Governor of the Hudson's Bay Company to the
Under-Secretary for the Colonies*

Hudson's Bay House,
London,

February 2nd, 1869.

SIR,—I have the honour to acknowledge your letter of the 28th January, addressed to the Deputy-Governor of this Company, enclosing a communication from Sir G. Cartier and Mr. McDougall, on the subject of the recent proceedings of the Canadian Government in the matter of the construction of a road through the Company's territory between Fort Garry and the Lake of the Woods.

30

After the distinct statement contained in Sir Curtis Lampson's letter of the 22nd December, that the Company, while protesting against a trespass on their land, were prepared favourably to entertain any application for permission to make such a road, either on the part of the Imperial or of the Canadian Government, the Committee think it unnecessary to discuss the greater portion of the letter of the Canadian Ministers. Their objection is not to the road being made, but to its being undertaken by the Canadian Government as a matter of right, as though the territory

* Sess. Papers, Canada, 1869, No. 25.

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through which it is to pass were Canadian. Such a step taken at a moment when negotiations are in progress for the transfer of the Company's possessions to Canada, and taken by a Government which openly disputes their title to this portion of them, could not have been allowed to pass unchallenged without derogating from the Company's rights. The Canadian Government themselves seem to have been alive to this. Mr. McTavish states that the agent of that Government (Mr. Snow) on arriving at the Red River, communicated to him his instructions from the Commissioner of Public Works in Canada, containing the expression of "a hope on the part of the Commissioner that the Company's agent here would offer no opposition to Mr. Snow's operations, but would leave the matter entirely in the hands of the Imperial Government." Governor McTavish, upon this, very properly allowed Mr. Snow to commence his operations; and so far as this Company is concerned, no impediment has been, or will be, offered to the prosecution of the work.

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If it were worth while to discuss that part of the letter of the Canadian Ministers which refers to the circumstances under which the construction of the road was ordered, the Committee would be able to show that the Company had in no way failed in their duty to the colony; but that they had promptly taken measures for the relief of its inhabitants and had supplied large sums, both by direct grants and by subscriptions raised under their auspices for that purpose, at a period anterior to the appropriation of the Canadian road grant. They would also be able to point out how the delay which has occurred in opening up communication and otherwise developing the resources of the Red River Settlement is due to the restraint which has been imposed upon them by Her Majesty's Government at the request of Canada, and not to any negligence or indifference of their own.

But the Committee desire to avoid the raising of a false issue, and they accordingly instruct me to re-state to Earl Granville the precise complaint which they have to make. It is this:—that while negotiations are going on for the acquisition of their territory by Canada, the Canadian Government are endeavouring to exercise rights of ownership over a portion of that territory, to the exclusion of the Company, and to the prejudice of their title. This they are doing by virtue of an old claim which they have repeatedly advanced, which the Company have invariably disputed, and have declared themselves ready to contest before a court of law, and which Her Majesty's Government, acting under the advice of various law officers of the Crown, have declined to endorse.

The Canadian Government have hitherto shown no inclination to bring their claim to the test of a judicial decision, and in the absence of any such decision, the Committee consider it not unreasonable to ask that due respect should be paid to the Company's uninterrupted possession of the territory for two centuries, and to the numerous and weighty legal opinions which have from time to time been given in their favour.

In appealing to Earl Granville for support in this matter, instead of entering into a controversy with Canada, or taking legal steps to enforce the Company's rights, the committee have been actuated by a desire to

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proceed as far as possible in accordance with the views and wishes of Her Majesty's Government, as they have endeavoured to do throughout the pending negotiations for the establishment of a settled form of Government at the Red River. They desire now respectfully, but confidently, to claim the support and protection of the Colonial Minister against any invasion of the Company's rights which may have been prompted or facilitated by the policy which they have adopted in order to meet the wishes of the Colonial Office.

I have, etc.,

STAFFORD H. NORTHCOTE.

10

Sir Frederic Rogers, Bart.

No. 63.
Letter,
Governor of
Hudson's
Bay Com-
pany to
Under-
Secretary
for the
Colonies,
13th Janu-
ary 1869.

No. 63

Letter, the Governor of the Hudson's Bay Company to the Under-Secretary for the Colonies*

Hudson's Bay House,

London,

January 13th, 1869.

SIR,—I have the honour to acquaint you, for the information of Earl Granville, that I was elected by the shareholders of this Company on Tuesday, the 5th instant, to the office of Governor, vacant by the resignation of the Earl of Kimberley. 20

It now becomes my duty to address you in reply to Mr. Adderley's letter, dated the 1st December, 1868, which was received by my predecessor on the eve of his resignation, and to which, in consequence of that event, the Committee have not been able to send an earlier answer.

Before making any observations upon the particular topics discussed in Mr. Adderley's letter, I am desired by the Committee to assure Lord Granville that they continue sincerely anxious to promote the object with a view to which this Company was reconstructed five and a half years ago, viz., the gradual settlement of such portions of their territory as admit of colonization; that they adhere to the opinion expressed in their resolution of the 28th August, 1863, viz., that the time has come when it is expedient that the authority, executive and judicial, over the Red River Settlement and the south-western portion of Rupert's Land, should be vested in officers deriving such authority directly from the Crown; and that they cheerfully accept the decision of Her Majesty's Government, communicated to them in Mr. Adderley's letter of the 23rd April, 1868, viz., that the whole of the Company's territory should, under proper conditions, be united with the Dominion of Canada, and placed under the authority of the Canadian Parliament. 30

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* Sess. Papers, Canada, 1869, No. 25.

Acting in accordance with the wish of Her Majesty's Government as conveyed to them in Mr. Elliott's letter of the 23rd January, 1867, the Committee have declined to encourage overtures which have been made to them by private persons for the purchase of portions of the Company's Territories with a view to their colonization, and have kept the whole question in abeyance during the time that the negotiations which have led to the confederation of the British Provinces constituting the Dominion of Canada were proceeding. In the whole of that time they have taken no steps which could give rise to fresh complications, or could place any new difficulty in the way of the admission of their territory into the Confederation when the proper moment should arise; and when they were informed by Mr. Adderley's letter, of the 23rd of April, that the Parliament of Canada had addressed Her Majesty upon this subject, and were requested to state the terms which the Company would be prepared to accept, proceeding upon the principle adopted in the interrupted negotiation of 1864, they unhesitatingly complied with the desire of the Government.

It is therefore with surprise, as well as with regret, that they have learnt from the letter now under reply by the terms proposed by them, even when most strictly in conformity with the principles adopted in 1864, are considered by Her Majesty's Government to be inadmissible, and not to afford much prospect of an arrangement being come to. They find, for instance, that the stipulation that the Company should receive one shilling *per acre* on lands hereafter sold, which was originally suggested to the Committee by his Grace the late Duke of Newcastle, in Mr. Fortescue's letter of March 11th, 1864, and which has never hitherto been called in question, is the first point to which exception is now taken. Objections are also raised against several other proposals which have been long before the Government, while no notice at all is taken of some which have been made for the first time with a view to the protection of the Company's trade, and with regard to which the Committee are left in ignorance, whether they are considered admissible or not.

The Committee, although somewhat embarrassed by this apparent change in the spirit of the correspondence, desire me, however, to make the following observations upon some of the remarks contained in Mr. Adderley's letter, in order that there may be no misapprehension as to the bearing of their proposals :

The Committee are aware that, as is stated in Mr. Adderley's letter, in order to prepare the country for settlement, very considerable annual outlay will have to be incurred, and that for this charge, the produce of the early sale of land is the natural resource; but they are at a loss to understand upon what ground it is alleged that their proposals would deprive the future Government of the ceded territory of "any prospect, for a long time at least, of receiving any income."

The only part of the territory in which it is probable that any early or extensive settlement will take place is the part known as the fertile belt. It has been confidently asserted by independent persons who have travelled through the country, that a great part of this land is not inferior in quality,

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or in advantages of climate, to the adjoining United States territory now forming the State of Minnesota, and it has been justly pointed out that, being prairie land, it does not require much labour to render it fit for cultivation. But the price of land in Minnesota ranges, as the Committee are informed, from five shillings to one pound *per* acre. The Committee think, therefore, that the fixed payment of one shilling *per* acre, proposed by the Duke of Newcastle, and accepted by them as a basis of compensation, cannot be deemed to be unreasonable, in so far as related to land sold within the limits set forth in Sir Edmund Head's letter of the 11th November, 1863.

As regards any portions of land lying outside those limits which may be sold, the Committee think it very improbable that such sales will take place except for mining purposes, in which case the payment of a shilling *per* acre could hardly be deemed excessive. In order to save trouble and to obviate disputes, therefore, the Committee proposed the fixed payment of one shilling *per* acre in respect to all sales wherever they may take place, and they believe that the arrangement would have been, on the whole, more favourable to Canada than that suggested by Mr. Adderley.

Mr. Adderley proceeds to remark with reference to Lord Kimberley's proposal that the Company should retain certain reserves around their posts, that the reservations would amount to upwards of 500,000 acres. It was, however, stated by Lord Kimberley and the Deputy-Governor at an interview with the Duke of Buckingham upon this subject, that the Committee were willing to confine their claim for reserves to the limits defined by Sir Edmund Head's Letter of the 11th November, 1863; that they were prepared to agree that such reservations should be measured by the importance of the posts to which they were to be attached, and should in no case exceed 3,000 acres. The total quantity of land to be retained by the Company under this arrangement, would not exceed 50,000 acres. The Committee cannot agree to the absolute exclusion of these reserves from all frontage to "rivers or tracks, roads or portages" which would render them entirely valueless, although they would have been ready to consider any reasonable limitation of these special advantages.

As regards the right of selecting lands for the Company in proportion to the quantities sold from time to time by the Government, the Committee desire to call Lord Granville's attention to the reasons given in Sir E. Head's letter of the 13th April, 1864, for adopting this mode of reservation in preference to that of "setting apart beforehand a number of isolated tracts of wild land, dotted over the surface of the colony, and calculated to impede the free flow of settlement in the territory." Their proposal was framed with reference to sales in the fertile belt only, and it never entered into their minds to contemplate such contingencies as those suggested in Mr. Adderley's letter. In order, however, to obviate all cavil upon this point, they would have been quite willing to limit the Company's right of selection to the case of lands sold or alienated within Sir E. Head's limits, provided that it were agreed that no alienations should take place beyond those limits, except either for distinctly public purposes or for the *bona fide* carrying on of agricultural or mining operations. As regards Mr.

Adderley's proposal that the right of selection should be confined to five lots of 200 acres each in each township, as it is set out, the Committee can only remark that the character of this proposal must depend upon the size of the township, of which no indication has been given.

The Committee still adhere to the opinion that under the peculiar circumstances of the proposed transfer of their territory, it would be reasonable that their wild lands should for a limited time be exempt from taxation, in order to allow them a fair opportunity of bringing them into profitable cultivation.

- 10 They observe that Mr. Adderley makes no reference to the tenth stipulation contained in Lord Kimberley's letter of the 13th May, viz., that until the stipulated sum of £1,000,000 sterling has been paid to the Company, no export duties shall be levied by Canada upon furs exported by the Company nor any import duties on articles imported by them into the North-Western Territory, and into that part of Rupert's Land which is not included within the geographical limits laid down in Sir Edmund Head's letter of November 11th, 1863. This is a point to which the Committee attached very great importance. If it had been proposed by the Canadian Government to make a direct purchase of the Company's territory, and to
- 20 pay the price of it at once, the Company would, of course, have accepted their fair share of the burdens which annexation might be expected to involve. But if the purchase money is to be withheld until the Canadian Government have sold off 20,000,000 acres of the land, or have realized a considerable sum by the produce of mining operations, it is reasonable that the pressure of the fiscal burdens, which would fall almost exclusively upon the Company's trade, should be suspended also. Otherwise it might happen that, in consequence of the neglect or the inability of the Canadian Government to proceed with the settlement of the territory, the Company would be subjected to very heavy contributions to the colonial treasury
- 30 without receiving the smallest benefit in return. As an illustration of the extent to which they might thus be injured, were no limitation placed upon the colonial power of taxation, I may observe that according to the present Canadian tariff, the duty upon the value of the Company's imports alone would amount to about £20,000 a year, while any export duty that might be laid upon their furs would operate still further to their disadvantage. The Committee feel confident that Lord Granville will acknowledge the reasonableness of their taking precautions against such a contingency.

- The Committee have desired me to offer to Lord Granville these explanations of their proposals, in order to show that they have done their best to
- 40 comply with the desire of Her Majesty's Government that they should submit a scheme founded on the principles of the negotiations of 1864. They have not, however, failed to perceive from an early period of the lengthened correspondence which has taken place between them and the Government, that those principles necessarily gave rise to many difficulties; and they have felt this the more strongly since the negotiations, originally commenced between the Company and Her Majesty's Government, have virtually become negotiations between the Company and the Government

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Letter,
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of Canada. They cannot disguise from themselves the danger which exists that arrangements so complicated, and involving so many topics for future discussion, are likely to lead to the Company's being placed in a position of antagonism to the Government of Canada, and to the creation of a state of things injurious not only to their own interests, but to the welfare of the country itself. They are sincerely anxious to co-operate with the Canadian Government in the settlement, development, and improvement of the territories with which they have been so long connected, and they believe that if the arrangement between them can be placed on a satisfactory footing, it will be in their power to render material assistance to the colonial authorities in this respect. They believe that if a simpler arrangement than that which has recently been under discussion, could be adopted, and if the Canadian Government were prepared to complete the purchase of the territory at once by the payment of a sum of money or by the delivery of bonds, it would conduce to a more satisfactory result than the prolongation of a controversy as to the minute points of such a scheme as has been under consideration. 10

Should Lord Granville be of this opinion, and should his Lordship think it desirable to recommend any proposal of the kind to the Canadian delegates, this Committee will gladly place themselves in fuller communication with him on the subject. 20

I have, etc.,
STAFFORD H. NORTHCOTE,
Governor.

Sir Frederic Rogers, Bart.

No. 64

No. 64.
Letter,
Under-
Secretary
for the
Colonies to
Canadian
Delegates,
18th Janu-
ary 1869.

Letter, the Under-Secretary for the Colonies to the Canadian Delegates*
Downing Street,
18th January, 1869.

GENTLEMEN,—I am directed by Earl Granville to transmit to you, for any observations which you may wish to offer upon it, the enclosed copy of a letter from the Hudson's Bay Company in answer to the proposals made to them by the Duke of Buckingham and Chandos in the letter from this Department of the 1st of December last, with respect to the proposed cession to the Crown of the Company's territorial rights in British North America. 30

I am, Gentlemen,
Your obedient servant,
FREDERIC ROGERS.

Sir G. E. Cartier, Bart.
W. McDougall, Esq., C.B.

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* Sess Papers. Canada, 1869, No. 25.

No. 65

Letter, the Canadian Delegates to the Under-Secretary for the Colonies*

Westminster Palace Hotel,
London,

February 8th, 1869.

No. 65.
Letter, The
Canadian
Delegates
to Under-
Secretary
for the
Colonies,
8th Febru-
ary 1869.

SIR,—We have the honour to acknowledge the receipt of your letter of the 18th ultimo, enclosing a copy of Sir Stafford Northcote's letter of the 13th ultimo, in reply to proposals made to the Hudson's Bay Company for the cession to the Crown of their territorial rights in British America, by
10 his Grace the Duke of Buckingham and Chandos, in the letter of Mr. Adderley of the 1st December last.

You state that Earl Granville directed you to transmit this document to us for any observations which we may wish to offer upon it. His Lordship's courtesy and consideration in sending us a copy of Sir Stafford Northcote's letter and inviting us to express our views upon it are gratefully acknowledged, but upon reflection we thought it would be expedient to refrain from any formal expression of our opinion on new and indefinite propositions, until we had received some intimation of the view which his Lordship was likely himself to take of them, or of the policy in respect to the
20 general question which Her Majesty's present advisers intend to adopt.

At an interview with which we were favoured by Earl Granville on the 26th ultimo, he expressed his preference for a less complicated mode of dealing with the Hudson's Bay question than that proposed by the Duke of Buckingham and Chandos, and requested us to communicate to him our observations on the reply of Sir Stafford Northcote, and especially on the proposition with which his letter concludes, viz., that the Canadian Government should "complete the purchase of the territory at once, by the payment of a sum of money or by the delivery of bonds."

As we have had but few opportunities to confer with his Lordship since
30 his accession to office, it may be proper, before considering Sir Stafford Northcote's letter, to state the position of the Canadian Government, as we apprehend it, in this negotiation.

The British North America Act of 1867 affirmed the policy of uniting under one Government all the colonies, provinces, and territories of British North America. Three provinces were united at once and provision was made by the 146th section, for the admission into the union of the remaining colonies, on address to Her Majesty by their respective Legislatures and the Parliament of Canada.

The North-west Territories and Rupert's Land, or either of them, are
40 to be admitted on the address of the Parliament of Canada alone, and on such terms and conditions as the Canadian Parliament may in its address express, and Her Majesty approve.

* Sess. Papers, Canada, 1869, No. 25.

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In pursuance of the policy of the Imperial Parliament thus distinctly affirmed, the Canadian Parliament at its first session under the new constitution, adopted an address to Her Majesty for the incorporation of the North-west Territory and Rupert's Land with the Dominion of Canada. The terms and conditions expressed in the address were,—

1st. That Canada should undertake the duties and obligations of Government and legislation in respect of those territories.

2nd. That the legal rights of any corporation, company, or individual within the territories should be respected, and that provision should be made for that purpose by placing those rights under the protection of courts of competent jurisdiction. 10

3rd. That the claims of the Indian tribes to compensation for lands required for purposes of settlement should be considered and settled, in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.

The above were the only terms and conditions which, in the opinion of the Canadian Parliament, it was expedient to insert in the Order in Council, authorized by the 146th section.

His Grace the Duke of Buckingham and Chandos, on receiving the address of the Canadian Parliament, consulted the law officers of the Crown, who advised, among other things, that "there would be much difficulty created by the existence of the charter" of the Hudson's Bay Company, "to putting into execution the powers of the 146th section of the British North America Act, 1867, assuming that the Hudson's Bay Company were adverse to the union." 20

A Bill was thereupon carried through the Imperial Parliament, apparently to remove the "difficulties" which the law officers had discovered. It reverses the order of procedure contemplated by the Act of 1867, and observed by the Canadian Parliament in its address, and makes the assent of the Company a condition precedent to the transfer. 30

The Canadian Government were not consulted as to the terms of this Act; they could not understand why it was necessary, and greatly doubted the expediency of passing it.

The Duke of Buckingham and Chandos, having opened negotiations with the Hudson's Bay Company under the authority of the Act last mentioned, invited a delegation from the Canadian Government to confer with him in this country. The undersigned, duly commissioned for that purpose, repaired to London in October last, and had frequent interviews with his Grace before his retirement from office.

The proposals submitted to the Company by the late Government in the letter of Mr. Adderley of the 1st of December last, were not made at our suggestion, although we were disposed to think (and so informed His Grace) that if the Company accepted them, the Canadian Parliament might be persuaded to undertake the duties of legislation and government in the territories on the conditions specified. 40

The Company, through Sir Stafford Northcote, have declined to accept either the principle or the mode of settlement proposed by the late Government, but suggest a new summary method of closing the negotiations, by demanding that the Canadian Government should, by a payment in cash or bonds, "complete the purchase of the territory at once." No sum is mentioned, and no data given from which it can be inferred. Under these circumstances, we are asked, as representatives of the Canadian Government, to communicate to Earl Granville any observations we may wish to offer on this reply and proposition of the Company.

10 His Lordship will readily perceive from the foregoing recital, that, as representatives of the Canadian Government, we are in the position of spectators of a negotiation begun and carried on upon principles and under conditions to which we are strangers, rather than that of assenting principals responsible for its initiation, and bound by its result.

Without undertaking, therefore, that our views on every point will be approved by the Canadian Government, we proceed most respectfully to offer a few observations on Sir Stafford Northcote's reply to the recent proposals of the Imperial Government.

20 It will be observed that two things are assumed in these proposals to the Company, which the Canadian Government have always disputed.

1st. That the charter of Charles II. is still valid, and grants the right of soil, or freehold, of Rupert's Land to the Company.

2nd. That Rupert's Land includes the so-called "Fertile Belt," extending from the Lake of the Woods to the Rocky Mountains.

The law officers of the Crown in England have, on two or three occasions, given their opinion in favour of the first assumption, but never, so far as we are aware, in favour of the second. The report of the law officers in 1857 admits that the geographical extent of the territory granted must be determined by excluding the country that "could have been rightfully
30 claimed by the French as falling within the boundaries of Canada" (which the charter itself excludes by express words), and states that "the assertion of ownership on important public occasions, as at the treaties of Ryswick and Utrecht," should be considered; and also "the effect of the Acts of 1774 and 1791." The most recent opinion of the law officers of the Crown which we have seen (January 6th, 1868), as to the rights of the Hudson's Bay Company, does not even by implication support their present claim to the fee simple of nearly one-third of the American continent. On the contrary, Sir John Karslake and his colleagues conclude their report with the emphatic statement that it is "very necessary, before any union of
40 Rupert's Land with Canada is effected, that the true limits of the territory and possessions held under the charter should be accurately defined." An assumption, therefore, which covers so much ground, and is unsupported by any competent legal authority; which ignores the repeated protests and claims of Canada; and seeks to supply a basis upon which a surrender for valuable consideration may be made,—is, to say the least, a most favourable assumption for the Company. We notice these points in Mr.

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Adderley's letter before remarking on Sir Stafford Northcote's reply, to prevent the possible inference that we have acquiesced in them.

Sir Stafford Northcote assures Lord Granville that the Company "continues sincerely anxious to promote the object with a view to which the Company was reconstructed five and a-half years ago, viz. : the gradual settlement of such portions of their territory as admit of colonization." It would be tedious to quote the numerous and positive averments by members and governors of the Hudson's Bay Company, in the course of official inquiries during the last fifty years, that their territories (in which they included the Red River and the Saskatchewan districts) are totally unfit for colonization. The evidence of Sir George Simpson before the House of Commons Committee of 1857, is a fair sample of the views heretofore entertained and avowed by the representatives of the Company. (*Vide* Commons Report, 1857; Questions 716, 717, 718, 719, etc.) Mr. Ellice, for many years the ruling spirit of the Company, declared before the same Committee that the Red River Settlement was an "unwise speculation," and "had failed"; that "the climate is not favourable"; that the Saskatchewan is a country capable of settlement only when "the population of America becomes so dense that they are forced into situations less fit for settlement than those they occupy now"; that the winters are "rigorous," and the country badly off for "fuel," etc. (Questions 5840 and 5847.)

With such views of the unfitness of the country for settlement, and avowing their belief that colonization and the fur trade could not exist together, it is not surprising that the Company have always cherished the latter, which was profitable, and discouraged, and, as far as possible, prevented the former, which had proved an "unwise speculation." It is true that the company was "re-constructed" in 1863, with loud promises of a new policy. A great road across the continent was to be made, a telegraph line was to be put up, and emigration and colonization developed on a large scale. The Duke of Newcastle, then Secretary of State for the Colonies, was so much impressed by the zeal and public spirit of the gentlemen who effected the reconstruction, that he wrote despatches to the Canadian Government on their behalf, and evidently believed that a new era was about to open in the North-West, and the wild animals and fur traders retreat before the march of "European" settlers. The stock of the old Company, worth in the market about £1,000,000, was bought up, and by some process which we are unable to describe, became £2,000,000. A show of anxiety to open postal and telegraphic communication was made, and "heads of proposals" were submitted to the Governments of Canada and British Columbia, which on examination were found to embrace a line of telegraph only, with the modest suggestion that the two Governments should guarantee the Company a profit of not less than 4 *per cent.* on their expenditure! A proposal so absurd could only have been made to be rejected, and it was rejected accordingly. The surplus capital of the reconstructed Company, which was called up for the avowed purpose of opening their territories to "European colonization, under a liberal and

systematic scheme of land settlement," has never been applied to that purpose. Five and a half years have passed since the grand scheme was announced to the world, but no European emigrants have been sent out, no attempts to colonize have been made. Sir Stafford Northcote was not probably aware, when he vouched for the *bona fides* of the Hudson's Bay Company as promoters of colonization, that a solemn vote of the shareholders was taken in the month of November, 1866, which condemned and rejected the policy of colonization, absolutely and definitively.

10 While unable, for the reasons stated, to concur in Sir Stafford Northcote's assurance that the Hudson's Bay Company are anxious to promote colonization, we are gratified to learn that they "adhere" to the resolution of 28th August, 1863, that the time has come when it is expedient that "the authority, executive and judicial, over the Red River Settlement and the south-western portion of Rupert's Land, should be vested in officers deriving such authority directly from the Crown."

20 The first remark we have to make upon this reference to the resolution of 1863 is, that it admits the continued incapacity of the Company as a governing power; the second, that if this was true in 1863,—if at that time it had become expedient to substitute the authority of the Crown for that of the Company,—it is much more expedient, if not absolutely necessary, now; and third, that if the Company are to be relieved of the duty and cost of government which their charter imposes, and which they admit they do not and cannot properly discharge, compensation should be made, not to the Company, as is claimed, but by the Company to those who take the burden off their shoulders.

30 We confess we have failed to discover any evidence, and therefore cannot believe, that the Company have "cheerfully" accepted the decision of Her Majesty's Government, "that the whole of the Company's territory should, under proper conditions, be united with Canada." A brief notice of the *acts*, in contrast with the *professions* of the Company, will, we think, account for the ill success of our researches and justify our incredulity.

The representatives of the Company, while declaring before the House of Commons Committee in 1857 (as we have already shown) that their territories were "unfit for settlement," professed their readiness to surrender any portion of them that might be desired by the Imperial or Canadian Government for that purpose.

40 Mr. Ellice declared in the most unqualified terms, not only that the Company was willing to surrender, but that it was the duty of the Government to see that no mere trading corporation obstructed "for one moment," nor to the extent of "one acre of land fit for settlement," the "dominion of the actual settlers." (Commons Report, 1857; questions 5859, 5860, and 5933.)

The Governor of the Company informed the Colonial Secretary (18th July, 1857) that an inquiry into the "geographical extent of the territory granted by their charter," which the law officers had recommended, was of little importance, because, if the object of the inquiry was "to obtain for Canada land fit for cultivation and the establishment of agricultural

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settlers, the Directors are already prepared to recommend to the shareholders of the Company to cede any lands which may be required for that purpose. The terms of such cession," he assured Mr. Labouchere, "would be a matter of no difficulty between Her Majesty's Government and the Company."

Mr. Ellice had previously told the House of Commons Committee, that the question of boundary was "of no importance at all," because "if the Province of Canada requires any part of the territory, or the whole of it for purposes of settlement, it ought not to be permitted for one moment to remain in the hands of the Hudson's Bay Company." He added that "less money than would be spent in litigation upon the subject would be sufficient to indemnify the Hudson's Bay Company for any claim which they could have on giving up any disputed part of their territory." 10

These assurances induced the Committee to negative propositions for ascertaining by a judicial inquiry the validity of the charter, or the position of boundaries, and to report in favour of annexing to Canada "such portion of the land in her neighbourhood as may be available to her for the purposes of settlement, with which she is willing to open and maintain communication, and for which she will provide the means of local administration." The Committee "trusted" that there would be "no difficulty in effecting arrangements as between Her Majesty's Government and the Hudson's Bay Company," for ceding the territory on "equitable principles." 20

It may be proper to remind Earl Granville, that leading members of the Committee of 1857, taking the offers of the Company on the subject of colonization to mean what the language of their representatives imported, strongly opposed the recommendation to leave the question open for "amicable adjustment" upon "equitable principles," with the certainty of protracted negotiation and a chance of ultimate disagreement. Mr. Gladstone accordingly submitted resolutions for a prompt and definitive settlement of the whole question. He proposed— 30

1st. "That the country capable of colonization should be withdrawn from the jurisdiction of the Hudson's Bay Company."

2nd. "That the country incapable of colonization should remain within their jurisdiction."

He proposed that in the country remaining within their jurisdiction power should be reserved to Her Majesty's Government to make grants "for the purposes of mines and fisheries, but with due regard to the immunities and trade of the Company." No "immunities" were even suggested with respect to the country which was to be withdrawn for colonization. He proposed to ignore the charter, by declaring that the jurisdiction of the Company "should rest henceforth upon the basis of Statute." He quoted the Governor's letter above referred to, "as an expression of the willingness of the Company to accept in principle the arrangement" he proposed, and ended with the suggestion that, "as the Company had tendered concessions which may prove sufficient to meet the case," no decision seemed necessary as to the question of raising "a judicial issue with the view of 40

ascertaining the legal rights of the Company." The propositions of Mr. Gladstone were only lost in the Committee by the casting vote of the chairman.

Twelve years have passed since these offers were made by the Company and accepted by a committee of Parliament. Every Colonial Secretary, from 1858 to the present moment, has attempted to carry out the recommendation of the committee, with the assent of the Company, but without success. Two Acts of the Imperial Parliament have been passed, with provisions to facilitate the arrangement, but are yet without fruit. Sir Edward Bulwer Lytton characterized the offers of the Company during his administration as "illusory," and declared that they "by no means met the exigencies of the case." He expressed his regret at a determination on their part which "retains the very difficulty in the way of speedy and amicable settlement which he had sought to remove," and stated that if Canada declined to resort to "legal proceedings" (which he had recommended) "it would be his duty to consider whether negotiations with the Company can be resumed or whether in the last resort Her Majesty's Government must take the matter into their own hands and proceed on their own account." (Mr. Merivale's letter to H. H. Berens, 9th March, 1959.) Sir Edward remained in office long enough to put an end to the Company's license of exclusive trade in British Columbia and the Indian territories, but not long enough to carry out his policy of "connecting the two sides of British North America without the obstacle interposed by a proprietary jurisdiction between them."

The Duke of Newcastle opened negotiations with the Company, in 1863-4 with much vigour. But after various proposals and counter-proposals including the "reconstruction" of the Company, he was obliged to treat their propositions as "inadmissible."

Mr. Cardwell, during his administration, could not accept their proposals "without considerable modifications."

The Duke of Buckingham, after many discussions with the representatives of the Company regretted to perceive that their proposals "did not afford much prospect of an arrangement being come to"; and in the communication to which the letter of Sir Stafford Northcote is a reply, declared himself "unable to recommend the adoption" of the terms demanded by the Company.

Our notice of what, in Sir Stafford Northcote's opinion, constitutes a "cheerful acceptance of the decision of Her Majesty's Government, would be incomplete, if we did not remind Earl Granville that the Company's "proper conditions" for the surrender of that portion of the North-Western Territories for which they can show no title but such as may be derived from the possession of a few trading posts, established there within the last fifty years, rose from a question of "no importance at all" in 1857, or at most, of "less money than would be spent in a litigation on this subject," (House of Commons Report, Question 5834) to the retention, in 1863, in fee simple, of *half* the land proposed to be surrendered, with various other conditions, including a guarantee by the Governments of Canada and British

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Columbia of an annual profit on the Company's expenditures for improvements on their own property! In 1864 these conditions took the form of a demand, first, to be paid £1,000,000 sterling from sales of lands and mines, with large reservations "to be selected by them," etc.; and, secondly, to be paid £1,000,000 sterling in cash, with other terms and reservations favourable to the Company.

In 1868 these conditions for the surrender of territorial and governing rights over the *whole* territory remained at £1,000,000, as in the first proposition of 1864, with large reservations of land at "selected" points, specially exempted from taxation, and with full liberty to carry on their trade free from the export and import duties to which all other subjects of Her Majesty in that country would be exposed. 10

In 1869 these various proposals, which no Secretary of State could possibly entertain, have all been apparently merged in one grand proposition to sell out "the territory at once for a sum of money," in cash or bonds, the amount of which is not stated.

We content ourselves under this head with the observation, that whatever others may be able to see in all these transactions, we are utterly unable to discover either a cheerful acceptance of the decision of any Government, or an honest disposition to fulfil the solemn pledges made to Parliament in 1857, on the faith of which the Company was unquestionably saved from judicial or legislative extinction. 20

Sir Stafford Northcote claims credit for the Company because they have "declined to encourage overtures which have been made to them by private persons for the purchase of portions of the Company's territory with a view to their colonization." Our information is (and we can give Earl Granville names and dates, if the point is deemed of any importance) that the only "overtures" of the kind mentioned which the Company have received, were not merely "encouraged," but suggested and concocted by prominent members of the Company, for the purpose of producing an impression on the Government, and with a view, not to colonization, but to *negotiation* and the stock market. 30

We are not sure that we understand the statement of Sir Stafford Northcote that the Company "have taken no step which would give rise to fresh complications or place any new difficulty in the way of the admission of their territory into the Confederation." The sale of land to private parties for colonization (assuming that *bona fide* offers have been received from such parties) could not give rise to much complication, except in the affairs of the Company. If Sir Stafford hints at the negotiations which were lately reported to be going on with certain American speculators in London for denationalizing and Americanizing the Company with a view to the "admission of their territory" into the United States, instead of the Confederation, we respectfully submit that while such a difficulty might indeed be "new," the proper person to solve it would be Her Majesty's Attorney-General with the aid of a court and jury of competent jurisdiction. 40

We do not understand that Earl Granville expects us to defend in detail the Duke of Buckingham's proposals, or to answer all the objections

made to them by Sir Stafford Northcote. The Government of Canada, as we have already reminded his Lordship, neither suggested the Act of Parliament nor the terms of the negotiation which the late Secretary of State for the Colonies attempted to carry out under its authority. The Canadian plan of dealing with the question of the North-Western Territory and Rupert's Land is set forth in the address of the Canadian Parliament to Her Most Gracious Majesty, and we do not feel at liberty, as representatives, to suggest any other mode, until we are informed by Her Majesty's Government that the one proposed is deemed impracticable.

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10 Sir Stafford Northcote's suggestion that "the payment of a sum of money" for the purchase of the territory would conduce to a more satisfactory result, is, we believe, the point upon which Earl Granville specially desired to have our views. Assuming that by "territory" he means the *whole* territory to which the Company lay claim, and that they are to continue as a trading corporation, retaining their posts, and allotments of land in their neighbourhood, as he states was agreed upon by the Duke of Buckingham and Lord Kimberly, we have to observe:—

1. This proposition involves an abandonment of the *principle* which two Secretaries of State (and it must be presumed, two successive adminis-
20 trations), declared after much consideration, and in view of the transactions of 1857, was properly and justly applicable to this case, viz.: That the compensation should be derived from the future revenue of the territory itself, and payable only as it came into the hands of the Government. This *principle* was also accepted by the Company in their communication of 13th April, 1864.

2. On the other hand, the principle of ascertaining and fixing a money value upon the territorial rights of the Company "in the British territory east of the Rocky Mountains and north of the American and Canadian lines," and of extinguishing those rights by a payment "at once" was suggested,
30 in 1865, by a delegation from the Canadian Government of that day, and assented to by Mr. Cardwell, then Secretary of State for the Colonies, and his colleagues.

If the latter principle and mode of settlement is now to be adopted, it is obvious that the first question is, What is the nature of these "rights" and what territories do they affect? And the second, What are the rights, separated from the duties and burdens attached to them by the Charter, fairly worth?

We shall not attempt to answer these questions fully in the present communication, but we venture to submit for Earl Granville's consideration
40 a few facts and inferences, which cannot, we believe be disputed, and which are essential elements in any calculation which may be attempted on the basis of a money purchase.

1. The Charter of Charles II. (and for the present we raise no question as to its validity) could not and did not grant to the Hudson's Bay Company any territory in America which was not then (1670) subject to the Crown of England.

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2. The Charter expressly excluded all lands, etc., then “ possessed by the subjects of any other Christian prince or state.”

3. By the Treaty of St. Germain-en-Laye (1632), the King of England resigned to the King of France the sovereignty of Acadia, New France and Canada, generally, and without limits.

4. “ La Nouvelle France ” was then understood to include the whole region of Hudson’s Bay, as the maps and histories of the time, English and French, abundantly prove.

5. At the Treaty of Ryswick (1697), twenty-seven years after the date of the Charter, the right of the French to “ places situated in Hudson’s Bay ” was distinctly admitted; and although commissioners were appointed (but never came to any agreement) to “ examine and determine the pretensions which either of the said kings hath to the places situate in Hudson’s Bay,” and with “ authority for settling the limits and confines of the lands to be restored on either side,” the places taken from the English (*i.e.*, from the Hudson’s Bay Company) by the French previous to the war, and “ retaken by the English during this war, shall be left to the French by virtue of the foregoing (the 7th) article.” In other words, the forts and factories of the Hudson’s Bay Company established in Hudson’s Bay under pretence of their Charter and taken possession of by the French in time of peace, on the ground that they were an invasion of French territory, were restored, by the Treaty of Ryswick, to the French and not to the Company. 10 20

6. By the Treaty of Utrecht, 1714, “ the Bay and Straits of Hudson, together with all lands, seas, sea coasts, rivers, and places situate in the *Bay and Straits*, and which belong thereto,” were finally ceded to Great Britain.

7. As no definite boundary was ever established between the possessions of the French in the interior and the English at Hudson’s Bay, down to the Treaty of Paris, 1763, when the whole of Canada was ceded to Great Britain, the extent of the actual possession by the two nations for some period, say from the Treaty of Utrecht to the Treaty of Paris, affords the only rational and true basis for ascertaining that boundary. 30

8. The evidence is abundant and conclusive to prove that the French traded over and possessed the whole of the country known as the Winnipeg Basis and “ Fertile Belt,” from its discovery by the Europeans down to the Treaty of Paris, and that the Hudson’s Bay Company neither traded nor established posts to the south or west of Lake Winnipeg, until many years after the cession of Canada to England.

9. No other or subsequent grant to the Company was ever made which could possibly extend their territorial rights under their Charter. The license to trade in the Indian territories, which they obtained in 1821, was revoked in 1858, and has not been renewed. 40

10. The country which, in view of these facts, must be excluded from the operation of the Charter, includes all the lands fit for cultivation and settlement in that part of British America.

It will be for Earl Granville to consider whether this Company is entitled to demand any payment whatever for surrendering to the Crown that which already belongs to it. We confess our utter inability, upon any principle of law, or justice, or public policy, with which we are acquainted, to estimate the amount which ought to be paid under such circumstances. The only basis of computation we can discover, applicable to such a case, is the *cost* of the legal proceedings necessary, if any be necessary, to recover possession. A person has taken possession of a part of your domain under the pretence that it is included in a deed which you gave him for some adjoining property

10 before you purchased the domain. You want to get rid of him, but will be compelled to bring an action. He is artful, stubborn, wealthy and influential. He will be able to worry you with a tedious litigation. How many acres will you allow him to "reserve," and how much will you pay to save yourself the cost and trouble of a law suit? Compromises of this kind are not unknown in private life, and the motives and calculations which govern them may be applicable to the present case. We recommend this mode of computing the amount of the payment to be made for the surrender of the North-West Territory, as distinguished from Rupert's Land, with all the more confidence, because it has already been suggested by one of the ablest and most trusted

20 of the representatives of the Company. (*Vide* evidence of Right Honourable E. Ellice, House of Commons Report, 1857, question 5834.)

With respect to Rupert's Land, or the "lands and territories," "upon the coasts and confines of the seas, bays," etc., "that lie within the entrance of the straits commonly called Hudson's Straits," "not possessed by the subjects of any other Christian prince or state," a different rule, we admit, may be held to apply. Giving to the words of the grant the widest construction, territorially, that could possibly be admitted by any judicial body with the facts of the case in evidence before it, or, giving to these words the construction which the Company themselves applied for a hundred years

30 from the date of their Charter, the "rights" they propose to sell are of little commercial value. No revenue, we feel assured, will ever be derived from them. The fur trade is the only industry the country offers as a source of profit, and this, if we rightly understand Sir Stafford Northcote's suggestion, the Company wish to retain.

It has never been alleged, even by the most sanguine advocates of the new theory of the Company respecting land sales, that any revenue can be derived from that source within the limits which we have assigned to Rupert's Land. The cost of government there, inconsiderable though it may be, will always exceed any possible revenue. We are thus led to the same

40 conclusion as in the case of the territory claimed, but not owned, by the Company, viz., that what they propose to sell has no pecuniary or commercial value. They are there, however, by at least a show of right. Being there, they obstruct the progress of Imperial and Colonial policy, and put in jeopardy the sovereign rights of the Crown over one-third (and as some think, even a larger portion) of the North American Continent. "What is it worth to have this obstruction *quietly* removed?" This is, perhaps, the true question; but the answer, we submit, belongs rather to Her

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Majesty's Government—which has the power, in the event of resistance, to remove the evil by a summary process—than to those who are a little more than spectators of the negotiation.

Earl Granville is aware that several attempts have been made since 1857 to arrive at a definite agreement on the subject of compensation. The suggestions and proposals on each side, together with the actual market value of the Company's stock at different periods, supply data which his Lordship may deem of importance; and we therefore respectfully submit our views as to the conclusions which may be deduced from them.

The first attempt of the Imperial Government to estimate, and express in pounds sterling, the compensation which it would be reasonable to offer to the Company, was made by the Duke of Newcastle in 1864. The greatest sum which, after "very grave consideration," his Grace felt himself able to propose for the surrender of the country west of Lake Winnipeg was £250,000. But the payment was subject to the following conditions:—

1. £150,000 was to be derived from the sale of lands by the Government within the territory. The payment was to be made at the rate of 1*s.* *per* acre sold, but to be entirely dependent on the Government receipts.

2. Payments were to cease whenever they reached £150,000; and absolutely at the end of fifty years. 20

3. The company was to be paid one-fourth of the sum received by the Government for export duty on gold or for mining licenses or leases for gold-mining in the territory, for fifty years, or until the aggregate amounted to £100,000.

4. The payment of any part of the £250,000 was contingent on the ability of the Company to place Her Majesty's Government in possession of an "indisputable title" to the territory ceded by them as against the claims of Canada.

The last condition was objected to by the Company on the ground that they could only give such title as they had, which they contended "must be taken for better for worse." The Duke of Newcastle renewed his offer, modifying the last condition into a stipulation that, in case it should be found advisable, the territory eastward of a line passing through Lake Winnipeg and Lake of the Woods, might be ceded or annexed to Canada, in which case nothing would be payable to the Company in respect of *that* territory. 30

The present value in cash of such an offer, subject to the conditions and contingencies specified, would be very difficult to ascertain. The revenue from export duty on gold and for licenses would probably be *nil*. The revenue from land sales, if the cost of surveys, management, and necessary roads were deducted, would be *nil* also. It is very doubtful whether, if these deductions be made, the revenue from land sales in the Provinces of Canada, from the cession in 1763 to the present time, would show a surplus. 40

Sir Stafford Northcote quotes the price of land in Minnesota, and thence infers the value of lands in the Red River and Saskatchewan districts, which lie from five to ten degrees further north and are still in the possession of the

wild Indians of the plains. But we think it will be found that the lands in Minnesota, which sell for "one pound *per acre*," are either private lands in the neighbourhood of towns, or the property of railway companies, on or near which millions of dollars have been expended to make them saleable. They are certainly not *public* lands unimproved by public expenditure. Sir Stafford ought to have mentioned at the same time a fact, which we believe is known to every emigrant who leaves the British Isles for America, that, in the Western States of the Union, and in the Provinces of Canada, wild lands are now given to settlers as "free grants," and we may add, this policy is
 10 more likely to be extended than reversed. To talk of the *value* of public lands as a source of revenue, distant from one to two thousand miles from available markets, and without roads or navigable waters by which to approach them, is to contradict all experience, or to assume that the cost of surveys and management, and of canals, roads, and other improvements for their development and settlement, will be supplied by those who do not own them for the benefit of those who do.

But in order to arrive at some result that can be expressed in figures, we will assume that the sum ascertained by the Duke of Newcastle to be a sufficient "compensation" would under his proposition have been paid
 20 within fifty years, and at an average rate *per annum*. We thus give the Company the benefit of all the doubts in the case, and reduce the question to a simple problem in arithmetic: What is the present value of an annuity of £5,000 *per annum* for fifty years?

That value, we submit, is the highest amount in cash that can be claimed as an equivalent for the offer made to the Company in 1864, by his Grace the Duke of Newcastle.

The next offer of the Imperial Government which mentions a specific sum, is that made by his Grace the Duke of Buckingham and Chandos, on the 1st December last. It differs from the previous offer in several
 30 important particulars.

1. It embraces the *whole* of the territory claimed by the Company.

2. It proposes to allow the Company to retain their "posts" and certain allotments of land in their vicinity, with a small reservation in each township as it is surveyed.

3. It proposes to allow the Company one quarter of the receipts from land (free grants being treated as sales at *1s. per acre*), and one quarter of the sum received by Government as an export duty for gold and silver.

4. It limits the amount to be received under these heads conjointly at £1,000,000 sterling.

40 The other stipulations are unimportant for the purpose of ascertaining the cash equivalent of the proposition.

It is evident that the "unknown quantities" in this equation are as difficult to find as in the first. We know the *total* sum to be paid, and the *proportion* of the receipts from lands and mines applicable for its payment; but we do not know the average annual sum likely to be realized from their sale. The minimum price is fixed at *1s. per acre*, and it is doubtful, if

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under the proposed arrangement, the price would ever be found to exceed that sum. There is one term still to be ascertained—the average *number* of acres *per* annum likely to be sold and granted. A crude guess is all that the case admits of. If we take Upper Canada, possessing many advantages for early and rapid settlement of which unfortunately, the remote territories of the North-West are deprived, we find that from its erection into a separate province, down to 1868, about twenty-two millions of acres had been disposed of by sale and grant, or an average of about 286,000 acres *per* annum.

Assuming that the same rate of sale, etc., is maintained in the North-
West Territories (which all the old Hudson's Bay authorities who know
the country, would pronounce a bold assumption), we have reduced the
question to a simple reference to the annuity tables as before, viz., What
is the present value of an annuity of £3,575 *per* annum for 280 years? 10

We have omitted from the last term the one-fourth of the Government
receipts from gold and silver, for two reasons. 1st, It has not been shown
that there are any gold or silver mines in the territory that will pay for
working. 2nd. All the attempts heretofore made to obtain a revenue
from such sources, in Canada, have failed, and public opinion has forced
the local Governments to adopt the policy of what may be called “free
mining,” or cheap lands for the miners, and abolition of royalties and
imposts, except to meet the cost of preserving the peace, and of surveys
and necessary supervision. 20

There is another proposition on the Government side which bears
on the question of “compensation.” It results from the agreement between
the representatives of the Government of Canada and Her Majesty's
Government in 1865, and, containing fewer elements of uncertainty than
propositions which involve questions of Government policy, emigration,
land sales, etc., it can be reduced to a cash value with greater exactitude.

Mr. Cardwell describes the agreement as follows:—“On the fourth
point, the subject of the North-Western Territory, the Canadian Ministers
desired that that territory should be made over to Canada, and undertook
to negotiate with the Hudson's Bay Company for the termination of their
rights, on condition that the indemnity, if any, should be paid by a loan
to be raised in Canada under the Imperial guarantee. With the sanction
of the Cabinet, we assented to this proposal—undertaking, that if the
negotiation should be successful, we, on the part of the Crown, being
satisfied that the amount of the indemnity was reasonable, and the security
sufficient, would apply to the Imperial Parliament to sanction the agreement,
and to guarantee the amount.” 30

The Canadian delegates reported on the subject with a little more
detail. “We accordingly proposed to the Imperial Ministers that the
whole British territory east of the Rocky Mountains and north of the
American or Canadian lines should be made over to Canada, subject to
such rights as the Hudson's Bay Company might be able to establish, and
that the compensation to that Company (if any were found to be due)
should be met by a loan guaranteed by Great Britain. The Imperial
40

Government consented to this, and a careful investigation of the case satisfies us that the compensation to the Hudson's Bay Company cannot, under any circumstances, be onerous. It is but two years since the present Hudson's Bay Company purchased the entire property of the old Company; they paid £1,500,000 for the entire property and assets in which were included a large sum of cash on hand, large landed properties in British Columbia and elsewhere, not included in our arrangement, a very large claim against the United States Government under the Oregon Treaty; and ships, goods, pelts, and business premises in England and Canada, valued at £1,023,569. The value of the territorial rights of the Company, therefore, in the estimation of the Company itself, will be easily arrived at."

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The principle which this agreement between the two Governments recognizes as applicable to the case, appears to be compensation in money for the ascertained rights of the Company, after deducting the value of the property retained by them. The words "if any," and "if any were found to be due" import that, in the opinion of both parties, it was possible if not probable that, after making the deductions, no compensation would be "due."

The basis of the calculation which seems to have been made, or agreed upon, is very simple. The old Hudson's Bay Company had recently sold all the rights and property of the Company of every description for the sum of £1,500,000. An inventory, agreed to by both sellers and purchasers, set down the assets, exclusive of "Territorial Rights," as follows:—

1. The assets (exclusive of Nos. 2 and 3) of the Hudson's Bay Company, recently and specially valued by competent valuers, at	£1,023,569
2. The landed territory (not valued)	
3. A cash balance of	370,000

30

£1,393,569

On the face of their own statement, £1,500,000, *less* the above sum, or £106,431, was the amount which the new purchasers actually paid for the "landed territory." Under the agreement of 1865 this seems to be the highest sum which Mr. Cardwell and the representatives of the Canadian Government thought could in any event be demanded by the Company, as indemnity or compensation for the surrender of the rights they "would be able to establish."

We have thus attempted to convert into their equivalents in cash the two offers made to the Company since 1857 by the Imperial Government, and to ascertain the amount of the indemnity contemplated by Mr. Cardwell and the Canadian delegates in the arrangements of 1865. To arrive at any result, we have had to assume figures which, according to our experience, the facts of a new country will be more likely to reduce than to increase.

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We have also omitted conditions, either implied or expressed, in the proposals of 1864 and 1868, which we believe would have imposed considerable expense upon the Company.

There is another mode of estimating the amount to be paid, on the principle of compensating for actual loss only, which remains to be considered.

The stock of the Company has for some time been quoted at an average of 13½. The capital is, nominally, £2,000,000, and the shares £20—the value of the stock, therefore, in cash, assuming that the whole of it could be sold at the market rate, is £1,350,000, or £43,569 *less* than the value, according to their own estimate, in 1863, of the Company's assets, *exclusive* of the "landed territory." The money obtained from the public for shares, beyond the £1,500,000 paid to the old shareholders, will no doubt be amply sufficient to make good any deficiency in the valuation of 1863. 10

From a consideration of these data we submit, that, if the validity of the Charter is not now to be questioned; if the territorial extent of the country affected by it is not to be defined; if the claim of Canada to include, within her boundaries, a large portion, if not the whole, of the country occupied by the French at the time of the cession in 1763, is not to be investigated, and finally determined; if the admitted incapacity and the notorious neglect of the Company to perform the duties of government (which were part of the consideration for the *rights* conceded by the Charter), are not to be taken as sufficient, on public grounds, to justify cancellation and re-entry by the Crown—then the very highest indemnity which ought to be paid, in cash, for a surrender of the territorial claims of the Company, with the reservations and other privileges offered by his Grace the Duke of Buckingham and Chandos, is the sum indicated by the foregoing computations. 20

We must, in conclusion, express to Earl Granville our strong conviction that no *money* offer, which either the Imperial or the Canadian Government would deem reasonable, will be accepted by the Company, and that, to delay the organization of constitutional Government in the North-West Territory until the Hudson's Bay Company consent to reasonable terms of surrender, is to hinder the success of Confederation in British America, and to imperil the interests and authority of the British Crown in the territories now occupied by the Company. 30

We therefore respectfully submit for Earl Granville's consideration, whether it is not expedient that the Address of the Canadian Parliament be at once acted upon, under the authority of the Imperial Act of 1867.

But, if his Lordship should see any sufficient legal or other objection to that course, then we ask, on behalf of the Dominion Government, for the immediate transfer to that Government of the "North-West Territory," or all that part of British North America, from Canada on the east, to British Columbia, Alaska, and the Arctic Ocean, on the west and north, not heretofore validly granted to and now held by "The Governor and 40

Company of Adventurers of England trading into Hudson's Bay," by virtue of a Charter of King Charles II., issued about the year 1670.

We have the honour to be, Sir,
Your obedient servants,

GEO. ET. CARTIER.
WM. McDOUGALL.

Sir Frederic Rogers, Bart.,
etc., etc., etc.,
Colonial Office.

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Canadian
Delegates
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ary 1869—
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10

No. 66

Letter, the Under-Secretary for the Colonies to the Governor of the Hudson's Bay Company.*

Downing Street,
22nd February 1869.

SIR,—I am directed by Earl Granville to enclose, for the information of the Directors of the Hudson's Bay Company, the copy of a letter which his Lordship has received from Sir G. Cartier and Mr. McDougall. As the greater part of that letter relates to matters on which the Company and the colony cannot be expected to agree, and on which Her Majesty's
20 Government has no authority to decide their differences, Lord Granville has felt some doubt whether the settlement of the question would be advanced by forwarding this letter. He considers it, however, necessary to do so; and in doing so, to explain clearly the position which he considers himself to occupy.

It appears that his Lordship's predecessor entertained the hope that he would be able to arrange the terms of a compromise, under which, with consent of both parties, the sovereignty of the Hudson's Bay Company's Territory would be transferred to the Dominion of Canada.

30 With this view his Grace made to the Company a proposal, respecting which Sir G. Cartier and Mr. McDougall write as follows:—

"The proposals submitted to the Company by the late Government in the letter of Mr. Adderley of the 1st December last, were not made at our suggestion, although we were disposed to think (and so informed his Grace) that if the Company accepted them the Canadian Parliament might be persuaded to undertake the duties of legislation and government in the territories on the conditions specified."

Your letter of the 13th inst., may be considered as a rejection of those proposals, and as thus terminating the negotiations instituted by the Duke of Buckingham and Chandos. But in your letter you propose that the
40 matter should be settled by the immediate payment of a fixed sum of money, or by the delivery of bonds, and you express yourself prepared to enter into further communication with Lord Granville on this subject.

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ary 1869.

* Sess. Papers, Canada, 1869, No. 25.

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Secretary
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Colonies to
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ary 1869—
continued.

It is of course obvious that this negotiation for the purchase of the Hudson's Bay Company's territory is really between the seller and the buyer, the Company and the colony, and Lord Granville is of opinion that if the negotiation is revived on this or any other basis, Her Majesty's Government can, at present, do no good by assuming to frame or suggest terms of accommodation; but can merely offer to act as a channel of communication between these two real parties to the transaction, using its best endeavours to remove any difficulties not inherent in the nature of the case.

Acting on this view, Lord Granville communicated to Sir G. Cartier 10 and Mr. McDougall a copy of your letter of the 13th. The enclosure of this letter is the answer which he has received.

The material sentences, for the present purpose, are those with which the letter concludes.

You will observe that the representatives of the colony state the principles on which they consider the cost of the territory should be calculated, indicating the opinion that the sum of £106,431 is the highest which could on any hypothesis properly be demanded by the Company; and express their strong conviction that no money offer, which either the Imperial or Canadian Government would deem reasonable, would be accepted by the 20 Company. Assuming this to be the case, they ask on the part of the Dominion Government either the immediate transfer of the whole territory, subject to the rights of the Company, or a transfer of the sovereignty and property of all the territory not heretofore validly granted to, and now held by, the Company under its Charter.

Under these circumstances, Earl Granville directs me to communicate to you the enclosed letter which, taken in connection with previous correspondence, appears to him to leave little present hope of bringing matters to a settlement by way of compensation. If the Directors of the Company should still think any such arrangement possible, his Lordship 30 will of course be prepared to transmit to the Canadian representatives any modified proposal on the part of the Company. Failing this, he thinks it proper to invite from the Directors, not any argument respecting the true nature and extent of the Company's claims from which, as not being before a court of law, he could anticipate no result, but a statement of any objections they may have, whether of principle or detail, to the two counter proposals now made by Sir G. Cartier and Mr. McDougall on behalf of the Canadian Dominion.

And it might not be immaterial to add what course the Company would propose to take, for securing that life and property are adequately 40 protected, and international obligations duly performed in their territory, so long as they remain responsible for its government.

I am, Sir, your most obedient Servant,

FREDERICK ROGERS.

The Right Honourable Sir Stafford Northcote, M.P.

No. 67

Letter, the Governor of the Hudson's Bay Company to the
Under-Secretary for the Colonies*

Hudson's Bay House, London,
February 26th, 1869.

No. 67.
Letter,
Governor,
Hudson's
Bay Com-
pany, to
Under-
Secretary
for the
Colonies,
26th Febru-
ary 1869.

SIR,—I have the honour to acknowledge your letter of the 22nd inst., transmitting, by Earl Granville's direction, a copy of a letter addressed to His Lordship by Sir George Cartier and Mr. McDougall, on the subject of my letter to yourself, dated the 13th ultimo.

10 The Committee of the Hudson's Bay Company understand from your letter, that it is not Earl Granville's wish that they should enter into a discussion of the communication from the Canadian delegates, and they therefore refrain from making any comments upon its tone or criticising and correcting its assertions. If there are any of those assertions to which Earl Granville himself attaches weight, the Committee will gladly, on their being pointed out to them, offer such observations upon them as may appear to be necessary.

As regards the manner in which the Canadian delegates treat the suggestions contained in my letter of the 13th ultimo,—that the Canadian
20 Government should complete the purchase of the Company's territory at once, by the payment of a sum of money or by the delivery of bonds,—the Committee desire me to observe that they might have had some difficulty in gathering, from the terms in which the delegates express themselves, whether they were or were not prepared to entertain that suggestion, and to open a negotiation with this Company. But as Earl Granville, who has had personal communication with the delegates, is of opinion that their letter, taken in connection with previous correspondence leaves little present hope of bringing matters to a settlement by way of compensation, the Committee are forced to adopt the conclusion that it is intended as a
30 virtual refusal on the part of the delegates to entertain the question in a serious spirit.

Should Earl Granville at any time come to the conclusion that it is desirable that the Committee should renew the offer of fully communicating with him on the subject of a money sale which they made in my letter of January 13th, they will hold themselves prepared to do so. For the present, and in accordance with what they gather to be his Lordship's views, they consider this matter at an end.

It becomes my duty, then, to answer Earl Granville's questions,
40 (1) Whether the Committee have any objections, either of principle or of detail, to make to the "counter proposals" of Sir G. Cartier and Mr. McDougall, and (2) What course the Company would propose to take for securing that life and property are adequately protected, and inter-

* Sess. Papers, Canada, 1869, No. 25.

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national obligations duly performed in their territory, so long as they remain responsible for its government.

With regard to the first of the two counter proposals, viz., that the sovereignty of the whole of the territory in question should be immediately transferred to the Dominion Government "subject to the rights of the Company," the Committee desire to ask whether it is intended that the rights of the Company should be ascertained and defined before the transfer takes place, or after it. If the former be Earl Granville's intention, the Committee have no kind of objection to offer to the proposal; but if it be meant that the transfer should take place first, and that the rights of the Company should then be made the subject of litigation in Canada, with a right of appeal to the courts of this country, I must remark that such a course is likely to lead to much inconvenience, expense and annoyance to all parties concerned, as well as to prove detrimental to the interests of the settlement itself by the prolongation of an irritating and disturbing controversy. As regards the injustice to this Company involved in such a proposal, I beg leave to refer Earl Granville to Sir E. Head's letter of the 25th January, 1868, to the Duke of Buckingham and Chandos, in which a similar proposal is very ably discussed, and to which, and to the extracts from speeches delivered in the Canadian Parliament which it encloses, the Committee desire to invite Earl Granville's particular attention. 10

The second counter-proposal is for a transfer to the Dominion Government of both the sovereignty and the property of "all the territory not heretofore validly granted to, and now properly held by the Company under its Charter." Upon this proposal also the Committee desire respectfully to ask whether the limits of the territory so to be transferred are to be distinctly set out in the instrument of transfer, so that there may be no room for disputes as to the limits of the respective jurisdictions. Even with the utmost care in this respect, the Committee cannot but feel apprehensive that difficulties will arise in dealings with the Indians and with the various classes of hunters and traders frequenting those distant regions, if two different systems of administration are introduced into those portions of the extreme North-Western Territory which would be affected by the proposed transfer, especially as the great distance of that territory from Canada, and the difficulty of the communications, will render its administration by the Dominion Government very troublesome. Should, however, Her Majesty's Government decide on this measure, the Committee will do all in their power to arrive at a good understanding with the Dominion Government as to the details of the arrangements which should be made in the two portions of the now united territory, and to facilitate the establishment of a strong administrative system in both. 30 40

As regards any transfer of the sovereignty without a distinct definition of the limits to be assigned to it, and by virtue merely of vague general words, the Committee feel that they need not point to Earl Granville that such a step would not only be open to the objections which I have already mentioned in the case of the former counter-proposal, but to the further, and very serious one that it must lead to constant conflicts of authority

and to frequent political embarrassments. The Company can hardly be expected to provide for the security of life and property, and the due performance of international obligations if their boundary is left unsettled, and their title to important parts of their territory unrecognised. It is probably unnecessary for me to pursue this argument at any length.

I have now to advert to the last question put by Earl Granville—that relating to the course which the Company would propose to take for the government of their territory, so long as they remain responsible for it.

10 The Committee desire me, in the first place, to remind his Lordship that they have no authority to give a pledge on the part of the shareholders of the Company, and that they can only undertake to submit certain proposals to them, and to use their own influence to secure their adoption. Subject to this reservation, the Committee are prepared to enter at once into communication with Earl Granville, as to the measures which should be adopted for the purpose to which he adverts. As his Lordship is aware, a resolution was agreed to by this Committee, as long ago as in August, 1863, to the effect that in the opinion of the Directors it was expedient that the authority, executive and judicial, over Red River settlement and the south-western portion of Rupert's Land, should be vested in officers deriving such authority
20 directly from the Crown, and exercising it in the name of Her Majesty. In adopting this resolution, the Committee intended to indicate their desire for the establishment of a Crown colony in this portion of their territory. They still believe that this would be the most satisfactory plan that could be pursued, and they are prepared to discuss it with Her Majesty's Government, if they are encouraged to do so.

I am to state that the Committee would be willing either to advise the surrender of such proportion of the Company's proprietary rights as might be found to be a fair equivalent for the charge which the establishment of a Crown colony would throw upon the Imperial Exchequer, or to
30 recommend the Company, retaining its proprietary rights, to take upon itself the whole of the pecuniary burden. The Committee are satisfied that a territory, which in the present undeveloped state of its communications supports a trade of the annual value of more than £400,000, and which possesses a large amount of highly fertile soil requiring no great expenditure for its clearance and cultivation, is perfectly capable of supporting the expense of any government that it may be required to maintain; and they have little doubt that if the state of the case were fairly laid before the shareholders, and if the moral support of the Imperial Government were distinctly assured to them, the necessary funds would readily be forthcoming.

40 Of course, if Her Majesty's Government should be of opinion that the great objects in view could be equally well attained by the exercise of the powers actually possessed by, or which might be granted to the Company, and should consider that it would be preferable to adopt this method of government rather than to erect the territory into a Crown colony, the Committee would at once fall in with such a suggestion, and would request Earl Granville to state to them what establishment would, in the opinion

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of Her Majesty's Government, be sufficient to meet the necessities of the case.

It can hardly be necessary for me to add that, in the event of such an arrangement being made, the Company would rely upon the cordial co-operation of the Government in submitting any needful measure to Parliament, and in protecting the settlement from any trespass or interference on the part of Canada.

In conclusion I am to observe that it is on many accounts important that the Directors of this Company should soon communicate to the shareholders the progress of this negotiation, and should lay the corre- 10
spondence before them. They trust that Earl Granville will have no objection to their doing so.

I have, etc.,

STAFFORD H. NORTHCOTE,
Governor.

Sir Frederic Rogers, Bart.
Colonial Office.

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Letter,
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for the
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Governor of
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pany,
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No. 68

Letter, the Under-Secretary for the Colonies to the Governor of the
Hudson's Bay Company*

20

Downing Street,
9th March, 1869.

SIR,—Earl Granville has had under review the correspondence which has passed respecting the proposed transfer to Canada of the jurisdiction and territorial rights of the Hudson's Bay Company in North America.

It is, in Lord Granville's opinion, of very great importance that this question should be settled on a permanent footing, and with little delay. He does not disguise the interest which Her Majesty's Government have in this settlement. It is not creditable to this country that any inhabited part of Her Majesty's dominions should be without a recognized Government 30
capable of enforcing the law, and responsible to neighbouring countries for the performance of international obligations. The toleration of such a state of things in parts of the Hudson's Bay Territory is unjust to the inhabitants of that territory, and is not without danger to the peaceful relations between this country and the United States; and this danger and injustice are likely to increase in proportion as the mining and agricultural capabilities of what is called the "Fertile Belt" begin to attract settlers from the east and south.

To Canada the settlement of the question is not less important, as removing a cause of irritation between it and its neighbours, and even 40

* Sess. Papers, Canada, 1869, No. 25.

with the mother country itself; as destroying an obstacle to that which has been looked upon as the natural growth of the Dominion; as likely to open an indefinite prospect of employment to Canadian labour and enterprise; and lastly, as enlarging the inducements which Canada is able to offer to the British immigrant. It is no small matter that it would enable Her Majesty's Government at once to annex to the Dominion the whole of British North America proper except the colony of British Columbia.

To the Hudson's Bay Company it may almost be said to be necessary.

At present the very foundations of the Company's title are not
 10 undisputed. The boundaries to its territory are open to questions of which it is impossible to ignore the importance. Its legal rights, whatever these may be, are liable to be invaded without law by a mass of Canadian and American settlers, whose occupation of the country on any terms they will be little able to resist; while it can hardly be alleged that either the terms of the charter, or their internal constitution, are such as to qualify them under all these disadvantages for maintaining order and performing the internal and external duties of government.

The prejudicial effect that all those uncertainties must have on the value of the Company's property is but too evident.

20 The interests of all parties thus evidently pointing towards an immediate and definite adjustment, Lord Granville has been most unwilling to abandon the hope of bringing it about by way of amicable compromise. He is fully alive to the difficulties of such a compromise. He does not conceal from himself that the estimate which the Company form of the nature and value of their rights is widely different from that which is formed by the gentlemen who represent Canada; nor can he undertake to express any opinion whatever as to the relative correctness of those estimates. Indeed, it would be impossible to do so without knowing to what extent the claims of the Company would be supported by the judgment of a
 30 court of law.

But after repeated communications with both parties, his Lordship is convinced that he will be serving the interests of the Dominion, of the Company, and of this country, by laying before the Canadian representatives and the directors of the Company a distinct proposal, which, as it appears to be, it is for the interest of both parties to accept, and in support of which Her Majesty's Government would be prepared to use all the influence which they could legitimately exercise.

If the proposal is really an impartial one, Lord Granville cannot expect that it will be otherwise than acceptable to both the parties concerned.

40 But he is not without hope that both may find, on consideration, that if it does not give them all that they conceive to be their due, it secures to them what is politically or commercially necessary, and places them at once in a position of greater advantage with reference to their peculiar objects than that which they at present occupy.

The terms which his Lordship now proposes are as follows:—

1. The Hudson's Bay Company to surrender to Her Majesty all the rights of government, property, etc., in Rupert's Land, which are specified

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in the 31 and 32 Vic., c. 105, sec. 4; and also all similar rights in any other part of British North America not comprised in Rupert's Land, Canada, or British Columbia.

2. Canada is to pay the Company £300,000 when Rupert's Land is transferred to the Dominion of Canada.

3. The Company may, within twelve months of the surrender, select a block of land adjoining each of its stations, within the limits specified in Article 1.

4. The size of the blocks is not to exceed ——— acres in the Red River Territory, nor 3,000 acres beyond that territory, and the aggregate extent 10
of the blocks is not to exceed 50,000 acres.

5. So far as the configuration of the country admits, the blocks are to be in the shape of parallelograms, of which the length is not more than double the breadth.

6. The Hudson's Bay Company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt, in which land is set out for settlement, grants of land not exceeding one-twentieth part of the land so set out: the blocks so granted to be determined by lot, and the Hudson's Bay Company to pay a ratable share of the survey expenses, not exceeding ——— an acre. 20

7. For the purpose of the present agreement, the Fertile Belt is to be bounded as follows:—On the south by the United States boundary; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan; on the east by Lake Winnipeg, the Lake of the Woods, and the waters connecting them.

8. All titles to land up to the 8th of March, 1869, conferred by the Company, are to be confirmed.

9. The Company is to be at liberty to carry on its trade without hindrance, in its corporate capacity, and no exceptional tax is to be placed on the Company's land, trade, or servants, nor any import duty on goods 30
introduced by them previous to the surrender.

10. Canada is to take over the materials of the electric telegraph at cost price, such price including transport, but not including interest for money, and subject to a deduction for ascertained deteriorations.

11. The Company's claim to land under agreement of Messrs. Vankoughnet and Hopkins to be withdrawn.

12. The details of this arrangement, including the filling up the blanks in articles 4 and 6, to be settled at once by mutual agreement.

It is due, both to the representatives of Canada and to the Company, to add—that these terms are not intended by Lord Granville as the basis 40
of further negotiation; but a final effort to effect that amicable accommodation of which he has almost despaired, but which he believes will be for the ultimate interest of all parties.

If this be rejected either on the part of the Dominion or Company, his Lordship considers that his next step must be to procure an authoritative decision as to the rights of the Crown and the Company, and with this object he will recommend Her Majesty to refer their rights for examination to the Judicial Committee of the Privy Council, whose decision will form a basis for any future legislation or executive action which Her Majesty's Government may find necessary.

10 Whatever may be the result of this proposal, his Lordship desires to express his sense of the openness and courtesy which he has experienced throughout these negotiations, both from the representatives of Canada and from the Governor and Deputy-Governor of the Company, and the patience with which they have entertained proposals which, from their point of view, must no doubt have appeared inadequate.

Lord Granville is aware that a proposal of this kind will require consideration; but he hopes that you will lose no time beyond what is necessary in acquainting him with your decision.

I am, Sir,

Your most obedient servant,

FREDERIC ROGERS.

20 Sir Stafford Northcote, Bart, etc.

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No. 69

Letter, the Under-Secretary for the Colonies to the Canadian Delegates*

Downing Street,

9th March, 1869.

GENTLEMEN,—Lord Granville transmitted to the Governor of the Hudson's Bay Company a copy of your letter of 8th February, and I enclose, by his Lordship's direction, a copy of the answer which he has received.

30 The conclusion to which he has been led, after careful consideration both of the correspondence which has passed and of the various representations made orally to him by yourselves and by the Governor and Deputy-Governor of the Company, are embodied in the enclosed letter, which he has directed me to address to Sir S. Northcote, and which you will be good enough to consider as conveying to yourselves also the views of Her Majesty's Government. His Lordship is confident that you will give it your earliest attention.

His Lordship desires me to add that, in case the terms suggested in this letter should be accepted by the parties concerned, Her Majesty's Government would be prepared to fulfil the expectations held out in

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tinued.*

Mr. Cardwell's despatch of 17th June, 1865, and to propose to Parliament that the Imperial guarantee should be given to a loan of £300,000, the sum which is proposed to be paid over by Canada to the Company on the transfer of the Company's rights. As this is a matter in which the Company has no interest, it is not adverted to in my letter to Sir Stafford Northcote.

I am Gentlemen,
Your most obedient servant,
FREDERIC ROGERS.

Sir G. E. Cartier, Bart.,
W. McDougall, Esq.

10

No. 70.
Resolutions
of Governor
and Com-
mittee of
Hudson's
Bay Com-
pany, passed
12th March
1869.

No. 70

Resolutions of the Governor and Committee of the Hudson's Bay Company, passed March 12th, 1869, transmitted to the Canadian Delegates*

Resolved, that the Committee will recommend the shareholders to accept the proposal of Lord Granville, if the Canadian Ministers will agree to the following modifications:—

1. That Canada will lay no export duty on furs.
2. That the 6th Article be modified so as to allow the Company to defer exercising their right of claiming their proportion of each township for not more than ten years after it is set out.
3. That no charges be made upon the Company for the expenses of survey.
4. That the proportion of land which they are to be allowed to claim be increased from one-twentieth to one-tenth.
5. That York and Moose Factories be retained as ports of entry.
6. That Canada undertakes to pay the £300 a year now paid to the Bishop of Rupert's Land, and other charges of a public character now borne by the Company.
7. That some provision be made for referring to arbitration any question which may arise out of the agreement.

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No. 71.
Letter,
Canadian
Delegates to
Governor of
Hudson's
Bay Com-
pany,
13th March
1869.

No. 71

Letter, the Canadian Delegates to the Governor of the
Hudson's Bay Company*

Westminster Palace Hotel,
London,
March 13th, 1869.

SIR,—We have the honour to acknowledge the receipt of a copy of certain Resolutions adopted by the Governor and Committee of the Hudson's Bay Company, on the 12th inst., suggesting important modifications of the proposal of Lord Granville for the transfer of Rupert's Land to Canada.

40

* Sess. Papers, Canada, 1869, No. 25.

We beg you will inform the Committee that, in our opinion, the proposal of Lord Granville, is much more favourable to the Hudson's Bay Company than any previous proposal of the Imperial Government, and much more onerous to Canada than its Government and people have been led to expect. With great reluctance we have consented to recommend Lord Granville's proposal, if accepted by the Company *pure et simple*, but not otherwise, to the favourable consideration of the Canadian Government. The modifications and additions proposed by the Committee are not, in our judgment, "details" within the purview of the 12th article of Lord Granville's proposal, but substantive and material changes affecting the very basis of the arrangement. We cannot, therefore, assent to them, or undertake to recommend their acceptance by the Canadian Government.

We have further to observe that, in making these demands upon us, the Committee assume that the changes they propose will be accepted, or approved by the Imperial Government. If we are correctly advised, the Committee are not warranted to make that assumption. In the letter of Sir Frederic Rogers, communicating to us a copy of Lord Granville's proposal, we are assured that it conveys "the views of Her Majesty's Government;" and in the letter conveying these views to the Company it is stated that "these terms are not intended by Lord Granville as the basis of further negotiations." It follows, we think, that Lord Granville's proposal is to be regarded as the *ultimatum* of the Imperial Government, and must be accepted or rejected in its entirety. The Act 31 and 32 Victoria, Chapter 105 (which was not introduced at the instance, or passed in the interest of the Canadian Government), placed the negotiation of the terms of surrender by the Company to the Crown in the hands of Her Majesty's Imperial Government, where, until the Act is repealed, or the negotiation fails, we are of opinion it must remain.

We shall be glad to confer with you upon all questions of "detail," which by the terms of Lord Granville's proposal are left to be adjusted between the Canadian Government and the Hudson's Bay Company.

We have the honour to be, Sir,

Your very obedient servants,

GEO. ET. CARTIER.

WM. McDOUGALL.

Sir Stafford Northcote, M.P.,
etc., etc., etc.

No. 71.
Letter,
Canadian
Delegates to
Governor of
Hudson's
Bay Com-
pany,
13th March
1869—con-
tinued.

No. 72.
Letter,
Governor of
Hudson's
Bay Com-
pany to
Canadian
Delegates,
16th March
1869.

No. 72

Letter, the Governor of the Hudson's Bay Company to the
Canadian Delegates*

Hudson's Bay House,
London,
March 16th, 1869.

GENTLEMEN,—I have the honour to acknowledge the receipt of your letter of yesterday's date, in reply to my letter to Sir George Cartier, in which I enclosed to you a copy of the Resolutions adopted at the meeting of the Committee of the Hudson's Bay Company on the 12th instant. 10

It is unnecessary for me to enter into the question you raise, as to whether Earl Granville would or would not accept any modifications of the terms set forth in his Lordship's recent communication to this Committee, if they should be agreed to by this Committee on the one hand, and by yourselves on the other. While stating that he regarded these terms as not being intended as the basis of further negotiations, Lord Granville added that he left the details of the arrangement to be settled by mutual consent. The greater part of the resolutions transmitted to you in my letter of the 12th were resolutions intended to lead to a settlement of certain details, on which it will be necessary for the Committee to offer full explanation to the shareholders of the Company, if they decide on submitting Earl Granville's proposals to a general meeting. 20

If in your opinion any of them go further than this, the Committee will be ready to reconsider them, and to confer with you upon them.

As regards the resolution by which the Committee proposed that the amount of land to be left to the Company should be one-tenth, instead of one-twentieth, I am to state that the Committee have rescinded that resolution.

They will await a communication from you with regard to the other resolutions before coming to a conclusion as to the course they should adopt. 30

I am, Gentlemen,

Your obedient servant,

STAFFORD H. NORTHCOTE.

Sir Geo. E. Cartier, Bart., and
The Hon. Wm. McDougall, C.B.

* Sess. Papers, Canada, 1869, No. 25.

No. 73

Letter, the Canadian Delegates to the Governor of the
Hudson's Bay Company*

Westminster Palace Hotel,

March 18th, 1869.

No. 73.
Letter,
Canadian
Delegates to
Governor of
Hudson's
Bay Com-
pany,
18th March
1869.

SIR,—We have the honour to acknowledge your letter of the 16th inst., in which you inform us that the Committee of the Hudson's Bay Company has rescinded the Resolution adopted on the 12th inst. asking for *one-tenth* instead of *one-twentieth*, as proposed by Lord Granville, of the land which
10 may be surveyed for settlement in the North-Western Territory. You further state that if the other resolutions transmitted to us go further than the "details of the arrangement," left by Lord Granville to be "settled by mutual consent," the Committee are ready to reconsider them.

With reference to the first resolution, "That Canada will lay no export duty on furs," we beg you will inform the Committee that it is not the policy or practice of the Canadian Government to resort to "export duties" as a source of revenue. We feel no hesitation in stating our belief that no such duties as the Committee wish to prohibit, will be levied, but it would obviously be improper for us to consent to any arrangement which would
20 fetter the free action of the Canadian Parliament in respect to modifications of the tariff which the future exigencies of the country may render necessary.

2. The proposal to modify the 6th article so as to permit the Company to defer the exercise of the right of claiming their proportion of lands in any township for a period of ten years after survey, might, we think, be agreed to, on condition that they limit their claim to allotment from the lands which may be unsold at the time they declare their intention to take their proportion in that township.

3. The demand to be relieved from the expenses of survey, which Lord Granville proposed the Company should bear, is not, we think, a "detail,"
30 within the meaning of the 12th article. But if it will remove the apprehension that charges under this stipulation may become excessive, we see no objection to a proviso, that the expense to the Company for the survey of the lands allotted to them shall in no case exceed eight cents *per acre*.

4. We have no doubt that York and Moose Factories will be retained as ports of entry if goods continued to be imported there. But if by the opening of interior communications trade should be diverted to other ports, it would not seem reasonable that the Government should be bound to maintain customs establishments at Hudson's Bay. The practice of the Canadian Government is to establish ports of entry wherever the interests
40 of trade and commerce require them, and we do not, therefore, see that it is necessary or expedient to make any stipulation on the subject.

5. The demand that the salary of the Anglican Bishop of Rupert's Land should hereafter be charged upon the Canadian Treasury cannot, we think, be regarded as a "detail" within the 12th article of Lord Granville's

* Sess. Papers, Canada, 1869, No. 25.

No. 73.
Letter,
Canadian
Delegates to
Governor of
Hudson's
Bay Com-
pany,
18th March
1869—con-
tinued.

proposal. The surrender of the rights and powers of government by the Company will necessarily involve the assumption of "all charges of a public character" by the new Government. But an agreement to continue the charges *now* borne by the Company, *co nomine*, would so far perpetuate a system which the transfer of the territory to Canada is intended to supersede.

6. The last proposal of the Committee is open to very serious objection. The surrender of the powers of government, and of territorial jurisdiction by the Company to the Crown, and the transfer of these powers to the Canadian Government, are acts of State, authorized by Imperial Statute, and will have all the force and permanence of fundamental law. The proposal to refer all questions which may arise under this law to some extra-constitutional tribunal is not warranted by the British North America Act, and would, we fear, if adopted, create confusion and embarrassment, and postpone indefinitely the establishment of a satisfactory government in Rupert's Land. 10

We must decline to admit, even by implication, that the judicial tribunals and the general and local authorities of the Dominion will fail to understand, or hesitate to respect and carry out in good faith, all the terms and conditions of the proposed arrangement. 20

We have the honour to be, Sir,
Your obedient servants,
GEO. ET. CARTIER.
W. McDOUGALL.

Sir Stafford Northcote, M.P.,
etc., etc., etc.

No. 74.
Memo-
randum of
Provisional
Agreement
between
Canadian
Delegates
and Direc-
tors of Hud-
son's Bay
Company,
22nd March
1869.

No. 74

Memorandum of Provisional Agreement between the Canadian Delegates and the Directors of the Hudson's Bay Company*

1. It is understood that in surrendering to Her Majesty all the rights, etc., of the Company in any part of British North America not comprised in Rupert's Land, Canada, or British Columbia, the Company are to retain the posts they actually occupy in the North-West Territory. 30

2. It is understood that it will be a sufficient act of selection under Article III. that the Company should, within twelve months, name the number of acres which they will require adjoining each post. The actual survey to be proceeded with with all convenient speed.

* Sess. Papers, Canada, 1869, No. 25.

3. It is understood that, in the Red River Settlement, the size of the blocks to be retained round upper Fort Garry shall not exceed (ten) acres; and that round Lower Fort Garry shall not exceed (three hundred) acres.

4. It is understood that a list of the stations round which the Company will require blocks of land, with the size of the blocks they will require, shall be made out forthwith and communicated to the Canadian Ministers.

5. It is understood that Article V. shall be construed to mean that the blocks shall front the river or road by which means of access are provided, and shall be approximately in form of parallelograms, of which the frontage shall not be more than half the depth.

6. It is understood that the Company may defer the exercise of their right of claiming their proportion of each township for not more than ten years after it is set out; but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

7. It is understood that the blank in Article VI. shall be filled up with eight cents (Canadian).

8. It is understood that any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government, and that the Company shall be relieved of all responsibility in respect of them.

STAFFORD H. NORTHCOTE.

G. E. CARTIER.

W. McDOUGALL.

March 22, 1869.

No. 74.
Memo-
randum of
Provisional
Agreement
between
Canadian
Delegates
and Direc-
tors of Hud-
son's Bay
Company,
22nd March
1869—con-
tinued.

No. 75

Letter, the Canadian Delegates to the Under-Secretary for the Colonies*

Westminster Palace Hotel,

London,

27th March, 1869.

30

SIR,—Your letter of the 9th inst., enclosing a copy of proposals made by Lord Granville to the Hudson's Bay Company in your letter to Sir Stafford Northcote of the same date, has not been formally acknowledged by us, in consequence of a doubt, not yet removed, as to the acceptance of these proposals by the Company. We stated verbally to Lord Granville our objections to his proposals, but finally consented to recommend them to the Canadian Government, on condition that the Company first signified their acceptance of them. Sir Stafford Northcote has since opened communication with us directly, and proposed important modifications of

No. 75.
Letter,
Canadian
Delegates to
Under-
Secretary
for the
Colonies,
27th March
1869.

No. 75.
Letter,
Canadian
Delegates to
Under-
Secretary
for the
Colonies,
27th March
1869—con-
tinued.

Lord Granville's terms, to which we could not assent. In some points of detail we agreed that the terms might be varied or qualified, if such variation or qualification would be likely to make the arrangements, as a whole, more acceptable to the shareholders of the Company. We understand Sir Stafford Northcote has acquainted Lord Granville with the correspondence which has passed between us on the subject. The Company having, at the meeting on the 24th inst., postponed for a fortnight the question of accepting Lord Granville's proposals, we regret that we are unable to await their decision. Our public duties require that we should immediately return to Canada. We have now the honour to repeat the request contained in our letter of the 8th February—viz., that immediate action may be taken by the Imperial Government upon the address of the Canadian Parliament of December, 1867, or that pending the negotiations for the transfer of Rupert's Land, the North-Western Territory, or all that part of British North America from Canada on the east, to British Columbia, Alaska and the Arctic Ocean on the west and north, not heretofore validly granted to, and now held by the Governor and Company of Adventurers of England trading into Hudson's Bay, may be immediately transferred to the Dominion of Canada, under the authority of the British North America Act, 1867.

10

G. E. CARTIER.
W. McDOUGALL.

20

No. 76.
Memo-
randum of
further
Agreement
between
Canadian
Delegates
and Gov-
ernor of
Hudson's
Bay Com-
pany,
29th March
1869.

No. 76

Memorandum of a further Agreement between Sir George E. Cartier
(one of the Canadian Delegates) and the Governor of the Hudson's
Bay Company*

Inasmuch as the northern branch of the Saskatchewan River is the northern boundary of the fertile belt, and therefore any land on the northern bank is not within the Territory of which the Company are to have one-twentieth part, it is understood that in forming the townships abutting on the northern bank, the Company shall be at liberty to take their one-twentieth of any such townships, giving up to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.

30

It is understood that the townships on the northern bank shall not for the above purpose extend more than five miles inland from the river.

It is understood that in laying out any public roads, canals, etc., through any block of land reserved to the Company, the Canadian Government may take without compensation such land as is necessary for the purpose, not exceeding one twenty-fifth of the total acreage of the block;

* Sess. Papers, Canada, 1869, No. 25.

40

but if the Canadian Government require any land which is actually under cultivation or which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or has a frontage to any river or lake, they shall pay the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause shall be appropriated for public purposes.

10

London,
29th March, 1869.

GEORGE ET. CARTIER.
STAFFORD H. NORTHCOTE.

No. 76.
Memo-
randum of
further
Agreement
between
Canadian
Delegates
and Gov-
ernor of
Hudson's
Bay Com-
pany,
29th March
1869—*con-
tinued.*

No. 77

Letter, the Under-Secretary for the Colonies to the Governor of the
Hudson's Bay Company*

Downing Street,
April 3rd, 1869.

I am directed by Earl Granville to enclose for your information a copy
20 of a letter addressed by him to Sir G. Cartier and Mr. McDougall, and a
letter which he has received from them in reply, in which they intimate
their acceptance of the terms proposed to you and them for the surrender
of the territorial and other rights of the Hudson's Bay Company in Rupert's
Land. I am to add that his Lordship has been informed in conversation
by the above gentlemen that they believe the Canadian Government will
agree to those terms, and have a confident hope that their Parliament will
not reject them, and they added that in the event of the transfer taking
place, the Hudson's Bay Company might rely upon the justice and good
will of the Government and the Parliament of Canada.

30

F. ROGERS.

No. 77.
Letter,
Under-
Secretary
for the
Colonies to
Governor of
Hudson's
Bay Com-
pany,
3rd April
1869.

* Sess. Papers, Canada, 1869, No. 25.

No. 78.
 Letter,
 Governor of
 Hudson's
 Bay Com-
 pany to
 Under-
 Secretary
 for the
 Colonies,
 10th April
 1869.

No. 78

Letter, the Governor of the Hudson's Bay Company to the
 Under-Secretary for the Colonies*

Hudson's Bay House,
 London,
 10th April, 1869.

SIR,—I have the honour to acquaint you, for the information of Earl Granville, that at a meeting of the Hudson's Bay Company, held on the 9th inst., the following resolution was adopted by a large majority of the proprietors specially summoned to consider the proposal contained in your letter of the 9th ulto., for the surrender of the Company's territory, etc., to Her Majesty :—

That it is expedient to accede in the terms proposed in the communication above referred to, and to surrender to Her Majesty all this Company's territorial rights in Rupert's Land, and in any other part of British North America not comprised in Rupert's Land, Canada or British Columbia, and that the Governor and Committee be and they are hereby authorized to make such surrender on being assured that the terms have been agreed to by the Government and Parliament of Canada, provided that the acceptance of the terms by the Government and Parliament of Canada shall have been signified to them by Her Majesty's Secretary of State for the Colonies, within six months after the passing of this resolution, and that for that purpose the Governor and Committee concur in all such measures as may be found necessary for effecting such surrender, and for securing to the Company the rights and reservations to which, by the terms of the letter from Sir Frederic Rogers, the Company will be entitled.

I have, etc.,

STAFFORD H. NORTHCOTE,
 Governor.

Sir F. Rogers, Baronet.

* Sess. Papers, Canada, 1869, No. 25.

No. 79

Despatch, the Colonial Secretary to the Governor-General*

Downing Street,
10th April, 1869.No. 79.
Despatch,
Colonial
Secretary to
Governor-
General,
10th April
1869.

SIR,—The proprietors of the Hudson's Bay Company have considered at a special meeting the terms on which they have been invited to transfer their territorial rights to the Dominion of Canada, and I enclose the copy of a letter addressed to me by Sir Stafford Northcote, from which you will perceive that those terms have been acceded to.

10 You will observe that the Governor and Committee of the Company are authorized to concur in all such measures as may be found necessary for effecting this transfer, and for securing to the Company all the rights and reservations to which they will be entitled, provided that the acceptance of the terms by the Government and Parliament of Canada is duly signified to them within six months.

I trust that this acceptance may be confidently anticipated, and that by it an opening will be made for extending the benefits of a regular Government to those British subjects who at present occupy the Company's territory; for settling the tracts of fertile land which lie in the centre of the
20 continent; and for the consolidation of British North America, under one Central Government.

On one point which has not been hitherto touched upon, I am anxious to express to you the expectations of Her Majesty's Government. They believe that whatever may have been the policy of the Company, and the effect of their chartered rights upon the progress of settlement, the Indian tribes who form the existing population of this part of America have profited by the Company's rule.

They have been protected from some of the vices of civilization; they have been taught to some appreciable extent to respect the laws and rely
30 on the justice of the white man; and they do not appear to have suffered from any causes of extinction beyond those which are inseparable from their habits and their climate. I am sure that your Government will not forget the care which is due to those who must soon be exposed to new dangers, and in the course of settlement be dispossessed of the lands which they are used to enjoy as their own, or be confined within unwontedly narrow limits.

This question had not escaped my notice while framing the proposals which I laid before the Canadian delegates and the Governor of the Hudson's Bay Company. I did not, however, then allude to it, because I felt the
40 difficulty of insisting on any definite conditions without the possibility of foreseeing the circumstances under which those conditions would be applied, and because it appeared to me wiser and more expedient to rely on the

* Sess. Papers Canada, 1869, No. 25.

No. 79.
Despatch,
Colonial
Secretary to
Governor-
General,
10th April
1869—con-
tinued.

sense of duty and responsibility belonging to the Government and people of such a country as Canada.

That Government, I believe, has never sought to evade its obligations to those whose uncertain rights and rude means of living are contracted by the advance of civilized men. I am sure that they will not do so in the present case, but that the old inhabitants of the country will be treated with such forethought and consideration as may preserve them from the dangers of the approaching change, and satisfy them of the friendly interest which their new governors feel in their welfare.

With the expression of this hope, I will close my despatch, merely repeating my sincere desire that the annexation of the great territory may be speedily accomplished, and may bring to the Dominion all the advantages which the statesmen of Canada not unreasonably anticipate. 10

I have, etc.,

GRANVILLE.

Governor the Right Honourable Sir John Young, Baronet,
G.C.B., etc., etc., etc.

No. 80.
Report,
Canadian
Delegates
to the
Governor-
General,
8th May
1869.

No. 80

Report of the Canadian Delegates to Governor-General*

To His Excellency the Right Hon. Sir John Young, Bart., G.C.B., G.C.M.G., 20
Governor-General of Canada.

May it please Your Excellency,—

We have the honour to submit for Your Excellency's consideration the following Report of our negotiations with Her Majesty's Imperial Government for the transfer to the Dominion of Canada of Rupert's Land and the North-Western Territory:—

Under the authority of an Order in Council of the 1st October, 1868, we were appointed a delegation to England to arrange the "terms for the acquisition by Canada of Rupert's Land," and by another Order in Council of the same date, we were authorized to arrange "for the admission of the North-West Territory into union with Canada, either with or without Rupert's Land, as may be found practicable and expedient." We proceeded at once to execute the important mission confided to us, and on presenting ourselves at the Colonial Office, were invited by his Grace the Duke of Buckingham and Chandos, then Secretary of State for the Colonies, to visit him at Stowe, for the purpose of discussing freely and fully the numerous and difficult questions which were involved in the transfer of these great territories to Canada. We found that his Grace had already made some progress in the preliminaries of a negotiation (under the Act 31 and 32 Vic., cap. 105) with the Hudson's Bay Company, for the surrender to 30 40

* Sess. Papers, Canada, 1869, No. 25.

Her Majesty of the territorial and political rights which they claimed in Rupert's Land. We objected very earnestly to some of the demands of the Company which were communicated to us by his Grace, but after much consideration and important modifications of the Company's demands, we agreed that if they would surrender the territory on the conditions which his Grace proposed, we would recommend the acceptance of these conditions by the Canadian Government.

The Duke of Buckingham's proposals will be found in the letter of Mr. Adderley, of the 1st December, 1868, addressed to the Governor of the Hudson's Bay Company.

Considerable delay in the negotiations was occasioned by the retirement from office of the Duke of Buckingham and his colleagues, and also by the resignation of Lord Kimberley, the then Governor of the Company.

On the 18th January, 1869, Earl Granville, who had acceded to office as Secretary of State for the Colonies, transmitted to us the reply of the Company, declining the proposals of the Duke of Buckingham. His Lordship subsequently requested us to communicate to him any observations which we might desire to offer upon this reply of the Company and upon certain counter-proposals which it contained. We felt reluctant, as representatives of Canada, to engage in a controversy with the Company concerning matters of fact, as well as questions of law and policy, while the negotiation with them was being carried on by the Imperial Government in its own name and of its own authority. But we did not feel at liberty to decline Lord Granville's request, and on the 8th of February stated at length our views upon the various points raised in the letter of Sir Stafford Northcote, the new Governor of the Company, in answer to the proposals of the Duke of Buckingham. We beg to refer Your Excellency to the correspondence for full information as to the positions taken and the opinions expressed by us at this stage of the negotiation.

Lord Granville, being of opinion that the rejection by the Company of the proposals of his predecessor had terminated the negotiations instituted by him, submitted for our consideration proposals of his own, based on a different principle from that which had been laid down by the Duke of Buckingham.

We felt it our duty to state to his Lordship that these proposals would not be acceptable to the Canadian Government. They were subsequently modified, and in the form in which they appear in the letter of Sir Frederick Rogers, of the 9th March, were conditionally accepted by us, subject to the approval of Your Excellency in Council.

Certain details were left by Lord Granville to be settled between the representatives of the Company and ourselves, which led to interviews and discussions with them, and to a correspondence, which is also submitted herewith.

During the progress of the negotiations, a formal complaint was made to the Colonial Secretary by the representatives of the Company against the Canadian Government for undertaking the construction of a road between Lake of the Woods and the Red River Settlement without having

No. 80.
Report,
Canadian
Delegates
to the
Governor-
General,
8th May
1869—*con-
tinued.*

No. 80.
Report,
Canadian
Delegates
to the
Governor-
General,
8th May
1869—*con-
tinued.*

first obtained the consent of the Company. The letter conveying this complaint was referred to us by Earl Granville for such explanations as we were able to offer. The correspondence on this subject is also respectfully submitted.

Your Excellency is aware that since our return to Canada the Hudson's Bay Company have signified to Lord Granville their acceptance of the terms proposed by him for the surrender to Her Majesty of their territorial rights in Rupert's Land. We have, therefore, the honour to submit the same, with a memorandum of the "details" agreed to by us on behalf of the Canadian Government, for the approval of Your Excellency, and for 10 such action thereupon as Your Excellency may be advised to take.

All of which is respectfully submitted.

GEO. E. CARTIER.
WM. McDOUGALL.

Ottawa,
May 8, 1869.

No. 81.
Order-in-
Council
(Canada),
14th May
1869.

No. 81

Order in Council (Canada), 14th May, 1869*

The Committee have had under consideration the accompanying report and correspondence of the delegates appointed, by Order in Council 20 of 1st October, last, to proceed to England to negotiate the terms for the acquisition by Canada of Rupert's Land and the North-West Territory, and they humbly advise that the said report and the terms agreed upon, as set forth in the said report and correspondence, be approved by Your Excellency and submitted for the consideration and sanction of Parliament.

WM. H. LEE,
Clerk, P.C.

To the Honourable the Secretary of State,
etc., etc., etc.

No. 82.
Message of
Governor-
General to
House of
Commons,
17th May
1869.

No. 82

30

Message of the Governor-General to the House of Commons*

JOHN YOUNG.

The Governor-General transmits, for the consideration of the House of Commons, the report of the delegates appointed to negotiate for the acquisition of Rupert's Land and the North-West Territory.

Government House,
Ottawa,
17th May, 1869.

* Sess. Papers, Canada, 1869, No. 25.

No. 83

Resolutions of the Parliament of Canada in acceptance of the transfer of Rupert's Land and the North-Western Territory, 28th May, 1869*

No. 83.
Resolutions
of Parlia-
ment of
Canada in
acceptance
of transfer
of Rupert's
Land and
North-
Western
Territory,
28th May
1869.

Resolved,—That the Senate and Commons of the Dominion of Canada, during the first session of the first Parliament of Canada, adopted an Address to Her Majesty, praying that Her Majesty would be graciously pleased, by and with the advice of Her Most Honourable Privy Council, under the provisions of the 146th section of "*The British North America Act, 1867*," and on the terms specified in that Address, to unite Rupert's
10 Land and the North-west Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, and assuring Her Majesty of the willingness of the Parliament of Canada to assume the duties and obligations of government and legislation as regards those territories.

Resolved,—That the Joint Address of the Senate and Commons of Canada was duly laid at the foot of the Throne, and that Her Majesty, by despatch from the Right Honourable the Secretary of State for the Colonies to the Governor-General of Canada, under date of 23rd of April, 1868, signified her willingness to comply with the prayer of the said Address ;
20 but she was advised that the requisite powers of government and legislation could not, consistently with the existing charter of the Hudson's Bay Company, be transferred to Canada without an Act of Parliament, which Act was subsequently passed by the Imperial Parliament, and received Her Majesty's assent on the 31st July, 1868.

Resolved,—That by despatch dated 8th August, 1868, from the Honourable Secretary of State for the Colonies, the Governor-General was informed, that in pursuance of the powers conferred by the Act for the surrender of the Hudson's Bay Territories to Her Majesty, he proposed to enter into negotiations with the Company as to the terms of such
30 surrender, whereupon, under authority of an Order of the Governor-General in Council of the 1st October, 1868, the Honourable Sir George Et. Cartier, Baronet, and the Honourable William McDougall, C.B., were appointed a delegation to England, to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the admission of the North-west Territory into union with Canada, either with or without Rupert's Land, as it might be found practicable and expedient.

Resolved,—That the delegates proceeded on their mission to England and entered into negotiations with his Grace the Duke of Buckingham and Chandos, the Secretary of State for the Colonies, and afterwards with
40 the Right Honourable Earl Granville, his successor in office, for the acquisition by Canada of the territorial and other rights claimed by the Hudson's Bay Company in Rupert's Land, and in any other part of British North America, not comprised in Rupert's Land, Canada, or British Columbia. That terms of agreement were conditionally assented to by the

* Journals, House of Coms., Canada, 1869, p. 150; Prefix to Stats., Can., 1872, p. lxxviii.

No. 83.
Resolutions
of Parlia-
ment of
Canada in
acceptance
of transfer
of Rupert's
Land and
North-
Western
Territory,
28th May
1869—con-
tinued.

delegates on behalf of the Dominion, and on their return to Canada were submitted with a Report dated 8th May, 1869, which was approved by His Excellency the Governor in Council, on the 14th day of the same month.

Resolved,—That the Senate will be prepared to concur in accepting the transfer of the territorial and other rights of the Hudson's Bay Company in Rupert's Land, and in any other part of British North America, not comprised in Rupert's Land, Canada or British Columbia, on the terms conditionally agreed to on behalf of the Government of Canada, by the Hon. Sir George Et. Cartier, Baronet, and the Hon. William McDougall, C.B., and on behalf of the Hudson's Bay Company, by Sir Stafford H. Northcote, Governor of that Company, and approved by His Excellency in Council as aforesaid, which terms are set forth in a letter from Sir Frederick Rogers, Under-Secretary of State for the Colonies, of the 9th March, 1869, communicated to the delegates by direction of Earl Granville, and in two subsequent memorandums dated respectively 22nd and 29th March, 1869, containing a modification of such terms, and are in the words and figures following:—[See this letter of 9th March, 1869, containing the terms, numbered therein 1 to 12 inclusive, and the memorandum of 22nd March, 1869, and the subsequent memorandum of 29th March, 1869, in the order of their respective dates, *ante*.]

Resolved,—That this House learns with satisfaction, by letter from the Under-Secretary of State for the Colonies, of 9th March last, that, in fulfilment of the expectations held out in Mr. Cardwell's despatch of 17th June, 1865, Her Majesty's Government will be prepared to propose to Parliament that the Imperial guarantee be given to a loan of £300,000, the amount which is proposed to be paid over by Canada on the transfer of the Company's rights.

Resolved,—That the Senate will be ready to concur with the House of Commons in an Address to Her Majesty, that she will be graciously pleased, by and with the advice of Her Most Honourable Privy Council, under the 146th clause of "*The British North America Act, 1867*," and the provisions of the Imperial Act, 31 & 32 Vict., cap. 105, to unite Rupert's Land on the terms and conditions expressed in the foregoing Resolutions, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by, and on the terms and conditions contained in the joint Address of the Senate and the House of Commons of Canada, adopted during the first session of the first Parliament of Canada and hereinbefore referred to.

Resolved,—That upon the transference of the territories in question to the Canadian Government it will be the duty of the Government to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer.

Resolved,—That the Governor in Council be authorized and empowered to arrange any details that may be necessary to carry out the terms and conditions of the above agreement.

No. 84

Joint Address of the Senate and House of Commons (Canada) to
Her Majesty the Queen in acceptance of the Transfer*

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,—

We, Your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada in Parliament assembled, humbly approach Your Majesty for the purpose of representing :

10 That, during the first session of the first Parliament of this Dominion, we adopted an Address to Your Majesty, praying that Your Majesty would be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the 146th Section of "*The British North America Act, 1867,*" and on the terms specified in that Address, to unite Rupert's Land and the North-West Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, and assuring Your Majesty of the willingness of the Parliament of Canada to assume the duties and obligations of Government and legislation as regards those territories.

20 That our joint Address was duly laid at the foot of the Throne, and that Your Majesty, by despatch from the Right Honourable the Secretary of State for the Colonies to the Governor-General of Canada, under date of the 23rd April, 1868, signified Your Majesty's willingness to comply with the prayer of the said Address, but that Your Majesty was advised that the requisite powers of government and legislation could not, consistently with the existing charter of the Hudson's Bay Company, be transferred to Canada without an Act of Parliament, which Act was subsequently passed by the Imperial Parliament, and received Your Majesty's assent on the 31st July, 1868.

30 That by a despatch dated 8th August, 1868, from the Honourable the Secretary of State for the Colonies, the Governor-General was informed that in pursuance of the powers conferred by the Act for the surrender of the Hudson's Bay territories to Your Majesty he proposed to enter into negotiations with the Company as to the terms of such surrender, whereupon, under authority of an Order of the Governor-General in Council of the 1st October, 1868, the Honourable Sir George Et. Cartier, Baronet, and the Honourable William McDougall, C.B., were appointed a delegation to England to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the admission of the North-West Territory into union with
40 Canada either with or without Rupert's Land, as might be found practicable and expedient.

That the delegates proceeded on their mission to England, and entered into negotiations with his Grace the Duke of Buckingham and Chandos,

* Journals, House of Commons, Canada, 1869, p. 153; Prefix to Stats., Canada, 1872, p. lxxiii.

No. 84.
Joint
Address of
Senate and
House of
Commons
(Canada) to
Her Majesty
in accept-
ance of
Transfer,
29th and
31st May
1869.

No. 84.
Joint
Address of
Senate and
House of
Commons
(Canada) to
Her Majesty
in accept-
ance of
Transfer,
29th and
31st May
1869—con-
tinued.

then Secretary of State for the Colonies, and afterwards with the Right Honourable Earl Granville, his successor in office, for the acquisition by Canada of the territorial and other rights claimed by the Hudson's Bay Company in Rupert's Land, and in any other part of British North America not comprised in Rupert's Land, Canada, or British Columbia, on the terms conditionally agreed to on behalf of the Government of Canada by the Honourable Sir George Et. Cartier, Baronet, and the Honourable William McDougall, C.B., and on behalf of the Hudson's Bay Company by Sir Stafford H. Northcote, Governor of that Company, and approved by His Excellency in Council as aforesaid, which terms are set forth in a letter from Sir Frederick Rogers, Under-Secretary of State for the Colonies, of the 9th March, 1869, communicated to the delegates by direction of Earl Granville and in two subsequent memorandums dated respectively 22nd and 29th March, 1869, containing a modification of such terms, and are in the words and figures following;—[This letter of 9th March, 1869, containing the terms numbered 1 to 12 inclusive, and the memorandum of 22nd March, 1869, and the subsequent memorandum of 29th March, 1869, are to be found in order of date, *ante*.]

That we learn with satisfaction by letter from the Under-Secretary of State for the Colonies, of the 9th March last, that in fulfilment of the expectations held out in Mr. Cardwell's despatch of the 17th of June, 1865, Your Majesty's Government will be prepared to propose to Parliament that the Imperial guarantee be given to a loan of £300,000, the amount which is proposed to be paid over by Canada on the transfer of the Company's rights.

That upon the transference of the territories in question to the Canadian Government it will be our duty to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer, and we authorize and empower the Governor in Council to arrange any details that may be necessary to carry out the terms and conditions of the above agreement.

We therefore most humbly pray that Your Majesty will be graciously pleased, by and with the advice of Your Most Honourable Privy Council, under the 146th clause of "*The British North America Act, 1867*," and the provisions of the Imperial Act, 31 and 32 Vict., cap. 105, to unite Rupert's Land on the terms and conditions expressed in the foregoing resolutions, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by and on the terms and conditions contained in our joint Address adopted during the first session of the first Parliament of this Dominion, and hereinbefore referred to.

The Senate, Monday, May 31, 1869.

JOSEPH CAUCHON,

House of Commons, Ottawa, May 29, 1869.

Speaker.

JAMES COCKBURN,

Speaker.

CORRESPONDENCE BETWEEN THE CANADIAN AND IMPERIAL GOVERNMENTS
RELATIVE TO THE ENACTMENT OF THE BRITISH NORTH AMERICA ACT,
1871.

(Extracted from Sessional Papers (Dom.) 1871, Vol. IV, No. 20.)

No. 85

Order in Council (Canada), 2nd January, 1871

10 The Committee of Council have had under consideration the annexed Report, dated 29th December, 1870, from the Honourable the Minister of Justice, on the question raised during the last session of the Canadian Parliament, as to the Constitutionality of Act 33 Vic. Cap. 3, providing for the establishment and Government of the Province of Manitoba, and they respectfully advise that the said Report be approved, and that in accordance therewith Your Excellency will be pleased to move the Earl of Kimberley to submit to the Imperial Parliament a measure confirming the Act of the Canadian Parliament above referred to, and containing the other provisions enumerated in the said annexed memorandum.

Certified,

WM. H. LEE,
Clerk of the Privy Council.

No. 85.
Order in
Council
(Canada),
2nd January
1871.

20

No. 86

Report of the Minister of Justice (Canada), 29th December, 1870,
annexed to No. 85

Department of Justice, Ottawa,
December 29th, 1870.

30 The undersigned has the honour to report to Your Excellency, that during the last session of the Canadian Parliament, while the Act 33 Vic. Cap. 3, providing for the establishment and Government of the Province of Manitoba was under consideration, the question was raised as to the power of Parliament to pass the Act, and especially those of its provisions which gave the right to the Province to have Representatives in the Senate and House of Commons of the Dominion.

“The British North America Act, 1867,” provides that:—

“The Queen in Council on address from the Houses of Parliament of Canada, may admit Rupert’s Land and the North-Western Territory, or either of them into the Union on such terms and conditions as are in the Address expressed, and as the Queen thinks fit to approve *subject to the provisions of this Act*; and any Order in Council in that behalf shall have effect as if it had been enacted by the Parliament of the United Kingdom.”

No. 86.
Report of
the Minister
of Justice
(Canada),
29th Dec-
ember 1870,
annexed to
No. 85.

No. 86.
Report of
the Minister
of Justice
(Canada),
29th Dec-
ember 1870,
annexed to
No. 85—
continued.

The Address, which was passed by the Parliament of Canada, contained no provisions with respect to the future Government of the country, the only terms and conditions contained in it being those agreed upon between the Hudson's Bay Company and Canada as the conditions of their surrender of their Charter to Her Majesty. Even if the terms of the Address had included a new Constitution for the North-West it must, under the above cited section, have been subject to the provisions of the Imperial Act of Union.

The Rupert's Land Act, 1868, passed by the Imperial Parliament, provides (5 Section) for the admission of Rupert's Land, (but not of the North-Western Territory,) into the Dominion of Canada; and that, "there-
upon, it shall be lawful for the Parliament of Canada, from the date aforesaid, to make, ordain and establish, within the land and Territory, so admitted as aforesaid, all such Laws, Institutions and Ordinances, and to constitute such a Court and Officers as may be necessary for the peace, order and good government of Her Majesty's subjects and others therein." 10

This provision of the Act may fairly be held to have authorized the Canadian Parliament to pass the Act, giving a Constitution to a portion of Rupert's Land; but still the question remains whether under the two Imperial Acts referred to, it had the power to give the people of the new Province representation in the Senate and House of Commons of Canada. 20

The general purview of "the British North America Act, 1867," seems to be confined to the three Provinces of Canada, Nova Scotia and New Brunswick, originally forming the Dominion.

In the Constitution of the Senate the Dominion was divided into three divisions each division having equal representation in that body. It fixes the normal number of the Senate at seventy-two, subject to the provisions of the Act; and the 28th clause provides that the number of Senators shall not at any time exceed seventy-eight; the 147th clause, however, enacting that in case of the admission of Newfoundland and Prince Edward Island, the normal number of Senators shall be seventy-six, and the maximum eighty-two. 30

In like manner the clauses of the Act relating to the Constitution of the House of Commons give a certain proportionate representation to the Provinces originally constituting the Dominion, and make no reference to the increase of numbers from any addition to the Territory of the Dominion.

There is in the Act no provision whatever for representation in the Senate or House of Commons of Rupert's Land and the North-Western Territory, or British Columbia.

Under these circumstances as the question as to the constitutionality of the Act of the Canadian Parliament has been raised, and as the doubt may cause grave disquiet in the Territories which have been or may hereafter be added to the Dominion; and in order also to prevent the necessity of repeated applications to the Imperial Parliament for legislation respecting the Dominion, the undersigned has the honour to recommend that the 40

Earl of Kimberley, be moved to submit to the Imperial Parliament, at its next session a measure—

1. Confirming the Act of the Canadian Parliament, 33 Vic. Chap. 3 above referred to, as if it had been an Imperial Statute, and legalizing whatever may have been done under it according to its true intent.

2. Empowering the Dominion Parliament from time to time to establish other Provinces in the North-Western Territory, with such Local Government, Legislature and Constitution as it may think proper; provided that no such Local Government or Legislature shall have greater powers than
10 those conferred on the Local Governments and Legislatures by "the British North America Act 1867"; and also empowering it to grant such Provinces representation in the Parliament of the Dominion; the Acts so constituting such Provinces to have the same effect as if passed by the Imperial Parliament at the time of the Union.

3. Empowering the Dominion Parliament to increase or diminish, from time to time, the limits of the Province of Manitoba, or of any other Province of the Dominion, with the consent of the Government and Legislature of such Province.

4. Providing that the terms of the suggested Act be applicable to the
20 Province of British Columbia whenever it may form part of the Dominion.

All which is respectfully submitted,

(Sgd.) JOHN A. MACDONALD.

No. 86.
Report of
the Minister
of Justice
(Canada),
29th Dec-
ember 1870,
annexed to
No. 85—
continued.

No. 87

Despatch, the Governor-General to the Secretary of State for the Colonies
Ottawa,

January 3rd, 1871.

MY LORD,—I have the honour to enclose for your Lordship's consideration, and for such action as you may deem expedient, a Minute of the Privy Council of the Dominion, approving of a Report made by the
30 Honourable the Minister of Justice, in reference to a question raised while the Act 33 Vic. Cap. 3, providing for the establishment and Government of the Province of Manitoba, was under discussion in the last session of the Canadian Parliament.

2. The report of the Minister of Justice recommends that a measure be submitted to the Imperial Parliament at its next session, for the purpose of quieting the doubt started, which may otherwise cause grave disquiet in the Territories, which have been added to, or may hereafter be added to the Dominion, and also for preventing the necessity of repeated applications to the Imperial Parliament for legislation respecting the Dominion.

No. 87.
Despatch,
Governor-
General to
Secretary of
State for the
Colonies,
3rd January
1871.

No. 87.
Despatch,
Governor-
General to
Secretary of
State for the
Colonies,
3rd January
1871—con-
tinued.

3. This measure should, it is proposed—

1st. Confirm the Act of the Canadian Parliament, 33 Vic. Cap. 3, above referred to, as if it had been an Imperial statute, and legalize whatever may have been done under it according to its true interests.

2nd. Empower the Dominion Parliament from time to time (a) to establish other Provinces in the North-West Territory with suitable Constitutions and Governments, possessing powers not greater than those conferred on the Local Governments by the British North America Act, 1867; (b) to admit Representatives from such Provinces into the Parliament of the Dominion; (c) to increase or diminish the limits of the Province of Manitoba, or any other Provinces, with the consent of the Local Government of such Province. 10

4. The “ terms of the measure recommended to be applicable to the Province of British Columbia whenever it may form part of the Dominion.”

I have, &c.,
(Sgd.) LISGAR.

The Earl of Kimberley, &c., &c., &c.

No. 88.
Despatch,
Secretary of
State for
Colonies to
Governor-
General,
26th Jan-
uary 1871.

No. 88

Despatch, the Secretary of State for the Colonies to the Governor-General 20

Downing Street,
26th January, 1871.

MY LORD,—I have the honour to acknowledge the receipt of your Lordship's despatch, No. 1, of the 3rd of January, enclosing a Minute of the Privy Council, approving a report made by the Minister of Justice, and recommending, amongst other things, Imperial legislation to remove doubts respecting the validity of the Act of the Canadian Legislature, 33 Vic. Cap. 3, and to empower the Canadian Parliament to establish new Provinces in the Dominion.

In compliance with the wishes of your Government, I have caused a Bill to be prepared, of which I annex a copy, and on learning that its provisions meet their views, I shall be prepared to introduce it into the Imperial Parliament during the coming session. 30

I request that you will inform me on this point at your early convenience.

With respect to the 5th Section of the Bill, I may refer you to the Imperial Act 31 and 32 Vic. Cap. 92, which was passed to enable the Legislature of New Zealand to withdraw part of the Territory from a Province, and to form such part into a county.

I have &c.,
(Sgd.) KIMBERLEY. 40

Governor General,

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

No. 89

Order in Council (Canada), 27th February, 1871

The Committee of Council have had under consideration the annexed memorandum from the Hon. Sir George Et. Cartier, acting in the absence of the Honourable the Minister of Justice, having reference to the despatch from the Right Honourable the Secretary of State for the Colonies, of the 26th of January, 1871, and they respectfully advise that the recommendation submitted in the said memorandum be approved, and that the Draft Bill accompanying the same be transmitted to the Earl of Kimberley for
10 submission to the Imperial Parliament.

Certified.

WM. H. LEE,
Clerk of the Privy Council.

No. 89.
Order in
Council
(Canada),
27th Febru-
ary 1871.

No. 90

Report of Acting Minister of Justice (Canada) annexed to No. 89

The undersigned, acting in the absence of the Honourable the Minister of Justice, to whom was referred the despatch from the Right Honourable the Secretary of State for the Colonies, under date of 26th January, 1871, has the honour to submit a Draft of a Bill which he recommends may be
20 transmitted by Your Excellency to the Earl of Kimberley for adoption by the Imperial Government and submission to Parliament, as containing all the provisions which, in the opinion of the undersigned, are necessary to remove doubts respecting the powers of the Parliament of Canada to establish Provinces in Territories admitted, or which may hereafter be admitted into the Dominion.

The undersigned has to observe that it is absolutely necessary that the Province of Manitoba, as well as any which may hereafter be erected, should hold the same status as the four Provinces now composing the Dominion—and British Columbia, when it comes in—and like them, should
30 hold its Constitution subject only to alteration by the Imperial Legislature.

(Signed) GEO. ET. CARTIER.

No. 90.
Report of
Acting
Minister of
Justice
(Canada)
annexed to
No. 89.

No. 91.
Draft Bill
for sub-
mission to
Imperial
Parliament
referred to
in Docu-
ment
No. 90.

No. 91

Draft Bill for submission to Imperial Parliament referred to in Document No. 90

Whereas doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in Territories admitted, or which may hereafter be admitted into the Dominion of Canada, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts and to vest such powers in the said Parliament.

Be it enacted, &c. . . .

10

Short title of Act.

1. This Act may be cited for all purposes as the British North America Act, 1871.

Confirmation of Act of Parliament of Canada.

2. The following Acts passed by the said Parliament of Canada, and intituled respectively, "An Act for the Temporary Government of Rupert's Land the North-Western Territory when united with Canada"; and, an "Act to amend and continue the Act 32 and 33 Vic. Cap. 3 and to establish and provide for the Government of the Province of Manitoba," shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent of the Governor General of the said Dominion of Canada.

20

Power to Parliament of Canada to establish new Provinces and to give them representation in the Parliament.

3. The Parliament of Canada may from time to time establish new Provinces in the Territories admitted to be part of the said Dominion by an Order in Council of the 23rd June, 1870, or in any other Territories which may hereafter be admitted into and form part of the said Dominion; and the said Parliament may at the time of such establishment make provision for the Administration of any such Provinces, and for the passing of Laws for the peace, order and good government thereof, and for the representation of such Provinces, or any of them in the said Parliament of Canada.

Alteration of limits of Provinces.

4. The Parliament of Canada may from time to time, with the consent of the Legislature of any Province, now or at any time hereafter forming part of the said Dominion, increase, diminish, or otherwise alter the limits of such Province upon such terms and conditions as may be agreed to by the said Provincial Legislature.

30

Parliament of Canada may withdraw part of Territory of any Province, and Legislate therefor.

5. The Parliament of Canada may with the like consent, withdraw from any Province any part of the Territory comprised therein, and make Laws for the Administration, peace, order and good government of the Territory so withdrawn until it is established as a Province, or until it is included within the Dominion; and may with the like consent make such provision, as to the said Parliament shall seem expedient relating to the effect and operation of any such withdrawal of Territory with respect to the Province from which such Territory shall have been withdrawn.

40

6. The two Acts of the Parliament of Canada, mentioned in the second clause of this Act, and any Act of the said Parliament hereafter establishing a Province as aforesaid, shall have effect as if it had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.



MISCELLANEOUS.

No. 92

Order of Her Majesty in Council

No. 92.
Order of
Her Majesty
in Council,
31st July
1880.

ANNEXING ALL BRITISH TERRITORIES IN NORTH AMERICA (EXCEPT
NEWFOUNDLAND AND ITS DEPENDENCIES) TO CANADA.

At the Court at Osborne House, Isle of Wight, the 31st day of July,
1880.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY.

10

LORD PRESIDENT.
LORD STEWARD.
LORD CHAMBERLAIN.

Whereas it is expedient that all British Territories and Possessions in North America and the Islands adjacent to such Territories and Possessions which are not already included in the Dominion of Canada should (with the exception of the Colony of Newfoundland and its dependencies), be annexed to and form part of the said Dominion.

And whereas, the Senate and Commons of Canada in Parliament assembled, have, in and by an Address, dated the 3rd day of May, 1878, 20 represented to Her Majesty "That it is desirable that the Parliament of Canada, on the transfer of the before-mentioned Territories being completed, should have authority to legislate for their future welfare and good government, and the power to make all needful rules and regulations respecting them, the same as in the case of the other territories (of the Dominion); and that the Parliament of Canada expressed its willingness to assume the duties and obligations consequent thereon."

And whereas, Her Majesty is graciously pleased to accede to the desire expressed in and by the said Address :

Now, therefore, it is hereby ordered and declared by Her Majesty, by 30 and with the advice of Her Most Honourable Privy Council as follows :—

From and after the first day of September, 1880, all British Territories and Possessions in North America, not already included within the Dominion of Canada, and all Islands adjacent to any of such Territories or Possessions shall (with the exception of the Colony of Newfoundland and its dependencies) become and be annexed to and form part of the said Dominion of Canada; and become and be subject to the laws for the time being in force in the said Dominion, in so far as such laws may be applicable thereto.

C. L. PEEL.

No. 93.
 Letter,
 Honourable
 F. W. G.
 Haultain,
 Premier of
 North-West
 Territories
 to Right
 Honourable
 Sir Wilfrid
 Laurier,
 Premier of
 Canada,
 7th Dec-
 ember 1901.

No. 93

Letter, Honourable F. W. G. Haultain, Premier of the North-West Territories,
 to The Right Honourable Sir Wilfrid Laurier, Premier of Canada

Executive Council,
 Regina,
 December 7, 1901.

The Right Honourable
 Sir Wilfrid Laurier, G.C.M.G.,
 President of the Council,
 Ottawa, Ont.

10

SIR,—In response to the request made by the sub-committee of the Privy Council convened to consider the matters referred to in the Address to His Excellency the Governor General in Council presented by the Legislative Assembly of the Territories pursuant to Resolutions adopted on the Second day of May, 1900 (a copy of which is attached hereto), I have the honour to submit, on behalf of the Government of the Territories, the following statement of the present position as it appears to us, together with such remarks as seem to be necessary to properly set forth the reasons which led the Assembly to request that enquiries be made and accounts be taken with a view to the establishment of provincial institutions within that portion of the North-West Territories lying between the Provinces of Manitoba and British Columbia. 20

For a number of years back the attention of the Dominion Government has annually been directed to the necessities, financial and otherwise, of the Territories, in the estimates submitted through the Honourable the Minister of the Interior. Occasion has always been taken to set forth, as briefly as possible but necessarily with some considerable detail, the difficulties met with in the administration of affairs in the Territories. The documents submitted I understand, were presented to Parliament during its last session, so that their tenor will no doubt be familiar to you, and it will not be required that the matters they dealt with shall be repeated here. Put in the briefest possible form the position is simply this: The population of the Territories has been and is increasing so rapidly as the result of the efforts put forth by the Immigration Branch of the Interior Department that the means at the command of the Territorial Government are far from being sufficient to enable it to properly administer the affairs of the country. The increase in the population has increased our work and expenditures by a rate far greater than can be measured by the mere increase in the number of the people. Immigration in other parts of the Dominion has resulted largely in adding only to the population in settlements and towns previously in existence; in the Territories it is not so. New settlers in the North-West seem desirous to pass by the settlements already opened up and to become pioneers in districts removed as far away as practicable therefrom. The new settlements are too small and the settlements are too widely scattered to bear the burdens which necessarily go with the opening 30 40

up of a new country, and the fact cannot be disguised that they must be assisted to do so if the people are to become contented and prosperous, or even retained in the country. Bridges or ferries must be provided where it is necessary to cross rivers to reach market points. Where difficulty is met with in procuring an adequate water supply the Government has found it necessary to procure and operate machinery at considerable expense in order to sink public wells or—as has been found practicable in some districts—to construct reservoirs in valleys or other natural depressions in order to conserve the surface water for the use of stock and even, in some instances, for domestic purposes. Wherever water courses run in the Territories the valleys are deep, the banks being often precipitous. These have the effect of rendering the ordinary road allowances, as laid down by the Dominion lands system of survey, impossible. They cannot be travelled and new roadways have to be provided, generally at considerable expense for right of way and construction. These are but a few of the difficulties which the Government of the Territories is called upon to find a means of ameliorating. There are others which it would appear to be needless to take up your valuable time by enumerating in detail, as it may be said they are all of the same character, being hindrances and drawbacks to the settlement of the country. In the older settled districts other difficulties arise. Where the people have advanced beyond the pioneer stage they often find themselves handicapped for lack of proper transportation facilities in order to place their produce upon their markets. Roads may be made, but when grain and dairy produce have to be hauled twenty, thirty, and at times a greater number of miles in order to reach a market or shipping point, no matter how good the road may be the return for the farmer's labour and use of his capital will show a tendency to pass the vanishing point.

It is thought that sufficient has been said to indicate to you the position in which the Government of the Territories finds itself. In addition to the work of administration which devolves upon all governments, there is a constant—and hitherto, it must be admitted, lamentably ineffectual—struggle to keep pace with the work caused by the rapid development of the country by reason of the great increase in the population. It may be thought that the people ought to do this work for themselves, as to them will accrue the benefits, but whilst I am disposed to agree to the general proposition that, under ordinary conditions, the question of the provision of what may be called local public improvements is a matter of purely local and sectional concern, yet I am confident that you will readily recognise that the conditions at present existing in the Territories are far removed from being ordinary. After the subsidence of the first movement of people into the Territories consequent upon the completion of the Canadian Pacific Railway, the influx of population for a number of years did not proceed at the rate so noticeable of late, and no very great difficulties were met with in dealing with the conditions as they then existed. With the means provided in those days the Government was in an infinitely better position than is the case now, notwithstanding the fact that the grants made by

No. 93.
Letter,
Honourable
F. W. G.
Haultain,
Premier of
North-West
Territories,
to Right
Honourable
Sir Wilfrid
Laurier,
Premier of
Canada,
7th Dec-
ember 1901
—continued.

No. 93.
 Letter,
 Honourable
 F. W. G.
 Haultain,
 Premier of
 North-West
 Territories,
 to Right
 Honourable
 Sir Wilfrid
 Laurier,
 Premier of
 Canada,
 7th Dec-
 ember 1901
 —continued.

Parliament for Government in the Territories have been materially increased upon the representations made to the Dominion Government from time to time. The public necessities are not created so much by the mere fact that thirty, forty, or even fifty thousand people may be added to the population in any one year; but rather to the certainty that nearly every small group of new settlers, united by any tie whatever, means practically the opening up of a new settlement. We have no congested communities in the Territories. In some districts the land available for homestead purposes has practically all been taken up, but they are very few in number and extremely limited in area, and there is no evidence of any disposition amongst the people now coming to us to locate in districts already settled. I do not desire to press this point unduly, and I think that it will be made abundantly clear by a brief consideration of the following statement respecting the number of school districts and the annual increase during the past few years :—

From the date of the passage of The School Ordinance in 1884 to the end of 1896, school districts were organised to the number of	- - - - -	436	
At the end of 1897 there were	- -	457, an increase of	21
" 1898	" -	480	23
" 1899	" -	524	44
" 1900	" -	576	52
At the present time, besides 35 districts in process of erection, there are	- -	649	73

These figures give some idea of the number of new settlements that have been opened up within the past five years, though it is not intended to convey the impression that the school districts represent all the settlements in the country, as there are a number, mostly opened up but recently, where the pressure of the struggle for mere existence has prevented any attempt being made to establish schools, notwithstanding the efforts of the local Government in that direction.

I have spoken of the number of the settlements in the Territories, and, as I have said, these are not only small for the greater part and far removed one from the other, but the people themselves are scattered widely. In very few districts have the people begun to emerge from what may be referred to as the pioneer form of existence, and the creation of anything but the simplest and most elementary organisations amongst them is impracticable. We have, however, succeeded in bringing such organisations into existence, notably in our school districts and local improvement districts. Through their means we have been enabled to call upon the people for all that it is possible to expect of them. Further additions to the public taxation might possibly be made, but good and sufficient reasons exist why they should not. In the first place, it would be calculated to militate against the work of the Dominion Government in seeking to induce people from other lands to come and settle down amongst us. After all is done

and said the real and most successful immigration agent is the contented settler, and a heavy rate of taxation, no matter how necessary is not calculated to satisfy the man who is struggling to make a home in this undeveloped country. Then again, to require the people of the Territories to carry on the work of opening up and developing the country would not be to treat the early settlers in the North-West in the manner in which the people of the older Provinces have been treated. I need hardly remind you that on the completion of the Confederation of the Provinces of Upper and Lower Canada, Nova Scotia and New Brunswick, the new Dominion immediately found itself in the possession of a debt amounting to \$93,000,000, of which sum only about \$17,000,000 could be shown to be represented by assets in any form or at any value whatever. It would be difficult at this date to state with any degree of certainty in what manner and for what purposes the Provinces originally forming the Confederation had created the debts they transferred to the Dominion, but I can refer you to the statement of Mr. (afterwards Sir) Alexander Galt, the Finance Minister in the last Government of the old Province of Canada, made in his speech upon the discussion of the Quebec resolutions. Mr. Galt, in presenting the financial aspect of the Confederation question to the House said:—

20 “. . . . It is necessary for us to review the liabilities
 “ of each Province, the reasons why they were incurred, the objects
 “ which have been sought. In doing so, the House will not fail
 “ to remark that the same policy has animated the Legislatures of
 “ all the Provinces or perhaps I should speak more exactly in saying
 “ those of Canada, New Brunswick and Nova Scotia. The public
 “ debt of all these Provinces has, with some slight exceptions, been
 “ incurred for public improvements, intended to develop the resources
 “ of the country, to attract immigration and wealth to their respective
 “ shores, to cheapen the means whereby the products of their farms
 30 “ were to be taken to market, and to reduce the cost of freight of
 “ articles which enter largely into the consumption of their
 “ inhabitants.”

This statement appears to have passed without contradiction, and it may therefore be accepted that some considerable portion of the net debt of Canada on July 1, 1867, amounting to \$75,728,641, has been created by expenditures for the purposes described by Mr. Galt. This debt is still unpaid, and its cost is borne by every person in Canada who contributes in any form to the revenue of the Dominion, whether he resides within the boundaries of the Provinces for whose benefit the money borrowed was
 40 expended, or elsewhere. These provincial debts, too, it must not be forgotten, represent expenditures made over and above the expenditures rendered possible by the public revenues. You will, I trust, pardon me, if I press your attention to the different manner in which the Dominion looks upon the development of the North-West. All our public revenues go to swell the Consolidated Fund of Canada, our public domain is employed for purely Federal purposes, and we are not permitted to draw on the future.

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Our revenues are rigidly limited for all practical purposes by the grants annually made by Parliament for "Government of the North-West Territories," and we are not even entrusted with the expenditure of the whole amount of that sum. The grants made have never been considered from the view point of the requirements of the Territories. Carefully and economically prepared estimates of the cost of public requirements have been annually forwarded to Ottawa, but provision has never yet been made for the actual and crying necessities of the country. Last January we asked for a grant of \$600,000 based upon closely considered details. Parliament met the request by appropriating the sum of \$357,979 to meet the case. As a result, from one end of the country to the other complaints are rife as to lack of transportation facilities—roads, bridges, ferries, drains and other similar necessities—to permit not only old settlers to travel, but to enable new settlers, brought into the country by Dominion officials to reach the locations to which their attention has been directed and which had been selected for their future homes. Expenditures, and large expenditures, too, are as urgently and imperatively required in the North-West to-day for "public improvements," "to develop the resources of the country," "to attract immigration" without speaking of "wealth," "to cheapen the means whereby the products of the farm are to be taken to market" as they ever were in the old Provinces of Canada, Nova Scotia or New Brunswick, and it does not seem at all inappropriate in view of the circumstances, that Canada should provide the money for these purposes, for it is Canada at large, and not the North-West in particular, that will most benefit by the attraction of desirable immigrants to the country. 10

One other objection to the introduction of a sufficiently heavy rate of taxation to meet the general public requirements is found in the fact that the cost of a large number of the public works we are now constructing should properly be chargeable to capital expenditure. As we have no capital account, having no power or authority to utilise the public credit in any way, we are compelled to devote an unreasonably large part of our limited annual income towards defraying the cost of such works, instead of spreading the expenditure over a term of years. You will at once perceive that it would be an undoubted hardship upon the people who are now here were they required to tax themselves for the cost of such works. They would not only be compelled to bear the cost of rendering the country habitable for themselves, but at the same time to develop it for the benefit of those who are yet to come, instead of being enabled to place part of the cost upon those who will benefit by the results of the expenditure. Besides such works not only serve the purpose of providing public conveniences and improvements, but every dollar spent upon them enhances the value of the lands held for various corporations by the Dominion Government and which do little or nothing to assist in the work. This is felt to be a public grievance, but is one which, I am glad to learn, the Government is making an earnest endeavour to remove as far as is at present practicable. 30 40

Our financial difficulties, though the most serious which we have to meet, are not the only ones, nor are they more pressing or important in their

bearing than others to which I have the honour to direct your attention. I will be brief in doing so though I have no desire to minimise their importance. They might for the purpose of consideration be divided into two classes, those, namely, which relate to our administrative work and those others which relate to our legislation, but having pointed out that possible distinction I do not think it will be necessary to deal with the questions involved in detail. The North-West Territories Act, by which our constitutional powers are defined, derives its authority from that section of The British North America Act 1871 which gives to the Parliament of Canada power to make provision for the "administration, peace, order and good government" of the Territories. Under that authority from time to time, step by step, power by power, and in keeping with the spirit of the representations made to Her late Majesty by Parliament when the intervention of the Imperial authorities was sought in order to have Rupert's Land brought into the Dominion Parliament has built up in the Territories "political institutions bearing analogy, as far as the circumstances" probably admitted, to those which existed in the several Provinces forming the Dominion in 1867. Section 92 of The British North America Act 1867 and Section 13 of The North-West Territories Act as it has been amended from time to time run along almost identical lines, but there are omissions in and additions to The North-West Territories Act which for many purposes, render futile the powers which it professes to give. I might instance the power given to the Assembly by the Act to pass Ordinances with respect to "property and civil rights". In the face of the enactment by Parliament of The Land Titles Act 1894 it will be realised that with respect to land, which forms by far the most visible form of "property" in the North-West, the Legislative Assembly is powerless. With respect to the administrative difficulties created by our Territorial position I will do no more than refer to the fact that public necessities and the exigencies of the case have required us to practically duplicate much of the administrative work now being carried on for the Territories by the Dominion, and will refrain from doing more than instancing the work called for in the administration of justice as a case in point.

The impossibility of continuing the present system upon its present basis must be self-evident. On the one hand, our limitations—rigidly fixed by Parliament in some instances and equally firmly placed by circumstances in others—preclude our doing for ourselves the things that ought to be done, and, on the other hand, Parliament makes no effort to assist us with even an approximate degree of adequacy. I have spoken of the work to be done by the Government of the Territories as being "ours", but I am satisfied that you realise as fully as we do that the work is only ours to do, as the doing of it and whatever may be accomplished when it is done will all redound to the credit and be for the benefit of Canada. We have been moderate in our requests for means to carry on the work given to us to do, and the successive annual failures of Parliament to meet the requirements have now brought us face to face with accrued public necessities far and away beyond our means to cope with. The Legislative Assembly has

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prayed that His Excellency will be pleased to make inquiry into the position of the Territories and to cause action to be taken to provide for their present and immediate welfare and good government. What can be done? In the first place I have to assure you that the present condition of the Territorial Treasury demands that a sum of not less than \$465,000.00 be available before the close of the current Dominion fiscal year in order to enable us to even attempt to perform our public duties during the first half of 1902. Towards that sum Parliament has already made an appropriation out of which \$178,989.50 will be available and which we may possibly be able to increase by \$35,000.00 from other sources. We thus have a depleted Treasury to meet a deficit which in six months from now will amount to at least \$250,000.00. We can only look to Parliament for this money. It is not possible for us to obtain it here or advisable to make any attempt to do so. The public work must go on, and the longer it does so under existing conditions the further behind will we fall. This position is not one upon which either the Government or the Legislative Assembly of the Territories can look with equanimity, and I am convinced that once it is realised by the Dominion Government it will not be permitted to continue. Neglect to furnish prompt relief cannot but have the effect of neutralising the efforts of the Dominion to people the Territories and it does not seem to us to be probable that Parliament, after making generous provision for carrying on the work of inducing immigration to the Territories will be niggardly in providing for assisting to retain the people so brought here. 10 20

Granting that the foregoing statement has the effect which we earnestly trust it will have, and that we shall receive your assurance that our present financial necessities will be relieved as soon as Parliament can be asked to make the necessary provision therefor, what then? How shall the future requirements be met? From official announcements made on different occasions we are led to the belief that there are good prospects of larger and more extensive movements of people towards the North-West than any yet seen. Will Parliament continue to provide the means for carrying on the work we know to be necessary, making increases in the grants made for the purpose bearing some proportion to the increases in the numbers of the people coming to us, as well as capital to permit development work to be carried on? If so, well and good. The Legislative Assembly has suggested that the time has arrived when some consideration be given to this question, and by its Address before cited has asked that, "inquiries be made and accounts taken with a view to the settlement of the terms and conditions upon which the Territories or any part thereof shall be established as a Province." This request is made in the belief that such an inquiry will make it clear that the establishment of a Province in the Territories upon equitable terms will relieve the Dominion of any necessity for annually considering Territorial questions. It is thought that the time is opportune for looking into this matter. Our official machinery is now upon a working basis and it does not appear that any disturbance of equilibrium can result from the operation of the increased powers and added duties that will follow the change. The present tentative nature of much of our legislation and some 30 40

of our public institutions can be amended by the introduction of measures tending to place them upon a permanent footing, which work can be better done in the near future than at a time when the weakness and ineffectiveness of much of our work, due to causes already referred to, have had time to create public dissatisfaction and uneasiness. During the consideration which I have no doubt will be given to this part of the prayer of the Legislative Assembly, there are some matters which, we respectfully submit, should receive most careful and thorough examination. It goes without saying that the principles of The British North America Act will form the basis
 10 of the constitution of any Province created. We seek for no advantages over any other Province, and we do not anticipate that we will be denied any privileges given elsewhere. After giving some earnest thought to the matter of presenting this part of the subject as desired by the sub-committee of the Privy Council, I have concluded that I cannot do so in any better manner than by submitting the views of the Executive Council of the Territories in the form of a draft Bill, in which the several points we would like to have brought to an issue are duly set forth, making such comment upon the principles involved as occurs to me in connection with each section or group of sections, and from this point onwards this communication will
 20 take the form thus indicated.

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No. BILL. 1902.

An Act to Establish and Provide for the Government of the Province
 of

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

1. On, from and after the first day of January, 1903, that portion of the territory known as Rupert's Land and the North-Western Territory admitted into the Union or Dominion of Canada by Her Majesty Queen Victoria by and with the advice and consent of Her Majesty's Most
 30 Honourable Privy Council by Order bearing date the twenty-third day of June 1870 under the authority of the 146th section of The British North America Act 1867, described as the Provisional Districts of Assiniboia, Saskatchewan and Alberta as the said districts are defined by Orders of His Excellency the Governor General of the Dominion of Canada made in Council on the eighth day of May 1882 and the second day of October 1895, respectively and that portion of the Provisional District of Athabasca, as the said district is defined by Order of His Excellency the Governor General of the Dominion of Canada made in Council on the eighth day of May 1882, and the second day of October 1895, respectively, lying to the south of the
 40 fifty-seventh parallel of north latitude, shall be formed into and be a Province which shall be one of the Provinces of the Dominion of Canada and which shall be called the Province of

MEMO.—In considering the question of the area to be included in this Province it may be claimed that the area proposed is too large

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for one Province. In this connection it should first be noted that the proposed area when compared with several of the other Provinces of the Dominion stands as follows :—

Quebec	-	-	-	347,000 square miles.
Ontario	-	-	-	220,000 " "
British Columbia	-			383,000 " "
Proposed Province	-			404,000 " "

From this comparison it will be noted that the proposed Province contains an area considerably larger than that contained in either of the three other Provinces mentioned, but it must be remembered that a large portion of the district of Athabasca and of the northern and eastern portion of Saskatchewan proposed to be included in the new Province will never owing to situation or physical features, or both, contain anything more than a very small and scattered population. The area which it is proposed to include in the new Province is practically the area administered by the present Territorial Government and the experience of the past few years has indicated that there is no difficulty in properly administering the area from one centre. 10

The present cost of the Government " machine " in the Territories is proportionately much less than in the older Provinces above mentioned and although the full provincial powers will bring with them added duties and necessitate extensive additions to some of the present Territorial departments, these additions can easily be made and the departmental machinery extended to cover these services. 20

Our present cost of Government only amounts to ten per cent. of the annual Territorial expenditure, which is much less than the percentage of charge for this service in the older Provinces and indicates that the present machinery of Government is well suited to the requirements of the country and can be extended much more cheaply and satisfactorily than any new Government departments can be organised. 30

The people in the provisional districts now administered by the Territorial Government, and which it is recommended should form the new Province, are well acquainted with and satisfied with the present Territorial laws and their administration, and there certainly does not seem anything to gain from a multiplication of Governments in the area proposed to be created into a Province.

The area in question, of course, contains much diversity of climate, soil, and other physical conditions which render it difficult to legislate in such a manner as to make the laws equally suitable to all portions, but no matter what division of the Territories might be made this condition would still exist and these difficulties have been fully realised and provided for in the existing Territorial laws. 40

2. On, from and after the said first day of January 1903, the provisions of The British North America Act 1867, except those parts thereof which are in terms made or by reasonable intendment may be held to be specially applicable to or to affect only one or more but not the whole of the Provinces under that Act composing the Dominion, and except so far as the same may be varied by this Act, shall be applicable to the Province of in the same way and to the same extent as they apply to the several Provinces of Canada and as if the Province of had been one of the Provinces originally united by the said Act.

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10 MEMO.—This is the provision adopted on the incorporation of each of the Provinces since the Union.

3. The said Province shall be represented in the Senate of Canada by four members until it shall have according to decennial census a population of two hundred and fifty thousand souls and from thenceforth it shall be represented therein by five members and thereafter for each additional increase in population of fifty thousand souls according to decennial census there shall be an increase of one member in its representation until it is represented by twenty members.

20 MEMO.—This provision partially assumes a basis of representation by population which is not the usual basis for an upper chamber, or the basis applied at Confederation, but it was the basis adopted with certain limitations when Manitoba was formed, two members being given for the then population of 17,000 to be increased to three for a population of 50,000 and the ratio for subsequent representation being fixed for 25,000, practically one-half the ratio in the present instance from the commencement. The maximum number is reasonable on the basis of representation fixed by the Confederation Act, by which the country was divided into districts not equal in area or population but representative of different interests. The prairie portion of the country consisting of Manitoba and the proposed province comprises a division of the country as different in conditions and interests from the other portions of the country as the divisions under the Confederation Act, and the representation under this Act and The Manitoba Act would give it the same representation as each of the other divisions, while the limitation of twenty as compared with Manitoba's four seems reasonable on comparison of the areas and probable future populations.

30

40 4. The said Province shall be represented in the first instance in the House of Commons of Canada by ten members and for that purpose shall be divided by Act of Parliament or by Proclamation of the Governor General into ten electoral districts each of which shall be represented by one member : Provided that on the completion of each decennial census hereafter

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the representation of the said Province shall be readjusted according to the provisions of the fifty-first section of The British North America Act 1867.

MEMO.—By The Manitoba Act passed in 1870 Manitoba was given a representation of four members in a House to be elected in two years. The census taken in the following year showed a population of 18,995, which would have entitled her to one member. In 1881 the population had increased to 62,260 entitling her to three members. British Columbia, admitted in 1871 with a population of 36,247 entitling her to two members, was given six. In 1881 the population was 49,459. The Territories are now entitled on the basis of redistribution under the B.N.A. Act 1867 to six members, and the present rate of immigration and the prospects of immediate increase, which are much more promising than in the case of either Manitoba or British Columbia, which were given respectively four and three times the members they were entitled to on the same basis, would seem to indicate that the number of ten or twelve members in a House which is not to be elected for three or four years, errs if at all in the direction of being too few rather than too many. Even at the present moment the immigration for the year just about to close will give an estimated increase of more than 25,000 to the population as shown by the census lately taken.

5. The Executive Council of the Province shall be composed of such persons and under such designations as the Lieutenant Governor shall from time to time think fit.

MEMO.—This is exactly the same provision as that contained in The Manitoba Act except as regards the limit in number in the first instance to five, which appears uncalled for.

6. All powers, authorities and functions which under any law or custom which were before the coming into force of this Act vested in or exercisable by the Lieutenant Governor of the North West Territories with the advice or with the advice and consent of the Executive Council thereof or in conjunction with that Council or with any member or members thereof or by the said Lieutenant Governor individually, shall as far as the same are capable of being exercised after the coming into force of this Act be vested in and shall or may be exercised by the Lieutenant Governor of the Province of _____ with the advice or with the advice and consent of or in conjunction with the Executive Council or any member or members thereof or by the Lieutenant Governor individually as the case requires, subject nevertheless to be abolished or altered by the Legislature of the Province.

MEMO.—The provision of this section is practically the same as that contained in the 65th section of the Confederation Act in relation to Ontario and Quebec, and while there is no similar provision in the case of any of the other provinces then or afterwards admitted, they stand on a different footing inasmuch as all of them

except Manitoba which had had no previous existence, were self-governing colonies with Governors directly representing the Crown, whereas the North-West Territories have for years had a Lieutenant Governor exercising certain functions which, as well as the existence and status of such Lieutenant Governor, are purely the creation of a Dominion Act, and the section as proposed would settle any question which might arise with regard to the authority of the Lieutenant Governor of the Province in respect to functions exercised by the Lieutenant Governor of the Territories.

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- 10 7. Unless and until the Executive Government of the Province otherwise directs the seat of Government of the same shall be at
(See memo. following Section 8.)

8. There shall be a Legislature for the Province consisting of the Lieutenant Governor and of one House styled the Legislative Assembly of

MEMO.—Sections 7 and 8 are the provisions of the British North America Act, Sections 68 and 69, and The Manitoba Act, Sections 8 and 9 on this subject. The location of the provincial capital is a matter of local concern and can only be finally decided upon after
20 the creation of a Province. In the meantime, for practical reasons, the seat of Government will remain as it is.

9. The constitution of the Legislature of the North-West Territories as it exists on the first day of January, 1903, shall subject to the provisions of this Act continue to be the constitution of the Legislature of the Province of _____ until altered under the authority of this Act; and the Legislative Assembly of the said Territories existing on the said first day of January, 1903, shall unless sooner dissolved continue as the Legislative Assembly of the Province of _____ until the completion of the period for which it was elected.

30 MEMO.—When The British North America Act 1867 came into effect, there were, of course, no Legislative Assemblies in Ontario or Quebec, and in Nova Scotia the Assembly was dissolved. In New Brunswick, however, an Assembly existed, and provision was made by section 88 of The British North America Act 1867 similar to that contained in this section for its continuance. The Assembly of the Territories occupies the same relation to the Province that the Assembly of the then Province of New Brunswick did to the Province under Confederation and it seems fitting that the same provision should be made.

40 10. In and for the Province the said Legislature may exclusively make laws in relation to irrigation and subject to any rights acquired under any Act of the Parliament of Canada before the 1st day of January, 1903, the property in and the right to the use of all the water at any time in any river, stream, watercourse, lake, creek, ravine, canyon, lagoon, swamp,

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marsh or other body of water shall on, from and after the said date belong to and be vested in the Province unless and until and except only so far as some right of some person therein or to the use thereof inconsistent with the right of the Crown and which is not a public right or a right common to the public is established.

MEMO.—This section provides that laws relating to irrigation shall be made exclusively by the Province and transfers title to all water to the Province. It is assumed in discussing this section that if the Province be created without special provision for this matter that the title to the water in unnavigable streams and lakes would under ordinary terms of The British North America Act pass to the Province but that the title to navigable waters would remain in the Government of Canada. This would make systematic irrigation impossible without joint legislation. 10

It has been clearly proved and admitted by the Dominion Government that in a large section of the Territories to be included in the new Province irrigation is a necessity.

This necessity exists in only a portion of the proposed Province and is therefore a "local" need which must be dealt with in the same way as other "local" needs in other portions of the proposed Province and under Provincial control and administration. 20

It is admitted by those interested that the success which has already attended the introduction of irrigation undertakings in the Territories is largely due to the careful government control which has been exercised of the record and use of water rights, and that such control can be best administered from local government sources was recognised some years ago by the Dominion Government when the delegation of the Administration of The North-West Irrigation Act to the Territorial Commissioner of Public Works was made.

If, as has been assumed, the new Province will, under the terms of The British North America Act, own the water in unnavigable streams and lakes, the present provisions of The North-West Irrigation Act dealing with the title to such water will of course have to be repealed and unless the provision contained in section 10 of the proposed Act becomes law there will at once be a clash between the Dominion Government and the Provincial Government regarding the use of water for irrigation. This difficulty will arise owing to uncertainty as to the streams or other bodies of water which are navigable and must be dealt with by the Dominion and the other bodies of water which will become the property of the Province and can only be dealt with by the Province. 30 40

In the Irrigation States and Territories to the South of the new Province one of the greatest drawbacks to irrigation development has resulted from litigation as to the title to water rights, and this difficulty can only be abolished in the new Province by continuing the present exact and carefully administered system of Government control and record of water rights, and that system cannot be con-

tinued if there is any question as to which Government (Dominion or Provincial) is entitled to deal with these water rights.

The difficulty could of course be overcome by special provision being made in the Act, reserving the title to all water to the Dominion, but if this were done the new Province would be treated on an entirely different basis from the other provinces of the Dominion including Manitoba, and would be precluded from dealing with a matter which as has been stated is a purely local one, and which experience has proved can best be dealt with by a department in close touch with the people interested.

10

The provisions of the section are taken from the Federal Irrigation Act of 1895, section 2, but vesting in the Province all water rights.

11. In addition to all other powers the Legislative Assembly of the Province shall have the powers conferred on the Legislative Assembly of the North-West Territories by the nineteenth Section of chapter twenty-two of the Acts of Parliament of Canada passed in the fifty-fourth and fifty-fifth years of the reign of Her Majesty Queen Victoria.

20

MEMO.—The object of this section is to continue in the new Province certain powers respecting legislation on the subject of the importation, etc., of intoxicating liquors conferred on the Territories by The North-West Territories Act, and which would not be comprised in the general powers under The British North America Act 1867.

12. The Judges of the Courts of the Province shall be selected from the bar of the Province or from the bar of some other Province in which the laws relative to property and civil rights and the procedure of the Courts are the same as in the Province of

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MEMO.—This section contains exactly the same provisions as is contained in section 97 of The British North America Act, 1867, as regards the Provinces whose system of law was founded on the English common law.

13. Except as otherwise provided by this Act all laws in force in the North-West Territories on the first day of January, 1903, and all Courts of civil and criminal jurisdiction and all legal commissions, powers and authorities existing therein on the said date shall continue as if this Act had not been passed, subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be repealed, abolished or altered by the Parliament of Canada or by the Legislature of the Province according to the authority of the Parliament or of the Legislature under this Act.

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(See memo. following section 14.)

14. All public officers and functionaries, judicial administrative and ministerial, holding office in the North-West Territories on the first day

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of January, 1903, shall continue to hold such office in the Province of
with the same duties and powers as before until other-
wise ordered by the Governor-General of Canada or the Lieutenant-Governor
of the Province according to the authority of the Governor-General or the
Lieutenant-Governor under this Act.

MEMO.—Sections 13 and 14 contain the necessary provisions
for continuing the laws, courts, officers, etc., and are the same as
contained in section 129 of The British North America Act, 1867,
here divided into two sections, the words of section 129 not appearing
to be very appropriate as applied to officers. 10

15. Until altered by the Lieutenant-Governor in Council the Seal of
the North-West Territories shall be the Great Seal of the Province of

MEMO.—This is a simple provision to prevent the Province
being without a seal until one can be provided, and conforms to
that of section 136 of The British North America Act, 1867.

16. The penitentiary situate in the Province of Manitoba shall until
the Parliament of Canada otherwise provides be the penitentiary for the
Province of

MEMO.—This section continues the penitentiary arrangements
at present in force, as was done in the case of the then Provinces by 20
The British North America Act, 1867.

17. Nothing in this Act shall in any way prejudice or affect the rights
or properties of the Hudson's Bay Company as contained in the conditions
under which that company surrendered Rupert's Land to Her Majesty
Queen Victoria, and all rights, privileges and properties conferred on Canada
by the said conditions shall in so far as they relate to matters within the
legislative authority of the Province belong to and be vested in the Province.

MEMO.—Provision for the rights of the Hudson's Bay Company
was thought to be necessary in the case of Manitoba (*see* Manitoba
Act, section 34) and is therefore continued in the present Act. The 30
latter provision of the section, though not in The Manitoba Act,
seems desirable, particularly in view of the fact that at present the
Hudson's Bay Company has denied the right of the Territories to
take without compensation lands required for roads through reserves,
which right is given to Canada by the conditions of surrender.

18. All lands belonging to the Crown situate in the Province of
other than lands reserved by Statute or Order in Council for the
use of Indians or for and earned by any person or corporation and lands
entered for homestead or pre-emption but not granted and all sums due
and payable on the first day of January, 1903, for such lands shall belong 40
to the Province

(See memo. following section 21.)

19. All mines, minerals, timber and royalties belonging to the Crown situate, being or arising in the Province of _____ and all sums due and payable on the first day of January, 1903, for such mines, minerals, timber or royalties shall belong to the Province

(See memo. following section 21.)

20. The Province shall receive and retain all the public property of the North-West Territories not otherwise disposed of in this Act.

(See memo. following section 21.)

21. All buildings in the North-West Territories belonging to Canada used or intended for court houses, jails and land titles offices and for residence and offices of the Lieutenant-Governor and Government of the North-West Territories together with all appurtenances connected therewith and all moneys the proceeds from the sale or leasing of school lands in the North-West Territories and all moneys forming the assurance fund under the provisions of The Territories Real Property Act and Lands Titles Act, 1894, shall be the property of the Province of

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MEMO.—Sections 18, 19, 20 and 21 deal with the public property within the proposed Province, and provide, as far as the circumstances appear to admit, for an arrangement analogous to that which obtains in the several Provinces originally forming the Confederation. The right and title to the public domain is in the Crown, but in the Colonies directly established by Great Britain the beneficiary interest in the revenues arising from the sale or other disposal of the public domain has been surrendered by the Crown for the benefit of the people residing in such Colonies. The Union Act of 1840 specifically provided that the territorial and other revenues then at the disposal of the Crown should be placed in future at the disposal of the province of Canada then being formed. Similar dispositions were made, either by Statute or by the exercise of the royal prerogative, in favour of the other colonies in British North America. The British North America Act continued these arrangements for the benefit of the Provinces forming the Confederation, and the sections of the Bill under reference provide for the extension of the principle to the Province of which it purports to provide for the formation.

It may be noted that there has been no legislation or exercise of the royal prerogative transferring, to Canada or otherwise, any right to enjoy the beneficiary interest in the territorial revenues of the North-West Territories. The fifth section of Rupert's Land Act of 1868, like the Order in Council of June 23, 1870, for which it is the authority, goes no further than to provide that upon the admission of Rupert's Land into the Dominion, "it shall be lawful for the Parliament of Canada . . . to make, ordain and establish within " the land and Territory so admitted . . . all such laws, institutions

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“ and ordinances, and to constitute such courts and officers, as may
 “ be necessary for the peace, order and good government of Her
 “ Majesty’s subjects and others therein.” The words of the Order
 in Council dealing with the admission into the Union of that part of
 the North-West Territories formerly known as the North-Western
 Territory are more sparing as to number but appear to convey a
 somewhat wider extent of power, as they not only provide for the
 “ good government ” of the Territory but also for its “ future
 welfare,” at the hands of Canada. With the exception of the grant
 made to the Hudson’s Bay Company by the Imperial Order in
 Council of June 23, 1870, section 30 of “ An Act to amend and
 continue the Act thirty-two and thirty-three Victoria, chapter
 three, and to establish and provide for the Government of the Pro-
 vince of Manitoba,” confirmed by The British North America Act
 1871 appears to be the only authority under which any portion of
 the rights of the Crown in Rupert’s Land or the North-Western
 Territory has ever been alienated. The Act last referred to is the
 Act under the authority of which the Parliament of Canada has
 from time to time made “ provision for the administration, peace,
 order, and good government ” of the North-West Territories, being
 a “ territory not for the time being included in any Province;” and
 it is also the Act under which Parliament will provide for the “ con-
 stitution and administration of any . . . Province ” which may be
 established, “ and for the passing of laws for the peace, order and
 good government of such Province. . . .”

The difference between legislative jurisdiction and proprietary
 rights was clearly laid down by Lord Herschell in the judgment of
 the Judicial Committee of the Privy Council in the Fisheries case,
 but it may be admitted that the necessities of “ administration ”
 and the “ duties and obligations of government and legislation as
 regards these Territories,” assumed by Parliament, together with
 the established Imperial practice in such cases, would probably,
 though not necessarily, carry with them the privilege of appropriating
 the territorial and other revenues of the Territories for the purposes
 of maintaining good government and furthering the ends of legisla-
 tion. Upon the formation within the Territories of the promised
 “ political institutions bearing analogy . . . to those which exist
 “ in the several provinces of the Dominion,” it is submitted that
 whatever interest Canada may have had or exercised in respect of
 the territorial revenues will devolve upon the Province. As Great
 Britain has divested herself, for the benefit of her Colonies, of all her
 proprietary rights in the public domain within those Colonies, so, it
 is thought, Canada should do with respect to any claim that may
 be preferred on behalf of the Dominion to the beneficiary interest in
 the public domain within that part of the North-West Territories
 to be included in any Province to be established.

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It may be that the Government of Canada will admit the principle contended for above on behalf of the people of the North-West Territories who may be included within the limits of any Province to be created, but will argue that it will not be in accord with established public policy for the Dominion to divest itself of the ability, largely advertised abroad, to grant lands to actual settlers upon almost nominal conditions. Such appears to have been the view adopted in 1884 by the Government of the day with respect to certain similar representations then made by the Province of Manitoba. The validity of the claim was admitted by the agreement to recompense the Province for the loss of its public property. It is not deemed necessary here, at this stage, to discuss any such proposition further than to point out the one fact that, should the Dominion withhold from the Province, for the benefit of Canada at large, the right to administer the public domain within its boundaries and to enjoy the revenues therefrom, the addition of each new settler, or—what experience has shown to practically almost amount to the same thing—the opening up of each new settlement, will impose a burden and financial strain upon the revenues of the Province altogether out of proportion to any revenue derivable on account of such settler or settlement and one that can only be met by an early appeal to extensive direct taxation. The last issue of the Statistical Year Book gives the following rates of government expenditure per head in the several provinces—Ontario, \$1.74; Quebec, \$2.74; Nova Scotia, \$2.04; New Brunswick, \$2.47; Manitoba, \$4.58; British Columbia, \$9.88; Prince Edward Island, \$2.82. In the year 1900 the expenditure of the Government of the North-West Territories was limited to \$477,374.22 for the simple reason that no more money was available for expenditure. The population of the Territories in May, 1901, is reported to have been in the neighbourhood of 160,000. A simple calculation shows the per capita expenditure in 1900 to have been about \$3.00. Without extravagance and in order to provide for urgent public necessities, the per capita rate of expenditure in the Territories, had the money been available, would have been between \$6.00 and \$7.00. This large rate of public expenditure in the Territories, as compared with the rates of the eastern provinces, is entirely attributable to the extraordinary increase in population due to the energy displayed by the Immigration Branch of the Interior Department. Whilst such energy is commendable from the view point of Dominion interests, yet its results place a great strain upon the finances of the country, and it is, with all respect, urged that the exploitation of the public domain within the Province to be established, in the interest of the Dominion solely and entirely, will place upon the Province a burden too onerous to bear, and one which should properly fall where the benefits go.

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22. The following amounts shall be allowed and paid by Canada by half-yearly payments in advance as an annual subsidy to the Province, that is to say :

- (a) For the support of the Government and Legislature, fifty thousand dollars ;
- (b) On an estimated population of two hundred and fifty thousand at eighty cents per head, two hundred thousand dollars, subject to be increased as hereinafter mentioned, that is to say :—A census of the Province shall be taken in every fifth year reckoning from the general decennial census of one thousand nine hundred and one and an approximate estimate of the population shall be made at equal intervals of time between such quinquennial census and such decennial census ; and whenever the population by any such census or estimate exceeds two hundred and fifty thousand which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased in accordance therewith until the population reaches one million three hundred and ninety-six thousand and ninety-one after which there shall be no further increase.

MEMO.—Section 22 provides for the payment of an annual subsidy to the new Province on the lines of that paid to the Provinces under section 118 of The British North America Act. It may be noted that in the year 1900 the cost of government and the legislature in the North-West Territories amounted to \$66,311.37, which amount was further supplemented by expenditures made from the Parliamentary vote for Government of the North-West Territories upon matters which, in the Provinces, usually devolve upon the provincial revenues, and which principle may be expected to be extended to the province to be formed.

The payment of eighty cents per head upon an estimated population in excess of the present actual population follows the precedent established in the case of British Columbia at the time of its admission into the Union. Ten years after its admission the population of that province had not reached to within 10,000 of the number upon which the subsidy was based. In the case of the North-West Territories the population is rapidly increasing through immigration. Since the census was taken in May it is estimated that more than 25,000 people have come into the Territories, and it is reasonably expected that by the earliest date the Province can be established the population will reach the initial figure referred to in the Bill, and that long before 1906 the population will be largely in excess of that upon which payment up to that date will be made. It is proposed that the per capita allowance shall be paid on the actual population until such time as that population reaches the number upon which this grant is paid to the Province of Ontario. Owing to the extraordinary rate in the increase of the population in

the West at the present time and in future prospect it would be manifestly unfair to limit this grant to a population of 400,000 as has been done in other cases; but as the terms which are sought by the draft Bill are strictly within those granted elsewhere it is submitted that, at least, the maximum grant ever to be paid when the population warrants should be not less than that paid to any other Province in the Dominion. In the meantime and until the population reaches 400,000 the grant paid will be upon the same basis as that paid in all the Provinces except Ontario and Quebec.

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- 10 23. The Province shall be entitled to be paid and to receive from the Government of Canada by half yearly payments in advance interest at the rate of five per cent. per annum on the excess over the sum of of a sum to be ascertained by multiplying the population of the Province by 32.46 and for the purpose of this section the population of the Province shall until after the next decennial census be deemed to be two hundred and fifty thousand: Provided that immediately after the census of there shall be a readjustment under this section on the basis of the population as ascertained by such census.

20 MEMO.—This clause provides for the establishment of a capital account between the Province and the Dominion upon similar terms to those which have been given to the Province of Manitoba, with the exception that the arrangement proposed is not final, the Bill providing for a readjustment on the basis of the population of a future date, when it may be expected that the ratio of increase will approximate more closely to those in the other provinces than is the case at present.

- 30 24. The Province shall be entitled to receive by half yearly payments in advance from the Government of Canada interest at five per cent. per annum on the sum of one dollar per acre for each acre of land in the Province granted by the Dominion otherwise than for homesteads or pre-emptions under the provisions of The Dominion Lands Act or in settlement of half-breed claims.

40 MEMO.—Section 24 would probably be more properly referred to in connection with sections 18, 19, 20 and 21 of the draft Bill, as it deals with the public domain in so far as grants of lands in the North-West Territories made for Federal purposes are concerned, and seeks to place the indebtedness of Canada, to meet which these lands were given, where it properly belongs namely, the Dominion at large, and not upon the property of the Province. These grants have, in the main, been made in aid of railway construction in the West. Of such grants the following have been made, from Manitoba and North-West lands to the companies named—

	Acres.
Alberta Railway and Coal Company	- 1,114,368
Calgary and Edmonton	- - - 2,176,000

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	Acres.
Canadian Northern - - - -	9,907,200
Canadian Pacific - - - -	19,816,010
Great North-West Central - - -	320,000
Manitoba and North-Western - - -	2,752,000
Manitoba and South-Western - - -	1,396,800
Qu'Appelle, Long Lake and Saskatch- ewan - - - - -	1,625,344
Red Deer Valley - - - - -	352,000

Of these roads only four are entirely within the Territories, those, 10
 namely, of the Alberta Railway and Coal Company, the Calgary
 and Edmonton Railway Company, the Qu'Appelle, Long Lake and
 Saskatchewan Company, and the Red Deer Valley Company, and
 the lands granted lie within the area of the proposed Province.
 The other roads named lie either entirely in Manitoba or partly
 within both Manitoba and the Territories. With respect to three
 of these roads, namely, the Great North-West Central, the Manitoba
 and North-Western and the Manitoba and South-Western, the
 following is noted. The whole of the line constructed by the Great
 North-West Central is entirely within Manitoba. An area of 20
 708,827 acres has been reserved for this grant, of which about
 703,000 acres are in the Territories, and from which the bulk of the
 320,000 acres earned under the grant will have to be selected, there
 being only some 5,800 acres of the reserve in Manitoba. An area
 of Territorial lands, equal to the whole grant to the Manitoba and
 North-Western Company, has been reserved for the purpose of that
 grant, though less than one-fifth of the road constructed lies in the
 Territories. The line of the Manitoba and South-Western Colonisa-
 tion Company is entirely within Manitoba, but an area in the 30
 Territories of about 681,000 acres has been reserved for the grant
 on account of this road. Of the grants to the Canadian Pacific
 Railway Company the balance of that on account of the construction
 of the main line (18,206,986 acres) is the most important. As it
 will be shown, only some 2,500,000 acres have been selected outside
 the Territories, the balance being within the Territories. The
 Canadian Pacific Railway Company has been granted lands in aid
 of its Deloraine and Napinka, Glenboro and Souris, Kemnay and
 Estevan, and Pipestone branches amounting in all to 1,609,024 acres.
 A reserve approximating 1,900,000 acres, in the Battleford district
 of the North-West Territories of Canada, several hundred miles 40
 from the location of these branch railways, has been made for the
 purposes of these grants, though only about one-half of the Kemnay
 and Estevan branch is within the Territories, the Pipestone branch
 has just entered the Territories, the balance of these two roads
 together with the whole of the other two named being entirely
 without the Territories in the Province of Manitoba.

The case of the Canadian Northern Railway Company may be mentioned also, as it is extremely probable that a very considerable part of the grants to that company, which aggregate nearly 10,000,000 acres will, when located, be taken from Territorial lands, though those portions of the company's system for which the grants have been made lies entirely outside of the Territories.

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10 These railways have been aided by the Dominion on the ground that their construction was a benefit to Canada, and the policy followed in Manitoba and the North-West Territories is in remarkable contrast to that adopted by the Dominion in all other parts of Canada. Published Government statistics show that the Dominion Government has granted aid to railways constructed and under construction, up to June 30, 1900, by way of loans and bonuses, a sum of \$166,009,303. The people of the Territories, man for man, bear an equal proportion of the cost to the Dominion of such expenditures. There are some ninety railway enterprises, each wholly within its own Province, which have been granted cash subsidies at the charge (it is again repeated) of the people of the Territories equally with those of other parts of Canada, but in the Territories, railways constructed as much in the interests of Canada as any one of the ninety referred to above, are subsidised entirely at the cost of the public domain within the Province notwithstanding the fact that some of the roads so subsidised will not benefit the Province in any form or shape. The principle being once conceded, it must be admitted that if one is, all railways constructed are for the benefit of Canada, whether it be the Canadian Pacific system with its six thousand and odd miles of track or the Phillipsburg Junction road, two-thirds of a mile in length. Canada should therefore bear the cost of the grants made by the Dominion and the Bill seeks to provide an equitable arrangement for transferring the burden of these and other similar grants from the Territories to the Dominion, so that the people of the Province will not be dealt with in these respects otherwise than are the people of the Provinces of Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and British Columbia.

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In addition to the matters dealt with in the foregoing draft Bill, I have also to direct your attention to, and to press for the removal by ancillary legislation of, the exemption from taxation granted to the Canadian Pacific Railway Company under Clause 16 of the Schedule to Chapter 1 of the Dominion Statutes of 1881. The exemption as is well known is two-fold. First, that in the words—"The Canadian Pacific railway, and all stations
" and station grounds, workshops, buildings, yards and other property,
" rolling stock and appurtenances required and used for the construction
" and working thereof, and the capital stock of the company, shall be
" forever free from taxation by the Dominion, or by any Province to be
" hereafter established, or by any municipal corporation therein"; and

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Second, in that part of the clause which reads—“and the lands of the “ company in the North-West Territories, until they are either sold or “ occupied, shall also be free from such taxation for twenty years after the “ grant thereof from the Crown ” The effect of these exemptions is to prohibit any Province which may be established—or any municipal corporation therein—from requiring the Canadian Pacific Railway Company to assist in the “ administration ” of the country or the maintenance of “ peace, order and good government ” with its bounds with respect to a part of its property forever and with respect to another part for a limited period of time. This exemption falls hardly upon the people of the North- West Territories in a number of ways. The nature of the land grant to the company, in that it is spread over the whole country in small blocks of one mile square alternating with those open for homesteads, causes every dollar spent by a settler in the improvement of his homestead, where it lies within the districts reserved for the selection of the land granted on account of the construction of the Canadian Pacific railway, to enhance the value of the lands held for the company in its neighbourhood. All public expenditures made in such districts for roads, bridges and other works of a similar description improve the value of the lands still held by the company under its main line grant, the company contributing nothing on account of such lands towards the cost of the works by reason of which they are benefited. 10 20

An examination of the terms of the grant to the Canadian Pacific Railway Company shows that the exemption will bear with particular stress upon any Province established within the area referred to in the draft Bill. The paragraph lettered (a) of Clause 9 in the Schedule to the 1881 Canadian Pacific Railway Act (chapter 1 of the Statutes of that year) reads—

(a) The said subsidy in money is hereby divided and appropriated as follows, namely— 30

CENTRAL SECTION.

Assumed at 1,350 miles—

1st—900 miles at \$10,000 per mile	-	-	\$9,000,000	
2nd—450 miles at \$13,333 per mile	-	-	6,000,000	
			<hr/>	\$15,000,000

EASTERN SECTION.

Assumed at 650 miles, subsidy equal to				
\$15,384.61 per mile	-	-	-	10,000,000
				<hr/>
				\$25,000,000

And the said subsidy in land is hereby divided and appropriated as follows, subject to the reserve hereinafter provided for:—

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	1st—900 miles at 12,500 acres per mile	- - 11,250,000	
	2nd—450 miles at 16,666.66 acres per mile	- - 7,500,000	
		18,750,000	
	EASTERN SECTION.		
	Assumed at 650 miles, subsidy equal to 9,615 acres per mile	- - - - - 6,250,000	
10		25,000,000	

The original land grant of 25,000,000 acres has been reduced by 6,793,041 acres at a cost to Canada of \$10,189,521, thus leaving the company to receive 18,206,986 acres. In other words, the amount of that apportionment of the land grant on account of the construction of the "Eastern Section"—or that part of the railway between Callander and a point east of Red River to which the road had been constructed from Selkirk by the Government, all of which lies in the Province of Ontario—has been exchanged for cash, at the cost of the people of the Territories equally with those of every other part of Canada. Of the balance of the land grant, the company has selected some 2,500,000 acres within the Province of Manitoba, leaving the balance to be selected from the lands within the North-West Territories out of the extensive areas reserved for that purpose. This particular grant is that made on account of the construction of the "Central Section" of the railway, namely, that from Selkirk to Kamloops, which has been definitely ascertained to be a distance of 1,250 miles. This distance is divisible as follows:—Manitoba, 220 miles; North-West Territories, 760 miles; British Columbia, 270 miles. It is therefore apparent that a proportionate area, based upon the mileage through the Province at the rate granted per mile through the prairie portion of the Central Section (220 miles at 12,500 acres per mile, being 2,750,000 acres) has not been taken from Manitoba lands, and that in addition to this shortage of 250,000 acres the whole of the grant earned by construction through British Columbia (at the mountain rate of 16,666.66 acres per mile) is being made out of the lands of the Territories. Even if, under any process of reasoning, the exemption clause can be justified as regards the construction of the railway through the Territories, it is not thought that the Territories can in equity be required to bear this extra burden on account of the construction of the railway through the Provinces of Manitoba and British Columbia. If they are so required, the people of the Territories, who are individually contributing equally to the cost to Canada of the interest upon the debt created by the payment of the original bonus of \$25,000,000, the payment of \$10,189,321 for the repurchase of the land grant on account of the Eastern or Ontario section of the railway, together with the annual payment

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 —continued.

of \$100,000 to British Columbia for the lands conveyed to Canada under the terms of the Imperial Order in Council of May 16, 1871, "to aid in the construction of the railway," will be also liable to bear whatever the exemption from taxation under The Canadian Pacific Railway Act of 1881 may mean. By the terms of that Act the Province to be established—or any municipal corporation therein—will be prohibited from taxing the company or its property in any manner or for any reason. Unless invidious comparisons are made between the Canadian Pacific and other railway companies this will mean the involuntary relinquishment of resource to that avenue of revenue as no competing company will be liable to expend the necessarily vast sums of money required unless it has prospects of obtaining similar exemption from taxation at the hands of the Province. 10

The necessity for this extraordinary burden upon the people of the West is not obvious. Ample evidence exists to show that the railway was not in any sense built for the benefit of the North-West. In 1865, the Honourable George Brown voiced the opinion of the Government of the day when he stated in his place in the Parliament of Canada during the Confederation debates that "the Confederation is, therefore, clearly committed to the carrying out of both these enterprises," his reference being to the construction of the Inter-colonial railway and the opening up of the communications with the North-Western Territory. "I doubt," he proceeded to say, "if there was a member of the Conference who did not consider that the opening up of the North-West and the improvement of our canal system were not as clearly for the advantage of the Lower Provinces as for the interests of Upper Canada. Indeed, one gentleman held that the Lower Provinces were more interested—they wished to get their products into the West—they wanted a back country as much as we did—they wanted to be the carriers for that great country—and they were, therefore, to say the least, as much interested in these questions as we were." But there is no need to go back beyond the solemn compact entered into between Canada and the Colony of British Columbia in 1871. The Imperial Order in Council of May 16, 1871, respecting the Province of British Columbia, sets forth as one of the terms and conditions upon which that Colony consented to enter the Confederation, the undertaking of the Government of Canada "to secure the commencement, simultaneously within two years from the date of the Union, of the construction of a railway, from the Pacific toward the Rocky Mountains, and from such point as may be selected east of the Rocky Mountains toward the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further to secure the completion of such railway within ten years from the date of the Union." The preamble to chapters 71 and 72 of the Dominion Statutes of 1872 and chapter 1 of the Statutes of 1881 all set forth the fact in various ways that (to quote from the last mentioned Act) "by the terms and conditions of the admission of British Columbia into Union with the Dominion of Canada, the Government of the Dominion has assumed the obligation of causing a railway to be 20 30 40

“ constructed connecting the seaboard of British Columbia with the
 “ railway system of Canada.”

All this being so, it is difficult for the people of the North-West Territories to understand why they should be called upon to assume any other burden than that of contributing proportionately—and no more—with the people of other parts of Canada towards the cost of carrying out the obligations assumed by Canada under the compact with British Columbia. The exemption from taxation granted by The Canadian Pacific Railway Act is undoubtedly such an added burden, and an imposition upon
 10 the people of the North-West Territories that cannot be justified. For no reason that is conceivable, this exemption bears with greater stress upon the Territories than it does even upon Manitoba. Except those lands selected by the company under its land grant which lie in that part of Manitoba added to the original Province after the contract of 1881, none of the property of the company is exempt from taxation in Manitoba. That Province today is taxing the company under Chapter 57 of the Provincial Acts of 1890.

In view of the foregoing it is submitted that Parliament should be asked to take such steps as may appear advisable in order to countervail
 20 the operation of the exemption clause of the Canadian Pacific Railway contract within the limits of the Province to be created.

In conclusion, I would venture to express the hope that His Excellency's advisers will, at an early date, arrive at a favourable conclusion to their consideration of the subject matters herein set forth.

I have the honour to be,

Sir,

Your obedient servant,

F. W. G. HAULTAIN.

No. 93.
 Letter,
 Honourable
 F. W. G.
 Haultain,
 Premier of
 North-West
 Territories
 to Right
 Honourable
 Sir Wilfrid
 Laurier,
 Premier of
 Canada,
 7th Dec-
 ember 1901
 —continued.

In the Privy Council.

No. 37 of 1931.

On Appeal from the Supreme Court of Canada.

IN THE MATTER OF A REFERENCE ARISING OUT
OF THE TRANSFER OF THE NATURAL RESOURCES
TO THE PROVINCE OF SASKATCHEWAN.

BETWEEN

THE ATTORNEY GENERAL OF SASKATCHEWAN
AND THE ATTORNEY GENERAL
OF ALBERTA - - - *Appellants*

AND

THE ATTORNEY GENERAL OF CANADA
Respondent.

APPENDIX.

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