

THE EXAMINER.

VOL. 6.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, FRIDAY, APRIL 23, 1880.

NO. 130

THE DAILY EXAMINER

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W. L. COTTON, J. W. MITCHELL,
Manager, Office Sup't.

Prince Edward Island RAILWAY.

TIME TABLE NO. 13.
Winter Arrangement.

TO COME INTO FORCE
TUESDAY, December 2nd, 1879.

TRAINS GOING WEST.

STATIONS.	Nos. 1 & 3, Mixed.	No. 5, Mixed.
Georgetown	Dp 8.20 a.m.	
Cardigan	" 8.46 "	
Mt Stewart Junc.	Ar 10.10 "	
Royalty Junction	Dp 10.15 "	
Charlottetown	Ar 11.50 a.m.	
Royalty Junction	Dp 8.00 a.m.	Dp 3.00 p.m.
North Wiltshire	" 8.22 "	" 3.23 "
Hunter River	" 9.14 "	" 4.15 "
Breadalbane	" 9.30 "	" 4.30 "
County Line	" 10.07 "	" 5.08 "
Kensington	" 10.17 "	" 5.18 "
Summerside	Ar 11.30 a.m.	Ar 6.30 p.m.
Wellington	Dp 1.30 p.m.	
Port Hill	" 2.19 "	
O'Leary	" 3.00 "	
Alberton	" 4.17 "	
Tigash	" 5.17 "	

TRAINS GOING EAST.

STATIONS.	Nos. 2 and 4, Mixed.	No. 6, Mixed.
Tigash	Dp 6.30 a.m.	
Alberton	" 7.25 "	
O'Leary	" 8.25 "	
Port Hill	" 9.40 "	
Wellington	" 10.22 "	
Summerside	Ar 11.10 a.m.	
Kensington	Dp 2.30 p.m.	Dp 7.30 a.m.
County Line	" 3.05 "	" 8.05 "
Breadalbane	" 2.43 "	" 8.44 "
Hunter River	" 3.53 "	" 9.54 "
North Wiltshire	" 4.30 "	" 9.30 "
Royalty Junction	" 4.46 "	" 9.43 "
Charlottetown	Ar 5.37 "	Ar 10.33 "
Royalty Junction	Dp 6.00 p.m.	Ar 11.00 a.m.
Mt. Stewart Junc.	Ar 2.53 "	
Cardigan	Ar 4.10 "	
Georgetown	Dp 4.15 "	
	Dp 5.35 "	
	Ar 6.00 p.m.	

SOURIS BRANCH.

Trains Going West.

STATIONS.	No. 7, Mixed.
Souris	Depart 7.15 a.m.
Harmony	" 7.37 "
St. Peter's	" 8.55 "
Morell	" 9.23 "
Mt. Stewart Junction	Arrive 10.10 a.m.

Trains Going East.

STATIONS.	No. 8, Mixed.
Mt. Stewart Junction	Depart 4.15 p.m.
Morell	" 4.55 "
St. Peter's	" 5.30 "
Harmony	" 6.43 "
Souris	Arrive 7.10 "

ALEX. MACNAB,
Sup't and Engineer.
Railway Office, Chtown, Nov. 23, 1879.
-pat pres h a ne sp sj kca pio 6i

NOTICE.

THE Best, Shortest and Cheapest route of Cape Traverse is via Train to County Line Station, thence via HUGHES' Teams to Capes—which are in readiness at all times.
J. W. HUGHES,
J. HUGHES.
Feb. 25, 1880—tf

Bones. Bones.

THE undersigned will pay fifty cents Cash per cwt. for all bones delivered at the Bone Mill, in the Royalty. No quantity less than one cwt. (112 lbs) taken.
FRED. W. HYNDMAN,
Agent.
Ch town, Dec 1, 1879

Daily Examiner!

1880.

Advertisers Cheap FOR CASH!

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Social News,
Commercial News,
Shipping News.

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A few Advertisements only, received
J. W. MITCHELL, | W. L. COTTON,
Office Sup't. Manager

SECOND EDITION

THE DAILY EXAMINER.

APRIL 23, 1880.

NOTES FROM THE CAPITAL.

HOUSE OF COMMONS.

The Fishery Question.

MR. MACDONALD'S SPEECH.

It seems to me that one of the main points to determine in the discussion of this question is the time when the Treaty of Washington came into effect as respects Prince Edward Island. We are told over and over again that it was the 1st of July, 1873, and in the report of the sub-committee of the Privy Council, this fact is pointed out as the only reason why the claims of the Island are put on a level with those of the other Provinces. Is it true that the fishery clauses of the Treaty did not come into effect until the 1st of July? We find that Article 33 of the Washington Treaty provides that the clause relating to the fisheries should take effect as soon as the laws required were passed by the agreeing parties. The Province of Prince Edward Island passed the required legislation on the 29th July, 1872, and the Congress of the United States passed the necessary legislation on 1st March, 1873. Let us consider the condition we were in before the Treaty came into force and the passing of the Acts referred to. When is an Act said to be in force? As I understand it, when it is passed by the House and the Governor or the President has given it his sanction. A time may be appointed at which an Act may go into force, but that is an independent consideration and does not apply to the Acts I have mentioned. At that time Prince Edward Island and the United States stood in the position of intending contracting parties, the one had sold rights and the other had bought them. Section 5 of the Act passed by the United States Congress on 1st March, 1873, is as follows: "That this Act shall not take effect until the 1st day of July, 1873, and shall not apply to any article of merchandise therein mentioned, which shall be held in bond on that day by the Customs officers of the United States." We also find in section 1, of the same Act, "That whenever the President of the United States shall receive satisfactory evidence that the Imperial Parliament of Great Britain, the Parliament of Canada, and the Legislature of Prince Edward Island, have passed laws on their part to give full effect to the provisions of the Treaty between United States and Great Britain, signed at Washington, on the 8th day of May, 1871, etc., etc., he is hereby authorized to issue his proclamation declaring that he has such evidence thereupon, from the date of such proclamation, etc., etc., according to the terms and conditions of article 33 of said Treaty. All fish oil, fish of all kind, except fish of inland lakes, and fish preserved in oil, being the produce of the fisheries of the Dominion of Canada or of P. E. Island shall be admitted into the United States free of duty." We find that this could have taken effect any time between the 1st March and 1st July. I would like to call the attention of hon. members who assert that the Act of Congress passed on the 1st March, 1873, only came into effect on the 1st July, 1873, to the peculiar wording of the Act itself. Section 1, authorizes the President to declare by proclamation, "that fish and fish oil of the Island shall be admitted free of duty as soon as he shall have received satisfactory evidence that the Legislature contemplated by article 33 of the Washington Treaty had been passed." This means that the most important provision of the Act could have come into force long before 1st July, 1873, and shall not apply to any article of merchandise held in bond by the United States' custom officers on that day. This section does not seem to apply to the whole Act but merely to mark the time beyond which the custom officers could not collect duties. Then it was possible for the main provisions of the Treaty to go into effect in regard to P. E. Island, even under the strictest interpretation of the Act, before 1st July, 1873. Section 5, which I have just read, is not a general but a special provision, and it was inserted chiefly with the object of enabling Custom House officers of the United States to deal with the articles in bond at that date. What was the effect of this mutual legislation between P. E. Island and the United States? It was to vest in the Americans the right to fish in the territorial waters of the Island for the term of twelve years. The obligation to pay, secured by the Treaty, was held by the Island before the time of Confederation, and was a part of the separate property of the State, the same as the money in its Local Treasury. It also had the same effect as a solemn agreement would have between the contracting parties. It makes no difference whether the amount of payment was settled or not, or whether it was settled by the Award. The Island held the right to that sum as part of its assets, just as much as if it were bonds and promissory notes. Suppose I give a legal document to another party conveying certain property to him for a consideration, that deed vests the right or claim to that property in the person to whom I give it, while it would vest in me the right to receive the consideration to be paid. Therefore, the question is whether

the right surrendered by the Island to the Dominion under Confederation took away her rights in the agreement between her and the United States. Did she surrender any bonds at the time of Confederation? No, she did not. Neither did she surrender any money that was in her Treasury at the time. Then, how could it be said that the Island yielded up assets of a similar nature? There is no evidence of it. Besides, the burden of proof rests on the Dominion, and if they fail to establish it, it must be held that no surrender of the rights referred to was made. It is important to bear this in mind, because if the fishery interests were really charged before Confederation into a bond or obligation to receive money, then that is an end to the argument, for no one has ventured to assert that the Island transferred to the Dominion any such bonds or obligations, or any personal property of that character. At any rate in this state of the argument if any one is bold enough to assert it, the burden is thrown upon him to prove the transfer of these particular moneys, and why the transfer was made, and all the circumstances of the transaction. Has this been done? Has it been attempted? No; and it cannot be done. It follows conclusively from this course of reasoning that this property was not handed over to the general Government—it was retained by the Island for its own use. The Dominion did not go into this matter blindly. It knew of the existence of the Washington Treaty. It knew of the legislation that had been passed. It knew, or ought to have known, the nature of the obligation we held of the Americans. It did not stipulate with us respecting our share of the Fishery Award. That was left in our hands untouched. They may have made a bad bargain, or an oversight, but that is not our fault. This property was ours before Confederation, and is ours still. It should have been handed over to us direct by the Imperial Government; and Canada has no right to retain the money after our claim has been properly preferred. No consideration was ever given, or offered, for this important part of the assets of the Island. There is no doubt that up to July, 1873, the Island had the right to make a bargain with the United States with respect to her fisheries. But there are important considerations to be borne in mind, one of which is that the power conferred upon the Dominion by the Act of Confederation did not, and could not, be construed to extend to the interest in which the fisheries had been already sold and conveyed. We must consider for the moment what was meant by the right to legislate respecting the fisheries. By Section 91 of the British North American Act, the Dominion has exclusive authority throughout to legislate in all matters coming within the classes of subjects therein enumerated, and among these are the "Sea-coast and inland fisheries." The powers of the Dominion cannot extend further than the meaning of the words will allow. No doubt it would have the right to legislate respecting the protection or management of the fisheries. Possibly, also, it has the power to sell or lease the fisheries, but the fisheries themselves are not by this enactment vested in the Dominion. It has no estate or interest in them. But its rights were only created by the Act from which the Dominion derives all its power. If the Dominion has the right to guard and encourage the fisheries, it is for the benefit of the fisheries and the Province especially interested. If it has power to lease them it is only as an agent for those Provinces. It cannot do otherwise than to hold them for the special benefit of the different Provinces whose fisheries are so dealt with. When the delegation from Prince Edward Island came here in regard to the final terms before entering Confederation, and when the terms of Union were still pending, the following memorandum was drawn up:—

"SHOULD THE ABOVE BE AGREED UPON AS A BASIS OF UNION, THE UNDERSIGNED WILL BEG TO SUBMIT A FURTHER MEMORANDUM WITH RESPECT TO THE FISHERIES."
This shows it was the intention of the Island to keep its share of the fishery award, or if not to receive some further equivalent for transferring it to the Dominion. There is nothing to show that the Island ever intended to transfer its fisheries gratuitously. Before she entered the Union, she passed the necessary legislation to give her an interest in the Award. The Treaty was not dependent on any proclamation of the President of the United States. The main provisions could have gone into effect at any time between the 1st March and the 1st of July, 1873. It gave to the United States the right to fish in the territorial waters of Prince Edward Island for twelve years. The Island to receive a certain compensation therefor. The one did not surrender its rights to a share of the Award by entering Confederation, though it surrendered to the Dominion the power to legislate respecting the fisheries. But suppose for the sake of argument that even after July 1st, 1873, the Dominion had the exclusive right to legislate respecting the fisheries. What does this mean? Does this right to legislate give the ownership to Canada. Not necessarily. I may have power to deal with or convey property that is not my own. I may be an agent merely or trustee for another who is the real owner and so it seems to me this is the relation the Dominion stands in with respect to the Island fisheries. If Canada ever became the owner a direct transfer will have to be made. As the case now stands Canada

is merely a trustee for the several Provinces. Any act it does is for the special benefit of the Provinces. It might have the power to sell or lease the fisheries to the Americans but it must apply to the proceeds of the sale in the manner directed by the Provinces. It has no right and no authority under the B. N. America Act, to take the money arising from the Fishery Award from the different Provinces to which it especially belongs, and appropriate it to the general purposes of the Dominion. I trust and hope therefore, that the Government will make some special exception in favor of the special claims of Prince Edward Island, and do justice to that Province.

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C. W. DEBLOIS,
General Agent for P. E. Island.
Office, No. 35 Water Street, Charlottetown.
April 14, '80—pat her ne sj kca if cod

MACLEAN & MARTIN ATTORNEYS-AT-LAW,

Newson's Building, Opp. Post Office,
Charlottetown, P. E. I.
A. A. McLEAN. D. C. MARTIN.
June 18, 1879.—ex2aw

J. R. FOSTER, Moncton, N. B.,

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The above choice brands of flour, with many others, can be obtained at all the leading Flour Houses in the Maritime Provinces. Samples of all kinds of Seed Grains, and other goods will be sent to any address on application free of charge.

Ask for quotations by telegraph in "Cipher," which will be supplied to all correspondents on application.
Nov. 25, 1879—ly

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VISITOR:
The Lord Bishop of Nova Scotia
PRINCIPAL:
The Rev. John Paddfield.

THIS SCHOOL offers, at very moderate cost, the advantages of a comfortable and pleasant home together with a thorough and refined education.

The course of instruction is the same as that of the best Schools in England and is founded upon the University Examinations for Women. Eight young ladies from this School passed the Local Examination of the University of King's College in June last. This is the only School in Canada that has passed pupils at a University Examination.

The number of pupils is limited, rendering the School select, and while it possesses all the educational advantages of a large public school, each pupil is enabled to receive that individual care and oversight which is so important, and which cannot be given in a large establishment.

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References given to parents of pupils.
For further particulars address the Principal.
Sept. 19, 1879.

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