

JUDGE PALMER'S PERIL,  
OR HIS VINDICATION IN CASE THE  
CHARGES ARE FALSE.

Proceedings May Be Taken to Impeach  
Him—How the Charges Would Be Made—  
The Story of a St. John Newspaper Man in  
a Celebrated Case.

The charges of gross misconduct in  
office preferred by the Globe newspaper  
against Judge Palmer have been the sub-  
ject of much comment and speculation a-  
mong newspaper readers and citizens gen-  
erally. They have attracted great atten-  
tion throughout Canada and bid fair yet to  
form a *cause celebre* in the annals of the  
judiciary of this province. The principal  
charges are two, one being a charge of  
nepotism in extending such undue favors  
to his son and his nephew that litigants are  
compelled or induced to employ one or the  
other of them in prosecuting or defending  
their causes before the equity court. The  
other and even more serious charge is that  
of having received a large sum of money  
from one of the parties to a suit pending  
before him under conditions which indicate  
that it might be a bribe.

PROGRESS has nothing to say as to the  
truth or falsity of these charges beyond  
that all good citizens are bound to believe  
the judge innocent until the charges are  
proven, or at least until an opportunity is  
offered for that purpose. Such an oppor-  
tunity might have been offered by Judge  
Palmer prosecuting Mr. Ellis, as a respon-  
sible editor of the Globe, or the entire pro-  
prietorship of the Globe for criminal libel;  
or by Judge Palmer entering a civil action  
for defamatory libel and claiming damages  
therefor.

Or again proceedings might have been  
taken for contempt of court. There can  
be no doubt, at least, to the lay mind,  
that the charges so explicitly made and so  
circumstantially stated in the Globe consti-  
tute a much more flagrant contempt of court  
than the reflections upon Judge Tuck, pub-  
lished in the Globe and for which Mr. Ellis  
is now suffering fine and imprisonment.  
But Judge Palmer has not entered either a  
criminal or civil action to punish either  
Mr. Ellis or the Globe publishers for the  
libel if libel it was, nor has the judge or  
either of his associate judges, or any per-  
son in their behalf taken steps to bring the  
writer or the publishers of the charges to  
account for the contempt of court thereby  
committed.

So far, it will be seen, no opportunity  
has been offered to the party making the  
charges to prove them before a court of  
law. Nor has there been a public and  
authoritative denial of the charges in ques-  
tion much less any effort to disprove them.  
The community is thus confronted with a  
condition of things in regard to the judi-  
ciary of the province such as has not been  
met in the century of our provincial history.  
It is inevitable that not only Judge Palmer  
himself, but the entire supreme bench of  
New Brunswick, suffers in the public esti-  
mation from the existence and continuance  
of this state of affairs.

But the remedy is not easy, although it  
is a maxim of law that "there is no wrong  
without a remedy." Judges of the superi-  
or courts of the several provinces and of  
the supreme court of Canada hold their  
offices by a peculiar tenure, wisely designed  
to place them above intimidation by the  
crown and equally above the influence of  
popular clamor. They are appointed by the  
crown, that is by the governor general  
of Canada on the recommendation of his  
ministers. But the general principle which  
applies to all other appointed officials, that  
"the power which appoints has the power  
to dismiss," does not apply to supreme  
court judges. They and they only (with  
the single exception of the auditor general  
of Canada, who is protected by a special  
statute) cannot be removed from office by  
the power which appoints them to office.

The lieutenant governor of a province is  
a high official, with a salary equal to that  
of two of our supreme court judges, but the  
federal government can dismiss him at any  
time for a reason, and they need assign no  
better reason than that given by Sir John  
Macdonald for the dismissal of Lieutenant  
Governor Letellier de St. Just, of Quebec,  
some fifteen years ago, that "his usefulness  
is gone." On such a flimsy pretext, or  
practically at their own pleasure, the gov-  
ernment at Ottawa may remove a lieuten-  
ant governor from office. Or they may re-  
move a county court judge in a similar way,  
but they are powerless to remove a supreme  
court judge.

If to-day one of the supreme court  
judges were proven to have abused his  
office by taking a bribe from one of the  
suits before him, or had done any other  
act of malfeasance in office, neither the  
governor in council at Ottawa, nor the privy  
council of England, nor the Queen herself  
could dismiss him from office. No one or  
other of these high authorities could so  
much as suspend him from the exercise of  
his office. Nor could parliament itself  
suspend the payment of his salary, for a  
judge's salary is not voted annually, as the  
salaries of other officials are, but is fixed by  
statute.

What, then, is the remedy for gross mis-  
conduct by a judge in the discharge of his  
office, and how can he be removed from  
office if proven guilty of such abuse or mis-  
conduct? The remedy lies in impeach-  
ment before parliament, and his removal  
from office can only be effected by securing  
a joint address of both houses of parliament

recommending his dismissal. On receipt  
of such joint address the governor general  
in council may dismiss the accused judge  
from office and appoint his successor. It  
is only in this way that a supreme court  
judge can be removed from his official  
position.

PROGRESS is advised that at the next ses-  
sion of parliament proceedings will be taken  
for the impeachment of Judge Palmer, in  
which case an opportunity will be afforded  
to prove what has been alleged against him  
publicly, together with such new matter as  
may be brought forward. It is not yet  
known, and perhaps not yet decided, in  
what manner the proceedings will begin.  
"The proper and most convenient course,"  
says Bourniot, "is for the persons who feel  
called upon to attack the character of a  
judge to proceed by petition in which all  
the allegations are specifically stated, so  
that the judge may have full opportunity of  
answering the indictment presented against  
him. But the action of parliament may  
originate in other ways if the public inter-  
est demand it, and there is no objection  
to any member formulating charges on his  
own responsibility as a member of the  
legislature having a grave duty to dis-  
charge."

No doubt one or other of these two  
methods will be taken. The charges thus  
formulated and presented to parliament  
will then be referred to a small select com-  
mittee made up of the most eminent law-  
yers in the commons, the minister of jus-  
tice not being one, but attending upon its  
proceedings. They will at once summon  
the judge to attend. He may appear per-  
sonally or by counsel. Witnesses may be  
compelled to attend and all testimony will  
be taken under oath. But only such  
charges will be entertained as would, if  
proved, justify the removal of the judge  
from office. The proceedings may possi-  
bly never get farther than the committee  
stage. In fact that is as far we have ever  
gone in Canada in impeaching our judges.  
In only three instances have impeachment  
proceedings been undertaken in Canada.  
These had to do with charges against Judge  
Lafontaine in 1868-9, Judge Lorange in  
1877, and Chief Justice Wood, of Manitoba,  
in 1882. In the latter case a committee  
was asked for but never appointed. In  
the two former cases committees were  
struck and evidence taken, but the proceed-  
ings never got beyond the taking of evi-  
dence. Judge Lafontaine, against whom  
much was proved, was superannuated  
while the proceedings were pending, and so  
escaped from his accusers to enjoy a liberal  
pension for the rest of his days. From all  
this it will be seen that a supreme court  
judge is very firmly seated, and there are  
apparently some easy ways for a friendly  
government to help a judge out of the im-  
peachment trap, even when it seems about  
to close upon him.

Referring to the above cited case of the  
impeachment proceedings taken against  
Judge Lafontaine. Mr. J. E. B. McCready,  
who was officially connected with the com-  
mittee as its clerk furnished the subjoined  
reminders of the proceedings:

I was a clerk in the committee depart-  
ment of the house of commons from the  
6th November, 1867 to July 1872. It was  
in 1868, if I remember rightly, that the  
charges were laid against Judge Lafontaine  
of the superior court of Quebec, a position  
corresponding to that of a judge of the  
supreme court in this province. He pre-  
sided over the judicial district of Ottawa,  
and resided at Aylmer, some 10 miles  
from the capital.

The charges were referred to a select  
committee of whom Hon. John Hilyard  
Cameron, then the foremost lawyer in  
Canada, was chairman, with Edward  
Blake, Hon. L. S. Huntington, A. W.  
Savary, (now judge) Alonzo Wright, Hon.  
Stewart Campbell and others as members.  
I was instructed by the clerk of the com-  
mons to call the committee together, but  
had no desire or expectation of being its  
permanent clerk. The proceedings in im-  
peachment were so novel, delicate and im-  
portant and involved such nice points of  
procedure that I took it for granted that  
when once the committee met one of the  
many officials of the house who had a legal  
training would be assigned to the work.  
But events determined otherwise.

Promptly on the hour the members of  
the committee assembled in room 33. Be-  
fore proceeding to organize Mr. Blake  
came over to my desk and inquired courte-  
ously whether I was a professional man, or  
had studied law? I told him I was profes-  
sional only in the sense of being a news-  
paper man, and had not studied law. He  
then said that as the proceedings would be  
intricate and important the committee  
thought if I "had no objection" as he kind-  
ly put it, that one of the lawyers in the  
service of the house had better be made clerk  
to the committee. I was more than pleased  
to be relieved and said so. Hon. Mr.  
Cameron then asked me to send for the  
clerk of the house, Mr. Lindsay, and I  
despatched a messenger for him. The mes-  
senger returned saying, Mr. Lindsay was  
at his lunch, but would attend present-  
ly. The notables of the committee  
were offended at this delay. "Go and tell  
Mr. Lindsay to attend at once," said Mr.  
Cameron shortly. I went and delivered  
the message and the clerk, Mr. Lindsay,  
who was a stout man and a little irascible  
too, dropped his knife and fork and came  
puffing up stairs. Mr. Cameron rebuked

him sharply for not coming promptly when  
first summoned, to which he merely bowed.  
All hands round appeared angry. They  
told Mr. Lindsay he should have given  
them a lawyer as clerk. He curtly re-  
plied "I have given you as good a man as  
I have. If Mr. McCready fails you in any  
way I will be responsible." They took him  
at his word, I was simply appalled at the  
prospect for I felt that the committee would  
now seek to prove me incompetent and  
compel the chief to give them another  
clerk.

They then proceeded to appoint Hon.  
John Hilyard Cameron chairman and to  
deliberate as to the procedure. I got  
from the library all the books bearing upon  
impeachment cases, among them Mr.  
Alpheus Todd's then comparatively new  
work. While looking over these Mr.  
Cameron turned to Mr. Blake, and said,  
"Blake, we think we know something of  
law, and yet I believe we would be at a  
loss how to proceed in this case but for  
this work, written by a layman." I felt  
that there was some comfort in this for the  
lay clerk to the committee. As Mr. Blake  
and others assented, I felt that at least  
some men on the committee would give me  
a fair show. But the chairman remained  
obdurate. The day's proceedings were the  
preparation of a summons to the judge,  
and for the numerous witnesses, and then  
the committee dispersed, the chairman  
alone remaining. He addressed me:—  
"Here is the summons for Judge Lafontaine.  
Have a fair copy made of it and of the  
charges. Have them both translated into  
French. Remember they must be accurate  
to the letter. You will make personal ser-  
vice on the judge. As for the witnesses  
you will be responsible for the service upon  
them but may deputize others to serve  
them."

And I had never served a legal process  
in my life! He turned to go, half angrily,  
I thought. I felt that I must gain time  
and get more instructions some way. I  
plunged in with a question—  
"About attesting the service?"  
"Of course you will attest to your ser-  
vice."  
"Stating the day?"  
"The hour, the minute!"  
I could see that he was becoming more  
angry and impatient. He was already in  
the door of the committee room when I  
blurted out—  
"Suppose, sir, that the judge is not at  
home?"

"Go till you find him!"  
And he was gone. For the next hour I  
was busy transcribing, first that summons  
outlined by Chairman Cameron, written in  
the smallest and most crooked penmanship  
and quite as illegible as one of Judge Pal-  
mer's most hurried efforts at chirography.  
How differently they write, those great  
lawyers! Sir John Macdonald's handwrit-  
ing, easy, flowing and always neat. Blake's  
large and bold, as if he had dipped a crow-  
bar in ink. I remember once, he was writ-  
ing, something for this same committee, in  
his then style of half-inch letters. He was  
writing on foolscap. He began the line  
with the word "investigation" and only  
got the first four syllables in that line, car-  
rying the "tion" on to the next line. But  
this by the way.

By half past two o'clock I had the papers  
ready, with their translations and was in a  
coach on the way to Aylmer. Shortly after  
five I was at the judge's handsome residence  
and waiting for him in the drawing-room.  
He kept me waiting for some time, but at  
length appeared. I briefly explained my  
errand and handed him the papers. I re-  
member that he did not seem at all alarm-  
ed, or even very greatly impressed with my  
mission.

"And is that all?" he asked.  
"That is all, Judge."  
He followed me to the door, where we  
courteously took leave of each other. I  
returned and made affidavit that I had duly  
served the summons and copies of the  
charges upon Judge Lafontaine at his resi-  
dence at 25 minutes past five o'clock, on  
the day named.

When the committee again met the mem-  
bers appeared reserved, but not angry. I  
reported what I had done. They smiled  
at the details of the hour and minute of  
service. I said that I had followed my  
chairman's instructions. Other members  
looked at him and he said, "That is so."  
From that moment I had the confidence of  
the committee.

The Judge did not appear personally,  
but was represented by a strong array of  
counsel. On the other side there was an  
equal array. Then began a legal battle.  
All sorts of objections were made to the  
charges and to the methods of procedure.  
Lafontaine, before his appointment as  
judge, had been a crown land agent. The  
charges included much relating to that  
period, chief among which was that he had  
taken the money of scores of the settlers  
and had not paid it over to the government,  
but put it in his pocket. Hence the settlers  
could not get their grants, or "patents"  
as they call them.

The judge's counsel sought to have all  
this ruled out as having nothing to do with  
his conduct as judge. But after hearing  
counsel on both sides, the committee de-  
cided that the evidence should be taken, as  
it might show he was a person unfit to have  
been appointed a judge. This is an im-  
portant point, showing that a judge's ante-  
cedents may form the subject of inquiry  
and even of impeachment.

Facts are stubborn things, and all our advertising would be money wasted, if behind them were not eloquent convincing facts.  
Our dress goods department this season is full of quantity, pretty, particularly fascinating goods.  
All along the low and medium priced Dress Goods, we are visibly ahead of any others.  
**At 19c., 20, 25 and 30c.,**  
a good assortment of double width goods.  
**At 35c.**  
Wool knockabout stuff, half a dozen or so threads side by side, for warp and filling, sometimes called hopsacking, 42 inches wide.  
**At 35c.**  
All wool chevron cloth, made in a mill that never uses cotton. Good weight and 42 inches wide.  
**At 45c.**  
A tweed mixture, always sold at sixty cents. Hard work for the maker to get the price to you down to 45c.  
**At 55c.**  
Best grade of diagonals, placed on our counter at a cut of 20c. a yard from what it was intended to sell at. All wool and 45 in. wide.  
Estimates, Serges and Wales, at all prices, from 35c. up to \$1.25.  
**FRED. A. DYKEMAN & CO.,**  
97 King Street.

As to his conduct as judge, it was alleged  
in the charges that Lafontaine had violated  
almost all the canons governing the office  
of judge. He had in one case even refused  
to hear counsel for the defence in behalf of  
a criminal whom he sentenced to death! It  
was alleged that in this case he simply bade  
the prisoner's lawyer "Sit down. He beat  
and killed the man,—what's the use. The  
sentence of the court is," &c., &c.  
The proceedings dragged along slowly  
till the prorogation, and were continued  
the following session, and in the end the  
judge was superannuated and the impeach-  
ment dropped. He was probably 65 to 70  
years of age at the time.  
The above is given from memory, and  
after twenty-five years some things become  
misty and indistinct, but I have among my  
papers a brief testimonial from Hon. John  
Hilyard Cameron, stating that I had served  
as clerk to the special committee on the  
administration of justice in the district of  
Ottawa, to the entire satisfaction of the  
committee and of himself as chairman.  
I am aware that there is a great deal of  
the personal element in the story above  
related, but it may be of interest as show-  
ing the relation of a St. John newspaper  
man to the first impeachment of a judge in  
the Dominion of Canada.

After Harvest.  
New Western Gray Buckwheat, Grav-  
enstein, King Tompkin and Bishop Pip-  
pin Apples, Sweet Cider, Dunn's Hams  
and Bacon, Pettijohn's Breakfast Food,  
Dessicated Wheat and Grits and other  
breakfast luxuries, at J. S. Armstrong &  
Bros., 32 Charlotte St.

CONDENSED ADVERTISEMENTS.  
Announcements under this heading not exceeding  
five lines (about 35 words) cost 25 cents each  
insertion. Five cents extra for every additional  
line.

MARK YOUR LINEN and print  
your Visiting Cards! Com-  
plete outfit. Name in Script Type,  
one large fancy Initial, Indelible  
Ink by mail fifty cents, ROBERT-  
SON'S PATENT STAMP WORKS, 94  
GERMAIN ST. ST. JOHN, N. B.  
4-11-11\*

WANTED—100 young men and women to take  
our Business Course. We charge  
nothing for instruction until a situation is secured  
for you. CURRIE'S BUSINESS SCHOOL, 85 Ger-  
main St. 4-11-11\*

PHOTOGRAPHERS, PROPES-  
SIONAL AND Amateur  
Supplies of every description,  
Cameras, Lenses, Dry Plates,  
Papers, Mounts and Chemicals, Fine  
Lenses especially. ROBERTSON PHOTO  
Supply Co., 94 Germain St., St. John,  
N. B. 4-11-11\*

SLEIGH ROBES—William Peters, 240 Union  
Street, St. John, is manufacturing a  
very choice sleigh robe, warm, durable and good  
looking. Go see them. 4-11-11\*

TYPOGRAPHS—THE NEW  
Shut Card and Price Markers.  
Just what every Man in Business  
requires for making Signs, Price  
Tickets, &c., &c. Write direct for  
Sample Printing, &c. ROBERTSON'S  
Printing Stamp Works, St. John, N. B.  
4-11-11\*

THOROUGHbred POULTRY, Houdans,  
Partridge Cochins, Japanese Bantams, Stock the  
best. Prices for good breeding birds \$1.00 and up-  
wards. CHARLES G. J. ROBERTSON, King's College,  
Windsor, N. S. 7-10-11\*

WANTED, A number of young ladies and  
young men to take a course in  
Telegraphy, and secure good positions when com-  
petent in Railway or commercial offices. For terms  
apply to J. R. CURRIE, Principal Currie's Business  
School, 85 Germain St., St. John, N. B. 21-10-11\*

WANTED, A live man in every town and vil-  
lage in the Maritime Provinces to  
take orders for PILORIN PANTS—the greatest pair of  
\$3.00 trousers made in Canada. Liberal terms. Ad-  
dress at once to The Pilgrim Pants Co., P. O. Box  
250, St. John, N. B. 19-8-11\*

AMATEUR PHOTOGRAPHERS, Printing  
and general finishing for amateurs.  
LUGRIN PHOTO STUDIO, 38 Charlotte St., St. John,  
N. B. 11-9-11\*

A COTTAGE in centre of Rothesay, seven  
minutes' walk from station; newly  
papered and painted; suitable for large or small  
family. Rent moderate. Apply D. RESELL, Haw-  
ker Medicine Co., 104 Prince Wm. Street. 13-5-

VISITORS to the World's Fair at Chicago  
requiring rooms only, will find  
ample accommodation and within a block of the  
street cars going to the Fair grounds. For full par-  
ticulars address Rooms 737 3rd court, Erieview,  
Chicago, Ill. For references apply at Progress  
Office. 20-5-11\*

FRAZEE'S BUSINESS COLLEGE, 119 Hollis  
St., Halifax is in session day and  
evening. Best place to learn Book-keeping, Busi-  
ness, etc. also Stenography and Typewriting. Send  
for our circular. J. C. F. FRAZEE, Principal. 11

BOARDING, A FEW PERMANENT or  
Transient Boarders can be ac-  
commodated with large and pleasant rooms, in that  
very centrally located house, 78 Sidney Street—  
Mrs. McLENSIE. May 2

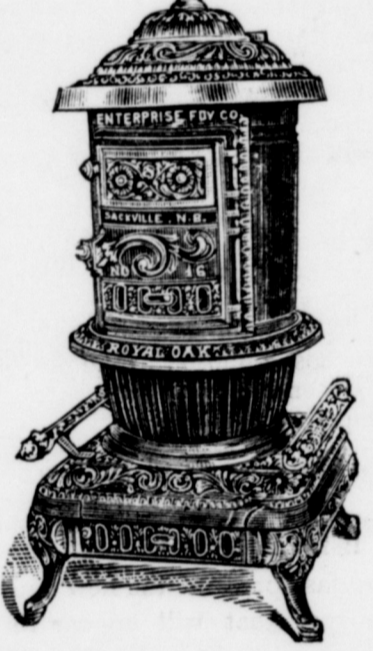
RESIDENCE at Rothesay for sale or to rent  
for the summer months. The Titus prop-  
erty about one and a half miles from Rothesay Sta-  
tion and within two minutes walk of the Kennebec  
cove. Rent reasonable. Apply to H. G. Fenety  
Barrister-at-Law, Pugsley Building. 24-6-11\*



**SCHULTZE SMOKELESS POWDER.**  
Has greater penetration,  
With closer and more even pattern.  
Less recoil, less report.  
Less smoke, less fouling than any other explosive.  
SILVER MEDAL, INTERNATIONAL INVENTORS EXHIBITION.  
Highest award to any GUN POWDER. Must be used only with special shell.  
Made by Union Metal Cartridge Co.

**W. H. THORNE & CO.,** MARKET SQUARE,  
St. JOHN.

**"THE ROYAL OAK."**  
The KING OF HEATERS.



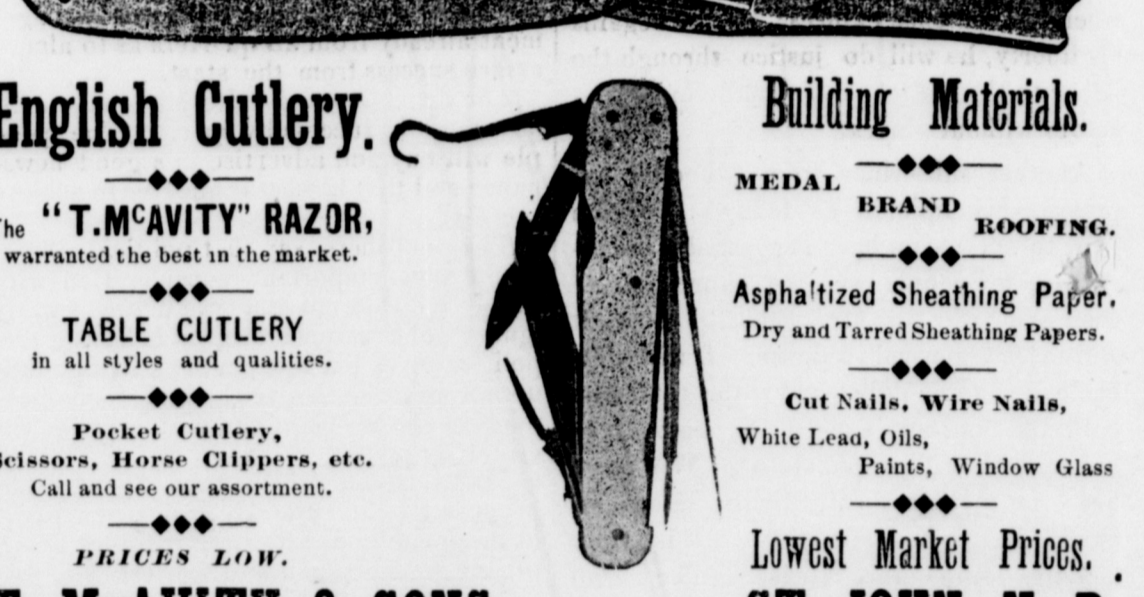
With full Nickel Trimmings. Bold,  
handsome and powerful.  
This stove is the latest addition to our stock.  
The body is made of Heavy Steel Plate,  
has a large Ash Pan and  
**AS A HEATER IT IS UNSURPASSED.**  
Price very low.

**Emerson & Fisher,** 75 to 79  
Prince Wm. Street.

**BARGAINS IN FLANNELS.**  
Gray Flannels only 16 CTS. PER YD.  
Suiting, double width, 21 CTS. PER YD.

**BARCAINS IN UNDERWEAR.**  
**B. MYERS,** 708 Main St.

**English Cutlery.** Building Materials.  
MEDAL BRAND ROOFING.  
Asphaltized Sheathing Paper.  
Dry and Tarred Sheathing Papers.  
Cut Nails, Wire Nails,  
White Lead, Oils,  
Paints, Window Glass  
Lowest Market Prices.  
**T. McAVITY & SONS,** ST. JOHN, N. B.



The "T. McAVITY" RAZOR,  
warranted the best in the market.  
TABLE CUTLERY  
in all styles and qualities.  
Pocket Cutlery,  
Scissors, Horse Clippers, etc.  
Call and see our assortment.  
PRICES LOW.

**PROGRESS ENGRAVING BUREAU**  
PORTRAITS, BUILDINGS,  
ADVERTISEMENTS  
AND CATALOGUE WORK  
DRAWN, DESIGNED & ENGRAVED.  
St. John, N.B.

**PRINTING.** PROGRESS can do it  
for you well, reasonably  
and quickly.