



CANADIAN REVENUE NEWSLETTER

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Number 32

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CORRECTION TO ISSUE N°31, JUNE 2000

In the article entitled "Saskatchewan \$10 Electrical: A New Low Serial Number" on page 3 of Issue N° 31, the van Dam catalogue number, SE27, is incorrect. It should be SE27a.

NEXT ISSUE. . . .

- MATCH TAX CHRONICLE
- RARE BILL STAMP VARIETY
- SASKATCHEWAN ELECTRICAL

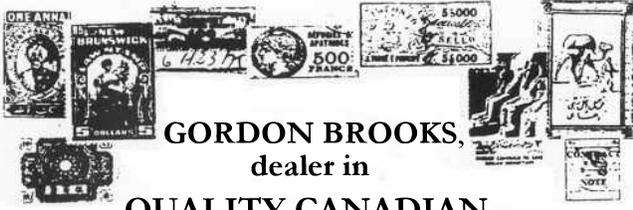


WANTED:



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the Ontario and Upper Canada Law Stamps.

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NOTES ON THE LAW STAMPS OF ONTARIO AND THE PROVINCE OF CANADA

— Part 2 —

Christopher D. Ryan

Since the publication of the first part of this work (CRN N^o 28, July 1999), the Author has come upon documents that shed additional light upon the January 1870 introduction of the first "Ontario" Law stamps. In doing so, these documents clarify details of the withdrawal of the Province/Dominion of Canada CF, FF and LS stamps.

Improper Stamping Procedures at Lower Court Offices

The lowest Civil Courts in the Province of Ontario (the former Upper Canada) were the Division Courts. Their jurisdiction (circa 1864-1877) was limited to personal actions and replevin actions up to \$40 in value as well as claims up to \$100 for debts or sums payable under contract in money, labour, goods or any other form.[38]

More significant actions went to County Courts (the second tier of Lower Courts) or to Superior Courts. Items specifically excluded from Division Court jurisdiction included the following:

- actions related to liquor or gambling debts,
- actions concerning wills, bequests and related items,
- actions for malicious prosecution, libel, slander, criminal conversation, seduction or breach of promise of marriage.[38]

By their nature, Division Courts were usually widely scattered in small towns with a permanent staff often consisting of a single clerk whose facilities were frequently less than ideal. The various Counties were expected to supply the clerk with the requisite offices and supplies, but many such bodies declined to expend much money in this regard.

Provincial Inspector reports from the early 1870s indicate that the offices of Lower Courts, Division Courts in particular, had not been scrutinized since the introduction of the Law stamps in 1864. Audits of court papers for the 1864 to 1872 period revealed significant, widespread ignorance and dishonesty regarding stamp-fees. Errors were commonly made with respect to not only the amounts of the fees, but also with regards to the documents requiring stamps, cancellation of the stamps, general record keeping and even the application of the stamps themselves.[39] Extreme examples of this state of affairs can be illustrated by the following extracts from various inspection reports.

Report of November 20th, 1871, regarding the audit of the First Division Court at Chatham, Kent County:

... After having obtained the authority of the said judge to examine the office, I was necessarily detained a few hours in looking into the papers in the office of the clerk of the county court, and upon going into the said division court, I found the clerk busily engaged with a large quantity of stamps before him, putting stamps upon the records of his court, of an old date, which led me to believe some one had given him a intimation of my coming. As I was instructed by your authority, I orally examined him as to the state of his office, and the cause of his then movement in stamping old papers.

He admitted to me as follows:

1st. That he was the son of the said county judge, and had been in the office he held since the month of January, 1870, up to the present time.

2nd. That he had in his court, in that period, upwards of twelve hundred suits (1200) in his said court.

3rd. That he had never affixed any stamps upon any judgments in his court (the law requires all judgments to be stamped).

4th. That he had affixed stamps upon only a part of his summonses issued.

5th. That he had, within a few hours, stamped about forty summonses of an old date, after the judgment had been given, and had bought eighteen dollars worth of stamps that morning (of my visit), which, upon after enquiry of the county attorney, I found he had bought of him.

6th. That he had not affixed stamps on his papers for nearly two years past, in a regular way; and that he thought if affixed stamps at the end of the year, it was sufficient.

7th. I found that his two immediate predecessors in office — Mr. Glendenning and Mr. Sheriff, now deceased, but who have given security — in said court, had also been very irregular in affixing stamps; that many hundreds of dollars are probably due the Government from their estates and sureties. . . .[39, p. 2]

Follow-up report of December 18th, 1871:

... I mentioned to you the great deficiencies I found to exist in the office of Mr. Wells, the Clerk of the First Division Court of the County of Kent, in affixing stamps on documents in his office:

1. I have been informed upon reliable information that, since I was in Chatham, the said clerk has bought \$260 worth of stamps of Mr. Douglas, the County Attorney of the County of Kent, to supply such deficiency.

2. I required him, owing to his wilful neglect, to apply to the judge of the county court for an order to make him put on double stamps, for his default.

3. I have been informed that he has not done so, but that in disregard of such requirement he has affixed only single stamps with a nominal fine, ten cents on each default.

4. That I had a conversation with the said judge [the clerk's father], in which I said I could not consent to any less fine than double stamps; yet, I have been informed that permission from the said judge to affix only ten cents for each default has been allowed by said judge. The revenue, in consequence, will lose several hundreds of dollars, if such order of the judge is allowed to stand, but the Government has yet the power to enforce penalties against this clerk to the amount of a greater penalty than double stamps.[39, p. 5]

Report of December 18th, 1871, regarding the audit of three Division Court Offices in York County:

I regret to say that I found these offices wrong in many of their charges for stamps, and the stamp revenue has suffered a very serious loss in all of them for many years. I do not think the errors of these clerks wilful, but simply for want of instruction by the judge, or neglect in obtaining proper legal knowledge. The position of these offices I fear is a very general one, and I believe that a very large majority of the offices of division court clerks will be found in the same state. In many instances, in these offices not more than half the amount in stamps required to be affixed is affixed.[39, p. 5]

Report of December 18th, 1871, regarding the audit of a Division Court Office at Welland, Welland County:

I inspected the division court offices of a clerk named S.S. Hagar, located here, and examined the papers and books, extending over seven years. To my great regret and surprise I found not only the books but nearly all the papers wrong:

1. The procedure book did not shew, in any instance, fully the proceedings in the suits, nor were all the cases sued entered therein.

2. The summonses and judgments were in almost every instance erroneously stamped.

3. In many instances neither summonses or [sic] judgments were stamped.

4. I could not find many summonses at all.

5. He had not the summonses or papers filed away, and did not keep the necessary books in his office. His office is a small one, but that is no reason why he should not keep it correctly.

6. This office owes the Government for stamps, I should think, near

two hundred dollars, and I believe the clerk is perfectly solvent. His omission to affix stamps is owing partly to ignorance, and is partly wilful.

I must here also say that the judge must have been very remiss in over-looking the omission to stamp papers in this office, and in not examining the books.[39, p. 6]

Taken all together, the reports indicate that the principal source of fraud in connection with the stamp-fees was the common, longstanding practice of clerks receiving monies due to the Crown in cash rather than in stamps as was mandated by Statute. Thus, the government had not been receiving all of the fees to which it was entitled as the very fraud against which the stamps had been introduced had continued in some jurisdictions in the absence of adequate outside vigilance. It should be noted here that fees due to clerks and other officer in compensation for their services had continued to be paid in cash after the introduction of the Law stamps. The continuation of these legal cash payments undoubtedly assisted the stamp frauds.

Included in the Inspectors' reports are several comments of particular interest to modern-day collectors of the Law stamps. One such item explains the division court record book held by Fritz Angst, facing pages of which are illustrated in Figure 4 below. In a reference to the records of Samuel Lister, Clerk of the Fifth Division Court of the County of Halton, Inspector J. Dickey observed the following.

In this court, and in fact in all the courts in this county examined by me, I find the extraordinary course of affixing the stamps to the procedure book has been adopted, as I am informed by the late Judge Davis, but was abandoned by some of the clerks after the first year, and by Mr. Lister in 1869.[39, p. 18]

The placement of the stamps on any item other than the actual documents associated with a suit was a major procedural error. Its effect was to render the documents legally null and void.

The second item of interest from the Inspectors' reports is a very specific reference to post-1869 use of the green Province/Dominion of Canada FF Law stamps. An example of such usage was illustrated in Part 1, Figure 3. A report of October 1872 read as follows.

An examination of the documents and papers of the late clerk, D.H. Ritchie (Bayfield P.O.), who filled the office till June, 1871, discloses the fact that very great carelessness and neglect, as to the application of stamps, must have prevailed with him; and accordingly I find omissions as follows . . .

All these sums have been charged to the suitors in the several causes in which the omissions occur.

I also find he used F.F. stamps in January, 1870, to the amount of one dollar and ninety cents, where Canada law stamps to the same amount should have been used.[39, p. 15]

It is implicit in the above that the FF stamps and, by extension, the LS stamps were no longer valid after December 31st, 1869. This is in keeping with the Order in Council that authorized the issue of only CF (that is, the "Canada law stamps") on an interim basis in 1870 pending receipt of adequate supplies of the new Ontario Law stamps. Prior to January of 1870, Division Courts, such as that of which D.H. Ritchie was a clerk, were to use only FF stamps.

Since the FF and LS stamps were no longer to be used for the payment of fees, the recall surmised earlier in this work (Part 1, CRN N^o28) must have occurred. This recall probably happened very early in 1870 and possibly included stamps held by the public. For the latter, it may be

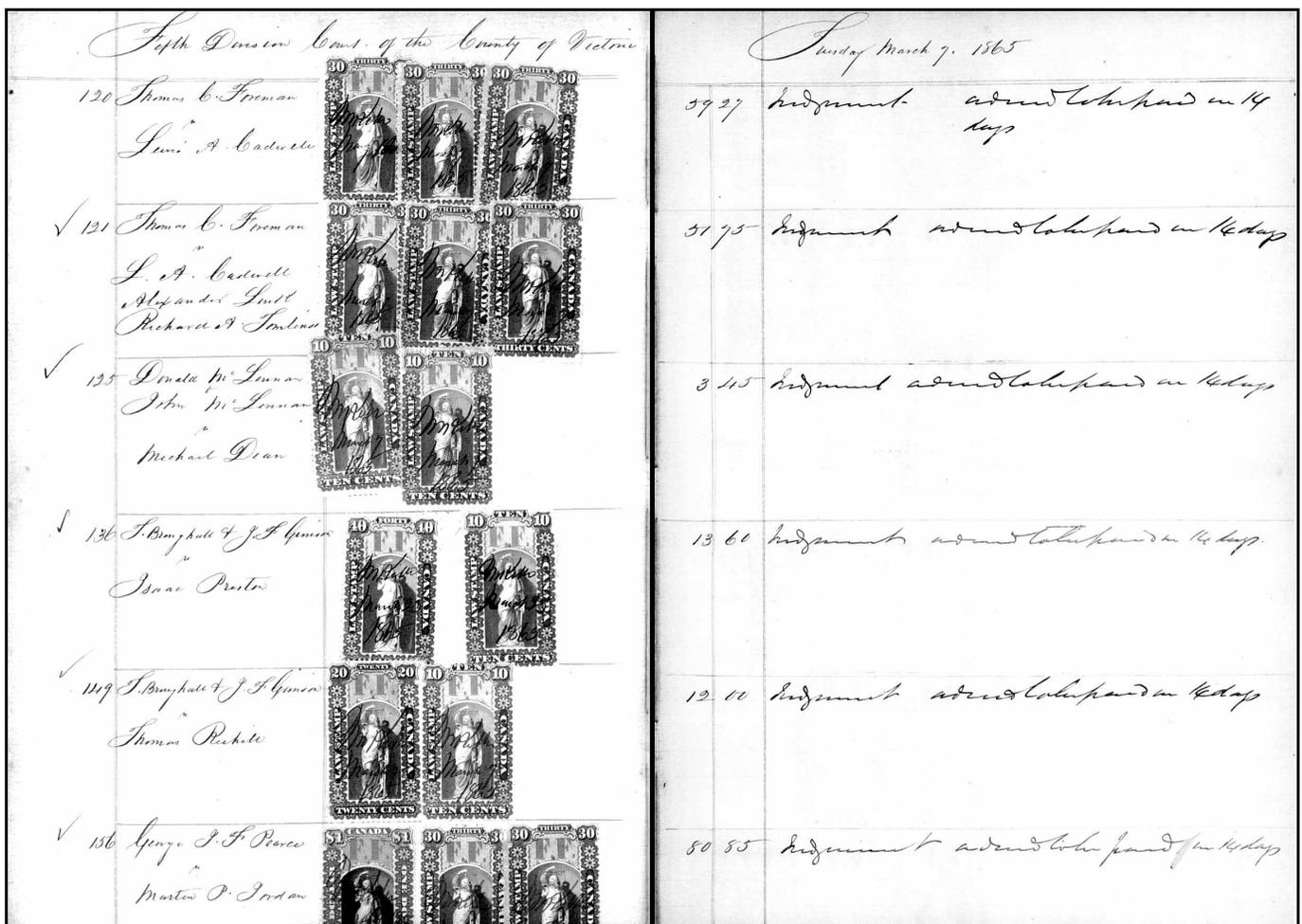


Figure 4: Sample pages from a record book maintained by the Fifth Division Court of the County of Victoria, March 1865. (Courtesy of Fritz Angst.)



Manuscript Cancel.
Figure 5.

Handstamp Cancel.
Figure 6.

Official Cancel with Initials.
Figure 7.

Official Cancel, No Initials.
Figure 8.

Punch Cancel, No Date.
Figure 9.

surmised that old stamps were exchanged for new ones.

The third item of significance concerns the back dating (“ante dating”) of First Issue Ontario Law stamp with dates prior to their issue in January of 1870. These comments by Inspectors show that pre-January 1870 dates on the first Ontario stamps represent illegal back dating to cover negligence or fraud on the part of court clerks.

... He [the Registrar of the Wellington County Surrogate Court in Guelph] had only a very small quantity of stamps on hand, which were used in a short time by supplying stamps to be affixed on papers not stamped.

He desired me to leave the office for an hour, until he would buy stamps and arrange his office.

I did so in order to visit the office of the clerk of the county court, telling him not to put on any stamps on old papers until my return, directing him to buy \$25 worth of stamps.

Upon my return in an hour I found that he had (as he said) bought \$10 worth of stamps, and had employed a young man to assist him in arranging his papers.

I also found that he had stamped on numbers of papers (of an old date) fresh stamps, ante dating them — contrary to my orders — in order secretly to have it appear that they had been legally stamped.

The young man at first denied that this had been done, but afterwards admitted it and I made him date all the stamps, thus put on, of the day when thus put on.[39, p. 9]

On a separate incident in the office of the Second Division Court at Amherstburg, Essex County, the inspector reported as follows.

... An examination of the papers and documents shows that they have been stamped according to the law, and the stamps duly cancelled, except in the year 1869, when I find a few papers stamped with the red law stamp of 1870. There are only a few of these, and Mr. Botsford explains that he was slightly behind with his stamps at the close of 1869, and made up the deficiency by affixing the law stamps of 1870.

[39, p. 23]

In the same vein as the specific situations described above, the following, more general comment was made in an 1875 report.

My inspections in regard to the proper use of Law Stamps in the several offices inspected, have enabled me to report omissions to affix stamps to the papers and documents of the Courts amounting to (\$2,316.50) Two thousand three hundred and sixteen dollars and fifty cents, and to cancel large numbers of Ontario Law Stamps that I found affixed to papers but not cancelled.

This sum, however, cannot be considered as fairly showing the result of inspections in this department of my duties, as, from the state of the papers examined by me from time to time, I have often very good reason to believe that they had been reviewed and stamped for omissions before my arrival. The evidence of the correctness of this opinion is

ample in the number of instances in which I have found the Ontario Law Stamp affixed to papers for dates prior to the time at which these stamps were issued, and when the only Law Stamp in use was the Canada Law Stamp, proving conclusively that the Clerk had been reviewing and correcting his past errors of omission.[40]

In view of the above, collectors having red First Issue Ontario Law stamps (van Dam’s OL46 to OL60) dated prior to 1870 are cautioned against considering these as evidence of actual use in that period.

Cancels on the Law Stamps

The initial 1864 Statute required that the stamps be cancelled in writing (Figure 5) or by a handstamp (Figure 6) with the name of the court official and the date of the stamping.[41] This procedure continued in the Province of Ontario after Confederation until circa October of 1872. On the fourth day of that month the following Order in Council was passed.

... With a view of preventing frauds upon the revenue by the re-use of stamps which have been previously used upon or in respect of legal proceedings — the Committee of Council advise that each officer in connection with the Courts of law and equity whose duty it is to cancel law stamps in respect of proceedings in the Courts be supplied with the instrument termed a ‘Cancellor’ which will puncture such stamps and that every such officer be required to cancel all stamps upon any matter or proceeding which he may issue or receive forthwith upon the issue or upon the receipt thereof by means of punctures made by such Cancellor after the same has been attached to such matter or proceeding as well as by the mode prescribed by 27-28 Victoria, Cap. 5, Section 20.[42]

This official “cancellor” produced what philatelists have described as a “herringbone” cancel, which consists of a three line date between parallel rows of angular cuts in the stamp. Examples of this type of cancel are illustrated in Figures 7 and 8. The Order specified that this new cancel was to be applied in addition to the name or initials of the court official. (See Figure 7.) The need to apply the name or initials was revoked by a March 29th, 1873, Statute.[43] (See Figure 8.) The use of the herringbone cancel on Ontario Law stamps was officially discontinued by a September 9th, 1881, Order in Council. This Order read as follows.

... It shall not be necessary in cancelling any law stamps to mark thereon in ink the date of the issue or receipt of the matter or proceeding to which the stamp is affixed but in lieu thereof the said stamps shall be cancelled by perforation and for this purpose a punch similar to those used by railway conductors shall be used.[44]

An example of a punch-cancelled stamp is given above in Figure 9. According to a 1977 study by Bill Walton, punch cancels were in use on Ontario Law stamps as early as 1879.[45]

The cancellation requirement of the September 1881 Order was supplemented by a May 14th, 1886, Order in Council regarding situations

where the provincial Inspector of Legal Offices found documents missing requisite stamps. In such cases, the stamps applied to make up a deficiency were to be cancelled by the punch and the name of the Inspector. The inclusion of the date was optional.[46]

On May 29th, 1891, an exemption from the punch cancel was granted for situations where such a cancel was not convenient, such as stamps affixed to thick or stiff substances. In such cases, the court official was permitted to cancel the stamps with the date in writing or by handstamp. Otherwise, the punch cancel requirement remained in effect until the end of the Law stamps.[45, 47]

1908 Introduction of High Denominations

On February 24th, 1911, an Order in Council was issued that retroactively authorized the "preparation" of Law stamps in denominations of \$5, \$10, \$20 and \$50 (van Dam's OL62 to OL65).[48] Specimens of the new stamps are affixed to the official copy of the Order illustrated at right in Figure 10.

The June 22nd, 1908, date quoted in the Order is very likely the date of issue of the new values. This is supported by the 1908 Report of the (Ontario) Inspector of Legal Offices in which Inspector J.W. Mallon noted the following under the heading "Surrogate Court Registrars."

Law stamps of a denomination larger than \$4 may now be had from the office of the Provincial Treasurer. These stamps are of denominations, \$5, \$10, \$20 and \$50, and are found very useful, especially in estates of large amount.[49]

It is not known to the Author if the green \$4 stamp (van Dam's OL61), currently catalogued with the stamps described above, was also issued in 1908.

Reference Notes

- [38] - Ontario, *Revised Statutes*, 1877, Chapter 47.
- [39] - Ontario, Reports of Division Court Inspections, *Sessional Papers*, 36 Vic., 1873, Paper N^o 24.
- [40] - Ontario, Report of Inspector of Division Courts, *Sessional Papers*, 39 Vic., 1875/76, Paper N^o 28, p. 4.
- [41] - Canada, *Statutes*, 27-28 Vic., 1864, Chapter 5.
- [42] - Ontario, Order in Council 3/483 of October 4th, 1872, Archives of Ontario, Records of the Cabinet Office, RG 75-57.
- [43] - Ontario, *Statutes*, 36 Vic., 1873, Chapter 15.
- [44] - Ontario, Order in Council 14/553 of September 9th, 1881, Archives of Ontario, RG 75-57.
- [45] - Walton, W.C., "Notes on the 1870-1929 Ontario Laws: Canada's Longest Consecutive Adhesive Issue," *BNA Topics*, Sep-Oct 1977, Vol. 34, N^o 5, pp. 6-9.
- [46] - Ontario, Order in Council 20/256 of May 14th, 1886, Archives of Ontario, RG 75-57.
- [47] - Ontario, Order in Council 26/289 of May 29th, 1891, Archives of Ontario, RG 75-57.
- [48] - Official copy of Order in Council dated February 24th, 1911, Archives of Ontario, Records of the Ministry of Finance, RG 6-27, Administrative Services Branch Director's Subject Files, Container 8, File *Law Stamps*.
- [49] - Ontario, "Report of the Inspector of Legal Offices for the year ending December 31st, 1908," *Sessional Papers*, 1909, Paper N^o 38, p. 8.

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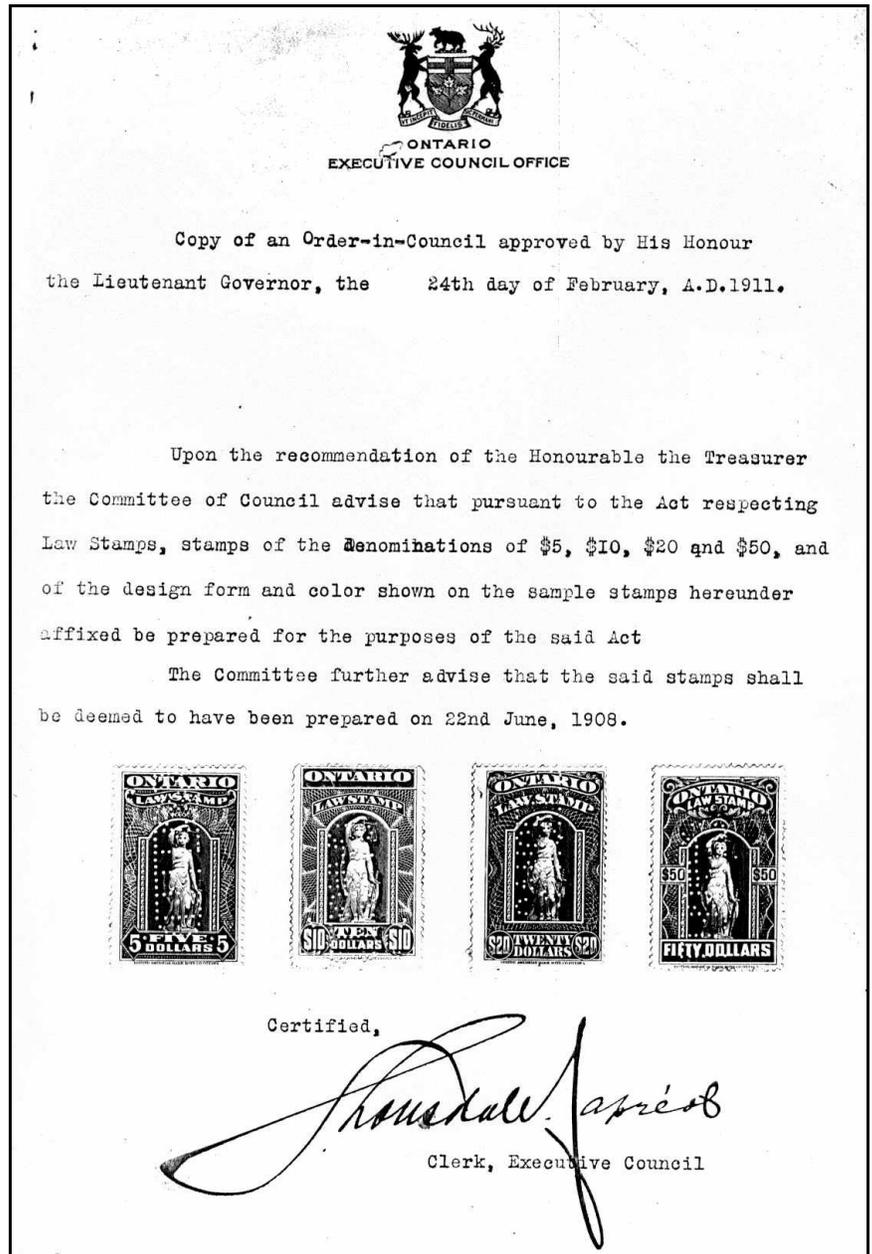


Figure 10.

(Source: Archives of Ontario, RG 6-27, Container 8, File *Law Stamps*.)

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A SE-TENANT PAIR OF MANITOBA BF-JF LAW STAMPS

Illustrated here, courtesy of **Fritz Angst**, is an 1888 se-tenant pair of 25-cent Manitoba Law stamps. The stamp on the left side of this pair is van Dam's ML59, which has a red-violet BF rubberstamp overprint superceding a printed LS overprint. The stamp on the right is van Dam's ML79, which has a JF rubberstamp in the same red-violet colour as the BF.

Unfortunately, the red-violet overprints against the green colour of the underlying stamp do not reproduce well in black and white. Figure 1 below (as provided by **Angst**) is a low resolution scan with a dark background and is intended to show the attachment of the pair. Clearer images of the BF and JF overprints can be seen in Figures 2 at upper-right and 3 at lower-right. These were scanned by the Editor at 600 dpi from a colour photocopy supplied by **Angst**.

According to **Zaluski**, the BF and JF Manitoba Law stamps were in concurrent use from July 1886 through early-March 1889 and represented separate funds to which law-stamp fees were to be credited. The existence of this se-tenant pair suggests that special pairs, or strips, or perhaps even sheets of BF-JF stamps were prepared in anticipation of what likely was a frequently levied fee from which equal amounts were to be credited to the two funds. It is also possible that such pairs were prepared piecemeal as they were required.

— C.D. Ryan



Figure 2.

©2000 F.P. Angst

Reference:

Zaluski, E., *Canadian Revenues*, Vol. 4, Nepean, Ontario: Right Road Printing Ltd., 1991, pp. 114-140.



Figure 1.



Figure 3: Enlarged detail of Figure 2.

©2000 F.P. Angst

A RARE MANITOBA LAW-STAMP DOCUMENT

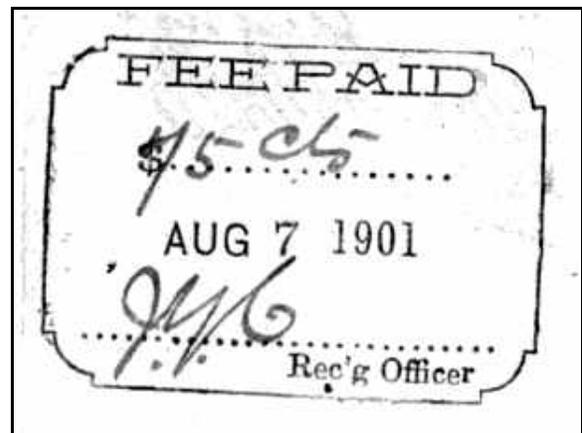
Illustrated opposite, courtesy of **Fritz Angst**, is a writ issued August 19th, 1893, by the Deputy Prothonotary of the Court of Queen's Bench in the Eastern Judicial District of the Province of Manitoba. This document instructed the Sheriff of Manitoba's Central Judicial District to seize and sell property of the defendant in fulfilment of a judgement (plus interest and costs) of the Court made in favour of the plaintiff. For the issue of the writ, a \$1 Law stamp (van Dam's ML08) was affixed to the front of the document.

The Sheriff appears to have had a difficult time completing his task as the writ, originally valid for two years, was renewed for four additional two-year periods. These signed renewals are located along the top of the front of the writ. For the first three renewals, applicable Law stamps at 75¢ per renewal were affixed to the back (illustrated on the second page following) and cancelled by a "CANC'L" punch. However, for the fourth renewal, dated August 7th, 1901, a signed "Fee Paid" rubberstamp (illustrated at right) was applied in place of the adhesive revenue stamps. According to **Zaluski** (*Canadian Revenues*, Vol. 4, p. 140), this "Fee Paid" mark replaced the Manitoba Law stamps as of June 1st, 1901.

To the best knowledge of **Fritz Angst** and others, this is the only complete document known to collectors that bears the Manitoba "Fee Paid" mark, the other known example being a cut-square. All Manitoba

Law-stamp documents are scarce; this particular document would seem to be rare, perhaps even unique. Are there any others out there?

— C.D. Ryan



The "Fee Paid" mark that replaced Manitoba's Law stamps.

RENEWED FOR FIVE YEARS
 FROM THE 16th DAY OF August
 A. D. 1895. *Amos M. B.*
 PROthonotary

RENEWED FOR TWO YEARS
 FROM THE 10th DAY OF August
 A. D. 1899. *Amos M. B.*
 PROthonotary

RENEWED FOR TWO YEARS
 FROM THE 17th DAY OF August
 A. D. 1901. *Amos M. B.*
 PROthonotary

IN THE COURT OF  QUEEN'S BENCH.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN,
 Defender of the Faith, etc, etc, etc.

To the Sheriff of the *Central* Judicial District of the Province of Manitoba; GREETING:

We Command You, that you omit not by reason of your bailiwick, but that you enter the same; and of the goods and chattels in your bailiwick, of *Robert Willwood J. J. Lacey John Gules and R. King*

you cause to be made the sum of *seven hundred and no teen 27* in dollars

which *J. J. Can Thrushy Machine Company*

lately of Our said Court of Queen's Bench, recovered against *them*



whereof the said *Robert Willwood*

damages and costs

6

convicted, together with interest upon the said sum at the rate of six per centum per annum, from the *11th* day of *May* in the year of our Lord one thousand eight hundred and *ninety three* entered up, and have that money, with such interest as aforesaid, before Us, at Our said Court, at Winnipeg, immediately after the execution hereof, to be rendered to the said *J. J. Can Thrushy Machine Company*

and that you do all such things as by law you are authorized and required to do in this behalf; and in what manner you shall have executed this Our writ make appear to Us, at Our said Court, at Winnipeg aforesaid, immediately after the execution hereof, and have you there then this writ.

Witness, THE HONORABLE *Thomas Cranston Taylor* Chief Justice of Our said Court of Queen's Bench, at Winnipeg, this *19th* day of *August* A. D. 1897 in the *fourth* year of Our Reign.

Amos M. B. Prothonotary.

RECEIVED
 CLERK OF THE COURT
 WINNIPEG
 AUG 20 1897

Front of the writ discussed on page 6.

