

Mr. Macdonald: I move that we adjourn. I am not quite ready for Mr. Green. I would ask that Mr. Bodwell be present at our next sitting, if possible, as I have some few questions to ask him.
Committee here adjourned till Thursday, 1st March, 1906, 10 A.M.

THURSDAY, 1st March, 1906.

Pursuant to adjournment, the Committee appointed to inquire into the matters hereinbefore set forth met this 1st day of March, 1906, at 10 A.M.

Present: Messrs. Garden, (Chairman), Ross, Young, Paterson and Macdonald.

Minutes of previous meeting were read by Dr. Young and, on motion, formally adopted.

Mr. Garden: I received a letter this morning from Mr. Maclean regarding our power to compel witnesses to attend from outside the Province. I will just read it: "I have considered the question of the power of your Committee to compel the appearance of any person out of the Province. I think there is no doubt your Committee does not possess such power. Of course, I am prepared to reconsider this opinion if authorities to the contrary can be produced.—H. A. MACLEAN."

MR. E. V. BODWELL recalled; testimony continued:—

Mr. Macdonald: Mr. Bodwell, do you know who prepared the Minute of Council of the 3rd May, 1904? A.—I think I made a draft of it, but there were amendments made to it by the Attorney-General, or some one acting on behalf of the Government.

Q.—So that that draft document was drawn up by you? A.—I think so. That is my recollection.

Q.—Do you remember your visit to Montreal in June, or July, of 1904? A.—Yes.

Q.—When Mr. Anderson was there? A.—Yes, he was there when I got there.

Q.—Did you see an agreement between the Grand Trunk Pacific and Mr. Anderson? A.—Oh, yes.

Q.—Who drew that document up? A.—Mr. Morse asked me to make a draft and—well, I don't know whether I ought to speak about this or not. I do not know whether it comes within the privilege claimed or not. I suppose I can answer this part of it, anyway. Mr. Biggar was called to Ottawa on important business, and Mr. Morse asked me to make a draft of the agreement, which I did. Mr. Biggar, on his return, however, took the document and drew it up himself in the end. The substance of the agreement was not particularly changed, but he changed the whole form of it, and so it really was drawn by Mr. Biggar, who was the Grand Trunk Pacific solicitor.

Q.—Well, who were you acting for in that case? A.—Well, I perused the covenant, of course, for Mr. Anderson and Larsen, after Mr. Biggar drew it. Mr. Morse had asked me to make a draft simply as a matter of convenience. I do not know whether he thought at the time I was acting for the Grand Trunk Pacific or not in that particular matter, but I certainly perused it on behalf of Anderson and Larsen.

Q.—Do you know where that document is now? A.—No, I do not know where it is. I never had the original. I had a copy of it at one time, and I thought you would ask me about that, and I looked it up to see if I could find it, but I have no copy of it in the office now. Has the substance of the agreement been stated here?

Q.—No, it has not. A.—Well, I do not know how far I am allowed to speak of that.

Q.—Was it a long agreement? A.—Oh, no; it might have been a couple of pages of typewriting matter. I cannot exactly remember the exact length of it.

Q.—Do you remember how it was signed? A.—It was signed by Mr. Hays, and by Mr. Larsen under a power of attorney given to Anderson, from Larsen to Anderson—I would not like to be positive, because I have not seen it for a long time, and I would not like to say now how it was signed.

Q.—Larsen had been there just before this, had he not? A.—Yes, I was told that he had been there before, but I do not know how long before. He was not there when I was there.

Q.—Mr. Anderson has said here that the agreement provided for the payment of \$40,000 to Anderson and Larsen. Is that your recollection of it? A.—There was no covenant to pay that. It was a sort of an option. If the Grand Trunk Pacific took the land, if they were satisfied with it, then the money was to be paid, but not otherwise. I think the agreement was made out in Larsen's name.

Q.—In Larsen's name? A.—Well, I am only speaking from recollection, and I would not like to be sure of it.

Q.—Was that payment to be made to Anderson and Larsen, or to Larsen, or to Anderson? A.—Well, of course, I am just giving you my best recollection—

Q. (Interrupting)—Have you any recollection on the subject? A.—My recollection is that the payment was to be made to Larsen, but I would not like to be positive about it. I have not seen the document for a long time, or have not thought of it for a long time.

Q.—Who got the original document? A.—I think Anderson took it. You see he had Larsen's power of attorney.

Q.—Did you see the power of attorney? A.—Oh, yes, I saw it. It was shown to me.

Q.—What was it? Was it a general power of attorney? A.—No, I do not think it was a general power of attorney. It was general in so far as this business was concerned. It might have been a general power of attorney; I cannot say.

Q.—Do you remember whether it referred specifically to his power to make an agreement of the kind that was made with the Grand Trunk Pacific? A.—Well, now, speaking of the impression that is on my mind at the present moment, and as I recollect the document, it was one of those printed forms filled out. I do not think you would call it a special power of attorney. Whether it was the most general form, or limited form, I would not be certain.

Q.—Do you know whether it gave him power to make such an arrangement with the Grand Trunk Pacific? A.—I think it must have done so, because Mr. Biggar had to satisfy himself on that point, and I know it was shown to him.

Mr. Bodwell—*Continued.*

Q.—Did you receive \$5,000 from Mr. Larsen during the time that this matter was pending? A.—Oh, no; that was a separate transaction altogether—a transaction between Mr. Larsen and myself, outside of this business. I never really received it from him. It was simply a business transaction that we went into, outside of this altogether.

Q.—Will you explain, then, how Mrs. Anderson should be cognizant of that transaction? A.—I don't know—I don't know.

Q.—Eh? A.—I don't know. Anderson may have known about it. I think Mr. Anderson knew about it.

Q.—That was a transaction involving the payment to you by Larsen of some \$5,000? A.—Oh, no; it was not a transaction. As a matter of fact, Mr. Macdonald, if you want to know the real facts of the transaction, although I do not think that I should be asked to explain my private business here—

Q.—I don't want to pry into your private affairs at all, Mr. Bodwell. A.—It was not a payment to me. It was a loan. I gave him my note for it, and paid it.

Q.—I don't want to go into your private business. A.—I don't mind telling it, now that the thing has come up. I had been in some transactions here in connection with the Terminal Railway, which had made me somewhat short of money, and I wanted some accommodation at the time, and I asked Mr. Larsen for a loan, which he gave me, and I paid him back with interest. It was a private transaction.

Q.—You cannot explain, then, why Mrs. Anderson might refer to it? A.—I don't pretend to be able to explain why Mrs. Anderson should refer to it.

Q.—As a matter that should be inquired into in this connection? A.—I cannot be expected to explain anything as to Mrs. Anderson's movements or statements. I don't pretend to account for her doings at all.

Q.—Or of her knowledge of the matter? A.—No; Anderson may have told her.

Q.—As I understand, Mr. Bodwell, you were cognizant all along, from the very beginning, of what Mr. Anderson was doing in connection with the acquisition of Kaien Island? A.—Well, I thought I was. I knew that he was acting for Mr. Larsen all the time. I don't know that I knew everything he was doing. I do not know whether I did or not.

Q.—Do you remember his making a written report to you after his second trip North—on his return from that trip—and his giving that to you? A.—No, he did not give any report to me. I remember him drawing a map, and also his drawing—well, I suppose you would call it a report, but I understood that he wrote a description of what he had seen and sent it to Mr. Stevens. I do not think he gave it to me. I do not, in fact, think I ever read it. I would not be positive about it, though. It was about all he had done up North. Whether it was after the surveys were completed, or before the surveys were completed, I do not know, but, anyway, he did make a map of the district, and made a report, and, as I understood it, he sent it on to Mr. Stevens.

Q.—I understood that you had no personal interview with either Mr. Morse or Mr. Hays prior to the one in June or July, 1904? A.—About this business?

Q.—Yes. A.—No—I am trying to think whether I had ever seen Mr. Hays before. I had never met Mr. Hays before that time. Whether I had met Mr. Morse or not, I am not sure, but I had not met him certainly in connection with this business.

Q.—So, so far as you can recollect, you had certainly had no interview about this business with Mr. Hays or Mr. Morse prior to that interview in Montreal in June? A.—No, I had not seen them at all. My communications had been principally with Mr. Stevens.

Q.—And I understood from you that you had had no written communications with them, except those telegrams which you would not produce here? A.—No, I do not think I had.

Q.—The only communications you had had with any of the Grand Trunk Pacific officials up to that time, either verbal or written, were between yourself and Mr. Stevens? A.—I think so.

Q.—And, as I understand it, you had only one personal interview with Stevens? A.—After the Kaien Island business began—I had seen Stevens before that—that was in Ottawa.

Q.—That was in Ottawa? A.—Yes.

Q.—And that was in February? A.—I am not positive about the date, but I was over to the Supreme Court, and I think it was in February.

Q.—And, as I understand you, nothing special took place between you and Stevens on that occasion? A.—No. I don't remember the substance of the interview at all, except that I know I met him, and I know we talked over this matter at the time, and I have no doubt I told him everything I knew about it at the time.

Q.—That is to say, that was after the letter of the 19th January, 1904, was written by you? A.—Oh, yes, it was after the negotiations.

Q.—And you had in your mind the idea that the Grand Trunk Pacific, of course, would be brought into the transaction sooner or later? A.—Oh, I thought they knew all about it, and I understood that they were really directing us to go on with it.

Q.—Understood from whom? A.—Oh, from all—all I knew about the subject led me to believe that. Stevens had telegraphed to me before that, and I certainly understood from him that he was directing this thing to go ahead.

Q.—But at that time you were acting solely for Larsen? A.—Yes, I never acted for the Grand Trunk Pacific except under that authority as contained in that telegram of Mr. Hays, and in so far as Stevens' telegrams would be authority to act.

Q.—At that time you were acting for Anderson and Larsen? A.—Yes.

Q.—And you say you had a formal talk with Mr. Stevens? A.—Yes.

Q.—That was the first interview you had with any official of the Grand Trunk Pacific in connection with Kaien Island? A.—That is right.

Q.—And there was no discussion about this point? A.—No; it simply consisted in my telling him what was going on.

Mr. Bodwell—*Continued.*

Q.—As Larsen's solicitor? A.—Well, we did not define the position in which I was acting, but I supposed it could be nothing else, could it?

Q.—I don't know. You can tell us better than I could. A.—I don't know. I simply talked to him, because he wanted to talk to me.

Q.—Then you had no other personal interview with Stevens up to the time of the passing of the Order in Council? A.—I don't think I had. I don't think Mr. Stevens was here.

Q.—And no written communications? A.—I had some telegrams from him from time to time, yes.

Q.—Which you have not produced? A.—Which I have not got, as a matter of fact. I looked for them, but could not find them. They were of no importance.

Q.—They were of no importance, any more than the interview you had with him at Ottawa? A.—I can tell you the substance of them. Occasionally I would get a message from him asking how the thing was going along; sometimes he would ask me where Anderson was, and as to when he was going to get back from the North. I sent two telegrams—I used a number code. I forget the number I used, but it was explaining why the thing was delayed. One of the telegrams that I received, said: "Other legislative work now on," and I understood that to mean why the work was not going on. They were all telegrams of that character.

Q.—But at that time you were not acting in the capacity of solicitor for the Grand Trunk Pacific, but simply as solicitor, or associate, of Anderson and Larsen? A.—I would not like to say "associate."

Q.—Well, solicitor? A.—Yes.

Q.—And I suppose from the beginning—from the time you wrote that letter of the 19th January, and prior to that time, your clients' undertaking depended for its success on interesting the Grand Trunk Pacific Railway Company? A.—Well, of course, if the Grand Trunk Pacific did not take the land they would be out all their money.

Q.—And any communications you had with Stevens up to the time of the passing of the Order in Council were, as you understood the matter, in connection with either yourself or your clients getting the Grand Trunk Pacific interested in the project? A.—Well, I suppose that is a fair way of putting it. I did not consider very much at the time as to why Mr. Stevens was writing me, but I took it for granted that he was interested, and wanted to know how the matter was getting along.

Mr. Ross: Just one question, Mr. Bodwell. Mr. Bodwell, when did Mr. Larsen first know of the agreement signed by Mr. Anderson in Montreal? A.—When Mr. Anderson showed it to him in Spokane.

Q.—And what was his disposition of the matter?

Mr. Macdonald: Well, was the witness present?

Witness: Well, I was not present when Anderson first met Larsen, but I was present at one interview which he had with Larsen, and whether the agreement was shown to Larsen at that interview, or simply referred to, I don't remember, but I was present when Anderson met Larsen at one interview that he had with him.

Q.—Do you know as to that? A.—I know what Larsen told me. His conversation with me was when Anderson was not present.

Q.—Well, how did Larsen dispose of the matter. Did he fall in with the agreement, or otherwise? A.—Oh, he said: "We will just let it stand in the meantime. I will never take any of the money, and the first time you see Morse you tell him so." I won't say that is the exact language that he used, but that was the effect of it.

Q.—Well, that coincides with the statement to this Committee when you were last here? A.—Oh, yes, exactly. I was sure that Larsen would take that ground, or I would not have said what I did to Mr. Hays.

Q.—Well, just in other words—the agreement which Mr. Anderson made with these gentlemen in Montreal was not made with Mr. Larsen's consent? A.—Oh, it would not be right to say that, because Anderson had Larsen's power of attorney, but they understood from what I said when I was down there that Larsen was not going to insist on anything of that kind, and all they would have to do would be to make an arrangement which would satisfy Anderson, and if they had ordinary business acumen they could have seen from all the circumstances that in the settlement Anderson would be obliged to come to any terms that Mr. Larsen was agreeable to. You see, they were not agreeing to pay any money really. It was only an option. They could take the land or leave it, and if they did not like the terms they could simply say they were not good enough. And what could any person do? They would simply have to take what the Grand Trunk Pacific wanted to give.

Q.—Well, ultimately, they did not carry out the agreement? A.—No, that agreement was entirely abandoned.

Q.—And all that they did pay was the amount that had been disbursed by Larsen for surveying the land? A.—That is as I understand it.

Q.—Can you tell me the amount of that? A.—No, I did not get this information from Mr. Larsen, but I know that was his intention. He was going to tear up that agreement altogether. He was going to settle with Anderson.

Mr. Macdonald: Then your idea of the matter, when you were there in Montreal in June, was that the Grand Trunk Pacific could either take what you were offering them or leave it? A.—They were not bound to take anything. You see, Mr. Hays and Mr. Morse had never seen the land at that time. You see, it was all conditional. If the Government issued the Crown grants pursuant to the Order in Council, and if on inspection they were satisfied with the harbour and concluded they would make their terminal there, all these contingencies being favourable, they were to pay this sum of money.

Q.—So you were going to them and submitting what had been done in the way of getting the Order in Council put through, and, as I think you put it the other day, they were under no obligation to take it—they could take it or leave it? A.—That is right—they could take it or leave it. In fact, they—

Q. (Interrupting)—Then after you had that conversation with them, this agreement was drawn up between the Company and Larsen and Anderson? A.—Yes; you see I was in rather—

Mr. Bodwell—*Concluded.*

Q. (Interrupting)—I suppose you don't know—that is, from your personal knowledge—what was done with that agreement finally? A.—No, I don't know.

Q.—That is a matter which did not come within your range of connection with the transaction? A.—No.

Q.—What Mr. Larsen and the Grand Trunk Pacific did with that agreement, with regard to its cancellation, or any arrangement which they might have made in substitution for it, you have no knowledge of it? A.—No, except hearsay.

Q.—I am speaking now of your true knowledge? A.—No personal knowledge.

Q.—That, I would presume, would be ascertained from Mr. Larsen and Mr. Morse? A.—Oh, they must know, of course.

Q.—Nor, as I understand it, are you aware what arrangements were afterwards made between Mr. Anderson and Mr. Larsen and the Grand Trunk Pacific, following after the agreement of the \$40,000? A.—I do not think that Mr. Anderson had any agreement with Mr. Morse—

Q.—I mean, then—you have no knowledge of that—you cannot speak of anything of that kind? A.—Not of my own knowledge; but I would be surprised to know he had.

Q.—Wouldn't you also be surprised to find Jimmy Anderson giving up \$40,000 for nothing? A.—He could not help himself. He had no money in that business.

Q.—He had the written agreement, though? A.—He could not enforce it if the Grand Trunk Pacific did not take the land.

Q.—But they did take the land? A.—Well, they need not have taken it.

Q.—They did take the land a year ago? A.—That was after the agreement was concluded.

Q.—He got \$10,000? A.—That was not very much for what he did; it was only fair compensation.

Q.—Do you know what became of the other \$30,000? A.—The Grand Trunk Pacific did not pay it to anybody.

Q.—You have no knowledge of that? A.—No.

Mr. Ross: Mr. Bodwell, from your knowledge of this transaction, can you say whether or not any member of the Government received any compensation, either directly or indirectly, from any member of the Grand Trunk Pacific, from Larsen, or Anderson, or anyone connected with this transaction? A.—Well, I never heard of any such a thing. I know nothing of that kind ever came under my knowledge, and I cannot see how they could have. It would be a foolish thing to do, to say nothing of any other point of view. It would be such a stupid thing to do. That sort of thing was never talked of with me, Mr. Ross.

Witness stands aside.

Hon. Mr. Green, Chief Commissioner of Lands and Works—testimony continued:—

Mr. Macdonald: Have you any knowledge of an application made to your Department, Mr. Green, for a Crown grant of the surface right of the Kelp Mineral Claim? Is it the "Kelp" or the "Keep"? A.—I think it is the "Kelp," Mr. Macdonald.

Q.—The applicant was Mr. John Stinson? A.—I believe so.

Q.—And that claim was located on the ground which was afterwards conveyed to the Grand Trunk Pacific, part of the 10,000 acres? A.—I think it was, Mr. Macdonald, within that 10,000 acres. I am not positive, but I think it was within the 10,000 acres.

Q.—I suppose you don't remember the date of the location of that claim? A.—No.

Q.—I do not see it stated on those papers.

Mr. Garden: Mr. McKay said he had some more papers to bring.

Mr. Macdonald: Yes, I have it here—Located the 9th day of June, A. D. 1903, and recorded on the 16th day of June, 1903. Certificate of improvements is dated 9th January, 1905. There was an application, was there not, made by the holder of that claim, in Crown-granting the same to him, for the surface right under the provisions of the Mineral Act? A.—I think there was. I do not know, but I think he put in a formal application, Mr. Macdonald, but he certainly wanted the surface and applied for the surface, if not formally, by verbal application, several times.

Q.—And that was refused? A.—Refused, yes.

Q.—On the ground that the island was under reserve, or that portion of it? A.—No, not on that ground alone. It was refused on the ground that it was under reserve, and as well that this was not in the public interest to give him that particular surface right.

Q.—That is, you wanted to give it to Mr. Larsen? A.—No, I didn't. I did not. I wanted to give it to the Grand Trunk Pacific, which we did do.

Q.—There was a large number of applications refused for land within the area included in the 10,000 acres, apart from this application, was there not? A.—There was a large number of applications. I think you have there probably a list of them. There was a large number refused on Kaien Island, and a considerable number of them were included in this particular 10,000 acres; but I may say that all the applicants on Kaien Island—or all the applicants for land on Kaien Island, or Tsimpsean Peninsula, directly opposite there—have been refused.

Q.—You refused those—or some of them, at all events—on the ground that that portion of the island applied for was under reserve? A.—Yes.

Q.—Did you consult the Attorney-General as to the interpretation of the reserve? A.—I think I did. I am quite sure I consulted the Attorney-General, and I consulted the Deputy Attorney-General as well, Mr. Maclean.

Q.—I think the Attorney-General said the other day that he had no recollection of any such a thing? A.—I am quite sure we talked the matter over, because I recollect it distinctly. Of course, my recollection is not sufficiently clear to say whether the Attorney-General and I discussed it in the Executive or not; but when it came to putting on a new reserve, I remember distinctly asking the Deputy Attorney-General

Hon. R. F. Green—*Continued.*

whether the putting on of this new reserve would militate against our case in the Courts as far as the old reserve was concerned, and he said, in his opinion, it would not. It had better be put on simply to stop applicants.

Q.—When was the new reserve put on? A.—I don't remember the date, Mr. Macdonald.

Q.—Was it by Order in Council? A.—Yes.

Q.—Have you got that Order in Council? A.—The reserve is gazetted. I don't remember the exact time.

Q.—I would like to see it. About what month, and what year—1904, I suppose? A.—Well, I don't like to place dates, Mr. Macdonald, because my memory was never good for dates, and it is not now.

Q.—Was it after the 19th January, 1904, after Mr. Bodwell's letter? A.—Oh, yes, I think it was.

Q.—Long after? A.—Not a great length of time.

Q.—Was it between that and the date of the passing of the Minute in Council? A.—Oh, yes, it was between that and the date of the Minute of Council.

Q.—Well, it would be between January and May? A.—Well, I would prefer very much if you would get the date from the Gazette.

Mr. Garden: We will send for it.

Mr. Macdonald: Yes, send for the Gazette for the first half of 1904.

Mr. Garden: Mr. McKay will have an idea where it would be, the second reserve on Kaien Island.

Mr. Macdonald: By the way, Mr. Green, have you any knowledge of the alleged recent purchase by the Grand Trunk Pacific of land in the neighbourhood of Kaien Island from the Indians? A.—No, I have not; only what I have seen in the papers.

Q.—When did you first meet Mr. Stevens after, say, August, 1903? A.—I think I first met Mr. Stevens when the Legislature was in session, when he came here to Victoria.

Q.—In 1903-4? A.—Yes, 1903-4, in that fall session.

Q.—And the Legislature that year opened on the 19th November? A.—I would not be sure, Mr. Macdonald. I met him when he came to Victoria, I presume. I am quite satisfied I met him at that time. I do not know that I met him before that.

Q.—Was he here before that? A.—Yes, he was here around the lobby and the building for several days. He came here with Mr. Morse and left with him.

Q.—Well, you see now you are speaking of a year later? A.—Well, I don't know whether he was here before or not. I never met him since that time, unless I met him here at Victoria, and I presume I met him here if he was here earlier than that.

Q.—You knew Mr. Stevens some years ago, did you not? A.—I can hardly say that. I met Mr. Stevens, or I had some recollection of meeting him, but I would not have known him again if I had met him anywhere.

Q.—(Notice having been received from Mr. McKay, reads same). This notice reads as follows:—“Notice is hereby given that Kaien Island, situated in Range 5, Coast District, is reserved for Government purposes until further notice.—W. S. GORE.” 3rd August, 1904, page 1487 of the 2nd volume of the Gazette. Has that reserve ever been lifted? A.—No.

Q.—And notwithstanding that reserve, and what you claim was a prior reserve, the Government granted the Grand Trunk Pacific these 10,000 acres on Kaien Island? A.—Yes.

Mr. Ross: Mr. Green, the last time you were here, I think, you told us of a trip you made to Portland? A.—Yes.

Q.—Can you fix the date of that trip? A.—Well, again my memory is gone. I looked it up and found it out, but I have forgotten. I can tell you the date approximately, Mr. Ross. It was when Mr. Paterson's bye-election took place on the Island. If you can tell me that date, it would be within a few days of that I went to Portland. It was before we took office, I know.

Q.—It was when you were on the side of the Opposition? A.—Yes.

Q.—Have you looked into the question of the lands at Port Simpson to see what interest the Government has in those lands? A.—Yes, I have.

Q.—Yes? A.—We have no interest in the lands along the shore line for some distance back. Have you got a map there (map handed witness). These lots, as you see, all along the coast (indicating on map).

Q.—That is on the harbour? A.—Yes, they are all granted, and they were granted prior to the date on which the one-quarter interest was retained in the Crown. The Government blocks, naturally, are those that you see that are not subdivided.

Q.—Lying on what you call Work Channel? A.—Yes.

Q.—So that if a townsite had been created at Port Simpson on the harbour, the Government would have received no benefit from that, so far as having any interest in it is concerned? A.—They would not have any benefit except what benefit they would get from these back lots here. They would certainly not have anything of the water lots, the front lots. Quite naturally, these front lots here were taken up by the people who were looking for an available townsite, and they would most naturally take the most available place, and the place best adapted for it, and I would certainly take it, by looking at that map as it is there, that the lands which were left would not be of very much value to the Government.

Q.—But the Government has lands at Kaien Island which correspond to those lands that are shown on this map? A.—Oh, yes, not only on Kaien Island, but also over on the Tsimpsean Peninsula, a large quantity of land.

Q.—And in addition to that interest, they would be getting an interest in the actual townsite by going to Kaien Island, as opposed to Port Simpson, where they would get no interest? A.—Undoubtedly.

Q.—I do not know whether this question has been asked you or not, Mr. Green, but it is one of the main objects of this investigation, I suppose—have you received any benefit, directly or indirectly, from any of the parties interested in this Kaien Island transaction? A.—Not a cent—absolutely nothing.

Hon. R. F. Green—*Continued.*

Q.—Do you know with regard to your colleagues? A.—Well, I certainly do not know that they did, and I have not any hesitation in saying that I don't believe that they did. They are here, and can answer that question themselves, but I do not think there is any question about it. I firmly believe that there was not one of them who got anything out of it, in the way of benefit, or otherwise.

Mr. Macdonald: Mr. Green, these lands at Port Simpson which you say are along the harbour, and which are held by individuals, they only amount to about 3,000 acres, don't they? A.—I don't know, Mr. Macdonald; I did not figure it up; but apparently Port Simpson is here, and the fact remains that the water front and the available land, the water front and so forth, is gone.

Q.—Well, if you will look at that, you will find that about 3,176 acres have been alienated there, and that about the same quantity remains in these Government blocks, so that you have altogether there in that townsite, one-half of which belongs to the Government, about 6,000 acres, or a little over a half the area that you have conveyed on Kaien Island to the Grand Trunk Pacific. If those figures are right, that is so? A.—Well, you see you have figured it up and I have not.

Q.—Well, I say, assuming the figures I have given you are right, you can easily calculate the acreage that is given there? A.—Well, we will assume they are correct. Of course, there may be probably more land belonging to the Government if this map were extended behind here.

Q.—So that, if the town grew beyond those 3,000 acres, the Government townsite would be very valuable? A.—Well, I don't know, Mr. Macdonald, beyond what those maps show, whether the other lands are alienated or not.

Q.—But you have, as I understand you, made a search since I called your attention to this matter the other day? A.—Well, this is the result of the search—I had this made.

Q.—Yes, but this is an old map which has been in the department a long time? A.—Yes, but these notations are not old.

Q.—I understand that. A.—Mr. Macdonald, if you will excuse me a moment—naturally, this map is gotten out by the people who are selling those lots, and their map would only show that portion of the land that they are interested in there. In other words, the Government may have some more land below here, although I see it is marked here as an Indian Reserve.

Well, you don't seem to appreciate the fact, Mr. Green, that this was a map gotten out for the sale of the Government lands, and not the private lands? A.—That is all right. I say that it was gotten out to show the sale of the lands as they are there. I presume, if your figures are right, your statement is right. The Indian Reserve comes in here and cuts it off.

Q.—So that the whole townsite shown on this map, showing the Port Simpson Harbour and Work Channel, and the lands alienated, and the lands divided by the Government into 40-acre blocks, and offered for sale at this time, as shown on this map, the whole townsite only amounts to 6,000 acres? A.—Yes, if your figures are correct.

Q.—Half of which belongs to the Government and the other half to the private owners. Now, will you notice that this map or plan reads this way: "Auction Sale, Provincial Government property, situate in Townships 1 and 2, Range 5, Coast District, Port Simpson. I have received instructions from the Honourable F. G. Vernon, Chief Commissioner of Lands and Works, to sell by public auction," and so on, "40-acre blocks." So that was a plan gotten out by the Government to sell the Government blocks which they owned at Port Simpson, being one-half the townsite? A.—Yes. But the fact remains, Mr. Macdonald, that the only possible chance of a harbour at Port Simpson is gone—the fact remains that the Port Simpson harbour, the frontage, is all alienated. You cannot get away from that fact.

Q.—That is, the portion shown on that map? A.—There is no other Port Simpson harbour than that.

Dr. Young: Take this map here; this corresponds to that, only it is on a larger scale. This is Work Channel and this is the Indian Reserve? A.—Yes, that is right. I maintain that, beyond any question of doubt, the whole of the water front that is there, that is available for a townsite, has already been alienated—not only the water front, but for some distance back, and the only part that the Government has any interest in is in the land some distance back, and on Work Channel.

Mr. Macdonald: But the land is available for townsite purposes? A.—Yes.

Q.—And Work Channel may be a very valuable water front? A.—It may be, but so far as the knowledge I have of it, it is not.

Q.—What knowledge have you got? A.—It is the knowledge that everyone else has, a general knowledge.

Q.—Have you had any knowledge imparted to you in the way of reports in regard to that? A.—I have had verbal reports; I do not know that I have had any written ones on the subject.

Mr. Garden: I may say that I have been up there, and I know that there is no chance of a harbour on the north side of that peninsula.

Dr. Young: And I might say the same. I have been there a half a dozen times, and there is no possibility of a harbour in there.

Witness: The water is very shallow there.

Mr. Ross: Mr. Macdonald made you say that the Government still own a half of the Port Simpson townsite? A.—No, I did not say that. What I say is, that the townsite of Port Simpson is here. The only portion the Government owns there is a few blocks down at this point here (indicating on map). Port Simpson townsite is here on the southern portion, and the farther you get away from that the farther you are getting away from the townsite. Any land the Government owns, with the exception of this (indicating on map), is far away from the townsite.

Mr. Macdonald: But when you speak of the townsite, you are only speaking of an area of 3,000 acres. You don't suppose that if that were made the terminus of the Grand Trunk Pacific, that that townsite would be confined to 3,000 acres, surely, do you? A.—If they wanted to spread it any farther, they would have to go on to the Indian Reserve.

Q.—Or to the Government blocks? A.—Well, if they wanted to go to the Government blocks, there would be no use of getting back so far.

Hon. R. F. Green—*Concluded.*

Q.—Why not? They are directly back of the lands on the water front, on the harbour? A.—Yes, but this is where the harbour is (indicating on map).

Q. (Indicating on map)—This is the harbour around here. A.—And the harbour, it is not going to be up there, it is going to be possibly up to this point, and all the Government own back of this point is where your finger is resting on (indicating on map), and these lands up here are not back of the harbour.

Q.—We will take your way of putting it. And you find here at what you would call the near point of the harbour—1, 2, 3, about three blocks—what size are those blocks?

Mr. Garden: 160 acres.

Witness: 150-acre blocks.

Mr. Macdonald: Right on the water front, on what you say will be the harbour? A.—This is the harbour here. This is what is considered to be the harbour. Here is the wharf where it is at present, and it is what you consider to be the harbour portion.

Q.—Do you consider that it is not good harbour here (indicating on map)? A.—No, in a sense it is not, and the farther you get up here, the worse it is.

Q.—Well, getting right down to here, the near point, you have only about 600 acres owned by private individuals—isn't that so—those four blocks? A.—Those four blocks.

Q.—And right behind that the Government owns a larger portion than that? A.—Yes, a little larger.

Q.—Only a distance of—only about a quarter of a mile away behind it? A.—More than a quarter of a mile, I should say.

Q.—Well, the distance of the site of one of those blocks, a block of 160 acres? A.—Yes, that will do.

Dr. Young: You have never been at Port Simpson? A.—No, I have never been at Port Simpson, Doctor.

Mr. Paterson: How is the eastern boundary of the Indian Reserve on Kaien Island fixed? A.—The eastern boundary, by survey. The Indian Reserves are all surveyed. They are first set apart by the request of the Indian Department, and then the Indian Department has them surveyed.

Q.—You don't know whether that line is correct or not, the pencil line. This is a map that has been put in here. Is that the eastern boundary of the reserve (indicating on map)? A.—Well, I don't know—I don't know.

Q.—Well, who would be in a position to tell? A.—Well, Mr. Gore, or the Chief Draughtsman, would undoubtedly be able to tell. He could compare it with the actual survey notes and could tell you.

Dr. Young: These surveys were made in 1884, Mr. Green. Would you have a record of them here in the office? A.—Oh, yes, I presume there would be a record of it there, Doctor, yes. There would naturally be a record. The custom followed now is simply that the Indian Inspector of Indian Agencies makes an application for a reserve covering certain ground, and he lays them out approximately on a sketch map or plan, and submits them to the Government for approval, and if they are allowed by the Government they are told so, and then they are afterwards surveyed in the usual way.

Mr. Garden: Mr. Gore said that line had been on this map for a long time.

Mr. Paterson: This is the map which has been put in here on which the reserve was made.

Mr. Garden: Mr. Gore said that he knew this line was put on there a long time ago.

Mr. Paterson: According to that line there, Lima Harbour was an Indian Reserve, and I think we ought to have some information on it (indicating on chart).

Witness: I don't imagine, Mr. Paterson—of course, I am only giving my opinion for what it is worth—I don't imagine the contour of the ground or the coast line is shown. This is an Admiralty chart, and it has been more of a survey from the coast—or the water rather—which would be made by the Admiralty, and it would naturally not form the reserve; and that chart shows that Kaien Island is not shown as an island on this particular chart.

Q.—Yes, but this map is put in here as a map on which that reserve was made. A.—Yes, Mr. Gore brought that map to me when that question was discussed, and showed it to me as the map under which the reserve was made. I do not know whether it was initialled, but that was the map that was used when the reserve was made.

Dr. Young: Those two maps correspond?

Mr. Paterson: Not by a long way.

Mr. Macdonald: The military reserves were made by the Province to the Indians? A.—The system, Mr. Macdonald, in this Province is unlike that adopted in other Provinces, as here there are not certain lands set aside for the Indians. The reserves are not all yet delineated. They have not all yet been set aside, owing to the distance that some tribes of Indians are away from the centres of civilization, even at the present time, and their Agents visit them, and as settlement begins to encroach upon them arrangements are made by their Agents for reserves being granted to them. The arrangement that the Provincial Government has with the Dominion Government at the present time is that the Provincial Government should deal generously with them. That is the term that is used, and unless there is some good cause we never refuse an Indian Reserve to-day.

Q.—Do you know anything about a reserve called the Big Indian Reserve? A.—No, only from the records and the map.

Q.—Well, what have you got in your Department which would show the delineation of that as an Indian Reserve? A.—Well, the record comes into the Department in this way—in the form, sir, of a Minute of Decision from the Indians, asking that certain lands be set apart, and that is marked "Approved," if it is approved by the Chief Commissioner.

Q.—What I want to know is this—there is an Indian Reserve there—how is that delineated? A.—Well, I presume it has been surveyed, and the notes are in the Department.

Q.—Would Mr. McKay be able to tell us about it? A.—Mr. McKay would be able to tell you exactly.

Mr. Paterson: I suggest, Mr. Chairman, that we have Mr. McKay recalled.

Mr. Garden (explaining to messenger): Ask him if he has a copy of the field-notes of the Big Indian Reserve?

MR. E. B. MCKAY, being recalled, testifies as follows:—

Witness: That is the map, or plan, of Tsimpsean Indian Reserve, and those are the field-notes (producing same).

Mr. Macdonald: Were you in the box before, Mr. McKay? A.—Yes, sir, the first day.

Q.—What chart or map is this that you now produce? A.—That is a map which was sent in by the Indian Reserve Commissioners.

Q.—At what date? A.—It must have been in '92 some time. These field-notes are in '92. First of all there is a Minute of Council prepared by the Commissioners and sent to the Government here, asking that such and such lands shall be set aside for the use of the Indians.

Q.—Have you got that Minute of Council? A.—I have that, yes, but it is not in here.

Q.—If you will send for it, we will just get at the first step. (Document sent for and produced.) Have you the Order in Council? A.—It is a Minute of Decision—that is the right name for it (producing same).

Q.—This reads (reading same):—

“INDIAN RESERVE COMMISSIONER,

“VICTORIA, B. C., February 26th, 1884.

“SIR,—I have the honour to forward herewith amended Minute of Decision and rough sketches of that portion of the land allotted by me for the use of the Tsimpsean Indians at Port Simpson, embraced in Reserves Number one and two. The alterations were rendered necessary by the Local Government having, in fact, carried out the suggestion contained in my letter of the 8th April, 1882, to the Superintendent-General of Indian Affairs, by granting the Hudson's Bay Company an equivalent of about 24 acres on the east, for that taken on the reserve on the west of their buildings.

“I have the honour to be,

“Sir,

“Your obedient servant,

“P. O'REILLY,

“I. R. C.

“To the Hon. Chief Commissioner of Lands and Works,
“Victoria, B. C.”

Now, the amended Minute of Decision, Tsimpsean Indians, Number one Reserve, and so on—it is this, Mr. McKay (indicating document). Does this affect these lines at all, or is it something apart from that altogether. It seems to be something affecting the Hudson's Bay land? A.—Yes, there was some change made; that was this piece here (indicating on plan), which was at one time an Indian Reserve.

Q.—Up at Port Simpson. This sketch and amended Minute of Decision does not affect it? A.—It does not affect the southern portion—I thought that was the one—395, Kaien Island—39,584.

Q.—Perhaps it is Number 2—yes, Number 2—amended Minute of Decision, Tsimpsean Indians, Number 2 (reading same):—

“A reserve of 70,400 acres, approximately situated on the Tsimpsean Peninsula between Fort Simpson and the southern end of Digby Island, commencing at the northern corner of Reserve Number 1, and running south-east an approximate distance of 18 chains to one corner of the posts thereof; thence south 6 chains; thence east 320 chains; thence south an approximate distance of 22 miles to a point due east of the southern end of Digby Island, which will include part of Kaien Island; thence west of Digby Island; thence following along the western shore of the said Digby Island and the coast line of the Tsimpsean Peninsula (including Pike Island, Shrub Island and the islands east of them) to the place of commencement. The pre-emption claims of George Williseroft and of Joseph Armaund, each containing 160 acres, and two acres at Mission Point, held in trust by the Provincial Government for the Church Mission reserve, are not included in the Reserve. All waters flowing through this Reserve are assigned to the use of the Indians, excepting the stream on which Mr. Williseroft's saw-mill is situated.”

“P. O'REILLY, I. R. C.

“Victoria, B. C., February 26th, 1884.”

Q.—So that, Mr. McKay, the records in your Department show that as early as February, 1884, Kaien Island was known? A.—Yes.

Mr. Garden: Was this survey made by your Department? A.—No, made by the Indians.

Mr. Macdonald: Just on file in your office? A.—We have the field-notes here. There is a copy of them sent to the Ottawa Government, and one sent to us. They are approved by the Chief Commissioner and signed, and returned to the Indian Office, where it is traced, and the field-notes are left here.

Q.—So that you had the field-notes and the documents in your office—or in the office of the Department of Lands and Works—as early as February, 1884, showing that there was such an island as Kaien Island? A.—Yes, sir.

Q.—And that you had indexed in a book—what is that book you have there? A.—Indian Reserve—just the field-note numbers, and this is more as a matter of convenience for finding them.

Q.—So you had complete records by which you could distinctly ascertain the information that you have now given us that Kaien was an island? A.—Yes, sir.

Q.—Look at that chart, Mr. McKay, showing in red the Indian Reserve at Port Simpson—do you know that chart? A.—Oh, yes.

Q.—How long have you had that in use in the Department? A.—I don't know, but it was there when I came in 1891.

Q.—This chart had better be marked as an exhibit, and the number will be what?

Dr. Young: That will be “R.”

Mr. Macdonald: Whose work is this, the colouring of the different reserves? A.—I don't know.

Q.—As I understand it, you were the Chief Draughtsman? A.—Yes.

Q.—And are at present Deputy Commissioner? A.—Surveyor-General.

Mr. E. B. McKay—*Continued.*

Q.—You have been in the Department for how long? A.—Since 1890 or 1891.

Q.—Since '90 or '91. You were in the Department, then, at the time that the reserve of August, 1891, was placed on the Tsimpean Peninsula? A.—Yes.

Q.—You will see a straight line there in pencil, drawn from the head of Work Channel to Kaien Island? A.—Yes.

Q.—Due south? A.—Due east and west.

Q.—Do you know who placed that mark there? A.—No; I cannot remember, sir. I could not tell you who placed it there, or when it was done—I do not know that, but I do not think that is a very old line.

Mr. Garden: Who was it done by? A.—I could not tell you.

Mr. Macdonald: Do you notice that Kaien is shown as an island there, the channel being traced in blue ink? A.—Yes.

Q.—Do you know when that was done? A.—That was done very recently.

Q.—How long ago? A.—Probably four or five years ago. I think the first information we had of that kind was from Captain Walbran, of the "Quadra," who brought in the information showing that there were two islands in here (indicating on chart). There was a passage in here, and that was Tuck's Inlet. We were under the impression that it was called after a man by the name of Tuck, who made that survey, but it was not. It was called after an Indian tribe, apparently.

Q.—That was four or five years ago you discovered that? A.—I think it was more than that ago.

Q.—And upon receiving that information, then the channels were shown there in blue? A.—Yes, sketched on roughly.

Q.—Kaien Island was shown? A.—Yes.

Q.—And that pencil mark, I suppose, would be drawn there about that time? A.—I fancy that old line was drawn there before that.

Q.—Well, look at the other chart that we have before us—do you see the pencil line there? A.—Yes.

Q.—Running down through about Oldfield? A.—Just touching the edge of what is now Kaien Island.

Q.—Yes, and touching the edge of what is Kaien Island, and there Kaien Island was shown. For instance, this chart that you are now referring to (which we will mark as Exhibit "S"), as originally made, is a duplicate of Exhibit "R"? A.—Oh, they are about the same.

Q.—They are copies of the same map? A.—Yes.

Q.—But Exhibit "R" has been changed in the Department by showing the reserves? A.—Yes.

Q.—And other lots upon it? A.—Yes.

Q.—That is, it is changed to a greater extent than Exhibit "S"? A.—Yes.

Q.—Now, Exhibit "S," you see, shows the pencil line from a point east of Port Simpson? A.—Down to the coast, yes.

Q.—Yes, and down to the coast, and to the south-eastern point on the coast of Kaien Island? A.—Yes.

Q.—And that pencil line has been changed in Exhibit "R" by having it stop on the peninsula coast, and not extending into Kaien Island? A.—Yes.

Q.—Why? A.—I don't know why.

Q.—That has been changed? A.—I think that line is of a very recent date.

Q.—About when was that line drawn? A.—I could not say.

Q.—Well, when did you first see it? A.—I do not think I could give you any idea of the year. I know I saw it done. I do not think that is very old, that pencil line.

Q.—That would be about the time Kaien Island was drawn? A.—No, I think it was after that.

Q.—Why do you think it was after? A.—Well, I have a sort of opinion that that line was drawn on here in connection with this very thing you are now inquiring into. Some one had applied for lands there, and it was for land at the head of the Work Channel, or thereabouts, and they wanted the line drawn from there across. Something of that sort came up in the Department at the time that line was drawn. It was not at the head, it was at the foot of the Work Channel; the head of the Work Channel would be up there.

Mr. Garden: You cannot tell on what authority that line was put on? A.—I could not say.

Q.—Was it done by one of your own draughtsmen? Was it done by the authority of any of the Government? A.—No, I do not think so. This is a copy we have in the office, and if a man wants a piece of land somewhere around the Skeena River, he comes into the office and looks it up to see if he can get it without interfering with anyone else.

Mr. Macdonald: You cannot remember when you first saw that line? A.—No.

Q.—Would it be two years ago? A.—I do not think it is as old as that; it would not be more than that, anyway.

Q.—Not older than two years. Naturally when you sketched Kaien Island out there, to show that properly, you would know that Kaien Island was not a part of the peninsula? A.—Oh, yes.

Q.—And that was four or five years ago, at the very least? A.—Yes, it was about that time. I think it was about that time that the information came into the office from Capt. Walbran. He could verify that. I am sure he was the man who gave us the information.

Mr. Garden: What was that? A.—Captain Walbran, of the "Quadra," was up there; he is a great hand at exploring. He went around the island in a boat.

Q.—Was that your first knowledge? A.—Yes, the first knowledge that it was an island.

Mr. Macdonald: How do you make that coincide with the fact that you had some documents early in 1884 showing it was Kaien Island? A.—We did not know what size it was at that time. We knew it was down here somewhere. The thing never came up before us until then.

Q.—But, then, you knew before the Captain of the "Quadra" told you there was an island there? A.—Yes.

Mr. Garden: But you did not know the extent of it? A.—Oh, yes; the old Indian Reserve plan shows that.

Mr. E. B. McKay—*Continued.*

Mr. Macdonald : So, in the Department, it was well known since 1884 that Kaien Island was there, but as to the extent it was not known? A.—Oh, yes.

Mr. Garden : Were you in the Department in 1884? A.—No, sir.

Q.—Well, you said the Department knew there was an island there since 1884? A.—The documents were in the office in 1884, but I was not there in 1884, no.

Mr. Macdonald : Well, at all events, Mr. McKay, there is no doubt about this—the field-notes, the maps and documents in the office would show that, since 1884? A.—Oh, yes, they would, certainly.

Mr. Paterson : Mr. McKay, would you look at the description and say whether that line corresponds with north and south on that? A.—There is one thing about those descriptions, Mr. Paterson, they are only written haphazard.

Q.—I think the description says it runs from a point here on the Mainland, opposite Digby Island? A.—Yes.

Q.—Now, is that line properly placed on that map, or is this the correct line? A.—I do not know that that line is put there by measurement at all, Mr. Paterson.

Q.—You can see the map. Here is the chart which shows your mainland here. I understand from the description that that line runs due south to a point on the mainland directly opposite Digby Island, does it? A.—Well, what I mean to say is that this is only written by the Indian Commissioner. This was not surveyed when this was written.

Q.—It is a description? A.—Yes, but the survey is made afterwards.

Dr. Young : In other words, this is not put on this chart from the field-notes? A.—No.

Q.—And the fact that there is a slight divergence in those two lines would not count for anything in making out the Crown grant? A.—You would never make a Crown grant out from that, anyway.

Q.—Well, now, with regard to this line (indicating on chart), you can see marks of erasure where this line has been sketched in. Isn't it possible that that line was there before? A.—Yes, quite possible.

Q.—And another thing Mr. Gore told us was, that the reserve was made originally from a point at the head of Work Channel, running to the eastern boundary of the Indian Reserve, and the fact that this is not shown here would not amount to anything? A.—Oh, no.

Q.—Or the fact that there is a slight divergence in those two charts, in the drawing of those pencil lines? A.—No.

Q.—They are not made from official surveys? A.—No.

Mr. Paterson : These charts, they are official charts, are they not? A.—No, they are really Admiralty sketches.

Q.—Well, you see this line is produced—has that line been surveyed? A.—Yes.

Q.—You see that line, as produced, must come to a point on the mainland on the lower end of Digby Island? A.—I think you will find it does, too. Here is Digby Island, and here is a point exactly opposite, you see. But if that line were produced, there is a slight divergence between these two lines. You have to jog over on Digby Island in order to get it down there.

Q.—It is not according to the descriptions, then? A.—No; those descriptions are only the roughest sort of things, written by the Commissioner. They go around in a canoe and make their marks on a certain tree—

Q.—What authority would there be to deviate from the description? A.—You see he would produce this line out here—

Q. (Interrupting)—You see it is produced to a point on the southern end of Digby Island. The description does not say anything about what direction the line is to take. It is to be produced to a point on the mainland directly east of the southern end of Digby Island.

Mr. Garden : That means that they understood this was the mainland—to a point on the mainland due south—due opposite—or what? A.—It is thence south an approximate distance of 22 miles—due east of Digby Island, which will include part of Kaien Island.

Mr. Macdonald : You see it mentions Kaien Island.

Mr. Paterson : Well, this map was put in here as an official map of the Department, and if we take the description of the Indian Reserve from this chart (which is supposed to be official), it would show that Lima Harbour is on the Indian Reserve, wouldn't it?

Mr. Garden (Interrupting) : Oh, you cannot go by the map like that. There is the official survey.

Mr. Macdonald : I will have this Plan No. 2 of the Tsimpsian Indian Reserve, B. C., marked "Ct. 2." What does that refer to? A.—Coast Plan 2.

(Document above referred to, marked "Exhibit .")

Mr. Macdonald : This will be Exhibit "T," shows the survey made in pursuance of the amended Minute of Decision, Tsimpsian Indians, Number 2, of Mr. O'Reilly, dated 26th October, 1884. This survey shows the survey made in pursuance of these amended Minutes of Decision? A.—Yes.

Witness stands aside.

TUESDAY, 6th March, 1906.

A meeting of the Committee appointed to inquire into the matters hereinbefore set out, having been duly called by Order of the Chair, met the 6th day of March, 1906, at 10:30 A. M.
Present: Messrs. Garden (Chairman), Ross, Young, Paterson and Macdonald.

MR. E. B. MCKAY, having been recalled, testifies as follows:—

Mr. Garden : Mr. McKay, at the last sitting of the Committee, when giving your evidence, you said you thought the plans of the Indian Reserve were deposited in the archives of the Department in 1887? A.—Oh, no, not the plans, but the Minutes of Decision.

Mr. E. B. McKay—*Continued.*

Q.—And the plans and field-notes? A.—No, sir.

Q.—Well, what did you say about the plans and the field-notes? A.—They always come in very much later, much later than the Minutes of Decision.

Mr. Garden: Didn't we understand that the plans were in the Department at that time?

Mr. Macdonald: I did not so understand it.

Witness: You see the Minute of Decision is what we get first. There is a man sent out by the Indian Department, who goes up through the Indian Reserves along the coast, and they get to know the requirements of the Indians, how many acres they want and the piece of land they want, and the surveyor with them makes a rough sketch of it—not a survey—and that is sent in along with the Minute of Decision asking the Government to reserve that land for the use of such a band of Indians. The Chief Commissioner then writes back, and probably says that land will be reserved. Sometimes there is a year, and sometimes two years, between the date of receiving the Minute of Decision and its approval and the survey being made and approved. In some of the more distant reserves, like Fraser Lake and Stuart Lake and those inland places, the Minutes of Decision have been in the office for some years before the surveys were made.

Mr. Ross: And it might have been the same with this? A.—Yes, certainly.

Q.—How many years elapsed in this case? A.—I cannot say. The Minute of Decision is dated some time in 1884.

Mr. Macdonald: 1886.

Witness: Well, the surveys were not begun for some time after that.

Mr. Ross: But when were the surveys deposited in your office? A.—February 3rd, 1892.

Q.—So that the Minute of Decision was dated 1886, and the plan was filed six years afterwards? A.—Yes, six years afterwards. The plans are made out in the Indian Office, and after the plans are made out in the Indian Department a plan is sent over to the Chief Commissioner, and if he approves of it he signs it, and then it is returned again to the Indian Department and they make a tracing; and after the tracing is made a copy is sent over to the Chief Commissioner with the field-notes, as this letter will show. There is a letter sending in the tracing and the field-notes, dated February, 1892, and here is a letter from Mr. Vernon in reply to that letter.

Mr. Garden: What does it say in the letter (reading):—

“I have the honour to acknowledge receipt of your letter of January 26th, 1892, forwarding plans of 24 reserves defined by you for the use of the Tsimpsian Indians at and near Fort Simpson, Metlakatlah, on the mouth of the Skeena River. In reply, I beg to advise you that plans of these surveys have been approved by me on this date.

(Signed) “F. G. VERNON.”

Witness: And this is the letter accompanying the field-notes and tracings, February 2nd, 1892.

Q.—When was the first knowledge of the fact that there was an island there known to the Department? I am speaking now of Kaien Island. A.—When these Minutes of Decision came in. They did not know of it before. For my part, I never knew there was an island there until that Port Simpson case came up—that was 1892 or 1893. It was the time when Mr. Vernon sued the “Times” for a libellous article in regard to lands at Port Simpson, and all that matter was hauled over, and all the tracings that were made in the neighbourhood of Port Simpson.

Q.—And what time was it that Captain Walbran sent you in the sketch? A.—He sent in that sketch not more than three or four years ago. I do not think it is more than that.

Mr. Macdonald: You will remember the fact that the Minute of Decision expressly mentions Kaien Island? A.—Yes, sir.

Q.—Were you in the Department at the time that Minute of Decision came in? A.—No, sir. I did not come into the Department until 1890 or 1891—I came in the spring of 1890.

Q.—Do you remember the fact that a survey was being made of the land up there which was to be included in the Indian Reserve, before the field-notes came in? A.—Oh, yes. I think we knew that the Indian Department had a man by the name of Tuck up there surveying.

Q.—So that it was a matter well known in the Department that a survey was being made in accordance with the amended Minute of Decision of 1886? A.—All that we knew of it was that he was up there surveying.

Q.—Well, it was quite well known what he was there for; that it was in accordance with the amended Minute of Decision? A.—Oh, yes, of course.

Q.—There was a good deal of trouble about that survey, wasn't there? A.—Yes, there was a little trouble—

Q. (Interrupting)—So it was a matter which would be brought prominently before the Surveyor-General? A.—No, the Surveyor-General had nothing to do with that.

Q.—Well, it affected those lands? A.—It was a matter which rested with the Indian Department.

Q.—So far as the employment of the surveyor was concerned? A.—Yes.

Q.—Well, anyway, there was a good deal of trouble about the survey; the first survey was wrong? A.—We did not know about this in this Department, because when the surveyor is working for the Indian Department he is employed by the Dominion Government. Of course, we knew that Tuck was making a mess of it.

Q.—So you had the knowledge—if not the official knowledge—that he was making a mess of it? A.—Yes.

Q.—Is that what you mean? A.—Yes, knew it privately.

Q.—And you knew that, of course, at the time he was surveying? A.—Well, I knew when he was up there, of course.

Q.—He commenced to survey in September of 1887, didn't he? A.—I don't know.

Q.—Well, the field-notes would show that? A.—Yes.

Q.—The field-books would show that? A.—Yes.

Mr. E. B. McKay—*Continued.*

Q.—They would show that he commenced his survey on the 15th September, 1887? A.—That was before I came in, you see.

Q.—Was the Indian Reserve placed by a Provincial Order in Council? A.—No, sir; it was the Minute of Decision of the Indian Commissioner. That is what places the reserve, and if there are any settlements within the reserve those are generally cut out.

Q.—So that the document which really places the reserve, subject to survey, would be the amended Minute of Decision of 1886? A.—Yes, I suppose that would be it.

Mr. Ross: What was your position in the Department at that time? A.—Draughtsman.

Q.—You were one of the draughtsmen? A.—Yes, sir.

Q.—Who was the Surveyor-General? A.—Mr. Kains, before that Mr. Gore. It was in 1891, I think, that he became Surveyor-General—in '91, before those field-notes came in.

Mr. Macdonald: Mr. Gore had been Deputy Commissioner of Lands and Works? A.—I think Mr. Gore was created Deputy Commissioner in 1891, when Mr. Kaius was made Surveyor-General.

Q.—And before 1891, what had Mr. Gore been? A.—Surveyor-General.

Q.—That is to say, for several years before 1891, Mr. Gore was Surveyor-General? A.—Oh, yes.

Q.—And this amended Minute of Decision, and matters affecting the surveys, would be in his own Department? A.—Well, the letter, of course, would be replied to by the Department.

Q.—And you say in 1902, or 1903, some trouble arose, and a libel suit was brought?

Mr. Ross: He said in 1891, or '92.

Mr. Macdonald: Yes, in 1892 a libel suit was brought by Mr. Vernon? A.—Yes, sir, against the "Times" newspaper.

Q.—In connection with this Tsimpsean Indian Reserve? A.—No, sir; in connection with the Port Simpson lands, and, of course, that brought up all the question of drawings up there, and plans. And that was the first time I had heard of this Kaien Island.

Q.—And as early as that, the fact of these drawings and plans showing Kaien Island—it was a matter of public property? A.—Oh, no; because, of course, it did not go as far as that.

Q.—Well, it was well known, at all events, in the Department? A.—Yes, we knew that afterwards, when the drafts were made.

Mr. Ross: Mr. McKay, at the time that this map was filed, this plan was filed, do I understand you to say that Mr. Gore had ceased to be Surveyor-General? A.—In 1892?

Q.—Yes. A.—Yes, sir.

Q.—And he was then Deputy Commissioner? A.—Yes, and Mr. Kains became Surveyor-General. I could not exactly give the date, but I think it was in 1891.

Q.—Mr. Kains, then the Surveyor-General, he would be the man who would have the immediate knowledge of the contents of such a plan as that? A.—Yes, it would come within his Department.

Q.—And there is no reason why the Deputy Commissioner should know about it, unless something special arose in regard to it? A.—No; in fact, when the survey, the Indian survey and plans were brought in, they would be filed away in the archives of the Department.

Q.—And he might never see them? A.—No.

Mr. Macdonald: You do not suggest that he did not know anything about it when this libel suit was brought? A.—I do not know how much he knew about it.

Q.—The thing was all looked over? A.—Yes.

Mr. Ross: Well, as I understand it, the libel suit only affected those Port Simpson lands? A.—Well, of course, the Tsimpsean Indian Reserve plan was used a good deal at that time. You see, it abuts on the Government lands there, due south of that you see.

Mr. Macdonald: You see this plan is filed on the 3rd February, 1892? A.—Yes, that plan was used in the Department.

Q.—You had only one plan of the reserve? A.—There are two plans filed. They are both alike, I think.

Q.—Duplicates? A.—I do not know whether they are duplicates or not, Mr. Macdonald, but they look very much alike.

Q.—Did I understand you to say that at the time the Minute of Decision of 1886 was sent into the Department there was a sketch accompanied it? A.—I do not know, sir, but there generally is. I think there is.

Q.—Well, have you looked to see whether in this case there is a sketch? A.—No; the description I put in the other day was the first I had seen of it—the decision.

Q.—You have not looked for a sketch which might have accompanied it? A.—No.

Q.—And the only plans that you have in your Department of the Indian Reserve, those plans show Kaien Island on them? A.—Yes, they showed part of it.

Q.—Do you remember the event of the proclaiming, or the gazetting, of the reserve? A.—No, I don't remember.

Q.—You never discussed that with Mr. Gore? A.—No. In fact, that was a matter which came up by someone putting in a claim in there. I think it was a Mr. Scott, of Metlakatlah.

Q.—Well, you have discussed that since with him as to what lands were contained in the reserve? What was your understanding about that?

Mr. Macdonald: Just a moment, Mr. Chairman. I cannot see how that has any possible bearing on it. We have had Mr. Gore in the witness-box.

Mr. Garden: He says that he has discussed it with Mr. Gore.

Mr. Macdonald: But it is mere hearsay evidence. We ought to follow with reasonable closeness the rules of evidence here.

Mr. Garden: My idea is to get at the facts, and as to what was always conceived to be the reserve there, and if he had any intimate knowledge.

Mr. E. B. McKay—*Concluded.*

Mr. Macdonald : Even if the witness had any understanding of it himself, and as to what took place at the time, it would not be evidence, but we might have let it in; but he says he has not any understanding of it. He was not Surveyor-General at the time; were you, Mr. McKay? A.—No, sir.

Mr. Garden : It was well understood in the Department that all the land north of that line was reserved.

Mr. Macdonald : But how can he say that?

Mr. Garden : Simply because it is a rule of evidence. Why, I should believe a man when he tells me he knows this to be a fact.

Mr. Macdonald : That is not a fact.

Dr. Young : We had Mr. Gore's testimony to that effect the other day. He said that the reserve was north of the land to the head of Work Channel, and extended to the eastern boundary of the Indian Reserve. That has been the understanding in the Department? A.—Yes, that has been the understanding.

Mr. Macdonald : When did you first hear of any such understanding? A.—I think probably Mr. Gore told us that the reserve covered the whole of the Tsimpsean Peninsula?

Q.—When? A.—I could not say when.

Q.—You are not sure of that? A.—No, I am not sure of the date.

Q.—If the reserve covered all of the Tsimpsean Peninsula, that included —? A. (Interrupting)—Everything between the Indian Reserve land and the Work Channel.

Q.—Not included in the Indian Reserve? A.—Yes, of course. We have been dealing with lands along the Skeena in the way of fishing and that, but anything north of that was not to be allowed.

Dr. Young : Well, then, in 1891 the reserve was put on by Mr. Vernon, and in 1892 the official plan of the survey was filed? A.—Yes.

Q.—The reserve was intended to cover, as Mr. Gore testified, the land north of this land, and abutting on to the Indian Reserve. You had nothing what you might call an official delineation of those lands until you had this Tuck's map, which was put in in 1892, had you? A.—No.

Q.—After the reserve was put on? A.—No, sir.

Q.—And there never was any question raised up to that time of any island, or anything else? A.—Not as far as I know.

Q.—The reserve was intended to cover the reserve as made by the Indian Department? A.—Yes, all the lands there at the head of Work Channel —

Q. (Interrupting)—On the Tsimpsean Peninsula? A.—Yes.

Inquiry here closed.

VICTORIA, B. C., March 6th, 1906.

I hereby certify the foregoing to be a true and accurate transcript of the evidence as taken by me in short-hand in the proceedings under inquiry herein.

(Signed) EULALIE BLYGH,
Official Stenographer.