

Hon. Mr. Wells—*Continued.*

“I think we will all agree that, while the result, up to the present time, has been somewhat disappointing, conditions within the Province are infinitely better than they would have been if the policy of the Company had been less progressive, or if the advice of those who are ever ready to attack the Company had been followed.

“Notwithstanding the practical collapse of the Rossland camp, the smelter at Trail has been kept going with the products of a very large number of small mines and of larger ones that were in a state of development. We are not without hope that, in the immediate future, the Trail smelter will be enlarged, other smelters will be established, and a refinery provided for the treatment of silver lead ores within Canadian territory. Every one of these enterprises means increased business for the merchants of Canada, and, in this connection, it might not be out of place to enquire how much trade British Columbia merchants have secured from the Northport smelter, where the large product of the mine at Rossland is being treated?

“The Company has no intention of halting in its policy. Having reached the Boundary District with an all-Canadian line, through difficulties that were almost insurmountable, it is not reasonable to assume that the terminus of the railway will remain at Midway for any long period of time, leaving the territory between that point and the Coast, south of the Company's main line, without facilities and exposed to incursions from other directions, to the serious business detriment of British Columbia; but we must be prudent in our expenditures, and must not attempt to accomplish too much within a limited period of years. We are not blind to the fact that, before a great while, the Nicola Valley will require transportation facilities, and will furnish warrant for the expenditure of a considerable amount of money in providing them. The district between Fort Steele and Golden, and the Similkameen District, will also need railways, and they have not been omitted from our programme, but, before taking steps to build either of these lines, we would like to see the railways already constructed in British Columbia producing a better return on the investment, as the result of the further development of the mines and of the agricultural and other resources of the district recently opened up.

“The crying need of British Columbia, at the moment, is not additional railway mileage at the expense of the Government, but more energetic work in the forest, fields and mines, as is apparent to every person familiar with the conditions that prevail in the Province, who has not been unduly influenced by the methods of railway speculators and contractors.

“I am justified in giving you the strongest possible assurance that the Company is willing to co-operate, to the limit of ordinary business prudence, with the Government and the people of the Province in promoting the best interests of the Province, and would view with extreme regret the adoption of a Government policy that might so affect this Company's interests in British Columbia as to make further extensions of our lines in that territory unwise and undesirable.

“Yours sincerely,

“T. G. SHAUGHNESSY,

“President.

“Hon. W. C. Wells,

“22, Prince Arthur Avenue, Toronto, Ont.”

A.—(Continuing). Presumably, I take it, that latter clause refers particularly to the proposition that I had made.

Mr. Green: That proposition that you made, Mr. Wells, to Sir Thomas, that memorandum that you submitted, that was made definitely on the understanding that that was your reason for refusing to deliver these grants? A.—It was made dependent upon the extending; that it was my reason. I made the proposition.

Q.—You made that a condition at that time? A.—Yes, certainly I did.

Q.—And this letter of Sir Thomas is in answer to that? A.—In answer to that.

Q.—Then he must either be misrepresented, or else he is wrong when he says that there were no conditions imposed? A.—Oh, I don't know that he said so; I have not seen that.

Q.—I am speaking of newspaper reports. A.—Those certainly were the conditions which were proposed by myself as indispensable for the surrender of those Crown grants; indispensable to the surrender. Well, after receiving that letter, I saw Sir Thomas Shaughnessy again. I remember saying to him that there was nothing for me to do but to take those Crown grants back with me. I remember one remark of Sir Thomas's; I cannot say just in what connection it was, but it was this: “Mr. Wells, if anything to do with those Crown grants is going to make your Government any trouble, or get them into any trouble, or yourself—I remember his emphasising that—we don't want them.”

Mr. Green: Sir Thomas said that? A.—He said that. “We don't want them if it is going to get your Government”—or mix your Government—I don't remember the exact words.

Q.—They have undoubtedly changed their minds since. A.—I cannot help that. But that is the remark he made to me,—“If it will embarrass your Government, or get you into any trouble, we don't want them”—or, “don't give them to us,”—I am not sure which.

Q.—Have you any idea what he referred to when he referred to getting you into trouble? A.—I don't know; but that is what he said. Those were his words; I remember them very distinctly.

Hon. Mr. Wells—*Continued.*

The Chairman : Have you anything further to say, Mr. Wells? A.—Well, nothing further, until I returned to Victoria; I got back here about the middle of December, somewhere between the 11th and 15th of December.

Mr. Helmcken : With the Crown grants? A.—With them, yes. There has been some question raised as to these Crown grants being in the possession of the Canadian Pacific Railway Company. I may say, in regard to that, that they never left my possession from the time that I took them from Victoria until the time I returned them here and they were rescinded on the 18th of March. And for that matter, the Canadian Pacific Railway Company never even saw them; while I was in Montreal I never took them away from the Windsor Hotel.

Mr. Green : And further than that, you say you went there with the distinct understanding with two other ministers that they were not to be delivered except on certain conditions? A.—Yes.

Q.—Which conditions you have stated? A.—Yes; that was the understanding. But understand me, it was Mr. Dunsmuir whom I sent for to submit the matter and to know from him whether he understood this fully.

Q.—Precisely. And Mr. Prentice was there? A.—Mr. Prentice was there.

Mr. Helmcken : Mr. Brown is reported this way, Mr. Wells—in answer to Mr. Curtis : “The President informed me that Mr. Wells had asked his consent to return to Victoria with these two grants, and they would be sent to him in 30 days. At the expiration of that time I called upon the Chief Commissioner, and the grants had not been sent as promised; and he assured me constantly that I need not worry, that they would be sent in due time. But that does not cut any figure. The fact is those grants were delivered when that fee was accepted.” A.—As to keeping them in my possession as custodian of the grants for the Canadian Pacific Railway Company, that is the purest nonsense in the world. There is no sense to it.

Q.—I see. That statement is incorrect? A.—And as to his interview with myself some time afterwards, I remember Mr. Brown coming to me; he came to my office to know if anything more could be done about these Crown grants—referring to them in some way—and I told him at that time that there was no possibility of the Government carrying out the conditions which were originally proposed. And as to saying that I would return them to Sir Thomas Shaughnessy—that is also sheer nonsense; nothing of the kind said. How he got that into his mind I cannot account for.

Q.—At any rate, you are quite positive you made no promise to Sir Thomas Shaughnessy? A.—I never made any promise at all to return those Crown grants to Sir Thomas Shaughnessy.

Q.—In 30 days. A.—No. In Montreal or at any other time. I think my subsequent actions bear me out in that.

Q.—Then, is it correct to say, as Mr. Brown says, that you assured him constantly that he need not worry and that they would be sent in due time? A.—I don't remember of seeing Mr. Brown but once; I remember his coming to my office once, and that was not at the expiration of 30 days; that was during the session.

Q.—But this expression of Mr. Brown—“He assured me constantly that I need not worry, that they would be sent in due time”—it is referring to you; do you recollect making any such statement? A.—I never made any such statement.

The Chairman : Have you finished the voluntary statements you wish to make about this? A.—I do not think of anything else.

Mr. Helmcken : Mr. Wells has not come up to the cancellation—the order rescinding. A.—I said in my statement to the House that these Crown grants—this proposition had never been accepted. Well, what was meant by that was that there never had been any expressed acceptance which would bind the Company; I think I made that matter clear. And what Mr. Brown says does not contradict my statement at all, when he says that he intimated an acceptance of it. I have no doubt, as a matter of fact, he did intimate that this proposition would be acceptable to the Company. And, as a matter of fact, I think I understood him that it would be. But that is what I meant in my statement to the House, that there had been no expressed acceptance by which the Company would be bound. And there never was, to my knowledge. My statement in the House, I think, was contradicted by Mr. Eberts in regard to a petition of right. Well, they certainly asked to have the Government intervene; they made an application to have the Government intervene, which would mean one and the same

Hon. Mr. Wells—*Continued.*

thing, except with this difference, that I suppose a petition of right would have been money damages, wouldn't it, Mr. McPhillips, instead of specific performance which they might gain by intervention?

Mr. McPhillips: A petition of right, practically, to illustrate it, it is practically a request to have the right to enforce any or all kinds of remedies that a person or corporation thinks they are entitled to, which otherwise they could not bring at all against the Crown.

Witness: I see. Apart from their request to have the Government intervene, I did understand at some time that they wanted a petition of right, although they did not make any formal application for it.

Mr. Helmcken: You say they certainly asked the Government to intervene; who do you mean by "they"? A.—The Canadian Pacific Railway Company.

Q.—The Canadian Pacific Railway Company; and they wanted a petition of right. How do you know that? A.—Well, I understood so from Mr. Eberts.

Q.—Mr. Eberts told you? A.—I understood from him, yes, some time.

Q.—Well, was the matter ever considered that if an application were made that you would grant them a petition of right, or rather recommend that a petition of right be granted? A.—I am not very clear about that.

Q.—But, at any rate, there was something said? A.—There was something said about the Company wanted a petition of right at some time.

Q.—Would that be in reference to the cancellation of the Crown grants? A.—Oh yes.

Mr. Green: Was the matter dealt with by the Executive? A.—I could not say as to that.

Mr. Helmcken: The petition of right, you say, is for the cancellation of the Crown grants; was that ever formally discussed? A.—Well, I cannot say as to that; I don't remember.

Q.—At any rate, there was no application made for submitting a petition of right to His Honour, asking for it? A.—No, no application that I know of.

Q.—By whom was that application made to Mr. Eberts or to yourself? A.—What application are you speaking of?

Q.—For granting a petition of right. A.—Well, all that I understood from Mr. Eberts was that the Company wanted a petition of right.

Q.—I understand. Who made that application on behalf of the Company? A.—Oh, I don't know about that.

Q.—By intervention—asking the Government to intervene, Mr. Wells—do you mean they would ask for a petition of right? Do you use the terms as similar? A.—No, the two words are distinct.

Q.—Because there was some talk of the Government being asked to intervene in an action pending? A.—Yes.

Q.—And that is distinct from a petition of right? A.—That is distinct from a petition of right, that I understood had been asked for.

Q.—That is what you consider, by using the term "intervention," it was in connection with the petition of right? A.—No, no; in connection with litigation. The intervention and the petition of right are two different things, of course.

Q.—Oh, yes. Well, the petition of right, then, was in connection with the cancellation of the two Crown grants? A.—Certainly.

Q.—The intervention was in connection with certain matters that are pending at present in litigation? A.—Yes.

Q.—Were either of these matters, question of petition of right or intervention, discussed by the Executive, Mr. Wells? A.—I don't know that there was any formal discussion at the Executive. I cannot remember just about that; but there appeared to be a conclusion that there should be no intervention. How that was arrived at just exactly, I am not prepared to say.

The Chairman: After the voluntary statement made by the Ministers, the usual order would be to ask Mr. Oliver to cross-examine.

Mr. McPhillips: And then any member of the Committee afterwards.

The Chairman: Yes. But Mr. Oliver, not being a member of the Committee, we have given him the opportunity of cross-examining first.

The Chairman: Is that all, Mr. Wells? A.—That is all.

Hon. Mr. Wells—*Continued.*

Mr. Oliver: Before I commence my cross-examination, would Mr. Wells make an explanation of the act of the Government with regard to section 4, which has not been dealt with at all in Mr. Wells's evidence.

The Chairman: You can put that in the form of a question.

Mr. Oliver: With respect to section 4 of the line of railway—you have only dealt with sections 1 and 3? A.—Yes; well, it was proposed by the Government, you know, to bring down a Bill by which the Company would be entitled to lands earned by the building and construction of section 4. What explanation have you in mind? I don't exactly understand the drift of your question.

Q.—We have the Subsidy Act before us as to the terms upon which the Company should receive these land grants; the terms of the Subsidy Act not having been complied with; and by the evidence given before this Committee it appears that a proposition was made that the Government should in 1901 bring down a Bill to give the Company the lands in respect to section 4; and a Bill was brought down in the Session of last year to give them. Now we want some explanation as to what led up to that action being taken by the Government? A.—Well, it was admitted by the Government—or assumed by the Government—that there were conditions which would displace the terms of the original Subsidy Act and would entitle the Company, although they did not build sections 5 and 6, would entitle them to the subsidy earned under section 4.

Q.—Will you tell us what those conditions were, Mr. Wells? A.—The conditions under which they were to receive—

Q.—Under which the Company would be entitled to receive the land for section 4?

A.—Well, I don't catch on to exactly what you mean. They did build section 4.

Q.—Yes. A.—They had built section 4, and, as we consider, had been relieved or released from the conditions which were imposed upon them by the Subsidy Act.

Q.—You say you consider they were relieved from the conditions imposed upon them by the Subsidy Act in respect of section 4? A.—Section 4.

Q.—Now, will you tell us in what manner the Company had been relieved? A.—Well, the Government had entered into an agreement with Mackenzie & Mann for the construction of the road from Penticton and Midway to the Boundary.

Q.—Yes. A.—And, as I understand it, it was intended to release the Canadian Pacific Railway Company, or the Columbia and Western, from the construction of road covering the same ground.

Q.—You say it was intended to release them? A.—Yes. That was the practical effect of it.

Q.—Was that intention ever carried into effect? A.—To release them?

Q.—Yes. A.—Well, there was an agreement sent by—some agreement sent by Mr. Shaughnessy to the Turner Government, dated the 8th of July, previous to their going out of office. I can only say what I understood was the intention of the Government, to carry that agreement out.

Q.—It was the intention of the Government to carry that agreement out? A.—So I understand. I was not in the Government at that time.

Q.—Did you ever see that agreement, Mr. Wells? A.—Yes.

Q.—Well, as a matter of fact, does that agreement relieve the Company of the responsibility of building those two sections of the road? A.—I cannot speak definitely as to the terms of that agreement.

Q.—What is your opinion? A.—I am not prepared to express any opinion about it.

Q.—Well, will you say it did relieve them? A.—I won't say anything of the kind yet—

Q.—Mr. Wells, you have told us that the Government assumes that they were relieved? A.—Yes.

Q.—Now, what basis have you for that assumption? A.—Because they built the road. They did build the road, and Mackenzie & Mann were to continue that road from Midway to Penticton.

Q.—I beg your pardon; the relief that you speak of is the relief of the Company from building sections 5 and 6? A.—Yes.

Q.—Now, in what way was the Company relieved? A.—By a contract with Mackenzie & Mann.

Hon. Mr. Wells—*Continued.*

Q.—That does not refer to it; there is nothing in that contract to that effect? A.—I think it would relieve them, if you ask my opinion; I think it would release the Canadian Pacific Railway Company from construction of that road.

Q.—Well, would you point out anything in that contract that could be so construed? A.—I don't think it was ever the intention of the Government to bonus two roads.

Q.—That is another proposition altogether. I want you to point out something in the contract with Mackenzie & Mann which would show that the Columbia and Western Railway Company were relieved from building sections 5 and 6. A.—Well, Mackenzie & Mann first intended building that road on to Robson, and there appears to have been an understanding arrived at by which the Canadian Pacific or Columbia and Western would extend their system on to Midway, and that Mackenzie & Mann would forego extending their road on to Robson, but it terminated at Midway, so that we would then have a complete system by the Columbia and Western extending theirs to Midway and continued by Mackenzie & Mann.

Q.—Now, you say, Mr. Wells, that there appears to have been an understanding arrived at? A.—Yes.

Q.—Have you anything to show how that appears? Was that appearance ever given effect to? A.—Well, I can only—I have no personal knowledge of it except that it is reported to have occurred by a visit of Sir Thomas Shaughnessy in 1898, I think it was, at which that understanding was arrived at, and was to be concluded by an agreement which he was to send down later.

Q.—Now, Mr. Wells, as a matter of fact, do you know any circumstance which would justify you in assuming that the Company had been relieved of the responsibility of building sections 5 and 6 of their line of road? A.—I think the circumstances of the Company entering into a contract with Mackenzie & Mann—

Q.—The Company? A.—The Government entering into a contract with Mackenzie & Mann would practically release the Canadian Pacific, or the Columbia and Western, from building that road.

Q.—You say that? A.—I do; that is my opinion. I stated that once in the House.

Q.—Now, will you point out how that is; how a contract entered into with Mackenzie & Mann could affect a contract entered between the Government and the Columbia and Western Railway Company? A.—Well, unless it was accompanied by some other understanding or agreement, I don't know that it would—that it would actually release them; but taking the whole circumstances together, and the fact that Mr. Shaughnessy, when he was out here, agreed to this—Mackenzie & Mann terminating their system at Midway, not extending it, as they originally intended, to Robson, and that they would terminate theirs at Midway, was, I think, a practical renouncement that the Government has any claim upon the Columbia and Western to build that section of road.

Q.—As a matter of fact, could Shaughnessy have prevented Mackenzie & Mann from building to Midway if they had so wished? A.—I don't suppose he could.

Q.—No. Why was it necessary that Mr. Shaughnessy should agree to Mackenzie & Mann building the road? A.—I don't know that it was necessary; but that was agreed, as I understand it. Sir Thomas Shaughnessy, I think, was asked to by the Government.

Q.—Where is the agreement that was made between the Government and the Columbia & Western, by which that Company gave up their right? A.—There is no agreement at all consummated. As I say, there was an agreement sent out, and the Turner Government went out of power very soon and that was not carried out.

Q.—You understand the Government went out of power then and that is the reason why that agreement was not consummated? A.—I am told so. I was not in the Government.

Q.—As a matter of fact, by that agreement does the Company relinquish their rights to build the fifth and sixth sections? A.—I don't know what the terms of the agreement are.

Mr. Helmcken: You better show him the agreement. A.—I have read the agreement, but I cannot say what the terms are from memory.

Q.—(Agreement handed to witness). You say you have read this agreement? A.—Yes, I have.

Q.—Will you look that agreement over, please. A.—(Looking at agreement). Yes, the purport of this proposed agreement is evidently to substitute a cash bonus for the construction of that portion of the road from Robson to Midway; to terminate there.

Q.—That is the purport of that agreement? A.—I understand so.

Hon. Mr. Wells—*Continued.*

Q.—You say that that agreement was an agreement which, had it not been for the Government's retiring from power, would have been carried out; that is your understanding?  
A.—I have been told so.

Q.—And it is under that agreement that the Company surrendered their right to build the fifth and sixth sections? A.—Which?

Q.—It is by virtue of that agreement that you presume that the Company surrendered their right to build the fifth and sixth sections of the road? A.—Well, they proposed to by that agreement.

Q.—They proposed to by that agreement. And you think, then, that because that agreement was made and not finally consummated, that it is the duty of the Government at the present time to carry that agreement into effect? A.—I would say so; yes.

Q.—You say so? A.—I do.

Q.—Now, Mr. Wells, following out that, if it was the duty of the Government to give effect to that agreement, would not the Company be entitled to receive cash for the portion of their line between Midway and Robson instead of land, which you are purporting to give them?  
A.—Well, I understood from them at the time, at the time that we proposed to re-instate them in their rights, that they were willing either to take a cash subsidy or land.

Q.—Well, Mr. Wells, I would like to have a straight answer to this. A.—Well, what is the question?

Q.—The question is this: As I understand you, you consider that it is the duty of the Government to give effect to that agreement, although it was in effect never legally carried out; that is your position? A.—Yes, I do.

Q.—Then, in giving effect to that agreement, would you not give the Company cash instead of land, which that agreement purports to give? A.—No, I don't think necessarily we should.

Q.—Is not that what the purpose of that agreement is? A.—They propose to take cash instead of land.

Q.—That is the purport of that agreement. A.—It does not change the principle of the thing at all, that they were entitled to their subsidy for section 4.

Q.—I am not asking that. A.—You ask the question as it suits you.

Q.—I am asking you, in carrying out that agreement, as you say that you consider the Government is in duty bound to carry out that agreement? A.—I contend this, that they are in duty bound to carry out some settlement by which they would be entitled to their subsidy, their subsidy with respect to section 4, whether in cash or lands.

Q.—That is not the question. I understood you to say you considered it was the duty of the Government to give effect to that agreement, although it had never been legally consummated. A.—It would be practically giving effect to that agreement with respect to section 4 by giving them lands, and we preferred giving them lands instead of cash.

Q.—Would they not be entitled to the lands by virtue of the Subsidy Act, without any agreement at all? A.—Well, they have not—they have forfeited their right to the lands from the fact that they did not complete sections 5 and 6 within the time prescribed by the Subsidy Act; there is no doubt about that.

Q.—Now, Mr. Wells, put it in another way. In the settlement you are making with the Company, are you proceeding under the Subsidy Act, or are you proceeding by virtue of that agreement? A.—Taking the two together.

Q.—You are taking the two together? A.—Yes.

Q.—And the Subsidy Act says the Company shall not be entitled to receive the subsidy for section 4 until section 5 is completed? A.—Yes; but, as I said before, there are subsequent conditions which replace the conditions in that Act.

Q.—And those are embodied in that agreement? A.—In the agreement with Mackenzie & Mann; not in this agreement, but in the agreement with Mackenzie & Mann, and to which, as I understand, Sir Thomas Shaughnessy was agreeable when he came out here.

Q.—You constantly refer back to the agreement between Mackenzie & Mann. Will you please explain how an agreement made between the Government and Mackenzie & Mann can affect an agreement made between the Government and the Columbia and Western Railway Company? A.—It was an agreement arrived at on the part of the Government, Mackenzie & Mann and Sir Thomas Shaughnessy all together. It was a mutual agreement.

Hon. Mr. Wells—*Continued.*

Q.—Have you anything to show what that agreement was? A.—Nothing further than that Sir Thomas Shaughnessy came out here and agreed to it, and it is incorporated in the agreement that he sent out. That agreement, if you wish to take advantage of the fact that the Turner Government went out, and it was not completed, you can do so, but it would be a very improper thing to do.

Q.—But the Columbia and Western surrendered their right to build the fifth and sixth sections; that is your contention? A.—Yes; by reason of the fact that the Government entered into an agreement with Mackenzie & Mann to build the road, and accepted by Sir Thomas Shaughnessy afterwards.

Q.—Do you understand by virtue of that agreement you have before you that the Company surrendered their right to build the fifth and sixth sections of the road? A.—Well, I think that, taking that agreement as corroborating a previous agreement entered into with Mackenzie & Mann, and to which Sir Thomas Shaughnessy was a party, that it would—that they were released from it.

Q.—And do you think that agreement corroborates the former one, of which you now speak? A.—Yes; I think it does.

Q.—Are you aware of the fact that in this agreement the Company reserve their right to the land subsidy for sections 5 and 6 of the road? A.—They naturally would if this agreement was not carried out.

Q.—But if this agreement was carried out? A.—If the agreement was carried out they certainly would not be entitled to any land subsidy. I think it expressly says so here.

Q.—No; I think it expressly says that they reserve their rights, if you will look at it. A.—(looking at document again)—Well, I don't think it says anything of the kind; I think it says the very contrary.

Q.—Well, what is the meaning of this provision—now, this is an agreement to substitute cash for land for that portion of the road between Robson and Midway, is it not? A.—Yes.

Q.—Then what is the meaning of this provision, “Provided that nothing herein shall affect the right of the contractors to any land grant to which they may be entitled in respect of their railway already constructed between Rossland and Robson”? Does not that reserve the right to the Company of the land grant for that portion of the road between Rossland and Robson? A.—They had already built that.

Q.—Yes; and this reserves their right to the land grant for that? A.—Yes.

Q.—Then it goes on to say, “or any portion of their railway other than that which they have herein contracted to construct as aforesaid.” Isn't that reserving their right to the land grant for the other portion of the railway? A.—It may not mean that; it may be that it was some other part of it; it does not necessarily mean that.

Q.—Now, Mr. Wells, put it in another way. This line of railway, in its entirety, extended from Rossland to Penticton, did it not? A.—From Rossland to Penticton; yes.

Q.—And from Trail south-east of the International Boundary? A.—That was abandoned.

Q.—That was abandoned? A.—Yes; that is section 2.

Q.—So that for the purposes of this discussion section 2 does not enter into consideration at all? A.—No; it is cut out.

Q.—Now, that portion of the road between Rossland and Midway constitutes sections 3 and 4 of the line of railway, does it not? A.—Three and four; yes.

Q.—And that portion of the line of railway from Rossland to Robson constitutes section 1, does it not? A.—Rossland to Robson; yes.

Q.—Very well; then what other portion of their road would they be entitled to a land grant on, Mr. Wells, had they got it? A.—I don't know of any other.

Q.—They would be entitled to a land subsidy for sections 5 and 6 had they completed their line of road, would they not? A.—In time; yes.

Q.—Very well; then this provision could refer to no other portion of the road except 5 and 6, could it? A.—Well what the intention of that may be, possibly that in case that this were not carried out, if the whole thing fell to the ground. They certainly would not want to forfeit any rights that had accrued to them under that Subsidy Act.

Q.—But supposing this was an agreement already signed by the Company and waiting the signature of the Government to become effective—is it not? A.—Yes, it would appear so.

Hon. Mr. Wells—*Continued.*

Q.—Very well; had this been signed on behalf of the Government, would it not have reserved to the Company the right to receive the land subsidy for sections 5 and 6 when they had built it? A.—Well, I cannot understand that in the sense of that at all, for Mackenzie & Mann were going to build it by their agreement.

Q.—But Mackenzie & Mann are not mentioned in this agreement, Mr. Wells. A.—I know that. I cannot understand any sense in that at all.

Q.—As a matter of fact, had this agreement been given effect to, would not the Company have been in the position to enforce the payment of the land subsidy for sections 5 and 6, had they built it within the terms of the Subsidy Act? A.—Oh, if they had built 5 and 6, they would assume they had a right to the subsidy.

Q.—Wouldn't they have a right to enforce that? A.—If they had built it, yes.

Q.—Then, how can it be construed that they relinquished their rights by this agreement, when they especially reserve them? A.—Well, I don't know what the effect would be exactly; I am not prepared to say. They, in the first place, agree with the Government and with Mackenzie & Mann that they will only build to Midway, and that Mackenzie & Mann will build from Penticton to Midway. There is no doubt about it that they forego their rights to build the road through.

Q.—You say they agreed with the Government not to build any further than Midway? A.—Yes.

Q.—Well, where is that agreement? A.—There is no agreement in existence, no written agreement in existence; as I understand it, that agreement was had when Sir Thomas Shaughnessy was out here. I don't know what their object was in having that reserving clause; I cannot exactly account for it.

Q.—Does not the fact that that clause is incorporated in that document emphatically contradict the statement that they had relinquished their rights only a few days previously? A.—I cannot say what their object in putting that in there is.

Q.—Well, it is there, isn't it? A.—It is there.

Q.—And it would have that effect, wouldn't it? A.—If they built the road.

Q.—If they built the road? A.—Yes.

Q.—And you say there is no agreement in existence by which they relinquished their right to build? A.—There is no written agreement, that I know of.

Q.—There is no written agreement. There is no agreement, in fact, that could be enforced, is there? A.—No agreement, what?

Q.—There is no agreement between the Government and the Company whereby the Company relinquished their rights to build sections 5 and 6, which could be enforced? A.—Certainly, as I understand it, there was an agreement arrived at by which they were to build to Midway only.

Q.—But you have nothing beyond just simply an understanding, to show that that is the fact? A.—What I understand to have been the agreement arrived at; I know nothing more about it.

Q.—You have absolutely nothing to show for it? A.—I know nothing more about it, except what I am told.

Q.—Now, Mr. Wells, is it consistent with that position that a clause of this kind should be put in this agreement? A.—I think that their contention was, their whole contention was, that they would preserve their rights in case Mackenzie and Mann did not build that; that is the only construction I could put upon it. And they would have the right to do so.

Q.—But, as a matter of fact, Mr. Wells, did not the Company after this supposed agreement—did they not take the necessary steps required by law so as to enable them to build the fifth and sixth sections? A.—That is not inconsistent with it.

Q.—Not only that, but did they not, as a matter of fact, in 1900 file the plans and book of reference showing their line of road from Midway to Penticton? A.—Well, was not that after the Public Works Act had been repealed?

Q.—I am not dealing with that at all. A.—One naturally follows the other. They would have a right to protect any rights accrued to them before that; because it could be safely assumed by them that Mackenzie & Mann were released from their contract and that it had fallen through. As a matter of ordinary business prudence, they would have a right to protect themselves with reference to that.



Hon. Mr. Wells—*Continued.*

Q.—Did they not, as a matter of fact, file their plans and book of reference preparatory to building that road? A.—I don't know as to that.

Q.—You know, of your own knowledge, Mr. Wells, that the Company did get an extension of time in 1901 for building those two sections? A.—I remember some Bill referring to that; I cannot say exactly what the provisions of it were, However, I can fully understand their bringing in a Bill like that, protecting them by preserving any rights that had accrued to them.

Q.—So that, as a matter of fact, the Company never did surrender their rights? A.—There was an agreement between the Government and them that they would surrender their rights; there is no question about that.

Q.—Well, Mr. Wells, there is a great deal of dispute as to whether there is an agreement of that kind, and we are trying to find out some foundation for that assertion. A.—You will have to get it from somebody else besides me, because I was not in the Government at that time.

Q.—And you don't really know whether there was or not? A.—I don't know, only what I am told; I have said that from the outset.

Q.—Well, Mr. Wells, a year ago you introduced a Bill by a message from the Governor to give to the Railway Company the land subsidy for section 4, did you not? A.—Yes, I think I did.

Q.—And in that Bill you make the statement that the Company had surrendered its rights to build the fifth and sixth sections of the line of road, do you not? A.—I presume I referred to that agreement they had entered into.

Q.—(Handing copy of Bill to witness). You state there that the Company had surrendered their rights to build the fifth and sixth sections of the road? A.—I think they had, by their agreement between the Company, the Government, and Mackenzie & Mann; that is the first agreement I speak of.

Q.—As a matter of fact, you don't know whether they had? A.—I was told so by the Government; they stated at that time, at least Mr. Turner and Mr. Eberts.

Q.—You were told that? A.—Yes.

Q.—And that is all the knowledge you had of it? A.—I might have had other knowledge, I don't remember just now; I might have had a knowledge of what occurred otherwise at the time; I don't remember just now, though.

Q.—You told us a little while since, Mr. Wells, that the Company agreed that they would surrender their rights? A.—That was the agreement, as I understand it, between Mackenzie & Mann, the Government and the Canadian Pacific Railway—the Columbia and Western.

Q.—And when you put that statement in the Bill of last Session you knew nothing as to their surrendering their rights, except from what someone else told you? A.—Certainly, what I understood from Mr. Turner and Mr. Eberts and those who were in the Government at the time.

Q.—There is another matter in this Bill I would like to draw your attention to, Mr. Wells. Under the original Subsidy Act the Railway Company was to take its lands in blocks six by sixteen miles on either side of the line of railway? A.—Yes.

Q.—And any deficiency was to be made up by lands in localities as near as practicable contiguous to the line of railway? A.—Yes.

Q.—But in this Bill of last year it gives the Company the right to select their lands anywhere in Yale and Kootenay Districts, does it not? A.—Yes.

Q.—Will you explain to the Committee the reason why there was that change? A.—Well, as a matter of fact, we may have run out of lands contiguous to the line of railway.

Q.—As a matter of fact, you say? A.—We may have run out of lands contiguous to the line of railway in settling up for the whole system; and I think we would. I think, upon a close computation, you will find we would not have lands contiguous to the line of railway, unless you take mountain tops; you can get any amount of them.

Q.—Do you know, as a matter of fact, whether there were lands contiguous or not which could have been given for this purpose? A.—I don't think there were.

Q.—You don't think there were? A.—Not if we settled up with them and gave them compensation for their entire system, we would not have lands contiguous to the line of railway for the whole thing. Because, as it stands now, I think section one takes all the lands down to—I forget about that—down to Christina Lake, I think.

Hon. Mr. Wells—*Continued.*

Q.—Now, as a matter of fact, Mr. Wells, in regard to these deficiency lands, did you make any inquiries as to whether there were lands reasonably contiguous to the line of railway, before you introduced this Bill? A.—I cannot tell you about that from memory. (Looking at plan.) Section 3 terminates at the foot of Christina Lake. And to compensate them for that it takes all the lands clear down to Penticton. And I don't think we would have had lands sufficient contiguous to the line of railway to compensate them for section 4. It certainly does not look as if we had. And I think I made inquiry about that at the time.

Q.—You think you made inquiry? A.—I think I did.

Q.—You are not sure? A.—I am not very sure about it.

Q.—Do you know how many acres of land were reserved, Mr. Wells, for the purpose of making this Columbia and Western Railway subsidy? A.—Yes, including the final reserve that was made, which would form a block, say, from Penticton or some point north of that straight across here; I think it would take about 3,000,000 acres of land all told.

Q.—As a matter of fact, Mr. Wells— A.—But that is not contiguous to the line of railway.

Q.—I will deal with it after. As a matter of fact, did not the Columbia and Western Railway Company ask for a reserve of some 4,440,000 acres? A.—It might be 4,000,000. I said in round figures 3,000,000.

Q.—As a matter of fact were there not 4,440,000 acres of land reserved? A.—I don't know; I cannot say about that.

Q.—I would like to have that reserve shown to Mr. Wells. A.—Assuming that they are—

Q.—No, we are not going to assume anything in regard to this, Mr. Wells. Take the map that Mr. Gore left here, and the Order in Council reserving the lands. (Same were produced.)

Mr. Green: Mr. Gore said, Mr. Wells, that all within this purple line, about 4,400,000— A.—That I don't know, how many acres.

The Chairman: But there was a large quantity of that alienated, according to what Mr. Gore said; I think he said a million and a half or two millions not alienated. A.—That is what I say, about two millions in that block.

Mr. Oliver: There is the Order in Council approved the 5th June, 1896, and you will find the block of land described there as 4,440,000 acres. A.—Yes, I know.

Q.—Now, out of that 4,440,000 acres how much have been granted to the Company? A.—I cannot tell you without referring to my memoranda.

Q.—There have been only 800,000 acres granted to the Company in respect of the first section? A.—I cannot tell you now. I can get those figures for you in a minute.

Q.—Well, for sections 1, 3 and 4 the Company was entitled to receive, approximately, two and a half million acres, were they not? A.—I should say so, yes.

Q.—Were there not ample lands in 4,440,000 acres for that? A.—Yes, if they wanted to take mountain tops and away from the line of railway, you could find them there. But the Company, as a matter of fact, objected to taking those lands or having anything to do with them.

Q.—As a matter of fact, the Company objected to it? A.—I remember that.

Q.—As a matter of fact, Mr. Wells, was not this reserve made at the request of the Company itself? A.—By one of the officers of the Company, I think it was—an engineer, one of their engineers—Mr. Tye, I think.

Q.—He was acting on behalf of the Company? A.—I don't know whether he was acting on behalf of the Company or not; it was at his request. It was only a short time ago, in getting what information I could, that I came across this.

Q.—As a matter of fact, the Government reserved this 4,440,000 acres for the purpose of the Company selecting their lands out of that, did they not? A.—Yes, no doubt about that.

Q.—Is it possible, Mr. Wells, to get the whole of that two and a half million acres immediately contiguous to the line of railway? A.—No, it is not.

Q.—Then the terms of the Subsidy Act said it must be taken in localities as near as practicable contiguous? A.—Yes.

Q.—Very well. Now, what I want to get at is this: why did you depart from the language of the Subsidy Act in regard to the lands to be granted for section 3? A.—Well, it appears that we have—we might take that power.

Q.—You might take that power? A.—We might take that power. The Subsidy Act has been construed in this way, that although we were directed—it directs us as to how these lands shall be taken—at the same time it is discretionary upon the part of the Government, and we might depart from it.

Hon. Mr. Wells—*Continued.*

Q.—And you also have been advised contrariwise—that you have not that power? A.—Yes; Mr. McCaul's opinion did not exactly correspond with the first opinion I had in that respect.

Q.—Now, Mr. Wells, there must have been a reason for departing from the language of the Subsidy Act in this Bill which we are now dealing with, and I want to know what your reason was? A.—Well, as I explained to you first, we had given those lands to the B. C. Southern—

Q.—I asked for the reason why the language of the Subsidy Act was departed from in this Bill? A.—Well, I started to explain to you that the Company practically held those lands under their subsidy to the B. C. Southern, and we were asked to transfer those lands, as a part of the B. C. Southern subsidy, to the Columbia and Western. Now, as a matter of fact, it was practically the same Company. And I presume that the reason—one of the reasons—which actuated us was that it would make no difference to us; it was a matter of domestic concern to them and no other, and if for any reason they wanted that British Columbia Southern subsidy, we might have no objection. That, I presume, was the reason that actuated us at the time. I know it did myself, as far as I am concerned.

Q.—Now, I would like to know what reference that answer has to the question I asked? A.—I think it has a direct bearing on it.

Q.—I asked the reason why they varied from the language of the Subsidy Act in the Bill of last year? A.—I am telling you—that these lands belonged to that Company.

Q.—Which particular lands do you now refer to? A.—The two blocks that you are speaking of.

Q.—I am not speaking of any two blocks at all; I am asking you for the reason that you departed from the language of the Subsidy Act as to where that Company might take their lands? A.—By giving them those two blocks?

Q.—I did not mention the two blocks at all. A.—That is the only way in which we did part with them. You must have meant that.

Q.—As a matter of fact, these two blocks had been given away months before this Bill was introduced into the House.

Mr. Green: What Mr. Oliver wants to get at—he is talking about this Bill that was introduced, which departs from the language of the Subsidy Act, inasmuch as the language of the Subsidy Act says that the lands shall be taken up contiguous to the line of railway—

A.—Yes.

Q.—and this Bill says they shall be taken anywhere in Kootenay and Yale Districts. A.—I cannot give you—I cannot remember what was the reason of that.

Mr. Green: I think that is all that Mr. Oliver wants to get at.

Mr. Oliver: Then I understand you to say you don't know now the reason why the change was made in that way? A.—I cannot attribute any particular reason for that.

Q.—The Crown grants for these two particular blocks, 4,593 and 4,594, in South-East Kootenay were purported to have been cancelled on the 18th day of March, 1902? A.—Yes.

Q.—And this Bill was introduced into the Legislature on the 22nd day of May following, was it not? A.—Yes, I presume so; you have it there.

Q.—Very well. Now had this Bill become law, would not the Railway Company have had the right to go and select those two blocks of lots 4,593 and 4,594 as part of the subsidy for section 4 under the terms of this Bill? A.—I think the intention of this Act would be to conform to the terms of the original Subsidy Act.

Q.—You think so? A.—I think so; that was the intention of it, yes.

Q.—Then we will have to turn to the Subsidy Act? A.—Because the original Subsidy Act defines the Districts of Yale and Kootenay within which they were entitled to their lands, and I think this was simply intended to confirm that and reinstate them in their rights which existed at that time. That is what I infer from it.

Q.—Well now, Mr. Wells, the language in the original Subsidy Act is as follows, section 6 of chapter 8, Statutes of 1897 (reading section 6). Now, I wish to point out, Mr. Wells, that this restricts the lands to be granted to the Company to localities as near as practicable contiguous to the said line of railway, whereas the Bill of last year gave the Company the absolute right to select lands anywhere in Yale and Kootenay Districts; and I would like to know a reason why this privilege should have been given to the Company? A.—The only answer I can make to that—I think I stated it in the House some time ago—that the purport

Hon. Mr. Wells—*Continued.*

and object of that Bill was simply to reinstate the Company in whatever rights they had under that Subsidy Act. That was the object of that Bill. And although it says Yale and Kootenay, that was expressly provided for in the original Act. But that is the object of the Bill.

Q.—Now, is there any reference in this Bill to the original Act, Mr. Wells, that the lands shall be given on the same conditions that they were in the original Act? A.—I don't know that the Government would be compelled to go outside of what were the provisions of the original Subsidy Act. That might be a matter of agreement between the Company and the Government.

Q.—I would like to call your attention to section 2 of this Act. It says "it shall be granted to the Company." That gives the Company an imperative right to have these lands granted. A.—What you are getting at is, whether we would be obligated to give them lots 4,593 and 4,594? We would not have to give them to them.

Q.—Why? A.—Because the lands were reserved; it was under reservation.

Q.—Then you say that the Company could not get blocks 4,593 and 4,594 under the terms of this Act, if it had become law? A.—They could not, unless we liked.

Q.—Can you tell us whether you would have liked or not? A.—I cannot tell you anything of that kind.

Q.—You will not say whether the Company could have got them? A.—Not without the consent of the Government.

The Chairman: It is half-past twelve.

Mr. Oliver: I am not through my examination yet.

Mr. Green: Just two or three questions I would like to ask. (To witness). Mr. Eberts says that you were back two months from Montreal before he was informed that those Crown grants were not delivered. A.—He said one month, first.

Q.—He said one to two months? A.—He said one to two months.

Q.—Is that a fact? A.—Well, I cannot say. He says so. But I must have communicated the fact to the Government, because other members of the Government knew it. If Mr. Eberts says he did not know it, I am bound to believe him. I cannot understand it though. Other members certainly did.

Q.—You stated to Mr. Oliver a few minutes ago that you believed that an agreement had been reached by which the Company did not have to build sections 5 and 6 and they were relieved from that, and, therefore, had earned the subsidy under section 4.? A.—That they were equitably entitled to it.

Q.—Then why, in your memorandum to Mr. Shaughnessy, did you say this: "Your Company has earned the land subsidy for section 4, but is not entitled to a Crown grant until section 5 has been constructed"? A.—Yes, that is strictly under the Subsidy Act.

Q.—Then, as a matter of fact, they were not entitled to it until section 5 is built? A.—Under the terms of the Subsidy Act, yes. I am speaking there by the Subsidy Act.

Q.—Then, according to your own memorandum to Mr. Shaughnessy, they had not been relieved from building section 5? A.—They had not been relieved from it.

Q.—Yes? A.—I don't say so; I say they were not entitled to the lands in respect of section 4, that they had forfeited it for that reason.

Q.—You say they were not entitled to it until section 5 had been constructed? A.—Yes.

Q.—And yet you said to Mr. Oliver, a short time ago, that they had been relieved from it pursuant to this agreement? A.—Yes, in one sense they have. I consider they have an equitable claim to that agreement which the Government entered into between Mackenzie & Mann, and the Company as well.

Q.—But you, acting for the Government, at Montreal,—evidently the Government didn't believe that, because you say, "You are not entitled to Crown grants until section 5 is built"? A.—Until so and so, yes. Of course there was some discussion about it, if we had entered into that agreement it would have relieved the Government and the Company from any further difficulty about it.

Q.—I understood you to tell Mr. Oliver that that agreement had not been entered into? A.—What agreement?

Q.—With reference to not building sections 5 and 6? A.—I say the agreement, when entered into, would, in my opinion relieve them from it. I know there was some difficulty about it.

Hon. Mr. Wells—*Concluded.*

Mr. Helmcken: You stated that lots 4,593 and 4,594 belonged to the British Columbia Southern Railway Company? A.—By an Order in Council it had been given to them.

Q.—They owned those lands? A.—Well, as far as we could give them a title under an Order in Council. They had not been Crown-granted.

Mr. Oliver: Before you adjourn, Mr. Chairman, I would like to ask whether that other correspondence has been produced yet. I would like to call the attention of the Committee to the way in which we are deprived of the correspondence days and days after it has been asked for.

Mr. Helmcken: There were some street rumours that Mr. Brown referred to, that the agent at Fort Steele had received instructions to advise the public that those lands were granted.

The Witness: I may say, I asked Mr. John yesterday, or the day before, if there was any correspondence, and, if so, I would like to know what it was; up to the present time he has not been able to find any correspondence.

Mr. Helmcken: A letter from Mr. Brown to the Chief Commissioner in 1901, and the copy of the covering letter with the Order in Council. And there is also a statement made by Mr. Brown that the Government Agent at Fort Steele had been instructed to throw open the lands.

The Witness: Yes, I noticed that in Mr. Brown's evidence; and I have been endeavouring to find out what correspondence there was, if any; and I have not, so far, been able to get at anything.

The Chairman: If there is anything in your Department you will produce it? A.—Yes. I spoke to Mr. John about it.

Mr. Oliver: There is another letter I would like to have produced. I would like this Order in Council produced that Mr. Wells referred to in his evidence this morning, with regard to the grant and rescinding of grants to the B. C. Southern; and I would like to have the production of any telegrams passing between Mr. Wells and Mr. Shaughnessy.

The Witness: Since when?

Mr. Oliver: Since day before yesterday, or since this Committee has been appointed.

The Witness: I can tell you right now there have not been any.

Mr. Oliver: None at all; if there are any, you cannot produce them?

The Witness: Well, there have not been any.

The Chairman: Will you be here again to-morrow at ten o'clock, Mr. Wells? A.—Yes.

The Committee here adjourned to 10 a. m. to-morrow.

FRIDAY, May 1st, 1903, 10:00 A.M.

The Committee met pursuant to adjournment from yesterday. Present: Messrs. Clifford (Chairman), Helmcken, K. C., Green, A. W. Smith and McPhillips, K. C.

Mr. Gore produced certified copies of the two cancelled Crown grants to blocks 4,593 and 4,594.

The Chairman: I received a telephone from Mr. Wells stating that he felt very ill indeed, and if the Committee would give him permission not to attend this morning he would be very much obliged; he said, if it was absolutely necessary, he would come over in a hack. He did not know whether he would be able to be in the House this afternoon. We can hardly expect him to be brought over under those circumstances; and it is suggested that Mr. McNeill be examined; he is here for examination.

MR. WILLIAM MCNEILL, being duly sworn, testifies as follows:—

The Chairman: This Committee, Mr. McNeill, was appointed to inquire into all matters relating to the granting, or proposed granting, of a land subsidy to the Columbia and Western Railway Company. Now, can you throw any light upon that; if so, we would be very glad to hear what you know about it. A.—Well, now, the matter is not one that comes within the scope of my knowledge; but I have this to say, that Mr. Brown, the Executive Agent of the C. P. R., came into my office about the 31st day of July, 1901—it may have been the 31st day of July—with a letter, a sealed letter, addressed to the Chief Commissioner; he asked me if Mr. Wells was in, and I said no, that Mr. Wells was out of the city and would not be back for

Mr. McNeill—*Continued.*

a few days. And he asked if I knew that the Executive were sitting, and I said that I had reason to believe that they were sitting then at that moment. Then he asked me if I would take this letter into the Executive meeting and hand it to Mr. Dunsmuir, as it was a very important matter and he wished the letter to be delivered. I did that; and gave him the letter. Then, some time after that, on the same day, Mr. Dunsmuir sent for me, and I went to him; and he gave me a message to the effect that I was to tell Mr. Wells when he returned that he was to see Mr. Turner and get instructions from him regarding the subject-matter of the letter which I had previously delivered to the Executive—to Mr. Dunsmuir. And that message I gave Mr. Wells when he came back.

Mr. McPhillips: Did you ever see that letter that you refer to, I mean the contents of it, Mr. McNeill? A.—I cannot say that I did.

Q.—You cannot identify it in any way, I mean. Do you know what it was dealing with? A.—No, I could not say that.

Q.—Well, following that, what were any of the later matters? A.—Then my knowledge ceases.

Q.—Well, then, having mentioned this matter, you must think it had reference to the British Columbia Subsidy? A.—I certainly think so: yes.

Q.—Although Mr. Brown did not explain anything of that kind to you? A.—Not a word.

Q.—But do you not know anything further about this matter at all? For instance, didn't it come to your knowledge that the Columbia and Western Railway people, through their Executive Agent, Mr. Brown, were complaining about subsequent action of the Government in cancelling the Order in Council providing for these two blocks to be granted to them, lots 4,593 and 4,594? A.—Do you mean after the cancellation—after the Order in Council rescinding?

Q.—Yes, and the Crown grants were cancelled? A.—It could only have come to my knowledge through conversations with Mr. Wells.

Q.—You did not come in contact with Mr. Brown in connection with any such matters? A.—No.

Q.—Did Mr. Brown have meetings with the Chief Commissioner of Lands and Works after that occurrence at all, to your knowledge, with reference to it? A.—Mr. Brown was with the Chief Commissioner, or saw the Chief Commissioner; but I don't know that it was on that matter.

Q.—You don't know what it had reference to? A.—No.

Q.—These Orders in Council, of the 4th of September, 1901, and the 18th of March, 1902—one is giving the right to this grant and the other is taking it away, that is, cancelling it—they are not matters that come under your jurisdiction, I suppose. A.—No, sir.

Q.—Did you ever see them, Mr. McNeill? A.—Yes, I have seen them.

Q.—There is one rather important matter that the Committee, I think, would like as much information upon as you can give, if you have any at your command, and that is this, that under that Order in Council of the 4th of September, 1901, there is a memoranda, some memoranda there referred to as "A" and "B," which gives the description of these two blocks of land. Now, Mr. Gore has stated in his evidence here that they were not prepared in his office, but he received them, either from Mr. Wells or from yourself; at any rate, through the Chief Commissioner (handing the documents mentioned to witness). A.—What is your question?

Q.—You recognise that? A.—I have seen these documents. Are these copies or originals?

Q.—They are the originals referred to in the Order in Council? A.—As near as I can remember, I saw these documents in the Chief Commissioner's room, and in connection with the Order in Council of which this, I suppose, forms a part.

Q.—But did you see that before the Order in Council was passed? A.—No, I don't think so.

Q.—You think it was after? A.—I think it was after.

Q.—Do you know from whom it came? A.—No, I do not.

Q.—It was not prepared by you or by the Chief Commissioner? A.—It was not prepared by me, and I don't think it could possibly have been prepared by the Chief Commissioner.

Q.—But do you recollect handing it to Mr. Gore? A.—No.

Mr. McNeill—*Continued.*

Q.—Therefore it could not have been you that handed it to Mr. Gore? A.—It may have been; I may have been the bearer of these documents to Mr. Gore from the Chief Commissioner, as I am very frequently.

Q.—Under a sealed envelope, a closed envelope? A.—No; they may have been perfectly open.

Q.—But you don't remember of doing so? A.—But I take things to Mr. Gore every day from the Chief Commissioner.

Q.—Your recollection is that when you first saw that memoranda there, giving the descriptions of these blocks, that it was after the Order in Council had been made, that is, of the 4th of September, 1901? A.—Yes. Well, I may have seen them between the date of the recommending Order.

Q.—That is the 10th of August? A.—10th of August, or whatever date it was, to the date on which the Order was passed by the Governor. I may have seen it between these dates.

Q.—But you don't know from what source that came—that memoranda? A.—No, I cannot say.

Q.—It was not typewritten in the office of the Chief Commissioner of Lands and Works; could you say that? A.—I could not say that definitely.

Q.—Cannot you, as a rule, pretty well tell whether it is typewritten in your office by looking at it? A.—As a rule I can; but we have different typewriting machines in that office, and sometimes they do not use the same ribbon.

Q.—For instance, that "A" that appears there, do you identify that with anybody? A.—No.

Q.—You don't identify it in any case? A.—May I look at it again. (Document handed to witness.) These two pages labelled "3" and "4" look as if they might have come from our office—from the Chief Commissioner's Office.

Q.—The first two pages? A.—The first two pages.

Q.—That are marked "3" and "4"? A.—That are marked on the top there "3" and "4"; "A" and "B," those I don't know.

Q.—The following pages you don't recognise in any way? A.—No.

Q.—Well, as a matter of fact, these other pages that you do not recognise are descriptive, I think, of the—— A.—They are evidently a description of the individual blocks, 2 to 28.

Q.—That is commencing at page 5 and running inclusive of page 24? A.—Yes.

Q.—They are what you might term the particular descriptions of the different blocks granted—authorised to be granted. Do you remember, Mr. McNeill, ever having been asked by the Chief Commissioner of Lands and Works to tell Mr. Brown that there must be a description of the property, of the proposed blocks—that you must have a description before the matter can be dealt with? A.—No.

Q.—Or a survey? A.—No.

Q.—No such request was made by you of Mr. Brown. A.—I don't remember.

Q.—Either at Mr. Wells' request or at your own instance? A.—No. It certainly would never have been at my own instigation, and I have no recollection whatever that I ever asked Mr. Brown, on Mr. Wells' behalf, to give him that information.

Mr. Oliver: Do you know at what time the Crown grants of blocks 4,593 and 4,594 were cancelled, Mr. McNeill? A.—Was it by Order in Council of 18th March, 1902?

Q.—Did you see the Chief Commissioner write the word "cancelled" and initial it, across the face of these two grants? A.—I did not.

Q.—From your own knowledge, you do not know when these grants were cancelled? A.—No.

Q.—Have you had any conversation in these last two or three weeks with Mr. Wells about this matter? A.—Yes.

Q.—A number of conversations? A.—Yes.

Q.—What was the subject of these conversations with Mr. Wells? A.—I would rather that Mr. Wells would speak for himself, because what he told me was simply in conversation.

Q.—You had conversation with Mr. Wells as to the matter of instructions which you received from Mr. Dunsmuir and Mr. Turner, did you not? A.—Yes.

Q.—In fact, Mr. Wells asked you what took place at that time, did he not? A.—Mr. Wells brought it to my recollection, that I had given him a message to the effect that Mr. Turner was to see him and give him instructions.

Mr. McNeill—*Continued.*

Q.—And you informed Mr. Wells, or rather you refreshed his memory, as to what took place at that time, did you not? A.—Yes.

Q.—Did you have any conversation with Mr. Wells as to the reasons why these Crown grants were brought back from Montreal? A.—He spoke to me about that, yes.

Q.—He told you what the reasons were? A.—Yes.

Q.—What were the reasons given, Mr. McNeill? A.—For the cancellation, or the bringing back of the grants?

Q.—For the bringing back of the grants from Montreal. A.—The reasons suggested by Mr. Wells were that certain conditions, upon which the delivery of these grants depended, were not fulfilled.

Q.—And was that also the reason given for the subsequent cancellation of these grants? A.—I cannot say that. I don't know.

Q.—Mr. Wells states that the conditions upon which these grants were to be delivered were that the Railway Company were to continue their system through to Spence's Bridge. Was that one of the reasons alleged by Mr. Wells? A.—To me?

Q.—Yes. A.—Yes.

Q.—Were any other reasons alleged? A.—No.

Q.—Have you any recollection of Mr. Taylor, of the firm of Eberts & Taylor, interviewing the Government or any members thereof with regard to this subsidy? A.—No.

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

Q.—You have no knowledge of Mr. Taylor having any dealings with the Government in connection with this subsidy matter at all? A.—No.

Q.—Have you any knowledge of Mr. Taylor appearing before the Government on behalf of the B. C. Southern Railway Company, in connection with their matters? A.—Appearing before the Government, no.

Q.—Mr. Turner did not give you any instructions as to what should be done in regard to this subsidy matter during Mr. Wells' absence, did he, Mr. McNeill? A.—None whatever.

Q.—Did you have anything to do with the preparation of the Order in Council approved by the Executive on the 10th of August, 1901? A.—No, nothing.

Q.—Do you know who prepared that Order? A.—The recommending Order?

Q.—The recommending Order; the recommendation? A.—I think it was Mr. Gore.

Q.—Have you any knowledge of an Order in Council—Mr. McNeill, an Order in Council dated the 10th of September, 1900, sets apart certain land grants to be given to the B. C. Southern Railway Company, namely, 4,595 and 4,596 in South-East Kootenay, and this Order in Council was afterwards rescinded. Have you any knowledge about this matter? A.—May I see the Order in Council.

Q. (Handing same to witness)—I think there is a rescinding Order in Council. What is the number of that? A.—This is Order in Council 721 of 1901. (Order in Council handed to Witness.) 721 rescinds this (referring to Order in Council 519); all I can say about this is that I have seen this document. If you notice, this is my writing (indicating).

Q.—You don't know the reasons why this rescinding Order was passed (721)? A.—No.

Q.—You have no knowledge whatever as to the reason of the rescinding of these various Orders in Council have you, Mr. McNeill? A.—No, none whatever.

Mr. Oliver: I don't think I have anything more to ask Mr. McNeill.

Mr. Helmcken: Did you ask him whether Mr. Taylor appeared before the Chief Commissioner?

Mr. Oliver: Yes.

The Witness: Appearing before the Government was the way in which the question was put.

Mr. Oliver: Have you any knowledge of Mr. Taylor appearing before the Chief Commissioner with regard to these subsidy matters? A.—No.

Mr. Helmcken: But if Mr. Wells said Mr. Taylor did appear, you are not in a position to contradict him, are you? A.—No.

Q.—As far as your own personal knowledge is concerned, you know nothing about it? A.—No.

The Chairman: It is quite possible that Mr. Taylor may have had an interview with the Chief Commissioner without your knowledge of it? A.—Oh, he may have had lots of them, and I would not know anything whatever about what the interview was on.



Mr. McNeill—*Continued.*

Mr. Helmcken: Even if Mr. Taylor did come in, you would not know why he came in?

A.—Not at all.

Mr. McPhillips: Do you know, Mr. McNeill, why it was that this Order in Council rescinding the previous determination to give these blocks of land to the B. C. Southern Railway Company was made? A.—No; I don't know any reasons.

Q.—You don't know what led up to it, why the rescinding Order was passed of the 10th of August, 1901? A.—No.

Q.—Only there is this to be said about that, that that is contemporaneous with the decision to give the same land to the Columbia and Western Railway Company, isn't it? A.—I believe it was.

Q.—You see, 10th of August, 1901, was the date of the Executive meeting I suppose? A.—Yes.

Q.—Which recommended that Order in Council of the 4th of September, 1901? A.—Yes.

Q.—Now, the Columbia and Western Railway Company and the B. C. Southern Railway Company at this time, the 10th of August, 1901, were, of course, really the Canadian Pacific Railway Company, both of them? They are separate incorporations, of course, but I mean to say their business was being attended to by the Executive Agent of the Canadian Pacific Railway Company, was it not? A.—That I could not say definitely; I presume it was.

Q.—I mean Mr. Brown, who was the Executive Agent of the Canadian Pacific Railway Company, was attending to the matters of the British Columbia Southern Company and the Columbia and Western Railway Company, was he not? A.—I would think so.

Q.—But you don't know why the change was made to not grant these lands to the British Columbia Southern Railway Company, but to grant them to the Columbia and Western Railway Company? A.—No. I presume that these were wholly Executive Council matters.

Q.—But although that is so, Mr. McNeill, of course the Committee would like to know if you have any knowledge of your own, in your various meetings, if you had various meetings, with Mr. Brown, as to what took place; because it is very essential to find out what was transpiring at these important times, as the Committee view them. A.—I had no meetings whatever with Mr. Brown.

Q.—You did not discuss matters with Mr. Brown? A.—No.

Q.—That was always done by the Chief Commissioner of Lands and Works? A.—Yes.

Q.—Do you remember the time that the Chief Commissioner of Lands and Works went to Montreal, Mr. McNeill? A.—He was gone two or three times——

Q.—But this would be in the fall of 1901; it was in October, 1901, he was away? A.—I do.

Q.—You did not attend with him to Montreal, did you? A.—No.

Q.—He went there by himself? A.—Yes.

Q.—Went alone. Do you know whether he took any Crown grants with him on that trip or not? A.—I believe he took Crown grants with him.

Q.—Dealing with the Columbia and Western Railway subsidy? A.—Yes.

Q.—You did not go with him, but you say you understand he took certain Crown grants with him? A.—Yes.

Q.—Would you say those particular Crown grants dealing with lots 4,593 and 4,594, that have been since cancelled? A.—Yes.

Q.—He took those? A.—Yes.

Q.—Do you know what conditions, if any, he was intending to ask of the Canadian Pacific Railway, or more properly the Columbia and Western Railway Company, before he would deliver over those two Crown grants for 4,593 and 4,594? A.—At the time that he went to Montreal?

Q.—When he went away, yes. A.—No.

Q.—You don't know whether there were, or were not, any conditions to be there dealt with, about their delivery? A.—No.

Mr. Green: Mr. Wells said that he and Mr. Dunsmuir and Mr. Prentice had a meeting and agreed that certain conditions were attached to the delivery of those grants. Do you know anything about that? A.—I know about it from Mr. Wells.

Q.—Did he tell you that before he left? A.—No.

Q.—He told you there was such a meeting? A.—Before he left?

Q.—Yes. A.—Yes; after he came back he told me.

Mr. McNeill—*Continued.*

Q.—He told you that there was such a meeting before he left? A.—Yes.

Q.—And that certain conditions were imposed? A.—Yes.

Q.—And you don't know whether there was such a meeting, of your own knowledge?

A.—No.

Mr. McPhillips: You say you were advised after he came back that there had been a meeting previous to his going away? A.—Mr. Wells told me so after he came back.

Q.—But not before he went away? A.—No.

Q.—Did he tell you what the conditions were that he asked of the Columbia and Western Railway Company or the C. P. R.? A.—Yes.

Q.—What were they? A.—The building of the road from Midway to Spence's Bridge.

Q.—Well, that was never a part of the contract of the Columbia and Western Railway, was it? A.—I have no knowledge of that matter.

Q.—You don't know whether it was or was not? A.—No.

Q.—What could that request be founded upon? Mr. Wells did not contend, did he, that they were under any contractual obligations to build that line of railway did he? A.—I don't know anything about that.

Q.—But he said that condition had been exacted? A.—Yes.

Q.—But not complied with by the Canadian Pacific Railway? A.—Yes.

Q.—And did he say, in consequence of that, he had brought back these two Crown grants? A.—Yes.

Q.—Well, that would be about—when did he come back here, Mr. McNeill, in 1901?

A.—Some time in December, I think.

Q.—Well, then, the first, at any rate, official intimation you had that matters had changed was the fact that an Order in Council was passed on the 18th of March, 1902, cancelling the previous Order in Council of the 4th of September? A.—Yes.

Q.—And the Crown grants were in due course cancelled? A.—Yes.

Q.—These two Crown grants? A.—Yes.

Q.—Can you account for that delay in acting in that way? Do you know why there was such a delay, from December to March, before the Government acted in this matter? A.—No.

Q.—You don't know the reason for that delay? A.—No.

Q.—And do you know, Mr. McNeill, as a matter of fact, whether Mr. Brown was advised shortly after, or at any time after Mr. Wells returned, up to the time of the cancelling Order of the 18th of March, 1902, that it was the intention of the Government to cancel the Order in Council of the 4th of September, 1901, and cancel the Crown grants? A.—I have no knowledge of that.

Q.—You say you never communicated any such information to Mr. Brown. A.—Never.

Q.—Nor the Commissioner communicate it to him? A.—No.

Q.—Nor heard Mr. Brown discuss the matter? A.—No.

Q.—Did Mr. Brown ever complain to you about the action of the Government in this regard in cancelling that Order in Council of the 4th of September, 1901, and cancelling these two Crown grants? A.—I don't remember that he did.

Q.—Well, after this had been done, the 18th of March, 1902, the cancelling Order, from that time onward were there any negotiations, to your knowledge, that took place with Mr. Brown which meant the reinstatement of the Columbia and Western Railway in some way or other in their previous position, so as to get these two particular blocks of land by some other method? A.—I have no knowledge of that.

Q.—For instance, that some new legislation would be passed whereby, if there were doubts before about the right to grant these lands, that any such difficulty would be moved? A.—I cannot say I remember that.

Q.—You cannot say that anything of that kind took place? A.—No.

Q.—By way of conversation between you and Mr. Brown? A.—Oh, no.

Q.—Or in your presence with Mr. Wells? A.—No.

Q.—Between Mr. Brown and Mr. Wells? A.—No.

Mr. Oliver: Mr. Brown, in his evidence, referred to a letter which was enclosed with a certified copy of the Order in Council of the 4th of September, what he called the covering letter. That letter has not been placed before the Committee, and I think that would come from the Chief Commissioner's office. Do you not keep copies of all letters sent from the

Mr. McNeill—*Concluded.*

Chief Commissioner's office? A.—Yes; but if that was a covering letter conveying a certified copy of an Order in Council, it would very likely come from the Deputy Provincial Secretary, or from the Clerk of the Council.

Q.—Have you any recollection of writing any letters to Mr. Armstrong, the Government Agent at Fort Steele, in regard to notifying him that these particular blocks of land had been granted to the Railway Company? A.—No.

Q.—If such a letter had been written it would be on file in your office, would it not? A.—Yes.

Mr. Oliver: I would like to draw your attention to the fact that these letters have been ordered for the Committee and they have not been brought in; and it is four or five times I have brought this matter up in the Committee.

The Chairman: All the Departments have been asked to hand in all the letters, and they do not seem to be able to find them; they do not seem to be in existence; the letters you require. What is the date of that letter?

Mr. Oliver: The covering letter with the Order in Council would be some time from the 10th to the 13th August, 1901, according to Mr. Brown's evidence. And the letter to Mr. Armstrong, the Government Agent at Fort Steele, might extend any time from the time of the 10th September, 1900, up until the end of 1901.

The Chairman: Will you make investigation, Mr. McNeill, in your Department about those two letters? A.—I have already made investigation, as far as my own charge of letters is concerned, and can find no trace of any letter having been sent to Mr. Armstrong, the Government Agent at Fort Steele, in connection with this matter. I searched everywhere.

Witness stands aside.

Hon. J. D. PRENTICE, being duly sworn, testifies as follows:—

The Chairman: Mr. Prentice, you are no doubt aware that this Committee has been appointed to inquire into all matters relating to the granting, or proposed granting, of subsidies to the Columbia and Western. Would you be kind enough to state to the Committee what you know about the matter, in a general way. A.—Would you like me to state it, or would you rather have the evidence brought out in the way of asking questions?

The Chairman: Usually, we have asked the Ministers who have been before the Committee just to make their own statement as they like, in their own way, and then afterwards questioned. A.—I think it would be better if Mr. Oliver, who wants the information, would ask me questions; I would be very glad to answer any questions he likes.

The Chairman: If you prefer it that way, I will call upon Mr. Oliver.

Mr. Oliver: Mr. Prentice, Mr. Wells in his evidence yesterday referred to certain Orders in Council which had been passed and rescinded, dealing with blocks of land given, or proposed to be given, to the Columbia and Western Railway Company, and more particularly in regard to an Order of the Council of September 10th, 1900, in which a block of land, noted on the map as 4,596, South-East Kootenay, was to be conveyed to the B. C. Southern as a portion of their land grant? A.—4,596—have you got a map?

Q.—I think you had better show Mr. Prentice the Order in Council of the 10th of September, 1900. A.—I think I could produce the original map in connection with the Order in Council, signed by me as Clerk of the Council.

Q.—There is not any dispute as to the location of the block at all? A.—I don't remember the number without the map.

Q.—It lies north of the other blocks? A.—North of some blocks already granted. That was given in connection with what?

Q.—The B. C. Southern? A.—On the 10th of September—I am not sure as to dates.

Q.—According to that Order, in Council, and that Order in Council was afterwards rescinded by an Order in Council of December 19th, 1900? A.—I believe it was, yes.

Q.—And of the same date an Order in Council was passed giving blocks 4,593 and 4,594 in lieu thereof? A.—To the B. C. Southern, yes; I believe that is right.

Q.—Now, I believe that was afterwards rescinded on the 10th of August, 1901? A.—In regard to that date I am not sure; but I believe that is also correct.

Q.—That is so, it appears from the Order in Council. Can you tell us the reason why these various changes were made? A.—I cannot tell you the reason, for the reason that I was not present at the meetings of the Executive. But I can tell you that at the first, when

Hon. Mr. Prentice—*Continued.*

these lands first came under discussion by the Government, the question arose as to whether those lands should be given in connection with the B. C. Southern. It was known then to the Government that there was some value attached to those lands more than other lands; it was known to me at all events, and I presume the other members of the Government.

Q.—That is these two blocks? A.—These two blocks. That is in 1900. And the stand was taken—at least I won't say a stand was taken, I will take that back, but it was decided by the Government that those lands should not be given at that time to the B. C. Southern, but they should have the lands to the north. I believe that is the block you refer to, 4,596; the lieu lands given to the Company.

Q.—I find in the Order in Council that lieu lands were given to the north first, and then afterwards rescinded. A.—That is what I am speaking of. I cannot tell you why they were rescinded.

Q.—But it was known to you that these two blocks that were given in lieu of the block to the north were of more than ordinary value? A.—Yes.

Q.—Did you ever hear any statement as to why the Railway Company preferred that these two particular blocks of land, 4,593 and 4,594, were given to the Columbia and Western instead of the B. C. Southern? A.—Yes. I understood from Mr. Wells that there was some agreement between the Canadian Pacific Railway Company, or the B. C. Southern, if you like to call it, and the Crow's Nest people, whereby the Crow's Nest people were entitled to 10,000 acres of those lands in one of those blocks, the exact one I am not sure about. And if the land in those blocks were given in connection with the B. C. Southern, the Crow's Nest—I am not sure whether the Crow's Nest Coal Company or the Crow's Nest Railway Company—I believe would be entitled to 10,000 acres. I am not prepared to say when this information came to me; it may have been since the whole transaction—it may have been since the 18th of March, 1902, and it may have been before. But I think it was Mr. Wells—of course, I have no personal knowledge of it. But I did hear it.

Q.—And you think that you got that information from Mr. Wells? A.—I think I did, yes.

Q.—And if these lands were given to the Columbia and Western, of course the Crow's Nest Company could not claim any of them? A.—That I don't know anything about. I merely tell you what I know.

Q.—An Order in Council was passed, however, rescinding the Order in Council which gave these two particular blocks to the B. C. Southern, and of the same date an Order in Council was passed to give them to the Columbia and Western? A.—You have the Orders in Council; I have never seen them.

Mr. Oliver: Will you show him those Orders in Council? A.—I presume the usual Orders in Council, but I have never seen them.

Q.—There is one rescinding these to the B. C. Southern, and one of the 4th September granting them to the Columbia and Western. (Documents were handed to witness). You will find the description on towards the back end in that document there. The blocks are not numbered, but there is a description of those two particular blocks. A.—I could see it better by a map. I don't know what block this refers to.

Q.—There is a map, Mr. Prentice, accompanying it, you see. (Handed to witness). A.—I want to find out which grants those are to the B. C. Southern. The lieu lands were originally given up here (indicating on map) to the B. C. Southern; and then the Order in Council was passed giving these lands to the B. C. Southern (indicating). Is this the Order in Council?

Q.—Yes. A.—And there must be another Order in Council cancelling this.

Q.—Yes. A.—But that is not it. That is dated later.

Q.—This is the granting Order (indicating). A.—That rescinds the Order in Council giving these lieu lands up here (indicating).

Q.—This gives them those two blocks? A.—Yes, if they are identified by certain description. I don't see the number of the blocks.

Q.—The number of the blocks is not in it; you have to take it from the description. A.—If it is so, it is so; you have gone through it?

Q.—I have gone through it. A.—And this is the cancelling Order taking those two blocks away from the B. C. Southern.

Hon. Mr. Prentice—*Continued.*

Q.—Yes. A.—That is right. I believe they were passed, but I have never seen them.

Q.—Did the Government consider whether they had the power to grant those two blocks of land to the B. C. Southern—to the Columbia and Western, along with the Subsidy Act?  
A.—I could not say; I was not present.

Q.—Were you not present, Mr. Prentice, at the meeting of the Executive when they approved of the granting of those two blocks of land to the Columbia & Western? A.—I was not.

Q.—You were not? Your name appears on the Order? A.—Which Order? Where does my name appear? (Document handed to witness). That is probably signed afterwards. My signature is not needed at all to it at the time.

Q.—Do you know who were at that Executive meeting? A.—I do not. I can see that Mr. Dunsmuir was not present, because the Order in Council was signed by Mr. Turner.

Q.—And outside of Mr. Turner you cannot say who was present? A.—No.

Q.—Now, would you tell us, Mr. Prentice, why this Order in Council of the 4th of September, 1901—approved by the Governor on the 4th of September, was afterwards cancelled? A.—Well, that is rather a long story.

Q.—Well, shortly, if you can put it intelligently that way. A.—Mr. Wells, Mr. Dunsmuir and myself met, I have forgotten whether by invitation or by accident, in Mr. Wells' room, before he left for Montreal. So far as I understood the transaction with the C. P. R., with regard to the giving of those lands to the Columbia & Western, it had never been completed. The fact that those Crown grants were brought into existence was not conclusive, to my mind, that the transaction had been consummated. The matter was discussed fully between the Premier, Mr. Wells and myself; and it was understood, and I believed it to be understood by all the Government, although they were not present, that Mr. Wells should take those Crown grants with him to Montreal and endeavour to complete the transaction by, if possible, getting the C. P. R. to make concessions, both in the way of further railway construction towards Spence's Bridge, and also by getting them to waive a large area of land,—I have forgotten for the moment the number of hundreds of thousands of acres mentioned; but, at all events, it had to be a transaction that would be for the benefit of the Province, otherwise it was understood, and he fully understood, that those Crown grants would not be delivered, but that they would be brought back by him to Victoria. Both Mr. Dunsmuir and Mr. Wells and myself clearly understood that. And, so far as my knowledge of the whole transaction is concerned, I never believed that the transaction had been completed, notwithstanding Orders in Council. Mr. Wells went to Montreal some time in October, I think. I think he returned in November. And on his return he certainly intimated—I have forgotten, I could not state positively whether he intimated to the Government at an Executive meeting,—but he certainly intimated to me, and I was fully aware of the fact, and I am sure every other member of the Government were aware of the fact, that he failed to get better terms from the C. P. R. and failed to get them to concede what he asked in the way of further railway construction and concession of land, and he, therefore, brought those Crown grants back. I am not prepared to say whether he made that statement in Executive or not; but it was known to me at all events, and, I am of the opinion, known to the other members of the Government, although I cannot swear to that. Mr. Wells was ill after that; and the Government was busy, in fact, in connection with the Canadian Northern matters, and it drifted on for a time, and the Crown grants lay there. The matter was again taken up in March, and the transaction never having been completed, and Mr. Wells having failed to secure what he went to Montreal for, the Crown grants were cancelled by Order in Council dated that day.

Q.—Do you consider, Mr. Prentice, the Government had power under the Subsidy Act of 1896 to give those two particular blocks of land to the Railway Company as a portion of their subsidy? A.—Well, that is a matter of opinion.

Q.—Well, I am asking what your opinion was. A.—I do not propose to give an opinion on a legal subject like that.

Q.—At all events, did you make any objections to those Crown grants being given previous to the cancellation? A.—That would take place in Council; I am not prepared to say that either.

Q.—You knew that those lands were of more than ordinary value, did you, and you were also aware of the fact that the terms of the Order in Council were to substitute those, approx-

Hon. Mr. Prentice—*Continued.*

imately, 625,000 acres in lieu of the 896,000 acres due to the Company? A.—I knew that, yes. I knew that those lands were of more than ordinary value in 1900.

Q.—You knew that the proposition was that the Company should take that 625,000 acres in full satisfaction of their claim for 896,000 acres? A.—I knew that, yes. I knew that before Mr. Wells went to Montreal.

Q.—And it was with a full knowledge of that fact that the Order in Council of the 4th of September, 1901, was passed? A.—That I don't know. I was not present; I don't know anything about that Order in Council.

Q.—And the reasons for cancelling those Crown grants were that the Company would not agree to do something they were not called upon to do by the terms of their Subsidy Act, and not on account of the grants being made outside the limits of the Subsidy Act? A.—I don't quite follow you. I gave you my reasons for the cancellation, because Mr. Wells failed to get the C. P. R. to accede to the terms proposed.

Q.—Well, the terms proposed were not terms imposed upon them by the Subsidy Act, under which they were to receive these lands? A.—No; outside of that.

Q.—They were outside of that. And the cancellation— A.—Otherwise there would have been no concession.

Q.—And the cancellation was not on account of the Company not being entitled to receive lands in that locality? A.—That matter— that may be one of the reasons, but that was not the chief reason; I don't think that was the reason at all, so far as I know.

Q.—So far as you know, that was not the reason? A.—No.

Q.—That Order in Council of the 4th of September was put before the Railway Company as a proposal from the Government which the Company should accept in full satisfaction of their subsidy for sections 1 and 3, was it not? A.—I read the Order in Council. I have seen it since.

Q.—And these are the conditions that were sought to be imposed; they were altogether foreign to the conditions imposed by the Order in Council. A.—No doubt; no doubt about that at all.

Q.—That is, by the Order in Council of the 4th of September, 1901, the Government set forth the conditions upon which the Company should receive the grant of those lands? A.—You see the Order in Council, you can read it as well as I can.

Q.—That sets out the conditions? A.—You see what the Order in Council says.

Q.—And afterwards the Government sought to impose other conditions? A.—I have told you plainly about that. I cannot put it in plainer language.

Q.—Now, Mr. Wells, in his evidence, says that he went to Mr. Dunsmuir and asked him if he fully understood. He says: "Shortly before I left for Montreal, some time evidently between the 4th—the date of the Crown grants—and the 24th of October, I sent for Mr. Dunsmuir to come to my office. I had this feeling, that I was responsible to him in carrying out the consummation of this transaction, and I wished to know whether he fully understood it. I had no sooner explained it to him when he at once said that that was not his understanding of the proposed settlement." Do you know what took place at that meeting with regard to that matter? A.—Well, I have no doubt that is strictly true. I have forgotten whether I came in when this so-called meeting was being held or whether I was invited; that I don't remember. But I do remember that Mr. Dunsmuir was of the opinion that he did not fully understand the transaction. In fact, I don't think he does thoroughly to-day.

Q.—Do you know, as a matter of fact, Mr. Prentice, what Mr. Dunsmuir's objections were to the carrying out of that agreement? A.—That is too long ago for me to tax my memory with it.

Q.—You cannot tell us what Mr. Dunsmuir's objections were? A.—I could not tax my memory with that, no.

Q.—Your understanding of this matter, Mr. Prentice, was that if Mr. Shaughnessy had agreed to the conditions which Mr. Wells asked, Mr. Wells would have delivered the deeds? A.—Yes, I believe that is correct. Provided the C. P. R. had agreed to the terms proposed. I may tell you that the memorandum which Mr. Wells prepared for Sir Thomas was not seen by me until lately. But it virtually, so far as railroad construction is concerned, carries out the understanding arrived at before he left.

Q.—Now, I want to be very clear on this matter, that had Mr. Shaughnessy, for the C. P. R., agreed to the terms proposed by Mr. Wells, Mr. Wells would have delivered those

Hon. Mr. Prentice—*Continued.*

Crown grants? A.—I don't know what Mr. Wells would have done; I only know what he was instructed to do.

Q.—Well, those were his instructions? A.—Well, his instructions were, as I told you a minute ago, from Mr. Dunsmuir. I would not call them instructions, but the agreement arrived at with Mr. Dunsmuir and me.

Q.—That is, if Mr. Shaughnessy — A.—He was to ask—one thing was in regard to railway construction to Spence's Bridge; another one was the land question; it had to be a concession in connection with getting lands, and it was to be a bargain for the benefit of the people of British Columbia.

Q.—And had the C. P. R. accepted the conditions, your understanding was that Mr. Wells would have delivered the Crown grants? A.—Had they accepted the situation that was suggested when he left, yes.

Q.—Had the Government any authority for seeking to impose those conditions? A.—What sort of authority?

Q.—Any authority by any Statute? A.—Not that I am aware of.

Q.—And had these Crown grants been delivered to Mr. Shaughnessy subject to those conditions, and the Legislature had refused to sanction by a Statute, what would then have been —? A.—There would have been no need for any Statute.

Q.—There would not have been any need for a Statute? A.—No. At least, always providing that from a legal point of view the Government had power legally to give those two Crown grants in connection with the Columbia and Western at all.

Q.—You think then —? A.—(Interrupting)—I am leaving that—that is a question for a lawyer; if the Government had power to give those two sections to the Columbia and Western in settlement of section 3, there would have been no need for further legislation in connection with any further bargain with the C. P. R.; that is to say, the C. P. R. might waive anything they liked without any legislation from us.

Q.—Yes, but this was an agreement with the C. P. R. to continue its line of railway from Midway to Spence's Bridge? A.—Yes.

Q.—And, in your opinion, no further legislation would have been needed? A.—I don't know about charters, and that sort of thing. But certainly the C. P. R. could give away to the Government a thing like that without our legislating about it.

Q.—You are of opinion, then, that the conditions which were sought to be imposed on the C. P. R. or Columbia and Western, whichever way you choose to call it, could have been enforced without special legislation for that purpose? A.—An agreement could have been arrived at with the C. P. R., a pending sort of agreement.

Q.—You believe that could be enforced without further legislation? A.—I believe so.

Q.—You are of opinion that these conditions, if agreed, waiving a grant of land subsidy for the fifth and sixth sections of the road —? A.—That is a matter that it seems to me does not come into the question at all; I don't know whether you would have—whether an Act would have to be passed confirming the agreement. That is a legal question.

Q.—That is a point I wish to get at; I wish to get at this matter. Supposing that the C. P. R. had agreed to those conditions, and the deeds had been delivered in consequence thereof, and the Legislature had refused to ratify that agreement, what would be the position then with regard to those lands? A.—Well, we would have gone to the country on it, I suppose; there would not have been any trouble.

The Chairman: You mean if they had been delivered up, the Crown grants?

Mr. Oliver: Yes.

The Chairman: The Government would be in a hole then, I should think.

Witness: But, at all events, there are too many "ifs" about this. If a great many of these things had happened I would not be a member of the Government.

Q.—Of course, Mr. Prentice, we are here to inquire into this matter. A.—I am quite willing to answer you any questions I can; but, then, there is no use of putting up supposititious cases.

Q.—I don't consider this a supposititious case at all. A.—Go ahead, Mr. Oliver, I am quite willing to help you all I can.

Q.—Because we have the statement of a number of Ministers that those grants were taken to Montreal to be delivered up, some on conditions and some without any conditions. A.—I am quite willing to answer you anything, and help you all I can; but I presume that, so far

Hon. Mr. Prentice—*Continued.*

as this is concerned, any agreement arrived at by Mr. Wells with Sir Thomas would have been such an agreement as would have been easily and willingly ratified by the Legislature if it had been necessary. I don't know whether it would have been necessary or not.

Q.—Now, with regard to the land grant of section 4, Mr. Prentice; the terms of the Bill introduced by the Government last year vary considerable from the terms of the Subsidy Act, 1896. The Act of 1896 limits the Company to certain localities in which they may take their lands. But the Bill of last year would give the Company the right to take them anywhere within the Districts of Yale and Kootenay. Can you tell us the reason for making that change? A.—No.

Mr. Oliver: You cannot tell. I don't know that I have anything more to ask.

Mr. Green: Mr. Prentice, these deeds that Mr. Wells took down there, of course, as you are aware, covered a large area of land; and you say that you knew they were very valuable; and the proposition was for Mr. Wells to go down there and make certain proposals to Sir Thomas Shaughnessy, which, if acceded to, he was to deliver the grants to him; that is as I understood you to advance? A.—Yes.

Q.—Now, of course, that being the case, in view of the fact that these were such valuable lands, of course you went into it very thoroughly; did you draft any line of agreement such as Mr. Wells was going to submit to Mr. Shaughnessy? A.—No.

Q.—You left that entirely to Mr. Wells? A.—Mr. Wells understood. We had confidence in Mr. Wells.

Q.—And he was to take the agreement; and any agreement such as he took would be satisfactory to the rest of you? I am speaking now for myself—Mr. Dunsmuir was present, the other members of the Executive were not present.

Q.—Notwithstanding the fact, then, that this was a very very valuable concession, there was no definite understanding arrived at what the nature of the agreement was to be? A.—It was very clearly understood between Mr. Wells and Mr. Dunsmuir and myself at the time.

Q.—But there was no draft made? A.—There was no draft made. It was almost like any other transaction; discretion is left to the Minister.

Q.—Simply a matter of conversation? A.—Like Mr. Chamberlain went to South Africa the other day; he was left very wide discretion of power.

Q.—I am not speaking of Mr. Chamberlain; I am speaking of Mr. Wells; I am trying to get at how the matter was left. It was all conversational agreement? A.—It was a conversational agreement, but it was an agreement that meant something. It was not done lightly; it was fully considered.

Q.—That is all I want to ask.

Mr. McPhillips: Mr. Prentice, I draw your attention to the fact that the Order in Council granting these same blocks of land, 4,593 and 4,594, to the British Columbia Southern Railway Company would, apparently, only have been rescinded on the 9th day of September, 1901. I think you had that Order in Council before you (handing document to witness again). A.—10th of August.

Q.—I mean by the Government. A.—Signed by the Governor 9th of September, yes.

Q.—I suppose this Order in Council has no force or effect until assented to by His Honour. When do you consider the Orders in Council have efficacy? A.—When they are assented to—well, really, they have legal efficacy when they are signed by the Governor; but, so far as the Executive is concerned, the matter is settled when they are signed by the Executive.

Q.—I only want to draw your attention to one fact, that apparently the same lands are dealt with under this Order of the 4th of September, 1901, before really the previous Order in Council of the 20th of December, 1900, was rescinded? A.—I should think it was out of order; I should think it was irregular.

Q.—That is the Executive. A.—This is the Order in Council rescinding—

Q.—The one of the 20th day of December, 1900. A.—That is to say, it rescinds those 4,593 and 4,594 in connection with the B. C. Southern.

Q.—Yes. A.—This is the Order in Council granting it to the Columbia & Western. But the rescinding Order was dated the 9th and the granting Order the 4th.

Q.—Yes. Therefore, if you want to treat with the matter as to what was the authority of the Government at the time, it would appear that they had no right to deal with the land on the 4th of September, had they? A.—It would appear so by this Order in Council. I



Hon. Mr. Prentice—*Continued.*

think there is some error in the dates. It is in the Governor's handwriting, one the 4th and the other the 9th.

Q.—Well, this is a circumstance. A.—Well, they both passed the Council on the 10th of August.

Q.—Did you ever see the memorandum, Mr. Prentice, that Mr. Wells refers to in his evidence as having been given to Mr. Thomas Shaughnessy in Montreal when he was there, and his letter in answer to the memorandum? A.—No, I have not.

Q.—I will show it to you. It has been put in here (document handed to witness). He said he went back to his hotel and wrote that memorandum and sent it to Sir Thomas Shaughnessy, and Sir Thomas Shaughnessy wrote him this letter. I am only going to draw your attention now to this. In this memorandum the statement is made: "As it now stands, these subsidies have been forfeited, the remaining sections 5 and 6 not having been completed within the prescribed time." That was the contention— A.—No; that matter was not raised.

Q.—I mean previous to Mr. Wells going there, was it understood between Mr. Wells, Mr. Dunsmuir and yourself, or at least agreed, that that was the view taken by the Government? A.—No, it was not; not as I understood it. Which subsidies are referred to here? I don't understand it.

Q.—He says: "Your Company has earned the land subsidy for section 4." A.—My understanding with regard to section 4 is that the C. P. R. were entitled to the subsidy, notwithstanding they had not completed sections 5 and 6.

Q.—This memorandum says, first: "Your Company has earned the land subsidy for section 4, say 900,000 acres, but is not entitled to a Crown grant until section 5 has been constructed. Upon completion of sections 5 and 6 it would have earned a further subsidy of 2,120,000 acres, or, in all, 3,020,000 acres." A.—I presume Mr. Wells used that as a matter of argument.

Q.—And he says: "As it now stands, these subsidies have been forfeited, the remaining sections, 5 and 6, not having been completed within the prescribed time." A.—I suppose he was using that as an argument.

Q.—Was that part of the understanding when he went away, that that contention would be raised? A.—No; it was not discussed.

Q.—That the Columbia and Western were not entitled to that subsidy? A.—No; it was not discussed.

Q.—That seems a little inconsistent, too, does it not, with the fact that he took away with him those two Crown grants? A.—The Crown grants were not for section 4.

Q.—No; but he says, "as it now stands, those subsidies have been forfeited." A.—He referred to the land grant for section 4, I presume.

Q.—Do you think so, only; that would be only one subsidy? A.—Well, I think that is a misapprehension, or something done with the typewriter; he was only referring to section 4; and my understanding all along with regard to section 4 was that that stood to their credit; and that was always my opinion. Morally, but not legally.

Q.—Previous to this the Government was not contending in any way that the Company was not entitled to that subsidy? A.—We never contended that; no.

Q.—And those two blocks, 4,593 and 4,594, were intended to be the subsidy for section 3, were they not? A.—I believe so; yes.

Q.—Then you say the subsidy was earned? A.—The subsidy was earned, undoubtedly, I think.

Q.—But whether they were to be those blocks or not, that is another matter? A.—They were entitled to their acreage for that section.

Q.—But was it not a little strange, though, after all, that Crown grants should be prepared and signed and sealed and taken by Mr. Wells to Montreal, if there was to be no delivery at all of those Crown grants? What was the idea of that? Would it not perhaps have been better to have refrained from issuing them? A.—Oh, it is all very well to go back of it and say it might have been better had this or that been done; but it was done.

Q.—Then Mr. Wells goes on and says in another paragraph: "If your Company will submit a proposal to complete these sections and extend construction to Spence's Bridge, the B. C. Government would favourably consider, first, the reinstatement of your land subsidies under the Subsidy Act of 1896; second, a cash bonus from a point at or near Penticton to

Hon. Mr. Prentice—*Continued.*

Spence's Bridge, under such conditions and terms as may be agreed upon." So that, besides getting some concessions from the Canadian Pacific Railway, the Columbia and Western Railway, more properly, Mr. Wells apparently was there proposing to give them some further aid, too, was he not? A.—Yes; apparently.

Q.—So it was not only a concession from the Canadian Pacific Railway, or Columbia and Western Railway Company that was being asked, although there was a concession or concessions, yet at the same time the Government was offering something to them? A.—Well, that is very vague, that memorandum; of course that is only a preliminary, I presume.

Q.—Do you remember, Mr. Prentice, the circumstances surrounding the bringing down of Bill No. 76, in the session of 1901; was that "An Act to amend the Columbia and Western Railway Subsidy Act, 1896"? A.—I remember its being brought down.

Q.—On the 10th of May, 1901, according to the Journals of the House, page 142, the Order for the second reading of the Bill was discharged. A.—I have no doubt that is right.

Q.—Now, on the 10th of May, 1901, the situation was what, with regard to these particular lands? A.—10th of May?

Q.—Yes. A.—10th of May, 1901—the rescinding Order in Council was passed on the 18th of March—oh, 1901, you say?

Q.—I am dealing with 1901. At that time, practically, they were the lands of the British Columbia Southern Railway Company? A.—Which Bill do you refer to now; I would like—

Q.—"An Act to amend the Columbia and Western Railway Subsidy Act, 1896"; I don't know if we have a copy of it. A.—I have forgotten about that Bill; that was too long ago. I thought you were referring to the Bill of last Session.

Q.—There was one put in and withdrawn? A.—I don't know anything about that.

Q.—But, in any case, it would seem the British Columbia Southern Railway Company would stand as being entitled to these particular lands? A.—The Orders in Council would show. But I wish it to be distinctly understood that I don't know anything about that Bill of May, 1901. When you first asked me I thought you were referring to the Bill of last Session.

Q.—Yes, 1902; all right. But who suggested, Mr. Prentice, that the Order in Council granting these lands to the British Columbia Southern Railway Company should be rescinded and the Columbia and Western Railway Company substituted? A.—That I don't know.

Q.—Do you say it emanated from the Government or the Railway Company, do you think? A.—I have no knowledge; I have no personal knowledge.

Q.—But, at any rate, it was done, as the Orders in Council prove. A.—The Orders in Council show it; yes.

Q.—Well, then, dealing with that Act that was brought down in 1902, that would be after the rescinding Order in Council of the 18th of March, 1902, wouldn't it? A.—Yes.

Q.—Well, now, do you or do you not, say that that Act was introduced so as to reinstate the Columbia and Western Railway Company, or what is in effect the Canadian Pacific Railway Company, in its right as to those lands, being lots 4,593 and 4,594? A.—If that had been the understanding, the Bill certainly would never have been brought down. If that had been the understanding of it, that would never have been introduced.

Q.—Therefore, you say, as far as you know, there was no intention, by virtue of that Act, if it had been passed, to have reinstated the Columbia and Western Railway Company in their right to those lands? A.—No; certainly not. On the 18th day of March, so far as those lands and the C. P. R. are concerned, that matter was at an end. We believed that Order in Council was in order, and that the C. P. R. had no possible chance of ever obtaining those two blocks.

Q.—Of course, that is only argumentative, I suppose; but if that Act had been passed, it entitled lands to be given in Yale and Kootenay Districts? A.—Yes, but it certainly would not have been given by this Government.

Q.—Well, you say then, Mr. Prentice, that there had been no change on the part of the Government? A.—Not the slightest; no change of policy with regard to those lands at all.

Q.—And no change up to date? A.—Not the slightest.

Q.—And Mr. Brown had not received assurances from the Government that, if the Legislature would pass that Act, the Company would be reinstated in its rights to these lands. A.—Never.

Hon. Mr. Prentice—*Continued.*

Q.—Have you any suggestion, Mr. Prentice, to give us why it was that the Columbia and Western Railway Company seemed to be quiescent for such a long time in respect to this matter? You see you cancelled the Order in Council of the 4th of September, 1901, on the 18th day of March, 1902. A.—Yes, I understand.

Q.—A long time elapsed and nothing real, effectual, has been done on the part of the Company, if it was maintaining its legal right to this property. A.—I have not the slightest idea why they were so quiescent. As I have already explained, we believed the whole thing was settled finally.

Q.—You thought it was at an end. A.—And we were surprised—I know I was—when, I think it was, the Provincial Secretary received a letter from the solicitors of the C. P. R., saying they had started suit against some of the pre-emptors or the people who had obtained some title to the lands in that northern block. I don't know at all why they were so long quiescent. We certainly understood that our Order in Council was final, and that the whole transaction was settled by that Order in Council.

Q.—But, later, you thought it better to proceed in the way in which— A.—Regarding this Bill?

Q.—Yes, by way of a Bill confirming the Order in Council. A.—The fact of the C. P. R. starting those suits brought the matter up again.

Q.—And it was determined— A.—It was determined that the Order in Council which was passed should be made legal, if it was not—if there was any possibility of its being held illegal, or any possibility of the C. P. R., by any quibble, receiving those lands, it should be made an impossibility for them to receive them.

Q.—Do you know, Mr. Prentice, whether or not you took the advice of the Law Officer of the Government, which would be the Attorney-General, as to the position of the Government with respect to those two Crown grants, that is, this, as to when there could be any contention that title had passed, as to delivery or non-delivery of them? I mean, was that point agitated at all when Mr. Wells was going to Montreal, the question of whether or not having executed the Crown grants, and he being in possession of them, whether or not that would complicate matters? A.—The point was not raised at all as far as I remember.

Q.—You assumed, at any rate] that that did not mean that title had passed to the Railway Company? A.—We assumed as a matter of fact that so long as we held the Crown grants no title would pass.

Q.—But still, you do not remember that the opinion of the Attorney-General was taken on that point? A.—No, I do not.

Q.—Now, the Attorney-General in his evidence here—whether it slipped out or not I don't know,—he did take the ground that that which actually transpired in Executive he would not be called upon nor would he disclose,—but he did make the statement here that the rescinding Order of the 18th of March, 1902, was a majority decision of the Executive. Have you anything to say about that? A.—I have nothing to say about that.

Q.—Do you feel at liberty? A.—No.

Q.—To say that is true or not? A.—No, I do not.

Q.—Under your oath of office you think you should make no statement upon that: A.—No, sir, I have nothing to say.

Q.—Do you put it upon that ground? A.—Upon that ground, yes.

Q.—Now, Mr. Eberts also stated that it was from a month or two months after Mr. Wells' return before he became aware of the fact that he had failed to deliver these two particular Crown grants 4,593 and 4,594 to Sir Thomas Shaughnessy. A.—Before Mr. Eberts knew it?

Q.—He says it was a period of time from a month to two months after Mr. Wells' return before he knew that Mr. Wells had not handed over those two Crown grants to Sir Thomas Shaughnessy. A.—I cannot speak for Mr. Eberts; but I certainly knew, and my impression was that all knew. But I cannot speak for Mr. Eberts at all about that, he may not have known.

Q.—Do you think you were made aware of it in any private or personal way? A.—That I cannot remember. As I stated before, I am not at all certain whether it was Executive or otherwise. But I know I discussed it many a time with Mr. Wells outside of Executive.

Q.—You don't remember the matter coming up in Mr. Eberts' presence? A.—No, I do not.

Hon. Mr. Prentice—*Continued.*

Q.—Well, I suppose the question of this rescinding Order of the 18th of March, 1902, must have come up before it was done of course? But do you say that that matter would be one that you would not be at liberty to speak of, too? A.—Well, it is exceedingly difficult to remember what took place in Council, and what took place outside of Council. I may have already said some things here that took place in Council; I have not intended to. I know I remember distinctly what took place in that Council, but I am not prepared to say what it was.

Q.—But, antedate that; what took place on the Order of Council of the 18th of March, 1902, it is fair to assume that the facts attending upon the mission of Mr. Wells to Montreal, and what occurred, and the fact that he did not deliver the Crown grants must all have been gone into? A.—Well, I knew all about it, I can tell you that, from the moment that Mr. Wells returned.

Mr. Green: There was no particular reason why Mr. Eberts should not have known as well? A.—I don't know of any reason why he should not know.

Mr. McPhillips: Do you remember who was present at that Council meeting on the 18th of March, 1902? A.—I think we were all present. That is not divulging any secret.

Q.—If the ordinary course had been followed that had before been adopted we would see from the Orders themselves who were present? A.—Yes.

Q.—But the blanks had not been filled up. A.—No. That practice was discontinued. That was started, I think, in Mr. Cotton, and Martin and Semlin's time, and it was discontinued some time afterwards.

Q.—We have had before us here two legal opinions, one given by the present Chief Justice when he was at the bar, twenty-one days after this Order in Council of the 24th of September—that is one opinion— A.—That goes to prove that this transaction was not complete when we were still, notwithstanding the fact that the Order in Council was passed, seeking advice as to power to issue those Crown grants. It bears out my contention.

Q.—On the 24th of October, it was, 1901 (showing document to witness). A.—Yes; that goes to prove exactly what I said about this transaction; in my belief, and at all events—I can only speak for myself—it was never completed. Because here, after that Order in Council had been passed, we were still seeking for advice as to whether we had power to do it.

Q.—Well, this opinion of Mr. Hunter says that you had a discretion? A.—Yes, I think it did. I read it at the time.

Q.—That is to go outside of what might be said to be the controlling provision of the Act, that is, the nearest practicable lands contiguous to the line of railway. A.—Yes; I read the opinion at the time; I have not seen it for a long time.

Q.—But, Mr. Prentice, as a matter of fact, this opinion was got even after that action on the part of the Government had been taken. A.—After the Crown grant giving those lands to the Columbia and Western had been passed.

Q.—Yes, they bear date the 3rd of October. A.—Yes, bearing out what I say, the transaction was not complete notwithstanding the Crown grants were issued. Because after the Order in Council authorising those Crown grants to be passed we were still seeking advice as to whether we had power to do it. That is to say, we did not believe the transaction had been consummated. And follow that up with what took place before Mr. Wells went to Montreal, I think you will see the whole facts.

Q.—Then, what you say is this; that having then got this opinion on the 24th of October, 1901, the Government did not consummate this matter, even in compliance with this opinion? A.—No. Not necessarily; no.

Q.—You did not even give effect to this opinion? A.—No; not necessarily. That was only a legal question. The question of policy was not involved there in that opinion at all.

Q.—And, later, we have had laid before us an opinion taken just lately of Mr. C. C. McCaul, K. C. A.—Yes.

Q.—And this opinion differs from that of Mr. Hunter? A.—Yes.

Q.—Now, I asked the Attorney-General whether or not these two opinions were asked for by the Executive or got for the Executive. As far as I recollect now, Mr. Eberts stated he could not very well say as to that; they were got by Mr. Wells. Do you know, Mr. Prentice, how it was that either of these opinions were got? A.—I don't think it was by order of the Executive, although I understood they were being got.

Hon. Mr. Prentice—*Continued.*

Q.—Well, now, Mr. Prentice, why did the Government fall in line with the suggestion of the British Columbia Southern Railway people, that the Order in Council of the 20th of December, 1900, which gave these particular lands to them, should be rescinded, and that the lands should be given to the Columbia and Western Railway people? A.—I don't know.

Q.—Well, if the suggestion was that if they got the lands for the British Columbia Southern Railway Company, and they would have to give some ten thousand acres to the Crow's Nest people, that surely would not be a matter that would influence the Government to aid and assist them getting out of an agreement with those people? A.—I should not think.

Q.—You would not say it was that that actuated the Government to change and put the Columbia and Western Railway in the position of the British Columbia Southern? A.—No; certainly not.

Q.—You would say it was public reasons? A.—Yes.

Q.—That you were to get some further concession in the public interest? A.—Of course, that was the reason.

Q.—Although that may have been the private reason of the British Columbia Southern people? A.—Yes; that is what I have been given to understand since as being their reason. I don't suppose that that was known to the Government at all at that time; it was not known to me at that time.

Mr. Green: Can you tell us just about what time this conversation took place between you and Mr. Wells and Mr. Dunsmuir? A.—It was a very few days before Mr. Wells left for Montreal; it may have been the day before. At all events, it was a very few days.

Q.—You are speaking of the time he left for Montreal with the Crown grants? A.—Of the time he left for Montreal with the Crown grants, yes. It could be easily ascertained, the exact date. It was early in October, I think; but I think it was just before he left.

Q.—I understood you to say that prior to that—did you have any meeting at which all the members of the Government were present and discussed this matter? A.—No.

Q.—You had no conversation of this kind, prior to that one? A.—No.

Mr. Helmcken: The meeting that has been spoken of, called by Mr. Wells, was not an Executive meeting? A.—No, not an Executive meeting; I did not understand it as such.

Q.—What authority had that meeting to undo any Order in Council passed previously? A.—Well, the Premier has a pretty strong prerogative at all meetings.

Q.—He had approved of an Order in Council? A.—He did not sign that Order in Council.

Q.—Oh, he was not present? A.—I presume he was not. It was signed by Mr. Turner.

Q.—And when the matter was brought to his attention at that meeting he disapproved of that settlement? A.—I have stated pretty fully what his view was about it.

Q.—Yes; and Mr. Wells agrees with you to that extent. But the only difficulty, in my mind, is as to what the effect of that meeting had upon an Executive act? A.—Well, the Executive act has no force unless an Order in Council is passed.

Q.—An Order in Council had been passed and signed by Mr. Turner. A.—Yes.

Q.—But there was no Executive or Order in Council passed at this meeting, because it was not an Executive meeting. A.—Yes; and there would not have been any passed anyhow if it had been.

Q.—What was the necessity of obtaining an opinion at that time? A.—In regard to the power of giving these lands in connection with the Columbia and Western?

Q.—Yes. A.—I believe it is not unusual for a Minister to obtain an outside opinion, so I am informed, when he was in any doubt.

Q.—I mean, was it an Executive act that he should take an outside opinion? A.—I don't think so. I was aware of it. But I don't think there was.

Q.—How did it come about that those sections, 4,593 and 4,594, which were allocated to the British Columbia Southern should be given over to the Columbia and Western? A.—That I don't know.

Q.—That was recommended by the Hon. Mr. Wells. A.—The Order in Council was signed by Mr. Wells.

Q.—And he had charge of all this matter? A.—It was chiefly through his Department.

Q.—Do you know of any proposition laid before him by Mr. Brown; or anything of that kind? A.—I do not.

Q.—Did Mr. Brown see you outside of the Executive? A.—No.

Hon. Mr. Prentice—*Continued.*

Q.—Nor any other person see you? A.—No.

Q.—So that the matter came as regards this, personally to you as a member of the Government, on the report of the Minister in charge? A.—Yes.

Mr. Oliver: I would like to ask, Mr. Prentice, as I understand this matter now, Mr. Prentice, from your evidence, these Crown grants were prepared following out the Order in Council of September 4th? A.—Well, I presume so.

Q.—And there was no conversation or any understanding to vary the terms of that Order in Council up to the time that Mr. Wells sent for Mr. Dunsmuir? A.—I cannot remember what conversations took place at all, Mr. Oliver.

Q.—Well, as I understand it from your evidence, and what we know from other evidence, this Order in Council was passed the 4th of September, and an Order in Council settling the form of the Crown grants was subsequently passed— A.—Have you got the Order in Council settling the Crown grants?

Q. (Document handed to witness)—On the 4th of September an Order in Council was passed, and on the 13th another Order in Council was passed, settling the Crown grants conveying those lands to the Company; then, according to Mr. Wells' evidence, a few days before he left for Montreal he sent for Mr. Dunsmuir and asked him if he understood this matter? A.—Yes.

Q.—At which meeting yourself, Mr. Dunsmuir and Mr. Wells were present? A.—Yes.

Q.—Now, I want to know whether anything had taken place previously to that varying the conditions of the Order in Council of the 4th of September? A.—I don't remember.

Q.—You don't remember? A.—No.

Q.—And this opinion of Mr. Gordon Hunter was taken, was it not, subsequent to the discussion between yourself, Mr. Wells and Mr. Dunsmuir? A.—That I don't remember, either. You can easily find out when Mr. Wells left for Montreal. That opinion is dated when?

Q.—24th of October. And Mr. Wells said that he left for Montreal the 24th of October—the same date that he received that opinion. A.—Well, that is very likely correct. I suppose it is.

Q.—Then that opinion must have been taken subsequently to the meeting at which it was decided to ask the Railway Company for fresh conditions? A.—It may have been. It was about that time.

Q.—So that, as far as you know, no action whatever had been taken to vary the terms of the Order in Council of September 4th until within a few days of Mr. Wells' departure for Montreal? A.—That I don't remember; I don't remember what took place in Executive. It may have been discussed in Executive. I would not say if I did remember.

Q.—And you say it was not the intention of the Government, by Bill 87 of last year, that the Railway Company should be entitled to receive these particular blocks of land? A.—It was certainly not the intention of the Government; very far from it.

Q.—Well, under the wording of that Bill of last year, would not the Company be entitled to select those blocks of land? A.—I think they were not entitled.

Q.—I wish to direct your attention to the wording of section 2, Mr. Prentice? A.—There is nothing there binding the Government to give these lands.

Q.—It says that there shall be granted to the Company 20,000 acres of land per mile, does it not? A.—Yes.

Q.—And it further says, the said lands so to be granted to the Company shall be selected by the Company within the Districts of Yale and Kootenay? A.—Yes.

Q.—Would not that give the Company the right to go and select those very identical blocks of land? A.—Certainly not. They might select them; but the Government would not give them. They could not get them without a Crown grant, and the Government certainly would not have given them a Crown grant of that land.

Q.—That is the wording of the Act, that the land shall be granted to the Company, the lands selected by the Company? A.—Yes, but I read that this way, and I am perfectly certain that the other members did also, that notwithstanding they might select the lands of these two blocks, they had no power to make the Government grant them these two particular blocks of land. And I am perfectly certain that if they had asked the Government for them they could never have got them from the present Government.

Hon. Mr. Prentice—*Continued.*

Q.—I understood you to say before that you did not know any reason why the language of the Subsidy Act had been departed from in this respect, saying that the lands shall be granted? A.—Which?

Q.—The original Subsidy Act says it shall be lawful to grant to the Company. Why was not that language continued in the Bill that was introduced? A.—I cannot see any reason.

Q.—Can you suggest any reason why the change was made? A.—No; I haven't at my fingers' ends the number of acres comprised in that area, and the number of acres reserved. All those are in the hands of the Lands and Works. At the time there was a good reason. Certainly, the reason was not to give the lands to the C. P. R.

Q.—The language of the original Act is, that it shall be lawful to grant. A.—I have no doubt Mr. Wells could give the reason.

Q.—You don't know the reason? A.—I don't know the reason; but the reason you suggest is not the reason.

Mr. McPhillips: Mr. Prentice, when that Order in Council of the 4th of September, 1901, was passed, there were no other conditions then, as the Order in Council states on its face, imposed against the Railway Company to give those lands? A.—Those dates confused me.

Q.—It says they are in full of all land subsidies, you know. A.—Well, I didn't know; I was not present at that meeting.

Q.—I would like to know, if you could tell me, when it was that the Government, for the first time, engrafted a further condition, or these further conditions? A.—Well, so far as my recollection of it is concerned, the transaction was never intended to be completed by that Order in Council.

Q.—Can you give us any idea why it was that an Order in Council should have been passed and yet at the same time, somehow or other, it was not really to have effect as passed? A.—No, I cannot; only this, that I never believed that the mere creation of Crown grants without delivery conveyed title.

Q.—And your contention with respect to the Order in Council, too, is that it is unilateral, that it was not a contract between the Government and the Railway Company? A.—Yes; certainly not a contract.

Q.—As a matter of fact, the Railway Company have never, up to date, bound themselves under seal or anything of that kind? A.—I understand that it has not; that no reply—no acceptance of that offer if you call it so, binding upon the Railway Company, has been received.

Q.—But, of course, this might be looked at in another way, Mr. Prentice. Of course, we don't know what took place in the Executive, but it may be that this Order of the 4th of September, 1901, was an Order in error, completely in error; do you think it was? A.—That I don't know; I am not prepared to say.

Q.—I mean to say, was the Government over-reached in any way by the Railway Company? A.—Not that I know of.

Q.—And influenced to grant this Order in Council by any misrepresentation? A.—Not that I know of.

Q.—At the same time, on this question of not being consummated, there were other Crown grants that Mr. Wells handed over to the Columbia and Western Railway Company, were there not, on this visit of his to Montreal? A.—I do not know.

Q.—Well, he said he had others, anyhow. But the Government, as a matter of practice, in the past, to your knowledge, have not exacted any assent to grants made under seal, or anything of that kind? A.—I don't remember other grants having been given to the C. P. R., for the moment.

Q.—Well, to Railway Companies? A.—I don't remember any.

Q.—I mean, to put it this way,—that the Government may presume that when the delivery was made, of course, that they took the Crown grants subject to the provisions of the Order in Council; but where there was no delivery there was no consummation of the grant; that is the way you put it? A.—Certainly.

Q.—Of course, that is a reasonable way of looking at it? A.—Certainly; because the Crown grants were never delivered.

Q.—But I mean to say, if they had been delivered in this case, the Government would not likely have requested or required of the Railway Company to execute any document under seal, as evidencing its acceptance of them? A.—I don't know. I think it might have been necessary for the Government to have done that.

Hon. Mr. Prentice—*Concluded.*

Q.—But had there been a determination arrived at? A.—Not that I know of; no. But still the legal point of it, no doubt, would have been carefully watched, and that would have been insisted upon.

Q.—The Attorney-General takes this view; he says, read the Order in Council. The Order in Council says it is to be in full of all subsidies; therefore, his contention, as put forward, is that if the Crown grants were effective to convey title to the Railway Company, that the Railway Company was likewise bound and could not dispute but what these Crown grants were in full of all subsidies. A.—That, I should say, is the legal point. I see that Mr. McCaul differs from that.

Q.—Yes, I see that difference.

Mr. Helmcken: Just one question, Mr. Prentice. Mr. George Brown, in his evidence, says that this proposition of settlement emanated from the Government. Do you agree with that statement? A.—No. I don't know it, but I should doubt it exceedingly; from my own knowledge I don't know.

Q.—And as a member of the Executive? A.—I don't know.

Witness stands aside.

The Committee adjourned until to-morrow at 10 a. m.

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SATURDAY, May 2nd, 1903.

The Committee met pursuant to adjournment from yesterday. Meeting called to order at 10:30 a. m. Present: Messrs. Clifford (Chairman), Green, A. W. Smith and Helmcken, K. C.

The minutes of the last two previous meetings were read and adopted.

Mr. James Dunsmuir appeared at the request of the Committee.

MR. JAMES DUNSMUIR, being duly sworn, testifies as follows:—

The Chairman: Mr. Dunsmuir, you are doubtless aware of the scope of this inquiry?

A.—Yes; I understand it.

The Chairman: The procedure adopted hitherto in this Committee has been for the person giving evidence to make a statement first, and then afterwards to be interrogated by Mr. Oliver and the members of the Committee. You can take your choice on that, either to make a statement, or to be interrogated on the matter.

The Witness: Let them ask me questions about it.

The Chairman: You prefer that? A.—Yes.

The Chairman: I call upon Mr. Oliver to ask Mr. Dunsmuir any questions.

Mr. Oliver: Mr. Dunsmuir, you were present at the meeting of the Executive on the 10th of August, 1901? A.—No.

Q.—You were absent from Victoria at the time? A.—Yes.

Q.—About what time did you return to Victoria? A.—Some time about the first of September; somewhere, I think; somewhere in September; the first week in September I think it was.

Q.—Were you then informed as to what had been done in regard to this Columbia and Western Railway subsidy matter in your absence? A.—Yes. I was told that an Order in Council was passed giving the Columbia and Western two blocks. You will have to give me the map; I cannot tell you exactly; two blocks.

Q.—(Map handed to witness.)—You will find it on the extension of this map. A.—Yes; giving them these two blocks here, 4,593 and 4,954 (indicating).

Q.—There were a number of other blocks granted at the same time, were there not, Mr. Dunsmuir, by the same Order in Council? A.—A number of other blocks?

Q.—Along the line of the railway, a number of other blocks?

The Chairman: You better show him that Order in Council.

Witness: I never saw the Order in Council of the 4th of September; I never saw it; I understood there was an Order passed. The Order in Council was passed in the Executive on the 10th of August.

Q.—(Order in Council handed witness.)—This is the Order in Council, Mr. Dunsmuir; you see it is approved in Executive the 10th of August, and signed by the Governor the 4th of September. A.—Signed on the 4th of August by Mr. Turner.



Mr. Dunsmuir—*Continued.*

Q.—Yes. You will find that it deals with a number of other blocks besides the particular ones you have mentioned. A.—Yes.

Q.—On the 13th of September you signed an Order in Council approving the form of the Crown grants (showing document to witness). A.—Yes; I did that.

Q.—And the form of the Crown grant sets out the purpose that the lands are granted for. A.—Yes; that is right.

Q.—Do you recollect anything after signing the Order of the 13th September? Do you recollect anything taking place after the signing of that Order in Council settling the Crown grants? A.—I think, before signing that, that I was not quite satisfied.

Q.—Before signing it? A.—Before signing it I was not quite satisfied in giving them these two blocks; and it was explained to me that the Government was going to save 300,000 acres by doing it. But, previous to that, though, there were discussions about giving the Columbia and Western Railway the lands that they were entitled to; and I always understood that they were going to get lands adjoining the railway.

Q.—Previous to that? A.—Yes, previous to that. And then I was led to believe that there were not lands enough adjoining the Columbia and Western.

Mr. Green: Is that the Columbia and Western or the B. C. Southern? A.—No; the Columbia and Western. The B. C. Southern, previous to that again, there was an Order in Council passed giving the B. C. Southern these two sections, and then it was changed, giving it to the Columbia and Western. Why it was done I don't know.

Q.—You don't know? A.—No.

Mr. Oliver: You were told there was not sufficient lands to give them their lands along the line of railway? A.—That is what I understood; not sufficient land adjoining the Columbia and Western.

Q.—Now, who told you that, Mr. Dunsmuir? A.—Well, I don't know; no certain one told me; that was discussed in the Executive.

Q.—It was discussed in the Executive? A.—Yes.

Q.—And of course you take the position— A.—There is this—anything that I am going to say I do not want my oath to depend on what you call a cloak of the Executive, to interfere with what I am going to say; but I am going to come out with what the truth is. And if I am saying things or making statements that should not have been told out of the Executive—I don't consider that is breaking the oath of the Executive or the oath that I have to take as a member of the Executive.

Q.—Now, you said you were not quite satisfied about giving these two particular blocks? A.—No, I was not satisfied.

Q.—Well, did you make any inquiries to satisfy yourself? A.—Well, I wanted to know why they were doing it. Well, it was because the Government was going to save 300,000 acres.

Q.—Well, who told you that, Mr. Dunsmuir? A.—Well, I don't know that I need to tell. That was discussed in the Executive.

The Chairman: Might I ask, Mr. Dunsmuir, do you consider yourself at liberty to disclose conversations that went on in the Executive? A.—That is where it is; I am just saying it; is it right to do so? That is the point I want to know. I take a certain oath not to disclose anything that has transpired in the Executive.

Q.—Yes, I understand that. I was just asking, do you consider that you were right in doing that; you intended to do it? A.—I think so, as far as I am concerned; I don't see—I don't think by disclosing anything of that kind it is doing what—

Q.—Well, it is for you to say. A.—Well, that is where the trouble comes.

Mr. Oliver: Well, that was your understanding, Mr. Dunsmuir, that the reason for giving these two blocks was that you were saving some 300,000 acres? A.—Yes, that is what I understood, they were going to save 300,000 acres.

Q.—Was there any other reason? A.—Well, I understood, too, that they could not get it adjoining the Columbia and Western Railway. I understood that from the conversation in the Executive.

Q.—We won't ask where you understood that, but you understood that from information got? A.—Yes.

Q.—Now, can you tell us whom you got that information from? A.—Well, I don't want to say any one, because I know it was talked in the Executive.