
PROCEEDINGS AND EVIDENCE.

PARLIAMENT BUILDINGS, VICTORIA,

8th April, 1903.

The Select Committee appointed to inquire into the matter of the Columbia and Western Railway subsidy met on the above date.

Present: Messrs. Clifford, A. W. Smith, R. F. Green and A. E. McPhillips.

On motion, Mr. Clifford was elected Chairman.

It was resolved that a stenographer be engaged.

It was also moved and carried that the Chairman request Mr. Oliver to appear before the Committee with all documents and required witnesses.

On motion, the Committee adjourned to meet on Tuesday, April 14th, at 10 A.M.

TUESDAY, April 14th, 1903, 10 A.M.

Committee met pursuant to adjournment from Wednesday, 8th April. Present: Messrs. C. W. D. Clifford (Chairman), R. F. Green, H. Dallas Helmcken, K.C., A. E. McPhillips, K.C., A. W. Smith, Committee, and Mr. John Oliver.

The minutes of meeting of 9th instant were read and adopted.

Mr. Justin Gilbert was duly sworn as official stenographer.

Mr. Oliver was then requested to make a statement of the charges to be investigated and give an idea of the scope of the investigation to be made.

Mr. Oliver: The scope of the investigation is fixed in the Resolution that was passed by the House. (He here referred to and read the correspondence between himself and the Chairman of the Committee, dated April 9th 1903.) It will be necessary to investigate the matter from 1896 down to the present time.

Mr. Helmcken: Does anything turn on the matters of 1896?

Mr. Oliver: Yes; a great deal turns. The Act was passed in 1896, and a great deal turns upon the Act and the matters subsequent to that. It is a matter that involves millions of dollars' worth of property. As you know, this matter has been up at different times on the floor of the House, and answers given by Members of the Government to questions asked by Members of the House. I do not think the inquiry will go to any great length; but, unfortunately, we have statements put before the Legislature which are emphatically contradicted afterwards by the same gentlemen; two statements directly opposite to each other. We have a right to inquire what has been done in respect of granting these lands, and the status of the matter to date; to investigate into the truth of the matter, so as to enable the House to deal justly as between the people and the Railway Company.

Mr. Helmcken: In order that we may deal with this matter in a comprehensive way, could you not make an opening statement, and then we will see what documents are necessary to be obtained?

Mr. Smith: A statement of the charges.

Mr. Oliver: This is not for the purpose of investigating charges; the scope of the investigation is in the Resolution itself. I have made myself responsible for statements before the House, and I propose to produce the facts to bear out those statements. I submit this is a Committee appointed to inquire into all matters; it is not a question of what matters I choose to bring up, but other Members of the House have the same right to appear and bring up matters as I have.

In 1896 a Bill was passed granting a land subsidy on certain conditions. I take it the duty of the Government was to see that those conditions were complied with before the granting of the land subsidy; to see that the subsidy was granted in accordance with the terms of the Statute. I say that the subsidy not being granted upon the terms of the Statute, the reason given by the Government for that was that they varied the terms of the Statute; and I want to know by what authority they varied them, and the whole history of the thing. Take, for instance, the subsidy which was granted—with regard to sections 1 and 3—how the

deficiency mentioned in the Act was to be made up; whether the conditions of the Act have been complied with; and as to the amount given by those grants; where the lands were located, and where the Act intended they should be located. Then with respect to section 4, whether the Company is really entitled to the land under that section; whether the statements made to the Legislature with reference to section 4 are true statements and backed up by the facts. These are matters which you should inquire into, and I do not see how it is possible to get into the truth of this matter without going into the history of the whole thing right from its inception. I can assure you, gentlemen, as far as I am concerned, it is not my intention to bring up matters that will take any great length of time beyond what is absolutely necessary; as far as I am concerned, I wish to confine the inquiry to what is absolutely necessary to elicit the true statement of facts with regard to this Columbia and Western subsidy. You are aware that, dealing with an inquiry like this, facts may come to light which may make it necessary that the examination may take an entirely different trend. We cannot tell at present what is in possession of the Government. This I do know, that the Government at last Session, in answer to inquiries for correspondence in reference to this matter, denied repeatedly that they had correspondence in their possession; and yet, as a matter of fact, I am in position to prove that they did have correspondence, that the statements made before the House were misleading and untrue, they having correspondence in their possession. And it is impossible to tell at this stage of the inquiry just what trend this inquiry will take.

I ask that the Committee order that those telegrams and correspondence and documents referred to in my letter be produced. I want all the correspondence since 1896—the Bill was passed the 17th of April, 1896.

The Chairman was instructed by the Committee to ask the Government for the production of all documents having any connection with the subsidy in question, particularly those documents mentioned in Mr. Oliver's letter.

Mr. Oliver: I have here extracts from reports of the speeches made at the passage of this Subsidy Act, showing what the intention of the Act was, which I produce to the Committee for the purpose of showing the reasons why this subsidy was proposed to be given. I submit these reports for the purpose of showing that one of the main objects for the granting of that subsidy was for the construction of a railway to Penticton, so as to connect with the Shuswap and Okanagan, and thus aid in wiping out the indebtedness of that road. There are other extracts there, but the first one is the one referring to the discussion of this Bill in 1896. They are reports of speeches made on the floor of the House. The authority from which they are taken is stated (the "Colonist"). There are others that refer only to the railway in question and do not refer to the Subsidy Act. But I may say that all the extracts will be useful in showing what was the intention in the passing of the grant.

The Committee then adjourned until Thursday, April 16th, 1903, at 10 A.M.

THURSDAY, April 16th, 1903, 10 A. M.

The Committee met pursuant to adjournment from Tuesday, April 14th. Present: Messrs. Clifford (Chairman), Green, Helmcken, K. C., and Smith.

The minutes of the last previous meeting were read and, on motion, adopted.

The Chairman stated that, in accordance with the instructions of the Committee, he had written on the 14th of April to the Hon. the Chief Commissioner of Lands and Works and the Hon. the Attorney-General, for the production of the documents specified, and, so far had received no reply. The Secretary read copies of the two letters.

Mr. W. S. Gore, Deputy Commissioner of Lands and Works, here attended at the invitation of the Committee, and stated that he had two clerks working as hard as they could, getting out the correspondence and papers asked for, and that it will be impossible to have them ready before Monday next, he having had to go through all the documents back to 1896. There were other documents in the Department of the Provincial Secretary. The Attorney-General had just brought him some of the Orders in Council to examine, to see if they were the ones that were required, they being brought from the Provincial Secretary's Department. There had been no delay in getting the documents together, but he had hurried the matter along as rapidly as possible.

The Chairman was here instructed to write to all the other Departments of the Government for the production of documents, if any, in terms similar to the two letters last mentioned.

Mr. Maclean, Deputy Attorney-General, here attended at the request of the Committee. He stated that he had not seen the Chairman's letter to the Hon. the Attorney-General; that he presumed it would take some time to get out all the correspondence asked for, since 1896, and that probably accounts for any delay; correspondence is not grouped according to subjects, but numbered consecutively as they come in; it would be impossible to group them as they come in, according to the particular matters to which they refer; it might be done at the end of a year, but would require an army of clerks to do so. Still, they are grouped in a way, as they have books in each Department in which such matters are grouped, as a rule, but the letters themselves are not grouped. He would see Mr. Gore, and render any aid possible. The Orders in Council could be produced in a few minutes.

The Committee here adjourned until Monday, April 20th, 1903, at 11 a. m.

MONDAY, April 20th, 1903.

The Committee met pursuant to adjournment from Thursday, April 16th. Called to order at 11.45 a. m. Present: Messrs. Clifford (Chairman), McPhillips, K. C., Green and Smith.

The minutes of last meeting were read and, on motion, adopted.

On motion, Mr. McPhillips was appointed Secretary *pro tem*.

Letter from A. M. Jones, stenographer, of 20th April, 1903, was read.

Communication 18th April, 1903, from the Hon. the Premier, was also read.

Hon. Mr. McInnes, Provincial Secretary, here attended before the Committee, producing the following original documents:—

Orders in Council *in re* Columbia and Western Railway,—No. 178, 1896, reserving certain lands from sale or pre-emption;

No. 224, 1896, reserving certain lands *in re* sections 3, 4, 5, and 6 of railway;

No. 396, 1896, *re* Heinze's bond \$75,000;

No. 252, 1897, *re* alternate route;

No. 254A, 1897, *re* Heinze's bond;

No. 288, 1898, Columbia and Western Railway named as recipients of subsidy for line Robson to Boundary Creek;

No. 484, 1898, bonds to be returned;

No. 302, 1899, cancelling Order in Council;

No. 288, of 1898;

No. 717, 1900, Crown grant to issue for subsidy lands earned;

No. 393, 1901, certain lands to be granted in full and satisfaction *re* sections 1 and 3; also plans;

No. 432, 1901, approving form of grant *re* Order in Council;

No. 393, 1901;

No. 103, 1902, rescinding Order in Council;

No. 393, 1901;

No. 457, 1902, cancelling in part reserve created by Order in Council;

No. 178, of 1896;

No. 88, 1903, issue of grant of right of way, Smelter Junction to Trail (14 in all).

Hon. Mr. McInnes: I would suggest when the Committee finishes with them each day it might be well to have them returned to the Department and put in the vault there.

The Chairman: That is a very good idea; we will see to that.

Hon. Mr. McInnes: You only wanted me to produce the papers?

Mr. Oliver: We only want the papers now; we may want you after awhile.

(Hon. Mr. McInnes here retired.)

Mr. W. S. Gore, Deputy Commissioner of Lands and Works, here attended before the Committee, producing the following original documents:—Letters, of 1896, Nos. 2,044, 2,482 and 2,535; of 1897, 6,163, 6,431; of 1898, 6,108, 6,602, 7,110; of 1899, 103, 9,022, 9,270, 9,282; of 1900, 2,142, 3,975, 6,239; of 1901, 4,426; of 1902, 1,744, and 1,749.

Mr. Gore: Here is another bundle of papers I have brought; these have no reference to the land subsidy, that is the reason I have kept them separate; they are more particularly on the filing of plans as required by the B. C. Railway Act, and matters of that nature.

Mr. Gore—*Continued.*

The letters produced are the following:—Letters referring to right of way, etc., of the Columbia and Western Railway Co.; 1898, Nos. 1,720, 501; in 1899, 789, 1,165, 1,599, 2,112, 3,291, 3,788, 6,876, 9,023, 9,482; in 1900, 933, 1,272, 1,889, 6,847; in 1901, 1,190, 3,076, 3,288, 3,274; in 1902, 1,238, 1,247, 1,584, 1,305, 1,625, 1,708, 1,754, and 1,890.

Mr. Gore: There is a map showing lands granted to the Company (producing same).

Mr. McPhillips: Where is the south-east country, the Kootenay country, on this map?

Mr. Gore: Over there (indicating), adjacent plan attached; we could not show it all on one plan; there are three official maps attached, showing one road.

Mr. Oliver: That is identical with that plan attached to the Order in Council, isn't it, Mr. Gore?

Mr. Gore: Yes.

Mr. McPhillips: What does the Order in Council refer to which has been cancelled?

Mr. Gore: Both of these (indicating).

Mr. McPhillips: When was this granted?

Mr. Gore: That was granted by Mr. Cotton's Government in August, 1899.

Mr. McPhillips: That was carrying out the terms of the British Columbia Subsidy Act?

Mr. Gore: Yes; that was their initial block.

Mr. McPhillips: What is the area of these two, approximately?

Mr. Gore: I think it is stated there, approximately; the Company agreed to accept it as correct.

Mr. Oliver: It has never been actually surveyed; it is about 625,000 acres?

Mr. Gore: This boundary line has never been actually surveyed; and it is questionable whether it could be. This has been surveyed here along this river (indicating). I produce these maps showing the lands granted to the Company; they are official maps, and should be taken great care of; they are all original documents.

The Chairman: Will the Commissioner require these to refer to?

Mr. Gore: Not during the next few days.

It was decided by the Committee that all the papers should be put in the Provincial Secretary's vault after each adjournment of the Committee, from day to day.

Mr. Gore: Here is a map showing the lands reserved for the Columbia and Western Railway Company, in pursuance of the Land Subsidy Act (producing same). I would better explain this to you. You will find it referred to in that correspondence; one of the first things; Mr. Chester Glass deposited this map.

Mr. McPhillips: Who was he acting for?

Mr. Gore: Heinze, at that time. This parcel shown within these purple lines I am tracing with my pencil was the first block they asked to have reserved.

The Chairman: That is the Columbia and Western?

Mr. Gore: The Columbia and Western, yes.

(Mr. Helmcken here entered the Committee Room.)

Mr. Gore: Subsequently, the Company asked to have this larger block reserved; and that was gazetted in June, 1896.

Mr. Helmcken: That would be by Order in Council?

Mr. Gore: Yes; reserved by Order in Council, and reserved in June, 1896. It extends, I think, 123 miles in length, and 56 miles wide.

The Chairman: That is map number four?

Mr. Gore: Yes. This is also an official map. This is a copy of the Crown grant. They are all worded just the same, except the particular description of the block (referring to copy Crown grant 30th October, 1901). This is a document that was sent up to me—opinion of Mr. C. C. McCaul on the question. That is, Mr. McCaul, K. C., of Vancouver. A recent opinion; I have not seen it before myself (producing the document). And this is a copy of another, by Gordon Hunter (producing same). I have some loose printed returns that may be convenient to the Committee; returns with respect to this matter (producing same). And I have the counterfoils of the Crown grants here, if the Committee wish to inspect them. I would like to take the book back with me to the vault (producing the book). There is a receipt from the Canadian Pacific Railway Company (indicating), acknowledging the receipt of these Crown grants. This receipt is dated 21st November, 1901, signed by H. Campbell Oswald, Secretary Columbia and Western Railway Company, acknowledging the receipts of Crown grants numbered 1,505 to 1,522, inclusive; 794,440 acres.

Mr. Gore—*Continued.*

Mr. Oliver: That does not just tally with the Chief Commissioner's answer. What is that that has been erased?

Mr. Gore: That is a typographical error here, this line is a duplicate of the one above it.

Mr. Oliver: There is about 72,000 acres more granted there than the Chief Commissioner returned in his answers last year?

Mr. Gore: If that is so, it was an error very likely of myself in getting out the answer, or this is wrong here. They are all here; each Crown grant expresses the acres in itself.

Mr. Oliver: Have you got copies of the ones cancelled?

Mr. Gore: They are there (showing them).

Mr. Oliver: That is the cancellation?

Mr. Gore: Yes. That is the original document, with the counterfoil attached to it; that is the original Crown grant not delivered.

Mr. Helmcken: What is the date of these Crown grants?

Mr. Gore: 3rd October, 1901.

Mr. Helmcken: Are there two of them?

Mr. Gore: There are two Crown grants cancelled, yes; both dated the same day; numbered 1,523 and 1,524, volume 127.

Mr. Helmcken: And what does it state the acreage?

Mr. Gore: One is said to contain 245,760 acres; the other is said to contain 380,000 acres.

Mr. McPhillips: But that is the only kind of cancellation; you have not cut them through, or anything like that?

Mr. Gore: No; that is the original Crown grant.

Mr. McPhillips: Who signed them? You signed them?

Mr. Gore: Yes.

Mr. McPhillips: And Mr. Prentice?

Mr. Gore: Mr. Prentice, Provincial Secretary.

Mr. McPhillips: Does each Crown grant recite the Order in Council?

Mr. Gore: Yes (reading from Crown grant).

Mr. McPhillips: Where is that Order in Council?

Mr. Gore: The Provincial Secretary has presented that. It is in the printed list that I have given you—in the printed return.

Mr. McPhillips: Fourth of September, 1901? I thought it showed who were present in the Council?

Mr. Gore: The printed copies do not. This is a memoranda. The printed Orders in Council are memoranda; the enacting Order is not printed. The enacting Order will show who was present at the Executive at that time.

Mr. McPhillips: Cannot we get that?

Mr. Gore: Yes, certainly; it is attached here.

Mr. McPhillips: Fourth of September, 1901; No. 393 of 1901:

Mr. Gore: (Looking at the document) Present, the Honourable blank—it is not filled in.

Mr. McPhillips: That is what I was recollecting that from. If filled up it would show who was present?

Mr. Gore: J. H. Turner was the acting President of the Council.

The Committee here discussed the matter of the safe-keeping of the documents produced, while in the hands of the Committee, and the advisability of having copies made to replace the originals. Mr. Helmcken, the Secretary, agreed to assume the responsibility of looking after the safe-keeping of all documents placed in the hands of the Committee at their sessions.

Mr. Helmcken: You are going to take that down to your own office (referring to book counterfoil of Orders in Council)?

Mr. Gore: Yes. I will produce it at any time you desire.

Mr. Helmcken: These documents are all going into the Provincial Secretary's vault, you understand?

Mr. Gore: Yes.

Mr. Oliver: No return has been made from the Attorney-General's Department.

The Chairman: I understood the Provincial Secretary went there, and it is included in his return, anything that was in the Attorney-General's Office.

Mr. Oliver: I think it would be well to inquire from the Attorney-General's Department, to prevent any possibility of making a mistake. And would you pass an order directing that

Mr. Gore—*Concluded.*

these papers may be inspected in the presence of a clerk, after they are deposited in the vault. I would like the opportunity of going through the papers.

After discussion among the Committee, it was moved by Mr. McPhillips, seconded by Mr. Green,—

“That all members of this Committee and of the House have permission to examine all papers produced before the Committee at any time while they are in the vault of the Provincial Secretary’s Department, by getting an order from the Chairman of the Committee, it being understood that it is not for the purpose of publication, but simply for the purposes of this investigation and to further the same.” Carried.

It was here moved by Mr. Helmcken—“That the sessions of the Committee terminate at 12.30 p. m. hereafter, and that the Committee now adjourn until to-morrow at 10 a. m.” Carried; the Committee adjourning accordingly.

TUESDAY, 21st April, 1903, 10 A.M.

The Committee met pursuant to adjournment, the following members being present when called to order:

Messrs. Clifford (Chairman), A. W. Smith, Green, and Helmcken, K. C.

The minutes of last previous meeting were read and adopted.

The Secretary read letter received from Mr. J. McB. Smith, Deputy Minister of Finance, dated April 20th, enclosing copy of letter, Hon. F. Carter Cotton, Minister of Finance, to Mr. T. G. Shaughnessy, President Canadian Pacific Railway Co., of date 9th December, 1899, and stating that this is the only correspondence touching the matters in question, in the Treasury Department.

Mr. Oliver: Mr. Chairman, there is certain correspondence in existence which has not up to the present been submitted to this Committee; I am not just sure in what Department it is, but probably in the Finance Department, or in the Attorney-General’s Department.

The Chairman: I saw Mr. Maclean, of the Attorney-General’s Department, and he is now going through everything, letters and correspondence, and as soon as possible he will produce before the Commission any correspondence; probably to-day.

Mr. Oliver: What I refer to are letters that passed between the Semlin-Cotton Administration and the Railway Company, during the time that Government was in power.

Mr. Smith: Can you give anything near the date of them?

Mr. Oliver: No, I cannot. These letters were promised to be brought down to the last Session of the Legislature, and were never brought down.

Mr. Helmcken: Was there any resolution on that?

Mr. Oliver: Yes; the resolution was withdrawn on the promise of the Government to bring them down.

The Chairman: What shall be done to obtain this correspondence? Every one of the Departments have been written to. We have heard from the Department of Finance, Premier, Provincial Secretary and Lands and Works, and the Deputy Attorney-General is now going through the correspondence there.

Mr. Green: I would move that the Premier be communicated with, and be told that Mr. Oliver says that there are certain correspondence missing, and we write to him as head of the Government to see that it is produced.

Mr. Smith: If Mr. Oliver would give some idea of what the correspondence is—

Mr. Oliver: I have not seen it.

Mr. Smith: Cannot you give us an idea of what it is?

Mr. Oliver: No; I will not undertake to do that.

Mr. Helmcken seconded the motion; same was carried.

Mr. Oliver read from page 126, Journal of 1902, date 26th of May, the resolution referred to as having been proposed and withdrawn.

Mr. Oliver: It was withdrawn on the statement by the Premier that these papers would be brought down.

Mr. Helmcken: That was the Hon. Mr. Dunsmuir?

Mr. Oliver: Yes.

The Chairman: At what time would you like Mr. Brown to appear before the Committee? He would like to have notice.

Mr. Oliver : Mr. Brown is in town, and I would like him examined as soon as possible, as certain things are mentioned in the correspondence that Mr. Brown could throw considerable light on.

The Chairman : To-morrow at ten o'clock ?

Mr. Oliver : That would suit.

(Mr. McPhillips here entered the Committee Room.)

Mr. Oliver : There is a letter dated December 18th, 1899, which is not included in this correspondence, written by Mr. Shaughnessy to Mr. Cotton.

Mr. Helmcken : It is not in that evidence that was obtained before that special committee.

Mr. Oliver : It is referred to there, but it is not contained in it. And there is other correspondence between Mr. Shaughnessy and Mr. Martin I am led to believe.

Mr. Helmcken : About that time, too, 1899 ?

Mr. Oliver : I cannot say the date ; it was whilst the Semlin-Cotton Government was in power.

The Chairman : That will all be embodied in the letter to the Premier.

Mr. Oliver : There is a plan and book of reference referred to in a letter here, that I would like to have produced,—referred to in the letter of the 20th of July, 1900, showing the located line of the Columbia and Western from Kettle River, five miles west of Midway, to Penticton,—letter from George McL. Brown to the Hon. the Chief Commissioner of Lands and Works. I want to show by this letter, and by the filing of these plans, that on the 20th of July, 1900, the Company were still contemplating building that road. I think Mr. Gore stated when he was here the other day that there were books of reference ; I think Mr. Gore alluded to that ; books of reference with regard to filing of plans. I do not think we have had that yet.

Mr. Gore here attended before the Committee, by request, producing plans and book of reference.

Mr. Gore : These are the plans asked for.

Mr. Oliver : These are the plans referred to in that letter of George McL. Brown of the 20th of July, 1900 ?

Mr. Gore ; Yes.

Mr. Oliver : Would you tell us when these plans were filed, Mr. Gore.

Mr. Gore : I think you will find them stamped inside (looking) ; 23rd of July, 1900.

Mr. Oliver : And they are showing the location of the Company's line between Kettle River and Penticton ?

Mr. Gore : Yes, five miles west of Midway, by Meadow Lake Pass to Penticton. And this is the book of reference (indicating).

The documents mentioned were returned to Mr. Gore, who here retired from the committee room.

Mr. Oliver : If the Attorney-General could be got I think we might have this examination proceed now, if we could get this correspondence. I think, as far as I am aware, the correspondence that I have referred to completes all the papers that I know of in connection with this matter.

Mr. Helmcken : Do you want to get that before you proceed with the examination ?

Mr. Oliver : There is a lot of material that could be examined on ; but it would be better to have that. Either Mr. Brown or Mr. Eberts might be subpoenaed to give evidence, and Mr. Wells. It is immaterial as to the order witnesses are called ; but I prefer to have Mr. Eberts and Mr. Brown precede Mr. Wells.

The Chairman : I will call Mr. Brown to-morrow morning at 10 o'clock ; we can get Mr. Eberts and Mr. Wells at any time.

Mr. Oliver : I would like to have Mr. Martin's evidence ; and I would like to have Mr. Shaughnessy's. Possibly, correspondence may make it unnecessary to examine Mr. Martin ; I cannot say until I have seen it ; and it may make it imperative that he should be examined.

Mr. Helmcken : How are you going to get Sir Thomas Shaughnessy ?

Mr. Oliver : Well, I would suggest, Mr. Chairman, that Mr. Shaughnessy be wired to in regard to this matter, that the Committee would like to have him attend here and give evidence. He is beyond the jurisdiction of the Committee, and unless Mr. Shaughnessy chooses to come of his own volition the Committee have no power to force him to come.

The Chairman was instructed by the Committee to wire Mr. Shaughnessy as requested.

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

TUESDAY, April 21st, 1903, 7:30 P. M.

The Committee met pursuant to special call; meeting called to order at 8:30 P. M.; present: Messrs. Clifford (Chairman), Helmcken, K. C., and McPhillips, K. C.

The minutes of previous meeting of to-day were read and adopted.

The Chairman reported that he had wired to Sir Thomas Shaughnessy, as suggested.

The Secretary read copy of letter sent by the Chairman to the Hon. the Premier.

The Secretary reported that the Deputy Attorney-General has sent in copies of correspondence, including copies of a telegram of 27th November, 1902, from Hon. Mr. Wells to Sir Thomas Shaughnessy, and the answer from Sir Thomas Shaughnessy to Hon. Mr. Wells thereto.

Mr. GEORGE McL. BROWN was here called as a witness, duly sworn, and testifies as follows:—

(Mr. Oliver was requested to examine the witness.)

Mr. Oliver: I would like Mr. Brown to tell the Committee what he knows with regard to this question of land subsidy in connection with this Columbia & Western road?

A. Mr. Chairman and gentlemen,—I was, of course, unprepared for this; I did not know that you were holding a commission or I might have got all my records together and have spoken more accurately than I possibly may be able to do. But I can tell you the story; my dates may be a little out here and there, but my facts will be correct. The history of the subsidy—of our interest in the subsidy—dates back to the time that Mr. Heinze disposed of his interest. His disposing of his interest in the Columbia & Western Railway was brought about at the instance of the then Government. He found it impossible to go on with his works and build his road. Our people were approached by the Government to take it over and complete the work. This they did, I think in 1898, was it, that we took it over. We went through with it; and I think that it was commented on all over the country the rapidity with which the road was built. After they had built the road, the third section, they naturally came to the Government for a settlement of their subsidy. Negotiations were entered into between the several Governments as they came into power and went out of power; but no settlement was reached. We had negotiations, I think, with the Turner Government, with the Semlin Government, and with the Martin Government. All came to naught because the Governments came to naught. Finally we had negotiations with this Government, with the Dunsmuir Government; I cannot give you reference to every interview; but with my records before me I could give you reference to all correspondence. But the negotiations went on and on until, finally, on the 31st of July, 1901, I wrote the Chief Commissioner of Lands and Works calling his attention to the fact that the Company had earned its subsidy and was entitled to a settlement of the matter, and requested him to use his efforts to bring about a speedy settlement. That was dealt with by the Government; and I received a reply to my letter of the 31st of July, and that reply was dated between the 2nd and the 4th of August—I think it was the 2nd, but it may have been later. It was signed by Mr. Turner, as Acting President of the Council, advising me that the Government had decided to bring about an early settlement of the Columbia & Western subsidy matter, that the question had been referred to Mr. Wells for his recommendation, and that they would take it up as speedily as possible. Somewhere about the 12th of August, I think, I was given a certified copy of a minute of Council setting out the proposal the Government had to make, which in effect was that we should take the alternate sections of land for that first section; there not being enough land to give us our full area, they proposed that we should take a lesser area in South-East Kootenay. I have forgotten the number of the lots—those two lots that you have just repudiated to-day.

Mr. Curtis: Numbered 4,593 and 4,594? A. They were not numbered at the time, Mr. Curtis, but I think it is in that Minute of Council.

Mr. Oliver: You refer now to the Order in Council approved by the Executive on the 10th of August? A. I believe so (witness reads from the Crown grant). That is the one I refer to, the 10th of August.

Mr. McPhillips: Approved by His Honour on the 4th of September, 1901? A. That settlement provided that the Company should accept something over 200,000 acres less than they were entitled to in lieu of their full area. The grants were prepared and, I think, issued about the 3rd of October.

Mr. Curtis: That is, 1901? A. 1901, yes. I am not quite sure of the date; it might be the 3rd. On my applying for them I was called upon to pay the fees, which I did, and

Mr. Brown—*Continued.*

which the Government accepted. I was at the time told that the Hon. Mr. Wells had decided to make delivery personally, that he was going to Montreal. He went to Montreal and made certain deliveries of certain grants—made deliveries of the whole grants, so the President tells me.

Q. I beg your pardon? A. Made delivery of the grants.

The Chairman: To whom? A. To the President.

Mr. Curtis: Of all those grants? A. The President informed me that Mr. Wells had asked his consent to return to Victoria with these two grants, and that 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.

Mr. Curtis: There is just one point, Mr. Brown, you have not elucidated. You say that there was a deficiency of the acreage, and under that Order in Council you were expected to not ask for the deficiency, if you were given those particular Crown grants; was that ever agreed to by your company? A. Certainly.

Q. In writing? A. No; personally, and by the acceptance of the grants, and the acceptance of the Minutes of Council, and the payment of fees.

Q. Were these two Crown grants and those two areas, known as deficiency blocks 1 and 2 in South-East Kootenay, actually delivered to any of your people in Montreal? A. As far as I understand, yes. I was not present at the interview between Mr. Shaughnessy and Mr. Wells.

Mr. Helmcken: We are governed by the rules of legal evidence here, you know. Mr. Brown is only giving hearsay evidence.

Mr. Curtis: In a Committee there are no rules for the exclusion of evidence except practical common sense; you can take evidence in a Committee where it would not be allowed in a Court of law. For instance, there is no privilege in a committee, a lawyer cannot object that he cannot give evidence because it is privileged as between himself and a client.

The Chairmen ruled that Mr. Curtis is out of order in interrogating the witness, unless special leave is given by the Committee or by the House.

The Chairman: You may continue your statement. A. I think my last statement was that I had applied to Mr. Wells, after his return from Montreal, for the fulfilment of his promise. I heard—rather, this condition obtained for some months, until, I think it was the date of this letter, 19th of March, 1902.

The letter referred to was read in evidence by the Chairman, as follows:—

“VICTORIA, B. C., March 19th, 1902.

“*To the Honourable the Chief Commissioner of Lands and Works,
Victoria, B. C.*

“*SIR,—Referring to our conversation of this morning in respect of the Columbia and Western Railway subsidy, I am in some doubts as to just what has been done, and what the Government's proposal is, which you wish me to submit to Sir Thomas G. Shaughnessy for his consideration.*

“*I wish to be perfectly clear on the subject and would be obliged if you would kindly send me a memorandum setting the matter out in full, so that I may forward it to headquarters.*

“*I have, etc.,*

GEO. McL. BROWN, Executive Agent.”

(Continuing.) On the 19th I heard a rumour of the rescinding Order in Council. I have forgotten what date that was.

The Chairman: The 18th. A.—I mean the date of the order. I did not credit it, as I had received no advice of any such intention on the part of the Government. I asked Mr. Gore on the morning of the 19th if such was the case, and he referred me to the Chief Commissioner. The Chief Commissioner said that it had been passed.

Mr. Helmcken: That is the rescission order. A.—Rescission order—without advice of any sort to the Company. I protested verbally to him. He made some verbal proposition which I did not understand. And on my returning to my hotel I wrote this letter of the 19th of March, 1902, to which I see is attached what purports to be a copy of his letter of the 21st of March.

Mr. Oliver: Mr Chairman, I would like to have that copy put in evidence and read.

Witness (continuing): I cannot tell you now whether that is the answer; I presume it is the answer.

Mr. Brown—*Continued.*

The Chairman read the letter as follows :—

“VICTORIA, B. C., 21st March, 1902.

“RE COLUMBIA AND WESTERN RAILWAY SUBSIDY.

“SIR,—Replying to your inquiry of yesterday’s date in respect to the above subsidy I beg to inform you that in accordance with a letter which I understand was given by the Premier of date June 15th last, the purport of which was that a Bill would be brought down to the House reinstating the Company in their right with regard to the construction of section 4 of the Columbia and Western Railway, I beg to inform you that it is the intention of the Government to bring down a Bill this Session which will provide for a settlement of the land subsidy question.

“Re settlement of subsidy for section 3, there is still a deficiency, as it appears, of about 896,000 acres with respect to this section, towards the settlement of which the Government propose to Crown-grant to your Company the alternate sections, the area of which is computed to be about 800,000 acres. Upon the request of your Company Crown grants of these blocks will be made out and delivered in due course. The blocks are numbered 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 20, 23, 25, 27, 29, 31, 32, 35, and 37.

“I have, etc.,

“W. C. WELLS,

“Chief Commissioner of Lands and Works.

“Geo. McL. Brown, Esq.,

“Executive Agent, C. P. R., Vancouver, B. C.”

Mr. Oliver : There is a reference in one of those letters to a letter of the 15th of June previous ; do you know anything about the contents of that letter? A.—Oh yes ; it was a promise from the Premier to bring in an Act in respect of the fourth section.

Q.—That was in connection with the fourth section. A.—The fourth section.

Q.—It did not refer to sections 1 and 3? A.—No.

Q.—With regard to the contents of that letter on the 15th June, that was purporting to give the Company the land for the fourth section? A.—Yes, they promised to bring in—no, reinstating the Company in its rights. If it constructed the road, the fifth and sixth sections, it was entitled to the fourth section.

Q.—If the Company constructed? A.—Yes. You see it seemed—it required legislation to reinstate the Company in its right in respect of the subsidy for the fourth section. I think if I mistake not the Statute provided that when the fifth and sixth sections were constructed, the subsidy for the fourth section would have been earned. That was the original Statute.

Q.—Yes, when the fifth section was in? A.—For reasons which I cannot go into now—I do not suppose they bear on it at all—the fifth and sixth sections were not completed ; and this Act purported to reinstate us in fact.

Q.—The purport of the Act, shortly put, was to give you the land subsidy for the fourth section although the fifth section was not completed? A.—The Bill will tell you exactly. The Bill was introduced and printed.

Mr. Helmcken : You mean the Bill at the last Session? A.—Yes.

Q.—This is it, isn’t it? (Handed to witness.) A.—It was the previous Session that they promised a Bill, and brought it down the last night of the Session and let it go.

Mr. Oliver : I think, in order not to interrupt Mr. Brown, we will bring that up afterwards. A.—There are other letters. To continue—in further reference to this letter of the 19th of March, to which Mr. Wells replied on the 21st of March, I wrote the honourable gentleman in reply to this, I cannot give you the dates and it may be a privileged communication, because I believe that I marked it “personal.” In that letter I contended that the settlement with the Columbia and Western Railway had been completed, that the grants had been issued and demanded—requested, rather, permission to go before the Cabinet and state our case and protest against the rescinding order. Several letters passed between us, the dates I cannot give, though I have copies of them in my records. I protested against the idea that the settlement of the Columbia and Western Railway for the third section was not completed, as is endeavoured to be set out in this letter of the 21st, because the grants had been issued and delivered. Subsequently, I cannot tell the date now—but I fancy the members of the Cabinet will remember it—I was permitted to appear before the Cabinet, and the full Cabinet was there—the Hon. the Premier, the Hon. the Attorney-General—

Mr. Oliver : Which Premier? A.—Mr. Dunsmuir, Mr. Wells, Mr. Prentice, and Col. Prior.

The Chairman : It was not a full Cabinet? A.—Why.

Q.—The Attorney-General not there? A.—Yes, the Attorney-General was there. And I protested vigorously against this whole proceeding. And I left them.

Mr. Brown—*Continued.*

Mr. McPhillips: That was the 21st of March? A.—Well, I could not tell you. It was about that time. I don't know whether this is privileged, but I know that immediately after my meeting with the Cabinet I made a record of what transpired, and I can refer to it at any time. I presume I might enlarge on the conversation I had with the Cabinet here; but the simple statement that I protested vigorously, I fancy, would answer you gentlemen. This interview may have some bearing on our legal case.

Mr. Helmcken: How long did the interview last? A.—It lasted some time.

Q.—What was the upshot of the interview? A.—Of the interview? the upshot culminated to-day in a Repudiation Bill.

Q.—Was any conclusion reached at the time? A.—No, I left them to consider it, and they promised to consider it.

The Chairman: Is that the end of your statement? A.—Yes.

The Chairman invited Mr. Oliver to ask questions if he desired.

Mr. Oliver: Mr. Brown, you have mentioned in your evidence a Bill which you say the Government had prepared in 1901, I think—— A.—Well, Mr. Oliver, you must not hold me down to dates to-night.

Q.—No. The Bill you referred to was one which the Government proposed to bring the last night of the Session of 1901; that was the Session of two years ago. A.—The Bill I refer to was a—they did not propose to bring it down, as far as I am aware, the last day of the Session. They promised to introduce a Bill reinstating the Company in its rights during that Session.

Q.—The Session of 1901? A.—Yes.

Q.—Now, you spoke about having records of what took place between you and the Government; will you mind telling the Committee where those records are now? A.—They are in the archives, the regular archives of the Company.

Q.—Where are the archives kept; in Vancouver or where? A.—In Montreal; the Secretary's office; the regular official documents. You should have in the Government a complete file of those letters. I have no doubt you have.

Q.—Your copies are in Montreal? A.—Yes.

Q.—Now, you have seen these letters that have been submitted to the Committee, and from your evidence here to-night I gather that there are a number of other letters that are not included in the returns brought down? A.—There are certain letters that I do not see. For instance, my letter that I wrote to the Government asking for a speedy settlement is not here. The reply I received from the Government advising me that they had decided to settle the matter speedily is not here. The copy of the covering letter with the Order in Council is not here. And I am also informed—I have a recollection—I cannot state positively, but I have a very distinct recollection of being informed, that the Government Agent at Fort Steele, in South-East Kootenay, had been advised by letter from the Department that these grants had issued. I think that was in October or November, or both.

Mr. Helmcken: What year would that be? A.—That would be the year the grants issued.

Q.—1901? A.—1901. And I think maps were sent to the agent; I have a very distinct recollection of being told that by somebody.

Mr. Oliver: Now, I find amongst these correspondence a letter transmitting the plans and book of reference of the located line of road from Kettle River to Penticton, dated the 20th of July, 1900. I think that that letter is from you, is it not? A.—I cannot remember, Mr. Oliver. It is quite possible. All the filing of plans would come through my office at that time as a matter of course.

Q.—Now I want to ask you this question: When were you first informed that a verbal agreement had been entered into between Mr. Shaughnessy and the Government whereby the Company agreed to give up their rights to construct the fifth and sixth sections of the road? A.—That was at the time—well now, this is a question I must be careful in answering very carefully, because I am not very positive as to dates. I think that was at the time—that was just prior to Mr. Turner's going to the country. Mann and Mackenzie undertook to build the fifth and sixth sections, and, if I mistake not, they entered into a contract with the Government to that effect—I am wrong in saying that they undertook to build the fifth and sixth sections; they undertook to build a line from Penticton to Rock Creek, or to a connection with the Columbia and Western Railway.

Mr. Brown—*Continued.*

Q.—Yes; we have all that in returns. But the question I asked was when you were first made acquainted, when you were first informed that an agreement had been made with the Company to surrender its right to build the fifth and sixth sections? A.—I could not tell you, Mr. Oliver, at the present sitting.

Q.—Now, have you any knowledge—have you anything in writing bearing upon this agreement? A.—None whatever that I know of at the present time; there may be writings that I don't know of.

Q.—Now, is it customary for your Company to make an agreement whereby they surrender their right to build two important sections of a line of railway, and the surrendering of which involves the title to a large land subsidy—is it customary for the Company to rest questions of this kind on a mere verbal arrangement? A.—Well, Mr. Oliver, that is a question that I cannot answer. I am but a servant of the Company. I do not direct its policy. But I should imagine with such honourable men as we have at the head of the Canadian Pacific Railway, if they have reason to believe that they are dealing with honourable men, that their word is just as good as their bond. I don't know whether it was verbal or not. Of course, I cannot answer a thing of that kind.

Q.—Of your own knowledge, do you know whether such an agreement was made? A.—Of my own knowledge?

Q.—Yes. A.—I have every reason to believe that there was such an agreement.

Q.—But of your own knowledge? A.—I did not make the agreement.

Q.—And any knowledge you have has been gained from information from other people? A.—Yes.

Q.—Now, are you aware that in 1897 negotiations were carried on for the purpose of the Columbia & Western Railway Company accepting a cash subsidy in lieu of a land subsidy for building from Robson to Midway? A.—Yes.

Q.—Are you aware that there was an agreement put in writing to that effect? A.—Yes.

Q.—And signed by the President and Secretary of the Railway? A.—Yes.

Q.—Did you ever see a copy of that agreement, Mr. Brown? A.—I think so, yes.

Q.—You would recognise it if you saw it, I presume? A.—I would, yes, I presume.

Q.—Will you look at this (handing document to witness). A.—I could not recognise that, I could not swear to that at all. You must have the original document here, haven't you?

Mr. Helmcken: This does not bear the impress of the Queen's Printer; that is not evidence, you know.

Mr. Oliver: If you wish evidence to prove that, I will submit it later.

Q.—This purports to be a copy, Mr. Brown, of that agreement, and it purports also to contain the signature of the President and Secretary of the Railway Company; and I would draw your attention to the provisoes in that underlined. A.—Yes.

Mr. Oliver: Now I propose to submit this, as copies of certain railway contracts, which does bear the name of the Queen's Printer.

The document referred to is marked G. McL. B., No. 3.

Q.—I may say, Mr. Brown, that this is a copy of certain railway contracts that were brought down and presented to the House; and presumably, as they bear the name of the Queen's Printer, they are correct copies. I find here, this purports to be an agreement whereby the railway company agree to accept cash in lieu of land for that portion of the road between Robson and Midway, and it is dated the 8th day of July, 1898. After reciting the conditions upon which the cash subsidy shall be paid, there is a proviso which reads: "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, or any portion of their railway other than that which they have herein contracted to construct as aforesaid." Now, I take it that, as this applies to the road between Robson and Midway, and there is a specific provision that it shall not affect the land grant for that portion of the road between Rossland and Robson, the only other portion of the road would be that portion between Midway and Penticton, would it not? A.—I do not think that deals with anything but between Robson and Penticton, does it?

Q.—This, as I have said, is to substitute a cash subsidy in lieu of a land subsidy for that portion of the road between Robson and Midway? A.—Which was never accepted by the Government.

Mr. Brown—*Continued.*

Q.—But this will go in as evidence in this matter ; but there is this provision that I am dealing with ; and I want to know what constitutes the line of railway ? It is referred to here as that portion between Robson and Midway ? A.—Well, I suppose it refers to that line.

Q.—It refers to the Columbia and Western railway ? A.—I presume so, yes.

Q.—Then we have a reservation here that says that it shall not affect the land grant for that portion of road between Rossland and Robson ? A.—That is the first section.

Q.—The first section, I take it ? 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—that is, they have contracted to construct from Robson to Midway and receive a cash subsidy, and this proviso is that this agreement shall not affect the right of the Company to the subsidy for the other portions of their road ; isn't that so ? A.—Well, Mr. Oliver, I presume I might have an opinion on that, what advantage is it to you or to anyone else, my giving my opinion ? It is purely a legal matter I cannot deal with.

Q.—No, it is a matter of fact, Mr. Brown ? A.—I cannot see it.

Mr. Helmcken : Has Mr. Brown read it ? A.—I have not.

Mr. Oliver : I want to know what other portion of the road this provision could apply to ? This, as I have said, deals with the road from Robson to Midway—the body of this agreement ? A.—It might deal with any portion of their lines ; it might deal with their branch lines, or anything at all, for all I know. I don't know really to what it refers.

Q.—Will you read it ? A.—Even if I did read it, whatever I say has no bearing on it—whatever opinion I may have.

Q.—Well, I am going to have an answer to that question. A.—I am afraid I cannot give it to you.

Q.—Well, then, I will put it this way—a manner that you can understand it. That line of railway extends from Rossland to Robson ? A.—Yes.

Q.—And from Robson to Midway ? Now, what other portion of road does the Columbia and Western charter cover ? A.—The Columbia and Western charter originally consisted of six sections. The first section, I think, originally—

Q.—The Act of 1896 ? A.—The first section started at a point at or near the town of Trail, to a point at or near the City of Rossland ; the second section extended from a point at or near the town of Trail, in a southerly direction to the boundary. Subsequent legislation before we took it over changed that, and provided that section one should extend from a point at or near the Town of Rossland to a point at or near Castlegar, was it ?

Mr. Curtis : Or Robson. A.—Or Robson. That the third section should extend from the town of Robson to Christina Lake—or the third section to Midway ; the fourth section from Christina Lake to Midway ; the fifth and sixth sections from Midway to Penticton.

Mr. Oliver : Now, when your Company took over the road, the definition of the various sections had been changed, had it not ; and under the changed conditions, I think you said by subsequent legislation—was it not by Order in Council, as a matter of fact ? A.—I really don't know, I couldn't tell you now.

Q.—As it stands to-day between your Company and the Government the first section of the road extends from Rossland to Robson ? A.—Yes.

Q.—And the second section—I should say the third section from Robson to Christina Lake ? A.—Yes.

Q.—The fourth section from Christina Lake to Midway ; and the fifth section half-way from Midway to Penticton, and the sixth section the balance of the distance to Penticton ? A.—Well, I don't know what our statute rights are to-day in the matter of the fifth and sixth sections at all.

Q.—This was the case when you took the road over ? A.—I believe it to be so.

Q.—The second section extended from Trail to some twenty or twenty-five miles south-east to the boundary line ? A.—Yes.

Q.—Did the second section carry any land subsidy with it ? A.—I could not say, positively, without looking at the Statutes, but I believe not.

Q.—Then that railway contract, where it says that that agreement shall not affect the land subsidy for that portion of the road from Rossland to Robson, or any other portion of the road except that dealt with in the agreement, would naturally cover the portion of the road between Midway and Penticton ? A.—Not necessarily.

Mr. Brown—*Continued.*

Q.—Well, what other portion of road could it apply to? A.—It might apply to anything; any subsequent Acts we might get.

Q.—Well, we will have to go back to the Statute, then, if you won't answer any other way.

Mr. Helmcken: Did Mr. Brown have anything to do with that agreement? A.—Nothing whatever.

Mr. Oliver: I am asking, as a matter of fact, what other portion of the road that could apply to.

Mr. Helmcken: He told you, as a matter of fact, he does not know.

Mr. Oliver: Mr. Brown says he doesn't know what other portion of the road it could apply to. Now, Mr. Brown, probably there is something else that you do know? A.—I hope so.

Q.—Are you aware that the Railway Company petitioned this Legislature at the Session of 1901 for a Bill to extend the time in which the Company might complete the fifth and sixth sections of their road? A.—I believe they did.

Q.—Don't you know so, as a matter of fact? A.—Yes, I do.

Q.—Now, can you tell us the object of that application? A.—The object was to build the road.

Q.—It was to build the road. And it was in connection with the proposed building of the road that you filed the plans and books of reference which are referred to in the letter of the 20th of July, 1900? A.—Did I file plans of the 20th July?

Q.—I think so. A.—Of course I cannot tell now.

Q.—We will produce the letter (letter was handed to witness). A.—That is a statutory provision; we must file plans before we can build the road.

Q.—You referred, Mr. Brown, to the fact that Mr. Wells took the Crown grants for these two deficiency blocks in South-East Kootenay with him to Montreal and handed them over to the Company, and then got permission to bring them back with him to Victoria, saying that he would return them in thirty days? A.—I don't think I made that positive statement at all.

Q.—Well, you gave that as your understanding of the matter? A.—Yes; I said that Mr. Wells had made himself the custodian of the grants patented to the Company for delivery to Mr. Shaughnessy; that he met Mr. Shaughnessy in Montreal, and that after his departure Sir Thomas told me that he had returned—he was returning with the two grants, which he promised to send to Mr. Shaughnessy within thirty days.

Q.—Did Mr. Shaughnessy tell you anything about any conditions proposed by Mr. Wells before he would deliver over those grants? A.—No.

Q.—He did not. Now, Mr. Brown, in reference to the letters which you referred to that are not before the Committee; could you send to the Chairman of the Committee copies, or give us the dates of those letters, so that they could be hunted up here? A.—I could, subsequently; I could very shortly.

Q.—Well, would you do so? A.—Yes.

Mr. Oliver: I would like to put it this way: I would like that the Committee would ask Mr. Brown to inform the Committee of the dates of these letters that he has referred to, and who signed the letters, as passing between Mr. Brown and the Government, and who signed the replies to them; I would like that the Committee would ask him to have those forwarded.

The Witness: Yes; with pleasure. How long will the Committee sit?

Mr. Helmcken: All the Session.

The Witness: All right; I will get them to you before the Session is over. But you will find all these letters here.

Mr. Helmcken: How long would it take you to give us the information as to the letters?

The Witness: In about ten days.

Mr. Helmcken: You would have to go to Montreal?

The Witness: Yes. The Government would have the letters and their copies.

Mr. Oliver: In connection with the Bill which the Government proposed to bring in in 1901—you were present during that Session of the Legislature? A.—Oh, yes.

Q.—And in your position as representing the C. P. R. you tried to secure support for that Bill—I don't mean in any illegitimate manner at all? A.—Certainly not, with any free and independent representative of the people.

Mr. Brown—*Continued.*

Q.—But you worked in the interest of getting that Bill passed through the House?
A.—Oh, I cannot even take such credit to myself.

Q.—Well, did you ask any member to support that bill? I will put it in that way. A.—I do not think I did; no, sir, I did not.

Mr. Oliver: I think that is all, Mr. Chairman.

Mr. McPhillips: I have some questions I would like to ask Mr. Brown. I think, Mr. Chairman, of course we are charged here with the duty of eliciting all matters having relation to the subsidy to be given to the Columbian and Western Railway, and there are questions I would like to ask Mr. Brown which may be of assistance to me and other members of the Committee.

Mr. McPhillips: When was it that you first came into this matter? First this Columbia and Western Railway Company was in no way connected with the Canadian Pacific Railway in its inception? A.—Oh no.

Q.—When did it first come under your official jurisdiction, as you might say? A.—That is rather a difficult question to answer.

Q.—The 17th of April, 1896, was when the Act was first passed? A.—Yes; well, it was the year that we took it over, that Mr. Heinze transferred his interest.

Q.—Well it was previous to 1898? A.—Oh, no, it was not; it was 1898, I think, that we took it over.

Q.—Wasn't it in Mr. Turner's time? A.—Wasn't Mr. Turner here in 1898?

Q.—He went out of office in August, 1898? A.—It was in 1898 that we took the road over; I cannot say positively.

Q.—What was your position then in connection with the Canadian Pacific Railway Company? A.—Executive Agent.

Q.—And the Columbia and Western Railway Company, for all purposes of this investigation, at any rate, was the property then from that time on of the Canadian Pacific Railway? A.—That I cannot tell you; I don't know how the matter stands.

Q.—At any rate, the affairs of the Columbia and Western Railway Company were being looked after by the Canadian Pacific? A.—By the Columbia and Western Railway Company, I presume.

Q.—But your position was not in connection with the Columbia and Western? A. Still I was acting for the Columbia and Western Railway.

Q.—How were you acting in the matter? You say you are the Executive Agent of the Canadian Pacific Railway Company; but in connection with the affairs of the Columbia and Western Railway Company, what way were you acting? A.—I think I was at that time a director, or shortly after.

Q.—Of the Columbia and Western Railway Company? A.—Yes.

Q.—Are you still a director of the Columbia and Western Railway Company? A.—I think so; at that time—I was for one period—I cannot tell you, Mr. McPhillips.

Q.—When was it that you for the first time took up the question of the land subsidy of this Columbia and Western Railway Company with the Government? What Government was it? A.—I could not tell you now without reference to my records; it dates away back from the time it was completed.

Q.—Well, come right to this particular matter. After all, this investigation is largely aimed at was done in connection with those two blocks of land in South-East Kootenay, as you know? A.—Yes.

Q.—Referred to in this Bill which was passed its third reading to-day (Bill No. 16); referred to as Lots 4,593 and 4,594, Group 1, Kootenay District. When was it that you first discussed with the Government of the day, and what Government was it, the granting of these particular lands, in way of compliance with the Columbia and Western Subsidy Act? A.—I do not think I discussed that in any way with the Government.

Q.—You never did discuss it? A.—My letter of the 31st of July was the first communication.

Q.—What year? A.—1901.

Q.—And we have that letter here? A.—No, that is one that is not here.

Q.—Do you remember what the contents of that letter were? A.—Yes, I do—of course I cannot speak positively about it, but it was to this effect—it was to Mr. Wells calling his

Mr. Brown—*Continued.*

attention to the fact that the Company had waited a long, long time for the Government's fulfilment of its contracts, that the road had been built and that the subsidy had been earned.

Q.—For what section? A.—For the first and third sections. And soliciting his good offices in bringing about a speedy settlement of the question. That was the intent of the letter. I do not think it said anything more than that.

Q.—Did you suggest in that letter that these lands that have been referred to in this Bill number 16 before the House at the present time—did you suggest that these lands should be given to the Company? A.—No; I did not.

Q.—Well, who did suggest to the Government? A.—Well, I don't know. The next letter I got was a letter from the Government acknowledging my letter and saying that the matter would be speedily dealt with. Subsequently I received a copy of the Minute of Council.

Q.—Now, do you say, Mr. Brown, that you did not initiate or take up with the Government, or any member of it, the question of the Company being given these particular lands that have been subsequently defined as "Lots 4,593 and 4,594, Group 1, Kootenay District?" A.—I certainly, when the Government—I certainly stated that the Company would be willing to accept that settlement.

Q.—Now, who broached the subject that lands in South-East Kootenay not along the line of railway, not contiguous to the line of railway, should be given to the railway? I want to get at that. Who first broached that matter, to your knowledge? A.—That I cannot tell you.

Q.—Did you mention it to the Government or any member of it? A.—In my letter, no, certainly not.

Q.—Well, did you verbally? A.—Not that I am aware of.

Q.—When did you first become aware of the fact that the Government were willing to give you these particular lands? A.—Just about the time that the Order in Council was first—

Q.—That would be the 10th day of August, 1901? A.—Yes, about that, yes.

Q.—Now, do you say that you did not suggest to the Government that those lands should be given or granted to the Columbia and Western Railway Company? A.—I certainly do.

Q.—You say you did not? A.—I say I did not, yes.

Q.—And the first intimation you had on that matter was a communication—in fact, a certified copy of the Minutes of Council of the 10th of August, 1901, which set forth these particular lands? A.—Yes, certainly.

Q.—That was your first intimation? A.—Well, no, I won't say that positively; because I did hear the discussion of what the settlement would be prior to that day.

Q.—But you won't say it was at your suggestion? A.—I certainly will not.

Q.—That these particular lands were selected? A.—Certainly not.

Q.—by the Government? A.—Certainly not.

Q.—But that these particular lands were proffered to you by the Government? A.—Certainly they were.

Q.—And the first official information was the Minutes of Council of the 10th of August, 1901? A.—That was the first intimation, yes.

Q.—Now, Mr. Brown, were you familiar at this time with the fact that lands could only be earned by the Columbia and Western Railway Company under and by virtue of the "Columbia and Western Subsidy Act, 1896?" A.—Well, I cannot tell you about Subsidy Act, 1896, but they could only be earned under and by virtue of their Subsidy Acts, whatever they were.

Q.—You went on the premise that the lands could only be claimed under the Subsidy Act? A.—Yes.

Q.—You always went on that? A.—Yes.

Q.—Had you ever advised yourself particularly that the Act said that the lands would be a tract of land extending 16 miles on each side of the line of the section or sections of the proposed railway, and also such further area contiguous to the railway as the Lieutenant-Governor in Council may direct? Were you aware of that fact? A.—I have read the Act, yes.

Q.—You had read the Act? A.—Yes.

Q.—Well, now, when it was proposed, as you saw it proposed under the Minutes of Council of the 10th of August, 1901, to give the Company lands in South-East Kootenay, didn't

Mr. Brown—*Continued.*

it strike you as rather peculiar that the Government should go to work and propose to give you lands not along the line of railway, not contiguous to the railway, but some hundreds of miles from the line of railway? A.—Well, I don't know that the question ever entered my head, that I ever considered it. I know that they could not get the area along the line of railway, and that there was no area of land really close to the line of railway. When they say contiguous to the line of railway, I suppose it means as contiguous as possible. There have been instances of subsidies granted all over the place. The Kaslo and Slocan grant is not a grant contiguous to the line of railway, and the Nelson and Fort Sheppard grant is not along the line of railway.

Mr. Curtis: They are all contiguous to the line of railway.

The witness: They are not along the railway.

Mr. McPhillips: I am only drawing your attention to the fact—I don't know about these other companies—that the Act says extending along the line of railway and contiguous to the line of railway. You do not say now, nor could you have contended at that time that these particular lands which that letter describes as lots 4,593 and 4,594, Group 1, Kootenay District, are lands along the line of railway or contiguous to the line of railway? A.—As nearly as possible; yes, sir, I think they are.

Q.—They are not along the line of railway? A.—No, they are not along the line of railway, because not on the line of railway.

Q.—Would you say they are contiguous to the line of railway? A.—I would say so, if there are not other lands nearer.

Q.—How close would the first of these lands described here as lots 4,593 and 4,594, Group 1, Kootenay District, be to the railway? A.—I could not say.

Q.—How many miles? A.—I could not say.

Q.—300? A.—I could not say.

Q.—200 miles? A.—I don't know.

Q.—Would you like to say they are within 100 miles of the line? A.—I would not like to say anything about their distance.

Q.—Do you think they are within 100 miles? A.—What I say has no bearing on that fact, Mr. McPhillips, it is purely a legal point.

Q.—It is important for us to find out how it was that that matter first arose. At any rate, you say that you did not initiate the action of the Government in proposing to the Company the granting of those lands in South-East Kootenay? A.—Certainly not.

Q.—You did not? A.—I did not.

Q.—And you say that the Canadian Pacific Railway Company, so far as you know, were not the agents to provoke that action on the part of the Government? A.—So far as I know, not.

Q.—You say it was proposed to the Company by the Government? A.—It was proposed as settlement of the lands.

Q.—By the Government to the Company? A.—By the Government to the Company.

Q.—Well, now, when it was proposed under these Minutes of Council of the 10th of August, 1901, what did you do in your capacity as Executive Agent? Did you do anything in response to that proposition? Did you say it was acceptable to the Columbia and Western Railway Company or not? A.—I certainly said it was acceptable.

Q.—Verbally or in writing? A.—Verbally, I think.

Q.—Can you remember what member of the Government you made that statement to? A.—I think I made it to the whole of the Government, I fancy. I fancy that they would recall it.

Q.—Do you remember meeting the Cabinet in Council then? A.—No, I cannot remember at the present moment.

Q.—But speaking from recollection you think that you mentioned it to each member of the Government? A.—I think so, yes, oh yes.

Q.—That it would be acceptable to the Columbia and Western Railway Company? A.—Certainly.

Q.—And that you would waive the difference between 625,000 acres and some 900,000 acres? A.—I don't know the exact acreage.

Q.—At any rate, you would take this 625,000 acres such as was proposed? A.—Yes.

Q.—In lieu of the larger area that you would otherwise have been entitled to? A.—Yes.

Mr. Brown—*Continued.*

Q.—You say that you told the Government you were agreeable to that? A.—Certainly I did.

Q.—Yes. A.—As is subsequently evidenced from the fact that we accepted the grants and paid the fees for them.

Q.—Now, what was the first act that followed upon that, upon your part? They passed the Minutes of Council. We see here in evidence that on the 4th of September, 1901, His Honour the Lieutenant-Governor approved that Minute in Council. Can you tell us here when it was for the first time made known to you that the grants were prepared—the Crown grants? A.—I could not tell you, Mr. McPhillips.

Q.—We see, also, as a matter of fact, that on the 3rd day of October it is stated that the Crown grants were dated; well, that would be in about a month's time? A.—Yes.

Q.—In about a month's time did you become aware of the fact that Crown grants had been prepared? A.—Oh yes.

Q.—How did you become aware of that? A.—I could not tell you at the present moment.

Q.—By attendance at the Lands and Works Department, or what? A.—I think I did; it must have been; it was just about the time the Duke was here.

Q.—Did you see the Crown grants after they were prepared? A.—Oh no, not at that time. I saw them later.

Q.—You say you paid certain fees in connection with these Crown grants. A.—Yes.

Q.—When did you pay them? A.—You will find that by reference to the Lands and Works Department.

Q.—Have you got the receipts? A.—The receipts are procurable; and the cheque.

Q.—Where are the receipts and the cheque? The cheque would be with the Company—Government.

Q.—And where are the receipts? Did not the Company receive receipts for those sums paid? A.—Yes; they received them.

Q.—You say the Columbia and Western Railway Company through you paid the two fees? A.—Yes.

Q.—In respect of the two grants? A.—Yes.

Q.—That would be \$10 each? A.—Ten dollars each.

Q.—Did you make these payments personally yourself? A.—I made them personally.

Q.—And you received receipts? A.—In the name of the Columbia and Western Railway Company I think it was.

Q.—Yes. And do you remember about what date that was? A.—I could not tell you now, Mr. McPhillips. I could easily find out for you. What date do the receipts bear?

Mr. Curtis: I think the 12th of October, but I am not sure; or else in September.

Mr. McPhillips: Anyhow, you say you got those receipts on behalf of your Company, and according to your recollection those receipts will be in the archives of the Company? A.—Yes.

Q.—Now, when you paid these fees, why didn't you demand of the Government the delivery of the Crown grants? or did you ever make demand? A.—I did verbally.

Q.—You did verbally demand? A.—Yes.

Q.—Was there any answer made to you personally on that? A.—Except that Mr. Wells was going to take them over himself.

Q.—When was that, do you think? A.—That was about that time; I cannot give you dates; in October.

Q.—Whom did you make the demand of? A.—I made it of Mr. Wells himself.

Q.—And his answer was what? A.—That he was going through to Montreal and would deliver them to Mr. Shaughnessy.

Q.—He was going through to Montreal and would deliver what? A.—The grants.

Q.—The Crown grants? A.—The Crown grants.

Q.—To whom? A.—To Sir Thomas Shaughnessy.

Q.—The President of the Canadian Pacific Railway Company? A.—The Columbia and Western Railway Company.

Q.—Is he the President of that too? A.—Yes.

Q.—That he would make delivery personally? A.—Yes.

Q.—Up to that time had you any intimation whatever, Mr. Brown, that the Government had any other question to settle between your Company and itself? A.—Absolutely none.

Q.—No question was mooted? A.—No, sir.

Mr. Brown—*Continued.*

Q.—And no question remained unsettled? A.—No, sir.

Q.—Between your Company and the Government? A.—No, sir.

Q.—Mr. Wells did not say that there were certain questions to be settled between himself and the Company before delivery would be made? A.—He certainly did not.

Q.—Did he give you any reason why it was that he was going to proceed in this way? A.—He did not.

Q.—To make delivery in Montreal? A.—He did not.

Q.—He did not intimate to you in any way? A.—Hold on, pardon me—

Q.—That there was any question unsettled? A.—He certainly did not intimate to me in any way that there was any question unsettled. But what he did say to me on one occasion was, that when he was in Montreal he intended to speak to Sir Thomas Shaughnessy with a view to his building a road to Spence's Bridge. But never by word or inference was it ever suggested to me that that was a condition. There was no condition. No condition was ever mentioned to me.

Q.—Will you say, Mr. Brown, as to whether or not there was still the question open as to whether or not the Company might not make a claim for the balance of the acreage? A.—It was never open. Settled.

Q.—You say that the area of land covered by these two grants was agreed as being in fulfilment? A.—Fulfilment, yes.

Q.—Of the subsidy between the Company and the Government? A.—For the first and third sections.

Q.—For the first and third sections? A.—Yes.

Q.—The second section was by agreement never built? A.—Never built. There was no subsidy for it.

Q.—It would have been paralleling the other line, anyway? A.—Yes.

Q.—Now, I want to bring you, Mr. Brown, to the first time you got notice of any interference with this grant of land. When was it that you first got knowledge that the Government of the day was interfering with what you understood a completed agreement? A.—You mean official notice of the rescinding order?

Q.—Yes. A.—I did not get any notice at all, Mr. McPhillips, until I went there myself, and heard a rumour; I heard a rumour in the corridors. And I received no official notice, and I have not received official notice to-day of the rescinding order.

Q.—Mr. Wells did go to Montreal? A.—He did, yes.

Q.—About what time? A.—Some time in October.

Q.—Of 1901? A.—I think it was, yes.

Q.—Were you advised by your superiors in the Company, the President, as to what took place there other than what you have stated? A.—No.

Q.—You have already stated what Mr. Shaughnessy said? A.—Yes. I cannot say what transpired between Sir Thomas and Mr. Wells.

Q.—And later, on the 18th of March, we know now, 1901, the rescinding order was passed? A.—Yes.

Q.—You say you never had any notice of that, other than rumour? A.—Absolutely none, until I went myself and asked it.

Q.—You were not called in by way of being asked to be heard, by the Cabinet? A.—No, sir.

Q.—Before that order was passed? A.—No, sir. I went to the Cabinet after it was passed. I got in to the Cabinet some days after it.

Q.—And, as you say, objected vigorously? A.—Objected vigorously.

Q.—That you were not heard? A.—That I was not heard before it was done.

Q.—Well, then, later than this, did the Government at any time agree that they should reinstate the Company in its previous position; after the rescinding order? A.—No, nothing has been done since then.

Q.—You say that the Government never did agree after the rescinding order of March, 1901, to do anything in the way of reparation? A.—No, not to my knowledge. Certainly not through me.

Q.—How was it that on the 16th of April, 1901, the Hon. Mr. Wells asked leave to introduce a bill entitled "An Act to amend the Columbia and Western Railway Subsidy Act, 1896" A.—That dealt with the fifth and sixth sections.

Mr. Brown—*Continued.*

Q.—Only? A.—Only, I think. What date was it?

Mr. McPhillips: On the 16th of April, 1901. A.—I think that has bearing only on the construction—on the fifth and sixth sections.

Q.—It may have been.

Mr. Oliver: That was extending the time.

Mr. Helmcken: No, that was withdrawn and discharged.

Mr. Oliver: I do not know what the terms of it was, then.

Witness (continuing): I think we are working at cross purposes, Mr. McPhillips. You asked me what had been done subsequent to the 18th March, in connection with this.

Q.—Yes, with this particular grant of land? A.—Well, nothing. I think you will find that Bill refers to reinstating the Company with respect to the fifth and sixth sections.

Mr. Oliver: That was the Bill of 1901? A.—Yes.

Q.—That Bill was passed? A.—No.

Mr. Helmcken: It was discharged. At page 142 you will see it was discharged (reading from proceedings of the House).

Mr. McPhillips: My recollection of that Bill was that there was an attempt made there to affect this particular matter. A.—That only dealt with the fifth and sixth sections. That was the same Act.

Q.—But there was a public Act that Mr. Wells introduced and withdrew. My recollection of that was that the Government attempted to pass some Act bearing on this question. A.—I think you are mistaken, Mr. McPhillips; I think so.

Q.—I want to elicit from you whether, soon after the 18th of March, 1901, the Government ever came in contact with you and had some negotiations in the way of reparation for this rescinding order of the 18th of March? A.—The rescinding order was the 18th of March, 1902.

Q.—Yes, that is true; 18th of March, 1902; I am wrong in that; but what I want to know is this, after the 18th of March, 1901—bring it right up to date—did the Government, by any negotiation between you and the Government, intimate that it proposed to repair what had been done, in any way? A.—Let me understand. Your question is this: you say, did the Government at any time subsequent to the 18th of March, 1901?

Q.—Yes, propose to repair matters between the Company and the Government? A.—They had not done anything on the 18th of March, 1901. The rescinding order was on the 18th of March, 1902.

Q.—Yes; that is right; well, 18th of March, 1902, say, then. Deal with it from 1902. Were there any negotiations between you and the Government whereby you proposed to them, that some act of reparation should be done with regard to this rescinding order of the 18th of March, 1902? A.—Now, let us see; I wrote—I spoke to Mr. Wells on the 19th of March, that is the day after the rescinding order, that was the day after the fact; and I received a reply to it on the 21st of March. I answered that under personal cover later on; the date of that I cannot say.

Q.—You have mentioned that as that it might be a personal letter? A.—Yes; and I subsequently saw the Cabinet. Nothing official, I think. I think I have done nothing official since then, for the reason, I presume, that I never got any instructions to for the reason that it was held that delivery was duly made—held by our Solicitor.

Q.—But what I say, Mr. Brown, is this; whilst that may be well and good, that is the contention put forward by your Company that there had been complete delivery? A.—Yes.

Q.—Did the Government propose at any time after the 18th of March, 1902—propose to you that they should do something to repair what had been done? A.—As a measure of reparation?

Q.—Yes. A.—No. May I see that letter that is an exhibit already. Unless you construe that into a matter of reparation (referring to letter 21st March, 1902, Hon. Mr. Wells to G. McL. Brown).

Q.—I see here it says, Bill would be brought down to the House reinstating the Company in their rights with regard to the construction of section four of the Columbia and Western Railway, I beg to inform you that it is the intention of the Government to bring down a Bill this Session—that would be in 1902? A.—Yes.

Q.—Which will provide for a settlement of the land subsidy in question. A.—Section four.

Mr. Brown—*Continued.*

Q.—You think it was confined to section four? A.—Undoubtedly.

Q.—Then you say there never has been any communication from the Government to the Company to the effect that they would reinstate the Company in any position that it had previous to the 19th of March, 1902? A.—In respect of this settlement?

Q.—Yes. A.—No, we have never entered into negotiations with them at all.

Q.—Then you want the Committee to understand, Mr. Brown, that the Company takes the position that there was a delivery of these two Crown grants? A.—Yes.

Q.—And you are not contending now that there was any subsequent agreement with the Company, that is, subsequent to the rescinding order of the 18th of March, 1902? A.—Certainly.

Q.—The Government, on the one hand, claims that the Crown grants are of no force or effect; and we are to understand that the Columbia and Western Railway Company contend that the Crown grants have full force and effect? A.—Yes.

Q.—I want to get that clear? A.—Yes, that is the position.

Q.—That is the position to-day? A.—Yes.

Q.—And you say that is the position of the solicitor of the Columbia and Western Railway Company? A.—Yes.

Q.—And that there was delivery of those Crown grants? A.—And that there was delivery of those Crown grants.

Q.—Now, can you tell me, Mr. Brown, whether or not, to your knowledge, there ever was any manual possession of those two Crown grants on the part of the Railway Company? A.—I cannot tell you that.

Q.—Did you ever have possession of them? A.—No.

Q.—Do you know that it is contended by the President of the Company that he ever had possession of them? A.—I cannot say that, either, Mr. McPhillips.

Q.—You don't know that? A.—No.

Q.—So that, as far as your knowledge goes, you cannot say that there ever was any manual possession on the part of any officer of the Company? A.—I cannot tell you that.

Q.—I do not know whether you know, or do not know, that Mr. Wells has made the statement that they never left his possession? You could not say that? A.—I could not say that.

Q.—Now, you spoke, Mr. Brown, of the fact that the Government Agent at Fort Steele had been advised that these particular lands, 4,593 and 4,594, Group 1, Kootenay District, had been granted to the Columbia and Western Railway Company? A.—Yes.

Q.—Could you fix that time at all? A.—I don't know that I could, very accurately, Mr. McPhillips.

Q.—Did you ever have any conversation with him yourself in the matter? A.—No, it is just the ordinary gossip that you hear about the place. I think it was in October that they were written to.

Q.—Now, Mr. Brown, you are rather familiar, are you not, with real estate transactions and the execution of deeds and documents? A.—No.

Q.—Would you say you were or were not? A.—I certainly am not a good conveyancer.

Q.—I do not say that; but in carrying out land transactions and the execution of deeds. What I want to get at is this, who was the active agent on the part of the Columbia and Western Railway Company in this transaction? A.—I was.

Q.—With regard to Lots 4,593 and 4,594, Group 1, Kootenay District? A.—The active agent?

Q.—Yes. A.—I was.

Q.—Of the Columbia and Western Railway? A.—Yes.

Q.—They bear date the 3rd of October, 1901; where were you at that date; do you remember? A.—I couldn't tell you.

Q.—You were in this country, British Columbia, in 1901? A.—Oh yes, I think so.

Q.—Were you in Victoria or Vancouver? A.—I couldn't tell you, Mr. McPhillips. How is it possible for me to know?

Q.—It is rather important, though. Anyway, you say that you paid the two fees? A.—I paid the fees for all the grants issued at that time.

Q.—You paid two ten dollars? A.—I paid a sum in which these two ten dollars were included; I paid a cheque and they gave me individual receipts.

Mr. Brown—*Continued.*

Q.—But the Crown grants were not delivered to you? A.—Not at that time, certainly not.

Q.—Do you remember asking for them? A.—I certainly did.

Q.—Do you remember particularly asking for them? A.—Oh yes.

Q.—Whom did you ask? A.—Mr. Wells.

Q.—And what was his answer? A.—He said he would deliver them himself.

Q.—He said he would deliver them? A.—Yes; to Sir Thomas.

Q.—Now what about the fourth section, Mr. Brown, of this railway? You see the first and third sections have been considered here so far in connection with this subsidy. What about the fourth section? A.—Well, what about it?

Q.—Do you claim the subsidy was earned for the fourth section? A.—Well, I don't know what the Company claims in that.

Q.—You don't know? A.—I don't know. I think that there is some statutory limitation, wasn't there? And I think the Government promised to reinstate us in that fourth section.

Q.—But then, do you claim any subsidy for the building of the fourth section now—the Columbia and Western? A.—At the present moment?

Q.—Yes. A.—I don't know, I am sure, whether they do or not.

Q.—Well, has it been built? A.—Certainly.

Q.—We are asked to inquire into all matters bearing upon the subsidy of this railway. Now, does the Columbia and Western Railway Company make any claim upon the Government of the Province of British Columbia for any subsidy in respect of the fourth section? A.—That I cannot tell.

Q.—You don't know? A.—I don't know. The road is built, of course; the fourth section is built to Midway.

Q.—Now, suppose you had got these lands in South-East Kootenay—Lots 4,593 and 4,594, Group 1, Kootenay District,—would you, or would you not, have made any claim for any subsidy in respect of the fourth section? A.—In respect of the fourth section?

Q.—Yes. A.—These dealt solely with the first sections.

Q.—But I put that question to you? A.—I cannot answer you.

Q.—I want to know whether of your own knowledge the Company was willing to waive any subsidy for the fourth section if they could get the lands I referred to, Lots 4,593 and 4,594, Group 1, Kootenay District? A.—If they had any rights to the subsidy in respect of the fourth section, whatever their rights were, I do not think they jeopardized them at all by accepting the settlement of the third section.

Q.—But I want to know whether in your knowledge if the Columbia and Western Railway Company had been really granted effectively we will say, that is, if the Company to-day were the effective grantees of Lots 4,593 and 4,594, of Group 1, of Kootenay District, would the Company still make a claim for land subsidy in respect of section four? That is, to put it in short, would the Company have waived any subsidy in respect of section four if they had got these lands? A.—Well, put it in another way. This Minute of Council dealt with sections one and three, which had been built, and the subsidies for which had been earned by reason of the construction of section four. This settlement of sections one and three is specifically stated in full settlement of one and three—the Minute of Council specifically states that it was a settlement in full in respect of sections one and three.

Q.—But not in respect of section four? A.—We did not want any then in respect of section four.

Q.—But we have not been enlightened as to what this matter was between Mr. Wells and Mr. Shaughnessy. It was claimed there was some matter opened, and we do not know what it was, and I am trying hypothetically to get at it, whether if you had got these lands you would have been willing to waive any claim for any subsidy in respect of section four? A.—I think they would be very foolish if they did. But that I cannot speak of.

Q.—You don't know as to that? A.—I don't know as to that.

Q.—And as far as you would like to make any statement, you would think that section four did not go into the question at all? A.—Did not come into the question at all.

Q.—That these lands, Lots 4,593 and 4,594, had only reference to sections one and three? A.—Sections one and three. I think it is specifically set out in the Minute.

Mr. Brown—*Continued.*

Q.—I know it is set out; but still we are in the dark as to what Mr. Wells was asking Mr. Shaughnessy in Montreal. It is put forward that he was asking some concessions from the Railway Company before he would make delivery of these Crown grants. Now, we don't know what those concessions were, and I am only, as I say, hypothetically asking you whether, in your knowledge, the Company was ready and willing, if they got these particular lands, to waive all claims for subsidy in respect of section four, as well as one and three? A.—I don't know anything about it. I should imagine they would be very foolish if they did.

Mr. McPhillips: That is all I want to ask.

Mr. Oliver: I would like to ask a couple of questions that have been suggested by the examination of Mr. McPhillips. (To the witness)—Were you aware, Mr. Brown, that in the immediate vicinity of the railway, that is, as near as practical, there was some 4,400,000 acres reserved at the request of the Columbia and Western Railway Company, extending a distance of 154 miles in length by 56 miles in width? A.—No.

Q.—You were not aware of that? A.—No.

Q.—You are not aware that there is a plan showing that filed with the Department? A.—Not by me.

Q.—If there had been that amount of land reserved out of which the Company might make its selection, this deficiency could have been made up without going into South-East Kootenay at all, could it not? A.—That I don't know at all. I don't know where they get 4,400,000 acres in that district.

Mr. McPhillips: What was the trouble about getting lands along the line of the railway, or contiguous to the line of railway? A.—Well, I presume—what was the trouble?

Q.—Yes, what was the trouble; there must be land there? A.—Very little of it.

Q.—There is nothing that says it must be arable land? A.—There is mighty little of it; you cannot get the full area there.

Q.—Why couldn't you get it there? A.—I don't know, I am sure; it was not there.

Q.—Because it was mountainous would not make any difference? A.—It is not there.

Mr. Oliver: Well, Mr. Brown, if there were 4,400,000 acres reserved for that purpose, surely it would be possible to take some 1,600,000 out of it? A.—I presume, if that is the case, it is so. There is no doubt about that, that you can divide sixteen hundred thousand into four million.

Q.—We have got a plan to show that was reserved. A.—Have you a list of the alienations?

Q.—Only as far as it has been in answer to questions in the House, and as contained in the Orders in Council. A.—I meant, have you a list of the areas within that four million acres that you spoke of that had been alienated—taken away?

Q.—No. A.—Of course you cannot tell what available area was there without that.

Q.—Now, in respect to the fees paid on account of these two Crown grants; were the fees ever returned to the Company? A.—Never.

Q.—These fees are still in the possession of the Government? A.—As far as I know, yes.

Q.—Almost at the beginning of your examination, Mr. Brown, you said that Mr. Wells took the Crown grants to Montreal, and he delivered a number of the Crown grants to the President of the Railway Company, and, according to the information you had, these were delivered to the Railway Company, and afterwards Mr. Wells asked to bring them back to Victoria, promising to return them within thirty days. A.—You have asked me that question two or three times now, and I did not quite make that statement in the bald way that you put it. My statement was that Mr. Wells took the grants to Montreal, and that he left a part of them, that I saw a number of them there afterwards, and that the President informed me that he had consented to his returning with two grants to Victoria that would be returned to Mr. Shaughnessy in thirty days.

Q.—That is what I wanted to get clear, so that there could be no mistake about it.

Mr. McPhillips: I would like to clear up that question about lands along the line of railway contiguous to the line of railway. What was the trouble? A.—I suppose there was no area.

Q.—Why was it that the Government—because you do not say that you intimated that it should be done—why should the Government go hundreds of miles away and select lands to give them to the Columbia and Western Railway Company? A.—To secure the area, I think, Mr. McPhillips.

Mr. Brown—*Continued.*

Q.—As I understand it, it was to be along the line of railway, and sixteen miles was the first idea of the thing? A. Yes.

Q.—Then contiguous? A.—I think the Act, if I mistake not—it is a most unfortunate thing that I have not a legal gentleman here to advise me with regard to these things, because it is more or less a legal question. Mr. McPhillips, the Act is one you cannot read in a minute; I think it provides that it shall be alternate blocks, doesn't it?

Q.—It says, a tract of land extending sixteen miles on each side of the line of the section or sections, as aforesaid, of the proposed railway, and also such further area contiguous to the railway as the Lieutenant-Governor in Council may direct, in order to make up a sufficient quantity? A.—Doesn't it say it shall be taken in alternate blocks?

Q.—I think it does; yes, alternate blocks of land fronting upon each side of the line of the said railway and having a frontage of six miles on the said railway by a depth of sixteen miles, so that, wherever practicable, each block so selected and defined by the Company shall be opposite to a similar block not selected by the Company on the other side of the railway. Now, what I want to draw out from you, Mr. Brown, is this: How was it that the Government should go away into South-East Kootenay, really hundreds of miles away from the line of railway, to select lands to give to the Columbia and Western Railway in the way of subsidy, when the purview of the Act was to give lands along the line of railway or contiguous to the line of railway? A.—In alternate blocks along the line of railway.

Q.—Yes. A.—I could not tell you why the Government does these things or what actuates them. But I can tell you this, that there was not sufficient area in alternate blocks along the line of railway.

Q.—But if it was contiguous to it, wouldn't it seemingly be more in reason to take those blocks to the back of the alternate lands, and then in some measure, at any rate, it would be contiguous to the line of railway? A.—That is purely a legal point, Mr. McPhillips, and one I cannot answer.

Q.—Was there a great deal of land alienated along this line of railway? A.—Have you ever looked at the land?

Q.—I never did. A.—The whole country is alienated almost.

Q.—Held by private parties? A.—Held by private parties.

Q.—And according to your knowledge it was impossible to get the area? A.—Mineral claims all over the place.

Q.—Impossible to get the area along the railway line or contiguous to the line? A. Yes.

Q.—As you were advised by your solicitor? A.—Yes; and all our advice about it.

Q.—Did you ever take the advice of your solicitor as to what was within the purview of this statute,—what land would be within the purview of this statute? A.—I don't know that I ever took the advice of a solicitor, but I think the Government did.

Mr. Helmcken—Mr. Brown, these lands which are in question now, are they supposed to be lieu lands? A.—Lieu lands—no, they are in settlement of the third section.

Q.—But do they form lieu lands in that sense that you could not get enough? A.—We could not get enough land along the railway.

Q.—And they would be in the purview of lieu lands? A.—I presume so. Is there a lieu land clause?

Q.—Yes, section 6 (reading it). Now, Mr. Brown, you had this interview with the full Executive Council, and they informed you that they would take the matter into consideration. Well, now, when did you hear the answer of the Government? Was any answer given to you? A.—No.

Q.—None at all. Well, was that in 1902? A.—That was a few days after the rescinding order.

Q.—There was an Act introduced into the House in 1902, there is a copy of it, just look at it (handing same to witness). That is a copy of the Bill introduced and subsequently withdrawn. Do you think that had anything whatever to do with your protest? A.—With my protest? I could not tell you. This is the direct—or rather it is the fulfilment of a promise given to me by the Premier at the previous session.

Q.—That this Bill would be introduced? A.—Yes.

Q.—And that Bill, is it numbered there? A.—No. 87. Well, I cannot tell you that this is the same Bill; I presume it is.

Mr. Brown—*Continued.*

Q.—That is the Bill that as you know was withdrawn? A.—The Premier promised me in the session of 1901, after the House was prorogued, they would introduce at the next session of the House a Bill reinstating the Company as to its rights with respect to the fifth and sixth sections. And this is the Bill.

Q.—Now did you ever apply to the Government for a petition of right? A.—Never.

Q.—Do you know whether any person on behalf of the Company ever applied to the Government for a petition of right? A.—No one ever did. I will tell you what I did was at the interview, I closed it—I can almost remember my words; I had no time, you understand, to communicate with my people about this rescinding, and I closed my interview with the Government almost with these words, I fancy, in saying that I trusted that if the Company felt that they wished to contest this thing and should apply for a petition of right, that it would be granted. That was never applied for, for the reason that we were advised that good and proper delivery had been made.

Q.—I see. You have used the word “delivery” here; you use that in the sense that you have been advised; not as a matter of fact manual delivery? A.—I cannot tell you.

Mr. McPhillips: Does your solicitor on the facts say that delivery has been made? A.—Yes.

Mr. Helmcken: You were in Montreal at the time Mr. Wells was there with all those Crown grants? A.—I was there part of the time.

Q.—You saw him there, didn't you? A.—Yes, I saw him.

Q.—And did you have any conversation with him with regard to the delivery up of the Crown grants to the land in question? A.—I have no doubt the matter came into the discussion.

Q.—It was part of your business was it? A.—Yes. Well, my business there was reporting to my Company.

Q.—But you didn't manage to get hold of the Crown grants? A.—How do you mean?

Q.—The Crown Grants of Lots 4,593 and 4,594. A.—Mr. Wells did not deliver them to me.

Q.—Did you see them over there; did you ever have your eyes on them? A.—On the Crown grants, no.

Q.—But you did have on other Crown grants? A.—After he left, yes.

Q.—After he left? A.—Yes.

Q.—Well, you would not see those Crown grants after he left, would you? A.—No, I saw other Crown grants.

Mr. McPhillips: The Honourable the Chief Commissioner of Lands and Works, Mr. Wells, is reported in the *Victoria Daily Colonist* of Tuesday, April 21st, 1903, to have made this statement relative to the matter under consideration: “Up to the time of the cancelling Order in Council the C. P. R. had never been heard from as to its willingness or otherwise to accept what entailed in reality the relinquishment of nearly 300,000 acres; he did not, as a matter of fact, believe that the proposal was ever submitted to the directors of the Canadian Pacific Railway, who would be the only body to deal with such a matter. The delay which had been referred to occurred through no word coming from the C. P. R.” What have you to say, Mr. Brown, with respect to that statement? A.—That it is entirely incorrect.

Q.—Well, you say, then, that the C. P. R. had in some way indicated its willingness to accept this settlement? A.—Yes, I did so.

Q.—You did it on its behalf? A.—Yes.

Q.—That is, the Columbia and Western Railway Company? A.—The Columbia and Western Railway Company. And I think there is a letter from Sir Thomas Shaughnessy advising either Mr. Wells or somebody that I had been authorised—I am not certain, but I think so—to settle it.

Q.—That you had been authorised to act, to come to a settlement? A.—Yes.

Q.—And you say that you had the authority to come to a settlement? A.—Yes.

Q.—And you had come to a settlement? A.—And I had come to a settlement.

Q.—And that settlement was the granting of these two lots 4,593 and 4,593, Group 1, Kootenay District? A.—The acceptance was the acceptance of the terms of that Minute of Council of the 10th of August.

Q.—Afterwards approved by His Honour the Lieutenant-Governor the 4th of September 1901? A.—That is it.

Mr. Brown—*Continued.*

Q.—And you say that was a completed transaction? A.—I say that was a completed transaction.

Q.—Between the Government of the day and the Columbia and Western Railway? A.—Yes.

Q.—And that you had full authority to complete it? A.—And that I had full authority to complete it.

Q.—And you did complete it? A.—And I did complete it.

Q.—And there was nothing remained to complete? A.—Nothing remained to complete.

The Chairman: Mr. Brown, at the time that you say you accepted this proposition from the Government of this land, were you aware that that land in East Kootenay was very valuable land, coal land, coal oil land? A.—No, I don't think it is demonstrated it is so now.

Q.—Might I ask what reason you accepted 600,000 acres, instead of 900,000 acres that was due you? A.—In order to get settled, at any price; we had been waiting for years and years for the fulfilment of the country's contract.

Q.—Then it was not because you considered the 600,000 acres in East Kootenay would be any more valuable than the 900,000 acres? A.—I think it is.

Q.—But you did not have that in view at the time? A.—We had no knowledge, no positive knowledge that that was coal or oil lands; it was stated it was rumoured, we knew the rumours.

Q.—You did not, as a matter of fact, think that it was valuable coal lands? A.—No, I don't know that at that time any prospecting had been done.

Q.—And that was not the reason that you were willing to accept 600,000 acres in lieu of 900,000? A.—We concluded that the 600,000 acres were better than the 900,000 if we could not get it.

Mr. Helmcken: Half a loaf was better than none? A.—Yes.

Mr. McPhillips: Didn't you wonder that the Government should go so far afield to give you this land? A.—It is not for me to wonder why.

Q.—But you still think that it is within the language of contiguous to the railway. A.—I think it is quite within the language of section 6 of the Act. Of course, that is purely a legal matter; it is something I cannot pass on.

Mr. Helmcken: Mr. Brown, you stated that Mr. Wells was going to take those Crown grants for personal delivery in Montreal? A.—Yes.

Q.—The issuance of those Crown grants, or that information which Mr. Wells gave you, was that the completion of your interviews with Mr. Wells touching the settlement? A.—I cannot quite follow that.

Q.—You had interviewed Mr. Wells previous to obtaining this information that he was going to have personal delivery in Montreal? A.—Oh, certainly; lots of them.

Q.—Then the answer given by Mr. Wells to you on your application for Crown grants was that he was going to make personal delivery at Montreal? A.—Was that he going to take them to Montreal.

Q.—Was that the result of your interviews with him touching the settlement? A.—No, not the direct results; simply that he nominated himself as custodian of the grants.

Q.—But hadn't you had a settlement with Mr. Wells at that time? A.—Certainly.

Q.—Very well. A.—The thing was all settled; the grants had been delivered, to all intents and purposes, even then.

Q.—But what I want to get at, as a matter of fact, you had had interviews with Mr. Wells touching a settlement? A.—I must have had, to arrive at a settlement.

Q.—Well, you did, as a matter of fact? A.—Yes.

Q.—Very well. You went to get the Crown grants? A.—Yes.

Q.—And he told you that he was going to have personal delivery in Montreal? A.—He told me that he was going to Montreal and that he would hand them to Mr. Shaughnessy when he got there.

Q.—And the result of your interviews with Mr. Wells was the issuance of these Crown grants? A.—The result of the interviews with Mr. Wells and the Government, yes; the settlement.

Mr. McPhillips: Reverting to your reference to section six of the Columbia and Western Subsidy Act, 1896, I see there that these areas are to be taken in localities as near

Mr. Brown—*Concluded.*

as practicable contiguous to the said line of railway. You would not say now, would you, that these particular lots, 4,593 and 4,594, Kootenay District, are areas as near as practicable to the line of railway of the Columbia and Western Railway Company, would you? A.—I should imagine so, yes.

Q.—You would as a matter of fact say? A.—I think so. I think you will find that is so, too, if you look at the list of alienations in the territory.

Q.—Why might you not go as well three hundred miles north or three hundred miles west, as south-east? A.—Except that we have our lines through East Kootenay, which enables us to administer property through there. If we went three hundred miles north and have not our lines there we could not administer it.

Q.—You mean as a matter of interior economy of the Company? A.—Yes.

Q.—But it might not be public interior economy. Public interior economy might require these lands to be reserved for special treatment.

The witness: Well, gentlemen, if you are through with me,—I will send you those letters as soon as possible.

(The witness stands aside.)

Mr. Oliver: Just before the Committee adjourns—I find, in a return of papers by Mr. Gore, that you have the same document that I put in here as an exhibit, Mr. Chairman (G. McL. B., No. 3), and as this is the only copy I have, I would ask you to mark your document and let me have my copy back.

This was done accordingly.

The Committee here adjourned to meet to-morrow at 11 a. m.

WEDNESDAY, April 22nd, 1903, 11 A. M.

The Committee met pursuant to adjournment; called to order at 11.20 a. m. Present Messrs. Clifford (Chairman), Helmcken, K. C., McPhillips, K. C., and A. W. Smith.

The minutes of last previous meeting were read and adopted.

Letter of 15th of May, 1901, from Hon. Mr. Dunsmuir, Premier, to Mr. Geo. McL. Brown, was produced before the Committee.

The Hon. D. M. Eberts, Attorney-General, appeared before the Committee at their request

Mr. Oliver: I would suggest, Mr. Chairman, that the Attorney-General should tell us what he knows about the granting of this land subsidy to the Columbia and Western.

HON. D. M. EBERTS being duly sworn, testifies as follows:—

The witness: It would be better for you to ask me questions from time to time on any particular part of it.

The Chairman (reading the resolution appointing the Committee): Mr. Eberts, I think if you would give us a statement of what you know about the granting, or proposed granting, of a subsidy for the Columbia and Western Railway—

A. For the whole Columbia and Western Railway Company?

Q.—Yes. A.—You see there is a letter just put in that refers to the fourth section of the Columbia and Western Railway Company. Shall I devote myself to explaining that to the best of my ability?

Q.—I think it is the third section of the railway.

Mr. McPhillips: It covers everything, Mr. Eberts. I don't know that we need labour with these other matters, unless Mr. Oliver desires.

Mr. Oliver: We had better inquire into everything.

The witness: I don't suppose it is necessary to go into the Act, to show you the different sections for which a subsidy was to be given, because that is set out in the Statute itself. The section that was not built (section 2) was, I think, a section from Trail to Waneta; that is in a south-easterly direction from Trail. As the Act says, they were to be given 20,000 acres of land for every mile of the road built between Rossland and Penticton. I believe the number of miles, I don't know, but the number of miles built would be probably, I should think, from memory, although I have not looked into the matter, that the distance from Rossland to Trail is probably about 14 miles; and from Trail to Robson I should think about 30 miles; and from Robson to Midway I should think about 80 miles—we thought it was about 80 miles in length.

Hon. Mr. Eberts—*Continued.*

Mr. Oliver : There is 131 miles built all together? A.—Well, I don't really know ; I know what has been built, although I don't know the exact mileage of it. How much would that make, 80, 30 and 14, that is 124 ; how many miles have been built?

Mr. Oliver : 131.

A.—Well, there is seven miles difference between my—

The Chairman : That is close enough.

A.—The matter was taken up by the Government in the year 1901, and taken up, I think, at the request of Mr. Dunsmuir at that time. He was going away, and requested the then acting Premier, Mr. Turner, to take the matter up. They were pressing for settlement of their claims ; and, I think, during the month of August, 1901, Mr. Turner gave instructions, I think, to get up a statement of the case, I think, from the Chief Commissioner's office—I am not perfectly satisfied about that, but probably the correspondence between the two offices would show that. The matter had been considered a good many times in Executive—several times in Executive—and a recommendation from the Lands and Works Department, which is the usual thing prior to an Order in Council being granted, was placed before the Executive. That, of course, is the usual practice in all Departments when matters are taken up dealing with a particular Department, a recommendation goes in with all the facts and circumstances in connection with it, from the Chief of that Department. I think that was done in this case ; in fact, I think I have seen the copies of the Orders of Council, which are always attached. They are always attached and go into the Provincial Secretary's office afterwards. The original arrangement for the giving of the lands mentioned in the Crown grants which have been referred to during the debates, was made some time in the month of August ; I cannot tell you exactly unless I had the papers before me ; and I think the Order of Council upon that agreement of the Executive was duly carried through. I think on the 4th of September that was signed by the Governor. You will understand that between the recommendation and the Order of Council that there would be a good deal of official circumlocution ; it would have to go through different offices ; referred back to the Lands and Works Department, and from there referred to the Provincial Secretary's Department, where the Order of Council would be prepared. And when it was prepared it came up before the Executive again, I think some time early in the month of September.

The Chairman : Is that all you desire to say about it? A. No ; I would rather be asked ; I am quite willing to answer any questions ; but I would like to be asked questions.

The Chairman : Mr. Oliver, have you any questions to ask Mr. Eberts?

Mr. Oliver : Mr. Eberts, the Order in Council was passed the 4th of September. Can you tell us what took place in consequence of that Order in Council being passed? A.—Well, I have not the conduct of that Order in Council ; I don't know what took place with reference to it.

Q.—Following out the terms of that Order in Council, were Crown grants prepared and signed on the 3rd of October? A.—Yes, I believe they were. Well, I suppose they were ; because—are the Crown grants here themselves?

Q.—Yes. A.—Those are matters I could not say, because I was not there at the signing of the grant. Before the grants were signed there was another Order of Council passed and had to be passed, because after the Order of Council was passed, an Order of Council would be passed setting out the form of the grant. I suppose that would be here too.

Mr. McPhillips : Yes ; 23rd of September. A.—23rd of September—I don't know. That would be the Order of Council setting out the form of the grant, bringing from the Chief Commissioner of Lands and Works' office a copy of the form of the grant to be given under and by virtue of the Order of Council of the 4th of September.

Mr. Oliver : Are you aware, between the 4th of September and the passing of the Order in Council of the 23rd September, settling the form of the Crown grant, of any negotiations or agreements arrived at between the Executive Agent of the Company and the Chief Commissioner of Lands and Works, or any other member of the Government, in regard to whether the Company was willing to accept the terms of the Order in Council? A.—Oh, well, I never understood that they were not willing to accept the Order of Council, because under the Order of Council itself—I have seen copies of it—a copy of the Order in Council was to be handed to the Columbia and Western Railway Company—a copy of that was to be handed to them?

Q.—Are you aware whether the Company ever signified their acceptance of that? A.—Oh, it did not come through me at all ; I have nothing to do with that.

Hon. Mr. Eberts—*Continued.*

Q.—You have no knowledge of that? A.—I don't know that. I only know this, that the agent of the Company was always trying to get the matter straightened up and brought to a conclusion.

Q.—Well, the agent of the Company says, that pursuant to the Order of Council of the 4th of September he accepted the terms of the Order in Council as full settlement with regard to those sections of the road, sections one and three that are dealt with. And that following out his acceptance he paid fees for the Crown grants—for those two particular Crown grants as well as a number of others, and got a receipt for that. A.—Well, that is a matter of record; I don't know that.

Q.—You don't know; you have no knowledge of what was done on that? A.—I have no knowledge; that does not come through my Department at all; that will be shown by the cash account of the Government—I suppose the person who receives that money in the Lands and Works Department—that does not come through my Department at all.

Q.—Can you give us any information, Mr. Eberts, as to what led up to the passing of the rescinding Order of Council of the 18th of March, 1902? (The Order in Council was handed to witness). A.—That Order of Council was passed at the time of the sitting of the House, and there was a meeting called in Mr. Wells' office; and at that meeting of the Executive it was agreed by a majority of the members of the Council that an Order of Council of that kind was to be passed.

Q.—Well, can you give us any information of the circumstances that led up to the passing of that Order of Council; any reason why it should be passed? A.—Well, I don't know that I should—that I have got to say what took place in an Executive, Mr. Oliver, with reference to the passage of that Order of Council. What is shown upon the face of it is this, that an Order of Council was passed to the effect that the previous Order of Council would be annulled.

Q.—Well, do I understand, Mr. Eberts, that you decline to answer that question on the ground that you decline to disclose what took place in Executive Council? A.—I don't know that I am placed in the position of saying what takes place in the Executive Council.

Q.—You decline for the reason that you do not wish to disclose what takes place in the Executive? A.—In the Executive at that time.

Mr. Oliver: Mr. Chairman, this is within the province of this Committee, to demand an answer to this question?

The Chairman: I think they could demand it, but I don't see that they could enforce the answer in any way; I don't see the use of demanding it. Mr. Eberts has clearly stated that he does not feel called upon to disclose what took place in the secret councils of the Government.

Mr. Helmcken: He is prevented by his oath of office.

The witness: I could not do that without I had leave, I suppose, from the members of the Executive Council. My oath of office says that I must not disclose anything that takes place in the Executive Council except such things as have been completed by the Executive Council and become matters of public import.

Mr. Oliver: I do not wish to unduly press that question at all. Of course, we would like to have got at the reasons why this rescinding Order of Council was passed.

Q.—After the passage of that Order of Council, did Mr. Brown, the executive agent of the Company, have an interview with the Cabinet in regard to the passage of that rescinding Order of Council? A.—I think he did.

Q.—Can you tell us what took place at that interview? A.—Well, I can only tell you generally; I did not take notes of what took place at the interview.

Q.—Will you give us what you recollect of the interview? A.—My recollection is that he denounced the action of the Executive as a very unfair one, and one that should not have been carried out without being notified of it, and did not know and could not conceive what brought them to that determination, or something to that effect.

Q.—Did Mr. Brown claim at that time that delivery of the Crown grants had been made to the Company, and that this transaction had been virtually completed? A.—Well, he spoke to that effect.

Q.—He spoke to that effect? A.—That there had been a settlement made with the Company. Of course, I am—you are asking me something that took place in the neighbourhood of nearly two years ago, and I did not take any notes of what was done at the time.

Hon. Mr. Eberts—*Continued.*

Q.—Did Mr. Wells give you any reasons, Mr. Eberts, for bringing those Crown grants back from Montreal? A.—He has given some reason.

Q.—Are you at liberty to tell this Committee what those reasons were? A.—Well, I did not know for some time, for a long time after Mr. Wells had returned, that the Crown grants had been brought back; and he has alleged a reason why he brought them back.

Mr. Green: Mr. Eberts, what do you mean by a long time; about how long? A.—Well, I didn't know for a month, perhaps, or two months, after he came back.

Q.—You were both here in the city, and you didn't know for two months after he came back— A.—that he had brought those grants back.

Q.—You supposed, in the meantime, they had been delivered, did you? A.—I thought they were; yes.

Mr. Oliver: What was the alleged reason given by Mr. Wells? A.—Well, amongst other reasons, one was that he could not get the C. P. R. to do something else—or the Columbia and Western.

Q.—What was that something else, Mr. Eberts? A.—Well, don't you think, Mr. Oliver, that, with due deference, you should ask Mr. Wells that?

Mr. Oliver: I think, under the rules, Mr. Chairman, that there can be any privilege claimed in Committee, and that Mr. Eberts must answer the question.

Mr. Helmcken: Mr. Eberts does not claim privilege.

The witness: I am not claiming privilege.

Mr. McPhillips: If you can get first evidence, why should you take secondary evidence?

Mr. Oliver: I have a good reason; I do not think it is necessary to say; but if the Committee wish to have a reason why I desire an answer to this question I will give it.

Mr. McPhillips: Applying the same rules as rules of law in evidence, after Mr. Wells has been asked that question Mr. Eberts could be recalled, and it could be stated to him what Mr. Wells said was his reason, and Mr. Eberts could be asked if that is the reason that he stated.

The Witness: That would be the way to get it chronologically.

Mr. Oliver: Very well; I will allow that to go at this time.

Mr. McPhillips: I do not wish to exclude anything, but I suggest that we proceed in that way.

The Chairman: That looks the reasonable way; to get the evidence direct first from Mr. Wells.

Mr. Oliver: I am satisfied. The Committee can recall Mr. Eberts at any time.

The Witness: I am always at the Committee's disposal.

Mr. Oliver: Mr. Eberts, in setting aside those two blocks of land in South-East Kootenay, who suggested that those two particular blocks should be set aside for that purpose? A.—How do you mean set aside for that purpose?

Q.—They are designated by the Order in Council of September 4th as being recommended that those be appropriated to make up the deficiency for section three. A.—This came down by recommendation of the Chief Commissioner; it shows in the Order of Council.

Q.—Have you any knowledge—was any suggestion made to you personally by Mr. Brown or any other officer of the Company that these two blocks should be set aside for the purpose of that deficiency? A.—I know that that particular portion of land was spoken of and would be accepted in lieu of a full settlement of the whole matter; and, taking the whole transaction, it was reported to us from the Minister that in doing so there would be a saving of a grant to the Company of something like 300,000 acres in favour of the Province.

Q.—Well, you could not say who it was, whether it was Mr. Brown or who it was you heard speaking of this? A.—Well, I cannot now at this date.

Q.—Well, the reason that I asked was, Mr. Brown says that neither he nor, as far as he knew, any official of his Company suggested that those blocks should be set aside. A.—Well, I cannot speak of that; I cannot speak of it from memory, and I do not want to say anything that I cannot say truthfully. You take negotiations of that kind, extending with an Executive over four or five meetings, and probably extending with the Chief Commissioner of Lands and Works over a number of meetings—I don't know, of course; that is a matter altogether with him—I cannot give an exact history of that.

Hon. Mr. Eberts—*Continued.*

Q.—Another matter with regard to this deficiency. Was there not lands available much nearer to the line of the railway, which could have been appropriated to meet this deficiency?
A.—By going farther north?

Q.—Yes. A.—There were none south, of course.

Q.—By going farther north? A.—By going up towards the C. P. R. belt—that is, the Dominion Government belt, you mean?

Q.—Extending northwards from the line of railway. A.—Well, I understood in that Order of Council there that blocks of land had been given there as far up north as you could possibly reach, by Okanagan Lake. You have got to depend a great deal upon the report that comes in to you. Have you got the map here?

Mr. Oliver: I would ask that the Committee send down for the blue print showing the reserve asked by the Company—the blue print showing the reserve of something over four millions of acres. (The blue print was produced and handed to witness).

Mr. Green: Mr. Gore said that this, following the purple line, was the first reservation, and that after this the larger block was reserved? A.—I don't know; I never saw that.

Mr. Green: This is reserved. And what Mr. Oliver is trying to find out is, was there nothing north here? These blocks have been taken up to about there; that will be shown better on that other map.

A.—This is along at Nelson—this map is not right—where is the Nelson and Fort Sheppard Railway? This map is not right; this is an older map. These blocks here all belonged to the Nelson and Fort Sheppard.

Mr. Green: But within this purple line it was reserved for the other, and the Columbia and Western have some. I will show you on the other map (doing so); those red blocks are the railway's, and the yellow blocks are the Government's, alternating.

Mr. Oliver: And was there any available land north of those blocks, much nearer the line of railway, that could have been appropriated? A.—I don't know; that is a matter altogether in the Lands office; I cannot tell anything about those blocks. You can take the measurements. The Chief Commissioner or Mr. Gore can tell you that.

Q.—We will let that go. I think probably we had better examine Mr. Wells on that.
A.—Yes.

Q.—Since Mr. Brown had the interview with the Cabinet in which he protested against the action of the Government in rescinding that Order in Council of the 4th of September, has any action been taken by the Company to obtain a settlement with the Government in connection with their land grants for sections one and three. A.—Through my Department?

Q.—That you are aware of? A.—Not that I am aware of. I think that Mr. Brown had conferences with the Premier of the country with reference to this whole matter. Since when, did you say?

Q.—Since the passage of the Order in Council of the 18th of March; after that interview with the Government, after the passage of it. A.—Yes.

Q.—Now, in the session of 1901, was a Bill prepared proposing to give land subsidy to the Railway Company for section four of this line of road: A.—I think it was, if I remember rightly.

Q.—It was not submitted to the House? A.—I don't know; I don't remember. Have you got the Bill?

Q.—No. A.—Well, I don't remember; I cannot speak from memory.

Mr. Helmcken: He wants the Bill of 1901; the Bill introduced at the last day of the session. A.—In 1901.

Mr. Oliver: Never was introduced, as a matter of fact. A.—That is 1902, isn't it?

Q.—No, 1901. A.—You are referring to some Bill in 1901 that was not introduced?

Q.—Yes. A.—I don't know anything about that.

Q.—Well, Mr. Brown gave evidence of the fact that the Government promised to bring down a Bill in the session of 1901, and did not do it. And then he said that the Government promised to bring down a Bill in 1902 which they afterwards brought down, and was withdrawn.

Mr. Helmcken:—That is the Bill of 1902. A.—That is the Bill of 1902. (Mr. Helmcken hands Bill to witness.)

Mr. Oliver: Now, in reference to that Bill of 1902, the statement is there made that the Company surrendered its rights to build the fifth and sixth sections of its line of road. Now, have you any agreement with the Company, Mr. Eberts, to that effect? A.—In my possession?

Hon. Mr. Eberts—*Continued.*

Q.—Yes. A.—I have not. But I would like to explain, if I may, to the Committee.

The Chairman: We would be very glad indeed for you to do so. A.—What brought down that Bill. It might be a little bit long, but if the Committee listen I will explain the matter.

The Chairman: We would like to hear your explanation. A.—You remember, Mr. Chairman, in the year 1896 what was known as the Columbia and Western Railway Company was incorporated by this Legislature. At the same time the Legislature, I think the same year, gave it a grant of land of 20,000 acres if they would build a line of railway from Rossland to Penticton. There was a clause in the Act which entitled the Company, instead of building the line straight through from Trail to Rossland and then on to Midway and Penticton, to vary that line if it was found that it was impossible to cross the mountains from Rossland to Midway, and after putting their men in the field it was found a physical impossibility to build the line of railway across from Rossland straight through to Midway, and they had to divert the line by way of Robson, and bring it around by Robson, thence over to the foot of Christina Lake. An Order in Council was duly passed by the Government of the day authorising them to do that. In the year 1897 the Turner Government brought in what is known as the Public Works Act, which authorised the Lieutenant-Governor in Council to give a bonus of \$4,000 a mile for a railway from the Coast to Midway, via Penticton. I think that was in the year 1896, if I remember correctly.

Mr. Oliver: 1897.

The Chairman: You said 1897. A.—I just want to see (looking at documents); that was in 1897. The Turner Government brought in a Bill authorising the giving of \$4,000 a mile from the Coast near English Bay to Midway, in the Boundary District. In the fall of the year, I think in the month of December, or early in the year 1897, Mr. Mann, of the firm of Mackenzie & Mann, appeared upon the scene.

Mr. Oliver: Just a moment—early in the year 1898, you mean? A.—1898, I should say, yes. And he told Mr. Turner that he was in a position to build the railway from the Coast not only to Midway, but he wanted Mr. Turner to give them help to Robson, because he had a charter as far as Robson; he had the V. V. & E. charter; they took the charter by way of Cascade, I think, from the Coast on Columbia River; and if I mistake not, that same line probably takes it as far as Robson—I have not got the statute before me. And he asked Mr. Turner—the Government of the day—to introduce legislation to authorise the giving of \$4,000 per mile from Midway to Robson on the Columbia River. The Act had, prior to that time, only given a bonus of \$4,000 a mile from the Coast to Midway, via Penticton, and he said that if that were done he would enter into an agreement with the Government and he would give the Government \$75,000 security that he would build the line, in two sections, one from the Coast to Penticton—or Midway, I should say—and \$75,000 from Midway on to Robson. And he wanted to enter into negotiations of that kind so soon as the Government had passed an Act authorising the giving of a bonus of \$4,000 per mile from Midway on to Robson. That matter was taken up by the Turner Government and its followers in that year, and an additional subsidy—in the year 1898 I think it was—was given, in addition to the subsidy of \$4,000 per mile from the Coast to Midway; an additional subsidy of \$4,000 a mile was given from Midway to Robson. After this Act had been passed, and some time after that, I think in the month of June, 1898, Mr. Mann came here again—June or early in July, I have not got the exact date before me now—

Mr. Oliver: June.

Witness: Was it June?

Mr. Oliver: Yes.

Witness: Mr. Mann came here again, and he started to enter into negotiations with the Turner Government for the building of this Coast-Kootenay line of railway; said that they would take up the contract and build that line of railway. We wanted to give them a bonus for that line of railway from the Coast to Penticton, and offered them \$4,000 a mile if they would build the line from Coast to Penticton. Mr. Mann thought the matter over; and he said, no, I will not take a charter of that line from the Coast to Penticton, because when I get to Penticton I will be nowhere. And he said that unless the Government would give him a bonus of \$4,000 a mile from the Coast to Midway, via Penticton, he would not touch that railway at all—he would not touch the proposition at all. Shortly after that time Mr. Shaughnessy appeared upon the scene; and Mr. Shaughnessy talked the matter over with the

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Government; he said they were going to build the line from Robson—that is known as the Columbia and Western—because I think that matter had come up in the Dominion Legislature at that time—there was a pretty strong protest had come probably from the Columbia and Western people, or the C. P. R. people in the Dominion—I don't know who it was—but if I remember, reading the papers then, it was the same time that Mr. Corbin was applying for a line from Marcus up the Kettle River into the Boundary Creek country. And I think the assertion was made there in Parliament that the Columbia and Western people would build from Robson west to Midway without any bonus from the Dominion Government at all. Well, Mr. Shaughnessy appeared on the scene at that time. The matter was talked over with him then, the matter was placed before him by the Turner Government, and particularly by Mr. Turner, to the effect that Mackenzie & Mann would not build the line through from the Coast to Penticton and stop there, and they would not take the contract at all unless they would get the contract through to Midway, because, as Mr. Mann alleged, "If I can get through to Midway I have got an outlet there, and I do not depend upon the Columbia and Western or anybody else; I can have an outlet out to the south"; and I remember his words, "I could not be held up if I got as far as Midway." Well, Mr. Shaughnessy and Mr. Mann and the Government concluded that it would be an advisable thing; it was a thing very much in the minds of the Turner Government at the time. You will remember the Vancouver, Victoria and Eastern Railway was a very strong question in the Province of British Columbia, about that line being built through. The people on the Coast and the people of the Boundary Creek country wanted to get connection through to the Coast. And Mr. Turner's Government then thought they had an opportunity of having that line built through from the Coast to Kootenay, connecting them, and it would do with the Columbia and Western, and if a line came up from the south to Kettle River, they would connect with that. And Mr. Shaughnessy and Mr. Turner then agreed, and Mr. Turner would carry out this agreement with him, and Mr. Shaughnessy said, I don't want to stand in that position, Mr. Turner, with reference to your trying to get that line built from the Coast to Midway, and if you think it is to your advantage to enter into that contract to build the line from the Coast, via Penticton, to Midway, I will retire from that proposition with reference to building the line—from carrying on that portion of the line from Midway to Penticton. The reason was very obvious. We did not want a parallel line. It was thought at that time the only way you would build a line—the surveys were not very complete at that time, Mr. Chairman, if you remember (The Chairman: Yes), and we thought the proper way for the outlet would be, and the best thing for the Province of British Columbia would be, to get the line built by way of Penticton; and, therefore, it was concluded that it would be a most unwise and unbusinesslike and unstatesmanlike thing to duplicate the line from Penticton to Midway. We could get the contract from Mr. Mann to build the line all the way from the Coast to Midway, but we could not secure the contract to build to Penticton. Mr. Shaughnessy then entered into an arrangement with Mackenzie & Mann and Mr. Turner that he would give up that portion of his line between Midway and Penticton and the contract could be taken over by Mackenzie & Mann and they would build it, that he would carry out that portion of the line from Robson to Midway, and he understood perfectly from the Turner Government at the time that they would protect the Columbia and Western Railway Company in all their rights if they allowed the Turner Government to carry out the proposition in that particular way. After that transaction was carried out, the matter was talked of with reference to the Crown grant to the Columbia and Western Railway between Robson and Midway. And the Turner Government at that time negotiating with Mr. Shaughnessy, now Sir Thomas Shaughnessy, made the suggestion and agreed that they would give the \$4,000 a mile to the Columbia and Western Railway Company from Midway to Robson if the Columbia and Western Railway Company would surrender its land grant between Robson and Midway. Sir Thomas Shaughnessy said he would take that matter back to his Company in Montreal, would bring it up before the Board of Directors, would have an agreement prepared on those lines, and would submit it to the Government; that agreement to surrender in that way, which has always been held to be a price of twenty cents an acre for the land; taking into consideration the number of acres of the land at \$4,000 a mile, would make the value of the land between Robson and Midway, according to that, twenty cents an acre. That agreement I never saw again until after I came back into power. That agreement came to the Lands and Works Office here. You will remember that after Mr. Shaughnessy left us at the end of June or beginning of July, that

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Mackenzie & Mann—that we were in the throes of a very serious election at that time, and a very short time after that the Turner Government went out of office; I think early in the month of August the Turner Government went out of office. This agreement presented by the Columbia and Western to surrender their land grant for \$4,000 a mile between Robson and Midway I never saw until after I came back into office again. It was in the possession of the Lands and Works Department, in the possession of Mr. Gore, who can tell you with reference to that. And that agreement has been produced, I think, Mr. Oliver, produced in the House, was it not? Mr. Oliver: Yes. We have it on exhibition here. A.—Have you got that agreement here?

Mr. Oliver: Yes; that agreement we were looking at last night. A.—I think I have got a copy here. Now, that same agreement, made by Mr. Turner with the Columbia and Western Railway Co., was agreed to be carried out by the Semlin Government in the year 1900, with this difference, I have been told, that instead of giving \$4,000 a mile in cash between Midway and Robson, the Semlin Government was to give \$4,000 by way of 3% bonds of the Province, which was to a certain extent a better proposition than the one concluded, as I said, because in giving the bonds of the Province, then, when that legislation came down it would be a saving in probably the difference in what the bonds would sell for and par, which would include also the costs you would have to pay in the way of commission to brokers getting the loan floated; because if you gave them \$4,000 in cash you probably would have to get that upon the bonds of the Province, and you might not get par; you might, and might not. You will remember that the 3% bonds of the Province during the year, I think, 1898, were quoted at 103—3% bonds of the Province; at the same time their consols were quoted at 112 and 114, our 3% bonds were quoted at 103. And, therefore, if our bonds were at 103, and if we could have got cash, and if we had any belief that our bonds would be kept up to that price, we would not have been in any better position by giving bonds than cash, because we could probably have got—if our bonds were at 103 we could probably have got very close to par for our bonds; because, as an evidence of that, although the credit of the Province was not so very good, you will remember, in Mr. Cotton's time, he launched \$16,000 worth of Provincial bonds, and I think netted 95 clear. Now, that matter was taken up; and I only took the liberty the other day at Ashcroft in calling—in the elections at Ashcroft, to call Mr. Semlin's attention to that fact, with reference to giving them other lands for the fourth section, when I said that he, in his Queen's Speech in the year 1900, brought down the very particular thing, because he uses these words—I don't know whether you have seen them—I want the Orders of the Day for 1900—I have a copy of it here—in the Queen's Speech of the Session of 1900 when the Semlin Government was in power, these words appear in the Queen's Speech: "The Columbia and Western Railway Company, having completed its line between Rossland and Boundary Creek, has become entitled to a land grant of approximately two and a half million acres of land." Now, you will find that that is not very far wrong when you multiply 20,000 acres into the number of miles of railway they had built there. You say the acreage is—

Mr. Oliver (interrupting): Just there, Mr. Eberts, how can it be said that they are entitled—how can it be truthfully said they are entitled, when the Statute itself says they shall not be entitled until the fifth section has been built, and the Statute has not been altered? A.—I quite agree with you that the Statute says that they are not to be paid for the fourth section until the fifth section has been built. But I am also entitled to tell you that there was a solemn arrangement made between the Executive of the Company and the Government of the day, which they were bound to carry out, with Mackenzie & Mann on the one side and Sir Thomas Shaughnessy, of what I have told you here to-day, which had to be carried out; and it was the duty of the Government of the day to follow that up by legislation. And as evidence of that fact you find those who were opposed to us in power were willing to carry it out; and Mr. Semlin, I think, will tell you truthfully that he was only carrying out the arrangement made by the Turner Government.

Q.—An arrangement of that kind could only be valid if sanctioned by the Legislature. A.—In other words, that the Company could not make it be performed—in fact, they could not make it be performed, in so far as the land grant itself was concerned, unless the Lieutenant-Governor in Council agreed to give them the land grant; there is no power of any Company to get their lands from the Government. But it was considered at the time a fair, straight and honourable agreement, made because if that agreement had not been made when

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the Columbia and Western Railway Company were negotiating for the building of their line, the raising of between four and six million dollars for the building of their line between Robson and Midway, there is not any doubt they could have entered into negotiations to build their line further on as far as Penticton. Then the contract was entered into between Mackenzie & Mann and the Government, which contract you have before you, and that contract was nullified by a subsequent Parliament. And I firmly believe, and always have believed, that if the contract made by the Turner Government at that time had been allowed to go on, we would have had the Coast-Kootenay line built by Mackenzie & Mann, who were at that time the strongest railway contractors in Canada.

Q.—But even if an arrangement had been made in writing and properly signed and sealed, it could have had no effect unless ratified by the Legislature. A.—It had to be ratified by the Legislature.

Q.—But, as a matter of fact, it was not committed to writing? A.—Not committed to writing, as far as I know; I have no memorandum of it.

Q.—Is that all you wish to say on that, Mr. Eberts? A.—I would just like to say something more about that. There is a letter produced here, from Mr. Shaughnessy to the Honourable Joseph Martin, the Attorney-General of the Province in the year 1898. I have a copy here which I will read. It is dated the 1st October, 1898. (The original letter was here handed to the witness.) This is a letter written by Thomas G. Shaughnessy; this was not on the files of the Attorney-General's Department, and when it went on those files it is numbered 2,327, of 1899; it appears on the Attorney-General's books as having been received at that time when the Semlin-Cotton Government was in power.

Hon. Mr. Eberts read a portion of the letter, as follows:—

“MONTREAL, 1st October, 1898.

“*Hon. Joseph Martin,*
“*Attorney-General, Victoria, B. C.*

“DEAR MR. MARTIN,—Referring to our conversation when I had the pleasure of meeting you in Montreal.

“The Dominion Government has already paid us \$1,500,000 on account of the Crow's Nest Pass subsidy, and a further Order in Council was passed day before yesterday for \$740,000, which we shall receive Monday next, so that the engineers have passed for subsidy 200 miles of road representing the railway line from Lethbridge to the summit of the Rocky Mountains and 95 miles of the British Columbia Southern Railway west of the boundary of British Columbia.

“By the time that this letter reaches you the rails will have been laid to Kootenay Lake, and while, of course, there is a good deal of finishing up work to do, as in all cases of this kind, your Government will, I hope, feel justified in issuing the patents applicable to the eastern section of the line, being the portion of the railway between the summit of the Rocky Mountains and the Upper Kootenay River (75 miles), leaving the patents for the lands applicable to the central section (that is, the section between Upper Kootenay River and Kootenay Lake) in abeyance until the work to the lake has been entirely finished.

“Of course, if you prefer it, you might send your own engineer to report, but, under the circumstances, this would hardly seem to be necessary.

“We also talked about the land grant of the Columbia and Western Railway Company. You seemed to be of opinion, first, that there was some doubt as to the Company being entitled to the land grant for the portion of the line between Rossland and Robson, because they had not complied with the sections of the Statute requiring them to secure the approval of the Lieutenant-Governor in Council of any changes in their route constituting a departure from the descriptions of the sections set out in the Statute. I showed you copy of the Order in Council, dated June 30th, 1898, which you seemed to consider satisfactory. The lands have not, as yet, been selected, but the Company is required to make the selection before the end of the year, when, I hope, your Government will issue the necessary patents.”

The witness: Now, this I wish you to pay particular attention to:—

“It is quite understood, of course, that the land grant applicable to the section of the line between Robson and Boundary Creek is to be surrendered in consideration of a cash subsidy of \$4,000 per mile.”

Q.—Previous to that there had been an Order in Council designating the Company as a Company should receive that cash subsidy. A.—I will try to show you the history. (Looking at the Columbia and Western Railway Act, 1896.) I just wanted to call your attention to the fact that the Act itself shows what is meant by that Statute. In other words, the sections of the Statute have been changed, and they were entitled to be changed by the Act, according to an Order of Council. That Order of Council was passed. And Mr. Martin said, “I don't think you are entitled to this because you have not had the Order of Council passed,” and Mr. Shaughnessy showed him that the Order of Council had been passed, which Mr. Martin seemingly agreed to at that time.