

SATURDAY, May 9th, 1903.

At 10:30 a. m. all parties met, pursuant to adjournment from yesterday.

W. S. GORE, being recalled, testifies as follows :—

Mr. Duff: Mr. Gore, you have made a search, have you, for correspondence? A.—I have.

Q.—I suppose that your search is simply in the official letter-books in the office, and the files showing the correspondence? A.—Yes.

Q.—Now, you produce letters inwards, dated as follows :—2nd July, 1896; 10th October, 1896; 1st November, 1896; 18th May, 1897; 3rd August, 1898; 1st November, 1897, and another one 1st November, 1897; and 4th January, 1900; all of which, Mr. Chairman, I have looked at, and, so far as I can see, they do not bear on the matter at all; they simply deal with matters of construction. A.—I have not copied the answers to them, because they were not relative.

Q.—The answers to these letters deal only with the same subject-matters, and they contain nothing relevant to the subject-matter of the inquiry? A.—That is correct.

Q.—And, in addition, there is a letter 3rd of June, 1902, from the Government Agent at Fort Steele, Mr. J. F. Armstrong, addressed to the Chief Commissioner of Lands and Works, making inquiries as to whether lot 4,594 is open for pre-emption and for purchase; and also stating that in your letter of the 10th of October, 1901, you had informed him that that land had been conveyed to the British Columbia Southern Railway Company. You produce that letter? A.—Yes.

Q.—And the answer to that, dated the 18th of June, 1902, states that lot 4,594 has not been conveyed to the Railway Company, and is open to application under the Land Act? A.—Yes.

Q.—You also append a copy of the letter of the 10th of October, 1901, referred to by Mr. Armstrong in his letter of the 3rd of June, 1902? A.—Yes.

Q.—That letter states that the lands have been granted to the British Columbia Southern Railway Company? A.—Well, that was an error, it should have been the Columbia and Western.

Q.—Well, it just occurred to me that the Committee might want to know, in view of that statement in the letter, whether the preparation of the grants under the Order of August 10th went through the office in the ordinary course. Perhaps you might have to make inquiries with regard to that. Would you really know at that time, on the 10th of October? A.—Yes, I would.

Q.—Would the office afford you the information that those grants had been prepared? A.—Yes.

Q.—You prepared them yourself? A.—My clerk prepared them; they were dated the 3rd of October.

Q.—They were prepared by Mr. John? A.—A private clerk in the office.

Q.—In the usual way? A.—In the usual way.

Q.—There was nothing irregular or unusual in the way in which the Crown grants were prepared? A.—No, sir.

Q.—That is the only point that occurs to me in connection with that correspondence. It seems to me that that correspondence had better be filed; it touches the subject. Now, are there any other communications? A.—Not that I am aware of.

Q.—You have found none? A.—I have not found any.

Mr. Helmcken: Mr. Gore handed in a large file of correspondence before.

The Chairman: From the Lands and Works Department we have received everything now; nothing more can be found; is that what I understand? A.—Yes.

Mr. Duff: You have examined the files, have you? A.—I did so personally, yes.

Q.—And the index? A.—Yes.

Q.—And I gather from your suggestion that you have just said to me that you find some letters missing? A.—Yes, there are two letters.

Q.—You might state what they are? A.—I find missing, letter No. 8,725, 1898, dated the 19th of November, 1898, signed by George McL. Brown, enclosing documents *re* Columbia and Western Railway, and saying the Company is ready to define and project the boundary lines of its Crown grant; that letter is not on the file and I cannot find it. I might say that the documents referred to there I believe to be some blue prints showing the boundaries of the blocks they had selected, which blue prints I have. There is, apparently, no answer to that

Mr. Gore—*Continued.*

letter. Also No. 9,022, 1899, dated the 8th of November, 1899, signed by George McL. Brown asking for a decision *re* settlement Columbia and Western Railway subsidy; that is also not, on file, and cannot be found.

Q.—Was there any answer to it? A.—No answer to it in my office.

Q.—Do you know, of your own knowledge, referring to that last letter, what question was before the Government at that time; it was not the question with regard to those blocks? A.—I think it was simply a question with regard to the blocks that they had selected.

Q.—The alternate blocks? A.—The alternate blocks that they had selected and defined in accordance with the terms of the Act.

Q.—Of section 4 of the Act? A.—Of section 4 of the Act.

Q.—Do you remember, in a general way, as to what the nature of the controversy was at that time? A.—There was not any controversy, because I think the Government at the time simply took no action in the matter.

Q.—The Act required that their selection of alternate blocks should be ratified by you? A.—By the Chief Commissioner.

Q.—And you think that that simply had not been done? A.—I know that it had not been done. I reported on it myself, and no action was taken upon it.

Mr. McCaul: Mr. Gore, while you are here, would you explain about the Order in Council of the 10th of August, 1901, and the memorandum that you had in pencil on the copy in your office, dated the 28th of August; how that came about? A.—Yes. When I took that Order in Council to the Chief Commissioner of Lands and Works—I presume it was on the 28th day of August, the date it was drawn or the next day—after reading it over he said: “I cannot date this to-day, because it refers to a map which was dated the 10th of August, the time this matter was considered in the Council, and it will have to agree with that.”

Q.—I see. There was a map which was before the Council on the 10th of August, and dated on that date, showing these blocks? A.—Yes; that is my recollection of the matter.

Q.—That map was attached to this Order in Council? A.—I believe so.

Q.—That map ought to be here, map dated the 10th of August. A.—I think it is a lithograph map, if I mistake not.

Mr. McCaul: It is here; I have seen it here.

Mr. Oliver: This is it.

Mr. Duff: Yes, but that is not a lithograph map, though.

Mr. McCaul: Is that the map to which you refer (map shown to witness)? A.—Yes; I presume it is.

Mr. Duff: Whose handwriting is that, Mr. Gore (indicating)? A.—That “10th August, 1901,” is my writing.

Q.—And this (indicating)? A.—It is my writing; and this too (indicating). But, if I mistake not, Mr. Wells had a lithograph on which those were shown, and which was dated by himself.

Q.—These maps were not before the Council at the time? A.—No; those do not belong to the Order in Council at all; those are the Land Office files. This does not belong to an Order in Council.

Q.—The maps dated the 10th of August do not belong to the Order in Council at all, they belong to the Land Office files? A.—Yes; those tracings.

Q.—The 10th of August, 1901—that phrase is your handwriting? A.—Yes.

Q.—And made to identify it with this transaction? A.—Yes; to make it conform with the map attached to the Order in Council.

Mr. McCaul: That is a tracing from the map attached to the Order in Council and used on the 10th of August? A.—I cannot tell you that.

Q.—But there is a map that was attached to the Order in Council? A.—Yes; I believe there was. Isn't there a map here attached to the Order in Council of the 10th of August?

Q.—There was one here; I saw it. A.—The Order in Council itself refers to the plan attached.

Q.—Looking at this Order in Council, Mr. Gore, does it refresh your memory as to whether there was a plan dated the 10th of August before the Council? A.—The Order in Council refers to the accompanying plan and descriptions.

Q.—And your recollection is that that was a lithographed plan? A.—I think so. But, of course, I could not state positively; there were so many plans and things in connection with these matters that it is difficult to say.

Mr. Gore—*Concluded.*

Q.—At any rate, Mr. Wells said to you, when you showed him the Order in Council, that it would have to conform with the plan that was used before the Executive, upon the Order in Council of the 10th of August, 1900? A.—Well, Mr. Wells said that.

Q.—Well, at any rate, you are satisfied that such plan was before the Executive on the 10th of August, 1901? A.—Well, I was not present at the Executive Council; but that is the impression I gathered from Mr. Wells; and that he made the Order in Council to correspond with that date.

Q.—On the ground that that plan was before the Council and dated in that way? A.—Yes.

Mr. Helmcken: Mr. Gore, just look at that handwriting on that plan there, 19th of December, apart from the signatures; do you know whose handwriting that is? A.—I believe it is Mr. Wells' writing.

Q.—The whole of it? A.—Well, I don't know the writing; I don't know it really.

Q.—I say apart from Mr. Wells' signature and Mr. Dunsmuir's signature. A.—It might be Mr. Wells' and it might be somebody's else's; I don't know. Mr. Wells is here, he can identify it.

Mr. Duff: Is that the same handwriting as that (indicating)? A.—It looks very much like it.

Q.—It is Mr. Brown's handwriting; I don't think there is any doubt about it, is there? A.—It looks very much like it.

Q.—That is, the handwriting on the map attached to the Order in Council of the 19th of December, 1900, excepting the signatures of the Chief Commissioner and of the President of the Council, is in the handwriting of Mr. George McL. Brown? A.—I don't swear to that.

Q.—That is the question I ask you; and your reply was that it looks like it. There is no doubt about it.

Witness stands aside.

HON. W. C. WELLS testifies as follows:—

Mr. Duff: Mr. Wells, have you any recollection of the circumstances under which you attached your signature to this map, being the map which would accompany the Order in Council of the 19th of December, 1900? I call your attention to the handwriting there, the similarity of it to the handwriting of George McL. Brown. You may identify it. A.—This is Mr. Brown's handwriting, is it?

Q.—I don't say it is; but I call your attention to the similarity between that handwriting and his handwriting. I suppose you are more or less familiar with it? A.—Well, I think Mr. Brown had some of these maps prepared.

Q.—Do you know where that map was prepared? A.—No; I cannot say definitely. But I know Mr. Brown took an interest in having the maps prepared at different times; but whether he had this particular one prepared I don't know.

Q.—As a matter of fact, this map which accompanied the Order in Council is, in the first place, a lithographed map issued by the Canadian Pacific Railway Company? A.—Yes.

Q.—You recognise that as a map issued by them, showing their lands apparently in Southern British Columbia? A.—We might take their map for our own convenience.

Q.—Your recollection is that Mr. Brown, at different times, had maps prepared for the purpose of carrying out these transactions with the Government? A.—Yes; I think he had.

Q.—But you have no recollection of the circumstances under which this one —? A.—Oh, I remember of one instance where he had a map.

Q.—What instance was that? A.—I cannot say that it was this particular map, but I remember of one instance where he had a map prepared.

Q.—What are the circumstances that call your attention to it? A.—Well, I just remember that he had a map prepared for us.

Q.—About what time? A.—I cannot tell you.

Q.—Was it during the transactions in 1901? A.—Well, I cannot tell about that.

Q.—This is not your handwriting, excepting your own signature (indicating on map)? A.—No.

Q.—You are quite clear on that? A.—Oh, yes; there is no doubt about that.

Q.—Now, there has been some correspondence produced here, Mr. Wells, yesterday; and I want to ask you some questions with regard to that. I think there is a statement of Mr.

Hon. Mr. Wells—*Continued.*

McNeill's that you, perhaps, would like to say something about. It was suggested by him yesterday that this correspondence, beginning the 22nd of March and extending down to the 3rd of May, 1902, was not produced to the Committee at an earlier time because of some instructions which you gave to him. A.—Oh, well, I don't think that I gave any instructions with regard to this particular correspondence; I know I did not.

Q.—The only instruction was to the effect that personal letters were not to be produced?

A.—Yes; personal letters; I have a personal file.

Q.—Has that file been examined? A.—Yes.

Q.—Were those letters on that file? A.—One of them was; I know one was marked personal.

Q.—They are all marked personal. A.—Then they would all be on that file.

Q.—As a matter of fact, this correspondence deals with one subject only—the transaction between the Canadian Pacific Railway and the Government with regard to these subsidies. Another question with regard to that: Beginning with the time when the Canadian Pacific Railway Company, Mr. Brown on behalf of that Company, was pressing the Government to grant blocks 4,593 and 4,594 to the British Columbia Southern Railway Company, down to the time when the Crown grants to the Columbia and Western of these blocks were cancelled, was there any official communication made by either of these companies, or by Mr. Brown on behalf of the companies, to you on that subject in writing? A.—Any official communication?

Q.—Yes, in writing? A.—Well, nothing further than what has been produced.

Q.—I would like you to cast your mind over it and see if you can think of anything; any letter that was written you that was not marked personal, that you ever saw? A.—No.

Q.—As a matter of fact, all the correspondence between yourself and Mr. Brown on this subject is marked personal, that has been produced. A.—Yes.

Q.—And you don't know of any other communication? A.—No; I don't think there was anything else.

Q.—And although this matter was in your Department, and although Mr. Brown was the Executive Agent of the Canadian Pacific Railway Company and dealing with you on this subject, all the applications made by him to you were applications which were marked personal? A.—If they are all marked personal there is no doubt what you say is correct, because I don't think there was anything else.

Q.—Well, all those letters are marked personal. Just look at them (shown to witness). These two letters, dated the 3rd of May and 15th, deal with the fourth section Bill, you say? A.—Yes; these are not personal letters.

Q.—But referring to these letters, dealing with blocks 4,593 and 4,594? A.—I don't know why these letters were marked personal, but they were.

Q.—I am just asking you the fact. A.—I don't know of any further correspondence.

Q.—All the correspondence has been produced, as far as you know? A.—Yes, certainly.

Mr. McCaul: Those are the letters subsequent to the rescinding Order in Council, are they not, Mr. Duff?

Mr. Duff: Yes.

Mr. McCaul: I think it would be fair to show Mr. Wells that letter with the others (indicating).

Mr. Duff: You can show it to him if you like. I do not think there is any necessity of it.

Q.—Now, Mr. Wells, you had an interview with Mr. Brown on the 19th of March, the day after the grants were cancelled, didn't you? A.—Very soon; I remember Mr. Brown being in my room, with other Ministers, I think.

Q.—With other Ministers? A.—With other Ministers.

Q.—Yes, but you had a private meeting with him? A.—Yes, I think I did see him about that time.

Q.—You had a private interview? A.—Oh, yes; I remember telling him the result of that meeting.

Q.—That was a private interview? A.—I think so; yes. I remember now what he said.

Q.—At that interview you told Mr. Brown that the grants had been cancelled? A.—Yes; I remember what he remarked at the time.

Q.—Yes. And you had some discussion on the subject generally with him? A.—Well, not very much, then.

Hon. Mr. Wells—*Continued.*

Q.—Well, but you had some? A.—I remember his saying he was very glad it was all off, or something like that.

Q.—But you had some discussion, hadn't you? A.—Well, I don't think we had very much discussion.

Q.—I will let that go. A.—Well, if there is anything you want to know—

Q.—Never mind. Did not Mr. Brown on that occasion, either Mr. Brown or yourself, suggest that the action of the Government had been taken as a measure of political expediency? A.—Oh, I made no such remark.

Q.—I didn't ask you whether you did. Didn't Mr. Brown or yourself make such a remark? A.—I believe Mr. Brown did.

Q.—Do you mean to say that Mr. Brown concurred in it as a matter of political expediency? A.—I would not say he concurred in it; I remember his remark; I remember that word "expediency."

Q.—What was his remark, then? A.—I just remember that, his making use of that term.

Q.—You just remember he used that term; that Mr. Brown attributed the fact that you had cancelled the Crown grants to expediency? A.—I believe that was his view.

Q.—He told you that? A.—Yes; I believe he did. I remember that term "expediency."

Q.—I notice that in your letter of the 3rd of April you used this language: "You may call it 'political expediency' if you wish, which, by the way, was your own expression and not mine,"—which means it was his expression used on that occasion? A.—Yes.

Q.—"—but, in any case, you could not expect the Government to carry out the proposed settlement, in view of facts which would preclude the possibility of doing so." You say that was a very brief discussion? A.—Oh, yes; there was not very much said.

Q.—Now, you also, at the same time, had a discussion with Mr. Brown with regard to the fourth section Subsidy Bill? A.—I don't think the same time. I would not say the same time. I don't remember that.

Q.—I will refresh your recollection by referring to your letter; Mr. Brown wrote you on the 23rd referring to that interview on the 19th? A.—Yes.

Q.—And then you replied on the 3rd of April, and you say: "Your reference to our private interview is quite uncalled for and may say incorrect, that is, in so far as the assurance which you state I gave you in respect to settlement of the land subsidy for section four, C. and W. Railway." A.—Yes. That does not imply that I had any discussion with him at all over it; at least, not necessarily so.

Q.—I don't say that it does. But Mr. Brown had been saying in his previous letter that you had given him a pledge with regard to that? A.—He says so in a letter, does he?

Q.—I had perhaps better read Mr. Brown's letter. Haven't you gone through this correspondence? A.—I have not looked into it very carefully.

Q.—I call your attention to this, then, in his letter of the 22nd of March: "I beg to further advise you"—this is Mr. Brown's statement to you after referring to that letter of the 21st of March, 1902 (showing letter to witness). On the 19th Mr. Brown wrote you inquiring with regard to the fourth section Bill, did he not? A.—It does not refer to it here.

Q.—Inquiring with regard to 4,593 and 4,594? A.—I remember of telling Mr. Brown that we would carry out a settlement in regard to section three by substituting alternate blocks.

Q.—Never mind that for a moment. Mr. Brown wrote you a letter on the 19th of March? A.—Yes.

Q.—Referring to your conversation of that morning? A.—Yes.

Q.—And asking you to state definitely what it was that the Government proposed to do with regard to the subsidy? A.—Yes.

Q.—And you replied on the 21st of March, in which, in the first place, you stated that the Bill would be brought down reinstating the Company in their rights in regard to the fourth section? A.—Yes.

Q.—And also stating what your settlement of the subsidy for three would be, namely, that you would give them the Government alternate blocks along the line of railway? A.—Yes; I remember that distinctly.

Q.—Then, on the 22nd of March, the next day, Mr. Brown wrote in answer to that, and he called your attention to what he alleged to be the fact, that there had already been a

Hon. Mr. Wells—*Continued.*

settlement between the Government and the Company on the subject of section three. And then he proceeds as follows:—"I beg further to advise you that I intend, at the earliest opportunity, to explain this position to the full Cabinet, and to this end have requested the Honourable the Premier to accord me a hearing. The President of the Company may be able to appreciate your contention, in conversation with me on the 19th inst., that political expediency necessitated the Government's present action in this matter, but, frankly, I cannot." Now, in the first place, with regard to that statement of Mr. Brown's, you say that is not true? A.—That that is Mr. Brown's own dream, yes.

Q.—"Particularly in view of your assurances to me, also of the 19th inst., that you would see that these two blocks, for which grants have already issued but not delivered——" Of course, these blocks would be 4,593 and 4,594? A.—Yes.

Q.—"would go to the Company in settlement of the subsidy in respect of (the fourth section." A.—I never gave Mr. Brown any such assurance as that. That was something of his own conjuring altogether.

Q.—Do you say that that subject was not discussed between you on the 19th of March, of that statement of Mr. Brown's in that letter? A.—I don't think it was.

Q.—Well, do you think that Mr. Brown inserted that in that letter without any foundation whatever? A.—I don't think it was; I remember my discussing with him with regard to substituting our alternate blocks, carrying out a settlement with regard to section 3; I remember that very distinctly; but I have no recollection of discussing the settlement in regard to section 4.

Q.—There is something about this that seems a little singular, because this letter appears to have been received on the 26th of March. Whose handwriting is that (indicating) on letter written on the 22nd? A.—That is Mr. McNeill's.

Q.—That is Mr. McNeill's handwriting. Apparently received on the 26th of March. A.—Yes.

Q.—Now, I understand you, the position is this; this is the way you put it; you say that on the 18th of March the Government had finally decided, for the reasons that have been mentioned here again and again, that the Columbia and Western were not to get those lands. That is correct, isn't it? A.—Yes, rescinding the proposed settlement.

Q.—But not only rescinding the proposed settlement; you had finally and definitely decided that, as a matter of policy, in no way were blocks 4,593 and 4,594 to go to the Columbia and Western Railway Company? A.—I suppose that would be the effect of it.

Q.—I am not asking you what the effect of it was. As a matter of fact, the Government had made up its mind on that subject, hadn't it? A.—I think so.

Q.—With the single exception of Mr. Eberts, the members of the Government were all in accord with it? A.—I think it was the determination of the Government at the time.

Q.—That is the position you took with regard to that. That was the position on the 18th. Now, you had a conversation with Mr. Brown on the 19th, and then on the 22nd Mr. Brown writes you a letter, in which he states to you that you had promised him that in the fourth section Subsidy Bill, or that in compensation for the fourth section of the Columbia and Western Railway would be given these two blocks that you had decided should not go to them. You got that letter on the 26th; now, will you tell me when you replied to that letter? A.—My reply is here, isn't it?

Q.—Yes; just look at it. It is dated the 3rd of April, isn't it? A.—Yes.

Q.—Well, now, why was it that that very startling statement of Mr. Brown's was allowed to go from the 22nd of March until the 3rd of April uncontradicted? A.—I cannot give you any explanation of that.

Q.—Let us just look at the form in which you wrote to Mr. Brown. One would naturally think that, if nothing of the kind had occurred, the very first thing you would have done would be to say, "You are entirely mistaken about it, that subject was never mentioned between us." A.—Well, I cannot say about that. I may not have been here for two or three days.

Q.—Your view of it is now, that not only you gave Mr. Brown no such promise—— A.—Yes.

Q.———but that the subject was never discussed? A.—I don't think it was.

Q.—The subject was never discussed on the 19th. A.—Well, I don't remember of it.

Hon. Mr. Wells—*Continued.*

Q.—So that Mr. Brown, when he put that statement in that letter, must have deliberately put it there for the purpose of entrapping you? A.—Oh, I would not like to make any such charge against Mr. Brown as that.

Q.—He is writing on the 22nd of March, referring to a conversation that occurred only two days before, in which he states that there was a positive promise. A.—Well, there certainly was no positive promise, nor any promise.

Q.—You say it was not discussed? A.—I don't remember it being discussed.

Q.—Will you say it was not discussed? A.—Not positively; I don't think it was.

Q.—Either one thing or the other must be the case, either that subject was discussed between you, or Mr. Brown, writing two days afterwards with regard to a very important matter of that kind, involving a complete change in Government policy— A.—(Interrupting). I tell you this, that when I received Mr. Brown's letter I looked upon it just as you say, with his having some sinister motives, and I was rather incensed at it at the time.

Q.—If that is so, why didn't you take him to task sharply with regard to that? A.—I think I did.

Q.—It is a personal letter, it begins "Dear Mr. Brown." A.—I was not divested of all courtesy towards Mr. Brown.

Q.—Is that the way you would address a man you thought had been trying to entrap you in that way? A.—I don't think that would make any difference.

Q.—"I am in receipt of your letter of the 23rd ult. Your reference to our private interview is quite uncalled for." A.—Wouldn't you call that pretty sharp?

Q.—"And may say incorrect." A.—I think that is sharp, too.

Q.—Don't you think that is a mild term to apply to a manufactured statement of that kind? A.—I have got but one interpretation of that; I don't know what yours is.

Q.—You say that you intended to mean that Mr. Brown was intentionally manufacturing it? A.—I meant to say it was not correct anyway.

Q.—"That is, in so far as the assurance which you state I gave you in respect of a settlement of the land subsidy for section 4, Columbia and Western Railway." Now, does that strike you as a very flat contradiction of Mr. Brown's statement? A.—I think it is.

Q.—Just think for a moment. Mr. Brown positively stated that you had promised to give him these blocks under section 4, and you do not go any further than this, you say that that statement is incorrect? A.—What more would you have me say? Call him a liar?

Q.—I would have thought, if your impression was as you say it was at that time, that you would have said to Mr. Brown, the subject was never referred to; not only that the matter is incorrect and you are entirely mistaken, but I cannot understand how you could possibly write such a letter. But I notice that you go on here and say, "I would have no authority to commit the Government to any settlement of that kind." A.—Neither I would. And for that very reason I certainly would never have made him any such promise. I think those two things hold together. I thought, at the time that I read Mr. Brown's letter, it was a piece of pretty sharp practice on his part. I remember that occurred to me.

Q.—A direct attempt made to entrap you? A.—I don't want to say that. But I remember I thought it was a very sharp piece of practice. And I think I remarked that to Mr. McNeill.

Q.—There is no doubt when you got this letter of the 23rd of March you were aware that Mr. Brown had in his mind the idea that section four Subsidy Bill would carry with it 4,593 and 4,594? A.—Was the Bill brought down then?

Q.—No; the Bill was not brought down then, but here is Mr. Brown's statement: he said that you had promised him that these blocks would go to the Company in settlement of the subsidy in respect of the fourth section? A.—Yes.

Q.—When you got that letter you must have known that Mr. Brown had in his mind the idea that the Company would get these blocks in settlement of the fourth section? A.—I should think so.

Q.—Now, Mr. Brown says that he had requested an appointment with the Premier, to have a discussion before the full Cabinet? A.—In that same letter?

Q.—Yes, of the 23rd. Now, did that appointment take place? A.—I think it did. I remember Mr. Brown meeting some members of the Executive in March.

Q.—I think you also said that Mr. Brown met some members of the Executive on the 19th? A.—Perhaps that is the day.

Hon. Mr. Wells—*Continued.*

Q.—No, that is not the day ; because this is subsequent to the 22nd. Did Mr. Brown meet other members of the Executive as well as yourself after the 18th? A.—Yes.

Q.—What day after the 18th? A.—I won't say, but very shortly afterwards.

Q.—Probably that would be pursuant to this appointment. Now, who were there, do you remember? A.—I remember Mr. Prentice being there.

Q.—Was Mr. Eberts there? A.—I think Mr. Eberts stated in his evidence that he was there. Mr. Brown came before the Executive? A.—I think Mr. Dunsmuir was there too.

Q.—Colonel Prior there? A.—Yes, Colonel Prior was there.

Q.—In fact, all the members of the Cabinet were there? A.—I think so; I think it was a full meeting.

Q.—And I suppose Mr. Brown protested very vigorously? A.—Yes, he got on his high horse.

Q.—Now, was there any discussion on that occasion with regard to the fourth section Subsidy Bill? A.—I don't think there was a word about it. I have no recollection of a word being said about it.

Q.—Was there any suggestion made by Mr. Brown at that time that 4,593 and 4,594 were to be given in settlement of the fourth section subsidy? A.—No; I don't think there was a word about it at all. No; I am quite sure there was not.

Q.—You say Mr. Brown got on his high horse. What do you mean by that? A.—He was pretty much incensed over, as he said, having this Order in Council rescinded without giving the Company any notice. That is one thing that he dwelt upon considerably.

Q.—I beg your pardon? A.—That was one feature of it that he dwelt upon considerably, that the Government should take such prompt action without giving the Company any notice.

Q.—What other features did he dwell upon? A.—I don't remember particularly.

Q.—You don't remember anything more than that. Did the members of the Executive discuss the matter with him, express their own views on it? A.—I don't remember that they did. Mr. Prentice made some remark calling Mr. Brown down.

Q.—Did Mr. Prentice tell the reason which had actuated the Government at that time that action? A.—As to the reason that had actuated the Government?

Q.—Yes. A.—What kind of reason do you mean, political expediency?

Q.—Was any explanation of the action of the Government given to him by members of the Government present? A.—I don't think there was.

Q.—Was there anything said about this incident that occurred between you and Mr. Taylor at Montreal? A.—Oh, I don't think so.

Q.—There was nothing said about the fourth section subsidy? A.—No; I am quite certain there was not. I don't remember of it.

Q.—You had a good many communications with Mr. Brown on the subject? A.—Conversations, do you mean?

Q.—On the fourth section Subsidy Bill? A.—Well, no, I don't remember very many.

Q.—Mr. Brown was pressing you with regard to that Bill, wasn't he, to have it brought down? A.—I remember Mr. Brown coming to see me once about it.

Q.—When was that? A.—Well, it was before the Bill was brought down.

Q.—How long before? A.—Oh well, I cannot say very definitely.

Q.—Had you drafted the Bill? A.—No.

Q.—Did you ever see the drafted Bill? A.—I don't think I ever saw the Bill until it was brought to me by Mr. Maclean in the House.

Q.—Until it was brought to you by Mr. Maclean in the House? A.—Yes.

Q.—Was it brought to you by Mr. Maclean in the House before the Order in Council was passed; before the Message came down? A.—Oh, well, now, when I—yes, it must have been before the Council—I don't remember about that.

Q.—You don't remember about it being before the Council? A.—No; I don't remember about it being before the Council.

Q.—Well, did you submit it to the Council? A.—Well, in the ordinary course of things, I think I should, but I don't remember the incident of it being before the Council.

Q.—You don't remember the incident of it? A.—No; I do not.

Q.—You don't remember examining the provisions of it before it came before the Council? A.—No; I do not.

Q.—You don't remember anything about that? A.—No.



Hon. Mr. Wells—*Continued.*

Q.—You cannot remember how it came before the Council? A.—No; I cannot.

Q.—On the 3rd of May, Mr. Brown writes: “Referring to the C. and W. Railway, the fourth section Bill, and to your kind assurance that it would be introduced within a few days”—you evidently had been giving Mr. Brown assurances on the subject? A.—It appears so.

Q.—Would you give him assurances without knowing the terms of the Bill that you were going to introduce? A.—Oh, I might have done so.

Q.—You might, you think? A.—Yes, I might have done so. My recollection of that is that that was left to Mr. Maclean.

Q.—That the form of the Bill was left to Mr. Maclean? A.—Yes.

Q.—Well, who gave Mr. Maclean instructions? A.—Well, I don’t think I did. I never did. At least, I don’t remember it.

Q.—You mean this, that the Cabinet discussed the matter, decided on the 18th of March, as is shown in your letter of the 21st of March, that a Bill would be introduced reinstating the Company as to the fourth section subsidy, and that it was left to the Attorney-General’s Department to prepare the Bill? A.—You say it was discussed before the Executive on the 18th of March?

Q.—Wasn’t it? A.—I didn’t say that.

Q.—Look at your letter of the 21st of March. When was that determination arrived at (handing letter to witness)? In that letter you say to Mr. Brown, “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.” A.—Yes.

Q.—Do you mean that you were acting simply on that letter? A.—On Mr. Dunsmuir’s letter?

Q.—Yes. A.—It is quite possible I was. This does not say that the Bill was referred to upon the 18th of March, though.

Q.—I quite understand that. But do you think that you would write that letter at that time without having discussed the matter with anybody else at the time? A.—Well, I think I made inquiries about Mr. Dunsmuir’s letter, or a copy of it, and satisfied myself that such was the case. I remember something about that.

Q.—Well, then, on the 3rd of May Mr. Brown writes to you, “Referring to your kind assurance that the Bill would be introduced in a few days.” You still think you were proceeding with regard to the introduction of the Bill without consulting any other member of the Cabinet? A.—I might have done so.

Q.—But your recollection does not enable you to say what— A.—I remember now getting access to Mr. Dunsmuir’s letter.

Q.—What I want to get at, Mr. Wells, is, while you were assuring Mr. Brown that this Bill was to be introduced, what steps were being taken to prepare the Bill, and what did you know with regard to the preparation of the Bill? A.—Well, I am not very clear about that.

Q.—You cannot remember giving anybody instructions? A.—No, I cannot.

Q.—But, in a general way, your recollection is that it was left to Mr. Maclean? A.—I think so.

Q.—Or to the Attorney-General’s Department? A.—I think so.

Q.—I see that Mr. Brown goes on and says, “will it come in as drafted?” Evidently the Bill had been drafted at that time? A.—On the 3rd of May?

Q.—Yes. A.—Yes; it would appear so.

Q.—Had you seen the draft? A.—I don’t remember of seeing it at all.

Q.—Mr. Brown was evidently anxious about the form of the Bill, wasn’t he, by that? A.—It would appear from that.

Q.—That would convey that to your mind. A.—When you asked me if I had seen a draft—do you mean a manuscript of it?

Q.—Yes; certainly. A.—Well, I never saw that.

Q.—You never saw that manuscript? You never saw the typewritten draft? A.—Oh, no; I am certain of that.

Q.—Then, I see on the 15th of May he writes again, “What may I report to Montreal re C. & W. Railway fourth section Bill? I understand it is printed. May I expect it down by message to-day, or when?” A.—What do you wish to know about this?

Hon. Mr. Wells—*Continued.*

Q.—I want to know, about both of these letters, what replies were given to Mr. Brown by you,—to his letter of the 3rd of May and the 15th of May? A.—Is there any correspondence here about it?

Q.—I asked Mr. McNeill, and he says there was no correspondence. Do you remember whether you gave him any assurance as to whether the Bill would come in as drafted? A.—Oh, no.

Q.—You think you did not answer that question? A.—I don't remember any discussion or conversation with Mr. Brown as to the form of the Bill.

Q.—Don't you think that the correspondence beginning on the 21st of March and coming down to the 15th of May must have conveyed to your mind at the time that Mr. Brown was exceedingly anxious about this fourth section Subsidy Bill; that Mr. Brown was looking to the Government to give to the Company these two sections, 4,593 and 4,594, as a part of the fourth section subsidy? A.—No; I won't say that at all.

Q.—You won't say that at all? Do you mean, Mr. Wells, this letter of the 22nd did not awaken to your mind that Mr. Brown was looking for them? A.—22nd of March?

Q.—Yes; when he said that you had promised him on the 19th? A.—Yes.

Q.—On the 22nd of March Mr. Brown had written a letter saying you had made a promise that the Company should get these two blocks in respect of the fourth section subsidy, when that promise had not been made? A.—Yes.

Q.—And not only that, but he had done that for a sinister purpose? A.—That is what occurred to me at the time, that it was a sharp piece of practice on Mr. Brown's part. I remember calling Mr. McNeill's attention to that.

Q.—That it was a sinister thing? A.—Well, if you like.

Q.—That is what you say? A.—Yes.

Q.—In other words, it was plain to you that Mr. Brown was manoeuvring—beginning to manoeuvre to get these sections, 4,593 and 4,594, after the Government had distinctly said that the Company were not to get them? A.—It certainly occurred to me at that time it was a rather strange proceeding upon Mr. Brown's part.

Q.—Now, when that Bill was brought to your attention, Mr. Wells, the Subsidy Bill 87, did you examine its terms with a view to ascertain whether or not the rights of the Company with reference to the fourth section were so changed that they might be given these blocks as compensation for that section? A.—I remember of reading the Bill in the House, whether it was before I brought it down—of course, I read it before I brought it down,—but I remember reading it at one time sitting in my seat, and it occurred to me that it might be at variance with the intention of the original Subsidy Act. That did occur to me.

Q.—Well, what did you do about it? A.—Well, I don't know that I did anything about it. But I evidently became convinced in some way that it did not necessarily.

Q.—You became convinced that it did not? A.—That it did not necessarily.

Q.—Then you did apply your mind to that subject? A.—I did; I remember that occurring to me; I did not think so.

Q.—But you cannot remember what steps you took to ascertain—what professional legal advice you took, at all events, to ascertain the construction of the Bill? A.—No; I don't remember that.

Q.—Don't you remember Mr. Curtis calling the attention of the House to the fact that, under that Bill, 4,593 and 4,594 might be given to the Company? A.—No; I don't recollect.

Q.—Your recollection does not carry you to that? A.—No; I don't remember it.

Q.—Could you give us any idea of the mental process by which you arrived at the conclusion that there was no change? You are quite convinced now there was a change? A.—It just occurred to me that there might be some change.

Q.—But you became satisfied afterwards there was none? A.—I became satisfied afterwards there need not be any.

Q.—You could not have made a very careful examination? A.—I contended here the other day that it was not any change. You and I had quite an argument over it.

Q.—Didn't you tell us the one strong reason why you wanted to cancel the Crown grants was that you considered the legislative policy that the lands should be selected as nearly as possible contiguous to the railway had been violated? A.—Yes.

Q.—That is true? A.—There is no doubt about that.

Hon. Mr. Wells—*Continued.*

Q.—Would you say that the granting of these blocks 4,593 and 4,594 would in any way transgress the legislative policy put forward in Bill 87? A.—Well, it might have given the Company some further latitude; but, at the same time, I think it would be in the discretion of the Government. We could have put our foot down at once; for instance, if they claimed this block 4,593, we could have said no, you cannot have that.

Q.—You say that. I don't want to go into discussion with regard to that question. A.—As a matter of fact, the blocks at that time were, so far as we knew, under reservation.

Q.—But did you consider that under the "Columbia and Western Subsidy Act, 1896," the spirit of the Act would be violated by the Government giving 4,593 and 4,594? That is correct isn't it? A.—Yes.

Q.—But there was clearly that change in Bill 87? A.—You asked me if we granted them those two blocks would it be at variance with the terms of the original Subsidy Act? I think you asked me that question?

Q.—I asked you the question as to whether or not it was not perfectly clear that, while in your opinion the legislative policy of the Act of 1896 would be violated by giving those two blocks, yet the legislative policy expressed in Bill 87 would not be violated by giving those two blocks? A.—Well, I think that would depend upon the—it might not; but at the same time I think the Government would have the control.

Q.—I will deal with that later. A.—I don't think the practical working of it would necessarily be at variance at all.

Q.—I am not dealing with the practical working of it at all, but I want to point out this: You had two Acts; you had an Act of 1896 and a Bill No. 87; the Act of 1896 expressly limited the right of the Company to select lands as the Lieutenant-Governor in Council chose to give them, and the Bill No. 87 expressly gave the Company this power to select the lands; that is correct? A.—I would have to answer that by asking another question: Do you mean to say that the Government would be obliged to follow out that selection?

Q.—I am not dealing with the question as to whether the Government would be obliged to do it, or compelled to take any action. But what I am getting at is what the Bill said. The Bill said that. A.—I admit that the Bill gave the Company a little wider scope than the previous Act.

Q.—But the Bill expressly, in so many terms, gives the Company 900,000 acres of land, to be selected where they pleased, in the Districts of Yale and Kootenay; there is no doubt about that? A.—On the face of the Bill.

Q.—That is the language of the Bill? A.—That is the language of the Bill.

Q.—The Act of 1896, on the other hand, gave the Company only such lands as the Lieutenant-Governor in Council chose to give them? A.—Within the reservation.

Q.—The mode of selection was controlled by the Lieutenant-Governor in Council, isn't that so, by the express terms of the Act? A.—You are speaking now of deficiency lands?

Q.—They are all deficiency lands. A.—They had the right to designate the alternate blocks.

Q.—But these were all deficiency lands? A.—Yes, they would be deficiency lands.

Q.—And under the Act of 1896 with respect to deficiency lands the mode of selection was known? A.—When I say deficiency lands—there was a large reservation of four million acres. Could not the Government have compelled the Company to take their lands out of that reservation of four million acres?

Q.—That is not my question. You can answer that question, surely? A.—Just put your question again.

Q.—The question I put is this: as to whether, with regard to deficiency lands, the Act of 1896 did not expressly provide that the lands should be reserved, selected and granted in any mode which would be determined upon by the Lieutenant-Governor in Council? A.—Yes.

Q.—Very well. The selection was under the control of the Lieutenant-Governor in Council? A.—With regard to deficiency lands.

Q.—So much so, Mr. Wells, that on the 18th of March the Government compelled the Railway Company to take the Government alternate blocks in the settlement of 800,000 acres of their grant for section 3. A.—We made that proposition.

Q.—You did not make it as a proposition; you say that you had allotted them? Isn't that what the letter says? A.—It was a proposition, I think. You mean our own blocks.

Hon. Mr. Wells—*Continued.*

Q.—“Towards the settlement of which the Government propose to Crown grant to your Company.” I see you did put it that way. But there was that clear difference between the two things, wasn't there? A.—Yes; I think there was.

Q.—Now, you say, after all, that did not amount to anything, because the Company could not have compelled the Government to give them anything under this Bill 87? A.—Are you speaking now of those two particular blocks?

Q.—No; I am not speaking of the particular blocks at all; I am not dealing with the question of those blocks. A.—I mean this: that if the Company selected a block of land which, in the opinion of the Government, was exceptionally valuable, we would not have been obliged to give it to them.

Q.—In other words, your idea was that the Government would be justified, when the Legislature had given the Company the right to select, in over-ruling that right which the Legislature had given to the Company? A.—Yes; to some extent I think we would.

Q.—Now, on what principle? On what principle of public conduct could you justify the action of the Government in refusing to carry out the plain directions of a Statute which had been passed by the Legislature? A.—Going back to the intention of the original Act, the Subsidy Act of 1896, I think the Government would have been perfectly justified. That Bill was intended to reinstate the Company in its rights under the Subsidy Act.

Q.—What I am getting at is, supposing that Bill had become law. Let us see what you suggest, as to whether it was repudiation or not. Supposing this would become law, the Legislature says there shall be granted to the Columbia and Western Railway Company 900,000 acres of land—and it says that at the beginning; then it says, the said lands so to be granted shall be selected by the Company within the Districts of Yale and Kootenay. Now, the Legislature declares by that Bill that the Crown shall grant to this Company 900,000 acres of land to be selected by the Company in the Districts of Yale and Kootenay, without any limitation whatever. Now, on what possible principle could you justify the action of a Government which would say that, notwithstanding the fact that the Legislature has directed us to give the Company that land, we refuse to do it? A.—Well, if I were a member of the Government having to deal with that, their application, as I say, or their selection, I think that I would go back to the original intention—the intention, rather, of the original Subsidy Act.

Q.—But on what principle would you justify going behind an Act of the Legislature of 1902 and saying that you would be governed by an Act of the Legislature of 1896? A.—Because that Act was really intended to reinstate them in their rights under the original subsidy.

Q.—Because this Act was not intended to vary the provisions of the Act of 1896? A.—Not intended to depart from it.

Q.—No intention to vary the provisions of the Act of 1896 in that respect? A.—No.

Q.—The intention of the Government in introducing this Bill was that the Government should retain the selection of those lands, and is that what you meant? A.—Well, practically, I think we would have control.

Q.—We will leave that for a moment; I see that you still adhere to it, that the Government would have control under this. I do not see how the Government would have control without exercising a system of repudiation which goes beyond what anyone ever heard of, think. But what you say now is, the intention of the Government when they introduced this Bill was that the Government should retain control of the selection; is that so? A.—Not absolutely.

Q.—What do you mean by that? A.—What I said before is, that if their selection included any blocks of land, or any particular block of land, which, in the opinion of the Government, was of exceptional value, we would have no right to give it to them, and not compelled to give it to them. And another reason is, that those selections would mean ordinary lands.

Q.—This is a question of fact; your intention was one thing or the other; I want to know which was it? Supposing a question arose as to whether the Company was to get one particular block of land or another particular block of land—the Company says we want block A, the Government says no, we will give you block B; now, which was to prevail? A.—The Government.

Hon. Mr. Wells—*Continued.*

Q.—That was the intention of the Government the time this Bill was introduced? A.—I won't say the intention expressed in the Bill, but the practical working out.

Q.—I want to know what the intention was? A.—I cannot say that the Government had any well-defined intention about that; it speaks for itself.

Q.—I beg your pardon? A.—I cannot say that the Government had any defined intention on it, but that would be the working out of it.

Q.—You cannot say that the Government had any defined intention in that particular? A.—I cannot say.

Q.—You don't know whether the Government intended to vary the terms of the original Act? A.—I don't think they did.

Q.—The Government did not intend to vary the provisions of the Act of 1896? A.—What I say is this: that the intention of the Act was to reinstate the Company in its original rights.

Q.—That was the intention of the Government, wasn't it? A.—Yes.

Q.—Exactly. That was the intention of the Government. And if this Bill enlarges the rights of the Company in that respect, then the Bill does not express the intention of the Government at all? A.—Well, of course we could have still retained that power in our own hands.

Q.—You come back to that. You mean to say, Mr. Wells, really, that notwithstanding this legislative command which was put upon the Government, that the Government would have been justified in sitting in judgment on and overruling the Legislature? A.—Well, I don't think that would be overruling the intention of the Legislature, at any rate.

Q.—How would you ascertain the intention of the Legislature? From the language of the Act? A.—Well, I know what the intention of the Legislature was, and I think the Legislature did too.

Q.—I think Mr. Brown is the person who knew what the intention of the Bill was. At all events, Mr. Wells, notwithstanding the fact you knew that Mr. Brown was trying to manoeuvre this thing in such a way as to get under this Bill these blocks 4,593 and 4,594, yet you did not take the trouble to take any opinion on the question as to whether that could be done under this Bill? A.—I don't say that I did not take any opinion; I cannot remember about that; but I know that I became convinced of this, that there was no danger of the public interests being sacrificed by that Bill.

Q.—There is no doubt that under this Bill the Government could have given 4,593 and 4,594 to the Company; isn't that so? A.—With the reservation upon it?

Q.—They could have withdrawn the reservation, couldn't they? A.—The reservation, of course, could have been withdrawn.

Q.—And they could have given blocks 4,593 and 4,594, couldn't they? A.—I suppose they could.

Q.—Your view was that under the Act of 1896,—and Mr. McCaul's opinion, which you since got, has confirmed that—the Government could not properly give those blocks? A.—They had power to do it under Mr. Hunter's opinion; but under Mr. McCaul's opinion they had not the power.

Q.—But your view was that they would violate the policy of the Act of 1896; you told us again and again that that was the ground on which you and Mr. Dunsmuir acted in cancelling the grants. And you would not say that that would not violate the legislative policy expressed in Bill 87? A.—No.

Q.—Now, while the defined intention of the Government as it was then constituted was, as you say, not to give the Company 4,593 and 4,594, supposing a change of Government had taken place within a year or two years, or at any time while this Bill was in force, and who would have to act under it— A.—We hadn't anything of that kind in anticipation, really.

Q.—You hadn't anything of that kind in anticipation, and therefore, you were indifferent as to the terms of the Act? A.—Oh, no, I won't say that.

Mr. McCaul: If it were assumed that the lands in localities contiguous, or nearly contiguous, to the railway were practically valueless, do you think it would have been morally fair and just and decent to have insisted upon the Railway Company taking valueless lands? A.—I don't think it would.

Q.—It was not the intention that when the Company was asking for bread you would give them a stone? A.—Not mountain tops, anyway.

Hon. Mr. Wells—*Continued.*

Mr. McCaul: Mr. Chairman, I would like to make a personal remark. At the time I gave this opinion that has been referred to, my attention had not been in any way called to the question as to whether those lands contiguous to the railway, or nearly contiguous to the railway, were valueless or not.

Mr. Helmcken: I do not think we can go into that. If you want to give evidence it would be all right.

Mr. Duff: These very lands that you say are valueless were offered in settlement.

Q. (Mr. Duff)—This letter of the 21st of March, written by you, says that the Government will propose that the Company shall take the alternate Government blocks, amounting to 800,000 acres, in the reservation, in full settlement of the subsidy for section three. A.—Yes.

Q.—So that you must have supposed that that would be a proper settlement at the time, in the spirit of the Act? A.—We were in a different position in dealing with blocks contiguous to the line of railway than in dealing with deficiency lands.

Q.—These were deficiency lands? A.—Were deficiency lands.

Q.—What you proposed to give there were deficiency lands.

Mr. McCaul: Mr. Wells, after your conversation with Mr. Eberts in regard to the telegram from Mr. Taylor from Montreal, I think you said that you had a conversation with him in which he called your attention to the fact that these lands had already been granted to the British Columbia Southern, and that in effect the C. P. R. were simply asking to change them from the British Columbia Southern Subsidy to the Columbia and Western Subsidy? A.—Yes, I had a conversation with Mr. Eberts on that point.

Q.—Now, as a matter of fact, would that change, holding the lands in connection with the Columbia and Western instead of in connection with the British Columbia Southern, have made any serious difference to the Province? A.—Well, as I say, the directory features of that Subsidy Act—

Q.—(Interrupting)—Apart from that, I mean as a matter of actual policy; apart from any question as to whether it was legal or not under the Act? A.—No, I don't know that it was. I don't think it was. The actual result—

Q.—The actual result would not have made any particular difference. Now, some mention was made of an original reservation of this block 4,593. Do you recollect when that was? A.—1890. And it was confirmed again in 1891.

Q.—This is the reservation that you refer to, isn't it, the original reservation, at page 1,245 of the Sessional Papers of 1902 (shown to witness)? A.—Yes.

Q.—What is the date of that reservation? A.—2nd of August, 1890.

Q.—And I think you said, Mr. Wells, that you got the impression that the reservation had been made for railway purposes? A.—Yes.

Q.—That reservation that you are looking at there now, of the 2nd of August, 1890, does not state for what purpose the reserve was made? A.—No; it does not.

Q.—But still you had the impression that there had been a reservation for railway purposes? A.—Yes.

Q.—Had you satisfied yourself whether it was correct on that? A.—Yes; as I say, that reservation was confirmed by an Order in Council of 1891.

Q.—That was confirmed by an Order in Council of 1891, which is not here, is it? A.—No.

Mr. McCaul: I may state, Mr. Chairman, there is an Order in Council of 1891 which I only got a sight of yesterday—I think it will be produced from the Provincial Secretary's Office—by which, if I understand correctly, this block is expressly reserved for the British Columbia Southern Railway Company as far back as 1891.

Mr. Helmcken: The 6th of May, 1891?

Mr. McCaul: Some time in 1891.

Mr. Helmcken: It is here, I think.

Q.—(Document produced)—Mr. Wells, would you look over this memorandum and see if that is the reservation to which you refer, in 1891 (Order in Council 194, 1891, handed to witness)? A.—Yes; this is it.

Mr. McPhillips: That does reserve it? A.—Yes; this is the Order in Council I refer to, and reserves that block 4,593.

Mr. McCaul: I put in the memorandum, dated the 6th of May, 1891, signed by Charles E. Pooley. You had not seen that memorandum until quite recently? A.—Yes.

Hon. Mr. Wells—*Continued.*

Q.—But you were simply under the impression that there was a reservation for railway purposes? A.—Yes.

Q.—Now, coming to the question of these applications for prospecting licences, coal and oil, would the reason, if it were true, that the lands might prospectively contain coal and oil be a good reason for refusing to grant prospecting licences? A.—I don't think it would.

Q.—It would rather be a reason for granting them? A.—I don't think it would be a good reason for refusing.

Q.—Then what was your reason for refusing these applications, Mr. Wells? A.—Well, because it was under reservation.

Q.—Because it was under reservation. What did you refer to in your letter to Mr. Watt when you told him that these applications were being refused on grounds of public policy, or something of that sort— A.—Public interest.

Q.—What were you referring to? A.—That was the term used by Mr. Gore; I presume it may be a proper term in one sense. But if it was simply said that this block was under reserve it would have been, I think, a better defined reason.

Q.—You consulted your deputy, Mr. Gore, about that? A.—I consulted him?

Q.—You consulted him about it and he told you the blocks were under reservation? A.—Oh, I knew they were under reservation.

Q.—I thought you said Mr. Gore told you that? A.—No.

Q.—Now, with regard to this Bill No. 87; you said that you did not see the original manuscript or typewritten draft of the Bill? A.—No, I never saw that.

Q.—The only form in which you saw it was after the Bill had been printed, then? A.—Yes.

Q.—The Deputy Attorney-General, Mr. Maclean, says that he brought you a copy of the Bill and showed it to you? A.—He brought it to me in the House. It may have been before the Executive before that, but I don't remember it. My first recollection is Mr. Maclean bringing it to me in the House with the Message.

Q.—Up to the time that you spoke of to Mr. Duff, when you examined the Bill in the House, you paid no attention to the frame or the exact effect of the Bill? A.—No; I don't think I did.

Q.—You knew the general purport of it? A.—I knew what the intention was; a Government Bill.

Q.—How far did this Bill go in the House; was it ever before the Committee and read over clause by clause? A.—It got into Committee.

Q.—Was it ever read clause by clause and these provisions discussed? A.—Oh, no.

Q.—That would be the place where these various points that Mr. Duff has referred to would be scanned by the House and the different members of the Government; and, I presume that if the Bill did not express the intention of the Government it would be altered in Committee to suit the intention of the Government? A.—No doubt about that.

Q.—And you state the intention of the Government would be to reinstate the Company in their rights under the original subsidy in respect to section four, and not to extend it? A.—As far as I can express an opinion of it, I think it was the intention of the Government.

Q.—And to what extent are you responsible for the form in which the Subsidy Act, Bill 87, was brought down? A.—Well, I don't know exactly what you mean by that.

Q.—I mean, what had you to do with regard to the form in which the Bill was brought down? A.—Well, I practically had not anything to do with it.

Q.—Now, Mr. Wells, I did not understand that you wish to disclaim any responsibility for the Executive act of the 10th of August, 1901, with regard to the Order in Council with respect to the Columbia and Western? A.—Not the slightest.

Q.—You have stated, however, that you did not regard that particular transaction with favour, or words to that effect? A.—No; I did not regard it with favour.

Q.—Will you explain your grounds for that statement to Mr. Duff? A.—Well, I thought it was a rather improper departure from the directory features of the Act with regard to the selection of lands.

Q.—That was your difficulty with regard to it; the question of policy, after your discussion with Mr. Eberts, you were satisfied on? The question of the policy of the Order of the 10th of August, 1901, except so far as it might be a departure from the directory provisions of the Statute, you were satisfied with it? A.—Well, I concurred in it.

Hon. Mr. Wells—*Continued.*

Q.—You concurred in it. Now, I want to go back for a moment, Mr. Wells. Mr. Duff was trying to fix with you the date of that conversation with Mr. Taylor, in regard to the Order in Council of the 19th of December, 1900, relating to the British Columbia Southern? A.—Yes.

Q.—You recollect that there had been a previous Order in Council of the 10th of September, 1900? A.—Yes.

Q.—Was that conversation before or after the Order in Council of the 10th of September? A.—Oh, after.

Q.—It was after that? A.—Oh, certainly; yes.

Q.—So that that conversation, Mr. Wells, would be subsequent to the 10th of September and prior to the 19th of December, 1900? A.—Certainly.

Q.—Now, I think you said that when you went into the Executive in connection with the Order in Council of the 19th of December, 1900, you saw Mr. George McL. Brown? A.—Yes; he was sitting there.

Q.—And you said to him you understood there would be a saving of a large acreage? A.—Yes; several hundred thousand acres.

Q.—So that Mr. Brown was cognizant of this Order in Council making the grant of these two particular blocks to the British Columbia Southern; that is clear? A.—Well, the Order in Council had not passed at that time.

Q.—No; but he was cognizant that that was the subject of discussion at that Executive meeting? A.—Yes.

Q.—Now, you said, speaking of the subsequent conversation between Mr. Brown and yourself in regard to the introduction of the Order in Council of August, 1901, that the proposal of the Company had been accepted by the Government. What did you mean by that, Mr. Wells; what proposal did the Company make through Mr. Brown to you? A.—Well, I said to him—I remarked to Mr. Brown that he had better submit a proposal to the Government. And to this he took exception that he did not want to put it in that form.

Q.—And asked that the proposal should come from the Government and not from the Company? A.—Yes.

Q.—Then the matter came before the Executive on your formal recommendation? A.—Yes.

Q.—It is your duty as a Minister to sign the report? A.—It devolved upon myself to sign the recommending Order.

Q.—What I want to ask you, Mr. Wells, is this: had you within your own power or knowledge the information by which that Order in Council, the report or memoranda accompanying it, could have been prepared? A.—Oh, I certainly had not.

Q.—You had not the knowledge or information? A.—No; I could not have prepared it.

Q.—Now, coming to your visit to Montreal. Some telegrams have cropped up since. Was Mr. George McL. Brown aware of your going to Montreal? A.—He went down with me.

Q.—He went down with you. Was that by arrangement made by Mr. Brown himself?

A.—Well, I was not a party to any such arrangement that I know of, but he was evidently watching out when I would leave.

Q.—Well, are these telegrams that you received from him on that subject?

Mr. Duff: Are they the telegrams that you brought up yesterday?

Mr. McCaul: Yes; relating to dates and times as to going down, so that Mr. Brown could go down at the same time (documents handed to witness). A.—Yes. This telegram, no doubt, is about the first (indicating).

Q.—These are telegrams while he was East. Mr. Brown, then, was watching for you going down, and went down at the same time with you? A.—He went with me.

Q.—And knew, of course, the position you were going to take with Mr. Shaughnessy with regard to the question of the delivery of these Crown grants? A.—I should think so, because I told him before I left.

Q.—And is this telegram that I now show you, dated November 11th, from Mr. Brown, in relation to your interview with Mr. Shaughnessy on that subject-matter? A.—I think so; yes.

Q.—That was in effect the appointment for you to meet Mr. Shaughnessy? A.—Yes.

Q.—And you might look at the second telegram and state at what stage of proceedings that was sent to you; you might read that one; it is short. A.—“Will leave for Toronto



Hon. Mr. Wells—*Continued.*

to-night, and where shall I meet you and at what hour? If you are remaining at Montreal, would make my plans to meet you there to-morrow."

Q.—What date is that and where is it from? A.—That is from Hamilton, November 6th.

Q.—That was prior to the telegram which you had from Montreal, when the date of that appointment was arranged. Now, Mr. Duff referred to the memorandum which you handed in to the President at Montreal, with regard to the building of the other section. I call your attention to the fact that it did not expressly refer to the subject of the non-delivery of the Crown grants. Will you explain how that came about; what occurred prior to the memorandum, and how the memorandum came to be framed in the way in which you submitted it to Mr. Shaughnessy? A.—Well, the proposal of the Government—as it appeared to be a proposal,—was that we should surrender these two blocks of land in carrying out the settlement in regard to section three, receiving a concession in point of area of some 277,000 acres. When the matter was taken up with Mr. Dunsmuir—

Q.—Oh, no; you misunderstand me; I said in regard to what took place between yourself and Mr. Shaughnessy in Montreal? A.—Mr. Dunsmuir directed me not to deliver those Crown grants without getting that concession—unless the Company would agree to build the Midway to Spence's Bridge road.

Q.—Just so. A.—Now, the proposal to deliver the Crown grants, up to that time, was a distinct one up to that time, and kept distinct—

Q.—That is, the proposal to Mr. Shaughnessy? A.—Yes; it was a proposal by itself.

Q.—That is, you told Mr. Shaughnessy that you would only deliver up those Crown grants on the condition that he build that road? A.—Yes, on the condition that he build that road. And then Mr. Shaughnessy says, "What conditions do you want us to build this road upon; what are your conditions?" We discussed that to some extent, and finally he said, "You better prepare me a memorandum."

Q.—A memorandum of what? A.—A memorandum reciting upon what conditions we would require the Company to build that road.

Q.—So that the memorandum which you submitted was merely intended to give him the conditions which would be attached to the building of the road? A.—Yes; making the delivery of these Crown grants in regard to section three contingent upon that. Of course, the intention was to preserve the proposition as it stood; that is, in surrendering these Crown grants as in settlement of section three.

Q.—That proposition had been verbally decided between yourself and Mr. Shaughnessy? A.—Yes.

Q.—That the grants would only be delivered if the road was built; and then Mr. Shaughnessy asked you to prepare a memorandum in respect to the conditions as to the building of it? A.—Yes.

Q.—So that it was never intended that the Company were to go ahead and build the road simply for the delivery of these Crown grants? A.—Oh, no; that was a matter of arrangement as well.

Q.—I don't know whether you were asked this question or not, Mr. Wells; but was any person present at your interview with Sir Thomas Shaughnessy, at any stage of it at all? A.—He called in Mr. Creelman, the solicitor.

Q.—Mr. Creelman, the C.P.R. solicitor; at what stage? A.—I think it was in discussing the position of the Crow's Nest Coal Company.

Q.—That is the time that he sent out and had the agreement brought in? A.—I think that was it; that was the time.

Q.—Mr. Wells, the correspondence subsequent to the cancelling of the Order in Council of the 18th of March, 1902, began with that letter dated the 19th of March from Mr. Brown, which I now hand you; that is the original correspondence (handed to witness)? A.—Yes.

Q.—That is not marked personal, is it, Mr. Wells? A.—No, sir.

Q.—Mr. Duff rather put it to you that all the applications made by Mr. Brown to you in these matters were marked personal; is that correct? A.—Well, he stated that.

Q.—These subsequent letters are marked personal—of the 22nd and 23rd of March—discussing the position; but did you understand—had you any other written applications from Mr. Brown at all? A.—I don't think so,

Q.—You had no written applications from Mr. Brown? A.—No; not that I know of.

Q.—Were there any written applications from Mr. Brown in connection with the Order

Hon. Mr. Wells—*Continued.*

in Council of the 19th of December, 1900, or the Order in Council of the 10th of August, 1901, that you were aware of? A.—I don't think so.

Q.—Either personal or otherwise? A.—Well, I remember there must have been some conversation with Mr. Brown previous to the Order in Council of the 19th of December, 1900.

Q.—Conversations, yes; but nothing in writing that Mr. Brown submitted? A.—No.

Q.—Now, I think you have told Mr. Duff that in your interview with Mr. Brown on the 18th of March, 1902, when you told him what had occurred, that Mr. Brown said he was rather pleased or glad that it was all off? A.—I remember him making that remark.

Q.—That was the remark that he made at the close of the interview? A.—Glad that it was all off; giving him a good deal of trouble or worry, or something of that kind.

Q.—Were you present at the interview, on the meeting of the Executive, when Mr. Brown appeared there to protest? A.—I was present at a meeting, yes.

Q.—Shortly, upon what ground did he base his protest? A.—Well, the only ground that I remember of was that the Company had not received any notice as to the action of the Executive; that we had acted rather smartly in the matter without giving him notice.

Q.—Did he ever claim at that interview that there had been delivery of the grants? A.—No; he never did.

Q.—Apparently, by his letter of the 22nd of March, he himself does not consider that there had been. He says that the settlement had been partially carried out; in fact, to completion, with the exception of the delivery of the Crown grants. He did not base his protest upon the ground that they were delivered, at the time of the Executive meeting. Mr. Wells, in your letter of the 3rd of April, 1902, to Mr. Brown, you say: "I would have no authority to commit the Government to any settlement other than provided for by the legislation which it is intended to bring down." A.—Is that what my letter says?

Q.—Yes; now, further, "in any case you could not expect the Government to carry out the proposed settlement in view of facts which would preclude the possibility of doing so." To what facts are you alluding there? In his previous letter to you of the 22nd of March, he says this: "The President of the Company may be able to appreciate your contention in conversation with me on the 19th inst., that political expediency necessitated the Government's present action in this matter, but, frankly, I cannot, particularly in view of your assurances to me, also of the 19th inst., that you would see that these two blocks, for which grants have already issued but not delivered, would go to the Company in settlement of the subsidy in respect of the 4th section." So, when you told Mr. Brown in your letter of the 3rd of April, 1902, "you could not expect the Government to carry out the proposed settlement in view of facts which would preclude the possibility of doing so," what were you referring to? A.—Well, it would be difficult for me to say what facts were in my mind at the time. It would be difficult for me to say that. But there certainly were facts.

Q.—Well, what made it impossible to carry out Mr. Brown's suggestion that the two blocks for which the grants had already issued should go to the Company? A.—Well, I certainly had in mind that it would be a very dangerous thing for the Government to do, in view of what had transpired. And coupled with that was the fact that it became evident to myself, at least, what the intention of this Company was in getting these two blocks of land as part of the Columbia and Western subsidy in place of the other.

Q.—Mr. Wells, at this time the Order in Council had been actually cancelled, hadn't it, the Order in Council of the 18th of March? A.—Yes; oh, that would be a fact in itself.

Q.—I should think so. Now, Mr. Wells, do you recollect at what date the Easter holidays were in 1902? By looking at the reports of the proceedings, couldn't you find that out? I call your attention to the Journals of the Legislative Assembly under date the 27th of March, 1902 (showing book to witness). A.—That was the adjournment over the Easter holidays.

Q.—So that if you received the letter from Mr. Brown on the 26th of March, it was immediately followed by the Easter vacation, beginning on the 27th of March and lasting until the 7th of April? A.—Yes.

Q.—Would that account in any measure for your not answering that correspondence until the 3rd of April? A.—Oh, it might have done so.

Q.—Now, there is a map here put in with the Order in Council of the 19th of December, 1900 (showing same to witness). What I wish to ask you, Mr. Wells, is not in connection with that map, but I want to know if there was any similar map before the meeting of the

Hon. Mr. Wells—*Concluded.*

10th of August, 1901—do you recollect? A.—Well, I don't remember of having a map; Mr. Gore informs me that I had a map or must have had one.

Q.—Do you recollect whether that map was on a similar lithograph form to that or not? A.—I don't remember about that.

Q.—That lithographed form, I understand, is a map issued by the Canadian Pacific Railway Company; that is not a departmental map that you have in your hand now? A.—No, it is not a departmental map; but we use these forms, though.

Q.—Yes. So that you do not remember specifically what particular form of map it was which was used on the 10th of August, 1901? A.—No; I do not. When you asked me about the facts there referred to in my letter to Mr. Brown, I thought you meant the facts leading up to the rescinding of the Order.

Q.—No; I did not mean that, Mr. Wells. Perhaps you can explain now what your reference was in your letter; that is all? A.—The action of the Executive; of course, that would be a thing in itself.

Q.—The thing had been disposed of by the Executive; and it would be impossible for you to go against the Executive and give Mr. Brown any assurances at all? A.—Impossible to go against the Executive, yes.

The Committee here adjourned until Monday, May 11th, 1903, at 10 a. m.

MONDAY, May 11th, 1903.

At 10 a. m. the Committee met, pursuant to adjournment from the 9th inst. Present, the full Committee and Counsel, as before.

Mr. E. P. Davis, K. C., appeared before the Committee on behalf of the Canadian Pacific Railway Company, and asked leave to cross-examine Mr. Wells; stating that he would make his examination short, not to exceed an hour, and hoped to elicit information which would be useful to the Committee.

Mr. McPhillips (after conference of the Committee): Mr. Davis, speaking for the Committee at the request of the Chairman—what we would like you to do would be to formulate grounds that you think rightly entitle you to appear as counsel here now at this stage, on behalf of the Columbia and Western, or, I suppose, the Canadian Pacific Railway Company, having in view the fact that Mr. Wells may be said to be out of the hands of counsel at present—because it was understood that he would only be subjected to such examination as any member of the Committee might desire, this morning; also bearing in mind the fact that the Legislature stood adjourned for a week for us to get through with our labours, and also considering that the members are here, away from their homes at a very inconvenient time; and perhaps the introduction of counsel now at this stage might prolong the investigation a great deal, when, of course, we feel that the issues, so far as our inquiry is concerned, are somewhat few, after all—that is, we do not propose to make a finding here upon the fact as to whether or not the Canadian Pacific Railway, or, more properly, the Columbia and Western Railway Company, should have been granted these lands—we do not, as I understand it, intend to really deal with that. So that, in short, Mr. Davis, we would like a few observations from you which would influence us, perhaps, to give a better consideration to this point.

Mr. Davis: As I understand, two difficulties or grounds of objection have been suggested by you, Mr. McPhillips, against my being permitted to appear and cross-examine Mr. Wells; the first is the question of time, and the second is the question of Mr. Wells being practically through with his examination. I understand, of course, perfectly, that the whole matter is discretionary with the Committee; it is entirely within their power to say whether I or any one else has a right to appear here and cross-examine any of the witnesses. So far as the question of time is concerned, I will undertake that I shall not be more than an hour; and if the Committee think that that is too much time to be permitted, I will take half an hour; if it becomes necessary, if time is so valuable, I will take only such time as the Committee will give. There are two or three points I would like very much to cross-examine Mr. Wells upon. The suggestion is thrown out that possibly my cross-examination might lead to other examination; I do not think it will, and do not see how it possibly can; it cannot elicit any new facts except from Mr. Wells himself, and, of course, he can explain anything that he states afresh, so that it will not require another examination. I presume the only considera-

tion which will govern the Committee will be whether or not they have reason to suppose that it is in the public interest that such cross-examination should take place. So far as the question of Mr. Wells' examination being practically concluded, of course, that is entirely in the hands of the Committee. Of course, if this Committee has no power to permit me to cross-examine Mr. Wells, that ends it, and I have nothing more to say; but if, as I understand, it is entirely discretionary, then the only question remaining to consider, so far as I can see, is, would such cross-examination be at all likely to elicit any facts or information which will be of use to the Committee and to the benefit of the public at large. I do not base my asking for leave to cross-examine for one moment upon the fact that I am representing the C. P. R. I understand that the C. P. R. have no standing whatever before the Committee. The Committee are not inquiring, as you quite rightly said, into the question as to whether or not the Company are entitled to these Crown grants. But the C. P. R. are certainly very fully aware of a great deal of information in connection with this, and are, therefore, probably in better position to cross-examine Mr. Wells than anyone else. There is a direct contradiction between the evidence of Mr. Brown and Mr. Wells. Mr. Wells has counsel who are going to cross-examine Mr. Brown, and it is quite right that he should; and it seems only fair to Mr. Brown and the C. P. R., and also in the interests of the public, who are interested only in getting at the real facts, to allow Mr. Wells to be cross-examined by counsel for Mr. Brown representing the C. P. R. That is the only ground upon which I ask the permission. And it is entirely, of course, in the discretion of the Committee to grant or refuse it. As I say, I undertake that in no event will I exceed one hour, unless the Committee will ask me to go on after that time; so that it will not consume very much of your time.

Mr. McPhillips: Do you propose from this time to take part in the inquiry?

Mr. Davis: I have not asked for any such thing. But if any case arises where I think I might be of use, I might ask the Committee again. But the point I am now asking is for leave of the Committee to cross-examine Mr. Wells.

Mr. Helmcken: Will you tell us on what points you propose to cross-examine Mr. Wells?

Mr. Davis: One of the points is as to what took place between himself and Sir Thomas Shaughnessy in Montreal.

Here followed discussion with the Committee as to whether Sir Thomas Shaughnessy would have time to appear before the Committee and give evidence, Mr. Davis stating that Sir Thomas Shaughnessy desired to come, if he were assured that the Committee would sit long enough to allow him to reach here and give his evidence.

Mr. Oliver: As you are well aware, this Committee was appointed to elicit all the facts in connection with this matter. Now, Mr. Brown, the Executive agent of the Railway Company, has been fully aware of the scope of this investigation for the last three weeks; and it has been quite within the power of the C. P. R. to produce any information that they have bearing on this subject before the present time. I am just as anxious as it is possible for any one to be to get at all the facts in connection with this case, but I must say that the C. P. R. has had ample opportunity to bring forward any evidence they have in connection with this matter. As you rightly observed in your telegram to Mr. Shaughnessy, if they had been within the jurisdiction of the Committee they would have been compelled to bring before the Committee everything they have bearing upon the matter. It seems to me that the C. P. R. has been keeping something in the background from this Committee, waiting to spring it at this Committee practically at the close of the investigation.

Mr. Davis: That is not so; I may state that; there is nothing whatever in a suggestion of that kind. It is not correct that there is any intention of holding anything back.

Mr. Helmcken: There is a point of difference between Mr. Taylor and Mr. Wells. But is there any other thing that you would like to examine upon?

Mr. Davis: It is very difficult to state what will go on in the course of the cross-examination.

The Chairman: If you cross-examine Mr. Wells, you will ask for further time for Sir Thomas Shaughnessy to come here?

Mr. Davis: I have not said that. But if the Committee will not limit the time to the 14th, I think he can be got.

Mr. Oliver: I wish to point out to you this, that if the object of the C. P. R. is to bring facts before the Committee, there is another way in which they can do so. Mr. Duff, as counsel for myself, as the mover for this Committee for inquiry, would only have been too glad to have elicited any facts or information which the C. P. R. could have furnished us in the matter.

Mr. Duff: Perhaps I might say this, that my object has been all the way through to endeavour to get at the bottom of things, and the examination has proceeded, so far as I am concerned, neither on one side nor on the other.

The Chairman: You have shown that thoroughly.

Mr. Duff: I did not think that my examination of Mr. Wells was any less drastic than under the circumstances it should have been. Of course, I did not make the suggestion which Mr. Oliver has made, because I did not feel it would be proper for me to intrude upon the Committee, perhaps. On the question of counsel appearing,—I have no objection whatever, of course, to counsel appearing.

Mr. McCaul: If Mr. Davis cross-examines, it will lead up to re-examination by me; and I am in this position, I have not got before me the correspondence and material which Mr. G. McL. Brown promised us as far back as when he was examined here at the outset before the Committee. And I should certainly have that in my possession, or within my power, before I am called upon to re-examine Mr. Wells.

Mr. Davis: I am only going into matters connected with the examination-in-chief; and, therefore, that question will not arise at all. I never supposed for one moment that there would be any objection to this very harmless request to be allowed to cross-examine Mr. Wells for a few moments; and I really cannot understand where this objection comes from. It would seem there is somebody very much afraid of Mr. Wells being cross-examined by myself.

Mr. Helmcken: Do not think you can make that suggestion, at all. We are not going to listen to any suggestion of that.

Mr. Davis: I will not impute that to the Committee; but I cannot understand the strong objection that is raised to the course I suggest.

Mr. McPhillips: I have one observation to make on this question in this way—I think the strongest point that Mr. Davis has made is this, and I think we would all appreciate it—I apprehend that Mr. Davis may have instructions that may be very material in this inquiry; he may have instructions from the Canadian Pacific Railway which we are without; that is, data and documentary evidence which we have not as yet had produced here,—

The Chairman: As regards the granting or proposed granting of the subsidy?

Mr. McPhillips: As to matters stated by Mr. Wells; for instance, the interview at Montreal. That may put other counsel at a disadvantage. If it had been in a Court of Law the other counsel who are here would have had all that documentary evidence before them, and they would have been enabled to have directed their examinations in line with that material. But now Mr. Davis comes in, at the end of the matter, you might say, and will proceed to cross-examine upon instructions, no doubt, that make it more or less new. It does seem to me that it would entitle the other counsel to go into the matter by way of re-examination—of course, first asking the Committee for leave, and suggesting what they propose to deal with.

The Chairman: It will open up the whole thing again. For my part, I am opposed to it.

Mr. McPhillips: The salient point is this: this Committee of inquiry being desirous, of course, to get at the root of the matter, and Sir Thomas Shaughnessy not being here to be examined up to the present time, and Mr. Davis, perhaps, in the possession of instructions from Sir Thomas Shaughnessy himself, now, whether we would be entitled to exclude the elicitation of that evidence,—I feel that that affects me very seriously. I am rather of the view that it would be going a long way to exclude it.

Mr. Helmcken: We are not discussing the question of excluding it. We want to know whether Mr. Davis proposes to introduce any witnesses.

Mr. Davis: The proposition I have made is to be allowed to cross-examine Mr. Wells.

Mr. Helmcken: But we have to deal with that in view of the line that you are instructed to pursue before this Committee, if you are going to call witnesses.

Mr. Davis: I have not asked for permission to call witnesses.

Mr. Helmcken: We would like to know whether it is the intention of the C. P. R. to have Sir Thomas Shaughnessy here.

Mr. Davis: If the time is so extended that it is possible to get him here, he will come.

Mr. Duff: While not in the slightest degree raising any objection to my friend's cross-examination, if there be any documentary evidence, as suggested by Mr. McPhillips, in the possession of Mr. Davis, or anybody else, bearing on this inquiry, it certainly should be here.

Mr. Davis: I have no documentary evidence here.

Mr. Duff: Mr. Brown has been asked to produce all documents in the control of the C. P. R. in British Columbia that has any bearing on this matter.

Mr. Davis : He is getting them.

After a private conference of the Committee, the Chairman announced the decision of the Committee, that the Committee view it as being in the public interest to allow Mr. Davis to cross-examine Mr. Wells, and request him to make it as short as possible, and trust that it will not exceed an hour.

Mr. McCaul : I might suggest, Mr. Chairman, if it be equally convenient to Mr. Davis, that Mr. Wells' cross-examination should be postponed until after Mr. George McL. Brown has been examined and brought down the documents.

Mr. Davis : I have no objection to that.

The Committee acceded to this suggestion.

The Committee here adjourned until 2 P. M. to-day (May 11th), or immediately after the House rises.

MONDAY, May 11th, 1903.

The Committee met at 2:30 P. M., pursuant to adjournment from the morning session.

Mr. George McL. Brown attended, producing a large number of telegrams and letters, which are examined by counsel and members of the Committee.

GEORGE McL. BROWN, being recalled, testifies :—

Mr. Duff : You were examined here on the 21st of April, Mr. Brown? A.—Yes; I was summoned about that date.

Q.—And I think at that time, on leaving the Committee, you said you would get some records relating to this matter as soon as possible? A.—I did not quite say that; I said I would get all the records that are referred to in my evidence; I think what I was asked for was a copy of the letter of the 31st of July and a copy of my report to Mr. Shaughnessy of March 18th.

Q.—Did you, immediately after that sitting on the 21st of April, communicate to Montreal? A.—No; I was going to Montreal,—you will see in my evidence I said I was required to go to Montreal.

Q.—What did you do? A.—I heard this statement had been made in Mr. Dunsmuir's evidence and I remained.

Q.—Did you communicate to Montreal for the purpose of getting anything? A.—Yes; I telegraphed to Sir Thomas Shaughnessy to send me my report.

Q.—Your report in what year? A.—1901.

Q.—1901 or 1902? A.—1902, I suppose it would be.

Q.—And what else? A.—And also I wired him for the letter of the 31st of July to which I refer.

Q.—Then you have not here the communications which took place between you and your principals in Montreal in 1901 and 1902? A.—All my office records? Oh, no.

Q.—You have not made any effort to get them? A.—To bring all my office records here?

Q.—Oh, no; the communications that took place between you and your principals in connection with this matter in 1900, 1901 and 1902? A.—No; I certainly have not asked for those.

Q.—Have not made any efforts to get them? A.—No; I have not.

Q.—You did not consider that that was the spirit of your promise to the Committee when you left them on the 21st? A.—No; I certainly did not.

Q.—Well, now, you were in Victoria a good deal in the years 1900, 1901 and 1902? A.—A great deal.

Q.—And you transacted a good deal of business here with the Government at various times? A.—A great deal; yes.

Q.—And take, say, the year 1900, what was your method of doing business, I mean to say with regard to correspondence; did you have an office here? A.—Oh, no; my office was generally under my hat.

Q.—Well, your stenographer was not usually there, was he? A.—My stenographer is very, very seldom with me.

Q.—Any written communications with the Government in regard to matters which you were charged with, who did your correspondence for you? A.—Oh, my secretary, whoever it might be.

Mr. Brown—*Continued.*

Q.—Who was your secretary? A.—Oh, at different times—Bert Kerr for a time—a young man named Kerr for a time.

Q.—In Victoria, I mean? A.—I couldn't tell you that.

Q.—Are you sure you cannot? A.—I had no regular stenographer.

Q.—In 1902, last year, during the session of 1902, you transacted a good deal of business with the Government? A.—I did; yes.

Q.—And you had a good deal of correspondence, both with the Government and, I suppose, with your principals at Montreal at that time? A.—Oh, I can't say I had very much with my principals.

Q.—But you had some, anyway? A.—Yes.

Q.—You had no person who was regularly employed by you for the purpose of doing this correspondence? A.—Oh, no.

Q.—I don't mean salaried, but I mean some person to whom you customarily went? A.—No; principally my correspondence was done with my own pen with my own principals.

Q.—With your own pen with your own principals. Then, did you keep copies of the correspondence? A.—No; I don't think that I have in most cases.

Q.—Did you keep copies of your correspondence with your principals in the spring of 1902? A.—I don't think I did.

Q.—You did not? A.—Not any that I wrote myself.

Q.—Did you have letter-books for the purpose of keeping letter-press copies, with you? A.—No; I never had, travelling around.

Q.—And how did you keep copies of your correspondence when you did keep it? A.—Manifold copies.

Q.—Did you use the Canadian Pacific Navigation Company's office at all? A.—I think I have at different times.

Q.—And I suppose, in that case, copies would be made in their books? A.—Oh, no.

Q.—Are you sure? A.—I don't think so.

Q.—Quite certain? A.—I am sure I would not.

Q.—What letter-book would it be kept in? A.—I say manifold copies, any letters I have written.

Q.—Now think for a moment, Mr. Brown. Are you quite positive in all cases where letters were typewritten for you, that manifold copies were made and press copies were not made? A.—Oh, yes; on the line, certainly.

Q.—On what? A.—On the line. That is a railroad expression; that means away from headquarters.

Q.—I am speaking of Victoria, you know; I am speaking of the correspondence written by you in Victoria. A.—Yes; certainly.

Q.—Are you absolutely sure of that? A.—Oh, yes.

Q.—You see, here is a letter dated the 3rd of May, 1902, addressed by you to the Hon. W. C. Wells (showing same to witness). A.—Yes.

Q.—This particular letter is dated at Vancouver, I see. A.—May I see that?

Q.—Yes; that is correct, isn't it? A.—Yes, that would be mine.

Q.—It is dated at Vancouver? A.—Yes.

Q.—And that would be letter-press copied there? A.—No; not at all, when I am on the line.

Q.—What would you do with those manifold copies? A.—I would send them to my own office for filing.

Q.—In Vancouver? A.—Yes.

Q.—And where are those files? A.—In headquarters.

Q.—How often are they returned to headquarters? A.—Oh, every few months; about every half year.

Q.—Would the letter-books be returned? A.—Yes.

Q.—Everything? A.—Everything.

Q.—So that all the copies of correspondence conducted by you in Victoria and Vancouver during that period would be in Montreal? A.—In Montreal.

Q.—And not accessible in this Province? A.—And not accessible in this Province.

Q.—You have made no effort to get them? A.—It would be an impossibility for me, without my going down there.

Mr. Brown—*Continued.*

Q.—You say you asked for a report for 1902, your report? A.—March, 1902; it is referred to in one of my telegrams.

Q.—Has it arrived? A.—No; it has not arrived.

Q.—When was it you wired for that? A.—That was on my way to Montreal, after my first examination.

Q.—No; I say, when did you wire for it? A.—Well, on May 3rd.

Q.—On the 3rd of May? A.—On the 3rd of May; yes.

Q.—That would be twelve days after your examination here? A.—Yes.

Q.—You waited for nearly two weeks before you asked for any correspondence? A.—Well, as I told you when I was leaving here, I intended to go to Montreal.

Q.—How long did it take you to change your mind? A.—I have very important work on my shoulders now, and I—

Q.—I know. A.—And what I mean to say is, business requirements kept me here longer than I thought possible when I was here before.

Q.—At all events, the fact is that you took no steps to get this correspondence from Montreal until twelve days after the conclusion of your previous examination here? A.—That is the actual fact, yes.

Q.—Now, did you get anything from Montreal in response to your telegram? A.—I have received letters by mail.

Q.—When did you get them? A.—The other day.

Q.—When is the other day? A.—Well, they must have come in by Saturday's mail.

Q.—You know, don't you? A.—I got them when I got to Vancouver this time.

Q.—When was that? A.—That was on Sunday.

Q.—Do you mean yesterday? A.—Yesterday, yes.

Q.—You went over to Vancouver yesterday? A.—I went over to Vancouver yesterday.

Q.—And when you arrived there you found that some correspondence had arrived in response to this telegram? A.—Yes, among my mail.

Q.—Would you mind showing me the telegram of the 3rd of May, you refer to? (Witness hands same to Mr. Duff.) Was the correspondence enclosed in a letter? A.—No; just enclosed in an envelope.

Q.—Well, at all events, you asked for a copy of your report of March, 1902, in this wire of the 3rd of May? A.—Yes.

Q.—And on Saturday, the 9th,—was there any Eastern mail on Saturday, do you know? A.—I couldn't tell you, I am sure. I got it in my mail on Sunday; I presume it came on Saturday.

Q.—Do you know when it arrived? A.—No; I do not.

Q.—At all events, it was there when you got there Sunday morning? A.—Yes.

Q.—An envelope with nothing explanatory, enclosing some letters or copies? A.—Yes.

Q.—I want to find out, Mr. Brown, what correspondence you sent to Montreal? A.—The report will be here in a few days.

Q.—You got a letter dated the 31st of July, 1900? A.—A copy of a letter.

Q.—A copy of letter dated 2nd of August, 1901, and one the 11th of September, 1901; and you did not get the report which you asked for? A.—No. The report is a lengthy document.

Q.—And there was no letter explaining the failure to transmit the report? A.—No.

Q.—And up to date that report has not been received? A.—No.

Q.—How is it, Mr. Brown, I don't see that you asked for these letters that you received, of the 31st of July and 2nd of August and 11th of September. A.—Well, I must have asked for them, certainly.

Q.—You did not ask for them in that telegram, did you? A.—No; I did not.

Q.—Is there any other communication between you and Montreal asking for correspondence? A.—Not that I am aware of at the present time. There must have been.

Q.—But you did ask for some correspondence in this telegram? A.—Yes.

Q.—Which, apparently, is not forthcoming? A.—Apparently is not forthcoming at present, but it will be here.

Q.—And no explanation of it? A.—No explanation of it.

Q.—Well, that seems a little singular, doesn't it? A.—I am satisfied it will be here.



Mr. Brown—*Continued.*

Q.—But doesn't it seem a little bit singular that you got documents you did not ask for, and you got at the same time no explanation? A.—Well, all the documents will come in due course.

Q.—That is a prophecy of yours. You remember you made a similar statement on the 21st of April, and we have not got anything up to date except what you have given us to-day. However, you have no explanation of it? A.—No; I have no explanation.

Q.—And you are quite sure that you have not any recollection of who it was that conducted your correspondence in Victoria, during the Session of 1902? A.—No; I have not; I have used different stenographers at times.

Q.—Now, some time in the summer of 1900, Mr. Brown, you were negotiating with the Government with regard to the completion of the British Columbia Southern Railway grant? A.—I was negotiating, and have been for years, for a settlement of the land matters.

Q.—Well, you were that summer? A.—With absolute certainty, I was negotiating.

Q.—And you made proposals to the Government, didn't you, with regard to that grant, or some member? When I say to the Government, I hope you will regard my questions as covering proposals made to any individual members of the Government, because I don't want to ask you to make a distinction between proposals made to the Government as a whole and proposals made to the individual members of the Government. A.—Now, will you repeat your question?

Q.—You made proposals to the Government with regard to the settlement of the land subsidy for the British Columbia Southern? A.—I made proposals to the Government, I mean I was in negotiation with the Government in respect of all matters unsettled at that time.

Q.—But did you not make proposals to the Government, or to some member of the Government, suggesting a particular mode in which the land subsidy for the British Columbia Southern should be settled? A.—In the summer of 1900?

Q.—Yes. A.—I think probably I did.

Q.—And at that time you were proposing that the Government should grant to the British Columbia Southern the lands which were embraced in blocks 4,593 and 4,594, in settlement of the deficiency lands to the British Columbia Southern? A.—We certainly did speak of them.

Q.—And in September of that year the Government dealt with that matter, and by an Order in Council of the 10th September they disposed of that question by allotting you lands which did not include those two blocks? A.—That is a fact. May I see the Order in Council of the 10th of September?

Q.—Certainly; yes. I prefer you to refresh your memory by looking at it (handing same to witness). Now look at this map; we will call it exhibit 1. A.—This is the map that accompanies this Order in Council?

Q.—I so understand, yes; it has so been stated by Mr. Gore. At all events, an Order in Council was passed on the 10th of September, 1900, by which it was declared that the lands described in the report should be granted to the British Columbia Southern, these lands being blocks marked deficiency blocks A and B in pink colour on the accompanying map. Now, these are the two, A and B; you have no doubt about that being the land (indicating on plan)? A.—No, that is all right (referring to map marked exhibit 1, to Order in Council 519, of September 10th, 1900).

Q.—The proposal you made, which the Government did not accept, was that lots 4,593 and 4,594 should be given to the British Columbia Southern Railway instead of deficiency block B? A.—Oh, yes; I remember that.

Q.—Why was it that you pressed for 4,593 and 4,594 at that time? A.—Well, I think it was generally accepted that they were entitled to it, that it was allotted to them, that it belonged to them.

Q.—You think that was the view that was taken at that time? A.—I think so. Of course, I don't recall the actual details.

Q.—Well, was it on the ground that they were more valuable than block B? A.—Well, I cannot say that that did not have something to do with it.

Q.—You knew something about the comparative value between block B and these two other blocks? A.—As a certainty, absolutely nothing.

Q.—You made no inquiries? A.—We heard lots of rumours.

Q.—You knew the rumours? A.—Yes.

Mr. Brown—*Continued.*

Q.—And the rumour was to the effect that they were of considerable more value? A.—Yes; they were thought more valuable than mountain tops.

Q.—That was the position taken on the 10th of September. With whom did you have your negotiations at that time? A.—Well, it must have been the Chief Commissioner and Government generally.

Q.—Did you appear before the Executive before that Order was passed? A.—I think I appeared with Mr. McPhillips.

Q.—You think you appeared with Mr. McPhillips at that time? A.—At that time.

Q.—Urging 4,593 and 4,594? A.—Yes—well, not as those blocks.

Q.—But urging the lands embraced in those blocks? A.—Yes; now described as 4,593 and 4,594.

Q.—Yes; covering that ground generally; it is better to refer to them that way; I don't mean to tie you down to any description or anything of that sort. And having got that decision at that time from the Government, you appeared before the Executive after that, didn't you, on this same subject? A.—So I recall now.

Q.—You now recall that you did? A.—Yes; oh, yes.

Q.—Alone? A.—I really could not tell you who was with me.

Q.—I mean to say, was any solicitor with you? A.—No; I never had any solicitor on it.

Q.—Do you remember who were present at the meeting of the Executive? A.—I could not tell you, Mr. Duff.

Q.—And you then urged that the change should be made by which 4,593 and 4,594 should be substituted for deficiency block B? A.—I presume I must have done so.

Q.—Do you mean that you do not recall the interview at all? A.—Well, I do not recall the circumstances; no.

Q.—Do you mean you recall the interview and cannot recall the particular circumstances, or that you do not remember anything about it? A.—Recall what interview?

Q.—The interview that occurred after the Order of the 10th of September and before the Order of the 19th of December? A.—I don't recall any particular interview. As I say, I was negotiating with the Government at all times.

Q.—It has been stated here that you appeared before the members of the Executive between those two dates? A.—What two dates?

Q.—The 10th of September and the 19th December, after the Order in Council allotting the lands we have just been referring to was passed, and before the Order in Council of the 19th of December, by which that change was passed. I ask you, do you remember anything about that at all? A.—Any particulars in connection with it?

Q.—Yes. A.—No.

Q.—Except that in the meantime, after this Order was passed, you still continued to negotiate and to urge that you were still entitled to those blocks, 4,593 and 4,594? A.—Yes; I must have.

Q.—And then, in December, an Order in Council was passed allotting those two blocks to the Company? A.—Yes.

Q.—And do you recollect the circumstances of that now? A.—I do not.

Q.—You don't remember anything about that at all; A.—Not the particulars at all. Of course, I must have negotiated, and I must have been present.

Q.—And I think that the memorandum on that map is in your handwriting? A.—Yes; I see it is.

Q.—That is quite correct? A.—Yes; I see it is.

Q.—But you remember nothing about the circumstances? A.—Nothing about the circumstances; no.

Q.—Now, why did you persist, after the decision of the Government on the 10th of September, in pressing for that change? A.—Naturally, it was my business to secure the best and most advantageous settlement for my Company.

Q.—I quite understand that, Mr. Brown. That was the reason, was it? A.—That is my reason.

Q.—As a matter of fact, when 4,593 and 4,594 were substituted for block B, you got a less area of land than you had under the Order in Council of the 10th of September? A.—I am rather mixed on that.

Q.—It has been stated here by the members of the Government that one reason was that there was a gain in acreage, that is, a saving in acreage to the Province. That seems to be the

Mr. Brown—*Continued.*

reason that was given. But, nevertheless, with that change in acreage, you were pressing for it, because you thought it was a more advantageous settlement? A.—Yes; better than mountain tops.

Q.—Now, did you, after the Order in Council of the 10th of September, correspond with Montreal? A.—I see it states that a copy of that was sent to me, or was to be sent to me; I don't know whether it was or not at the present time; I don't recall.

Q.—As a matter of fact, didn't you get certified copies of all these Orders in Council? A.—No; I think not; some of them did not come to me.

Q.—When you succeeded in December in accomplishing the change you had been struggling so much to make, did you not advise your principals? A.—If I got the Order in Council, as I probably must have done.

Q.—You must have known, independently of that, that the Order in Council was passed? You haven't any doubt about that, have you? A.—No; not the slightest.

Q.—In the ordinary course, you would advise on that? A.—Yes, I would advise, or I might go to Montreal.

Q.—Even then, would you not make a report of some sort? A.—Not necessarily a written report at all.

Q.—Do you mean to say that that is a matter that you would have left to rest entirely in your own recollection? A.—What?

Q.—The transaction set forth in the Order in Council of the 19th of December? A.—Certainly; if I make a verbal report to my President it is just as good as a written report.

Q.—But I mean to say, there would be no report in the Land Department? A.—In the Land Department? I have nothing to do with that.

Q.—But there would be, as a natural result, no report made in the Land Department if you made an oral report to the President. A.—The course I would follow, in a case of that kind, would either be—if I was going to Montreal as I usually did about December, and I got a copy of that Order in Council—would have been to carry it with me; otherwise, I might have enclosed it to him. I don't recall the circumstances.

Q.—At all events, Mr. Brown, that Order of the 19th of December never appears to have been acted on at all. A.—Apparently not.

Q.—Did you ever press for Crown grants issued under that Order? A.—I believe I did. I am satisfied that I was prepared for it always.

Q.—You were always prepared to receive them if they were tendered, I suppose? A.—Yes.

Q.—But did you ever press at any time for Crown grants under that? A.—I don't recall whether I did or not.

Q.—That is the best answer you can make? There is no correspondence with regard to it? A.—No; I have no correspondence that I recall.

Q.—Now, when did you first begin negotiations with the Government for the purpose of transferring block 4,593 and block 4,594 from the British Columbia Southern to the Columbia and Western? A.—Well, in my recollection, I did not begin negotiations with the Government to transfer the blocks from the 19th of December, from the B. C. Southern to the Columbia and Western Railway.

Q.—You say you did not begin negotiations; do you mean by that that negotiations were begun by the other side? A.—Oh, no; what I mean was—you make the statement, negotiations to transfer from the B. C. Southern to the Columbia and Western these particular blocks.

Q.—I shall put it this way, then. When did you first open negotiations to appropriate these two blocks, which were held by the British Columbia Southern under this Order in Council, to the Columbia and Western? A.—I could not tell you.

Q.—You cannot tell me. Those negotiations were conducted orally, weren't they, anyway? A.—Oh, yes.

Q.—Altogether? A.—Altogether, yes.

Q.—Between yourself and whom? A.—The Chief Commissioner.

Q.—Yourself and the Chief Commissioner? A.—Yes; I think I lived with him, practically, about that time.

Q.—About what time do you mean? A.—I mean about the time the Columbia and Western was going on—our negotiations.

Q.—When was that? A.—1901 and 1902.

Mr. Brown—*Continued.*

Q.—But when did it begin in 1901? A.—1900——.

Q.—I beg your pardon. A.—When did it begin?

Q.—Yes; in 1901? A.—Oh, I could not tell you the exact date.

Q.—I don't want the exact date, Mr. Brown; do you remember appearing before the Executive? A.—In connection with this Columbia and Western?

Q.—Yes; or, I should say, before the members of the Executive? A.—I have no recollection of doing so.

Q.—You haven't any recollection of that? A.—No; no recollection of appearing before the Executive.

Q.—But I say before the members of the Executive? A.—Individually or collectively?

Q.—Together. A.—I have no recollection.

Q.—Not sitting as an Executive; of course, you would not appear before them as an Executive? A.—I have no recollection.

Q.—You have no recollection of appearing before anybody but Mr. Wells on the subject? A.—Oh, I have discussed all sorts of propositions with members of the Government.

Q.—You mean with regard to the Columbia and Western subsidy? A.—With everything connected with our land matters.

Q.—I prefer that you confine it to the land we are dealing with now? A.—Within my recollection, it is impossible for me to distinguish between one land subsidy and another.

Q.—What other land subsidy were you dealing with at that time? A.—Dealing with all matters pertaining.

Q.—What other land subsidy were you dealing with except the Columbia and Western land subsidy? The British Columbia Southern land subsidy was settled, wasn't it, by the Order in Council of December? A.—No; it was not.

Q.—It was not? You had got everything you asked for, hadn't you? What more remained, then, to be done with it? A.—What more remained to be done with the B. C. Southern?

Q.—Yes, when you had got everything you asked for? A.—I couldn't tell you what there was remained to be done.

Q.—How could you say, then, that the matter had not been settled? A.—If I said that, of course it was a mistake.

Q.—I think you did say that. I do not wish to misconstrue it. We may take it, then, that the British Columbia Southern subsidy had been settled. Now, what other subsidy were you dealing with except the Columbia and Western? A.—I don't think there were any other subsidies.

Q.—Then we may confine ourselves to the question of the Columbia and Western subsidies. Now, what I want to get at is, as nearly as you can, when you first opened negotiations with Mr. Wells or with the other members of the Government with regard to a settlement of the Columbia and Western subsidy in 1901? A.—I cannot give you the exact date.

Q.—As nearly as you can give it. A.—It is a matter I was always pressing.

Q.—When you were examined on the 21st of April your memory was clear on that. A.—I don't think it was.

Q.—I think you said when you were here before the Committee on the 21st of April, that the negotiations opened with a letter of the 31st of July? A.—Official negotiations.

Q.—Official negotiations; that is what you meant by that? A.—Yes.

Q.—That your official negotiations opened on the 31st of July? A.—Yes.

Q.—Now, I think you also said that the suggestion that 4,593 and 4,594 should be transferred to the Columbia and Western—using it in the way that I speak— A.—Yes.

Q.——came as a suggestion from the Government? A.—As a suggestion from the Government; yes.

Q.—It came as a suggestion from the Government. Now, you were quite clear about that when you were examined before; and you are not quite clear about that now? A.—Oh, yes, I am.

Q.—Yes; you are quite clear? When was it that that suggestion was made by the Government? A.—I couldn't tell you what time it was made.

Q.—The negotiations were opened by a suggestion coming from the Government. Now, as nearly as possible, when did that occur? A.—Oh, it must have occurred some time prior to the Order in Council.

Mr. Brown—*Continued.*

Q.—Oh, yes ; I suppose so. Was it prior or subsequent to the letter of the 31st of July?

A.—It must have been, I suppose, prior to it.

Q.—Well, now, cannot you get a little closer to it than that? A.—I cannot.

Q.—You say it must have been prior to that? A.—It must have been prior to that.

Q.—However, you are clear on the fact that that took place? A.—Oh, yes.

Q.—Who was the medium of communication between the Government and you on that subject? A.—I don't think anyone was. I was the only one that approached the Government.

Q.—I am not talking about you approaching the Government ; it is a case of the Government approaching you. I say, who was the medium of communication between the Government and you on that subject? A.—Nobody.

Q.—Then, who conveyed to you the suggestion? A.—It was the direct result of constant communications and talks with the Chief Commissioner.

Q.—I know, but by whom? A.—With the Chief Commissioner and myself.

Q.—That is, that that was a suggestion made to you by the Chief Commissioner? A.—Of many ; yes.

Q.—What do you mean by saying “of many”? A.—Of many tentative discussions we had.

Q.—There were many tentative discussions you had, and one of these was 4,593 and 4,594?

A.—Yes.

Q.—And that came to you, as you consider, as a tentative suggestion from the Chief Commissioner? A.—Among others ; yes.

Q.—Never mind the others. That, I say, came to you as a tentative suggestion from the Chief Commissioner? A.—Yes.

Q.—Prior to the letter of the 31st of July? A.—Presumably so ; yes.

Q.—Well, that is your best recollection, isn't it? A.—Yes ; my best recollection.

Q.—Did you follow the suggestion up? A.—Yes.

Q.—In what way? A.—By accepting it ; by saying it was satisfactory.

Q.—When did you say it was satisfactory? A.—I couldn't tell you exactly.

Q.—Before or after the letter of the 31st of July? A.—It must have been before the 31st of July.

Q.—Then, at the time you wrote that letter of the 31st of July, there was an understanding between you and the Chief Commissioner, or rather a suggestion had been made by the Chief Commissioner to you, which had been accepted by you on behalf of the Company, that these blocks were to be allotted— A.—(Interrupting.) That letter of the 31st of July must have grown out of discussions prior.

Q.—But I gather from you now to say that it grew out of a settled arrangement so far as you and the Chief Commissioner were concerned? A.—So far as my recollection carries me.

Q.—That is your view of it, so far as your recollection carries you. Now, Mr. Wells has told us, and I would like your recollection on the point, that some time before the 27th of July, at which date he left for up-country, that you made the proposal to him that these lots should be allocated to the Columbia and Western subsidy, but at the same time you said you desired the matter to come as a proposal of the Government and not of the Company ; I would like your recollection on that. A.—I don't recall that circumstance at all.

Q.—Well, will you say that it did not occur? A.—I cannot recall it. I think I would have remembered it if it had occurred.

Q.—I would like to go a little further than that, Mr. Brown. Does your recollection enable you to say positively whether or not that conversation did occur? A.—No ; it does not.

Q.—It does not. It may have occurred? A.—Not with that inference.

Q.—Not with that inference? A.—No.

Q.—But I am not putting an inference, Mr. Brown. A.—But the Hon. Mr. Wells has, in his evidence.

Q.—But I am not putting it to you as an inference in putting this question. I assume, and I want you to assume if you will, that Mr. Wells has stated, not as a matter of inference at all, but as a matter of positive fact, that you proposed to him that this transfer should take place, and that you also said that you desired that the matter should come as a proposal from the Government to the Company, and not from the Company to the Government? A.—I certainly never said that.

Mr. Brown—*Continued.*

Q.—You are clear that that did not occur? A.—Oh, certainly; yes.

Q.—I put this suggestion to you, Mr. Brown, with regard to that, to refresh your recollection. You are aware that, so far as the British Columbia Southern are concerned in this matter of acquiring land, that if these lands had gone to the British Columbia Southern Railway Company they would have been subject to a certain agreement by which the Crow's Nest Coal Company would be entitled to select a certain area for its purposes? A.—That would be correct.

Q.—During the time you were pressing for this transfer to the Columbia and Western Railway, was it present to your mind that if the lands went to the Columbia and Western Railway not at the suggestion of the Company but at the suggestion and by the will of the Government, that the Company might easily excuse itself from that obligation? A.—I think not; I think that if—

Q.—(Interrupting.) You did not make a suggestion of that sort, then, to Mr. Wells, with a view of getting rid of the obligations of the British Columbia Southern Railway Company to the Crow's Nest Coal Company? A.—I certainly did not.

Q.—And that circumstance that its obligations would be diminished by the transfer was not at any time present to your mind during the time that you were endeavouring to complete this transfer to the Columbia and Western Railway Company; is that correct? A.—I got lost in that question.

Q.—I say, the circumstance that I have mentioned, with regard to the obligations to the Crow's Nest Coal Company, was a circumstance which was not present to your mind during the time you were pressing for the transfer of these lands to the Columbia and Western Railway Company? A.—I don't think there was; they could not possibly escape any obligations.

Q.—You think they could not possibly escape any obligations? A.—No.

Q.—You think that if these lands had gone to the Columbia and Western Railway Company, the Columbia and Western would have been under an obligation to allow the Crow's Nest Coal Company to make their selection just as if they had gone to the British Columbia Southern? A.—Any change with the consent of the B. C. Southern.

Q.—But would that occur if the change took place at the suggestion of the Government? A.—I certainly think it would. I don't think the obligation would be escaped at all.

Q.—You think it would not be escaped at all? A.—No.

Q.—At all events, it is not true that that conversation occurred between you and Mr. Wells? I think you may take it from me that Mr. Wells did say so; I certainly so understood his evidence. A.—And notwithstanding that he would consent—

Q.—I don't mean to say that Mr. Wells says that he was aware at the time of any advantage, or any breach of faith with regard to the Crow's Nest Coal Company; but I think Mr. Wells was quite clear, and intended to say distinctly, that you asked for this transfer, but that you said you wanted the proposal to come from the Government, and not from the Company? A.—I think he must be mistaken about that.

Q.—That is a very material circumstance in this inquiry, undoubtedly. However, you are clear, at all events, on this point, that at the time the letter of the 31st of July was written there was an understanding between you and Mr. Wells with regard to the matter? A.—Oh, yes.

Q.—Then you were not present at the meeting of the Executive on the 31st of July? A.—No; I have no recollection of it.

Q.—Nor on the 2nd of August? A.—I have no recollection of it.

Q.—And when you got that letter from Mr. Turner that there would be a reference to Mr. Wells for a report, the letter in answer to your letter of the 31st of July, did you consider that as in any way opening up a matter which had been already settled? A.—Oh, no.

Q.—You considered that, so far as that was concerned, that was a mere matter of getting Mr. Wells to make a formal report to the Council? A.—That was a formal proceeding.

Q.—You regarded that as part of the form of procedure? A.—Yes.

Q.—These, Mr. Brown, are the descriptions of the lands referred to in the Order in Council of the 10th of August, which Mr. Gore has stated were furnished to the Lands and Works Department from some outside source (referring to Mr. Gore's book, copies of Orders in Council)? A.—This is the Columbia and Western, is it?

Q.—Yes. Do you know where those descriptions came from (indicating)? A.—Yes.

Mr. Brown—*Continued.*

Q.—Where? A.—I provided them. I had them prepared.

Q.—When did you provide them? A.—I had the descriptions of all our lands ready to take advantage of any settlement the Government would make.

Q.—You had descriptions of all the lands prepared ready to take advantage of any settlement they would make? A.—Yes.

Q.—And you provided them at that time? A.—Yes.

Q.—Who did you deliver them to? A.—It appears I must have delivered them to the Honourable the Chief Commissioner.

Q.—You think you gave them to the Honourable the Chief Commissioner? A.—I think so; I couldn't swear to that.

Q.—Where were they typewritten, do you know? A.—They were probably typewritten in Vancouver.

Q.—You think so? A.—I couldn't tell you now.

Q.—Not here? A.—I don't think so.

Q.—You also furnished a draft recommendation to the Minister? A.—The draft recommendation—I have no recollection of having done so.

Q.—Would you say that you did not? A.—I would say so; yes.

Q.—How do you account for the fact that the draft recommendation came from the outside? A.—It has been suggested here, has it?

Q.—So stated both by Mr. Gore and Mr. Wells. A.—I might have prepared the particulars for it.

Q.—What? A.—I don't know; might I see it?

Q.—I have not the draft here, but here is a copy of the recommendation. A.—May I see the draft?

Q.—I am afraid you cannot see the draft; we would like to find it ourselves. A.—(Looking at the book).—Now, Mr. Duff, I recollect these (indicating).

Q.—What is that? A.—I have no recollection of the draft.

Q.—You recollect which? A.—I recollect those (indicating).

Q.—You recollect A and B? A.—Yes.

Q.—Where were they prepared? A.—They were prepared from information I got.

Q.—By whom? A.—Prepared, I think you will find that Mr. Gore has some of that information. I have seen those things before.

Q.—Marked A and B, attached to the Order in Council of the 10th of August; those were prepared from information you have got? A.—Yes.

Q.—And you have seen them before? A.—I have seen them before.

Q.—In other words, you furnished them? A.—I don't know whether I personally furnished them, or whether it was in getting up the information. My personal recollection now is—and Mr. Gore will correct me if I am incorrect—I think that I spent one afternoon in going through the alienations, Mr. Gore; that is my recollection of it—I don't know whether I am correct or not.

Q.—At all events, you are clear enough that you furnished the information on which that was founded? A.—Yes.

Q.—And that you furnished the descriptions? A.—Oh, yes.

Q.—And you must have furnished these some time before the 10th of August? A.—I furnished them when they were ready for them.

Q.—Well, the Order in Council is dated the 10th August. A.—Yes.

Q.—Now, when was it first intimated to you, or did you receive any intimation from the Council after you made your application on the 31st of August, that this proposal had been agreed upon? A.—I don't think I received any communication from them.

Q.—You think you received no communication except the copy of the Order in Council itself? A.—Oh, no; I think I had an interview with Mr. Wells; I think I must have seen him immediately after his return.

Q.—Immediately after his return? A.—Of course, I am speaking now—I cannot swear to that; I cannot say positively; that is to say, I have no distinct recollection of the circumstances.

Q.—Did you have any other communication with any other member of the Executive at that time? A.—Communication?

Mr. Brown—*Continued.*

Q.—Yes, on this subject. A.—Not that I am aware of; I may have—I have no doubt that I spoke to them all more or less, in more ways than one, of everything, whenever I saw them.

Mr. Helmcken: Who do you include in the term “all”? A.—I mean the Government generally; I have no distinct recollection of meeting them.

Q.—But each member? Give us a definition of the word “all.” A.—Well, I would discuss in a general way any matters, whenever I saw them at any time, at any opportunity.

Q.—Each member of the Government? A.—Whenever I saw them.

Q.—I know; but did you? A.—In this particular—oh, I cannot swear that I did; but I simply know this that it was a necessity; as we all know, if you want to get anything done you have got to push it.

Q.—To see each member of the Government.

Mr. Duff: But, Mr. Brown, you had already had 4,593 and 4,594? A.—Yes.

Q.—There is no distinction between the British Columbia Southern and Columbia and Western? A.—None whatever, as a matter of fact.

Q.—But what I would like to get is why you were negotiating with Mr. Wells, and negotiating with and pressing the other members of the Government, to have these lands transferred from the British Columbia Southern to the Columbia and Western? A.—I don't think I ever did that. My recollection of the circumstance to-day, until I saw the Order in Council, I forgot all about the Order in Council of the 19th of December, 1900.

Q.—But you knew about it at that time? A.—It seems an extraordinary thing.

Q.—You have no explanation of it? A.—No; I have no explanation of it.

Q.—You would think it incredible that while you were dealing with the Government in 1901, you would actually have forgotten that these lands had been transferred to the British Columbia Southern previously? A.—It is possible.

Q.—Prior to the 10th of September you had been pressing to get these lands; you got a refusal from the Government; they gave you other lands; you continued from the 10th of September down to the 19th of December to press, and you ultimately succeeded. And that matter was so important that you actually prepared the map yourself, apparently, or took care of the clerical part of the Order. Do you think it is likely that within six months you entirely forgot all that had occurred during the three or four months at the end of the year 1900, and you were pressing the Government to give these lands to the Columbia and Western without knowing that the British Columbia Southern had them already? A.—No, it is not likely. When the matter came up the other day I did not recall the circumstances. But seeing that Order in Council I noticed it.

Q.—But having forgotten so completely the transactions in the fall of 1900, it has also escaped your recollection that you were pressing for this transfer for the purpose of escaping the obligations that the British Columbia Southern were under? A.—If such thing existed it certainly has escaped my memory.

Q.—And don't you think it has escaped your memory that it was you that suggested to Mr. Wells that 4,593 and 4,594 should be given to the Columbia and Western, and that at the same time you suggested that it would be convenient to the Company to have the proposal come as from the Government and not from the Company? A.—Well, I can hardly believe that Mr. Wells means that seriously.

Q.—You need not have any doubts about that, Mr. Brown. A.—Would he for my convenience consent to misrepresent facts to his colleagues?

Q.—I am not accounting for him. There is no doubt about what he said, that he is quite clear and distinct on that. A.—Of course, the documents must speak for themselves.

Q.—Well, they do speak for themselves. These documents which were prepared by you, A and B — A.—That is correct.

Q.—Memo. *re* the Columbia and Western Railway land grant. This is attached to the Order in Council. This deficiency that is proposed to be made out of blocks six by sixteen miles square,—would you regard that as a proposal from the Company or to the Company? A.—Well, I would not know whether it was from the Company or not.

Q.—Then B, this deficiency is proposed to be made up out of blocks 1 and 2, indicated on the accompanying plan and thereon tinted red. In your experience dealing with these matters,—and it is considerable,—did you ever hear of a case in which a memorandum showing lands to be dealt with attached to an Order in Council was put in the form of a proposal? A.—I don't know, I am sure.



Mr. Brown—*Continued.*

Q.—I don't think you ever did. A.—I don't know that I have had much dealings with these things.

Q.—You don't think you have? I am afraid there are not very many experts on that subject, then. At all events, the fact is that before these documents were drawn and before the Order in Council was prepared, the matter was a settled matter, as you considered? A.—It must have been.

Q.—And unless there was some artificial reason for putting the matter in the form of a proposal at that time, then that language is simply senseless? A.—I don't know, I am sure, whether it is senseless or not.

Q.—Well, it certainly had passed beyond the stage of a proposal, had it not? A.—Oh, yes.

Q.—It was a settled and completed transaction? A.—It was discussed. It was not settled until it went before the Council formally.

Q.—Now, it has been stated here, Mr. Brown, that these documents were not completed until the 28th of August, eighteen days after the Order in Council was passed. A.—I don't know about that.

Q.—Well, now, you settled the memoranda, the details, you know. A.—Yes, I did.

Q.—Did you supply those descriptions before or after the 10th of August? A.—I could not tell you, Mr. Duff.

Q.—You couldn't tell; you don't know anything about that? A.—I don't know about that.

Q.—You could not even recollect whether there was any very great delay in the completion of this matter? A.—I don't recall the circumstances in connection with it, at all.

Q.—Doesn't it strike you as a very singular thing that eighteen days after the Order in Council of the 10th of August had been passed, that this document should be expressed in this artificial form, to be put in the shape of a proposal when it was absolutely a completed transaction? A.—Who says that that is the case?

Q.—Who states that? It is stated by Mr. Gore and by Mr. Cathcart in Mr. Gore's office. A.—That this document here did not appear at the meeting of the Council?

Q.—Beyond question, that it did not appear at the meeting of Council, but that your draft appeared there. A.—My draft?

Q.—Yes. A.—Not my draft.

Q.—Are you quite sure of that? A.—I have no recollection of making any draft.

Q.—What? A.—No recollection.

Q.—Now, let us see; you settled this matter with Mr. Wells before the 31st of July, as you say. You wrote this letter on the 31st of July, in which you were pressing the Government on account of delay; and in which you state that the delay in closing the matter is occasioning you a great deal of inconvenience. You did not mean that? A.—Certainly, the delay in closing all these matters was an inconvenience.

Q.—So far as this matter was concerned, you had already closed it? A.—Oh, no; the things were not closed with the Government.

Q.—I say you did not regard it as closed, although you had got all these pledges. A.—No; it was leading up to it.

Q.—When that letter was handed in Mr. Wells was not here? A.—So I learned.

Q.—You learned then? A.—Yes.

Q.—You remember that Mr. Wells was not here? A.—Yes, I remember he was not here.

Q.—Do you remember what members of the Government were here? A.—I do not.

Q.—Was Mr. Eberts here? A.—Mr. Eberts was here, I think.

Q.—Do you remember? A.—I think so; yes.

Q.—Mr. Dunsmuir? A.—I don't recollect.

Q.—Did you hear anything at all about the results of the meetings of Council of the 31st of July? A.—Not that I recall now.

Q.—And the 2nd of August? A.—Not that I recall now.

Q.—Did you understand that this matter was discussed at those meetings, except the information you got from Mr. Turner's letter? A.—I knew that my letter was taken in, because I asked Mr. McNeill.

Mr. Brown—*Continued.*

Q.—I know you knew that your letter was taken in; but you know you regarded Mr. Turner's letter as a formal matter; you considered the matter settled altogether independent of that letter? A.—That the question of the settlement was discussed then?

Q.—Yes. A.—No; I certainly did not.

Q.—You did not understand it was settled then at all? A.—I did not understand it was discussed.

Q.—You did not understand that it was discussed in those Councils at all? A.—Discussed with a view to settlement.

Q.—Did you see Mr. Wells after he came back? A.—Oh, yes; I must have.

Q.—Did you know anything about the meeting of the 10th of August? A.—Not that I am aware of; no.

Q.—You cannot remember anything about that? A.—I don't recollect it; no.

Q.—Were you apprised of the result of that meeting, that an Order in Council was passed, except by the delivery of the formal Order in Council? A.—No; I don't recall being advised at all.

Q.—You stated here on the 21st of April that the first intimation you had of this matter from the Government was the copy of the Minutes of the Order in Council? A.—The first official information I had.

Q.—You meant by that the first official information? A.—Yes; I think that question was asked, the first official information.

Q.—No; it was not. But I take it that way, that you meant that; that you regarded the matter as settled, as you have said again and again. And when you wrote this letter of the 31st of July you were not opening negotiations with the Government at all? A.—Practically, no.

Q.—You were pressing the Government to complete the settlement which had been arrived at between you and Mr. Wells, and, as you understood, of course, with the authority of the rest of the Government? A.—Yes.

Q.—Now, after you received the Order in Council I think you made a demand for the Crown grants, you said before? A.—Yes.

Q.—And you paid the fees? A.—And I paid the fees.

Q.—And you were informed that delivery of the Crown grants would not be made to you; that Mr. Wells was going to Montreal and would make the delivery personally? A.—Yes.

Q.—I think you said Mr. Wells explained to you personally? A.—Yes.

Q.—At that time did Mr. Wells tell you anything about his reason for not making delivery of the Crown grants then? A.—No; he certainly did not.

Q.—Absolutely nothing whatever? A.—His reason for not delivering the Crown grants then—absolutely nothing.

Q.—Was there any suggestion at that time as to a doubt of the power of the Government to give these lands to the Company? A.—Not to me.

Q.—Had you, up to that time, heard from any member of the Government any suggestion that any discussion had arisen with regard to the power of the Government to grant these lands to the Columbia and Western? A.—I could not recall whether I did or not. I possibly have a vague recollection on it.

Q.—Did Mr. Eberts ever discuss the matter with you? A.—Not to my recollection.

Q.—Did Mr. Wells ever raise the question at all in these negotiations? A.—I think, possibly, Mr. Wells has.

Q.—Did you take any advice on the subject? A.—No; not that I am aware of.

Q.—Did you ask any lawyer for a construction of the Act with regard to that? A.—No.

Q.—Did you know that Mr. Hunter's opinion had been asked for? A.—I think Mr. Wells told me himself.

Q.—That it had been asked for? A.—Yes.

Q.—When did he tell you that? A.—I cannot recollect.

Q.—Was it prior to your departure to Montreal or after you came back? A.—I cannot recall that, whether it was before or after.

Q.—I think you could recall that? A.—No; not necessarily.

Q.—Don't you think you would remember, now, whether you had any doubt on that subject? A.—As to the right?

Mr. Brown—*Continued.*

Q.—Don't you think you would remember, now, whether or not, prior to your leaving for Montreal, any question had been raised in your mind by the Government as to their power to make this grant? A.—I certainly do not recall the circumstances.

Q.—You don't recollect it? A.—I don't recollect it.

Q.—Up to the time that you left for Montreal had you any doubt whatever as to the intention of the Government to deliver those grants? A.—No; I had not.

Q.—Did you know that any question had been raised as to the power of the Government to make the grant? A.—The question as to the power of the Government?

Q.—Yes. A.—I couldn't say that I did.

Q.—Don't you think that that would impress itself on your mind? A.—It would, certainly.

Q.—So far as you recollect nothing of that kind occurred? A.—As far as I recollect.

Q.—What occurred at the interview between you and Mr. Wells? A.—Well, now, it is impossible for me to say; I have a very vague and indistinct recollection.

Q.—Does it go beyond this, that Mr. Wells told you that he would deliver the Crown grants at Montreal? A.—Yes.

Q.—That is the beginning and the end of your recollection of the interview? A.—No; I think he spoke of the desirability of the construction of a railroad to Spence's Bridge.

Q.—Yes. A.—He certainly did mention something of that sort.

Q.—But he did not give you any explanation at all of the reason why he had not delivered them? A.—Except that he wanted to discuss with Sir Thomas Shaughnessy the question of this Spence's Bridge road.

Q.—And that he was going to take the grants with him? A.—Yes.

Q.—And you regarded the one question as having a certain bearing on the other? A.—No; none whatever.

Q.—Then that was not an explanation of the reason he was not delivering the Crown grants? A.—No.

Q.—Did he give any explanation of the reason why he was not delivering the Crown grants? A.—He certainly did not to me.

Q.—Would Montreal, in the ordinary course, be the proper place to deliver those grants? A.—How do you mean, the proper place?

Q.—I mean to say, are Crown grants from the Government of British Columbia to a British Columbia railway, ordinarily delivered here? A.—Naturally, I think.

Q.—You know enough of the procedure that when the Company wants to deal with the land they go to the Land Registry Office for the purpose of registering the title. A.—I don't know what the procedure is.

Q.—You know what the practice has been as between the Government and the Company here? Copies of the Minutes of the Order in Council have always been delivered to you, haven't they? A.—Well, they—

Q.—And the grants have always gone to you under those settlements? A.—No; they have not; I don't think I have ever had a grant.

Q.—I mean to say, to your Company here? A.—No; I don't think so.

Q.—Do you mean to say that the grants are sent to Montreal as a matter of practice? A.—I am just trying to think how other grants were received.

Q.—You did get the British Columbia Southern? A.—At this time?

Q.—Haven't you got grants under Order in Council dated the very same day, 10th of August, 1901? Haven't you Company got grants? A.—Yes.

Q.—Where did they get them? A.—They were delivered in Montreal.

Q.—Were they delivered in Montreal along with the others? A.—Yes.

Q.—Do you mean to say that Mr. Wells took the grants for the British Columbia Southern with him as well? A.—I am almost certain he did.

Q.—Are you absolutely sure on that? A.—I don't recall it.

Q.—You don't recall it at all? A.—No.

Q.—You cannot recall any other grants you ever got from the Government, you or your Company, that were delivered in British Columbia? A.—Oh, yes; I do distinctly remember two grants that were delivered to us in British Columbia; the initial block of the B. C. Southern; that was delivered to me.