

THE ROYAL COMMISSION

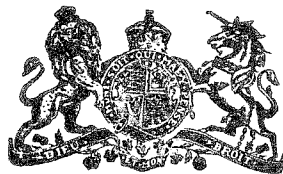
IN RE

THE ALLEGED EMPLOYMENT OF ALIENS BY THE PÈRE MARQUETTE
RAILWAY COMPANY IN CANADA

REPORT OF COMMISSIONER

Issued by the Department of Labour, Canada

PRINTED BY ORDER OF PARLIAMENT



OTTAWA

PRINTED BY S. E. DAWSON, PRINTER TO THE KING'S MOST
EXCELLENT MAJESTY

1905

CONTENTS

	PAGE
Extract from Order in Council <i>re</i> Appointment of Commissioner..	5
Commissioner..	7
Letter transmitting Report of Commissioner..	9
Report of Commissioner..	11

ORDER RE APPOINTMENT OF COMMISSION

Privy Council,
Canada.

*EXTRACT from a Report of the Committee of the Honourable the Privy Council,
approved by the Governor General on April 11, 1905.*

On a report, dated April 5, 1905, from the Minister of Labour, representing that complaint has been made to the effect that aliens, not being *bona fide* residents of Canada, have been and are being employed by the Père Marquette Railway Company upon that portion of the company's lines operating in Canada, to the exclusion of Canadian citizens and British subjects, and that for some time past the said company has been pursuing a policy of discharging Canadians and filling their positions by aliens imported to Canada in violation of the provisions of the Alien Labour Law.

The Minister further represents that it is expedient to ascertain whether, and if so, to what extent, the said complaint is well founded, and for that purpose that an inquiry be made to ascertain the name, nationality, nature and time of employment, remuneration and actual *bona fide* residence at the time of employment of the said alleged aliens, and also, that an inquiry be had as to the names of all Canadian or *bona fide* residents of Canada who have been in the employ of the Père Marquette Railway Company in Canada, and who have been discharged or have left the company's employ on account of such importation of aliens.

The Minister recommends that it be referred to His Honour John Winchester, Senior Judge of the County Court of the County of York, as Commissioner, under the provisions of Chapter 114, Revised Statutes of Canada, intituled: 'An Act respecting Public Inquiries,' to hold and conduct such inquiries, with all the powers conferred upon commissioners by the said Act; also, that Mr. Albert O. Jeffery, K.C., be appointed counsel to represent the Government of Canada before the said Commission.

The Minister further recommends that the said Commissioner report his findings to the Minister of Labour with all possible despatch.

The Committee submit the same for approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council

COMMISSION.

CANADA.

(Sgd.) GREY.

[L.S.]

(Sgd.) E. L. NEWCOMBE,

Deputy of the Minister of Justice, Canada.

EDWARD the SEVENTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India,

*To all whom these presents shall come, or whom the same may in anywise concern—
Greeting:*

WHEREAS in and by an Order of Our Governor General in Council bearing date the seventh day of April, in the year of Our Lord one thousand nine hundred and five, provision has been made for an investigation by our Commissioner therein and herein-after named with respect to certain matters therein mentioned as upon reference to the said Order in Council, a copy of which is hereto annexed, will more fully at large appear.

NOW KNOW YE that by and with the advice of our Privy Council for Canada, We do by these presents nominate, constitute and appoint His Honour John Winchester, Judge of the County Court of the County of York, in the Province of Ontario, to be our Commissioner to conduct such inquiry.

TO HAVE, HOLD, EXERCISE AND ENJOY the said office, place and trust unto the said John Winchester, together with the rights, powers, privileges and emoluments unto the said office, place and trust, of right and by law appertaining during pleasure.

AND WE DO HEREBY, under the authority of the Revised Statute respecting inquiries concerning public matters, confer upon our said Commissioner the power of summoning before him any witnesses and of requiring them to give evidence on oath, orally or in writing, or on solemn affirmation if they are persons entitled to affirm in civil matters, and to produce such documents and things as our said Commissioner shall deem requisite to the full investigation of the matters into which he is hereby appointed to examine.

AND WE DO HEREBY require and direct our said Commissioner to report to our Minister of Labour the result of his investigation, with the evidence taken before him, and any opinion he may see fit to express thereon.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed.—Witness: Our Right Trusty and Right Well-Beloved Cousin, the Right Honourable Sir Albert Henry George, Earl Grey, Viscount Howick, Baron Grey of Howick, in the County of Northumberland, in the Peerage of the United Kingdom, and a Baronet; Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, &c., &c., Governor General of Canada.

At Our Government House, in Our City of Ottawa, this eleventh day of April, in the year of Our Lord, one thousand nine hundred and five, and in the fifth year of Our Reign.

By Command,

(Sgd) P. PELLETIER,

For Under Secretary of State.

LETTER TRANSMITTING REPORT OF COMMISSIONER.

Toronto, May 16, 1905.

To the Honourable

Sir WILLIAM MULLOCK, K.C.M.G., M.P.,
Minister of Labour, Ottawa.

SIR,—I have the honour to transmit to you the result of my investigation as Special Commissioner appointed in the matter of the alleged employment of aliens by the Père Marquette Railway Company in Canada, together with the evidence taken before me.

I have the honour to be,

Sir,

Your obedient servant,

(Sgd) JNO. WINCHESTER,
Commissioner.

REPORT OF COMMISSIONER

TORONTO, May 16, 1905.

To the Honourable

Sir WILLIAM MULOCK, K.C.M.G., M.P.,
Minister of Labour,
Ottawa.

SIR,—I have the honour to report that on April 21, 1904, I received the Royal Commission issued to me bearing date April 11, 1904, authorizing me to ascertain the name, nationality, nature and time of employment, remuneration, and actual *bona fide* residence at the time of employment of alleged aliens employed by the Père Marquette Railway Company upon that portion of the company's lines operated in Canada, and also the names of all Canadians or *bona fide* residents of Canada who have been in the employ of the Père Marquette Railway Company in Canada, and who have been discharged, or have left the company's employ on account of such importation of aliens.

I immediately arranged to enter upon the inquiry, and appointed Monday, the 24th day of April, 1904, at 12 o'clock noon, at the Court House, in the City of London, Ontario, for the commencement of such inquiry, and forwarded the following notice for publication to the *Advertiser* and *Free Press*, London, Ontario, with instructions to have the same inserted in the first issue of the newspaper after receiving the same:—

'As Commissioner appointed by the Government of Canada to inquire into the names, nationality, nature and time of employment, remuneration and actual *bona fide* residence at the time of employment of alleged aliens employed by the Père Marquette Railway Company on their lines operated in Canada, and also as to the names of all Canadians or *bona fide* residents of Canada who have been in the employ of the said company in Canada, and who have been discharged or have left the company's service on account of such employment of aliens, I hereby give notice that on Monday, the 24th day of April, 1905, at 12 o'clock noon, at the Court House, in the City of London, I will commence such inquiry, and continue the same at the said city and at the City of St. Thomas, and other places, as may be announced.

'Information from any person in a position to give testimony in regard to the matter of inquiry is respectfully invited.

'All communications should be directed to me in care of Albert O. Jeffery, Esq., K.C., London, Ont.

JOHN WINCHESTER,
Commissioner.

'TORONTO, April 21, 1905.'

At the hour appointed, I opened the inquiry in London, accompanied by Mr. A. O. Jeffery, K.C., counsel for the government, who attended during the whole of the inquiry. Mr. Edgar Britton, the district passenger agent of the Père Marquette Railway Company at London, was examined, and I then adjourned the inquiry until the next morning, to be continued at the Court House in the City of St. Thomas, I having

4-5 EDWARD VII., A. 1905

previously forwarded subpoenas to the various officials of the Père Marquette Railway Company in St. Thomas, and other witnesses that I desired to examine there.

Pursuant to the said adjournment, I resumed the inquiry at the Court House, St. Thomas, at 10 a.m., but at the request of Mr. Pyeatt, the divisional superintendent of the Père Marquette Railway Company in Canada, I adjourned same until two o'clock in the afternoon to enable Mr. Coburn, counsel for the Père Marquette Railway Company, to attend. At two o'clock in the afternoon, Mr. Coburn had not arrived. I waited until three p.m., when, at Mr. Pyeatt's request, Mr. Coburn still not having arrived, I entered upon the inquiry, examining the following witnesses that afternoon, namely: John Samuel Pyeatt, divisional superintendent; Everett E. Cain, train master; James R. Gilhula, chief despatcher; Owen C. Leseur, civil engineer; George M. Osborne, instrument man; Stewart Austin, shop foreman at Walkerville; Benjamin Knight, formerly despatcher; John W. O'Laughlin, stenographer, and Rowland John Foreman, chief clerk to Mr. Pyeatt. Mr. Coburn was present during the examination of these witnesses other than Mr. Pyeatt and Mr. Cain.

On April 26 the following witnesses were examined by me, namely: Owen McKay, formerly civil engineer; William W. Meadows, formerly instrument man; Miss Amy McLean and Miss Edna Steel, formerly stenographers of the company; and R. E. Tuller, Charles Franklin Shoemaker, Frederick Arnum, Edwin J. McMillan, Owen Hales, John McManamy, Werner C. Groening, Walter Henry Cole, William L. Hunker, A. J. Dawdy, George Penney, Charles Welch, Edward Allen, all employees in the service of the railway company at the present time; and at the request of Mr. Coburn, the following witnesses were examined on behalf of the company: Edward F. McCarthy, James L. Eberts, Trewin A. Gilbert, Robert Wardell, William Chamberlain, George Gubb, employees in the service of the company, and also at Mr. Coburn's request Mr. Pyeatt and Mr. Cain were recalled and examined by him. On the following morning, April 27, I examined William Woollatt, the former superintendent in Canada, and recalled Mr. Cain, but ascertaining that he left that morning to attend some business in London, I followed him to that city, and examined him in the Père Marquette office in London. Mr. Coburn did not attend the inquiry on April 27, although he was present when we adjourned the previous day, until April 27, and was aware the inquiry was to be proceeded with on that day; he, however, stated that he would be unable to be present, but did not ask for any adjournment of the inquiry. I also examined Mr. W. A. Kirkpatrick in Toronto on April 30, and produced him for cross-examination on May 15, instant, when Mr. R. H. C. Cassels attended as counsel on behalf of the railway company. On the said May 15, I also examined Mr. Keith R. Cameron, formerly train master of the Père Marquette, and Mr. L. E. Tillson, formerly agent at Chatham. During the examination of all the above witnesses, with the exception of Mr. Britton, counsel appeared on behalf of the Père Marquette Railway Company and took part in the examination of the same, except as above mentioned.

Condition of the Railway in Canada Subsequent to Acquirement of Same by the Père Marquette Railway Company.

The evidence shows that the Père Marquette Railway Company obtained control over the following Canadian Railways, namely: The Lake Erie and Detroit River

SES

Ra
seq
the

Pèr

Jan

Car

mec

Ber

Wa

and

con

grea

with

busi

not

supe

divi

to t

pow

train

puts

to h

tion

for v

me t

track

the r

ings

mana

gave

vice

the la

they

It wa

prosti

my te

year.

things

SESSIONAL PAPER No. 36c

Railway, the Erie and Huron, and the London and Port Stanley Railways, and subsequently obtained running powers over the Michigan Central from St. Thomas to the Niagara frontier. These railways were then called the Buffalo division of the Pèrè Marquette Railway system. At the time of obtaining such control, namely, in January, 1902, Mr. Woollatt was manager of the system in Canada, Mr. Keith R. Cameron, train master; Mr. Owen McKay, civil engineer; Stewart Austin, master mechanic; Fred. Arnum, and Messrs. Black and Kirkpatrick, train despatchers, with Benjamin Knight as relieving despatcher. The headquarters of the system was at Walkerville. The condition of the road at that time was good, having sufficient power and facilities to handle its local business. Subsequent to the Pèrè Marquette taking control, a through business was instituted, and this with its local business required greater power and more facilities than the company were able to supply the division with. The shops were insufficient to take care of the power, and there was more business than the power or the facilities of the road would accommodate. There were not sufficient sidings nor sufficient water supply. Mr. Woollatt, who was appointed superintendent of the division, which was then for the first time called the Buffalo division, applied to the management of the railway company for assistance from time to time. The needed help was not forthcoming, and in consequence of the lack of power and water, and want of other facilities the business became congested, and the trains were not managed with proper expedition. Mr. Woollatt in his examination puts it in this way: 'The whole trouble was, the through business was put onto us to handle before we had proper facilities for the handling of it. I think that condition existed on the entire Pèrè Marquette system, as much on the other side as this, for when I asked for power to move the business, the general superintendent informed me that they were just as hard up for power on the other side as they were on this.'

'You did everything you could in order to get the power?—A. Yes, sir.

Q. Did you apply more than once?—A. Yes, frequently, and for sidings, passing tracks, as far back as, well, early in 1902.

Q. And continuously up to the time you left the service?—A. Yes, sir, went over the road with the former superintendent, Mr. A. M. Smith, laying out where the sidings should be, but they were not forthcoming.

Q. What was the reason for that?—A. I do not know, that would be with the management.

Q. You had no control over that?—A. No, I could not spend money till they gave it to me to spend.

Q. Were there any complaints to you about the manner in which the service was being carried on by the management?—A. No, sir, except that because of the lack of power we would be asked why we did not move certain business.

Q. Your answer was forthcoming?—A. That we required the power to move it.

Q. And they did not come to your assistance?—A. They could not furnish it, they had not it.

Q. I understand this want of power was a very distracting thing to yourself?—A. It was, it caused my nerves to give out, and I had to resign on that account, nervous prostration.....the vice-president and general manager put it in the manner of my taking the railroad to bed with me.

Q. I suppose you did?—A. A good many nights I did not sleep because of it.

Q. When was it you put in your resignation?—A. Early in November of last year.

Q. What led up to that?—A. The doctor's advice that I must do one of two things, either quit worrying or quit railroading.

Q. Had not the management come to your relief up to that time ?—A. As far as they were able to, but not sufficiently.

Q. You were quite able with the facilities you had to attend to the local traffic?—A. Quite so.

Q. But with their taking charge and connecting with their own traffic in the United States and making it a through traffic, the facilities were not equal to the demand ?—A. That is it, sir ; they sent over some 15 large engines which were not sufficient to handle the through business.

Q. Had you a sufficient number of employees under you to handle the business ?—A. Yes, sir, that is the local business.

Q. Yes ?—A. Quite so.

Q. And the through business ?—A. Yes, sir.

Q. Did you receive any notification that your services would not be required further ?—A. No, I was advised by my general superintendent to take a long rest, and when I was fit to come back to railroading they would have a position for me.

Q. When did he advise you to do that ?—A. In November, when I talked to him about my resigning.

Q. Did you follow his advice ?—A. I have taken a good long rest.

Q. Then who succeeded you ?—A. Mr. Pyeatt.

Q. When ?—A. I think the circular appointing Mr. Pyeatt was on November 28.

Q. Of course they have no such cause for congestion since the new management took place ?—A. I believe they were just as badly congested last fall.

Q. Not since the first of December ?—A. No, the beet business is over before that, the first of January.

Q. Where could they (cars of beets) be stored ?—A. At Dresden, where there was a factory, and at Wallaceburg, where there was a factory, and some at other sidings, waiting movement, probably near 150 or 200 cars.

Q. Of course that was owing to the want of power ?—A. Yes, the want of power to move it.

That is really the prime reason ?—A. That is the kernel.

Mr. McKay, the civil engineer, said :—

‘Q. Could you give me the condition of the railway at the time the Père Marquette took it over ?—A. It was in good condition for local business, it was not equipped for trunk line.

‘Q. But good for local business ?—A. Yes.

‘Q. Is there any difference in the equipment for local and for trunk line ?—A. There is, it required heavier rails for trunk-line business, heavier engines and longer sidings and larger tanks, more of them.

‘Q. How about the power, was the power sufficient at that time ?—A. The power was fairly good for local business at the time the Père Marquette had taken over the road.

‘Q. I was told yesterday, I have no doubt it is perfectly true, that last December the power was in pretty bad condition ?—A. Yes.

‘Q. You were on the road at that time ?—A. Yes.

‘Q. What caused the bad condition of the power ?—A. Well, so far as my observation went, it was due to lack of sufficient engines to do the local work and through business, and they did not have at Walkerville the facilities for repairing the engines as fast as they were out of repair. The engines were taken into the shop at Walkerville and kept too long, and the engines that they had in service, a large number had been broken down because they were kept too long in the work, and they did not have other engines to take their places: the result was they did not have sufficient power to move their trains, both local and through.

‘Q. Whose fault was that ?—A. That would be the head management, as far as I could see.

SESSIONAL PAPER No. 36c

'Q. Was that the fault of the general manager or superintendent of that division?
—A. It was not the fault of the superintendent, because he had urged this matter so far as he had informed me, and so far as I know he had continually urged them on the other side, and called their attention to the lack of power to give efficient service.

'Q. It was not supplied at his request?—A. No.

'Q. You consider that was the real reason for the bad condition of the power when Mr. Pyeatt took charge?—A. Yes.'

Mr. Cameron, in his evidence as to the condition of the road, stated as follows:—

'Q. What was the condition of the road at that time?—A. It was very bad.

'Q. Why?—A. Well, we were experiencing all kinds of trouble for the lack of motive power. What motive power we did have in the service was not of much use to us. We had been very short of water for some time; in fact, we were running water trains from St. Thomas to Dutton filling up the tank night and day. Our sidings were not long enough for the crossing of through freight trains. The small shops that the railway company had at Walkerville, which were built to accommodate five or six engines, were required to attend to the work of twenty-five and thirty and thirty-five engines, and they were simply unable to repair engines in anything like the time that they should in order to put them in good service. At that time a general workshop was being built at St. Thomas, but it was of course no use to us; it was only in construction.

'Q. And there was no work going on inside of it?—A. No work going on inside at all. We were very badly handicapped; at times that an engine required anything like a general repair, instead of holding that power at St. Thomas, it was necessary to send it 127 miles west to Walkerville. There was a day lost, and a day lost bringing the power back to St. Thomas after it was put in shape for service.

'Q. Mr. Pyeatt says in his evidence that at the time when he took control over the road, he found it in a very bad condition indeed, and also that the trains were running very slow; can you account for that?—A. Trains were running slow on account of a great lack of power, and no water; that was the reason that trains were in awful bad shape. I never saw trains in such a shape myself until that time. Our trains were coming to water tanks, and perhaps two or three or four trains would get bunched together, when the second man would be unable to get water, and he would simply have to pull his fire, and, using a railroad phrase, he would "die" on the main line.

'Q. The engine would go out of business?—A. Go out of business. They would have to pull the fire on account of their being no water.

'Q. What efforts did you make to remedy all this?—A. So far as the water question was concerned, we hauled water from St. Thomas to Dutton night and day—had done that for over a month.

'Q. Why could you not have tanks built upon the different lines at different places?—A. We had tanks. I might say that between Ridgetown and St. Thomas we had two tanks, one at Ridgetown, and one at Dutton, one at St. Thomas also; but one tank between the two points, which is 43 miles. There should have been another tank.

'Q. Why was it not there?—A. I know that Mr. Woollatt, when he was superintendent, was after the Detroit people dozens of times for water tanks, but they were never forthcoming.

'Q. What about the power; why did you not get better and new power?—A. I know that Mr. Woollatt was after power as hard as he was after water. He was after power for days, but he never got it; and tracks and sidings. Mr. Woollatt was after sidings and he never got them, could not get them.

'Q. What Mr. Pyeatt said was that the trains were very late, running from thirty, forty and even fifty hours on a road 117 and 27 miles long; is that correct? Did it take that length of time to run that length of road?—A. At this time I don't recol-

4-5 EDWARD VII., A. 1906.

lect just how many hours it took some of the trains to run, but I rather fancy that Mr. Pyeatt in mentioning thirty, and forty and fifty hours must refer to some trains that would be standing on the main line dead, as I mentioned a short time ago, for the want of water—remaining there for hours before we would get another engine to them. We were so situated that when an engine died on the main line with a train, we would have to wait perhaps ten, twelve, fifteen and twenty hours before we could get a second engine to go after that train.

‘Q. And that was the cause of the delay?—A. That was the cause of numbers of delays, waiting for engines.’

Mr. Pyeatt, in his evidence, stated that when he took possession on December 1, 1904, the condition might be considered rather poor.

‘Q. A poor system, in what respects?—A. The power was in poor condition, that was the worst fault.

‘Q. What power?—A. The locomotives.

‘Q. In what way was that in poor condition?—A. It was just run down and needed repairs.

‘Q. In what condition were the other parts?—A. I should say not satisfactory.

‘Q. In what respects?—A. The trains were badly delayed, running very late, very long time on the road, and what caused that might create a difference of opinion. I do not know just what did contribute to all of it.

‘Q. After you took possession, I suppose you requested better facilities than what the former superintendent had, and better rolling stock, from the management?—A. I recommended some additional side tracks, which were put in, that I considered necessary.

‘Q. And also new engines, you made that recommendation?—A. That is a sort of chronic recommendation of a superintendent to recommend new engines.

‘Q. What did you ask for with reference to the running facilities of the road, can you tell me?—A. In a short time after I came here, I asked for two or three additional engines from the other side, they were not new engines.

‘Q. You have obtained six new engines since then?—A. Yes, sir, we have obtained six new engines very lately.

‘Q. That is within the last few months?—A. Within the last forty days.

‘Q. And you received other engines previous to that?—A. We received two engines at first and two a little later.

‘Q. And the work was done more expeditiously in consequence of that?—A. In consequence of the improved condition of the engines and cleaning up of the division, taking cars off side-tracks, and having a systematic way of leaving cars at terminal points where they may be got out by trains running in different directions so that they would not have to switch for several hours at one point to get their trains as they passed through.’

Mr. McManamy, the master mechanic for this division, appointed as such on or about the 30th November, 1904, gave the following evidence :—

‘Q. What condition did you find the power in when you came here?—A. It was not good by any means.

‘Q. All the engines run down?—A. Most of them were.

‘Q. Out of repair?—A. Yes, sir.

‘Q. What did you do in order to put things in better shape?—A. We increased the force and ran our shop nights, worked overtime, and so forth, to get the power into condition to give better service than was being given at that time.

‘Q. That increased the expenditure of money?—A. Yes, sir.

‘Q. As well as the number of hands?—A. Yes.

‘Q. The management in Cincinnati supplied you with all the necessary funds?—A. They supplied me with all I used, at any rate.

SESSIONAL PAPER No. 36c

'Q. Even all you wanted?—A. No.

'Q. How many new engines did they send over here?—A. There were four new engines sent some time in January, I believe; there were four engines but not new engines.

'Q. But they were good engines?—A. Yes, in good condition; they came here in the end of January for a short period of time, and all have been returned.

'Q. And any new engines put on the road since you came?—A. Yes, six new ones.

'Q. Where were they made?—A. At Dunkirk, New York.

'How much money has been expended in putting the power in fair condition by the bringing in of six new engines and repairing old engines?—A. Our pay-rolls run about \$17,000 per month. That, of course, could not all be attributed to putting the power in good condition; the only portion of it which could be attributed towards that would be the amount that is in excess of the pay rolls prior to the time I came here.

'Q. How much were the amounts of the pay-rolls prior to your time?—A. Between \$10,000 and \$11,000 per month.

'Q. Outside of the pay-rolls what would be the expenditure in connection with the power?—A. The engines that are sent here are worth about \$15,000 apiece, there were six of these.

'Q. What other expenditure?—A. There was considerable expenditure in the way of shops, but the shops were well under way but not in running order when I came here.

'Q. Machinery?—A. Yes, there has been some money expended for machinery; there have been only a few machines bought since I came here, the other machines had been purchased before that time, but they were not installed and were not in working order.

'Q. What would be the cost of them?—A. They will run from \$1,000 to \$3,000 each.

'Q. How many were there?—A. Seven or eight.

'Q. That would be about \$20,000?—A. Yes.

'Q. So that, with all that expenditure, you have been putting the road in pretty good order?—A. It is better, at any rate.

'Q. It could not have been put in good order without that expenditure?—A. Not with the facilities at Walkerville.

'Q. Nor with the facilities at St. Thomas, without the expenditure of that money?—A. No.'

In the examination of the witnesses produced by the railway company, namely, Mr. Eberts, Mr. Gilbert, Mr. Wardell, Mr. Chamberlain, conductors, and Mr. Gubb, engineer, they all stated that the improvement in the handling or the working of the road was largely through the improved condition of the power, one or two adding that the road was helped by the addition of sidings and water tanks.

Employment of Aliens.

Mr. JOHN SAMUEL PYEATT had been acting as chief clerk to the general manager of the Père Marquette Railway system, with offices in Detroit. He was appointed to succeed Mr. Woollatt as superintendent of the Canadian lines, or Buffalo division, on or about November 28, 1904, the appointment being made at Detroit by Mr. Trump, general superintendent of the Père Marquette Railway system. Pursuant to this appointment, Mr. Pyeatt went to St. Thomas from Detroit and entered upon his duties as superintendent, on December 1, 1904, and has continued ever since, receiving therefor \$250 per month and expenses. He admitted being an American citizen.

4-5 EDWARD VII., A. 1905

EVERETT E. CAIN, the trainmaster, is also an American citizen, and was appointed to that position by Mr. Pyeatt, and entered upon his duties on or about December 22, 1904. His evidence with reference to his appointment is as follows :—

'Q. When were you first spoken to with reference to the appointment ?—A. Well, Mr. Pyeatt was in St. Louis, I do not know just what time, I think the first time I talked to him about coming to Canada, was possibly in November, although he had no encouragement to offer me then. I told him I was going to be out of a position December first, and as I had been with those people, of course I naturally thought I could get a position with them again if they had anything. He knew of nothing then, he had not been appointed here at that time, but I told him after I was relieved there I would very likely come to Detroit, and I did ; I do not remember just what time but I came up there and came out to Blenheim and met him, and we talked over the matter, and I was approached about the position of train master at that time, and I told him I would accept it, and I went back home. I did not want to come here till the first of the year, but I did come a little earlier, I changed my mind and came up here. I left St. Louis December 21, I am pretty near sure, and I came right through over the Wabash to St. Thomas. I had transportation over lines—

'Q. Were you in the employ of the Père Marquette before that ?—A. No, sir, I was in the employ of the Missouri Pacific.

'Q. You knew Mr. Pyeatt at that time when you were on the Missouri Pacific ?—A. Yes.

'Q. For about seven years, I think he mentioned ?—A. Something like that ; we were school-boys together. He was down to St. Louis twice ; I spoke to him in November.

'Q. I thought it was first December ?—A. No, sir, I told him I would be out of employment about the first December.

'Q. When did you see him the second time ?—A. I do not know just what time it was in December.

'Q. In St. Louis again ?—A. Yes.

'Q. Did he offer you a position then ?—A. Yes.

'Q. As train master ?—A. He did not offer me a position exactly, only he told me to come up ; he mentioned a position and told me I might come up here and see him. I had nothing to do but do that, and I came up.

'Q. I think he said it was about the 10th or 12th ?—A. Possibly so, something like that. My position, I might say, ended after the first December. I was in charge of the World's Fair matter, and the fair was over December 1.

'Q. Let us see what was actually said at St. Louis about your coming here ?—A. When I first talked to him he had nothing in sight.

'Q. He was not appointed then himself ?—A. No.

'Q. Then in the second week of December you saw him there again ?—A. Some time along about then, I do not remember the exact date.

'Q. What was the conversation you had with him then—he had been appointed then ?—A. Yes, he thought he could give me a position, and told me to come up.

'Q. As train master ?—A. Well, I really believe at that time he expected to put me in as chief despatcher, yes, that position was open.

'Q. And because of that conversation you came over four or five days afterwards ?—A. No, it was a week or ten days.

'Q. Because of that conversation ?—A. Yes, I came here the 21st December and I was made train master instead of chief despatcher.

'Q. And because of that conversation with Mr. Pyeatt you came here and he employed you ?—A. Yes, sir.

'Q. And you received \$150 a month from the moment you took charge ?—A. Yes.'

Mr. Pyeatt, in his examination as to the appointment of Mr. Cain, had not been as candid as Mr. Cain was in giving his evidence. Referring to the resignation of Mr. Cameron, train master, he gave the following evidence :—

SESSIONAL PAPER No. 36c

'Q. Who had you appointed before his (Cameron's) resignation was in ?—A. No one.

'Q. Did you think of any one before that ?—A. I had in mind, yes, sir.

'Q. Did you apply to Mr. Trump with reference to it ?—A. I talked with Mr. Trump regarding it.

'Q. Suggest to Mr. Trump any one ?—A. Yes, sir.

'Q. About when ?—A. It was some time in the middle of December.

'Q. Some days before you asked for the resignation of Mr. Cameron ?—A. Yes, sir.

'Q. Who was it you recommended for the position ?—A. Mr. Cain.

'Q. Where was he at that time ?—A. He was in St. Louis at that time.

'Q. What position was he occupying ?—A. He had been with the Missouri Pacific and had resigned.

'Q. Long before that ?—A. I do not know how long, some time before, a week or two, I think.

'Q. Were you in communication with him ?—A. Not at that time.

'Q. How did you know he had resigned ?—A. He told me when I was in St. Louis.

'Q. You saw him personally ?—A. Yes, sir.

'Q. When did you see him in St. Louis ?—A. I think I was down there about the first part of December, the 10th or 12th December.

'Q. Did you speak to him with reference to coming to Canada then ?—A. He spoke to me about coming, and I told him I had no vacancy at that time but might some time.

'Q. How long had you been acquainted with him before that ?—A. Six or seven years.

'Q. Were you on the Missouri Pacific too ?—A. Yes, sir.

'Q. Then, did you write to Mr. Cain after speaking to Mr. Trump about him ?—A. No, sir.

'Q. How did you communicate with him ?—A. Mr. Cain came to Detroit or met me in Blenheim, came to Detroit first, and the people there sent him over to Buffalo division, or rather he came over the Buffalo division and met me at Blenheim, and I talked with him about it there, and in St. Thomas.

'Q. How did he get to know about it ?—A. He was not to my knowledge aware of any vacancy on the Buffalo division; he came over in search of employment.

'Q. When ?—A. I do not remember the date, somewhere in the middle of December, I should imagine the 15th or the 20th.

'Q. Cannot you get nearer than that ?—A. No, sir, not by memory.

'Q. Did you make any report to the Detroit office with reference to him ?—A. I talked to Mr. Trump about him.

'Q. How long was it after you talked to Mr. Trump before he came to see you at Blenheim ?—A. A week, I should imagine.

'Q. Then you saw Mr. Trump afterwards ?—A. Yes, sir.

'Q. And reported in favour of Mr. Cain ?—A. Yes, sir.

'Q. Can you give me any idea when you reported in favour of Mr. Cain ?—A. A very few days before his appointment.

'Q. At that time when you saw him in St. Louis, what positions were there that he could occupy under you ?—A. None vacant at that time.

'Q. What positions were there vacant or otherwise ?—A. Train master or chief despatcher.

'Q. That was the only position at that time in your division that you could give him that would be of service to him ?—A. Yes, sir.

'Q. Did you speak about that to him in St. Louis ?—A. The position of train master ?

'Q. Yes ?—A. I referred to the fact that I might have a vacancy in some depart-

4-5 EDWARD VII., A. 1905

ment, and if I did I would be glad to consider him either as chief desptacher or train master.

'Q. It was only as to these two you might have a vacancy—were those the two positions you mentioned to him?—A. Yes, sir.

'Q. In fact there were no other positions you could have control over that would suit him?—A. No, sir.

'Q. Then, in about three days afterwards he came over?—A. I cannot say in three days, within a week, I think.

'Q. Three or five days?—A. Yes, sir.

'Q. Had he an intuition that there was a vacancy to be provided for him?—A. He might have had.

'Q. How would he gather that?—A. When a man is out of employment he frequently gathers that intuition from vague insinuations.

'Q. Do you think you gave him that vague insinuation?—A. I might; I was very willing if anything should occur or come open that he would like to consider, to consider him for it, and told him so, if he were in search of employment and came over here.

'Q. Where was he living at that time?—A. St. Louis.

'Q. How long had he been living there?—A. About a year, I think.

'Q. A married man, I suppose, with a family?—A. Yes, sir.

'Q. You gave him transportation over to St. Thomas about the 20th December?—A. No, sir, he came over about the 15th or the 20th.

'Q. He was over here about a week before that?—A. Yes, sir.

'Q. To spy out the land and see the location?—A. To ask for employment.

'Q. Did he come to St. Thomas?—A. Yes, sir.

'Q. From Blenheim or from Detroit?—A. I met him at Blenheim.

'Q. And you brought him along?—A. Yes, sir.

'Q. He looked around and then went back?—A. Yes.

'Q. He went back home to St. Louis?—A. Yes, sir.

'Q. And then returned with his family?—A. He did not bring his family with him.

'Q. Not yet?—A. Yes, he did, his wife came back with him.

'Q. Mr. Trump approved of your report and he was appointed?—A. Yes, sir.

Mr. Cameron, in his evidence stated :

'Mr. Cain told me himself that he was in St. Thomas on the 29th day of November.

'Q. What doing there?—A. He told me that Mr. Pyeatt had sent for him, and he come to St. Thomas to look over the ground. While he was there he took sick, and he took a heavy cold, and he returned to St. Louis, and according to Mr. Cain's own words to me, that while he was in St. Louis sick Mr. Pyeatt had written to him six or seven times asking him why he had not replied to him, and saying that he was waiting for him to come. Mr. Cain further told me that before Mr. Pyeatt ever knew me or saw me or knew who I was, he made an arrangement with Mr. Cain to be his train master when he was appointed superintendent of the Buffalo division of the Père Marquette Railroad.

'Q. When did Mr. Cain tell you this?—A. Mr. Cain told me that on Sunday, the 25th day, last Christmas day, in his own office.'

And Mr. Tillson, in giving his evidence, said :—

'Mr. Cain, when he first arrived, of course he visited Chatham several times, very frequently, in fact—and speaking about the job as train master, he said that Mr. Pyeatt had been after him for some three months, I believe that was the term. He did not want to come at first. Of course, I might say on the start off, Mr. Cain and I were quite intimate and friendly, of course, and to all appearances we are yet.

SES

frie
this
thatsaid
20
had
at S
was
pate
Mr.
follo

despe

I did

perso

clerk
to asl

sir.

here

patch

gram.

stand
he knthe W
ducingO
quarte
of \$150

SESSIONAL PAPER No. 36c

Q. He says so; he says at the present time you are friendly with him?—A. Very friendly, but this was only about a week after he came there that he said that he had this place in view for some three months; in fact, Mr. Pyeatt had been after him for that length of time to come with him.'

JAMES R. GILHULA, the chief despatcher, is also an American. In his evidence, he said he was born in the county of Kent, about 40 years ago, leaving there when about 20 years of age, he became an American citizen some seven years afterwards, and had lived in the United States until appointed to the position of chief despatcher at St. Thomas in December, 1904, by Mr. Pyeatt, at a salary of \$110 per month. He was also on the Missouri Pacific for some 18 years as telegraph operator, train despatcher and chief despatcher, respectively. While in the United States, he applied to Mr. Pyeatt for a position. His evidence with reference to his appointment, is as follows:—

Q. You applied for a position to Mr. Pyeatt?—A. Yes.

Q. When was that?—A. That was about the 15th November.

Q. What position did you ask for?—A. I was asking for a position as train despatcher, or chief despatcher.

Q. You had known him five or six years?—A. Yes, sir.

Q. You knew of his appointment as superintendent of this division?—A. Yes, I did.

Q. And have you got a copy of the letter you wrote to him?—A. No, I made a personal application to him.

Q. Where?—A. At Detroit, at the time I applied to him.

Q. He was not then superintendent?—A. No.

Q. That was about the middle of November?—A. Yes.

Q. Why did you apply to him?—A. I knew him personally, and he was chief clerk for the general manager, and from our acquaintance, I naturally stepped around to ask him if he thought I could get employment over here in Canada.

Q. After he had been appointed superintendent did you write to him?—A. No, sir.

Q. How did you communicate with him?—A. He telegraphed me to come over here and see him, and he thought he could——

Q. Did he offer you a position?—A. Yes, he offered the position of chief despatcher.

Q. Did he state the salary?—A. I think it was \$110.

Q. You think he mentioned that?—A. I think he did, I have not got the telegram.

Q. What did you do upon receiving the telegram?—A. I think I replied——

Q. You accepted it?—A. I do not know as I altogether accepted it.

Q. What did you do?—A. I came over here to see him.

Q. Did you reply to the telegram?—A. Yes, sir.

Q. What was the reply?—A. I could not say the words, it gave him to understand I would accept the position. Naturally, I was anxious to come over here, and he knew that.

Q. Were you out of employment at that time?—A. Virtually so.

Q. Not doing anything?—A. Well, I was employed by the Wabash just during the World's Fair traffic there, and that was at an end at that time, and they were reducing their forces on account of it.'

OWEN S. LESEUR, assistant engineer in charge of the Buffalo division, with headquarters in St. Thomas, was appointed on the 20th or 22nd February, 1905, at a salary of \$150 per month and some expenses. He is an American citizen and succeeded Mr.

4-5 EDWARD VII., A. 1905

Harris, who was also an American citizen, and who replaced Mr. McKay, on or about the first December, 1904, Mr. McKay's services being dispensed with at that time. Mr. Leseur's appointment took place in Detroit and was made by Mr. Alfred, the chief engineer of the Père Marquette Railway system.

GEORGE M. OSBORNE, instrument man and leveller, is an American citizen, and under Mr. Leseur. He was appointed in Detroit by Mr. Alfred, chief engineer of the system, in the latter part of January, 1905, at a salary of \$80 per month. The headquarters of both Mr. Leseur and Mr. Osborne are at St. Thomas, where they have been ever since their appointment.

JOHN WILLIAM O'LOUGHLIN, stenographer, is an American citizen, and was living at Springfield, Ohio, when engaged by Mr. Pyeatt to come to St. Thomas as his stenographer. At the time of his appointment he was receiving \$50 a month in Springfield, but is now receiving \$60 per month in St. Thomas. His evidence as to his appointment as follows :—

'Q. To whom did you apply?—A. I applied to Mr. Trump.

'Q. He is the general superintendent?—A. Yes, sir.

'Q. You applied for a position as stenographer?—A. Yes, sir.

'Q. Where?—A. Some time last June I was in Detroit, and I saw him personally, that is, his clerk, and his clerk agreed to get me a position.

'Q. Who was his clerk?—A. Mr. Babbit. He looked up my record, and he said I could come and work for him, if I wanted to, but I changed my mind and went back to Springfield again, and in about January, in the first part of December, I wrote to Mr. Trump again and told him, if he could give me employment, I would accept it.

'Q. That was in December, was it not?—A. The first part of December last.

'Q. What did you hear, after writing Mr. Trump again?—A. Mr. Trump sent that letter to Mr. Pyeatt, I presume.

'Q. Why do you presume that?—A. Because I heard from Mr. Pyeatt.

'Q. Then, you got a letter from Mr. Pyeatt in answer to that letter?—A. Yes.

'Q. What were the contents of that letter?—A. It was a telegram, I think.

'Q. Do you remember what the contents were?—A. I could give you the substance, saying he understood I wanted a position, and to state salary, and so on.

'Q. What did you do in answer to that telegram?—A. I replied, saying I would hire for \$60 a month.

'Q. At that time you were receiving \$50—A. Yes.

'Q. Did you receive an answer to that telegram?—A. Yes, sir.

'Q. What was the answer?—A. The answer was, the substance, that he would give me a position here at that wage.

'Q. And you came in answer to that?—A. Yes.

'Q. When did you arrive?—A. I think it was on December 9.

'Q. You have been here since?—A. Yes.

'Q. Were you born in Springfield?—A. Yes, sir.

'Q. And how old are you now?—A. Twenty-five.

'Q. And an American citizen, I suppose?—A. Yes.'

JOHN McMANAMY, master mechanic of the Buffalo division, was appointed such about November 30, 1904. He had been working for the Père Marquette Railway Company at Grand Rapids, Michigan, as road foreman of engines, at a salary of \$150 per month. He was appointed to his present position while at Grand Rapids, Michigan. In his evidence as to his appointment, he says:

SESSIONAL PAPER No. 36c

'I was told they wanted me to come to St. Thomas; that was all there was of it; and when I asked the question, what rate of pay, they said it would be all right, we want you now to go to St. Thomas.'

And he accordingly left for St. Thomas, and has been there ever since, receiving \$175 per month as wages. He is an American citizen. He succeeded an American, Mr. N. K. Christie, who had replaced Mr. Austin, mechanical superintendent at Walkerville, at the time the Père Marquette took over the railroads that now comprise the Buffalo division. Mr. Austin was a Canadian and resigned his position in the fall of 1903, because of his increasing years. He is, however, still in the service of the company as foreman of the round-house at Walkerville.

CHARLES FRANKLIN SHOEMAKER, foreman of the boilermakers, was appointed on January 20, 1905. His evidence is as follows:—

'Q. By whom were you employed?—A. Mr. Stafford. (Mr. Stafford was then the general foreman of the shops in St. Thomas.)

'Q. Where?—A. Here, at St. Thomas.

'Q. How did you come to be here, in St. Thomas?—A. I had a friend here who was in charge of the shop.

'Q. Who was he?—A. Mr. W. H. Potter.

'Q. What position had he in the shop?—A. Foreman boiler man.

'Q. Did you write to him?—A. He wrote me a letter that he was transferred from this position here, this shop to Grand Rapids, and that there was a vacancy here, so I wrote to Mr. Kellogg and to Mr. Stafford about transportation, and when I got there I asked for the job, and he gave it me (Mr. Kellogg at this time was master mechanic of the Père Marquette system, having headquarters in Grand Rapids, Michigan).'

'Q. Have you the letter Mr. Potter wrote you?—A. No, sir; I burned it up, I think.

'Q. Where were you living at that time?—A. Terre Haute, Indiana.

'Q. You arrived here about what time?—A. On February 20.

'Q. Having received transportation from Mr. Kellogg?—A. Yes, sir.

'Mr. Kellogg sent it to Terre Haute?—A. Yes; I am a little ahead of my story there.

'Q. Just explain it?—A. I got a letter from Mr. Kellogg, and he said in the letter: "I inclose you transportation, Chicago to St. Thomas." I got the letter, but there was no transportation in it. He forgot to put it in. When I went to Chicago, I went to the freight office and got the transportation there at the general freight agents'.

'Q. On the Père Marquette?—A. Yes, sir.

'Q. Your wife and family came subsequently?—A. Yes, sir.

'Q. Did you get transportation for them, too?—A. Yes, sir.

'Q. What wages are you receiving?—A. \$85 a month.

'Q. What position do you occupy?—A. Foreman boilermaker.

'Q. You were born in the United States?—A. Yes.

'Q. And you are an American citizen?—A. Yes, sir.'

CHARLES H. SHOEMAKER, his son, was appointed by him about the 8th March, 1905. He also is an American citizen. The manner of his appointment is shown by the evidence of his father, Charles F. Shoemaker, as follows:—

'Q. Then your son also came here?—A. Yes, sir.

'Q. How did he come to get here?—A. Supposed he could get work here, and he asked me for a job, and I needed a man, and I put him to work.

'Q. That was in March, about the 8th March?—A. I do not remember what date it was in March, along the fore part of March.

4-5 EDWARD VII., A. 1905

SES:

'Q. How did he come to travel here?—A. I had spoken to Mr. Stafford about transportation for him on account of him being one of the family.

'Q. How old is he?—A. 21.

'Q. You required a boilermaker just at that time?—A. I did not exactly need a man, no, I did not speak to Mr. Stafford for him to come here to work.

'Q. What do you mean by not exactly, you could have put a boilermaker in there if you had so desired it; you could have found work for him?—A. I do not know, but what I might have had enough work that I could have put on more men if they had allowed any more.

'Q. When was it you wrote to your son about transportation?—A. I spoke to Mr. Stafford.

'Q. About what time?—A. Shortly after I came here.

'Q. Within a week?—A. I think it was about a week.

'Q. What was your boy doing?—A. He was working for the Pennsylvania Railroad Company at Terre Haute.

'Q. With the same company you had been working?—A. Yes, sir.

'Q. Then, in about a week you asked Mr. Stafford for transportation for your son to come here?—A. Yes.

'Q. And he arrived immediately?—A. About a week after, I think.

'Q. You sent him transportation?—A. Mr. Kellogg did.

'Q. And he arrived in consequence of receiving transportation?—A. Yes, sir.

'Q. And immediately he was put to work by you?—A. Not put to work until after he came here.'

WERNER C. GROENING, general foreman of the St. Thomas shops, was appointed March last, and has occupied that position since the 18th of that month, having been previously employed at the round-house in Detroit. He is an American citizen, and was in Detroit on the Père Marquette Railway at the time of his appointment to St. Thomas, having been there for six weeks only, and coming from Saginaw where he had been working in the shops of the railway company for some 18 years, where he received \$80 a month. He is now receiving \$110 per month. He was appointed to his present position by Mr. Kellogg, the general master mechanic. His evidence as to his appointment is as follows:—

'Q. How did you come to St. Thomas?—A. There was a position open, better pay.

'Q. Who told you about it?—A. Mr. Kellogg.

'Q. Mr. Kellogg at Grand Rapids?—A. Yes, sir.

'Q. Did he write to you or did you see him personally?—A. I saw him personally.

'Q. Where?—A. At Detroit.

'Q. He came to see you there?—A. Yes, sir.

'Q. What did he offer you?—A. He made no offer at all; he told me there was an opening here for advancement and he wanted to transfer me from Detroit to St. Thomas.

'Q. Did you write to St. Thomas then?—A. No, sir, I came to St. Thomas.

'Q. You came according to instructions?—A. Yes, sir.

'Q. Who gave you transportation?—A. Mr. Kellogg.

'Q. When was this?—A. The 17th March.'

Mr. McManamy, in his evidence referring to the appointment of Mr. Groening and Mr. Shoemaker, stated, "Mr. Groening was appointed by a bulletin issued in the St. Thomas shops. He was sent here by Mr. Kellogg for that purpose, and Mr. Kellogg appointed Mr. Shoemaker or Mr. Stafford employed him. That was done when I was not in the city, and when I came here I found Mr. Shoemaker working."

poin

gene

succ

Roya

pany

He h

tion

gave

ing n

Michi

then

quette

some t

10, De

tion as

Decem

the ma

I went

Michig

I saw t

worked

worked

The

and who

by the g

the serv

Ede.

on Octol

SESSIONAL PAPER No. 36c

'Q. Mr. Groening was appointed by Mr. Kellogg?—A. Mr. Groening was appointed by me and approved of by Mr. Kellogg; he was sent here by Mr. Kellogg.

'Q. He was sent here by Mr. Kellogg for appointment?—A. Yes, sir.

'Q. And Mr. Shoemaker was appointed as he said in his evidence?—A. Yes, sir.'

From Mr. McManamay's evidence, it appears that Mr. Stafford was appointed general foreman of the shops on or about January 8, and left on March 21, that he succeeded Mr. Royce, who had in turn replaced Mr. Bartlett, a Canadian, both Mr. Royce and Mr. Stafford being Americans. Mr. Bartlett left the service of the company in July or August, 1904.

WILLIAM L. HUNKER, storekeeper, was appointed on or about December 27, 1904. He had been employed in Oklahoma previous to that date, and had applied for a position from there, desiring to get nearer to his home, which is in Elkhart, Indiana. He gave the following evidence as to his appointment:—

'Q. Where were you employed on the Père Marquette?—A. The letter I got asking me to come to the road offered me the position of storekeeper at Muskegan, Michigan.

'Q. Where was that letter sent from?—A. From Mr. Atherton's office; he was then at Saginaw, Michigan.'

The evidence shows that Mr. Atherton was general storekeeper of the Père Marquette railway system at Saginaw.

'Q. He wrote to you from Saginaw?—A. Yes, sir.

'Q. To Oklahoma?—A. Yes, sir.

'Q. How did he come to write you?—A. I had filed an application with him some time before for a position. The letter I got from him told me to report to room 10, Depot Building, at Saginaw, Michigan. The first letter he wrote offered me a position as storekeeper at Muskegan.

'Q. When you got to him, what then?—A. I reached his office at nine o'clock, December 27, 1904. Mr. Atherton was not there, he was at Walkerville that day, and the man in charge, Mr. Minot, said he had instructions to send me to Walkerville, and I went down to Walkerville.

'Q. He gave you transportation?—A. Yes.

'Q. What wage had he offered you?—A. Sixty-five dollars a month at Muskegan, Michigan.

'Q. Who offered the salary?—A. He never said anything about what it was till I saw the pay-rolls—what it was going to be.

'Q. You were surprised in getting \$5 more than you expected?—A. Yes, sir.

'Q. In Walkerville, you took charge?—A. Yes, sir.

'Q. On the 28th December?—A. I got down there about 4.30 of the 27th, and I worked the rest of the afternoon and that evening.

'Q. Did you meet Mr. Atherton there?—A. Yes, sir.

'Q. He told you what to do?—A. Yes, sir.

'Q. You are an American citizen?—A. Yes, sir.'

The evidence shows that Mr. Hunker succeeded an American, who had absconded, and who succeeded a Mr. Colon, a storekeeper who had been appointed from Saginaw by the general storekeeper. Mr. Colon succeeded Mr. Knechtel, a Canadian, who left the service in September or October, 1904.

EDGAR BRITTON, district passenger agent at London, was appointed to that position on October 1, 1904, having been previously district passenger agent at Toledo in con-

4-5 EDWARD VII., A. 1905

nection with the Père Marquette railway. He was appointed by the general agent at Detroit and is an American citizen. He gave the following evidence:—

‘Q. I presume they paid your transportation here, you and your family, from there (Toledo)?—A. Yes, sir.

‘Q. What is the remuneration you are receiving now?—A. One hundred and twenty-five dollars per month and expenses.

‘Q. Was the office opened here at the time you reached here?—A. Yes.

‘Q. At the same place?—A. The same office.

‘Q. Who was in charge of it?—A. Mr. Thomas Marshall; he had the title of general agent; he had charge of both freight and passenger.

‘Q. He is still in the service of the Père Marquette?—A. Yes. His title has been changed to division freight agent, too much for one man to look after.

‘Q. When was the office established in London?—A. April 23, 1904.

‘Q. With Mr. Marshall as general agent?—A. Yes, sir.’

In addition to the above, who are all American citizens, and were appointed to the positions they severally occupy while residing in the United States, I examined several others who had been appointed to their positions immediately upon, or shortly after, their arrival in St. Thomas from the United States. The evidence, however, fell short of showing that they came within the Alien Labour Law. I refer to the cases of Harry E. Tuller, Edwin J. McMillan and Angus R. McIntyre. They were acquainted with one or more of the officials of the road, and at their request received transportation from the United States to St. Thomas.

Canadians who were Discharged or who Left the Company's Employ on Account of the Importation of Aliens.

The evidence shows that the following Canadians were either discharged or left the employment of the Père Marquette Railway Company in consequence of the importation of aliens, namely:—Keith R. Cameron, trainmaster; Owen McKay, assistant engineer; Benjamin Knight, train despatcher; W. A. Kirkpatrick, train despatcher; Amy McLean, stenographer, and Edna Steel, stenographer.

MR. CAMERON'S CASE.

Mr. Pyeatt gave the following evidence as to Mr. Cameron:—

‘Q. Did you complain to Mr. Cameron of the difficulties that the system was under?—A. Yes, sir.

‘Q. Did you merely specify particular instances, or did you state generally that the system was not up to the mark?—A. No, I complained of the time trains were making; they were very late, running from 30 to 40 and 50 hours on the road, 117 and 27 miles.

‘Q. Did you explain how that could be overcome?—A. I had my ideas as to how it should be overcome.

‘Q. Did you explain it to him?—A. Yes, sir.

‘Q. What did he answer?—A. He, of course, promised to do the best he could.

‘Q. And did he?—A. I have an idea he did.

‘Q. Did he improve it?—A. I do not think so.

‘Q. How often did you complain to him about the state of affairs?—A. From December 1 till the time he resigned.

‘Q. A dozen times?—A. A great many more than that.

‘Q. Why did he resign?—A. I suppose because he thought he could not bring about a condition that would be satisfactory.

SESSIONAL PAPER No. 36c

'Q. Did he say so?—A. No, sir.

'Q. Did you ask for his resignation?—A. Yes, sir.

'Q. When did you ask for it?—A. About December 20, I think, perhaps a few days later than that; it might have been a little earlier.

'Q. What led up to your asking for his resignation?—A. Because I did not think he was making an improvement as rapidly as he should.

'Q. From the first to the twentieth you complained to him over a dozen times as to the manner in which he was attending to his duties?—A. Yes, sir.

'Q. And there was no improvement, you considered?—A. Not at all.'

Mr. Cameron gave these statements the most unqualified denial. His evidence respecting the same is as follows:—

'Q. What did Mr. Pyeatt do with reference to the transportation that was under his jurisdiction at the time he was appointed?—A. He made no change.

'Q. Did he consult you with reference to transportation?—A. Not a great deal; very little.

'Q. Did he complain to you about the delay?—A. He did not.

'Q. Did he make any complaints to you at all about the manner in which the transportation was looked after?—A. He made no complaints to me whatever. He spoke to me on two or three occasions about the general operation, admitting that we were up against it hard, and that we would have to do the very best we could, knowing at that time that it was a very hard proposition, but no complaint was made.

'Q. No complaint was made to you with reference to the manner in which you were performing your duties?—A. No, Your Honour.

'Q. Are you sure about that?—A. I am.'

After reading the evidence of Mr. Pyeatt as above set out to Mr. Cameron, I asked him what he had to say about it, when he replied, "So far as complaints are concerned, Mr. Pyeatt is telling an untruth; and so far as suggestions are concerned, he made none of them to me."

'Q. Did he make any complaint as to your not disciplining the men under you sufficiently?—A. He did not.

'Q. Did he ever speak to you about the discipline of the road?—A. Never mentioned a word to me.

'Q. Did he ever mention to you about the handling of the cars at the different yards?—A. On three or four occasions Mr. Pyeatt went to Sarnia, and on his arrival there, he would wire me at St. Thomas to clean up the line. That was all very well; he knew as well as I did that I did not have the power to clean up the line.

'Q. That is, the engine power?—A. The engine power, yet he would wire me to clean the line up. If we had the power, it would have been a very easy matter to have cleaned the line up; that would be no trouble whatever, but at that time we were waiting for engine power at our St. Thomas and Walkerville shops, hours, sometimes days before we would ever get any.

'Q. What yards were there that were complained about more particularly or congested more particularly?—A. The only congestion that we had last fall was at Chatham and Wallaceburg with sugar beet cars. Every fall since the sugar beet industry has located on the Lake Erie line we experienced some kind of a block with sugar beets from the fact that our connections—the Michigan Central, the Grand Trunk, the Canadian Pacific Railway, and the Wabash—perhaps in one day would give us 100 or 150 cars, bunch them to us, and in that way would cause a block. Other reasons are that the sugar beet people would at times be unable to unload the number of cars that we would expect them to. We would run the cars into Wallaceburg, where we did not have one-half the room to hold cars, to store them, and in that way it would cause a block in our yards.

4-5 EDWARD VII., A. 1905

‘Q. What would you do in order to relieve the block?—A. Every train that we could put cars on to we did so; in order to relieve Chatham yard we would send our cars to points between Chatham and Wallaceburg to store them on the side tracks in order to get them out of Chatham, get them away from there, make room for them. The cars then would remain until the Wallaceburg sugar people were in shape to take them, although I might say they always were very good in doing their share of the unloading, in helping the railway company out. Last December about the 6th of the month, Mr. Pyeatt wrote me to go to Wallaceburg to give my personal attention to the handling of sugar beets. I spent about 9 or 10 days there. You will understand from that, Your Honour, that while I was closed up in Wallaceburg giving my whole attention to the handling of sugar beets, according to Mr. Pyeatt’s instructions, I was unable to look after my trains on the road in general. After Mr. Pyeatt took charge even on the 1st December, on the 28th day of November, up to the time that he asked me for my resignation, which was on the 22nd day of December, deducting the 9 or 10 days from that that I was at Wallaceburg, would not leave me much time.

‘Q. Could another official have done the duties at Wallaceburg quite as well as you?—A. Well, we had no other official that could have been sent there, although a man could have been sent there to have performed those duties. It was a matter of seeing that the cars were handled properly. Of course, so far as Wallaceburg is concerned, on my own account I would certainly have paid them a visit; I would not have remained there 9 or 10 days straight, if it had been left to me. I would perhaps have gone to Wallaceburg to-day, remained to-day and get things in as good shape as I possibly could, and trip off there to-morrow night perhaps or the morning afterwards and put in three or four hours, and dodge around here and there. My way of working was to cover as much of the ground as I possibly could during the day, using every train possible.

‘Q. But Mr. Pyeatt’s instructions were urgent, that you were to remain there for how long—for all the time that you were working?—A. He asked me to remain there until the sugar-beet season was over with.

‘Q. Did he know how long that would continue?—A. He knew it would be something like two or three weeks. If I had remained at Wallaceburg until the end of the sugar-beet season, a letter from Mr. Pyeatt, no doubt, would have been sent to me at Wallaceburg, asking for my resignation.

‘Q. What letter do you refer to now?—A. On December 22, I was out on the line. I went from St. Thomas to Walkerville, Walkerville to Chatham; it was then my intention to go from Chatham to Sarnia. About thirty minutes before the Sarnia train arrived I received a telegram from Mr. Pyeatt, at St. Thomas, advising me to come to St. Thomas to-night. I went to St. Thomas. On my arrival there, I found a letter on my desk marked “Personal.” I opened it; it was from Mr. Pyeatt. He said: “I believe the discipline of this division requires a change in trainmasters. Please let me have your resignation, to take effect January 1, 1905.” At that time Mr. Pyeatt, Mr. Cain and Mr. Gilhula were in Mr. Pyeatt’s office. I started to go to see Mr. Pyeatt. When I found that he was engaged, I made up my mind I would wait longer to ask him what his message had reference to. I thought perhaps he wanted to see me about something else, although I had a very good idea why he called me in. But while I waited, the three of them had left there, shortly after that, so that I had no chance to talk to him that night.

‘Q. Then, when did you see Mr. Pyeatt after that?—A. This was on a Thursday night. Mr. Pyeatt was away from the office on Friday and Saturday. I took a walk down to the office on Sunday morning and saw Mr. Pyeatt. My first remark was, “Well, I am out of it,” and he said, “Have you anything in sight?” I said, “The time has been very short for me to find something in sight.” He says, “Well, I am sorry.” I says, “Yes, perhaps.” I then said to him, “Mr. Pyeatt, for my own information, outside of the contents of your letter to me that the discipline of the division requires a change, were my services satisfactory? I would like to know.” He says, “Well, so far as I know, they were; of course, I have not known you a great

SESSIONAL PAPER No. 36c

while, but from what I understand, your services have been." Then I said, "Your only reason for asking me to resign is, that the discipline of the division requires a change—that I have not been hard enough after the men?" He says, "No, you have not." I said, "I thought I had got after the men as hard as I felt proper; I have always been able to get good work out of my men at all times."

'Q. Had he, before that, complained to you that you were not hard enough on the men?—A. No, Your Honour, he did not; he never mentioned discipline.

'Q. Did he suggest how you could become harder on the men than you were?—A. No, Your Honour, he did not.

'Q. And he gave you no other reason for demanding your resignation?—A. Nothing whatever.

'Q. What did you do upon receiving that letter and hearing that conversation?—A. Well, it always being my duty to carry out the instructions of my superior officer, I wrote out my resignation on the following day.

'Q. And you left there?—A. I left there. I was through there on the last day of December.

'Q. So you had a little more than a week's notice of dismissal?—A. Yes.

'Q. Was Mr. Cain there at that time?—A. I believe he arrived there that day. I might say, that after receiving Mr. Pyeatt's letter, on December 22, about half-past ten at night, or, at least, the following morning, about eight or half-past eight, I saw a circular announcing my resignation, and that Mr. Cain had been appointed on the above date, which was December 22.

'Q. Have you got that circular?—A. I have.

'(Circular produced as follows):—

"PÈRE MARQUETTE RAILROAD COMPANY—BUFFALO DIVISION,

"St. THOMAS, December 22, 1904.

"Circular No. 1.

"Effective this date, Mr. E. E. Cain is appointed trainmaster, vice Mr. K. R. Cameron, resigned.

"Office at St. Thomas.

"J. S. PYEATT,

"Superintendent.

"Approved.

"W. O. TRUMP,

"General Superintendent."

"Therefore, on that day there would be two trainmasters.

'Q. This had been printed before you found the letter asking for your resignation?—A. It must have been.

'Q. Because you received your letter when?—A. On the night of the twenty-second, and that circular was distributed the following morning. It was out, distributed among the employees.

'Q. And when did you resign?—A. On the 23rd day.

'Q. So that your resignation was not in at the time this circular was being distributed?—A. No, it was not.

'Q. Mr. Trump lives at Detroit?—A. Yes.

'Q. So that if he signed this he must have signed it before you got your letter demanding your resignation?—A. He must have. He must have approved of it before that.

'Q. They paid you your salary up to the end of that month?—A. Up to the end of December, and they paid me half a month extra. I asked for a month's salary in advance. They refused that. I wrote them the second time, stating that I thought I would be entitled to it, that I considered that I was discharged. They then said that they would not give me the month's salary, but on account of my long services they would gratuitously grant me half a month's salary.

4-5 EDWARD VII., A. 1905

'Q. What were you receiving at that time?—A. \$125 a month. Mr. Cain, I understand, was appointed at \$150 a month; he told me that he was to get \$150 a month.

'Did any complaint come from any source at all as to your work on the road after the American management had taken charge of the Canadian system?—A. I never heard any.

'Q. Did any of the management commend your work?—A. Yes, Your Honour, Mr. Trump, who is now general superintendent, and at the time that I am about to mention he was assistant general superintendent. It was some time in October last, we were running at that time fast beef trains from Chicago to the Bridge and Buffalo via Detroit, and the management decided to divert the freight via Port Huron, give it a trial, see what kind of a run we could make. During the time since the Père Marquette took hold of the Lake Erie, Mr. Trump has spent a great deal of time on our division, so that he knew it pretty well. Well, the first two trains that came to us I was wired to by Mr. Trump to meet him at Sarnia. He left Sarnia on the Suspension Bridge beef train, and he told me to leave on the Black Rock beef train, which would be about an hour behind him—that is, both of us would be on hand on each train to see that everything would be all right. We made very good runs, and he waited for me at St. Thomas that night; it was somewhere around midnight, and he told me that he had no criticism whatever, that everything was going along very well on this division, and he advised me to keep things going in good shape. He says "keep after it, and keep things going, and everything will be all right." I felt very much encouraged, and I remembered that.

'Q. When was that?—A. This was some time in the latter part of September or the first part of October last year.

'Q. After leaving the service in December last, what have you been doing?—A. I remained here until the 11th of April last, then I went west to the Canadian Pacific Railway and engaged with them as an operator.

'Q. You are now with the Canadian Pacific Railway as operator?—A. With the Canadian Pacific Railway as operator, doing relief work between Fort William and Winnipeg.

'Q. At what salary?—A. At \$60 a month.

'Q. So that you are reduced from \$125 to less than half of that?—A. From \$125 to \$60. I might say that the monthly salary is \$55; then what makes the \$60 is overtime on Sundays. Getting overtime it makes it \$60.

'Q. So that it has been a rather severe punishment to you because you were a Canadian?—A. It has. It is quite a big drop, but I made up my mind that I would have to buckle right down and start over again.'

In his cross-examination by Mr. Cassels, Mr. Cameron gave the following evidence:—

'Q. Do you think that it (the business) could have been any better handled by anybody else than by you?—A. I don't think so. I might say that Mr. Pyeatt and Mr. Cain and Mr. Gilhula admitted to me that we were up against the hardest proposition they ever saw, and that they wondered—Mr. Cain himself particularly wondered—that we ever got along nearly as well as we did; and a good railroad man would have seen for himself the condition of affairs.'

Mr. Cameron subsequently said that, in talking to Mr. Pyeatt, 'he admitted to me that Mr. Cain was a personal friend of his, and that he understood his way of working, and Mr. Cain understood his method of working, so that in that way he desired to have him come over here as a trainmaster for himself.'

The evidence of Mr. Woollatt, who had been superintendent prior to Mr. Pyeatt's appointment; of Mr. McKay, assistant engineer of the road, and of Mr. Tillson, agent at Chatham, as also the conductors examined on behalf of the railway company,

SESS

show

comp

actio

and

thing

his p

a sm

mote

and l

becan

being

sonal

super

appoi

would

be m

they

and t

the p

sir.

consti

mer, t

would

duty

work.

how l

been a

in the

hold b

assista

days b

Novem

with t

Decem

By

lieving

Gillul

month.

SESSIONAL PAPER No. 36c

showed that Mr. Cameron was well qualified for the position he occupied, and that no complaint had ever been made with respect to the performance of his duties, or to his actions.

Mr. Tillson, in his evidence, said: 'I was there when Mr. Cameron came there, and I have known Mr. Cameron's services from a boy up, and I can corroborate everything that he said.

'Q. You never heard any complaints whatever being made as to the manner of his performing his duties?—A. None whatever. Mr. Woollatt always considered him a smart trainmaster and despatcher and stenographer, or else he would not have promoted him. We always got along with him first rate.'

Mr. OWEN MCKAY.—Mr. McKay was formerly chief engineer of the Lake Erie and Detroit River railway, and, upon the Père Marquette obtaining control of same, became assistant engineer on March 1, 1904. He was dismissed, no fault whatever being found with him or his work. He gave the following evidence:—

'Q. When was it you left?—A. On November 26. Mr. Alfred informed me personally, in his office in Detroit, that the general manager had decided on removing the superintendent's office and the assistant engineer's office to St. Thomas, and they had appointed Mr. Harris as assistant engineer in my place, that the duties of the office would be somewhat different from what they had been under my care; the plans would be made in Detroit, and new construction work would be managed from Detroit, and they expected the assistant engineer in future to look after maintenance, to be outside and take active care of the work outside, and they decided on putting a new man in the position.

'Q. Were you qualified to do the work they required?—A. I thought so.

'Q. They did not ask you whether you would remain with them or not?—A. No, sir. Mr. Alfred told me I could keep my old office in Walkerville and finish up all construction work, and if any new construction work would come up during the summer, they would probably be able to give me a good deal of it, and the assistant engineer would have charge of the maintenance.

'Q. Were there any complaints about the manner in which you performed your duty at that time?—A. No; Mr. Alfred told me he was very well satisfied with my work.

'Q. What notice, then, was there given to you of your being relieved from duty; how long notice was there given of your being relieved from duty?—A. It must have been about the 22nd November that Mr. Alfred told me there would likely be a change in the engineering office in Detroit which would affect me, he thought, but he would hold back that change as long as possible. On the 26th November he informed me my assistant was appointed.

'Q. Who was the assistant?—A. Mr. Harris.

'Q. Your salary ended at the end of November?—A. At the end of November.

'Q. What was your salary at that time?—A. \$195 per month.

'Q. That ended, then, in four days after you got notice to leave?—A. Yes.

'Q. Was there any notice given to your subordinates; to the staff?—A. A few days before I received a notice—I have not the letter—it must have been about the 20th November, I think, if I remembr right, Mr. Alfred wrote me I would have to dispense with the services of Mr. Meadows, and perhaps one or both draughtsmen at the first December; the railway company had decided upon reducing expenses."

BENJAMIN KNIGHT: Mr. Knight has been acting as despatcher's operator and relieving train despatcher on the Père Marquette Railway Company until after Mr. Gillhula, the chief despatcher, was appointed. He was receiving at that time \$60 per month. He gave the following evidence:

4-5 EDWARD VII., A. 1905

Q. How did you come to leave the service?—A. I was dissatisfied with the way in which they were using me.

Q. In what way were they using you?—A. Taking me from a regular trick and offering me a position lower than my present wages.

Q. They were taking you from that and placing you where?—A. As agent or operator wherever I wanted to go on the road.

Q. Away from home?—A. Yes, sir.

Q. At what wage?—A. \$45.

Q. What was the reason for their doing that?—A. They claimed I was not up to the standard, causing delays of trains.

Q. Was there any real cause of their making such complaints against you?—A. There might have been one or two cases, not more than that.

Q. Both Mr. Cain and Mr. Gilhula were not there until after the 20th December at least, would that assist you in trying to find out when they complained to you?—A. I received my notice on January first that my work was unsatisfactory.

Q. From whom did you receive that notice?—A. Mr. Gilhula.

Q. Had he given you any cause for complaining about your unsatisfactory work?—A. Never had.

Q. Never mentioned any complaint?—A. No.

Q. Had he reason for making any complaint?—A. Well, I cannot say that the bad; I thought I was doing my work equal to the other men.

Q. How long have you been a despatcher?—A. I think practically the third or fourth month after I took service with the Lake Erie people I was appointed relieving despatcher. I worked on the Michigan Central at Niagara Falls as train despatcher for ten years.

Q. And you took charge at Ridgetown about two years ago?—A. Nearly, April 26, 1903.

Q. Had you any complaints made against your work during any portion of that time?—A. Never.

Q. Any accidents occasioned through your negligence?—A. None whatever.

Q. So that during all that time your acting as despatcher gave satisfaction to those employing you?—A. To the satisfaction of Mr. Woollatt, Mr. Cameron, Mr. Bailey and Mr. Arnum, as I worked under them.

Q. What about the Michigan Central, did you give satisfaction to them?—A. I did.

Q. Who was placed here in your stead?—A. Mr. Kirkpatrick.

Q. How long had Mr. Gilhula been there when he placed Mr. Kirkpatrick in your position?—A. Mr. Kirkpatrick took my place on January 2.

The evidence of Mr. Cameron, the former trainmaster, and of Mr. Arnum, who acted as chief despatcher prior to Mr. Gilhula's appointment, showed that they considered Mr. Knight a qualified train despatcher.

WILLIAM A. KIRKPATRICK.—Mr. Kirkpatrick succeeded Mr. Knight, and is a Canadian, and had been acting two and a half years as despatcher previous to his resigning. He gave the following evidence:—

Q. What was the reason that caused you to resign?—A. We were not receiving proper treatment from our officials.

Q. Which ones?—A. Mr. Gilhula especially.

Q. In what way did they treat you improperly?—A. Regarding the delays occurring, he would not reason with me properly, I did not think. I showed him, on two or three occasions where delays could not be helped.

Q. At other times he found fault with you?—A. Yes, sir, different occasions; I cannot just state them, but I was not fairly treated, I don't think.

Q. Did you tell him so?—A. Yes, sir.

SESSI

that I
have
the o

that ;

M
resigr

M

stenog

were ;

to St.

intenc

they c

letter

seeing

respec

Thom.

Camer

D

pany c

he for

Act ha

(1

the me

way li

right t

the co

the co

superin

ter me

the ch

so on ;

compa

(2

tion, tl

sending;

(3

transpo

person

offence

(4

Canadi

pany, l

leaving

36

SESSIONAL PAPER No. 36c

'Q. What did he state?—A. He told me that he did not mean to say anything, that he was simply angry at something else at that time, but I did not think he should have accused me at the time of the delay, as the other despatchers and operators in the office were there, which did not look very well, when they knew the circumstances.

'Q. Was it in consequence of this fault-finding from time to time by Mr. Gillhula that you resigned?—A. Yes, sir, partly.'

Mr. S. J. Gary, an American, was appointed to succeed Kirkpatrick, but Gary resigned on April 19 and left the country.

MISSSES AMY McLEAN AND EDNA STEEL.—These young ladies had been acting as stenographers, the former since February, 1904, and the latter since August 9, 1904. They were in the superintendent's office at Walkerville until the headquarters were removed to St. Thomas. They came to St. Thomas on November 28. Mr. Pyeatt became superintendent on December 1, and they acted as stenographers for him for one day, when they discovered that Mr. Pyeatt was dissatisfied with their work and had written a letter to Mr. Trump, of Detroit, asking him to send him a man stenographer. Upon seeing this letter, they both left the service. They were receiving \$35 and \$25 a month respectively. Mr. O'Loughlin succeeded Miss McLean, and a young lady from St. Thomas was appointed to fill the position of Miss Steel. Both Mr. Woollatt and Mr. Cameron speak in the highest terms of Miss McLean's abilities and work.

Contention of the Pèrè Marquette Railway Company.

During the inquiry, Mr. Coburn claimed that the Pèrè Marquette Railway Company did not come within the provisions of the Alien Labour Law, and subsequently he forwarded a statement, on behalf of the company, in which he submitted that the Act had no application to the company, for the following reasons, namely:—

(1.) The company is a foreign corporation temporarily residing in Canada within the meaning of section 5 of the Act; that it has acquired an interest in certain railway lines in Canada by virtue of section 284 of the Railway Act, 1903, and has a right to take possession of, improve and operate such lines. The executive officers of the company are all residents and subjects of a foreign country, and the officials of the company in Canada are simply servants of their departments: Mr. Pyeatt, the superintendent, under the general superintendent; Mr. McManamy, the assistant master mechanic, under the master mechanic; Mr. Leseur, the assistant engineer, under the chief engineer; Mr. Hunker, the storekeeper, under the general storekeeper, and so on; that each was sent into Canada by his immediate superior in the service of the company outside of Canada.

(2.) He also contended that what the Act forbids is importation and immigration, that is, a bringing in by some person or corporation resident in Canada, not the sending in by a person or corporation resident in a foreign jurisdiction.

(3.) He admitted that the above-named persons and others were furnished with transportation into Canada, but that such transportation was not furnished by any person or corporation subject to this jurisdiction, and that, therefore, there was no offence committed in Canada.

(4.) He also submitted that there was no evidence of any discrimination against Canadians; that some Canadians were dismissed from, or left the service of the company, but in every case a good reason had been shown, and there was no ground whatever for assuming that the question of their nationality had anything to do with their leaving the service.

4-5 EDWARD VII., A. 1905

In my opinion, the contentions on behalf of the railway company are not well founded. The first section of the Act reads as follows:—

‘1. From and after the passing of this Act it shall be unlawful for any person, company, partnership or corporation, in any manner to prepay the transportation, or in any way to assist or encourage the importation or immigration of any alien or foreigner into Canada, under contract or agreement, parol or special, express or implied, made previous to the importation or immigration of such alien or foreigner, to perform labour or service of any kind in Canada.’

Findings and Recommendations.

It is shown in evidence that the Père Marquette Railway Company has acquired an interest and control of the railway lines formerly known as the Lake Erie and Detroit River Railway, the Erie and Huron Railway, and the London and Port Stanley Railway, all Canadian railways operating under the provisions of Canadian charters and subject to the laws of Canada; and that such control has been exercised since January, 1902.

It is immaterial whether the directors of the new road or the shareholders reside in the United States or elsewhere, that part of the railroad operated in Canada does not take upon itself the laws of the country where these gentlemen may happen to reside. The Père Marquette Railway Company as owners of, or having a controlling interest in these Canadian railways, must submit to and are amenable to the laws in force in Canada, so far as it affects these lines operated in Canada, and are, therefore, for the purposes of such lines, residents in Canada, and having, as admitted by their counsel, brought in officers and others, all residents and subjects of a foreign country at the time they were so brought into Canada, and who came into Canada under contract of service made previous to such importation or immigration, have violated the Act to restrict the importation and employment of aliens. These persons being citizens of the United States, a country that has enacted and retained in force laws or ordinances applying to Canada of a character similar to the above-mentioned Act, are subject to the provisions of our Act.

Section 5 of the Act referred to by Mr. Coburn does not apply to or help the Père Marquette Railway Company, as shown in the evidence; that section was passed to exempt private secretaries, servants or domestics of a foreign citizen or subject temporarily residing in Canada; and skilled workmen, engaged by any person, partnership or corporation in or upon any new industry not at present established in Canada, provided skilled labour for that purpose cannot be otherwise obtained, and also professional actors, artists, lecturers or singers, or to persons employed strictly as personal or domestic servants.

The persons employed by the Père Marquette railway in Canada above mentioned do not come within the above provisions.

I find the following officials and servants came into Canada, being assisted in the way of transportation from the United States to Canada, under contract or agreement, parol or special, express or implied, made previous to their importation or immigration, to perform labour or service in Canada, and that, in my opinion, they are liable

SESSIONAL PAPER No. 36c

to deportation by the Attorney General of Canada under the sixth section of the Act, namely:—John Samuel Pyeatt, superintendent; Everett E. Cain, trainmaster; James R. Gilhula, chief despatcher; Owen S. Leseur, assistant engineer; George M. Osborne, instrument man; John William O'Loughlin, stenographer; John McManamy, master mechanic; Werner C. Groening, general foreman; Charles Franklin Shoemaker, foreman boilermaker; Charles H. Shoemaker, boilermaker; William L. Hunker, store-keeper; all residing at the present time at St. Thomas, and Edgar Britton, district passenger agent, at present residing at London, Ontario.

The evidence shows conclusively that the positions filled by these men could be as well filled by Canadian citizens and British subjects. Mr. Pyeatt, Mr. McManamy, Mr. Leseur, Mr. Cain, Mr. Gilhula and Mr. Britton all admit that fact, and it is also shown in the evidence of Mr. Woollatt, Mr. Cameron, Mr. McKay, and others that Canadians and British subjects could be obtained to fill such positions. Mr. Pyeatt, when asked what efforts he had made to obtain Canadian officials, merely mentioned that he had applied to the Michigan Central and the Wabash railway for officers to fill some of the lower positions; but Mr. Woollatt in his evidence stated that he would not think of applying to those railroads, which were American. He gave the following evidence on that subject:—

'Q. From your very considerable experience as a railroad man, would you have any difficulty in filling all the positions I have referred to with Canadians?—A. No, sir, I would not.

'Q. Well qualified for the duties?—A. Perfectly.

'Q. And even if some of those resigned, you think you could have supplied their places with Canadians qualified and able to perform the duties satisfactorily?—A. Yes, sir.

'Q. Without any difficulty?—A. Yes, sir.

'Q. Would you go to the Wabash and Michigan Central to get men?—A. I think I would have gone to some roads having Canadians, such as the Canadian Pacific railroad, the Canada Northern, Canada Atlantic, Intercolonial, any other roads in Canada.

'Q. Not to the two American lines running through St. Thomas?—A. I think not.

'Q. You would not likely get Canadians there?—A. There are a number of Canadians there.

'Q. For these higher positions?—A. Probably not for the higher positions.

'Q. But you think there would not be any difficulty in getting them from the other roads, or even apart from the other roads?—A. Yes, sir.'

In my opinion, the policy of the present management of the Père Marquette Railway Company was to fill the higher positions with Americans, and, with that in view, they appointed Mr. Pyeatt and other officials to take charge of the work at St. Thomas, and Mr. Edgar Britton, district passenger agent, at London.

That there was a discrimination against Canadians is abundantly shown by the evidence. Immediately after Mr. Pyeatt was appointed, he appointed Everett E. Cain trainmaster, while Mr. Keith R. Cameron was acting as such, and had been so acting with satisfaction to the company and to his superior officers and the public.

Mr. Pyeatt, in his evidence, stated that he had complained to Mr. Cameron over a dozen times between December 1 and 20, 1904, as to the manner in which he was attending to his duties, and as there was no improvement by him, he had asked Mr. Cameron for his resignation.

4-5 EDWARD VII., A. 1905

I find upon the evidence that Mr. Pyeatt stated what he must have known was untrue when he made such a statement. He further stated that he had not appointed any one to take Mr. Cameron's position before his resignation was in; that statement was also incorrect, as Mr. Cain had been appointed before Mr. Cameron was requested to resign. He also stated that he had known Mr. Cain for six or seven years before his appointment, while Mr. Cain stated in his evidence that they were school-boys together, which, from their present age, must have been more than that number of years. He further stated that he saw Mr. Cain about December 10 or 12, 1904, about a position, when he told him that he had none at that time; while Mr. Cain stated that it was some time in November when he first spoke to him about a position, this being before Mr. Pyeatt was appointed superintendent; that the second time was about December 10 or 12, when he offered him a position, or, as Cain says, 'He told me to come up. He mentioned a position and told me to come up here and see him; I had nothing to do but do that.' I have no doubt whatever that Mr. Cameron's statement that no complaint was made by Mr. Pyeatt to him, as stated by Mr. Pyeatt, is true, and that Mr. Pyeatt had at or about the time of his own appointment agreed with Mr. Cain to appoint him to Mr. Cameron's position and carried out such intention before obtaining Mr. Cameron's resignation; and I hold that his actions toward Mr. Cameron, who is an intelligent, conscientious, capable and hard-working trainmaster, were unfair and unjustifiable and were for the express purpose of helping an American friend.

Mr. Pyeatt was also the means of appointing Mr. Gilhula chief despatcher, and Mr. O'Loughlin as stenographer. Mr. Arnum had been acting as chief despatcher, but the work being too heavy for him he asked to be relieved. Immediately after Mr. Gilhula's appointment portions of the work that had been done by the chief despatcher prior thereto were distributed amongst the train despatchers, thus relieving the chief despatcher from a portion of the work which Mr. Arnum had been doing as chief despatcher.

The evidence shows that both Mr. Pyeatt and Mr. Gilhula unnecessarily found fault with some of the subordinate officials, no doubt for the purpose of compelling them to resign their position so that their friends could be appointed. The cases of Mr. Cameron, Mr. Arnum, Mr. Knight and Mr. Tillson are in my opinion instances of such action.

The intention to discriminate against Canadians is, in my opinion, shown by the following evidence of Mr. Tillson:—

'Q. Was any general statement made (by Cain) as to what Pyeatt was going to do with the Canadian officials?—A. Well, he said, "We will have Gilhula here," Jim, he called him— and he says, "They will soon have more Missouri Pacific men here."

I have not entered into the question of whether the dismissals or resignations of the officials other than Mr. Cameron were proper under the circumstances set forth in the evidence, inasmuch as I find that even if they were not satisfactorily performing their duties others in Canada could be found to do the work as efficiently as any American, had an effort been made to appoint Canadians. I find no effort whatever was made to appoint Canadians for the positions now filled by Americans.

I have the honour to be,

Sir,

Your obedient servant,

JNO WINCHESTER,

Commissioner.