

## SESSIONAL PAPER No. 153a

The Commission resumed at 2.15 p.m. June 14th, 1912.

WALTER DUNCAN, Sworn, Examined by—

Mr. HODGINS: There are some papers which have been mentioned in this inquiry which I have not seen. Mr. Travers says he has seen during his examinations in the Police Court and the Assize Court some of them. I have asked you to come here to find out if possible if all the papers have been handed over that you know of or if you can suggest anywhere where they may have been. I will tell you two I am particularly anxious to get; one is a cheque for \$3,000 and the other is said to be a letter in Colonel Matheson's handwriting saying he had got a letter, but he had not made any promises to anybody to make any deposits in the Farmers Bank; and I think there are some other matters, but those two particularly I would like to know about? A. I remember a cheque for \$3,000 there was considerable talk between Mr. Travers and I about, that I wanted some explanation from Mr. Travers that I did not get at the time, and my recollection is that either on the stub in the cheque book or on the cheque there was the letter "C"; I remember a cheque for that amount.

Q. That letter has not been handed to me, and I have got everything Mr. Clarkson got, everything that you handed me on the opening of the Commission, but I cannot find among them any such cheque. A. That should be in existence somewhere, because I know that it was in my possession at one time.

Q. Can you suggest anywhere where it would be? A. It ought to be with the other effects of the bank; I do not see any reason for separating that one out from the other cheques. These documents went into so many different hands and they were used in different courts, but I do not think that this cheque was ever put in as an exhibit; it may have been, but I do not know.

Q. I have had Mr. Travers go over personally all the papers that are in my possession and have not been put in as Exhibits here, and that cheque is not among them, and if you cannot throw any light on where it may be we may not be able to find it? A. I have not the faintest idea where it is at the present time. Speaking for the Police Department, we have no exhibits of any kind with the exception of one or two that is in Dr. Beattie Nesbitt's case, but outside of that we have no books, papers or anything pertaining to the bank. It may be, of course, it went astray the same as that ledger, and it may be thrown down with a lot of other documents around some of the court rooms.

Q. Have you inquired from Mr. Corley as to those two documents? A. No.

Q. Did the late Mr. Baird have them in his possession as Crown Attorney? A. I rather think he had; there was a file of private letters from the bank premises, I think it was from Mr. Travers' desk or a little room just adjoining it, I would not be sure, in which there were a lot of matters leading up to some loans that the World newspaper got, and Mr. Baird did not have these, and they were papers that I would think were more confidential than public. And, with reference to the letter from Colonel Matheson, I am speaking just from recollection, but my recollection is that I discussed that letter with Mr. Travers here.

Q. Do you remember seeing a letter from Colonel Matheson? A. That is my recollection, but Detective Guthrie would remember more clearly than I would, with reference to that because although I was into the affairs to a certain extent he knew pretty much and had the handling of a great many of the documents that were in my possession.

Q. Could you send him up? A. Yes, at once. I might say that there was a good deal of discussion with reference to these letters that were on this file; there were a number from Mr. Greenwood who was connected with the World newspaper and some from Mr. Maclean.

Q. You gave me quite a number of those? A. That letter of Matheson's ought to have been on that file. They disappeared in some way and could not be found for some considerable time, the whole of that file; I did not have them and it was said they were likely to make use at some of the elections, either the Dominion or the Provincial elections, and I think Mr. Clarkson sent up once to me for them and I made a search for them and did not find them but they turned up afterwards.

Q. You handed them to me when this Commission formed? A. Yes.

Q. And they were not opened till I opened them up myself and there was no such letter of Colonel Matheson's among them? A. They were in Mr. Baird's possession for some considerable time.

MR. COMMISSIONER: You did not answer Mr. Hodgins' question; does your recollection agree with Travers as to the purport of this letter? A. I do not know what Mr. Travers has said about it.

MR. HODGINS: Acknowledging the receipt of some letter and saying he had not made any promise to anybody to make the deposit in the Farmers Bank? A. I could not speak positively as to the contents of the letter but I know there was a letter from Colonel Matheson.

MR. COMMISSIONER: You are not asked that; you are asked about the contents; if you do not know, say so? A. I cannot speak as to that.

Q. What documents did you get into your possession and by what authority? A. We had a search warrant issued under Mr. Corley's instructions to take possession of certain documents pending certain charges that might be used.

Q. What documents? A. I could get the search warrant.

Q. Were they described, the documents in the search warrant? A. I do not know that they were.

Q. Or did you just do as you have done in other cases under a search warrant, go and take everything that was in sight? A. I know that we had a great many documents there that were not used in the various trials.

Q. That is not answering my question, did you just go and take everything? A. We did not take everything, but we took a great many that we thought would be used.

Q. How did you select, who made the selection? A. I made the selection of some acting under instructions from Mr. Corley; Mr. Corley was at the bank himself; Mr. Clarkson was at the bank and there was another solicitor there, I just forget his name.

Q. Was there any record made in your Department of the books you took and the papers you took? A. I do not think so.

Q. Why, is that the proper way of doing business? A. No, there is usually a record kept, but there are so many documents it would be hard to enumerate them.

Q. I want to see who is responsible for the loss of these documents; did you make any record of what became of the documents when they went out of your possession? A. We took a receipt for them.

Q. Where are these receipts you got? A. We would take from Mr. Clarkson and of course after they went into the Police Court, the Police Court clerk would have a receipt there.

Q. How would the Police Court clerk have the receipt; did your Department get any receipt from anybody when you parted with these documents? A. I believe we did from Mr. Clarkson from time to time.

Q. Anybody else? A. No, when they went into Court we got no receipt.

Q. Because it seems to me little short of a scandal that these important papers should be lost and not to be found? A. I have made every search myself, and in connection with this ledger, that ledger we had no record of it beyond that it was handed over to the Police Court clerk and the Police Court clerk said he had a receipt for it.

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Q. Do you keep a record or did you keep a record in this case of the documents you handed over? A. I do not know that we did of them all.

Q. I do not quite understand your explanation about these papers that you say Mr. Baird had; how did they get back from Mr. Baird into your possession?

A. I believe Detective Guthrie got them, but I could not say definitively.

Q. Because Mr. Hodgins says he got them from you? A. Yes, I produced them here, and I got them that day or the day before from Detective Guthrie.

Q. Who is the chief of this Department you are in? A. I am.

Q. Is he under you? A. Yes.

Q. Do you keep books? A. Yes.

Q. Perhaps he can give us some information, but it is an extraordinary thing to me that a thing like this ledger would get lost and these papers should get lost?

A. When the ledger went into the Police Court the Police Court were done with it, and it is up to the Police Court clerk to take a receipt and he has that receipt.

Q. Who got it from the Police Court clerk as you understand? A. I think it was Mr. Burns of Mr. Baird's office.

Q. Are not the police constables present in the Court to look after these books? A. We have nothing to do with the County Court at all. In the Police Court, the police look after them until after they become an exhibit, and once they become an Exhibit of the Court our duty ends there.

Q. As I understand it your Department is responsible for every paper that was not in as an exhibit, is that so? A. Yes, if we took it away from the bank we would be responsible.

Q. If so, what has become of this cheque for \$3,000 and the letters you have been interrogated about? A. My only explanation is they must have gone back to Mr. Clarkson with the rest of the property.

Q. Mr. Clarkson says not; have these things been permitted to pass out of your hands into unofficial place? A. Mr. Staunton, for instance, he was in the case, and he would come in and say "I want to see all those cheques".

Q. I said in unofficial place? A. No, they were officers of Court or officers of the Crown; no one else had access to them except Mr. Clarkson.

Q. Where was this cheque for \$3,000 kept; it appears to have some special significance attached to it; it would not be bundled in with the other cheques, where was it kept? A. It was with a number of them.

Q. How many others? A. There were quite a bundle of them. The time I asked Mr. Travers about it we were going over in connection with the provisional board the cheques they had received and were picking them out, and I remember distinctly that one with, it was either on the stub or on the cheque, there was the letter "C" on it.

MR. HODGINS: In answer to the Commissioner you said that no unofficial person had access to any of the papers in your possession, would that include the newspaper reporters or editors? A. No, they would have no access to them.

Q. Did they ever have access to them? A. Not while they were in my possession. I do not know when they went to the County side of the building who had access to them.

Q. What do you mean by the County side of the building? A. That would be Mr. Baird's Department.

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W. R. TRAVERS. Recalled:—

MR. HODGINS: Speaking of the early stages of the bank, you formed the acquaintance of a man named Count Gregory pretty early? A. Yes.

Q. And he seems to have gone to the bank for a considerable amount of money? A. No, he did not. I lost a little money with him. The circumstances

of that were these: I had been working very hard, and my doctor advised me to go away for two months, and I could not give up at that time, and he said you will have to get into some other recreation or business that will take your mind off this bank; and he suggested I should buy two or three horses; and I was introduced to Gregory in the King Edward Hotel as a good horseman, and I had never met him before in my life and had never heard of him, and it ended in my sending him out to buy two or three horses and finally in a rather mess and lawsuit in which I dropped some money.

Q. How much? A. About \$3,000, I think.

Q. Did you lose more money over Count Gregory than that? A. No.

Q. Did you lose more on your horses? A. No, that was the loss on the horses altogether. I made some money on the horses once or twice. I did not go into them for the purpose of making money; I went into them for amusement. I told him he could have all the profits he made out of it at the time.

Q. Were you raising horses? A. No, buying poor horses in the country, and Gregory is a first-class horseman, one of the best I ever met in my life, and he would trim them up.

Q. You had no more than three horses? A. I had eleven; I started him out to buy three and he bought eleven.

Q. He used to get money pretty freely? A. From the bank?

Q. Yes? A. No, he got money from me for the horses.

Q. Do you say your losses were \$3,000 in that deal? A. Yes, \$3,000 is all I lost on that, not more than that; I am sure of that.

Q. Did he know anything about the beginning of the bank, how the bank was started? A. No, nothing whatever.

Q. Did any one you lent money to know about it other than whose names you have mentioned as having taken part in making up the list? A. I do not know exactly how to answer that question; I do not know to whom you refer. There were many people associated with me, Mr. Warren and Mr. Stratton and others who helped me with that loan; I don't know whether they understood the true facts or not; they have said here under oath.

Q. Apart from those who were actively concerned in making up the list, was there any one outside who knew about it and used that knowledge to hold you up and get money out of the bank from time to time? A. Well, that is a difficult question for me to answer. People do not as a rule come in and tell you, "You have got to lend the money or they will do so and so".

Q. They have ways of hinting at it that it is better for you to make the loan than do the other thing; you were not subjected to that during the early period of the bank and throughout its career? A. I would have to see the loans I made at that time to answer that question.

Q. Some of them you know? A. I have a faint idea that I was a little nervous about some people, but I am not quite sure that I could answer that just now.

Q. Could you by looking at the loan docket in the early stages? A. I think I might be able to do so.

Q. Are they names you would have to look at? A. I could not say that; I could tell you better if I looked.

Q. Without looking, are you not able to recall the names? A. That is a little difficult for me to do, not that I dislike doing it nor do I wish to refuse to do so, but I cannot answer that offhand.

MR. COMMISSIONER: I suppose what Mr. Hodgins wants to get at is, did you part with the money of the bank to people that you would not have given it to or lent it to, but you feared if you refused the knowledge that they possessed of the internal workings of the bank might be used to its disadvantage? A. I answer yes to that, but I cannot just locate the people offhand.

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MR. HODGINS: What book would you want to look at? A. At the loans that were made the first few months. If you had a copy of the liability list that was returned to me from the Toronto branch once a month as general manager I would know more about it.

MR. CLARKSON: That ceased in 1907? A. But that is rather difficult is it not to draw some people in; I want to assist you, but I hate to draw anybody in that way.

MR. COMMISSIONER: Of course it is open to this observation while that might have influenced you it might not have been the thing that was bringing them to the bank? A. You were speaking this morning about the World newspaper, and I have been thinking that over and in 1909 there was a suit of some kind threatened against the bank, and if I remember right Mr. Greenwood sent me down a communication regarding that suit, saying that he did not think he would publish it, he would not hurt me, and my recollection is that my putting in that I did not fear blackmail was that I had Mr. D'Arcy Hinds at Osgoode Hall to get an order from one of the High Court judges to prevent it being put in the newspapers.

MR. COMMISSIONER: The issue of the writ? A. Yes.

MR. HODGINS: What, was it in connection with that? A. I think it was something about Tevis and Knabe; that is my recollection at the present time.

Q. What was there about it that would hurt the bank? A. I was afraid that if they published the threatened writ at that time—I do not remember just the terms of it—it would cause a run. I remember writing to two or three branches about that time and that is my recollection telling them if anything of the sort did appear not to pay any attention to it, as it would not amount to anything.

Q. Had it anything to do with the Keeley Mine investment? A. There was another suit in connection with the Keeley Mine threatened by one Mark Harris, who bought five shares of the Farmers Bank and he threatened suit. The terms of the suit were forwarded to me by James E. Dey, a lawyer here, which were not very comfortable to read, that Mark Harris, on behalf of himself and other shareholders, would bring suit to set aside my personal holdings in the Keeley Mine as belonging to the bank. I got an order from one of the judges to prevent that going in the newspaper. If my recollection is right it is either one or the other of those, but I cannot tell which unless I have the date of it.

Q. While examining Mr. Fielding in Ottawa, he denied entirely that he ever had seen any subscriptions, and said if you said he saw them you must have confused him with Mr. Boville? A. I saw a synopsis of Mr. Fielding's evidence, I did not see it in full. I hate to dispute his evidence, but I think he is wrong. If I remember right, you asked him whether he said anything about Lindsay's subscriptions, to which he answered no. That is absolutely wrong, because he did; he pointed it out to me. He is mistaken on that. I hate to dispute him, but I am sure I remember that, and it was Mr. Fielding, not Mr. Boville.

Q. He says he had only one interview with you, not three? A. I think he is mistaken on that, too, for he stepped outside his door, and I think my evidence shows that they were brief; the first one or two interviews, he said he was too busy, and then I came back and talked to Mr. Boville about what sort of returns would have to be made by the bank at the end of the year—I quite recollect that; I have been thinking it over since and I am positive that I saw him twice for a minute or two and the third time was the longer interview.

Q. That was the twenty-minute interview? A. The last time?

Q. Yes? A. It lasted longer than that, longer than twenty minutes, I think.

MR. COMMISSIONER: He differs as to the time, too.

MR. HODGINS: He said it was about noon on the 30th when the only interview he admits took place? A. I have been trying to locate the calendar for

that year; I spoke to that young bank clerk that went out, to see if he could help me with these books to get that clear in my mind, and I was also trying to find out the night he delivered his Budget.

Q. That is the 29th. A. That he delivered his Budget?

Q. Yes? A. Then it would be in the morning of the 30th.

Q. That is what he said, about noon on the 30th? A. It was after the budget that I saw him for the lengthy period.

MR. COMMISSIONER: The witness's evidence was it was about 4 o'clock, and in that it would agree possibly with Mr. Guthrie's evidence.

MR. HODGINS: You said you saw him in the afternoon about 4 o'clock, and you went back to Mr. Guthrie's office? A. Yes. The evidence I have given I think, as far as I can remember, is correct; the first one I could not say whether it was the 28th or 27th; I was there all the week. The meeting of the bank was on Monday, the 26th, and the morning I saw him, but the second time it was the morning of the 30th and then the afternoon would be the longer one; I am not sure whether the longer one was in the morning or the short one in the afternoon, or *vice versa*.

Q. He is quite positive he had only one interview with you, and he did not discuss the subscriptions and when he saw you he had already written a letter which had not reached you which you went and got and sent over your reply to or brought it back and having got that he ordered the certificate to issue? A. I think he is mistaken on that point. He certainly spoke of the number of the subscribers; I remember that well.

Q. You also said you know that he discussed several of the subscriptions? A. He discussed the subscriptions of Laidlaw; I cannot say that he took each one of them up, but I remember his speaking to me, asking me what was done in the matter, and I said there was nothing in the Bank Act that enabled us to remove those, and I had left them on, and there was sufficient without them.

Q. You did discuss with him generally the question as to whether the money put up by the Government had been raised by discount of notes? A. No, I did not; I never said that.

Q. That appears to have been what he discussed with you? A. No.

Q. That you wanted something in writing? A. The first I heard about that was his letter.

Q. You mean to say he did not discuss that phase of it with you at all? A. No, he did not discuss that with me personally to the best of my knowledge and I think I am right.

MR. COMMISSIONER: I do not know that he said that; he said that his request was in general terms, he wanted to be sure that everything was correct and accurate as stated in the papers; I do not recollect him to have said that he talked to him about payment in cash? A. He should remember speaking about Lindsay's \$50,000.

Q. He denied that, he said he never discussed any—

MR. HODGINS: My recollection of his evidence is that he said he discussed the question of the payment up of the amount that was deposited, and that he wanted something in writing from Mr. Travers who had said it was all right? A. His letter came to me like a thunder-bolt out of blue sky when I got that letter about the subscriptions, I remember that quite well, and I went right to Mr. Guthrie's office with it.

Q. It seemed odd, if, when the whole point of the letter was whether the money had been borrowed to put up the deposit to the Government that it should not have been mentioned between you and Mr. Fielding? A. I am positive that he never said a word on that.

Q. You still think you had three interviews? A. I still think I had three interviews with him.

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Q. At which interview did Mr. Calvert accompany you? A. My recollection is the morning of the 30th; I cannot fix that entirely, whether that was the long one or the afternoon was the short one, but I feel positive Mr. Calvert was with me that second interview.

Q. That would be the first interview on the 30th? A. Yes.

Q. The morning interview? A. Yes.

Q. There was both the morning and the afternoon interview on the 30th? A. Yes, that is my recollection.

Q. The day you got your certificate? A. Yes.

Q. If you saw Mr. Fielding the day before what did you want an introduction for? A. I asked Mr. Calvert to go down with me in case I needed his assistance.

Q. If you had seen Mr. Fielding the day before there would be no necessity for an introduction? A. It was not introducing me, he simply went in with me, and told Mr. Fielding I was a friend of his.

Q. He was only with you on one occasion? A. Only one.

Q. Would Mr. Calvert be right when he says that the first time he met you was in the Russell House by letter of introduction from Thomas Urquhart, and that he had never heard of you before? A. I do not think he is right in that. My recollection is that Mr. Urquhart gave me a letter to him, but it was not a letter of introduction, it was a letter asking him to use all the influence he could to help me, but I do not remember that letter as a letter of introduction.

Q. I asked him how did he become acquainted with you, and he said "The first time I met Mr. Travers was in the Russell House by letter of introduction from Mr. Thomas Urquhart."

Q. Then you had not known him before? A. I never met the gentleman before.

Q. Did you vouch for him at all to the Finance Minister? A. I knew nothing of the gentleman except what the letter said."

Q. Had not you been in correspondence with him much earlier in the year? A. My impression is yes; but I cannot positively state; I think I saw Mr. Calvert earlier in Toronto.

Q. Of course you might have corresponded with him without knowing him, but did you know him before you went down to Ottawa? A. My impression is I did, and I am trying to locate how.

Q. Whose handwriting is that memorandum in; is that yours or Lindsay's or whose? A. That is mine; there has been something torn off that.

MR. COMMISSIONER: It may have been in tearing apart a sheet? A. I do not think that was in book form.

MR. HODGINS: Here is a letter dated as early as July 11th, 1906, from Calvert to yourself? A. Yes, this is months before.

Q. He was writing to you declining to be a director? A. Yes.

Q. There is a letter here from Mr. Leggatt which speaks of Mr. Calvert as early as March, 1906, speaking of having met Mr. Calvert one of your directors; did you know him and did he know you long prior to November, 1906? A. I cannot locate just at the moment whether I met Mr. Calvert, but my impression is I knew him a long time before that. He says here "Dear Mr. Travers". It is not very likely a man that never met me would start his letter off with that.

Q. Was the earliest transaction that Mr. Calvert had the loan which he spoke of as being in 1909, or had he guaranteed a transaction earlier than that? A. I think the first transaction I had with Mr. Calvert was in connection with Rabbit Mountain Mining Company.

Q. That was when? A. Early in 1907, if I remember.

Q. Had he made a guarantee of any kind? A. I think he did in connection with somebody else. Mr. Clarkson has the records there.

EXHIBIT 81: Letter of July 11th, 1906, from W. S. Calvert to W. R. Travers.

Q. Looking at this letter December 8th, 1908, from Calvert to yourself which speaks of the guarantee, what guarantee is that spoken of? A. To the best of my recollection Mr. Hamilton and one or two others were getting advances for the flotation of the Rabbit Mountain Mining Company and Mr. Calvert was in the background to be guarantee, that is my recollection.

Q. To whom was that guarantee given, was it in the first place given to the bank? A. Yes.

Q. Would that be the early part of 1907? A. Sometime in 1907; I may be wrong in that.

Q. There is a document dated April 10th, 1907; "In consideration of the Farmers Bank discounting a demand note of \$15,000 signed by P. H. Hamilton and some others it is agreed that \$60,000 stock of the Rabbit Mountain Mining Company should lodge as collateral security", and so on would that fix the date at all? A. Yes, that is the transaction I should say.

Q. That is not signed by Mr. Calvert. Had you an independent guarantee from him? A. My recollection is that I had, yes.

Q. That letter that I am putting in on December 8th, would that refer to that guarantee? A. This ran along for some length of time and got unsatisfactory.

Q. Would that letter refer to the guarantee in that Rabbit Mountain matter? A. I would say it would.

Q. To what extent was there a liability on that? A. At the time of the letter I could not say now.

Q. This letter of December 8th, 1908, from Calvert to yourself winds up with speaking of a telegram at Woodstock: "I trust the telegram was received O.K. at Woodstock and that you succeeded to your entire satisfaction". Do you know what that is? A. From memory I would say I had a suit against some shareholders in Woodstock on or about that time, and their defence was that Calvert did not become a director. I am not positive about that, but very likely I had to telegraph him either he would be on hand or some other explanation; I cannot say just now.

EXHIBIT 82: Letter W. S. Calvert to W. R. Travers, dated December 8th, 1908.

Q. This letter of September 4th, 1909, from Calvert to you would indicate that you had a bond in connection with that which he wished you to return? A. I presume that is the same transaction.

Q. He speaks of a bond he wants you to return and then he says his own personal account he will settle up at any time? A. There was a personal loan made to him as well in between or about that time.

Q. He says the first transaction he had was in 1909; did you get anything out of that Rabbit Mountain thing except payment of what you had advanced? A. No, I got the amount advanced at interest. There were three men on that note, two of whom were no good; the third man was William Snider of Waterloo whom I knew well, knew him to be well off; I knew he was worth the money and I finally made him pay it.

Q. So that you lost nothing? A. I lost nothing; I had to give up that stock to Snider.

Q. What stock? A. That Rabbit Mountain stock.

Q. You had to give it up to him for what purpose? A. To enable payment; I did not think it was any good at that time, so that it did not make much difference.

EXHIBIT 83: Letter from W. S. Calvert to W. R. Travers dated September 4th, 1909.

Q. Was Calvert a stockholder in the Rabbit Mountain Mine? A. I could not say, but I think so; I think Mr. Calvert and also a lawyer named Bull in the Temple Building and Hamilton and William Snider of Waterloo was the principal if not the holders of all the stock.



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Q. Were not you in the syndicate too? A. No, I was not in the syndicate, it was simply the profit to the bank for that loan; I had no personal interest in it.

MR. COMMISSIONER: We had some entry in the books about the Rabbit Mountain Mine? A. When we got this stock we dropped some of the organization expenses and put some of the stock in the place of it.

Q. Put this Rabbit Mountain? A. Yes.

Q. You had to give it up? A. Yes, I had to give it up to Snider in order to have payment of the \$15,000 without a law suit.

MR. HODGINS: So that it was not a refuge any more for any of the organization expenses; they had to be put somewhere? A. I suppose we had to put them to the Keeley Mine then.

Q. Will you tell me what you can about this note, do you know what it is in connection with? A. I could not say; it has apparently never been put through the books. It may have been one of those notes I mentioned the other day as having been left behind in the drawer.

Q. There is just one other little matter; when Mr. Fielding was examined he spoke of the Bankers' Association or the Clearing House having received your bank with open arms. I have got the correspondence with Mr. Knight here; you had to assert yourself as I read these letters a little bit, in order to get action taken with regard to your joining the Bankers' Association? A. You become members of the Bankers' Association immediately the certificate is issued, but not members of the Clearing House.

Q. This letter perhaps of Mr. Knight's expresses the thing just exactly as it was; just look at that and see if that was the situation then. He says a chartered bank becomes a member of the Bankers' Association *nolens volens*? A. Yes.

Q. But that your admission to the Clearing House depends upon the will of the majority? A. Depends upon the joining in the combine not to pay any more interest than 3% on deposits; that is all it amounts to.

Q. Did you join in that combine in order to get into the combine? A. Yes, I did; I had not any intention of going into the Clearing House; I thought it was better to work on the outside; but Mr. Yarker was an old personal friend of mine and he came up and showed me the advantages of it and practically coaxed me into it; that is the way I went in.

Q. Would you agree with Mr. Fielding about the open arms of the Bankers' Association and the Clearing House? A. I cannot say that they opened their arms very wide to bring me in.

Q. What was their attitude towards you? A. The Bankers' Association?

Q. Yes? A. As an Association I think they put very bitter opposition in my way. As to certain members of the Association they were not unfriendly to me, but without mentioning names, some of them were very bitter.

Q. Your joining the Clearing House was in the way you have told us; had you to make an agreement? A. I had to sign an agreement there that we would not pay more than 3% on deposits and subscribe to some other regulations; I have forgotten what they were.

Q. There was no objection to your going in if you did that? A. I don't remember any objections raised whatever. It saved them an awful lot of trouble rather than coming up to our counter every time to cash every ten dollar cheque to have us in there and clear once a day.

Q. How long were you a member in good standing in the Clearing House? A. From the date we joined, whatever that date was; I do not know whether this fixes the date or not, perhaps it does, the 24th January, 1907--no, it was later than this, but until the bank failed.

MR. HODGINS I will put Mr. Knight's letter in.

MR. COMMISSIONER: Where is the letter to which this was an answer? They had better go together.

EXHIBIT 84: Letter of January 22nd, 1907, from Mr. Travers to John Knight, Secretary of the Bankers' Association, and reply by Mr. Knight, dated the 24th January, 1907.

GEORGE GUTHRIE, Sworn, Examined by—

MR. HODGINS: You are a Detective in the Toronto Detective force? A. Yes, sir.

Q. Your immediate chief is Inspector Duncan? A. Yes.

Q. He think that perhaps you can throw some light on some documents we have not been able to find, one is a cheque for \$3,000 and the other is a letter said to be written by the Honourable Colonel Matheson to Mr. Travers about depositing in the Farmers Bank; they are not among the papers that have passed through my hands? A. I cannot speak definitely about the \$3,000 cheque, I do not remember that. We had a lot of cheques. There was such a letter as the Matheson letter at least a letter written by Mr. Matheson to Travers, I remember seeing that one, but the contents have slipped my memory, but I remember there was such a letter.

Q. Where would that be? A. If my memory serves me right that was handed over to the Ex-County Crown Attorney, that is the late Mr. Baird, with some Maclean letters; they were all on a file.

Q. You remember you came up with Inspector Duncan the day this Commission opened? A. Yes.

Q. And he produced and handed to me quite a number of papers, all of which I have kept here in the bundle which he handed me which he said related to the World account? A. Yes.

Q. That bundle I did not open until I arrived at the World matter in due course. There was no such letter there and Mr. Travers and Mr. Thompson have both gone over that, and cannot find it; who did you get them from? A. I got them from Inspector Duncan, that is part of them, and part of them in going over the papers and I put them on a file.

Q. You thought they went to Mr. Baird? A. Yes.

Q. Before I got them how did you and Inspector Duncan get them? A. I cannot say whether they were sent back to Inspector Duncan or not, but I received them from Inspector Duncan, if my memory is right, and put them on a file and had that file locked in my locker up to just shortly before you received them.

Q. How did they come back from Mr. Baird? A. That I cannot say for sure.

Q. Are you speaking of what occurred after they came back from Mr. Baird? A. Yes, afterwards.

Q. Do you know whether that letter was among them then? A. No, I cannot say it was, I do not know; and there is another matter there about that ledger. When Mr. Clarkson spoke to me about it some little time ago I went down to the Police Court clerk and I asked him about it and he said there was a receipt from County Constable Burns to take them over to the other Court and I followed them over there and I searched all over and I found that book in back of His Honor Judge Winchester's Chambers and started down with it to Mr. Clarkson's office. When I got on Colborne Street I looked at the ledger and on the back of it was "Royal Bank of Canada". I said there is no use my going down with that book, I would be only laughed at and I took it and put it back of His Honor's Chambers again. The back of the book had the Royal Bank of Canada; that is what deceived me in that book. I had it and started to take it down there.

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Q. Can you suggest where we can send for these? A. I do not know at all; I have no idea; I have not another paper of any kind belonging to the Farmers Bank.

Q. You have not made any inquiry I suppose as to Mr. Baird's office or any one connected with him? A. I think I would have found that letter had it been there when I was searching for these other papers and this ledger; I got into the Crown Attorney's desk and searched all through.

Q. The desk at the City Hall? A. Yes.

Q. Have you spoken to Mr. Burns and asked him? A. Yes, Mr. Burns claims he got a receipt from Mr. Clarkson for all the exhibits, although he could not have got them all.

Q. I am speaking of those which are not exhibits? A. No, I do not know anything about them; I did not speak to him about those.

Q. I wish you would? A. I will; of course I might say these exhibits were carried from here to Hamilton to Mr. Lynch-Staunton's office; I carried an armful up one day and left them there, and they were given back in my arms at the Union and he said he was going on to Ottawa; and Mr. DuVernet had them after that; so that he would lose a lot of sleep trying to keep track of them.

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 GEOFFREY T. CLARKSON, Recalled:

MR. HODGINS: What have you to say about the papers? A. The matter started this way: I think the second day after I was in the bank the Crown sent down to go over the books and papers of the bank in order to get evidence. I gave them carte blanche to go in the bank and take whatever documents that they found or that they required, and I did not pay attention to it.

Q. You took possession as curator? A. Yes. I had other things to occupy my mind at that time and I was quite content that they should take what papers and documents they wanted; I did not know what they got as a matter of fact so far as letters and things were concerned. So far as books were concerned I made it a business to keep a pretty good eye on that because I might need them. From time to time I was interjected into this question of getting evidence because as far as the bank was concerned, particularly in the head office, all the bank things were at loose ends and Fitzgibbon had mislaid his papers in one place and another and they could not be found and from time to time I had to do with it that way more in the way of trying to impress upon them to find documents. That is the way the matter rested. The papers went over to the Crown. Any papers I put my hand to and dealt with with the Crown I knew where they went to; any that I got back from the Crown I made certain that we had a list of that we got back so that we could keep track of them and not be called to account for any papers we got from them, and then have it said that we had mislaid them. All the papers I had in the shape of exhibits or cheques or letters have been kept in the time-lock safe; there is no possibility of any papers that come into my possession going astray.

Q. All the papers that have been produced here have been produced from your custody? A. Yes; you got all the papers that I have that I know of. Of course there are the files of the bank and volumes and papers down there.

Q. You know since the inquiry has been begun they have been either in Mr. Thompson's hands or mine or in the safe up here? A. Yes.

Q. Have you ever seen in going over these papers either of those two particular documents that have been mentioned, the letter or the cheque? A. So far as the \$3,000 cheque is concerned, no, I never saw it; I do not know that I ever heard of it; if I did hear of it it did not stick in my mind as anything particular.

As far as the letters to the World I remember those very distinctly, but I remember having given them over to the Crown or Mr. Baird, and not getting them back; and when some evidence came out in one of the newspapers about it, I did not feel it was in the interest of the liquidation to have this made a political football any more than was necessary and I sent for those papers and I was then told that they never had them, the Crown had not them, and also by the Crown Attorney's office that they never had them. I persisted in trying to find them and they could not be found; and then most of them turned up in your hands in this inquiry. Inspector Duncan has been more solicitous than anybody in trying to see that those papers were kept in order.

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MR. HODGINS: I have a very large quantity of letters from people who are depositors or shareholders in the bank setting out, what is perfectly true, a great deal of misery occasioned by this failure. I do not think that there is any object in putting them in unless you care to look at them.

MR. COMMISSIONER: I saw a number of them. I suppose they are all on the same line asking you to press the investigation up to the utmost in getting him to tell all he knew. I suppose if there was any information there you have used it.

MR. HODGINS: Yes. Really there is no information excepting the circumstances of these various people and the straits to which they have been reduced; and they feel they are not going to get the money they deposited in the bank.

The Commission adjourned at 3.30 P.M. until Saturday, June 22nd, 1912, at 10 A.M.

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Toronto, June 22nd, 1912.

The Commission was to meet at 10 A.M. to-day, but as the Commissioner found he could give two days next week to the hearing, it was arranged to continue the sittings of the Commission at 11 A.M., Thursday, June 27th, 1912.

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Toronto, June 27th, 1912.

The Commission resumed at 11 A.M., at Osgoode Hall.

PRESENT:—

HON. SIR WM. MEREDITH, Commissioner.

FRANK E. HODGINS, K.C., and JOHN THOMPSON, K.C., representing the Dominion Government.

H. H. DEWART, K.C., representing Dr. Beattie Nesbitt.

DR. WILLIAM BEATTIE NESBITT, Sworn, Examined by—

MR. HODGINS: You were president of the Farmers Bank? A. President for the first year.

Q. Do you remember when you took office? A. Well, I think they had an organization meeting in the fall of 1906.

Q. It was the organization meeting you were elected a director? A. Yes.

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Q. The organization meeting was held in November, and you were elected a director, and immediately after that meeting, the directors met and elected you president? A. Yes.

Q. And then you recognize this letter I suppose, Exhibit 37? A. May 10th, 1910, yes, that would be about four years after that; I recognize the letter.

Q. Did you read it? A. Yes.

Q. Note the date it refers to? A. December 6th, 1906.

Q. That would be after you became president? A. Yes.

Q. Is what was stated in that letter correct? A. At the time that I gave that letter, as you see there, I was referring to a conversation I had with Mr. Travers; there was some case up between him and Mr. Lindsay, and a dispute as to their accounts in some way, and he spoke of the matter and I had an arrangement with Mr. Lindsay by which the \$5,000 I received was to come out of his commissions.

MR. COMMISSIONER: \$5,000 in shares? A. \$5,000 cash; I afterwards bought shares with it. It did not go out of the bank; it stayed in the bank as far as I was concerned; and so Mr. Travers spoke about our meeting at that time and told me and referred to the arrangement and to Lindsay giving me the money. At that time I practically took his recollection for it in drawing the circumstances to my attention and since the investigation has occurred I noticed in the papers that Mr. McCorquodale had said he was present at the time that Lindsay was. I do not remember McCorquodale being there and it has just put a doubt into my mind as to whether I had actually got the money from Lindsay or Mr. Travers, I could not swear positively to that now, with the statement of Mr. McCorquodale that he was there, because I think I would have remembered; I could remember better by men being present than by dates.

Q. Did you know on May 10th, 1910, what the facts were? A. At that time as I say I had a conversation with Mr. Travers and he tried to draw the circumstances to my attention and it seemed to me they were about right, I thought they were right at the time, but I am not positive now.

Q. It was rather an unusual transaction that Lindsay should come in Travers' place and hand you a parcel of Traders Bank notes to the amount of \$5,000 in \$100 dollar bills? A. The arrangement was that I was to get the money from Mr. Lindsay's commissions.

Q. You ought to remember I think the circumstances? A. I just cannot be positive about it.

Q. Look at the letter again, are you throwing doubt on the statement in the letter or are you not? A. As I say as regards the statement in the letter that was my recollection when Mr. Travers drew the circumstances to my attention, at the time. This is four years after the event occurred, this was several years after the event occurred, and in the conversation of Mr. Travers it seems to me that that was the right interpretation of it, and I have been trying, endeavoring to recollect various things that occurred in connection with this investigation.

Q. You are throwing doubt on the accuracy of the statement in the letter? A. As regards that portion of it, I would not be positive about it.

Q. What portion of it? A. As regards the actual handing of the money by Mr. Lindsay to me.

Q. That is the whole thing in the matter? A. No.

Q. It was handed to you by Lindsay? A. No, that is not the whole thing.

Q. Was it not a question whether you got it or Travers got it? A. There was no question at that time as to who got the money.

Q. There was no question you got the money? A. There was no question I got the money.

Q. Is the question who handed it to you? A. That is all.

Q. What is the doubt, if it was not Lindsay, who was it? A. As I say I would not be positive whether it came right out of Mr. Lindsay's hands to mine or

Mr. Lindsay's hands to Travers and then to mine, I was in the bank at the time and I say I think it is a pretty hard matter to remember where you were several years ago, I think I was in the second room, that would be Mr. Travers' private office then. Mr. Lindsay handed Mr. Travers the money and Mr. Travers stepped in and handed it to me, or I got it direct from Lindsay, I could not swear.

Q. That letter was intended to establish the fact that Lindsay handed it to you and Travers did not? A. I do not know about that, the letter was intended to establish this fact, because this was the understanding, I had made an arrangement with Mr. Lindsay as regards that \$5,000, I had a previous arrangement with Mr. Travers, and I made the arrangement with Mr. Lindsay as regards that \$5,000, and what I wished to establish was that as far as I was concerned the money was coming from Mr. Lindsay, but I do not know just why the letter was put in that shape, because I did not consider it of any particular importance at the time.

Q. The explanation of the letter is that you wanted to make it clear that it came to you? A. From Mr. Lindsay.

Q. And not from Mr. Travers? A. Not from Mr. Travers.

Q. Travers had recalled the circumstances and pointed out to you what he wanted the letter for, to make use of it in the law suit? A. He wanted to use it in the law suit.

Q. Did you ever give evidence in accordance with that letter in that law suit? A. No.

Q. You remember the circumstance now that you got \$5,000 from Lindsay? A. I cannot be positive, I won't swear positively now, whether it was handed to me by Mr. Lindsay or Travers.

Q. How did it come to be handed to you at all? A. When Mr. Travers first talked to me about being connected with the bank the suggestion was that I should be a director, and they were in difficulties at the time.

Q. Who are they? A. The gentlemen who were organizing the bank.

Q. Who were they? A. As far as I knew, Mr. Travers and Mr. Lindsay, and on account of the threatened suit, by I think it was a suit threatened by Mr. Laidlaw—there was some altercation by Mr. Laidlaw and it was shortly after I think the failure of the Ontario Bank, and then the suit or threatened suit, whatever the altercation they had with Mr. Laidlaw.

Q. Are you fixing the date when they spoke to you by these two events? A. I am trying to get near the date, and after that altercation with Mr. Laidlaw I rang up Mr. Travers and told him that I was pleased with the way he had held up his end of the fight, and anything I could do for him I would be glad to do. He came over and saw me, I do not know just how soon after that, and had a talk with me and wanted me to become a director of the bank. I told him at the time I did not feel that I could subscribe and take the amount of stock required to qualify a director; that was \$3,000. There was some further conversation, I could not say when, and it finally resulted in his saying that if I would be a director that he would advance the money; that he was having some large commissions in connection with the organization getting the stock, and that he would advance the money to pay for my stock as a director, and that I could repay him at my convenience. I then subscribed for \$3,000 of stock.

Q. Would you mind pausing there for a moment, was that interview with Travers, your ringing him up over the telephone and discussing it, after that with him where he promised to qualify you, the time at which you agreed to become a director, does that fix the time at which you agreed to become a director? A. Yes, I think so approximately.

Q. That would be after the Laidlaw fight had been disposed of? A. Yes.

Q. Would you tell me whether previous to that time you had seen any one in connection with the bank? A. I have been trying to place that. I did see some one, it was some months, I could not say how many, but I know it was some

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months before that Mr. Macorquodale came to the Registry Office one day to see me about taking stock in the Farmers Bank. I had known him very well, he had been a supporter of mine in North Toronto, and he was rather a clever writer in some ways, and I rather liked him, and he spoke to me about taking stock, some months before, and I think, I could not be positive, but I think he asked me to go down with him on the same evening that he spoke to me to see Mr. Travers at the Queen's and have a talk to him, and I went down with him and I met him at the Queen's that evening, and I met Mr. Travers for a few minutes; he introduced me to Mr. Travers, and I met him for a few minutes, and we had a little talk about the affairs of the bank and one thing and another; and then I left him there, and I have an impression that I subscribed with Macorquodale for two or three shares—I mean at that time I was doing it with the idea of helping Mr. Macorquodale; I thought it would help Macorquodale to go down and meet Mr. Travers and he would likewise get some commission from the two or three shares subscribed for.

Q. Two or three months before you telephoned to Mr. Travers, speaking of the Laidlaw matter? A. It was some months before.

Q. And there was no talk then of your being a director nor of taking any stock? A. There was talk of my taking stock and being interested in the bank, and I think Mr. Macorquodale spoke about my being a director, do you see, but there was nothing came of it.

Q. Nothing came of it at all? A. No.

Q. Nothing came of it during the intervening months? A. No.

Q. What was your occupation at that time? A. I was in the Registry Office.

Q. You were Registrar, were you not? A. Yes.

Q. West Toronto or East Toronto? A. West Toronto, I think.

Q. I asked you that because you spoke of not being in a position to take stock to qualify to the extent of \$3,000; the income from that office was very large, was it not? A. I was using it all.

Q. It was very large? A. Yes, it was about \$9,000 at that time. My idea was not that I could not afford to take the stock at that time, I could have done it but it was not convenient for me; I had other things I wanted to do.

Q. You were not in such a position you could not have qualified if you had wanted to? A. I imagine I could have raised the money if I had absolutely wanted to.

Q. Did you see Lindsay at all between that Macorquodale interview and the time you rang up Travers after the Laidlaw matter? A. Not that I can remember of at all.

Q. Do you know him at all? A. I knew Lindsay as I knew thousands of men.

Q. Had he canvassed you? A. No.

Q. I suppose whatever arrangement was made out of which this \$5,000 came, it was made after your conversation with Travers, following your ringing him up on the telephone? A. Yes.

Q. We have pretty well the date of the closing of that Laidlaw matter fixed, so that we can get about the time of the year it was; the suit was begun on the 23rd October and I think ended on the 28th October; who did you make the arrangement with out of which that \$5,000 came from Lindsay? A. The matter of making that arrangement was this, as nearly as I can remember now: I had arranged with Mr. Travers to be a director for the qualification as I say. After that—of course I will tell you it is a little difficult in the light of what has occurred now, you know, I did not know at the time, I was not aware of the actual difficulties they were having with their organization, I did not know that the organization that they were figuring on having were running away from them.

Q. You told us a little while ago that Travers said there was difficulty owing to the Ontario Bank failure? A. He said they were having difficulties.

Q. I want to know what arrangement you made out of which this \$5,000 came? A. I made an arrangement after the directorship was arranged, and I subscribed for the stock of a director; then the question of the presidency of the bank was suggested to me, whether Mr. Travers suggested that first or Mr. Lindsay suggested that first I would not be positive now; I had conversations with both of them about it.

Q. Before you go on, you say you arranged with Travers at all events to become a director? A. Yes.

Q. And the qualification you knew was \$3,000? A. Yes.

Q. And he was to find that? A. Yes.

Q. Then you would subscribe for the shares and he would find the qualification? A. Yes.

Q. That was the first arrangement? A. Yes.

Q. You had better go on and tell your story; there was a subsequent arrangement? A. Yes. Then, you see, when the discussion of the presidency arose, when I finally decided to accept the presidency, I arranged with Mr. Lindsay that the \$5,000 which I received which I was going to use to buy the stock—

Q. We have not heard anything about your arrangement with Lindsay or the offer of the presidency yet? A. I have told you that the question of the presidency was discussed, whether it was first suggested to me by Mr. Travers or Mr. Lindsay I could not say now, which one suggested the fact that they wanted me to be president first.

Q. Somebody did, and there was some discussion as to qualification? A. Yes. I talked the thing over with Mr. Lindsay, and Mr. Lindsay said of course he would go half and Travers would go half. Now, I said to him, "Mr. Lindsay, as I am going to be the president of the bank I would prefer not to be under, as it were, a direct obligation to Mr. Travers, who will be the general manager, for my stock".

Q. Whom did you say this to? A. Lindsay. "So I want the money for the payment that goes to pay my stock to come from your commissions, to come from you"; and further in that connection there was this, that Mr. Lindsay wanted the agency for the disposal of the bank's stock subsequent to the organization; he wanted me to support his application; he wanted the control of the balance of the bank's stock for a year I think, and that he would receive the commissions on it, and he wanted me to support him for that. I told him I considered that was perfectly fair, as he had done hard work in getting the stock placed before the bank was organized, and he should have the first opportunity of what would appear to us to be easier to sell the stock after the bank was organized and going, and he was very anxious to have that arrangement, and so then the arrangement was made with him, just in that way, that the \$5,000 was to come from him to me, and then I was to support his application for the right to sell the stock afterwards.

Q. Does it mean he secured your influence for the \$5,000? A. No, it does not mean he secured my influence for the \$5,000, but it means that is what he wanted, and I considered that perfectly fair for him to have; I would have given him that anyway.

Q. It did not enter into that matter with you? A. Not with me.

Q. You did not want to be under obligation to Travers, whose acquaintance you had made a few months before, why were you willing to be under obligation to Lindsay, who was only a casual acquaintance? A. Lindsay was not an officer of the bank. There was a wide difference between the position of Mr. Lindsay and the position of Mr. Travers; Mr. Lindsay was not an officer of the bank.



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Q. Why should Mr. Lindsay want to make you president and qualify you?  
A. That was a matter between Mr. Lindsay and Mr. Travers; they wanted a president, I imagine.

Q. You were the one who was getting the office, did not you find out why these gentlemen were willing to qualify you—you seem to have differentiated between Travers and Lindsay and willing to accept the qualification of one and not the other? A. I should think it would be perfectly clear why I would prefer to have my dealings with Lindsay, who would not be connected officially with the bank in any way, rather than Mr. Travers, who would.

Q. Did you tell Travers so? A. I am not sure whether I told Mr. Travers so or not.

Q. Did you tell him; it would seem to me to make no difference? A. I don't think it would, it should not; I should think Mr. Travers would appreciate the situation as well as I would; I always found Mr. Travers very fair.

Q. I suppose you knew that Lindsay was employed by Travers to sell stock, and Travers was paying Lindsay commissions and not the bank? A. I do not know the arrangement.

Q. Did you consult Travers and ask him or ask Lindsay? A. I simply understood that Lindsay had a large amount of commissions coming to him; I also understood that Mr. Travers had some commissions coming to him.

Q. Then if you made the arrangement you would naturally expect that Lindsay would hand you the money, whatever it was, when he got it out of his commissions? A. Oh, no; I do not think that that follows at all.

Q. You understood that Lindsay was working directly for the bank and had an independent claim for commission? A. I understood Mr. Lindsay was working for the provisional directors of the bank and had claims to commissions for stock he had sold.

Q. Directly? A. Yes.

Q. So that he could qualify you out of his own money? A. Yes.

Q. Not Travers' money at all? A. He could do that, sure.

Q. Then as I say it would be quite natural he would hand you money direct, would it not? A. I do not know as it would, because I might not be there at the time; he might hand it to Travers to hand to me, for instance; I know myself he might just as well do it one way or the other, and I would never bother about it.

Q. You never had any doubt about the accuracy of the facts stated in the letter until you saw Macorquodale's evidence in the paper? A. No.

Q. If before seeing that I had asked you these questions you would have said that letter was perfectly correct? A. I probably would, unless something else had occurred.

Q. Have you told us the reason yet why Lindsay was willing to qualify you as president? A. The only reason I knew was that they felt that if Laidlaw succeeded in preventing the organization of the bank they would naturally have trouble in collecting their commissions.

Q. I thought this all occurred after the Laidlaw matter had been got rid of?  
A. The getting rid of the Laidlaw matter did not complete the getting rid of trouble, as far as the organization of the bank was concerned.

Q. It did as far as he was concerned? A. Yes, but not as far as the shareholders he had stirred up.

Q. They were bought off? A. I do not know anything about that.

Q. You understood all difficulty was got rid of with Laidlaw shareholders?  
A. It got rid of his difficulty with his shareholders whom he had actually been in touch with, but as I understood the thing, as it was told me at the time, they had been out and stirring up trouble with all the shareholders I think out in the section of Milton.

Q. Am I right in assuming from what you said that the arrangements with Lindsay were after Laidlaw had been got rid of and the telephone message sent to Travers? A. The telephone message was sent to Travers some time during the stuff that appeared in the newspapers in reference to the dispute between Mr. Laidlaw and Mr. Travers; I cannot say now whether the telephone message was sent after Travers had completely got rid of the Laidlaw incident.

Q. Mr. Travers says so? A. I am not positive myself.

Q. He says you first appeared after the Laidlaw suit was disposed of, called him up by telephone and congratulated him? A. Well, I am not positive about that now myself.

Q. What was the reason that you can give for Lindsay qualifying you? A. I can only give you the reason that I have given you, that I understood—you see as I understood the situation then the getting rid of the Laidlaw suit did not make things plain sailing for them by any means; the stirring up of this matter had alarmed men who had promised to be directors, and in consequence of that they wanted to be sure that they would be able to carry on the completion of the organization of the bank.

Q. Who did they mention to you as directors that had been frightened off? A. I cannot say there were any directors mentioned that had been frightened off; I do not think you are justified in using that term.

Q. Well, would not act in consequence? A. As I remember now there are only two or three names I can recall. There was Ivey was one name, and the only name that I remember asking about whether he would be a director or not was Major Beattie, of London, because I knew the Major very well, and I was very pleased to see his name on the list of directors, and they said that on account of the failure of the Ontario Bank and trouble that had been made by Mr. Laidlaw's threatened action and that sort of thing, that they were having trouble in getting men who had promised them to become directors before to stand by their promise.

Q. Did you see your opportunity to become president and get your qualification provided? A. Nothing of that at all. I had unfortunately told Mr. Travers when I telephoned him that I would be glad to help him; I have always tried to help any man I said I would help, and I got started in with him, and when I got started in with him I stayed; that is all there was to it.

Q. What was your qualification to be when you agreed to be president? A. \$5,000.

Q. Travers said you talked of \$10,000 being the proper amount? A. That was subsequent.

Q. You arranged with Lindsay for \$5,000? A. \$5,000 was the arrangement I made first when I arranged to become president.

Q. What was to become of the \$3,000 that Mr. Travers was to find for you? A. There was nothing said as to what was to become of the \$3,000; I presume that was arranged between Travers and Lindsay.

Q. You arranged to take up \$5,000 and Lindsay to qualify you; what did you tell him of Travers' offer to qualify you to the extent of \$3,000? A. At the time I wrote this letter, and I was speaking to Mr. Travers, in writing the letter I said, "Now, as regards that letter, I said I had the impression from a subsequent conversation with Lindsay that he expected this \$5,000 would be charged up to your expense account, and that it really would not come all out of him, and I did not want to deal in the matter, and Mr. Travers told me that was correct at the time I wrote this letter, that \$5,000 was charged up to their expense account as between them.

Q. Whose expense account? A. Mr. Travers and Mr. Lindsay.

Q. What is the meaning of that "Charged up to their expense account"—do you mean the bank's expense account? A. No, it had nothing to do with the bank.

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Q. They had no expense account? A. I understood from Mr. Travers that they had at this time this letter was given; I talked the matter over with him; I understood in connection with the taking of their stock subscriptions, whatever expenses they were put to, the travelling expenses and all that sort of thing, was first taken out before they made their arrangement.

Q. Out of commissions? A. Yes.

Q. And that this would be taken out of commissions? A. Yes.

Q. That would come out of them would it not? A. Yes.

Q. I do not understand this charging up the expenses if it comes out of the commissions? A. It was their expenses.

Q. It was on account of the bank's expenses was it not? A. No, nothing to do with the bank expenses.

MR. COMMISSIONER: Lindsay was giving him the money, and as between Lindsay and Travers, Travers would bear half of it; that was the effect of it.

MR. HODGINS: Was that your understanding, that Travers was to pay half of it? A. That was not my understanding at the time.

Q. Was it at the time you wrote the letter? A. Yes.

Q. Now, come back to the question I asked you before, when Lindsay had agreed to qualify you to the extent of \$5,000 what did you tell Travers, what arrangement did you make with him in regard to his offer to pay up \$3,000? A. I did not make any arrangement at all that I remember of.

Q. Does that stand good too? A. No, because the first arrangement that I made with Travers was that Travers was not giving me that money, he was advancing the money and I was to pay it back at my convenience.

Q. What about Lindsay, it was a regular gift was it? A. As far as Lindsay was concerned the money came to me.

Q. Was it a gift? A. It was a gift to me.

Q. That would relieve Travers? A. Yes.

Q. There was no reason why half of Lindsay's amount should be charged to Travers? A. There was no reason, no.

Q. And no communication with him before you accepted the office of President? A. No.

Q. So that on December 6th it would be perfectly right for Lindsay to pay you that direct out of his own commissions? A. Yes, as far as my arrangement with him was concerned.

Q. What did you subscribe for? A. I subscribed first for \$3,000 of stock.

Q. When was that? A. During that time, I could not tell you when.

Q. During what time? A. During the time I rang up Mr. Travers and shortly before the bank was organized.

Q. If it appears dated before the 22nd October then that would be wrong—if the Laidlaw suit was got rid of on the 28th October and your subscription appears dated previous to that, it would be wrongly dated would it not? A. Yes.

Q. You say you subscribed for \$3,000 first? A. Yes.

Q. And did you subscribe for any more later? A. As distinctly as I remember I subscribed first for \$3,000 and then I subscribed for \$5,000; that was on the arrangement to be President; and then later on, later than that, I think I subscribed for \$10,000.

Q. That would be three separate subscriptions? A. Yes.

Q. \$3,000 would be in accordance with the arrangement with Mr. Travers?  
A. Yes.

Q. The \$5,000 in accordance with the Lindsay arrangement? A. Yes.

Q. And then would the \$10,000 be in addition, making \$18,000 altogether?  
A. No, that was more a consolidation as it were.

Q. If that appears on the Government Return sent in on the 21st of November it would have been made before that.

MR. DEWART: The 27th of November.

MR. HODGINS: Yes, sent in on the 27th of November, it would be before that?

A. I do not know anything about the Government Return sent in on the 27th November.

Q. It appears in the Government Return sent in on the 27th of November, it would have been made before that? A. Yes.

Q. Was the \$3,000 subscription made before you telephoned Mr. Travers about Laidlaw? A. No.

Q. You appear to have crowded three subscriptions into a month? A. These various arrangements were going along at the time.

Q. Did you know anything about the Laidlaw suit other than what you saw in the paper? A. Nothing except what I saw in the papers and what Mr. Travers told me.

Q. When he told you that it was over? A. After I saw him.

Q. When it was over? A. I cannot be positive whether it was over or not.

Q. At all events this interview that you had after telephoning him? A. Yes.

Q. When you did see him he explained to you, or did you display any curiosity as to what Laidlaw's suit was about? A. I do not think that I bothered much about it. I had had a little difficulty, Mr. Laidlaw and myself, before, and I was rather pleased, and that was all there was to it.

Q. Rather pleased that it was disposed of? A. No, I did not know anything about its disposition, I was rather pleased that Travers came out on top.

Q. That is what he says, that you telephoned him and rather congratulated him on the way it came out. You having agreed to accept the office of President you subscribed I suppose for the \$5,000? A. Yes, that is my recollection.

Q. Previous to that you had subscribed for the \$3,000? A. That is my recollection.

Q. And you I suppose took some interest in the concerns of the bank, having agreed to become its President? A. Mr. Travers showed me a letter of recommendation from Mr. Fish who had been General Manager of the Merchants Bank in Montreal, and I accepted largely Mr. Travers—of course I had met him several times and I do not think anybody will deny his social qualities, and I liked him, and his letter from Mr. Fish recommended him very highly, and I accepted any statements he made to me as being from a man qualified to speak, being from a thoroughly honest and reliable man; I knew nothing about banking myself and was busy with other enterprises at the same time, and I cannot say that I paid any very particular attention. I accepted largely what Mr. Travers informed me was the right and proper thing to do in the organization of the bank.

Q. At that time you were President of two other companies? A. Yes.

Q. Which were the two? A. The C. H. Hubbard Company and the Clerk Manufacturing Company in Gravenhurst.

Q. You had been President of both of them? A. Yes.

Q. You knew the duties of a President? A. Well I was acquainted with the duties of President as far as an ordinary company was concerned.

Q. You had actively performed the duties of President in these two companies for years? A. Yes.

Q. In accepting the Presidency of the bank I am asking you if you took any active interest in its organization? A. The organization, you see everything was practically completed before I came in at all.

Q. What was completed? A. I understood that they had at the time I accepted the Presidency, I understood they had their money ready to deposit with Ottawa, they had the necessary number of stock subscriptions, and that they were ready in every way to meet the requirements of the law.

Q. You understood they had their money ready to deposit? A. Yes.

Q. Did you understand it was deposited? A. I could not be positive just now, I understood the Government required them to have \$250,000 and that they had the \$250,000 and everything was ready and proper in connection with it that was necessary to be done.

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Q. Did you understand that Laidlaw's action attacked the bona fides of the raising of that \$250,000? A. No.

Q. Did not they tell you so? A. No.

Q. Did you know anything about the raising of the \$250,000? A. I understood it was paid in by the subscribers to the stock.

Q. Did you make any inquiry? A. I inquired from Mr. Travers, and he told me this money had been paid by the subscribers to the stock; everything was perfectly legitimate and right.

Q. He told you it had been paid in by the subscribers to the stock; did he tell you the way in which that had been done? A. No, I did not question the way it would be done; there was one normal way it appeared to me to be done.

Q. What was that? A. For the subscribers to send in their cheques.

Q. Did you examine the bank book to see? A. No.

Q. Did you ask to see the stock list? A. No.

Q. What did you do after accepting the Presidency and down to the time of the meeting which was held at which you were formally elected, what did you do to find out how things stood? A. I did not do anything to find out how things stood, except here was the statement shown to me by Mr. Travers, Mr. Travers told me "I have so much money", and he says, "Here are my list of subscribers"—he had a long list of subscribers; I did not go through that list to verify each one; I think he had about 650 subscribers, there were several hundred, it was a large number I remember; and showed me that was his list of subscribers and that he had this money.

Q. That is he went that far in demonstrating his good faith, he produced a list of subscribers? A. Yes.

Q. Was your name on it? A. I cannot say whether my name was on it or not or how that would be; this was the list of subscribers he showed me—the only list I remember was the list he showed me before I had actually completed my arrangements to become president, what he showed me was prior to my subscription as I remember now.

Q. Your subscription for how much? A. I think it was prior to any subscription I made.

Q. Prior to the \$3,000 subscription? A. I think so.

Q. Naturally you would not expect to see your name on the list? A. No. I only actually agreed—I think at the final arrangement when I agreed to become president it was only a few days before the bank was organized.

Q. What do you speak of as the organization of the bank, that meeting? A. Yes.

Q. That meeting at which you were elected a director? A. Yes.

Q. You thought that was only done a few days before? A. A very few days before.

Q. Your \$10,000 subscription then would follow that; would that be before the organization meeting? A. Yes, that would be before the organization meeting.

Q. Would \$5,000 be before the organization meeting? A. Yes.

Q. And the \$3,000? A. Yes.

Q. Would that be in that few days or would not the \$3,000 be considerably earlier? A. The \$3,000 would be a little earlier than that. As near as I can remember now, once I arranged, agreed with Mr. Travers to become President, that the succeeding events transpired very rapidly.

Q. You would be wrong in saying that that list which he showed you would not contain your name on it for \$3,000 if you had subscribed that before you agreed to become President, it ought to have been there, should it not? A. No, that would not follow.

Q. Travers puts your acceptance of the Presidency as the middle of November? A. I cannot just say when it was myself.

Q. And he says you gave your signature so that it could be forwarded to Ottawa where they were getting the bills printed? A. Yes.

Q. You knew, of course, enough about banking to know that immediately the certificate was granted, if you had paid up capital you could issue the circulation? A. Yes.

Q. So that this signature of yours would be necessary some time in advance of that? A. Yes.

Q. Does that assist you at all in the date at which you made these arrangements? A. I remember that Mr. Travers was in difficulty about the signature of his bills, I remember that discussion that he had to have the signature go down to Ottawa by a certain date in order to have the bills printed in time for him to do business and I think he told me he had arranged with Colonel Munro to be President, and that Colonel Munro was to wire him by a certain time and if he did not wire him by that time that he could not get his bills signed and be ready; I think that was about the time I agreed to become President.

Q. Would that be about the middle of November? A. I cannot tell you that. Colonel Muro wired; the day I signed the bills, Colonel Munro wired, we got a wire in the afternoon saying he would be down at night with Mr. Travers to the Rossin House. I went down with Mr. Travers to the Rossin House that evening and met Colonel Munro and we explained the situation to Colonel Munro, and Mr. Travers explained about the necessity of having the signature in time and being disappointed because he did not hear from him, and then I explained to Colonel Munro that I had accepted the Presidency in the meantime to help them out and that I was not particularly anxious for the Presidency, but if he would take the Vice-Presidency of the Bank at the end of the year I would retire from the Presidency and he could be elected President. Then after some conversation it was arranged there that he would take the Vice-Presidency, and at the end of the year I retired and he was elected President.

Q. What did Travers say about the Trusts & Guarantee Company?

MR. DEWART: I did not know my learned friend intended to go into that. Dr. Nesbitt is under several charges in the police court, and that particular Trusts & Guarantee Company deposit or questions that arise out of it form the crux of the charges against him in the Police Court. I do not want to claim privilege, but I thought perhaps my learned friend would think it would not be fair to go into matters that raise the subject of a charge against Dr. Nesbitt elsewhere.

MR. HODGINS: I do not see any reason why Dr. Nesbitt should not answer? A. I have no objection to answering.

MR. DEWART:—Except the suggestion of being fair to a man that is under charge elsewhere I have no objection to answering that question as regards anything that occurred after the organization or anything that occurred after the organization meeting. Mr. Travers stated he had told me about the loan from the Trusts & Guarantee Company the day previous to the organization. Mr. Travers' memory must be at fault, because if Mr. Travers had told me that a part of the \$250,000 that he had to get his certificate had come by way of a loan from the Hon. J. R. Stratton and the Trusts & Guarantee Company, a man whom I had been politically opposed to all my life, very bitterly opposed in the Gamey case, I would not have any connection with the bank. I am quite positive he never told me a word about it before.

Q. Did you inquire where the money came from? A. I understood the money came from the subscribers in regular and legitimate way.

Q. Did you make any inquiry? A. I asked if the money came from the subscribers in a legitimate way and was told it did.

Q. You may have been told that he got a loan on subscribers notes? A. I was not told anything about getting a loan.

Q. What is that? A. I was told nothing about getting a loan.

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- Q. Quite sure of that? A. Yes.
- Q. You say that he said he told you that the day before the organization meeting, is that what he said? A. I said he made that statement in the Police Court the other day.
- Q. The day before? A. Yes, sir.
- Q. Were you at the organization meeting. A. Yes.
- Q. Do you remember a report being presented that the Provisional Directors' expenses were over \$40,000? A. I cannot remember what was presented there now, whatever appeared in the minutes is what was done.
- Q. Did you make any inquiries as to where that money came from, how they raised the money to spend that amount? A. No, I did not make any inquiry about that; any company I had ever been connected with we always had expenses of organization.
- Q. Did you inquire from Travers anything about the subscribed capital? A. I just took Travers' statement for the subscribed capital.
- Q. You are a business man? A. Well, some of the papers say not.
- Q. What do you say; there is an opportunity to correct that now? A. I am not looking for opportunities.
- Q. You were not practising your profession, you were engaged in business at this time? A. I was engaged in business at that time.
- Q. You had had to make use in your companies of banking facilities? A. Yes.
- Q. Did you make any inquiries as to how much capital Travers had got subscribed for this new bank before you went into it? A. Certainly I asked him how much he had subscribed.
- Q. What did he tell you? A. I cannot remember now.
- Q. Half a million? A. It was over half a million.
- Q. Did you interest yourself to see how the half million was made up? A. I cannot say I went into details.
- Q. Did you make any inquiry into the details to see if they were *bona fide* subscriptions? A. I looked over the list and it appeared to be a *bona fide* list.
- Q. If you had seen W. J. Lindsay down for \$50,000 what would you have thought? A. I do not remember seeing W. J. Lindsay down for that.
- Q. If you had, what would you have thought? A. I would have asked for an explanation.
- Q. Did you make a perusal of the list? A. Yes—
- Q. For the purpose of finding out things were *bona fide*? A. Of the list that he showed me; as I say, before I arranged to become a director.
- Q. Did the list contain any statement as to the amount paid up on each share? A. I cannot remember now what it contained.
- Q. You paid nothing of yours? A. I had not subscribed at that time.
- Q. Did you make any inquiry as to whether the notes had been given by any of the subscribers? A. No.
- Q. Then did you go into the Bank Presidency blindfold? A. When you have a man that you suppose is thoroughly competent to handle bank affairs and have the highest recommendations of him, and do business, you know nothing about yourself you have to go into it blindfold to a certain extent.
- Q. You had a reputation at that time to take care of? A. Pretty hard to say so by the papers.
- Q. Was it not of importance to you if you were connected with the bank, that the bank should be successful? A. Very important.
- Q. And have you told me all the precautions you took to find out? A. I took all the precautions I thought were necessary, trusting Mr. Travers.
- Q. Have you told me all the precautions you took to find out the *bona fides* of the subscriptions and whether the capital was sufficient to carry on the bank? A. When Mr. Travers showed me the list of subscriptions, I looked over them to

assure me they were *bona fide* subscriptions, and the thing that struck me particularly about the list was that they were for small amounts and distributed over a large number of shareholders, and it seemed to me, as he pointed out to me, the fact that they had got their stock so widely and well distributed would tend to bring business to the bank, and he had a deposit, I do not remember how he showed me the \$250,000, but I know I was absolutely satisfied he had \$250,000 of cash and—

Q. I was going to ask you if he showed you the bank book? A. I cannot remember whether he showed me a letter or what, but at the time I was satisfied he had.

Q. What do you mean by a letter? A. For instance, I might go to a banker and get a letter that I had so much money to my credit there, and I cannot just say how he showed me, but he satisfied me that he had \$250,000 in cash.

Q. Did he satisfy you by the production of the bank book and are you able to say in the bank book, which would be an independent source? A. I cannot tell you how it was I was satisfied at the time.

Q. You told me the precautions you took to satisfy yourself? A. I have given you to the best of my recollection all the occurrences of several years ago.

Q. This would all occur within a few days prior to the organization meeting? A. It would be somewhere about there.

Q. You, I suppose, must realize that when you subscribed for the stock, the \$5,000 and the \$10,000, you were not treating the other shareholders fairly if you did not pay up your share? A. Well, my share was arranged to be paid for and the stock did not have to be paid for at the time it was subscribed; there was only a percentage to be paid for at the time.

Q. If he had all this stock subscribed, what was the object of your subscribing two or three days before the organization meeting to the extent of \$10,000? A. We had arranged \$5,000 first, you see, and then Mr. Travers considered that it would appear better for the president to hold \$10,000 worth of stock.

Q. Had you any arrangement as to qualification on that? A. Well, as regards that I was to pay for the extra \$5,000 myself.

Q. You had arranged to finance that? A. I had not arranged to finance that at that time.

Q. You would arrange to finance that? A. Yes.

Q. You were willing to take the extra \$5,000 at that time? A. Yes, and pay for it myself.

Q. Travers says he told you about borrowing the money and in your talk you thought the president ought to have \$10,000 stock instead of \$3,000, the suggestion came from you? A. Well, of course—

Q. Is he right? A. He is not right in that respect. The suggestion came from Mr. Travers to my having \$10,000.

Q. That you should have \$10,000? A. Yes.

Q. Did not that make you suspicious that he had not quite got his list complete? A. Oh, no; there was no reason for that at all. As Mr. Travers put it to me, it was perfectly fair and I had the utmost confidence in Mr. Travers. I think anybody that would associate with him at that time would have. I know I met Mr. Fish personally afterwards, and Mr. Fish gave me the very highest testimonial of Mr. Travers as to his probity and in every way he could not speak more highly of Mr. Travers.

Q. After the organization meeting you knew a certificate was being applied for? A. Yes.

Q. And you knew it was got? A. Yes.

Q. And almost immediately after that you got this \$5,000 from Lindsay? A. Yes.

Q. Did you take it out of his commissions? A. Yes.



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Q. Did you know what he got his commissions out of? A. He got his commissions from the sale of stock.

Q. Out of the capital stock of the bank that had been put up to the Government? A. Not that I knew of.

Q. You knew that \$250,000 had been paid up, as you stated? A. Yes.

Q. You knew when the certificate was granted it would come back? A. Come back to the bank.

Q. You knew the bank had not begun business? A. No.

Q. Out of what could it come except the capital stock that was paid up? A. I do not think I considered how it came. They were of course receiving moneys all the time from subscribers.

Q. That would be capital stock, would it not? A. That would be capital stock.

Q. What was the private arrangement referred to in this letter you had with Lindsay? A. That was simply the arrangement that the \$5,000 of my stock, the \$5,000 that I took, he would give me \$5,000 out of his commissions, with which I should pay for the stock.

Q. Why was it drawn out in these bills and brought in and passed to you or to Travers, whichever you like, in money instead of a cheque being given so that it would be clear what the transaction was? A. I cannot say just why it was done in that way.

Q. It is a large amount for Saturday afternoon is it not? A. I do not know just what day it was.

Q. Lindsay said it was Saturday? A. I do not know, I do not remember.

Q. Can you account at all for his bringing it in bank bills? A. I do not know as there is any way of accounting for it; it was done in that way.

Q. What did you do with it when you got it? A. My recollection is that I deposited it.

Q. What bank? A. In the Crown Bank.

Q. Then what became of it there? A. Then I gave a cheque on the Crown Bank.

Q. To whom? A. The cheque was to—I cannot remember; I tried to find the cheque and I cannot find it, I have not been able to find it; my stuff was all jumbled up and there is the difficulty, I do not know just who the cheque was made out to; I remember when I brought the cheque in to pay for the stock that Mr. C. A. Brown, Bradstreet's solicitor, was sitting with Mr. Travers talking to Mr. Travers, and I think I remarked to him that that was a cheque on my stock.

Q. Mr. whom? A. Mr. Brown; or Mr. Travers remarked to him, I have forgotten just how it was, as near as I can remember.

Q. Is that what you did with it? A. That is as near as I can remember what I did with it.

Q. What became of it after that when you handed Travers the cheque? A. The cheque went into the Farmers Bank in payment of my stock.

Q. Payable to him? A. I do not remember whether the cheque was payable to him or to the bank; whatever was the right way to make it out at the time would be the way it was made out. The cheque was in payment for my stock, and whatever was the correct way to make it out at the time, whatever was suggested to me as being correct—

MR. DEWART: I see the sixth would be on Thursday.

MR. COMMISSIONER: We have that date explained that it was not a Saturday.

MR. HODGINS: My question should have been it was unusual I suppose on any day even if it was not Saturday? A. Well.

Q. What is the object of going through that form of paying you the money and taking it to your bank and giving a cheque to Travers? A. I cannot say whether I gave a cheque to Travers or gave it to the bank.

Q. You handed it to Travers? A. Yes.

Q. Have you looked for the cheque? A. Yes.

Q. And does your Crown Bank account on that date show the payment of \$5,000 shortly after that date? A. About that date.

Q. Was that the only payment you ever made on the stock? A. On the \$10,000?

Q. Yes? A. No, there was another payment made.

Q. On what? A. Another payment of \$5,000.

Q. Later on? A. Yes.

Q. In the first place, we will come to that later on, did you ever secure the cancellation of the three subscriptions you made? A. I cannot remember now just what happened to the previous subscriptions, as I say it was all done in a short time.

Q. You never paid anything on the \$3,000? A. Mr. Travers was to arrange the payment of the \$3,000.

Q. You never paid anything on that? A. No.

Q. You never paid anything on the \$5,000? A. Well, the \$5,000 was paid.

Q. In what way? A. In this way that I tell you; I think I made a payment somewhere, I cannot find the records now, and I certainly cannot remember the details just accurately how things occurred then.

Q. This \$5,000 from Lindsay was paid up on the \$10,000 subscription you say? A. It was paid on the—as I understood the thing that Mr. Travers was first taking care of the \$3,000 subscription that I subscribed with him originally for as a director, and that he was going to take care of that.

Q. That is that he was going to pay it up? A. Yes, and I was to pay him back.

Q. And Lindsay was to have taken care of the \$5,000? A. Yes.

Q. Was this \$5,000 paid applied on it or on the \$10,000? A. I could not say anything about how it was applied or what the bookkeeping was.

Q. How did you intend it to be applied? A. I intended it to be applied as payment on the \$5,000.

Q. Was there ever any payment on the \$10,000? A. Of course that would apply to the \$10,000 as the \$5,000 that I paid went on my subscriptions; the subscriptions were changed.

Q. By whom? A. I made a subscription first for \$3,000 and then for \$5,000, and then it was consolidated at \$10,000; I cannot say that the \$5,000 was payable on this \$5,000 subscription, because at the time it was paid there was a subscription for \$10,000, but the \$5,000 was in connection with the \$5,000 subscription that I had originally arranged; that was how I came to get that, how I had that amount in my mind.

Q. Did you get a receipt for the amount that you paid on this stock from the bank or from Travers? A. I got a stock receipt.

Q. Showing what, payment up of \$5,000? A. I cannot tell you now what it was.

Q. You became aware I suppose that returns would have to be made at the end of the year, did not you, according to the Bank Act? A. Yes.

Q. They would start to prepare that shortly after the 6th December would not they? A. I do not know when they would start to prepare it.

Q. Did not you know? A. I saw nothing of the return until it was presented to me for signature.

Q. Is that the return up to the 31st of December.

MR. DEWART: That is the subject of a distinct charge and I must urge that my learned friend in fairness should not go into that when the Doctor has to stand his trial upon it in the Fall. I had thought that was the position he intended to take.

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MR. HODGINS: I may say frankly I cannot undertake to limit Dr. Nesbitt's examination because he happens to be under a charge; if he is to be any use to the inquiry at all I suppose he has to answer the questions asked.

MR. DEWART: The matters regarding which he is charged are quite specific in their character; they relate as my learned friend well knows, to the monthly bank returns made on the 31st December, 1906, and the return made at the end of January and February, 1907, and also there is the fourth charge relating to what has been termed a special return in May. With reference to the circumstances relating to these, which my learned friend is now going into, when Dr. Nesbitt has been committed for trial and has to stand his trial upon those charges in the Fall, I do submit it would be manifestly unfair to ask the Doctor now to make a statement with reference to those matters, and I ask your Lordship to rule that so far as this inquiry is concerned my learned friend should not deal with those matters.

MR. COMMISSIONER: I cannot rule that; the inquiry is entirely open. It is for Mr. Hodgins to say. I do not myself see how they are very relevant to this inquiry. I am not trying anybody for making false returns. My duty is specific.

MR. DEWART: I had conceived that the question of whether Dr. Nesbitt did or did not knowingly and wilfully make false returns did not particularly concern this inquiry. What was done at the time of the organization I can well understand is the general subject of inquiry; but the question as to whether a certain return made was to his knowledge false or not, I do say, and I ask my learned friend in all fairness under the circumstances in which Dr. Nesbitt is placed that he should not go into that branch.

MR. HODGINS: It places me in rather a farcical position that the inquiry should be closed without Dr. Nesbitt's evidence.

MR. COMMISSIONER: How does this inquiry as to whether he knew the return was false, or whether he did not become relevant to my inquiry as to the circumstances attending the issue of the certificate and the causes of the failure of the bank?

MR. HODGINS: I am not desirous of pressing it if you, Mr. Commissioner, think it is not necessary for your inquiry.

MR. COMMISSIONER: I would like to hear how you think it is relevant.

MR. HODGINS: I should have thought, and I do think that the actions of Dr. Nesbitt, Travers and others in connection with the obtaining of the certificate is a matter to be inquired into.

MR. COMMISSIONER: Undoubtedly, nobody has suggested anything to the contrary.

MR. HODGINS: Then my learned friend's objection is premature.

MR. DEWART: No, because you asked with reference to the return on the 31st December.

MR. COMMISSIONER: That is subsequent to the certificate.

MR. HODGINS: Yes; I had not asked him anything about the details of that.

MR. DEWART: The reporter has the question on the notes.

MR. HODGINS: However, if you think it should be limited to the question regarding the certificate, that will suit my purpose altogether.

MR. COMMISSIONER: I would like to hear some suggestion from you as to how it tends to show how the bank came to grief, the causes of failure—has that anything to do with it at all?

MR. HODGINS: The Commission as I recall it, reads that inquiry is to be made into the circumstances of the granting of the certificate.

MR. COMMISSIONER: Do not let us get mixed; the granting of the certificate is wide open, and then after you pass that it is the question of the relevant facts, bearing upon the causes of the failure of the bank.

MR. HODGINS: I had not asked that granting of the certificate; my question was entirely germane to that, and was intended to be so, and if it appears to be dealing with the later return then we may get over this difficulty without further

discussion by my putting the question in such form as it will not be objectionable to my learned friend, but I do not at all concede his right to object to the inquiry embracing the whole matter. Perhaps Mr. Nield would read the last few questions. (The four questions immediately preceding Mr. Dewart's objection were read).

Mr. Hodgins: My purpose of asking that question with regard to the return was to elicit the information as to whether prior to the making of that return you had directed your attention at all to the details which would have to be included in it? A. No, I had not.

Q. Before the certificate was issued at all, were you aware that Travers was making application for it? A. After the organization meeting, I knew that Mr. Travers was going down to Ottawa for the purpose of making application for the certificate.

Q. The organization meeting directed an application to be made, did not it, by Travers? A. I cannot remember; what was agreed is in the minutes.

Q. You were of course as much interested as anybody? A. I was certainly desirous of getting the certificate for the bank.

Q. Were you in and out of the bank after the organization and up to the time Travers left for Ottawa? A. I cannot say now.

Q. Do you know Fitzgibbon? A. I know Fitzgibbon, yes.

Q. Did you remember when he was employed? A. No.

Q. When you came in contact with him? A. The first I met Fitzgibbon, I think as near as I can remember, Mr. Travers introduced him the morning we had the meeting for the organization of the bank.

Q. You remember a letter from the Department before the certificate was granted dealing with the information they wanted? A. I do not remember it.

Q. Do you remember the Department before you went down asking for details with regard to the amount of cash paid up by the subscribers? A. No.

Q. There is the letter, November 21st, that would be a few days before the organization meeting, addressed to Travers, asking if Travers would be so good as to have added to the list, that is the list of bona fide subscribers, a statement showing the actual amount of cash paid up by each subscriber; did that letter come to your attention? A. No.

Q. Sure? A. I do not remember anything of that, at all; I think it would appeal reasonably to anybody that at that time nothing of a disturbing nature would be brought to my attention.

Q. This was a matter you had inquired into? A. I know nothing about that. From the character of the letter there was apparently some extra information wanted; I should not imagine at that time I would hear anything about it and I do not remember hearing about that.

Q. Is that as far as you can go? A. That is as far as I can go now.

Q. Taking the 21st November, that was five days before the organization meeting, would your subscription for the \$10,000 have been made then? A. I could not tell you now.

Q. You said it all came in a rush in the last few days? A. I cannot tell you positively.

Q. Travers had suggested to you that they were a bit short and needed additional subscriptions? A. You say so; I do not remember anything of that kind.

Q. You say you did not hear of this letter November 21st? A. No, I do not remember anything of it.

Q. Travers did not ever mention it to you or show it to you? A. I do not remember anything of it.

Q. Were you aware that Hunter was consulted before Travers left for Ottawa to get the certificate? A. I do not remember anything of that; as near as I can remember now, the organization meeting was over, it lasted some time, and when we got through the election of directors, just a few minutes after that I left

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the bank and I cannot remember now what occurred after that. It is a human impossibility for anybody to remember these details at this late date. Any man that says he remembers accurately is stating a falsehood.

Q. Evidently this letter had been received about the 21st or 22nd November, which would be several days before the meeting, and according to Travers' story he and Fitzgibbon and you and I think it was Hunter took up the business of getting the list ready? A. I had nothing to do with getting the list ready; I did not have to sign any statement in regard to it; there was no duty I had to perform in connection with it.

Q. Will you say you were not aware that the list was being prepared for the purpose of getting the certificate? A. It is an impossibility for me to tell what was being done, or that anything was being done about business in connection with the bank; I was not acquainted with it at all, and there might be things being done that would not impress themselves upon me as being for any particular purpose or anything. I know I had nothing to sign nor nothing to do in connection with the first returns that were sent to Ottawa.

Q. I am not speaking of the returns, I am speaking of this subscribers' list? A. That was in connection with the organization meeting.

Q. That was in connection with the application for the certificate? A. I do not know what—

Q. I am putting this to you; here is a letter from the Department, saying that in addition to the list of the bona fide subscribers— A. I do not know anything about that.

Q. Just let me ask my question; here is the letter which comes to Travers asking for the amounts paid up in addition to the list of subscribers; that arrived three or four days before the organization meeting; were not you aware that that list was being prepared for the purpose of getting the certificate, whether you knew the details or not? A. I cannot say I saw it.

Q. Travers says you were, can you contradict him? A. Travers says what?

Q. That you knew about the preparation of the list? A. I did not know about the preparation of the list.

Q. You did not know it was being prepared? A. I did not know—I understood there was a list of subscribers that would go down to Ottawa, that was part of the organization; when he would apply for the certificate they would send in their list of subscribers.

Q. How did you know that? A. I think that is stated in the Bank Act.

Q. Had you read that up? A. I had read the Bank Act.

Q. You read it up? A. I cannot say I read it all, but I glanced at it.

Q. You knew a list had to go in of the bona fide subscribers? A. There was a list of the subscribers had to go in.

Q. You would naturally know if they were preparing it two or three days before? A. No, I had nothing to do with it.

Q. If you were taking any interest at all in the bank you would know it was being prepared? A. I did not know what they were doing; I had no active connection, knew nothing about the business affairs of the bank, had nothing to do with the business affairs of the bank until after the organization meeting; I had no right to know.

Q. You knew anyway the list would have to go down to Ottawa of the subscribers? A. I knew generally there was a list of subscribers would have to go to Ottawa.

Q. You knew you had subscribed? A. Yes.

Q. Did you make any inquiry as to whether your subscription was being put in that list or not? A. I did not.

Q. Did you see any list before they left for Ottawa? A. I cannot say I did.

Q. Were you consulted as to the preparation of any list? A. I was not.

Q. Were you ever at a meeting where Travers, Hunter and Fitzgibbon were together in the bank discussing a list before the issue of the certificate? A. I do not remember being at a meeting where Travers, Hunter and Fitzgibbon were together at the bank discussing this list before it was sent in.

Q. Were you at a meeting in which any two of those were present discussing the list? A. I cannot say I remember anything of it.

Q. Did you discuss the list with Travers? A. I am positive I did not discuss the list with Mr. Travers.

Q. Did you discuss it with Hunter? A. I did not discuss it with Hunter.

Q. Did you discuss it with Fitzgibbon? A. I did not discuss it with Fitzgibbon.

Q. Were you present in the room when Hunter came in and explained to Fitzgibbon how the list was being made up with regard to cash payments? A. I cannot remember being in the room under the circumstances you describe.

Q. Hunter's explanation is that he told Fitzgibbon that if Travers borrowed upon notes, borrowed personally, and chose to pay up on any of the subscription he could do so; did you hear that explanation given? A. No, I did not.

Q. You remember Travers going I suppose to Ottawa to get the certificate? A. I remember him going down to Ottawa to get the certificate.

Q. Do you remember being in the office of the bank the following day? A. I do not remember being there, but it is possible I was there the following day, reasonably possible I would be there.

Q. Fitzgibbon wrote a letter to Travers dated the 29th of November; perhaps you will look at the letter and I will ask you about the postscript to it. (Handing letter Exhibit 55 to Dr. Nesbitt). Did Fitzgibbon give you the gist of Hunter's report as indicated in this letter? A. I do not know what Mr. Fitzgibbon gave me; I inquired from Mr. Fitzgibbon how they were getting along and Mr. Hunter said they were getting along all right, and everything was in good shape; that is all I know about it.

Q. Fitzgibbon says Hunter went over all the applications and "informed me that they are in first class shape, and he would have no hesitation in exhibiting them if called for". The postscript is, "Dr. Nesbitt has just called to inquire how things were going, and I have given him the gist of Mr. Hunter's report this morning"? A. That would be simply that everything was in first class shape; there were no particulars given to me that I can remember of.

Q. No particulars that Hunter had gone over the applications and they were all in first class shape? A. No, that would not be necessary.

Q. That things were going in first class shape? A. That things were going all right.

Q. Did you take an interest in the bank affairs after the organization meeting? A. Well, what a President ordinarily takes.

Q. That is from your point of view? A. I think my point of view is the same as the rest of them; you do not bother anything about the details; you take your General Manager's presentation of the facts to you, you accept them as facts. I cannot conceive of how a President can go into the affairs of the bank at all, and if you have a General Manager you either have to trust him or do not trust him.

Q. That is a general question; Travers made a very long declaration in this matter on the 27th November, that is the day following the organization meeting; were you consulted at all about that? A. Not that I remember of.

Q. And he left that night for Ottawa; had you no conversation immediately prior to or subsequent to the organization meeting about the matters he laid before the Government to get the certificate? A. There was no particular detailed conversation; it did not seem to me there was any necessary. Mr. Travers told me he had everything in good banking shape to get the certificate, and was going down to get it, and that it all there was.

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Q. It appears to have disturbed him considerably, this request from the Government on the 21st November, and caused a considerable amount of trouble in making the list to fit what he thought would be satisfactory to the Government. In your position you knew nothing about that, and were not told about it? A. I knew nothing about it.

Q. And never saw any evidences in the bank that there was something brewing? A. Nothing that I could recognize as wrong.

Q. The question I intended to ask, I may as well ask it, you need not answer it in the meantime, we will see how far it is relevant or not; the question I want to ask you is, having regard to the bank that a return had to be made on the 31st December, and the details of it necessarily comprised a good deal that went down in that statement, my question would be whether you investigated then what had gone down to the Government in November.

MR. DEWART: Does your Lordship think that should be answered?

MR. COMMISSIONER: He can ask if he investigated then; I do not know that it is very important. A great many of the questions are not important in my view, but he can ask it.

MR. HODGINS: Well, Dr. Nesbitt? A. As the Government had issued the certificate I considered that everything was in proper shape. I took the fact that the Government had issued the certificate, that they knew more about banking business, what was required for the certificate than I did; I took the fact that they issued the certificate as a guarantee that all our affairs were in perfect shape and perfect order and I took Mr. Travers' statement as a man I trusted as general manager, had respect and confidence in, and when he presented his statements to me I accepted them as he presented them to me; I asked him if those statements were correct and he said yes.

The Commission adjourned at 1 P.M. to 2 P.M.

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The Commission resumed at 2 P.M., June 27th, 1912.

MR. HODGINS: Dr. Nesbitt has not arrived yet and Mr. Calvert is here, and if you have no objection I will take his evidence.

MR. COMMISSIONER: Very well.

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WILLIAM S. CALVERT, Recalled—

MR. HODGINS: You communicated with me through Duncan Ross and said you desired to make a statement? A. Yes. What I wanted to make a statement in regard to was an article that appeared in one of the Toronto papers in reference to a \$3,000 cheque that apparently has not been fully described or accounted for, and this is the article that appeared and I felt it was my duty on behalf of myself and others to come before your Lordship and to explain my position so far as as this is concerned. The article reads as follows: "Some person or persons at Ottawa received at least \$3,000 for assisting to pave the way for the granting of the certificate to the Farmers Bank. This was interjected by W. R. Travers during the course of a dialogue yesterday afternoon at the Farmers Bank Inquiry when the former manager was squeezed into a very tight corner by Frank Hodgins, K.C., and before he could extricate himself some surprising admissions had been made in reference to the three"—I presume it is blank cheques, it says "Bank cheques" which were sent to Ottawa by solicitor Hunter. Travers refused absolutely to tell who got the money, said he would sooner return to jail for twice his time. The

World understands that the money was paid to a prominent politician, formerly a merchant, who is not now a Member of the House of Commons", and then it went on: "Now when you were down in Ottawa you had three interviews with the Finance Minister", began Mr. Hodgins, "You have only told us of one. You were introduced by Mr. Calvert, were you not? A. Yes. Travers said he did not know Calvert personally; he had a letter from Mr. Urquhart to him. Mr. Urquhart said that Calvert was very influential". That is an extract from the Toronto World, dated May 16th, 1912; and in consequence of that article, your Lordship, some people, on account of my having introduced Mr. Travers to the Finance Minister, seem to think that that refers to myself. Now, I wish, Mr. Commissioner, to say that I know nothing whatever. I never received a cheque from Mr. Travers or from the Farmers Bank other than the money I borrowed as I stated to you some time ago, which was fully paid with interest. As far as this cheque is concerned I never received it either on behalf of myself or any person else, or any other cheque. I think that is about all I wish to say in regard to the matter, simply to clear myself in the matter, so that if any person outside might say anything further in regard to the matter I want to have it distinctly understood that I had nothing to do with it.

Mr. HODGINS: When I examined you before in Ottawa, you told me that you did not know Travers at all until you met him in the Russell House, when he had a letter of introduction from Mr. Thomas Urquhart? A. That is when I first met Mr. Travers.

Q. Is that strictly accurate? A. Yes, so far as my knowledge goes; I never remember of meeting Mr. Travers before.

Q. But you had corresponded with him? A. Not to my knowledge. I see by Mr. Travers' evidence that appeared in the press that he said he had correspondence with me; I have no recollection of any correspondence. If it was brought to my attention I suppose I would remember it. I have no recollection of any correspondence previous to this time.

Q. Will you look at that letter of yours and tell me what year that refers to? A. That was after the charter was granted.

Q. When was it? A. I presume that would be possibly just when the bills would be issued; it would be 1906 when the charter was granted.

Q. The charter granted? A. Or the certificate issued.

Q. That is dated in June, is it not? A. Yes.

Q. That would be before or after the certificate was granted? A. I do not recollect exactly the date when the certificate was issued.

Q. In November, 1906? A. Well, then, this must have been the following year after the certificate was issued.

Q. You, however, had been asked to be a director during 1906, and had been interesting yourself in regard to getting shares taken up? A. No, not at all.

Q. Do you know Mr. Arthur F. Leggatt, of Ottawa? A. I know one Mr. Leggatt, and I presume his name is Arthur, I am not sure.

Q. Look at this letter and see what he says, and tell me if he is right? A. Well, Mr. Leggatt could write that to Mr. Travers as far as that is concerned, but I had nothing to do with the bank or the shares of the bank. I was asked, as I stated before by Mr. Lindsay over the telephone, if I would become a director. I told Mr. Lindsay I had no money to invest in the Farmers Bank stock, but it was placed on, my name was put on, and I afterwards either by wire or letter, I have forgotten which, advised the manager to have my name taken off.

Q. Mr. Leggatt's statement is "I have met Mr. Calvert one of your directors, and wish to have a talk with him regarding the matter"? A. Yes, that may be; he may have met me.

Q. He met you and how could he describe you as a director? A. What date is that letter?



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Q. The 29th March, 1906? A. The certificate was not issued until November, 1906; I have no recollection of anything, I knew nothing about it; I took no interest in it whatever, except I introduced the Bill in the House for renewal at the request of Mr. Urquhart. As Mr. Fielding has stated they asked for a year, and we gave them six months at the request of the Finance Minister. Before the six months was up I presume Mr. Travers came down with a letter of introduction from Mr. Urquhart to me.

Q. I am speaking of this particular letter? A. I had nothing to do with the Farmers Bank with selling stock or anything of the kind. Mr. Lindsay may have spoken to me about it, no doubt he did, as he spoke to many people.

Q. Did you see anybody down there in connection with the sale of shares? A. I saw no one I have any recollection of.

Q. Did you describe yourself to Mr. Leggatt as a director or prospective director? A. I did not.

Q. Did you discuss with him the sale of stock? A. I have no recollection of ever speaking to Mr. Leggatt about it at all; he may have spoken to me; I know nothing of it.

Q. Would that telegram come from you and what did it relate to? A. Probably Mr. Lindsay asked me to speak to some person in his behalf or something of that kind, as many a man did ask me to do certain things.

Q. About what? A. It may have been in regard to the Farmers Bank, I do not know.

Q. The date of that is what? A. March, 1906.

Q. This letter of Leggatt's is a few days after that? A. Yes.

Q. Would I be wrong in drawing the conclusion that you interested yourself at Lindsay's request for the purpose of getting the stock taken up? A. I cannot recollect of doing anything in connection with stock; he may have asked me to speak to some person, but if I did, there was nothing wrong about it.

EXHIBIT 85: Telegram March 17th, 1906, from W. S. Calvert to W. J. Lindsay.

Q. Speaking again about this letter dated the 27th June, which has no year mark on it, Mr. Travers says that is 1906? A. Why would they issue bills, because before they got a certificate they would have to have them printed and issued; they have the right to issue them as soon as the certificate was granted and they would get them engraved and prepared beforehand? A. Possibly.

Q. Do you still say now, do you leave it that way, that this letter is the year after, that is 1907? A. I do not recollect whether it is 1907 or 1906, but I would presume that before bills would be issued the certificates certainly would have to be issued by the Government before they can do business.

EXHIBIT 86: Letter dated June 27th, from W. S. Calvert to W. R. Travers.

Q. Is it the case you did not meet Mr. Travers personally? A. I have not the slightest recollection of meeting Mr. Travers until he brought that letter to me; if I did it was in the most casual way; there would be no remembrance whatever, and if I did there would be no reason for bringing a letter.

Q. Were you quite correct in your former evidence that you had no money dealings with Travers until three years afterwards? A. I had no money dealings with Mr. Travers until three years afterwards.

Q. We have a document here and some correspondence about which Travers was examined regarding a guarantee that you had given? A. That was not for myself.

Q. It arose early in 1907, and you gave a guarantee to the Farmers Bank? A. Yes.

Q. You did not mention that when I asked you if you had any money dealings with Travers afterwards and you said about three years afterwards? A. It was three years afterwards that I had any money dealings direct with the bank myself; I had forgotten in regard to that until I saw Mr. Travers' statement and I

could not remember anything about it and it was said to be about the Rabbit Mountain, and I immediately wrote to Mr. Snider, and I have his letter here in which he states: "Your favour of the 20th received"—

Q. Who is Mr. Snider? A. William Snider of Waterloo; it referred in the paper to William Snider having paid a note that I had guaranteed; that appeared in the London Free Press, and I had no recollection of that at all; so I wrote to Mr. Snider, and Mr. Snider said, "The note he refers to as having been paid by me was signed by two others and myself. Your name was not on, and I cannot remember that you and I ever had any business transaction whatever with the Farmers Bank."

Q. The guarantee was given in the beginning of the 1907 by you to the bank? A. For whom?

Q. I do not know who it was for; Hamilton was connected with it? A. My impression is that was in connection with the Canadian Oil Company.

Q. I do not care what it was in connection with; I am only speaking what Mr. Travers said; he said you gave the bank that guarantee and they advanced the money to Bull and Hamilton? A. I had forgotten entirely about that, because I had no money transactions myself, and I presume that that was in connection with the Canadian Oil Company, as I was President of the Company.

Q. You recollect it now? A. I think that is likely correct enough, but that was a purely business transaction, and the money was paid back.

Q. Did you introduce the matter to the bank? A. My recollection is now I went into the bank with the manager of the Canadian Oil Company, and I fancy that I guaranteed to a certain extent, and the money was all paid back with interest.

Q. That went on for two or three years with interest? A. I do not know how long I am sure; I cannot tell you how long; I know I was not called upon to make good anyway.

Q. In your answer to me you gave the other impression? A. I had entirely forgotten about that, and I spoke to Mr. Travers about it this morning, because I have no recollection of it, because I was not getting the money myself, I had no dealings in that way; the only money I got was the money I stated.

Q. The guarantee was a matter in which you were interested? A. I presume I was interested as President of the company and required some money.

Q. You say you got no cheque of \$3,000? A. No.

Q. That was the amount that apparently you say you got in July, 1909? A. That was the amount.

Q. You got no cheque from Travers and no money to that extent nor any part of it? A. No.

Q. Do you know any one that did? A. I do not; I have not the slightest idea of any person having got a dollar.

Q. Did Travers speak to you about any payments he had to make? A. No, sir, he did not. The word commission was never mentioned between Mr. Travers and I in any shape or form.

J. SEYMOUR CORLEY, Sworn, Examined by—

Mr. HODGINS: You are the City Crown Attorney? A. Yes.

Q. You have had to do with the prosecutions of some of those interested or concerned in the Farmers Bank? A. Yes.

Q. I have just asked you to come because we are endeavouring to get trace of some papers that do not appear among the papers now, and some people think they were among them when the seizure was made; tell us how would they come into your possession? A. I saw them in the possession of the Police.

Q. All the papers? A. Yes, and of course I went through them, a great many of them; I did not go through them all.

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Q. Are they turned over to you officially? A. No, I have access to them.

Q. Has any one else access to them outside of yourself? A. Not to my knowledge, and no one should while they are before the Court in which I act.

Q. The seizure was made of the Farmers Bank papers by the detectives, I think before any charges were laid, they would be in their hands up to that time; when would they come under your jurisdiction? A. They do not come under me at all; they are in the hands of the Police; such as have to become exhibits in the Court are marked as Exhibits of the Court and should be the property of the Clerk of the Court until handed over to the Clerk of the Peace.

Q. They do not go back to you? A. No, I do not have them at all; I merely have access to them; I have no files and no assistant for the purpose of taking care of them.

Q. They are in the custody of the police, and you have access to them, and you file what you want in Court and the rest go back into the hands of the Police? A. Yes.

Q. Can you throw any light on where the two documents were we have been after; one was a cheque and the other was a letter? A. I have not heard about a cheque.

Q. A \$3,000 cheque? A. No, I have heard about the cheque, but I know nothing of its subsequent history.

Q. You do not remember seeing it? A. At this moment I cannot remember seeing it, although I have a picture in my eye of it, but I cannot recall how I got that.

Q. Was it used in any of the prosecutions that you know of? A. I cannot recall that. I was days and days on it and I cannot recall whether it was or not. I can see no reason why the cheque marked "C" which I suppose is the one you refer to, I have no recollection of having made an Exhibit of that in the Police Court, although it might have been.

Q. What about Colonel Matheson's letter? A. I remember distinctly an impression copy of a letter at the bottom of which was the words "General Manager" leaving room for the signature; I remember seeing that letter.

Q. That has been put in? A. I remember that of my own recollection addressed to Colonel Matheson.

Q. That is in, and Mr. Travers says his recollection is he got a reply to that and he has not found that? A. Of my personal recollection without the suggestions of other people I cannot say anything as to that.

Q. After the prosecutions leave your Court they either go to the High Court or to the County Judge's Criminal Court; who gets the papers? A. I cannot say. If they are Exhibits I suppose they go to the Clerk of the Peace; if they are papers used for instructions to counsel and that sort of thing I suppose they go to the Crown Attorney for the County or whatever Crown counsel may be acting.

Q. Technically they are in the possession of whom? A. If not exhibits technically in the possession of the police; and very often exhibits are left with the police afterwards, except some papers, almost all exhibits, for instance weapons used or evidences of crimes, except mere papers, are left with the police until the trial comes on.

Q. If the trial took place in the County Judge's Criminal Court would Burns be the constable? A. Burns would be the man that has charge of it, as a sort of clerk to the Crown Attorney.

Q. They would go over to the County Crown Attorney? A. Yes.

Q. If it is in the Assizes? A. The County Crown Attorney should have charge of them, of course, assisting the Crown Prosecutor. Many people had access to these; there were several different Crown prosecutors and the Crown Attorney of course is dead.

Q. You cannot throw any more light on it? A. No, I cannot help you at all; I have thought several days over it and I cannot help you at all.

DR. WILLIAM BEATTIE NESBITT, Examination continued:

MR. H. H. DEWART, K.C., representing Dr. Nesbitt was not present, but came in later.

MR. HODGINS: Had you anything to do with introducing Travers to the Trusts & Guarantee Company, to Mr. Warren? A: I know nothing about that.

Q. I should judge that, but I am asking the question? A. Absolutely none.

Q. Just one or two things I want to call your attention to in Travers' evidence; I want to see what you have to say about them; in the first place where was the bank when you first became connected with it, in what building was it, the Stair Building? A. The Stair Building.

Q. Did Travers tell you the manner in which the Laidlaw cases were settled and the fact that the names were left on the list? A. No, I cannot say that I remember him telling me anything about that.

Q. Did Lindsay tell you? A. No, I do not remember being told any particulars about it.

Q. Mr. Travers states that he and you discussed the letter from the Deputy Minister of Finance dated the 21st November, 1906; that he was so flurried that he showed the letter to you and told you he was up against it, and you said to send for Bill Hunter? A. I do not remember anything of that at all.

Q. Mr. Travers says you were present when Hunter made the suggestion which was followed in the preparation of that list, and that you took part at the end when you suggested names? A. It is not correct; I suggested no names; I do not remember being at an interview or that Hunter made any suggestion in regard to that list. You are referring now to the list in connection with the first organization meeting?

Q. Yes? A. I do not remember being present at any such meeting at all.

Q. Did Travers tell you there were many subscribers coming to the meeting to make trouble, and it would be necessary for you to explain everything, and you said, "Leave that to me, I am used to handling crowds"? A. I cannot remember what I said to him. Travers told me he expected, on account of the difficulty raised by Mr. Laidlaw, that there would be some of the shareholders from, I think it was around Milton, there, that might be troublesome at the meeting, and I cannot remember him giving me any special directions about what would occur.

Q. Did you find out what was the trouble in the Laidlaw suit so that you would be able to explain to these shareholders? A. No, there was no necessity for me knowing about trouble with the Laidlaw suit; I was not interested in the trouble; the matter had been settled and I had no particulars of it, and I do not know what the details of it were. I understood from Mr. Travers it was merely that Mr. Laidlaw had got hold of some shareholders in that district and was trying to promote a suit against the bank, expecting to prevent the organization of the bank, and make money out of the liquidation of the concern, as it were, and that it was a purely malicious suit. I am saying what Mr. Travers told me at the time.

Q. Beyond these broad and general outlines you did not get any details, apparently? A. No, I got no details.

Q. You were there to take charge of the meeting, that was quite clear? A. I was to be chairman of the meeting.

Q. And on you would fall the necessity of explaining or answering any questions? A. Anything that occurred, yes. Of course, Mr. Travers was present at the meeting, and my position simply was if questions were asked that I was not capable of explaining myself that I would refer to him.

Q. Was there any pre-arrangement about that? A. Certainly.

Q. That you should do the answering? A. When I arranged with Mr. Travers that I would take charge of the meeting I said, "If things come up that I do not understand I will refer to you in regard to them and you can explain them."

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Q. When Travers returned with the certificate did he tell you the difficulties he had had? A. Mr. Travers told me he had had some trouble in getting the certificate because I was a prominent Tory partisan and president of the bank.

Q. Did Mr. Travers tell you any other difficulties he had? A. No.

Q. You did not believe the statement he made to you that that was the difficulty he had down there? A. I did not know but what it might be so to a certain extent.

Q. Did he tell you that Mr. Fielding had looked over the list of subscribers? A. No.

Q. Did he show you the letter from Mr. Fielding to him and his reply? A. I do not remember him showing me the letter from Mr. Fielding.

Q. He says he showed them to you? A. He may have thought he did.

Q. Showed the letter and explained the difficulty and you said he was rather clever? A. No, I do not remember anything of that at all.

Q. You thought his reply to Mr. Fielding's letter was rather clever? A. I do not remember anything of that at all.

Q. Do you remember Mr. Knight's visit in December? A. I remember meeting Mr. Knight once in the bank and Mr. Travers present.

Q. He came there thinking that there was something wrong with the paid-up capital, did not he? A. Not that I know of.

Q. Did not he say anything to you? A. I do not remember any discussion about the paid-up capital; I understood he was there in connection with the circulation; that was the only thing he had to do with.

Q. Circulation had not issued then? A. No, but the circulation would come to us before it was issued.

Q. It was based upon the paid-up capital? A. Yes.

Q. The only possible question that could arise would be whether you had the paid-up capital? A. I do not remember the particulars of the thing at all.

Q. He says he was very badly treated there? A. Who said?

Q. Knight? A. By whom?

Q. By, I think he said Travers? A. Certainly was not badly treated by me.

Q. He was abused? A. I know the time I met Mr. Knight at the bank I treated Mr. Knight just as I would treat anybody else, gave him a good cigar, and told him two or three stories and had a little pleasant chat with him and went out.

Q. That was all? A. Yes.

Q. Mr. Travers says you gave him a raking over? A. Well, I did not; I would not do that to a man in his position.

Q. Did you hear any raking over by anybody? A. Not that I remember of now.

Q. Again Mr. Travers would be wrong; he certainly came away with a very poor impression of the treatment he had got; did he ask to see the books? A. I do not remember.

Q. Did he say he wanted to find out if your capital was intact, so that he might judge of the right to issue circulation? A. I do not remember what the conversation was with Mr. Knight; as I say I treated him pleasantly as far as I was concerned, and there may have been some discussion between him and Mr. Travers on the side as to his rights and duties, but I do not remember anything of it, and as far as I am concerned I have not the slightest recollection of Mr. Knight being treated any way but courteously and pleasantly.

Q. He got a pretty good dressing down, as Mr. Travers expressed it? A. It was not by me.

Q. When did you learn about the loan in the Trusts & Guarantee Company having been paid off? A. I never learned about the loan from the Trusts & Guarantee Company having been paid off.

Q. Did not this visit of Knight's result in a visit to the Trusts & Guarantee Company by Travers and the reversal of the entries down there? A. I knew nothing about that.

Q. Did you know anything about it, did Travers never tell you? A. No.

Q. Never discussed it at all then or before Knight's visit or during or after it? A. Neither before, during or after Knight's visit did Travers discuss that with me.

Q. You and Travers did not laugh about it after Knight had left? A. I think that is another hallucination.

Q. You made some effort, did you not, to obtain deposits from the present Provincial Government? A. Mr. Dewart is not here; Mr. Dewart was to make a reference in connection with that for me.

Q. I will take up some other matter until he comes. During your career as president, how much moneys were paid to you out of the bank's funds that are still unpaid? A. Paid me out of the bank's funds?

Q. Yes? A. Make your question explicit.

Q. I am speaking of the companies you were concerned in, how much money did you get direct which has not been repaid? A. How do you mean, that I had the money presented to me?

Q. Anyway you like? A. In a regular business transaction; I never got a dollar from the Farmers Bank that was not a regular and legitimate transaction as far as I was concerned.

Q. Can you give us any idea of the amount of loss to the bank through the transaction? A. There was no loss to the bank through my transactions; my transactions were squared. Mr. Travers put pressure upon me and made me give up my Keeley Mine stock.

Q. They were all squared up then? A. Yes.

Q. That was when he gave up the liability of the Hubbard Company and the Clark Company to the bank? A. All liability was given up at that time.

Q. Including those two? A. Yes.

Q. You gave him what? A. I gave him my Keeley Mine stock.

Q. Did you get any money then? A. I think when the thing was squared up there was a balance of \$375 coming to me out of the transaction cash.

Q. My recollection is there was a sum of \$5,000? A. When Mr. Wishart—he had brought some gentlemen over from England here, and arranged with them to float or place the treasury stock of the Keeley Mine in London; at that time Mr. Travers wanted to get the underwriting for the bank of the \$500,000 of Keeley stock that was to be placed in London; he wanted to get that underwriting for the bank at 70—the bank to underwrite the stock and take the stock at 70, and then Mr. Wishart to go to London and place it with his people. The figure that was to go to Wishart gave the bank a very handsome profit on the transaction. It was considered that Mr. Wishart was thoroughly reliable, as far as his ability to place the stock in London at that time, and the gentlemen he had brought over from London, introduced to Mr. Travers and myself in connection with the Keeley Mine, were thoroughly reputable and reliable financially in every way, and Mr. Travers, in order to get, as he said, a handsome profit for the bank on the underwriting, wanted Wishart to agree that the bank should have this underwriting at 70, and Travers and Wishart had various difficulties during the course of things. So then Mr. Travers came to me with a proposition that if I would get Wishart to consent to the underwriting, he would give me \$5,000, because the bank would be making a big profit, and Wishart would be making a big profit too on top of that, and that was arranged, and I got Mr. Wishart to consent to the underwriting, and the underwriting was put through, and the bank underwrote the \$500,000 at 70 and gave the mine the credit for \$350,000 as the proceeds of that undertaking. Mr. Wishart then went to London with the underwriting to

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place it, and after he was there he wanted to make some change, I have forgotten now the particulars in the way in which the stock was to be placed there, and he wrote or cabled over in connection with it, and Mr. Travers asked me to join in a cable with him cancelling Wishart's option on the stock for England. When the Keeley Mine was first organized, my stock that I got as commission—I had the option—the stock I got as commission I assigned to the bank as collateral to my account.

Q. We are getting a little away from the question I asked you? A. You asked me about that \$5,000.

Q. Whether that was in connection with your handing over your stock in the Keeley Mine and the bank giving up the liabilities of the companies you are concerned with and your own liability; you said there was only \$375 which you got; I asked you if it was \$5,000? A. No, I got that \$5,000 for getting Wishart to agree to the underwriting of the Keeley Mine at 70.

Q. Was it not paid at the time that the stock was turned over? A. It was charged against me at the time the stock was turned over.

Q. I am asking you when you turned over that stock you did not get \$5,000 in cash at that time? A. I did not.

Q. How was it charged against you? A. It was charged against me in this way: Mr. Travers said, "I gave you that \$5,000 for getting Wishart to agree to the Keeley underwriting"; then he said, "We cancelled the underwriting and the underwriting did not go through, and now as we are settling up I prefer for you to allow me to charge that up to you, so that I won't have to show it as a loss in the bank on account of the underwriting".

Q. You agreed to that? A. Yes.

Q. You say you paid with your stock in the Keeley Mine this \$5,000 back, and you also paid the liabilities of these two companies? A. Yes, and the liability I had that I was directly or indirectly liable for.

Q. That is your position? A. Yes.

Q. You were getting out at that time, of the Keeley Mine? A. I considered I was being frozen out at that time of the Keeley Mine.

Q. Had you and Travers not been friendly up to that time? A. We had been business associates to a certain extent, but it is very hard at some times to say whether you are a friend of Travers or not; we used to get at cross purposes occasionally.

Q. How much money had been advanced to the Keeley Mine by the bank at the time you were frozen out? A. I could not say just what amount had been advanced at that time, because at the time—well, the position was this: Mr. Travers said he had the assignment of my stock and he could, on account of my stock being assigned to him as collateral to my account, he could by forcing me on my account, have made me give up my stock anyway, and he said I could either give up the stock or vote with him to put on the bond issue; that he would square off with me; that he felt himself I was not getting what the stock was worth, but under the circumstances in which he was placed, he would square off with me; he would take the stock and cancel my obligation to the bank or I could carry my obligations to the bank and I could vote with him to put on the bond issue.

Q. What bond issue? A. The bond issue of the Keeley Mine.

Q. To what extent? A. \$1,000,000.

Q. Which was not to be advanced; it was just to be making out bonds without selling them? A. Mr. Travers' position at the time of the Keeley Mine was that Mr. Wishart, in spite of the pool that we had agreed to, disposed of certain portions of his stock that was coming to him, and finally to avoid a lawsuit the stock was allotted to friends of Mr. Wishart's.

Q. Can you give me a date at which you were frozen out? A. I cannot give you any exact date, no.

Q. Do you remember the year? A. I remember at the time I got—in the first place, I had not been a director for the Keeley, as I remember, I had not been a director for the Keeley Mine for quite a time before that settlement was made, and that settlement was made several months before the bank failed, as near as I can remember it now.

Q. You were frozen out several months before the bank failed? A. Yes.

Q. That brings it down to 1910; March, 1910, appears to be the date? A. That would be it.

Q. At that time you could not have thought the Keeley Mine was worth very much or you would not have given up your stock in it? A. I have just explained to you that I never had actual control of my stock from the first day of the Keeley Mine to the last; it was assigned to the bank as collateral.

Q. But you are not the sort of man to let Travers or anybody deal with your property unless you wanted to? A. I could not help myself.

Q. It does not look to me as if you thought the Keeley Mine was worth very much at the time if you would give up your stock in it? A. I thought the Keeley Mine was an extremely valuable property at that time and think so yet.

Q. How much stock had you in it? A. My stock was cut down a couple of times, and the amount of stock I had in it was more than was actually my own, because part of it was held for Phillips.

Q. Can you tell me how much you had belonging to yourself at that time; would it be \$365,000 of the shares? A. Something like that.

Q. What was the indebtedness you wiped out by the transfer of that 365,000 shares? A. I do not remember the exact amount now.

Q. Roughly speaking, would it be more than a tenth of that, \$36,000? A. There was a memorandum at the time made by Mr. Travers as to what the settlement was, and I was trying to look for my copy, and I have not been able to find it.

At this point, Mr. Dewart, K.C., counsel representing Dr. Nesbitt, came in.

MR. HODGINS: We can get the exact amount from the books; I thought you would know within a reasonable margin? A. The settlement was somewhere around \$60,000.

Q. Were the two concerns, whose indebtedness was cancelled at that time, good for the amounts of their debts? A. No, not at the time that the settlement was made. At the time of the loans they were; at that time they were not.

Q. Were you liable upon their indebtedness personally? A. I guaranteed their indebtedness.

Q. You were president when the Keeley Mine first opened up with the bank? A. I had not heard of the Keeley Mine until some months after I retired from the presidency.

Q. Did you introduce the mine to Travers, or how did the bank and the mine become connected? A. Do you want me to tell you as nearly as I can remember the situation?

Q. Yes? A. When I secured the option for the Keeley Mine; at least, not when I secured the option, but when I first heard of the Keeley Mine, I remembered that Mr. George Wishart, of New York, had been up at the bank during the previous summer when I was president, had been introduced to me by Mr. Travers and he had come up for the purpose of purchasing a mine on the north shore, that he had invested several thousand dollars in machinery and fitting up that mine, and had the mine examined by his engineer, and the report on it was not favorable and he turned it down; so when I heard about the Keeley Mine I went down to see Mr. Travers. I said, "Do you know whether your friend, Mr. Wishart, has secured a mine or not?" He said, "No, he has not". I told him, "I have run across what I think is a very valuable property, and what chance do you think would there be for us to place it with Wishart". I told him I thought we could both make a good thing out of it if we could place it with Wishart; and so he said



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he thought the chances would be all right, and I took him over to the Rossin House the following day, and introduced him to Mr. Phillips, showed him the ore, and he said of course he knew nothing about the ore; arranged then that I would go up and secure an option on the property to give us time to go down to New York and see Wishart; so I did that and went up to Haileybury and met the men in connection with the mine, secured our option, drove out to the mine and back and turned around, and went down with Mr. Travers and Mr. Phillips to New York and went out to Mr. Wishart's place on the Sound—he had a very handsome place there—and he explained to us the wealth represented in the surrounding homes.

Q. Had you an option on the mine at that time? A. I had an option at that time.

Q. To whom? A. Keeley, Jowsey and Wood.

Q. Was that option one which recites the payment of \$3 and provides for the payment of the balance of \$300,000—is that the purchase price? A. Either that is not correct or you are not reading it correctly.

Q. Just look at it (Exhibit 65); how much did you pay as a deposit when you got the option do you remember? A. Paid \$1,000 for the first option, and that was put up half by Mr. Travers and half by myself.

Q. See if that is the first option there now (Exhibit 65)? A. This was \$3,000 paid prior to the signing of this agreement; not \$3; \$3 was simply earnest money, \$1 to each man; \$3,000 had been paid prior to that.

Q. Is that the first option? A. No.

Q. What was the purchase price in the first option? A. It was the same all the way through, \$300,000.

Q. There were three options altogether? A. As I remember it now; there was first—

Q. This is dated the 18th of May, 1908, and provides for \$47,000 on the 19th May, 1908; this would be the second option? A. I think that was the third.

Q. Then that would be the one that was carried out? A. Yes.

Q. This is dated the 18th May and recites the payment of \$3,000 and makes \$17,000 come due the following day? A. Yes.

Q. It must have been prior to this you went and saw Wishart? A. Oh, away prior to that; negotiations were going on for some time with Wishart. I think the time extended over about a month or more or less.

Q. Did you make an arrangement with Wishart? A. When we saw Wishart there, Wishart arranged with, I have forgotten—I understood Mr. Wishart was going into the mine with Mr. Travers; at the time I took the proposition to Mr. Travers there was no intention on my part, and I am quite satisfied no intention on Mr. Travers' part that the bank should go into the mine at all; there was no suggestion of the bank going into the mine; the idea was that Mr. Travers knew Mr. Wishart and considered him a man of great wealth, and he had been looking for a mine, and seemed to be a reasonable man that we could work with.

Q. Had Travers suggested Wishart to you or had you known Wishart? A. I had met Mr. Wishart, as I told you before, I had met him once, he was up once—he may have been up more than once, but up once during my Presidency of the bank; I had met him during the summer and he was then up for the purpose of buying a mine on the north shore.

Q. Was that before Travers made his acquaintance on the ship? A. Oh, no, Mr. Travers knew Mr. Wishart; it was Mr. Travers introduced Mr. Wishart to me at that time.

Q. Getting down to business when did you take any step towards carrying out the option? A. In the first place the first step towards carrying out the option would be about the time of that agreement you had there, it would be just about there that the plans for carrying out the option were completed, and we had an agreement at that time in connection with the matter; there was an agreement between Mr. Travers and Mr. Wishart and myself.

Q. And the bank? A. I have forgotten whether the bank was a party to it or not.

Q. Yes? A. The bank; by which Mr. Wishart and Mr. Travers would look after the financing of property and have full control of it. I had nothing at all to do with the financing and was not responsible for it in any way; and then after they got their money all out the profits were to be divided according to the shares. Just after that I understood Mr. Wishart had given a note for his share, \$25,000.

Q. Let us get the thing definite; on the 18th May \$3,000 had been paid by you and Travers jointly? A. Yes.

Q. There were \$47,000 to be paid on the 19th May? A. Yes.

Q. Your agreement with Travers, Wishart and the Farmers Bank was that you were obtaining an advance from Wishart of \$25,000? A. That I was obtaining?

Q. Yes? A. I do not remember it that way.

Q. And an advance from the bank of \$25,000 to apply under the option, that is what this agreement says? A. I understood that that was for the mining company, not for me personally.

Q. It reads this way—you are the party of the first part—"Whereas the party of the first part is the holder of an option to purchase the mining claim and property, etc". AND WHEREAS the party of the first part is obtaining an advance from the party of the second part of \$25,000, and an advance from the party of the fourth part (that is the bank) of \$25,000 for the purpose of applying said sums under such option on the purchase price of said mining property". "AND WHEREAS the party of the first part has agreed to procure a mining company to be incorporated for the purpose of purchasing the said option." A. Yes, that was the arrangement.

Q. Apparently the arrangement was you were to obtain the loan from Wishart and the Farmers Bank and put up the money and then incorporate a company? A. Yes, that was the preliminary arrangement that you have there.

Q. Did you get an advance from Wishart? A. I got an advance from Wishart.

Q. In what way? A. I do not know how; that matter was arranged between Mr. Wishart and Mr. Travers.

Q. Don't you know? A. I understood that Mr. Travers had discounted a note of Mr. Wishart's.

Q. Without your name on it? A. Without my name on it.

Q. That would not be carrying this agreement out if you were getting the money? A. I was simply acting you see as agent for the purpose of the transaction until the mining company was formed; I undertook to organize a mining company in the agreement.

Q. Who was Slight acting for in Haileybury, the lawyer who drew this? A. Mr. Travers engaged Mr. Slight.

Q. Do you know anything about how this first \$47,000 was paid? A. I cannot remember anything excepting the arrangement under that agreement; as to the details of how it was carried out I cannot remember.

Q. Did you borrow \$25,000 from the bank? A. No, I did not.

Q. Then this agreement which provides for the—? A. Let me see that agreement; there may be another agreement. There were half a dozen different ones drawn at the time I remember (reads through agreement, part of exhibit 65). I see in this agreement I was acting as trustee for these parties in the carrying out of this proposition.

Q. Had you dropped out from being an interested party to merely a trustee? A. No, I was an interested party as far as my commission was concerned.

Q. When did you get down to be merely entitled to commission; I thought you were taking an interest, a quarter interest in this? A. I was not putting up any-

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thing for the quarter interest; I was getting a quarter interest for turning over the option.

Q. That is your commission? A. Yes.

Q. When did you succeed in turning it over to somebody and getting a quarter interest for nothing was it before that? A. It was before that.

Q. Who did you make that arrangement with? A. With Mr. Travers and Mr. Wishart; it seems to me the agreement we settled on finally was a shorter one than this.

Q. At all events that is the explanation then that you had found the mine, apparently and got an option on it, and had turned it over to Wishart and did you say the bank or Mr. Travers? A. Well, Mr. Travers I considered at the time that Travers was getting one half, or getting his interest for introducing Wishart; when Wishart was brought in in the first place it was supposed Wishart would take the whole thing, that Mr. Travers would handle the whole thing with Wishart, it was not intended that the bank should come into it at all, and just before the matter came to be closed up, there was some re-arrangement made, and as I understood Mr. Travers had to take part of it with Wishart, at least had to arrange for part of it with Wishart; just what the absolute arrangements were I was not supposed to know anything about it; it was made between themselves.

Q. The first idea was it should be turned over to Wishart altogether? A. Yes.

Q. The second arrangement was it was to be turned over to Wishart and Travers, and finally it seems to have been turned over to Wishart, Travers and the bank with you having a quarter interest clear commission? A. Yes.

Q. For putting up the money? A. Yes.

Q. That is the shape it finally took? A. As near as I can remember now.

Q. Had you really put up \$1,500 of your own money? A. Yes, of my own money for the option.

Q. That was merged in the quarter interest, you were not to have it repaid? A. I do not remember whether that was repaid.

Q. Perhaps that is the agreement you speak of on the 28th May which is a shorter one, and deals with your position? A. No, that is not the one I do not think. There was another agreement; I think I can find the other agreement in that matter.

Q. At all events on the 18th May just before the company was formed the interests are described in that agreement which we have had put in? A. Yes.

Q. And thereafter you never had any financial interest so to speak in the mine? A. No.

Q. Wishart had a quarter, Travers had a quarter and the bank a quarter? A. Yes.

Q. And you a quarter; and they between them were to find the money? A. Yes.

Q. Did you form the company? A. We took out a charter for the company.

Q. And then you got the interest in that capital stock that you had agreed upon? A. Yes.

Q. You understood Wishart had given a note and that Travers had raised the money out of the bank in some way and that this first \$50,000 was paid? A. I did not know that Wishart had given a note until shortly before his note became due.

Q. Who did you learn it from? A. I learned it from Wishart first.

Q. That he had given the note? A. Yes. He came up to Toronto I think as I remember now, two or three days before the note was due, and he said he—I may have heard the note before that, I won't be positive when I heard it, but I know he came there and he said his note was coming due and he said to arrange for it, but as I remember he told me, he says, "I guess I am \$1,500 or a couple

of thousand dollars short, I have had some other calls", but he said, "I suppose that will be all right". I told him I thought if the chap wanted to pay \$23,000 on a \$25,000 note nobody would raise any particular objection that I could see; and then there was some dispute at the time, I do not know the details of it or how the thing came about, but anyway Mr. Travers came to me and wanted me to give up \$25,000 of my stock and Wishart was giving up \$25,000 of his; there was some difficulty about Wishart's payments.

Q. Travers wanted what? A. Me to give up \$25,000 of my stock and he said Wishart was giving up \$25,000 of his, because there were some difficulties about Wishart's payments, that Wishart had not turned out as he expected him to turn out, that he had every confidence in Wishart's financial strength.

Q. Who was the stock to be given up to by you and Wishart? A. As I understood from Mr. Travers I think the stock was to be given up to the bank.

Q. And the bank was to find the money to make the next payment? A. The bank was looking after it. Mr. Wishart fell down; Mr. Travers said Mr. Wishart had failed him. Of course it is just a little hard to say what occurred at that time, because after we made the first payment Mr. Travers had an offer of \$500,000 for the property; that would have given us a profit of \$200,000, and he considered it a *bona fide* offer. He told me about it afterwards and I felt a little badly it had not been accepted. That increased his confidence in the value of the property, so that when a certain payment came due, and Wishart, as he told me, had failed him, he could not make good, why Mr. Travers was in the position in which he had unbounded confidence in the value of the mine from the fact that he had an offer of \$200,000 profit inside of 30 days; and then he said he was going to fix it up in some way, he did not tell me at the time that, he told me at the time he had other parties that he could interest.

Q. He puts it, he having put up the first \$50,000 when Wishart fell down, that he would have lost it all if he had not put up the second? A. There is a point I cannot understand.

Q. You are putting it as if he were quite willing to do it owing to his confidence in the mine? A. There is no doubt about that.

Q. Which is right? A. I am. I cannot understand just this point about Wishart, because Wishart showed me his bank books you see after I had given up this \$25,000 of stock I spoke to Wishart and I said, "how is this, I have given up \$25,000 of stock because you have not paid your note," and then he told me that he thought Travers wanted to grab the whole mine and made an arrangement with him by which he was not to pay the note. I said "I understand you could not pay the note", and he showed me his bank books to show me that he had actually the credits to his account in New York.

Q. Was that interview in New York? A. No, that was in Toronto; he had a bank book with him.

Q. Wishart was only to put up \$25,000 out of the \$50,000? A. I understood it at the time the proposition was taken up first there was the first payment to be made and then we had three months; the property certainly looked exceedingly good.

Q. We are not talking of the same thing; Wishart was to put up \$25,000 as the first payment? A. Yes.

Q. And \$25,000 only; why were you asked to give up \$25,000 of stock and Wishart as well, making \$50,000? A. I could never quite understand that myself, Mr. Hodgins.

Q. But you did give it up? A. Whenever there was a slice to be taken off, I notice it came off me.

Q. You gave it up without a murmur? A. Certainly I gave it up. When Mr. Travers told me he would have trouble about the thing I told him I would do anything at all he wanted to do; it was not any of my fault.

Q. It had not cost you anything? A. It costs me a lot of time and effort.

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Q. How much stock had you all told before you gave up the \$25,000? A. When we first secured the option Mr. Travers told Mr. Phillips that he would give him 10% in the property, and then my quarter included at that time 10% he had promised to Mr. Phillips.

Q. That would be \$250,000 was the quarter? A. Yes.

Q. And you gave up \$25,000 of it? A. Yes.

Q. Did you ever hear of trouble between Wishart and Travers at the time Wishart defaulted and the second payment was due? A. I heard of a good deal of trouble between Wishart and Travers.

Q. From what you said now I judge you did not hear of any trouble at that time, that it was afterwards you heard about that? A. It was about the time this note came due; I do not know just what the date was, but that was about the time.

Q. What trouble did you hear about? A. Of course you see difficulties between Wishart and Travers, I did not understand all the ins and outs of, and I of course took Mr. Travers' side of the thing, what Mr. Travers told me I accepted in preference to what Mr. Wishart told me.

Q. Who made the payments to Keeley, Jowsey and Wood of the moneys? A. I cannot remember now just how the payments were made to Keeley, Jowsey and Wood.

Q. Who was acting for them up in Haileybury? A. Mr. Harvey Graham I think.

Q. Was Mr. Killoran? A. Killoran had put up money for Phillips.

Q. Was that all? A. He was interested with Phillips, that is all I know.

Q. Had you anything do with paying anything beyond the first \$3,000? A. I was not, as I remember it personally I did not have anything to do with paying anything beyond that.

Q. You think Harvey Graham acted for these people? A. He did in the arrangements I had, he was solicitor when I got the option from them; he drew up the first option.

Q. He received the money on behalf of these three vendors? A. I think the money was paid into the Union Bank at Haileybury.

Q. To their joint credit was it? A. I do not remember.

Q. Did Travers put up the second payment under option or do you know anything about it? A. Mr. Travers in the early stages of the Keeley Mine assured me that he was getting money outside the bank. I think up till after the second payment was made I understood that he had other parties that he had interested.

Q. Did you afterwards inquire who they were? A. He said he would not tell me who they were; he made the arrangement and he was acting for them.

Q. Was not there an understanding that no one else was to come in, the stock was to be pooled and not sold? A. That was the understanding with Mr. Travers, but Mr. Travers was the sole manager of that proposition.

Q. You say you understood from him that he was, notwithstanding that, bringing people in? A. He was arranging in connection with them.

Q. Did he make the second payment? A. I do not know; the payments were made through the Farmers Bank; it was arranged that the Farmers Bank would be the bankers for the mine at the time; he expected to have good business out of the mine for the bank.

Q. Did you get anything back from the vendors when the payments were made? A. In what way?

Q. In any way? A. Do you mean did I get—

Q. Any rake off on the payments at all? A. No, sir.

Q. Do you know of any one who did? A. I understood Mr. Phillips and Mr. Killoran got commission, at least Mr. Phillips got a commission from them.

Q. Did Wishart? A. Not that I know of.

Q. Did Travers? A. Oh no, not that I know of.

Q. You do not know of any private arrangement whereby the price was to be less than it was represented to be? A. Not that I know of.

Q. It always remained \$300,000? A. Yes.

Q. After the second payment was made you say you learned the bank was interested, I judge that from what you said? A. Yes.

Q. Did that surprise you? A. It did; I expected that Mr. Wishart was going to have the whole thing placed before the second payment came due.

Q. The Farmers Bank had a quarter interest, had not they under this May agreement which I showed you? A. I do not think they had a quarter interest, as I remember the original matter, Mr. Travers told me at the time, he said the supposition was that Mr. Wishart would carry the whole thing and he said, "I am going to go in with Wishart and take \$25,000 and get a bonus of \$125,000 of stock for the bank for carrying this thing for three months".

Q. When did you learn that the bank had been advancing the money? A. I think I learned that first from Mr. Travers.

Q. From that on I suppose you realized that the bank and the bank only had put up all the money? A. Yes.

Q. And that Wishart had not? A. Wishart had fallen down completely.

Q. Had you contributed any more stock? A. Not in that connection.

Q. Had you in any way? A. I had contributed some other stock to assist Mr. Travers in getting a deposit.

Q. What do you mean by a deposit? A. He wanted, he was anxious to get as much money deposited in the bank as a matter of business as he could, and after this second payment he came over and saw me one day at my house, and told me that the fact he had been associated with the Keeley Mine he was afraid would produce a run on the bank; the bank was perfectly solvent in every way, but no bank could stand a run, and he would like ample provision for such an emergency, and I told him I did not see how the fact that the bank was connected with the Keeley Mine could affect it or make any run on it. Well, he said, there is just street talk and that sort of thing. I said, "What do you want me to do?" "Well," he said, "I would like to have \$150,000; I do not need it, but I would like to have it there in case I had a run." I explained to him as naively as I could I did not know where I could get \$150,000. "Well," he said, "what about your brother-in-law, Mr. Crompton; has not he got the money?" Well, I told him I thought he had the money, but I did not think he would just walk over and deposit \$150,000 because I asked him. "Well," he says, "I suppose he is getting interest on his moneys and I will give him as much interest as he is getting on his money and I would like to have it in." We went on discussing the thing, and finally he made the proposition, "Now," he said, "this matter has arisen from the fact that I am connected with the Keeley Mine and I helped you out in that matter in introducing you to Wishart, and putting the deal through with Wishart, and I think you should try and help me out, and it will be a great thing for us and for me, and will make us perfectly comfortable and easy to have that money, and I will suggest we give a bonus of Keeley stock, you join me in that." I did not see the thing just that way to start with; we talked the matter over and finally came to a position in which he arranged to give Mr. Crompton as good interest as he was getting at the time and would give him a bonus of Keeley stock. The reason I participated in that bonus at that time was I was really anxious to get Mr. Crompton in with Mr. Travers' consent, because Mr. Crompton owned the Proudfoot, which was just across the line. I was interested in the Proudfoot with him; the Proudfoot at the time was just a prospect, but nothing found on it.

Q. How much did you contribute of that \$100,000? A. I contributed \$25,000.

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- Q. The arrangement with Crompton went through? A. Yes.
- Q. That was March 3rd, 1909, an arrangement to deposit \$50,000 and \$25,000 and \$55,000? A. I do not remember the date.
- Q. The 3rd March, 1909, is the date of the Crompton agreement? A. What date would that agreement about the mine be?
- Q. May, 1908? A. That would be about a year afterwards.
- Q. You used the expression that Travers suggested to you he had helped you out introducing you to Wishart, what did he mean by that? A. He gave me an opportunity to make a profit on the mine by getting Wishart to take it up.
- Q. Are you speaking of your commission or your share? A. My commission, yes.
- Q. That is the only sense in which you made a profit? A. Yes.
- Q. I see you were elected a director of the company, that is the Keeley-Jowsey-Wood Mine on the 29th May, 1908? A. Yes.
- Q. You had about 100,000 shares from that time; I think you said it was after the second payment had been made that you learned the bank was interested? A. Yes.
- Q. Did you learn then the bank had put up all the money? A. I think I did, yes.
- Q. Did you ever hear, or did you learn that Wishart had got back his note? A. No, I did not know when Wishart got back his note.
- Q. I see Wishart remained as a stockholder with 100,000 shares all through 1908; in fact, he was president of the company? A. Yes.
- Q. Then on the 10th of June, 1909, he jumps down to fifty thousand-odd; Wishart contributed no money at all to your knowledge? A. Of course, I thought he put up that; I learned afterwards that he had not contributed any.
- Q. You learned that after the second payment came due? A. Yes.
- Q. That was August, 1908? A. Yes.
- Q. How were the balance of the payments taken care of? A. The balance of the payments were taken care of by loans from the Farmers Bank to the Keeley-Jowsey-Wood Mine.
- Q. Were you aware that the bank was advancing the money from time to time to take up those payments? A. I was not aware that the bank was advancing all the money.
- Q. Were you advancing any? A. No, I had an agreement not to advance any.
- Q. You knew that Wishart had fallen down? A. I understood so from Mr. Travers.
- Q. That would only leave of the directors Travers, the Farmers Bank, and Mr. Owens, with one share; who did you think was advancing the money? A. I had nothing at all to do with financing the mine; I had absolutely nothing at all to do with it; I had an agreement, but I had nothing at all to do with it; and I stayed in that position.
- Q. You acted as a director? A. For part of the time.
- Q. Do you wish to be understood that you knew nothing of what was going on? A. I knew we were getting loans from the Farmers Bank.
- Q. Did you know the amount? A. I could not tell you the amounts now.
- Q. Was the mine being operated? A. The mine was being worked.
- Q. When were you up there? A. I was up on several occasions in the first year or so.
- Q. You saw a very extensive plant going in? A. Yes.
- Q. You knew the money had to come from somewhere? A. Yes.
- Q. Were you putting up any security or giving any notes or anything? A. In connection with the mine?

Q. Yes? A. I had an arrangement I had nothing at all to do with the financing of the mine, and I stuck to that.

Q. You were never called upon to do that? A. No.

Q. Just remained with whatever interest you retained and let somebody else find the money? A. Certainly.

Q. That is a short statement of just what happened from the time you made the agreement in May, 1908, till the failure of the bank? A. That is as nearly as I can recollect the whole thing.

Q. Did you know anything about the entries that were being made in the bank books with regard to these loans? A. No, sir; it was not possible for me to know; I was not an official of the bank and had nothing at all to do with the bank at that time any more than you had.

Q. When was this \$5,000 paid to you for the purpose of getting Wishart to agree to the underwriting? A. About the time of the underwriting, the day before or the day after, about that.

Q. When was it? A. I cannot fix the date. If you get the minutes of the Keeley Mine, it was about the date of the underwriting.

Q. That was the last company of all? A. Yes.

Q. The Keeley Mines, Limited? A. Yes.

Q. The prospectus appears to have been on December 30th, 1908? A. It seems to me Wishart went over towards the spring with the Keeley Mine—

Q. Yes, the prospectus was dated the end of December, 1908? A. Then it was later than that Wishart went over to England to place the stock, so that it would be later than that that the underwriting took place.

Q. On the 28th May there is a transfer of 50,000 shares of Wishart to Pake-man, of London, and 10,000 to Whitney, of New York, was not that part of the underwriting? A. No, that was after he came back. They started a suit and were making trouble with Mr. Travers and he had to consent to the transfer of those shares. As a matter of fact, Mr. Travers was very badly abused by those people all the way through.

Q. The underwriting then would take place about the beginning of January, 1909, and it was Wishart's consent to that that had to be got? A. Yes.

Q. What was the necessity for his consent? A. The underwriting was chiefly by the bank; Wishart would get the stock at a certain price and he would place the stock at a higher price; the difference was Wishart's profit. The bank was coming in and taking a profit off that first. Wishart's position was at that time, Wishart wanted it at 70, and I suggested to him first that the bank should have it at 70. He says, "I have to place this thing over there and I should have it at 70", and so it was necessary to adjust the requirements as between Wishart and the bank both wanting it at 70.

Q. What was the result? A. The result was the bank got the underwriting at 70.

Q. And Wishart got it at what? A. I cannot remember the figure; Wishart's figure was higher; I know it left a handsome profit for the bank; Travers said at the time if Mr. Wishart was successful in placing this stock, as he thought he would be—

Q. Wishart appears to have stayed in through 1908 and 1909 and was paying nothing; anything said about his financial position at that date or the necessity—? A. I had nothing to do with that; that was a matter between Wishart and Travers; Mr. Travers knows what arrangement he had with Wishart and what other dealings if any he had with him; I had nothing to do with them.

Q. I want to ask you some questions about the deposits by the Treasurer of Ontario; Mr. Dewart is here now.

MR. DEWART: What Dr. Nesbitt wanted me to call attention to was a paragraph in the editorial columns of the Globe of Friday June 20th. What Dr.



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Nesbitt objected to as being practically a contempt of Court is this statement: "Now, what are the admitted facts in the case? Dr. Beattie Nesbitt needed money for the Keeley Mine speculation; that was the chief cause of the wrecking of the bank; he got the money from the bank through Travers on a promise to engineer the deposit of a like amount from the Government of Ontario."

Dr. Nesbitt desired I should bring before the Court this statement as one which he considers is absolutely unfounded upon the evidence and one which he feels reflects upon himself before he has had even the opportunity of giving evidence.

MR. COMMISSIONER: Go on Mr. Hodgins, please.

MR. HODGINS: Did you ever interest yourself to get a deposit in the Farmers Bank from the Treasurer of Ontario, Colonel Matheson? A. I saw Colonel Matheson once during the year I was President of the bank.

Q. That would be 1907? A. Yes. I told him we would like to have him make a deposit with the bank, that the Government was depositing with other banks which simply had branches in the city of Toronto and our bank had its head office here and we had a large number of farmers throughout Ontario who were shareholders interested in the bank and I thought we were entitled to a portion of the Government deposits as well as any other bank. He told me that he could not promise to give me a deposit just then, he would wait until he had seen more of our returns, and the bank getting along nicely,—He said the bank was rather young, that he would do something for us.

Q. Well? A. That was all.

Q. That does not seem to have been all; did you stop your efforts there and did they result in nothing? A. He subsequently made a small deposit with us.

Q. How long after your talk with him? A. I cannot say.

Q. What was the amount of the deposit? A. His first deposit, it was a small one, I have forgotten the amount now; there was not any reason why I should charge my memory with it.

Q. You do not know; what year? A. During the first year of the bank while I was President of the bank.

Q. There were small deposits which on the 14th of June were made into a deposit receipt, 14th June, 1907? A. That would be about the time.

Q. There is nothing else of any consequence until it culminates in another deposit receipt on the 13th of May, 1908, of \$15,000 and one on the 19th May, 1908, of \$10,000; had you anything to do with getting those? A. No, I never saw Colonel Matheson afterwards in connection with any deposit in the Farmers Bank; I have told you the only time I ever saw him.

Q. That deposit receipt appears to have been paid off on the 27th December, 1908; you resigned in February, 1908? A. I really was through actively as President at the end of 1907, as I remember the thing.

Q. Let me see that article, Mr. Dewart, and find out what the Doctor says as to that. It has been stated that you got money for the Keeley Mine speculation through Travers on a promise to engineer the deposit from the Treasurer of Ontario? A. It is not correct.

Q. What did you say to Colonel Matheson in connection with the deposit other than you have told us? A. I did not say anything more than I have told you; that is the gist of what I said to you. It was in 1907.

Q. There are deposits running on later then; they go on to 1909; had you anything to do with the getting of those deposits? A. I never saw Colonel Matheson except the time I have told you in connection with that matter. He was Provincial Treasurer and handled the deposits; I saw him on that occasion and what I have told you is all I had to do with it.

Q. Did Travers, seeing you were successful the first time, never say to you he thought the Government should make further deposits? A. He said he con-

sidered I was very unsuccessful and considered I had not any pull at all; he thought he should get much more money.

Q. Did he ask you afterwards? A. That was the remark he made.

Q. Did he ask you afterward, after you had made your first effort and been successful? A. He spoke to me again about trying to get deposits, and I told him that I could not do anything with that. He spoke to a great many people with reference to deposits from the Government and I may have spoken to some of my friends afterwards, but there was no direct or indirect interest between the deposits and my affairs with the bank.

Q. Travers seemed to be pretty hard up for money and claimed there was a promise made—here is a letter of June 18th said to be sent to Colonel Matheson (Exhibit 68): "Two weeks ago I made some advances to the extent of \$35,000 on the promise that \$25,000 would be deposited by you, which was requested by the friends of Dr. Beattie Nesbitt"—that carries it down to June, 1908; who were those friends? A. I do not know.

Q. You spoke just now of some of your friends, you had spoken to some of your friends? A. It would be quite absurd to try and remember who I had spoken to in connection with getting deposits.

Q. The statement is a very definite one? A. I did not make the statement.

Q. Cannot you throw any light on who the friends were? A. I did not make the statement.

Q. Travers made the statement? A. I do not care what Mr. Travers made; that don't concern me.

Q. You said a few minutes ago you had spoken to some of your friends? A. Yes, but that was in 1907.

Q. He was getting harder and harder up, and actually went to your brother-in-law in 1909? A. You must understand that Mr. Travers as far as his conversations with me are concerned never indicated he was getting harder and harder up; from the first to the last day of my official connection with the bank he always maintained that his bank was—A. No. 1, first class shape and he was getting along fine.

Q. Could you help realizing that neither you nor Wishart were putting up any money for the Keeley Mine, and as you knew \$300,000 had to be paid, that the bank must be paying out a very large amount of money in proportion to its capital? A. I did not consider any money that the bank was paying out to the Keeley Mine—the Keeley Mine I considered a No. 1 first class asset, and the moneys paid out for the Keeley Mine should not have affected the bank a particle. The bank has more money than what it puts in one concern.

Q. It had only a little over \$500,000 capital? A. I do not remember what capital it had at the time we went into the Keeley Mine.

Q. You knew what it had when you ceased to be President? A. I know, but they were selling stock after that.

Q. They do not appear to have sold very much? A. I did not look into that; I do not know anything about that.

Q. Were not deposits a very important thing for a bank director to get who was putting that amount of money into a mine? A. I was not a bank director.

Q. Bank manager; was not it very important for Travers to get them? A. I never saw a bank manager who was not willing to get deposits. I have had other bank managers besides Travers who asked me to get deposits.

Q. Was not he following you up and trying to get you to use your political influence to get deposits? A. I cannot see how—

Q. Did you understand his remark in the letter? A. I do not care about his remark in the letter.

Q. You have no explanation of it? A. It had nothing to do with me.

Q. You do not dispute it is true? A. I do dispute it is true in the sense in which it is put in that letter.

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Q. You say it is not true that this \$25,000 was requested from the Treasurer by the friends of Dr. Beattie Nesbitt? A. Certainly there was no item of \$25,000 ever mentioned or ever considered. The only suggestion at any time was to have the Government deposit with us. This \$25,000 has been fixed up with regard to this other thing; this is all hot air, that is what it is.

MR. COMMISSIONER: You have not told us who Mr. Phillips was as far as I recollect? A. Mr. Phillips was a mining engineer that got this option, had these men in the first place who owned the mine and had a verbal option from them. He came down here with a verbal option from them.

Q. Was there any time in June, 1908, or at any other time, an advance made to you of \$25,000 or any other sum on the promise that deposits to that amount would be procured from the Provincial Treasurer? A. No, sir.

Q. As far as the Keeley Mine is concerned, your statement is you had nothing whatever to do with the financing of that, you were free from all connection with it? A. Absolutely.

Q. That these men Wishart and Travers were to look after the finances? A. Yes, that is quite right.

Q. If I recollect right, his statement is that when you were not able to put up the first \$25,000 on the purchase price of the Keeley Mine that he advanced it upon the promise that you would procure an equal amount in the shape of deposits? A. No, that has been mixed up and brought in later. Mr. Travers at the time shortly after, around about the time that the mining transaction was put through as near as my memory serves me, all that was said in that regard by Mr. Travers to me was this, or words to this effect: "Now, I have helped you in getting Wishart to come in and arrange to float the mine, and as I have done that for you I think you ought to endeavor to get deposits for me and more business for me", and I told him that anything I could legitimately do to help him to get more business I was very glad to do, and I certainly would.

Q. Was that the time which resulted in Mr. Crompton coming in? A. Mr. Crompton came in subsequently to that, quite a long time after that. My memory of Mr. Crompton coming in was, that it was only three or four months after the mine was purchased, but it seems to have been about a year after by the negotiations, but I had forgotten the whole thing.

MR. HODGINS: There is a copy of a letter that apparently was sent by you to Mr. Noble in December, 1906; you have seen that letter? A. Yes.

Q. Was that one written by you? A. That was a circular prepared by Mr. Travers to send out to our directors.

Q. To the shareholders? A. I think it was to the directors.

Q. This is written to Robert Noble? A. He was a director.

Q. You say "Our papers and everything were in such excellent shape owing to the care taken by Mr. Travers and Mr. Hunter, our solicitor"? A. That was as Mr. Travers told it to me; Mr. Travers drafted the letter.

Q. And you signed it? A. Yes.

Q. I suppose you read it? A. Yes.

Q. You saw nothing that was wrong in it? A. I could not see anything wrong; Mr. Travers' statement throwing some bouquets at themselves.

Q. Would this letter dated November 19th, 1906, fix the date at which you gave your signature having agreed to become President? A. Yes, that would be about right.

EXHIBIT 87: Letter dated the 19th November, 1906, to G. E. Valteau, Secretary British American Bank Note Company, from General Manager of the Farmers Bank.

EXHIBIT 88: Copy of letter dated December 4th, 1906, from Dr. Nesbitt, President, to Robert Noble, Norval.

Q. Mr. Travers wants me to ask you a question whether you remember Wishart being up in Haileybury with quite a number of other people, anxious, as

Travers says, for the option to fall down, in which case I suppose he would take it up independently, and if it was not on that occasion you saw his bank book? A. I remember very distinctly the fact that Wishart was up there anxious for the option to fall down, because Mr. Travers' impression was that he was double crossing him. I think Mr. Travers is absolutely right. I went up there at Mr. Travers' request to look after things in his interest and protect him, because Wishart, as I understood from Mr. Travers, had made a promise to come forward with money for that particular payment, I think—Mr. Travers will correct me if I am wrong about this—that Wishart had promised Mr. Travers that he would come forward with money for that particular payment, and Mr. Travers had waited until the last day and last hour for him to do it, and he sent me up to Haileybury to watch things for him and to see Keeley and Jowsey and Wood and see if we could not get some little extension so that it would not be possible for Wishart to throw him, and I went up and I got the thing fixed up anyhow, and Mr. Travers got in ahead of Wishart.

MR. COMMISSIONER: What you were asked was whether you may not have seen Wishart's bank book at that time and not when the payment became due here? A. My impression is that I saw the bank books at the time the payment came due here. If it is any importance to verify, it should not be hard to have a Commissioner in New York look into the thing and take the evidence, because Wishart can produce his bank books, but that is my impression. I would not swear positively—Mr. Travers asked the question—I would not swear positively that was the time I saw his bank books; my impression is that was the time.

MR. HODGINS: I may as well say before Dr. Nesbitt goes there is another matter, and that is in relation to that special return which was made in May, I think it was, 1907, and I think the evidence with regard to that is only material so far as the purposes of the commission are concerned, as showing the difference between the amount of the notes actually on hand and the amount of the notes mentioned in the special return. The only question I proposed to ask Dr. Nesbitt about that was whether he knew the amounts of the notes that had been got and that had been pledged? A. I knew nothing at all about the details in that way; I can assure you I knew nothing at all about that; when you get on to the details I knew nothing about it.

MR. HODGINS: I am not interested as to whether he knew the statement was true or not, because as far as we are concerned, it does not appear to have been correct; but that is the only question I wanted to ask.

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MR. HODGINS: Mr. Clarkson wishes to make a statement.

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MR. G. T. CLARKSON, Recalled:

He said: I made a statement here the other day that the World newspaper account had been paid. At the time I believed it had been paid, and Mr. Maclean did too. But a difference arose over the agreement. The payment was not made, and at the present time the account is owing to the bank. I had executed a document, the money was available, I had understood it had been passed over. A disagreement arose between the solicitors as to the terms of the document, and this report which was put in to Mr. Maclean was withdrawn. He is now endeavoring to arrange matters to pay the account; but I wish just to correct the testimony.

The Commission adjourned at 4 P.M. to 11 A.M. tomorrow.

Toronto, June 28th, 1912.

The Commission resumed at 11 a.m., at Osgoode Hall.

GEORGE GUTHRIE, Recalled:

MR. HODGINS: I just wanted to ask you a question I forgot when you were here before; while these papers were in the detectives' custody did any reporter or editor of any of the papers, daily papers, or evening papers, see them? A. No, sir.

Q. Quite sure? A. Positive.

Q. Could they be seen without your knowing it? A. Not unless they would break into my locker which they did not do; at least my locker has never been broken.

Q. You could not account for the circumstantial way in which the documents were described? A. No, I could not.

Q. I think I asked you the last time about the custody of the papers? A. Yes.

Q. Would County Constable Burns be the one who got them if the matter was transferred from the County Judge's Criminal Court to the Assizes? A. He might not, they were not exhibits.

Q. What would become of them? A. I would hand them over to Inspector Duncan and he would hand them over probably to the Crown Attorney.

Q. Who would the Crown Attorney be? A. Mr. Baird was at that time.

MR. COMMISSIONER: What did he hand them over to the Crown Attorney for? A. I do not know unless they would be talking over the cases that would be coming up.

Q. But there was a case founded on these letters? A. No, sir.

Q. What would they be handed to the Crown Attorney for? A. That I could not say; I know they were got from me by Inspector Duncan.

Q. Who is it that leaks from the Police Department about papers or who is your publicity officer? A. Sometimes we would like to know.

Q. You have not anybody? A. Not that we can accuse of that. I might say about them that it was Mr. Clarkson or one of his boys that asked me if I had those papers at that time and I said no. I had them though at the time.

Q. You said no? A. Yes, but I told him I had not.

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ROBERT BURNS, Sworn, Examined by—

MR. HODGINS: You are a County constable? A. I am a Provincial constable.

Q. And you I think act in the capacity of clerk to the County Crown Attorney, do you not? A. Yes, sir.

Q. Have you or did you get the custody of any of the papers connected with the criminal cases before the County Judge's Court or the Assizes? A. I have done for a number of years.

Q. Who do you get them from? A. From the Police Court clerk, Mr. Arthur Webb.

Q. Are you recognized as the person who gets the papers that have been filed in the Police Court? A. Always have been for a long time.

Q. Are those the only ones filed as Exhibits, filed with the Clerk of the Court? A. I get the papers and I always get possession of any exhibits in reference to any trial where they have been committed for trial.

Q. Do you get anything from the Toronto Detective Office? A. As Exhibits?

Q. As papers connected with the case? A. No. I get everything from Arthur Webb; I get nothing from the Detective Office.

Q. Are you distinguishing between what is marked by the Clerk of the Court as an Exhibit and other papers? A. No, I am not distinguishing any. I am saying that I get all Exhibits from the Police Court Clerk, and that is Arthur Webb, and they are entered in the Police Court Book which I give a receipt for, and this case we are speaking of, I have the Police Court book in my pocket and also my receipt for all the exhibits that were in the Police Court case.

Q. Let us see them? A. (Produces Police Court Clerk's book).

Q. That is a receipt apparently for certain numbered Exhibits? A. That is it.

Q. Signed with your initials for James Baird, is that the only one? A. That is the only one of Exhibits in any of the cases.

Q. Did you get any other papers which were not marked by the number of the Exhibit? A. No, sir, none whatever.

Q. When you get them you have an office in the City Hall Building, don't you, where you keep them? A. Detective Guthrie and myself brought those Exhibits over into Mr. Baird's office, and directly we got them there we both sat down and we went over them and we tabulated them according to these numbers, and Detective Guthrie has some long envelopes, there were some of them similar to this, and the number of the Exhibit was already on them in some of the cases, and also a statement of what was inside the envelope.

Q. Can you throw any light on our inability to find any papers which are connected with the Farmers Bank which were not put in formally as Exhibits? A. No, sir.

Q. Did you ever have any other than those Exhibits? A. No, I cannot; I can tell exactly what became of all these Exhibits as far as my knowledge is concerned.

Q. We have seen all those? A. We did not examine the insides of the envelopes; we simply tabulated them according to the Exhibit that was there.

MR. HODGINS: I have all those numbered Exhibits.

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JAMES P. HAVERSON, Sworn, Examined by—

MR. HODGINS: You are a reporter on the World? A. Yes, sir.

Q. Have you ever gone through these papers connected with the Farmers Bank prosecution in the hands of the detectives or in the hands of any one else? A. No, sir.

Q. Did any one connected with the World or any other newspaper to your knowledge? A. The Globe printed some letters in connection with it, and I suppose if they were accurate prints of any letters they must have had some sort of access to them. The City Editor of the Globe would be able to tell you how he got that news.

Q. That is your inference from seeing them in the paper, but you do not know anything about that? A. No, except that is what happens on newspapers.

Q. None of the papers which we have been hunting for have come under your notice? A. No papers at all were ever under my notice except any papers that might have lain on Inspector Duncan's desk when I was in there, and I would not recognize them other than papers that were on his desk, more than seeing Farmers Bank on the outside of some envelope or folder I would not be able to tell anything about them.

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T. LOUIS MONAHAN, Sworn, Examined by—

MR. HODGINS: You are a practising barrister here? A. Yes.

Q. And were a partner of the late Mr. James Baird when he was County Crown Attorney? A. Yes.

Q. I think during his illness latterly you did some of the work for the Crown? A. Oh yes, during all the time he was County Crown Attorney.

Q. You conducted one of the prosecutions, perhaps more than one arising out of the Farmers Bank? A. I think I conducted three before the County Judge.

Q. Do you remember whose those were? A. Yes, Crompton; he pleaded guilty I think; Munro he was tried before Judge Winchester, and I think Mr. Warren and Mr. Morden in connection with some dealing in regard to the currency of the bank.

Q. But in connection with those prosecutions or as Mr. Baird's partner, did you have possession of any of the papers of the Farmers Bank that were seized by the detectives? A. I have no doubt that I had all the Exhibits in each one of those three cases.

Q. Did you see any papers other than those numbered and marked as Exhibits? A. I saw the Exhibits in what we term the conspiracy charge against a lot of them, I saw the papers in that.

Q. They were all marked as Exhibits? A. I was not in that case, I never examined them closely enough, but I have seen some in Mr. Corley's room, I assisted Mr. Corley in that case in the Police Court at his request, and at that time I saw the Exhibits in that case.

Q. Did you ever see this \$3,000 cheque? A. No, I never heard of it. The fact of the matter is I do not think I recollect ever having seen a Farmers Bank cheque, if it is a Farmers Bank cheque.

Q. Did you get possession of the World file? A. No, I have never seen them at all.

Q. Do you know whether Mr. Baird's office got possession of any papers or had them in any way? A. I would be very much surprised to learn that they were ever in his possession, because all the Exhibits in the Farmers Bank that ever came over were brought over through Detective Guthrie and Burns and personally I never procured any other papers direct from Inspector Duncan, and I would be somewhat surprised to learn that Mr. Baird ever had; if he had it was without my knowledge.

Q. Did he take part in the prosecutions himself personally, or did you? A. In the early part, I do not remember exactly what date, it would be before there were any committals for trial, but I think the time the committals for trial took place Mr. Baird's health was such that he was very rarely in the office; he used to come down to the City Hall once in a while but he did not take any active part.

Q. Would you have anything to do, or you and his office have anything to do with the Assize prosecutions? A. Not unless, as a matter of fact, I think it was Mr. Staunton prosecuted some of them in the conspiracy charge—the only assistance that I rendered him in that was in the preparation of the indictment. At the time that case came on before the High Court I was then acting for Mr. Baird before the Sessions Court.

Q. What precautions are taken with the papers that are marked as Exhibits or are in the hands of the Crown officers for information which they may or may not make Exhibits? A. They are kept in the office there. The office is always kept locked, or if it is open it is in the custody of Mr. Burns and he has instructions not to hand out any papers to any person unless he gets permission to do so or gets a receipt.

Q. Does his instructions prevent people seeing the papers? A. It would prevent them seeing them unless Burns was there and watching, and Mr. Burns is very very careful, I have noticed that particularly.

Q. There are no instructions against him letting people see them? A. I do not think he would in a case of this nature, but if it was the case of a person acting on behalf of the accused desiring to see certain documents which would be a matter of necessity for the lawyer to know about, I have no doubt Mr. Burns would allow him to see them.

Q. Mr. Burns says he only has the Exhibits; what about the papers that come into the hands of the Police and the Crown Officers naturally go over them for the purpose of seeing if they are useful? A. Those would most likely arise in this way; when the case, after committal for trial, the Exhibits and the information and the papers would come over, and if there was anything unusual about the case, you would request to see the detective who had charge of it, and then no doubt you would learn from him that there were certain other papers that would be of assistance and he would get them for you.

Q. Then he might have charge of some of the papers not actually marked as Exhibits? A. That is quite usual.

Q. You cannot throw any light on where these papers which have not been marked as Exhibits are, but which we want to get? A. I do not really know which ones you have reference to.

Q. I have referred to that \$3,000 cheque? A. There was a letter said to have been written by the Provincial Treasurer. I was aware that there was some correspondence regarding dealings between the Toronto World and the Farmers' Bank and I knew they were there, because Mr. Clarkson either wrote to me or telephoned to me or to Mr. Baird, and I answered him asking for these papers; that would be some time in August or September, 1911; and I told him then that I did not have them; and that was as a result of the investigation I made in the office. I did not see these papers, I had never seen them, although I knew they were in existence. At that time I did ascertain where they were and found they had never been Exhibits. Inspector Duncan told me they were in Detective Guthrie's custody at that time.

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BENJAMIN GEORGE KILLORAN, Sworn, Examined by—

Mr. HODGINS: You live in Haileybury? A. Yes.

Q. And you had something to do, I think, with the original sale of the Keeley Mine? A. About the time they were talking of selling it Mr. Phillips came to me for a loan of money, so I gave him \$375.

Q. Who is Mr. Phillips? A. He is a mining engineer.

Q. What had he to do with this property? A. He went to the owner, Keeley, Jowsey and Wood and examined it.

Q. Did he have an option on it or was he just an engineer? A. I could not tell you whether he had an option or not, but for my protection I went to the owners of the property, and if any deal would go through I was looking for a 10% commission.

Q. What is that? A. I went to the owners of the property myself and they agreed to give me 10% commission, which they did.

Q. If you sold it? A. If the property went through.

Q. Was there a deal on with Phillips? A. Phillips was negotiating with some people, I do not know who they were.

Q. Were you and Phillips to share the commission? A. Phillips' commission, I do not know whether he got it or not; I cannot say.



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Q. Were you and he partners in trying to sell it? A. I went to the owners; I had not anything to do with Phillips, but I loaned him the money.

Q. Who did you effect a sale to? A. I did not have anything to do with the sale at all.

Q. I thought you said they paid you a commission? A. Keeley, Jowsey and Wood paid me a commission.

Q. Who did you sell the property to to earn your commission? A. They paid me a commission because I went to them and I told them I had loaned some money in order to try and put the deal through.

Q. Did you put the deal through? A. No.

Q. Who put it through? A. I could not tell you who.

Q. What was the deal—who bought the property? A. I could not tell you who bought it.

Q. Who paid for the property? A. I cannot tell you that.

Q. Do you mean to say you got a commission of 10% on a deal you cannot even tell us anything about; I do not understand you; I thought you told Mr. Thompson here all about the sale and the amount that was paid and what you got? A. According to the commission I got, it was \$300,000 paid.

Q. Who did you get your commissions from? A. Keeley, Jowsey and Wood.

Q. What did you do to earn your commission? A. I had lent the money to Mr. Phillips.

Q. How much money? A. \$375.

Q. And your commission amounted altogether to how much? A. It came through my hands, it was \$30,000.

Q. For lending this money to Phillips; is that all you can tell us about the deal? A. That is pretty near.

Q. Don't you know who bought the property? A. No.

Q. Who was to pay you your commissions? A. The Union Bank.

Q. Under whose orders? A. Keeley, Jowsey and Wood.

Q. Who was the one you went to when you said you went to the owners? A. Keeley, Jowsey and Wood.

Q. All three? A. Yes.

Q. Did they live together? A. No, they were on the property at the time.

Q. Phillips then was to put the deal through? A. I could not say.

Q. Is there something you do not want to tell? A. No; only I have an agreement here in my pocket and I just lived to that.

Q. Do you know what that agreement is; let me see it? A. (Produces an agreement).

Q. This is between Phillips and you, and you agreed to pay Phillips 50% of all the commissions received by you from the sale of the mining property known as the Keeley-Jowsey-Wood claim H. R.-19; did you pay Phillips 50% of the commissions? A. Yes, it went to this gentleman. (Produces a letter with a cheque attached.)

Q. To H. D. Graham? A. Yes.

Q. What had he to do with it? A. I suppose he was the lawyer that acted until his death.

Q. H. D. Graham was a lawyer at Haileybury? A. Yes.

Q. Who was he acting for? A. I understand he was acting for Keeley, Jowsey and Wood.

Q. You wrote to the Union Bank May 20th, 1908: "I hand you herewith agreement signed by Jowsey, Wood and Keeley for payment to me of 10% on the sale of the mining claim to Dr. Beattie Nesbitt"—have you that agreement? A. The agreement I tried to get it, but he said he did not know where it went.

Q. Who? A. The Union Bank.

Q. You had the agreement? A. He said he made it a practice when the thing was through like that, he was through with it.

Q. You had an agreement which is described here dated 19th May, 1908, between the owners of the property and yourself? A. Yes.

Q. Agreeing to pay you 10% on the sale to Dr. Beattie Nesbitt? A. Yes, I cannot remember who the agreement was with; it was just for the bank, and it was handed in to the bank.

Q. This is your own letter? A. Yes, it was handed in to the bank by the owners, by Keeley, Jowsey and Wood.

Q. Did you ever see it? A. Well, I heard it read at the time.

Q. The agreement authorized the bank on receipt of payment from the purchaser to put 10% to your credit? A. Yes.

Q. And that is why you send the agreement apparently? A. Yes.

Q. You think Graham was acting for the owners? A. Yes, he was at that time.

Q. Why did you pay him \$2,500? A. He was looking after Mr. Phillips' affairs, he was looking after the deal.

Q. Looking after Mr. Phillips' affairs? A. I suppose.

Q. Was he Phillips' lawyer? A. I could not tell you.

Q. Did you owe him anything? A. No.

Q. You just paid it on Phillips' account was it—you were to pay Phillips; did you pay Graham on Phillips' account instead of paying Phillips? A. I was authorized to give it to Mr. Graham.

Q. Was Phillips acting for Beattie Nesbitt or for the owners? A. I could not tell you.

Q. Did he ever tell you who he was acting for? A. No, he did not, not to my knowledge.

Q. At all events he got from you or you paid him or to Graham \$15,000, as the commission; did you pay Phillips \$15,000? A. Yes, it went through my hands.

Q. You paid him that or the bank paid it for you? A. Yes.

Q. And you say you do not know who he was acting for? A. No, I could not tell you who his people were.

Q. Did he never tell you? A. I do not remember; he was busy at the time; he was away pretty nearly all the time until the deal went through; I did not see him at all.

Q. I see there is a provision in this agreement of yours that you were to pay Graham the said 50% commission? A. Yes.

Q. Did you ever run across Dr. Beattie Nesbitt? A. Yes, I met him.

Q. Did you ever try to sell him the property? A. No.

Q. You really had not anything to do with making a sale to him? A. No, all I had was the owners; if the deal went through the owners were to give me 10%.

Q. What did you do with your \$15,000, keep it all? A. I did not keep it very long.

Q. Had Phillips any connection with Dr. Beattie Nesbitt? A. I could not tell you.

Q. You might not, but did you suspect, did you think he had? A. Well, I did not know; they went to the property together.

Q. Had you an option on the property from the owners yourself? A. No, Mr. Hodgins.

Q. Where is Phillips now? A. I think he is in Haileybury.

Q. What is his business, mining engineer? A. Yes, he has followed up that as far as I know of it.

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Q. What was the sale price of the property \$300,000? A. I do not know what the sale price was, but according to the commissions that was placed to my credit, it would be \$300,000, at 10%.

MR. COMMISSIONER: When did you first see Phillips about it? A. It would be I should judge two or three months before the deal went through.

Q. What was Phillips doing, interesting men to sell the mine? A. It looked to me that way.

Q. Surely you must have known what he was doing; was he trying to sell to some one? A. He went down to the property and I suppose he examined it and got a report on it and went away.

Q. Was he the man that was trying to sell it and was earning this commission? A. I cannot tell you that.

Q. You did not earn it? A. I thought when I loaned the money—

Q. Loaned the money what for? A. He was reporting on it and apparently to me, trying to get some one interested.

Q. Trying to get somebody to buy? A. Yes.

Q. And you lent him \$375 and you and he were to divide the commission if the sale was carried out, is that it? A. Yes, that is about the way.

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GEOFFREY T. CLARKSON, Recalled:

MR. COMMISSIONER: You prepared a series of statements as to the position of the bank, commencing, the first of them, as of the 30th November, 1906? A. I did.

Q. And then at the end of each year down to December 19th, 1910? A. Yes.

Q. You have placed in front of it a memorandum which explains what these statements are, and how far they are accurate? A. Yes, sir.

Q. Is that statement correct? A. My memorandum?

Q. Yes? A. Yes, sir, it is.

Q. Then these show that on the 30th November, 1906, there was a deficiency of \$45,771.64? A. That is correct.

Q. Is that made up practically of the preliminary expenses? A. Yes, sir.

Q. By the end of the year that had increased to \$65,252? A. That is correct.

Q. And by the end of the next year to \$221,801? A. Yes.

Q. To the end of 1908 to \$591,870? A. Yes.

Q. The end of 1909 \$904,536? A. Yes.

Q. The date of the failure of the bank the deficiency was \$1,272,686? A. Yes.

Q. I think you put in a statement showing how much the various sources of loss, that is in it is it not? A. Yes, that is in there.

Q. Is it not in independently of this? I thought we had a statement showing? A. There is a report I made in the beginning which contains these items with some slight differentials as the result of the evidence as has come out here.

Q. That statement shows what was lost in the running expenses of the bank, assuming they had made no bad debts at all? A. Yes.

Q. That is one item? A. Yes.

Q. Another shows what they had lost in bad debts? A. Yes, there is a summarized account and a detailed account I produced here.

Q. It shows with reasonable accuracy how this large deficiency came about? A. It shows with reasonable accuracy within a few thousand dollars.

EXHIBIT 89: Statements of affairs December 31st, 1906-7-8-9-10 re Farmers Bank.

MR. HODGINS: We have a statement book from you, and from time to time we have marked some of the pages in it? A. Yes.

Q. In consequence of any of the evidence that has come out here, is there anything to bring it up? A. There are a few thousand dollars, and I changed the last page in that book to agree with this (the last page of 63 to agree with Exhibit 89).

Q. There is no substantial difference? A. No.

Q. We can say these figures are correct to date? A. Approximately; it comes within about seven or eight thousand dollars; if it had come within \$20,000 I should have been satisfied, but it is closer than that. I do not know that you got this account in as an Exhibit; for instance the operating losses.

MR. COMMISSIONER: I thought that was put in.

MR. HODGINS: Point out the pages.

MR. COMMISSIONER: That book is in? A. There are pages; and this morning I withdrew that last page and substituted this other.

MR. HODGINS: Page 111 of Exhibit 63, owing to what has transpired in the course of the evidence, you have made some corrections? A. I have made some corrections and they may reflect a little bit on these prior accounts preceding; for instance this \$87,000 organization expenses, it will appear in here as \$96,000, the difference arises out of that explanation as to the Menzie note transaction.

Q. That makes the unexplained deficiency? A. \$7,700.

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W. R. TRAVERS, Recalled by—

MR. HODGINS: In reference to the evidence of the witness Killoran, do you know anything about Phillips? A. J. B. Phillips?

Q. Yes? A. Yes, I know him very well.

Q. With whom was he acting in connection with the Keeley Mine? A. He was the go-between for Dr. Nesbitt and the owners.

Q. In whose interest was he acting? A. He was acting for Nesbitt I should say.

Q. Did he acquire any interest in the Keeley Mine after the deal went through? A. He certainly did. I was astonished to hear just now that he had got commission on both sides.

Q. What did he get from the side of the purchaser, Dr. Nesbitt? A. He got 110,000 shares of stock; if I remember right.

Q. He got that from out of Dr. Nesbitt's or out of whose? A. He got that out of Nesbitt's stock, or the stock that stood in Nesbitt's name.

Q. How long did he retain it? A. I think it is standing in his name now.

MR. CLARKSON: The bank sold it out and bought it in. A. They could not sell it; it is under pool.

MR. HODGINS: Since the failure.

Q. You say you were surprised to learn he got commission from the owners as well? A. I was.

Q. Did you regard him as representing Dr. Nesbitt or the mine purchasers in any confidential sense? A. I did not; to show the truth of that I would not settle with him until he brought suit or threatened suit for his stock through a Mr. Douglass in the city and Nesbitt advised the transferring of these shares to him.

Q. What did he sue the bank for? A. He claimed \$200,000.

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- Q. On what basis? A. As the agent for the purchase of the property.
- Q. As agent for Dr. Beattie Nesbitt so to speak in purchasing the property?
- A. Yes.
- Q. Did he claim he had a bargain with Dr. Nesbitt to get that amount?
- A. Yes.
- Q. How much did you finally give him? A. \$110,000.
- Q. As a compromise? A. Yes.
- Q. On Dr. Beattie Nesbitt's advice? A. Yes, absolutely.
- Q. Was it on his report the property was bought, the mining engineer? A. Yes, I relied on his report as far as the interest I took in it.
- Q. How were you informed about Phillips, did Dr. Beattie Nesbitt tell you?
- A. Dr. Nesbitt introduced me to him as he told here yesterday in the Rossin House and Nesbitt had a brief report of the mine together with samples of ore, and that is the way it started.
- Q. Was he employed to investigate the property? A. I understood at that time that he was sent by the owners, that he had arranged with the owners to dispose of the property; that is the way I looked upon it and I thought it was a matter as between Nesbitt and Phillips, and it was a long time afterwards before I found out that Phillips was entitled to any commission in it whatever.
- Q. So far as you were concerned you thought he was acting for the owners?
- A. Yes, between the owners and Nesbitt I did not know what the position was exactly.
- Q. You did not deem that there was any commission coming to him? A. I certainly was surprised when I heard that to-day.
- Q. Commission coming to him from Nesbitt? A. I thought in the end Nesbitt had made a deal with him and Dr. Nesbitt said yesterday that I agreed to give that commission; his memory is at fault; I never promised anything of the sort.
- MR. COMMISSIONER:** What was his statement, that you agreed to it or you consented? A. His statement was at the Rossin House meeting that I had told Phillips that I would give him a commission.
- Q. Oh, yes; that you had volunteered that? A. Yes.
- MR. HODGINS:** When you first met him you thought he was acting as a go-between between the owners and Dr. Nesbitt? A. Yes, I thought Nesbitt had employed him in connection with the deal or the owners had; I did not make inquiries.
- Q. When did you learn what his real position was with regard to Nesbitt?
- A. At the time that the \$110,000 of stock was transferred; the books will show that.
- Q. The property was introduced, and then there was a payment of \$50,000 and there was another payment of \$50,000; how soon did you learn what Phillips' interest was? A. As soon as the joint stock company was formed Phillips dropped as far as I was concerned completely out of it; I never heard of him until the time that he applied for a commission.
- Q. What joint stock company? A. The Keeley-Jowsey-Wood.
- Q. He dropped out? A. Yes, and never heard anything more about Phillips whatever.
- Q. He cropped up before the second company was formed, the Keeley Mines Limited? A. No, I do not think the records will show that; I do not think he showed his hand till the new company was formed and a deal was under way to dispose of some of the stock.
- Q. That was the Keeley Mines Ltd? A. Yes.
- Q. And he showed his hand and came in and claimed? A. Then a Mr. Douglass, a lawyer, called in and said to me he wanted that stock transferred forthwith and I said I did not know anything about it.

Q. You did not know he was getting commission from the other side and did not learn it till yesterday? A. I had heard hints of it, but I never knew it to be the fact till to-day.

Q. At the time you settled with him, had you any idea he had got a commission? A. I had not; he denied it point blank.

Q. Have you gone over as you promised to go over the list of people that got loans at the early stages of the bank, having got wind of what has been done down in Ottawa? A. I went carefully over the books for two or three hours in Mr. Clarkson's office and I have made up a list, but I feel I ought to modify what I have said the other day in answer to the question whether the loans were made because I was afraid of their using the knowledge that they had. I can hardly say that to-day, but I can simply say that certain loans were made through the request of people who were intimately associated with me.

Q. What was that again? A. I say I can only say to-day that certain loans were made through the influence of people who were associated with me in the early stages such as Nesbitt and some others. I would not like to say now under oath, after going through the books that I actually made those because I was afraid of the people exposing anything.

Q. What reason had you for making them? A. Well, the reason I gave; I thought it would not be well to quarrel with them.

Q. What reason do you give now for making them? A. Simply acceded to their request, thinking it was well to be friendly.

Q. Do you mean to say now there was not a suspicion of fear? A. I cannot look on it in that light.

Q. Why did you look on it in that light the other day? A. I thought some loans that were made subsequently might have been, but perhaps I spoke a little too quickly the other day.

Q. It is not the sort of thing that any one would ever say if they did not mean it I should think? A. I can only just answer you as I feel now, and that is my feeling now, and I am put on oath, and I can hardly say I made those loans, such loans as I have made a list of through fear of exposure.

Q. What was the actuating cause? A. I just explained to you; the reason was, that, take Nesbitt for instance, he insisted or requested me to make a certain loan on which I think we lost considerable money; the early association influenced me to do it.

Q. What do you mean by the early association? A. At the organization of the bank.

Q. That is a very different thing, lending it because Dr. Nesbitt was associated with you and lending it because you were afraid somebody would make use of the knowledge? A. Quite so; that is exactly the position I take to-day, that I say I will have to modify that and say I do not say now that I made it through fear.

Q. There was no knowledge that Dr. Nesbitt could make use of without involving himself? A. He said yesterday he knew nothing about the original transactions of the bank and I say he did absolutely, that he knew all about them.

Q. What are the aggregate of these loans you made up? A. I do not know how it has turned out; I only made a list here with a few notations of losses but I really think it would not be well to publish these peoples' names.

Q. I ask you for the aggregate of the loans first? A. There is about \$10,000 of loans I think have turned out losses.

Q. How soon after the organization of the bank did you make these loans? A. They commenced within a few days, some of them, spread over a few months over the early part of the bank.

Q. Have they been paid or are they losses? A. No, they are losses, I do not know exactly; Mr. Clarkson could answer that; there is a loss I think of \$10,-

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000 in one case, \$8,000 in another and \$7,000 in another; and the total advances to another man were \$13,000, I do not know how that has turned out.

Q. What attitude do you take about those? A. I take this attitude, that after going over these loans for me to say that I made those loans through fear of him exposing the original transactions of the bank I can hardly do that to-day; I hardly think it would have been fair to publish these names although I prepared the list.

Q. What have you made up your mind to do about the \$3,000? A. I have thought that over very seriously and worried very much over it, but I do not feel disposed to change my attitude and make it public.

Q. Do you think you are justified in refusing to disclose that name and also to say that you do not think these names should be made public and I suppose that involves a refusal to give up those names? A. I have a list of the names of the loans that were made, but as for the other matter I looked upon it as a private matter and I do not feel disposed, I do not see it can do any good; if I could I would do so. As for the loans, after my statement here it will be a matter for Mr. Commissioner to say what he likes about those.

Q. What position do you take about the names? A. There are some of them I do not care anything about and there are others I think it will only cause them to rise up and say it is untrue and all the rest of it and I do not see it will do any good. Some of them I do not mind. There is the Gas and Electric Power Co., I will give you that; we lost \$3,000 over that; Dr. Nesbitt was silent partner in that; am I right in that?

MR. CLARKSON: As to the loss, yes. A. There was a Poole Publishing Co., we lost \$10,000 in that, that is Lindsay's doings. I do not mind those being published; but there are some other ones.

Q. You have given us the names of Dr. Beattie Nesbitt and Lindsay as being responsible for lending those two; who was the responsible for your lending the others if you say it was through associations? A. I will have to take that responsibility on myself.

Q. You drew a conclusion that in these cases where no one else was responsible—? A. One man on here whose name I do not wish to mention I asked him to be a director, and I thought it was only fair to tell him the original history, because I knew he would find it out when he got on the Board; and I do not think we ought to publish his name. I think there is some big amount that is still owing upon that.

Q. Did he decline to go on the board? A. Well, he made up his mind to go on at first and afterwards declined, yes.

Q. And in the interim did he get a loan? A. Yes, he got several loans.

Q. And has not paid them? A. I do not think, Mr. Clarkson might look at the second name.

MR. CLARKSON: No, that is not paid; that is compromised. We took a settlement; and took over certain real estate, and we will lose four to six thousand dollars on that.

MR. HODGINS: Then with regard to what others do you name anybody, you said it was through your associations that you loaned—? A. We lost a large amount of money through Mr. W. H. Hunter and the Graphite Co., that is another name on there; that has all been brought out here before; and the third name will you look at that third name, did not you lose something on that?

MR. CLARKSON: \$6,000.

MR. HODGINS: I do not want any names published that will embarrass the liquidator on realizing? A. No, very likely it would.

Q. Because it is absolutely necessary he should have every chance to get all he can; there is no use investigating it at the expense of the shareholders.

MR. COMMISSIONER: Is that a personal liability of Mr. Hunter?

MR. CLARKSON: No, sir, it is a company liability. There was a time I think when it was a personal liability? A. At first it was.

MR. CLARKSON: At first, and then it was formed into a corporation, and we only hold the corporate liability now.

MR. COMMISSIONER: For how much?

MR. CLARKSON: \$88,000.

MR. HODGINS: Have you given Mr. Clarkson all the information you can regarding these loans so that he may have an opportunity of realizing upon them if possible? A. I think I have been frank all through with Mr. Clarkson in every matter all the way through.

MR. CLARKSON: That is perfectly true; Mr. Travers has given me every information. A. I have told him even some things that he has agreed not to make public here.

MR. HODGINS: I do not want to ask for the names if it is going to affect the realization of the assets? A. Mr. Clarkson thought that.

Q. It should not embarrass the liquidator? A. That is the way the liquidator felt with me when we were discussing the matter, when I went over those.

Q. The other matter as to the \$3,000, is that the only payment you made improperly; you have spoken of that individually as if it was the only money you parted with? A. You brought that up in connection with those cheques from Ottawa, and I fell into your trap because the same question had been asked before and that is why I dwelt on that one.

Q. Are there any others that you have not dwelt on that you ought to disclose? A. No; I take the responsibility myself for anything else.

Q. There are some others, does that mean? A. I heard some evidence here that I do not agree with but I do not wish to say anything more.

Q. You are putting yourself and putting me in rather an unpleasant position; I think you should disclose that? A. I would like to, but I have made up my mind that I do not care to do it; I did feel once as I would like to have given the Commissioner the information privately and Mr. Thompson said he did not think he would receive it that way; and I thought it over again and I do not care to make it public.

Q. I suppose you are willing to take the consequences? A. I will have to take the consequences; I have been taking them all along. I do not shift any of the responsibility off my own shoulders; I should have acted entirely differently but still—

Q. I think I should ask the Commissioner to consider what is the proper course to take. A. I am quite satisfied to put myself in the hands of the Commissioner.

MR. COMMISSIONER: You see it is your duty to answer these questions and your refusal to answer them would warrant me in committing you till you do answer them? A. Yes, I quite understand that, but I do not think you would advise any longer sentence for me than I am now getting.

Q. But if you remained in contempt, that is the term that the law applies to it, until you purge yourself of your contempt; I suppose it would mean you would remain; would not it be better to tell it now and be done with it? A. I cannot change my mind on that point; it would only lead to a good deal of trouble and it would not do the slightest bit of good.

Q. A good many people are suffering as the result of the failure of this bank; would not it be well that they should know everybody to whom blame is attachable; you have received and I have received some very pitiful letters about the condition in which people have been left? A. Quite true; I dare say some people have suffered, but they are very much exaggerated; while the loss is very severe to these people, even a very small amount of deposits in the bank, they were not the complete savings of all these people; they were largely drawn by deposits from other banks where people had money, left part of the money in the other



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bank behind them; however, the suffering is very great, and nobody feels it more than I do.

Q. You said something a moment ago; you dropped an observation a moment ago that may reflect upon a witness and does reflect upon some witness, is that fair? You have indicated a witness has stated something that is not the fact. We have had witnesses here who have come to free themselves from suspicions; you are casting suspicions—do you think it is fair you should leave Mr. Calvert in that position? A. I am sorry that I spoke generally, but I would rather not answer any question about it at all, if you will allow me. I do not like to start on it at all.

Q. I fancy, I do not want to persuade you, but I fancy there will be a good deal of bitterness, on the part of those who have suffered, from your refusal to answer, and are there not some charges that may yet be laid against you? A. I do not know, they have not pushed some of them. I think they took the criminal code and struck out murder, arson and rape; and then indicted me for all the rest; so that I think there is plenty of room for them to bring on some more.

Mr. HODGINS: I supposed it has not occurred to you that you ought to do your very best if money has been paid improperly to help to get that back for the sake of the shareholders; do you realize that the shareholders have not only lost what they have put in, but they will have to pay their double liability, and that the depositors won't get anything? A. I realize that thoroughly and feel it deeply, but in answering the question that you ask it would not assist the shareholders nor the depositors one iota that I can see.

Mr. COMMISSIONER: If men have got money for improper purposes and they are worth it, it can be got back again? A. That depends; a bargain as between myself and another party, I cannot say you can look upon it as an improper one, can you?

Q. It depends upon what it was? A. I certainly paid no money out whatever in influencing the Finance Minister or anybody in his Department; that is as far as I care to go.

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THOMAS S. LYON, Sworn, Examined by—

Mr. HODGINS: What is your position? A. Associate Editor of the Globe.

Q. Was it the same a couple of years ago? A. No, I was News Editor two years ago.

Q. We have been doing our best to ascertain the whereabouts of some papers that we cannot find; I have called the detectives and the Crown Officers and so on, and from something that appeared in your paper, I judge that some one connected with your staff had a very accurate knowledge of some of the documents which have been produced in this investigation which were not exhibits in the Police Court or any other Court; I would like to know if you can tell me how access was had to the papers if I am right in my assumption that some one from your office must have seen them? A. I had access to the papers myself. About a year ago, I think it was, when the preliminary hearing against Lindsay took place, some one came to the office, the name I cannot carry.

Q. Against Lindsay? A. Yes, I thought against Travers at first. Some one came to the office and told me that among these papers which had been in Court but which had not been made exhibits in the case, there were some things that might show a reason why Dr. Beattie Nesbitt was allowed to leave the country. I was interested. I took occasion when the hearing was resumed to go up to the City Hall. I saw Mr. Clarkson. Mr. Victor Ross of our staff phoned Mr. Clarkson and asked him about these papers. He said that they were in his custody for the purposes of the liquidation not for the purpose of the law, but that for the pur-

poses of the law access could be had to them at any time by the officers of the Crown. Mr. Clarkson came in to see me a few days afterwards, and we discussed the thing at some length and he on that occasion said that he had no personal knowledge that these particular papers were to be found on the files of the bank. I described the papers to him as I had a description, one of them being the letter that has since been published, by Mr. Travers to Colonel Matheson. On Mr. Clarkson's refusal to give me access to the papers I went up to the City Hall and in the Detective's office there before the hearing of the Lindsay case began these papers were on the desk. I discussed the matter with Inspector Duncan, not having special reference to these papers in the first case, but to the case generally. I found Mr. Duncan distinctly annoyed at the course followed in the case. He felt that he had been used rather roughly in being sent to Muskoka on what he regarded as a fool's errand at the time of the issue of the warrant against Dr. Beattie Nesbitt; he therefore talked rather more freely than possibly a detective ought to have talked to me, but in any event, in the course of the conversation he referred to this file of letters, and looking over his shoulder I saw these papers, that particular file.

Q. Looking over his shoulder? A. Yes.

Q. He was going through them? A. He was looking at them.

Q. You just happened to look over? A. Yes, I just happened to look over.

Q. And you took a copy? A. No, I carried it in my memory.

Q. Did you ever see this \$3,000 cheque that we want to get at or any letter from Colonel Matheson? A. No, I swear positively that these papers were not on that file at that time.

Q. Were you long in the office going over them? A. Twenty minutes.

Q. And did you take any of them away? A. No, sir.

Q. And you did not make any use of your knowledge of those papers at that time? A. No, not for a considerable time afterwards.

Q. Not I judge till the article I speak of appeared during the progress of this investigation? A. Yes, sir. I felt these papers ought to become public property in some way.

Q. Those papers had nothing to do with the Lindsay charge? A. That I know nothing of; they were certainly there to be used in the Court that day. In some way or another they were brought in case they should be used.

Q. Had you telephoned the detectives to say you would like to see them? A. No, I think it was done in another way. We have a police man. I do not know just how I arranged, but I knew the papers were coming up that day; there was no collusion between me and Duncan; I do not want you to think that at all.

Q. You were just using the fact that Lindsay trial was coming up as an excuse to get those papers up there? A. No. I was not prime agent in moving that those papers come up there, not at all.

Q. You seem to have been? A. No. Well, I say I knew what was in the papers, I wanted to see them, but they were up there for the purposes of the Court; I did not induce the detective to bring those papers up for my purposes.

Q. I thought that was the inference; you had a Police Court man up there, I thought the inference was you suggested to him to ask the detectives to get these up from Mr. Clarkson? A. No, it was the knowledge that this case was coming; that was the thing that took me up to the City Hall that day.

Q. The Lindsay case had no possible connection with these papers in any shape or form? A. If they brought them up they did not bring them up specially at my definite request that I should see them.

Q. The inspiration came from you? A. Put it that way, I am quite content it should rest that way.

Q. Through your Police Court man? A. One cannot recall every detail of a transaction like that a year afterwards, but I knew the papers would be there and I wanted to see them. I do not know why they were brought; there must have

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been some excuse for bringing them, you know, some excuse of the Court for bringing them.

Q. I know the particulars of the Lindsay charge, and I confess that I cannot see the slightest possible connection between those letters and the Lindsay charge?

A. In that case my actions as prime mover must have been more effective than I had any idea. I want to add that the first information did not come in any sense from the Detective Office; I want to free them entirely of any suspicion that they volunteered information to me; that is not the case. I do not carry in my memory the name of the man who spoke to me, but I think it was the proprietor of one of the city newspapers gave me the first idea of the thing.

Q. You appear to have acted as an irritant on the second occasion? A. Yes, possibly.

Q. I suppose you really went there intending to see the papers? A. Yes, I went,—

Q. And used that ruse with Inspector Duncan to get him talking? A. No question.

MR. COMMISSIONER: We have been told that the papers were in an envelope; did you see them in that position? A. No, sir, on the file when I saw them.

Q. What do you mean by a file? A. Gathered together with a clip on them.

Q. Did you go through them, how were you able to see that letter from Colonel Matheson was not there unless you went through the file, A. The file was turned over in my presence and I was looking at it.

Q. What was it turned over for? A. To find that letter of Travers to Matheson.

Q. In order that you might see it? A. Undoubtedly.

Q. That is the way you are able to say the other letter was not there? A. Yes.

MR. HODGINS: I think that is all the evidence I have to present.

MR. COMMISSIONER: What do you say about the refusal of Travers to answer?

MR. HODGINS: I think Travers ought to answer the question if for no other ground than the possibility that the money may be recovered back, and I think that you ought to consider, Mr. Commissioner, whether you have the power, and in the second place if you have the power whether it should not be exercised, because if not, the result is that he has declined to answer the questions and will expect to come out as soon as his sentence is served. I think he ought to realize that he ought to make such public restitution as he can in the matter by making disclosure before he can be said to have served out his sentence. I admit it is somewhat unusual; he has the advantage of being in a position where he can safely in the meantime say that he won't answer it; it may be that if you did exercise your powers he might reconsider it and think before he comes out it would be better to be frank. It is one of the worst failures I suppose a bank has ever made and one would really like to know how it came about.

MR. COMMISSIONER: Perhaps you had better ask him some further questions to see if he answers them, and see if it is really relevant to the enquiry, how these moneys were used without giving the names, what they were used for.

MR. HODGINS: Very well.

W. R. TRAVERS, Recalled by—

MR. HODGINS: Will you indicate that, Mr. Travers? A. I could not do that without telling everything about it. How can I do that?

Q. Does that mean that they were used in such a way as you do not care to disclose the way they were used because that necessarily implicates somebody? A. Well, be the consequences what they may, I do not feel disposed to go into a few thousand dollars that I paid out to friends of mine to assist me in various ways.

MR. COMMISSIONER: From something you said it occurred to me that possibly your idea was that there would be your statement on the one side and a denial on the other? A. Absolutely there would be.

Q. In all these cases? A. Yes, sir; they certainly would deny and also friends of these people would be very savage with me.

Q. Have you no corroboration on your side of the story if you were telling it? A. The only one was that cheque; if they had not lost that cheque it might have been different.

Q. All that had upon it to ear mark it was the letter "C"? A. There would have been some other things in connection with it if the cheque had been here that I would have opened out on.

Q. Where is that cheque gone? A. I could not tell you.

Q. Whose interest was it that it should disappear? A. I could not answer that.

Q. Without telling what you do not want to tell? A. I could not. I saw the cheque, the cheque was in my hands, one of the first things Inspector Duncan noticed he brought it in front of me right away, and he says "I know what that was for" and he stumbled not on the right track but very close to it, and that is why I have such a strong recollection of the cheque being in my hands.

Q. And there is no question of the other letter? A. I had that letter in my hands since I have been in the position I am in now, I have it more than once.

Q. Would there be any connection between the two in a common desire to have both out of the way; would the person who wanted the one out of the way want the other out of the way? A. No, sir; the cheque had nothing to do with Colonel Matheson whatever.

Q. The other way on, that is one side of it; would the man who was interested in having the \$3,000 cheque out of the way want the other one out of the way? A. I do not think so.

MR. HODGINS: If you saw the cheque and Inspector Duncan saw it if it were produced here you say you would open out on some other things? A. There are certain incidents that the cheque would bring out that I do not see I could get away from answering them, and the cheque is not here, and not from any fault of mine.

Q. Who was it payable to? A. That I cannot tell, without telling you everything.

Q. Would Duncan know? A. I do not know if he remembers it or not.

Q. You said he made a pretty close guess? A. He was here, you were questioning him the other day; I heard his evidence and you had the opportunity of asking him that; I don't think you did that.

MR. COMMISSIONER: We did not know what you have just told.

MR. HODGINS: I had your evidence as I understood it that the cheque was payable to yourself; perhaps you will tell me that? A. I don't care, there is no use my going into it, because if I go into it I have to make a free hand of it, and I do not feel disposed to do so at present.

Q. I want to test what you mean by saying if the cheque was here you would go into certain things, and not if the cheque was not here; what difference does it make? A. Exactly what I said.

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Q. The form has something to do? A. There are certain marks on the cheque, I do not remember just what they were, that would probably have to be answered.

Q. Having seen it, you say you saw it in Detective Duncan's hands, he showed it to you and said he knew what that was for? A. Duncan showed me the cheque and said, "you gave that to so-and-so", and I said "no", and on more than one occasion he brought the matter before me and then the cheque disappeared.

Q. Was that cheque there on the two occasions in Duncan's office where he examined you when Fitzgibbon was present? A. That cheque was in the possession of the police until the papers were handed over to Mr. Lynch-Staunton because I have the strongest recollection of seeing that in the office of the Crown Attorney when Mr. Lynch-Staunton was there.

Q. What Crown Attorney? A. Mr. Baird's office.

Q. In whose possession? A. Mr. Staunton brought me up one afternoon to go over the papers with him and there was any number of papers there and I went through all these papers to see what assistance I could give him, and I saw that letter there at that time and I saw the cheque.

Q. In whose office? A. Mr. Baird's office.

Q. In whose custody? A. I could not say that.

Q. You went in there? A. They were on Mr. Baird's desk. Mr. Staunton was sitting at Mr. Baird's desk, and I went over the papers with him there.

Q. Was Mr. Baird there? A. No.

Q. Was Mr. Staunton using his room? A. Yes.

Q. And all these were spread out on the table before him. A. There was any number of papers there and they were sorting out certain papers they wanted.

Q. Who was sorting out? A. Mr. Staunton and myself and I think either Guthrie or Murray.

Q. We have not heard Murray's name mentioned? A. When Mr. Guthrie said this morning he did not remember about it, I was thinking the matter over and I remember one time I was in charge of Mr. Murray and it might have been that time I speak of.

Q. When was that, do you remember? A. That would be about this time last year.

Q. Mr. Lynch-Staunton had to prosecute somebody and then he did not do so and turned them over to some one else? A. I understood he took the papers home with him and handed them over to Mr. Guthrie off the train at the Union Station.

Q. Whose prosecution was that that they were to be used in? A. That was Stratton and Warren and some others; I do not remember just which. I spent fully an hour or two with Mr. Staunton with those papers. I cannot say whether Mr. Staunton noticed those particular papers or not; I did not say anything about them, because I knew there was considerable talk about it.

MR. COMMISSIONER: Did you leave before Mr. Staunton left the room, did you leave him there? A. Yes, I left Mr. Staunton there.

Q. With the papers? A. Yes, they were all scattered over the desk; there was nearly a basket full of them and we had some trouble in sorting out the necessary papers for the trial.

MR. HODGINS: My information is that the liquidator is unable to find any trace of something like \$13,000; would the other sums you have mentioned total up to about that? A. They might, I do not know.

Q. I certainly gathered the impression from what you said that no cheque of yours would ever show anything? A. My cheque would show if we had them; if my cheques had not disappeared they would have shown \$15,000 to one man alone.

Q. Which has not been mentioned? A. No, it has not been mentioned. I think Mr. Clarkson can see by the ledger where certain amounts are charged to me and credited to somebody else the same day.

Q. It seems to me you are only emphasizing what I said before that it is your duty to make disclosure so that the liquidator may have the opportunity—  
A. I have assisted the liquidator in all those points, he knows that.

Q. There will be nothing like public disclosure to get that money repaid or assist in it? A. They may have a chance yet, it looks that way if the money is collectable.

MR. COMMISSIONER: Does Mr. Clarkson know that \$15,000?

MR. CLARKSON: No, I do not know the name, sir. I think what Mr. Travers means is this, that in any questions I have asked Mr. Travers he has always been very free.

MR. COMMISSIONER: He says that on a particular day he is charged with \$15,000? A. Not \$15,000, I did not say \$15,000 in one particular day; I said there were certain amounts, one amount I think is about six or seven thousand dollars that I remember.

Q. Charged to you? A. Yes, and credited to another party.

MR. CLARKSON: I do not recall any particular person? A. When we went over that suit you are bringing in New York now, and I opened out and I told you that when you get into that—

MR. CLARKSON: You mean that Wishart thing? A. Yes.

Q. You told me about Wishart.

MR. HODGINS: Wishart got this money? A. Yes.

MR. CLARKSON: Travers has always told me that Wishart got a substantial amount from him.

MR. COMMISSIONER: What was that for? A. Loans to him.

Q. What was on the other side? A. Nothing.

Q. You did not give thousands for nothing? A. I was very liberal, an easy mark.

Q. Why in this case? A. I do not know; I think I must have been crazy; that is the only thing I can think of.

MR. HODGINS: You must have known at the time why you gave him that \$15,000? A. I gave him money whenever he wanted it.

Q. He had some hold on you or you would not have done that? A. I am sorry he did not appear here; I understood there were negotiations under way to have him appear; I am sorry he did not turn up.

Q. You are not doing much to supply his absence? A. What good will it do? I cannot remember the amounts. I remember that one. I would like to have heard what he has to say here first and then perhaps we might have proved something.

Q. He had every opportunity to come here and he would probably have to stand his trial? A. He published his story in the papers.

Q. You indicate \$15,000 was paid to him improperly? A. Probably \$20,000.

Q. Improperly? A. Yes, I think we will be able to prove that.

Q. Either for some hold he had on you or some improper purpose? A. Yes, absolutely.

Q. Will you tell us what it was? A. No, I am not going any further than that just now.

MR. COMMISSIONER: Don't you think you had better have Mr. Dewart here? Mr. Hodgins has made what I understand to be a formal motion to make an order to commit you to close custody until you answer questions which he has put to you; don't you think it would be well to have Mr. Dewart here when we resume or as soon as possible? A. I do not think that I need any counsel for that; if you feel disposed to do that I must take my punishment.

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Q. You will change your mind some day? A. I may change my mind, I wouldn't say I wouldn't, and I am very sorry indeed to refuse you.

Q. Do you want it to be understood that this is loyalty to the man or the men that you had dealings with? A. I do, indeed. I think I gave my word of honour that come what may I would never disclose and I do not feel disposed now to go back on it.

The Commission adjourned at 1 P.M. to 2 P.M.

The Commission resumed at 2 P.M., June 28th, 1912.

MR. HODGINS: I asked Mr. Dewart to come up, although Mr. Travers said he did not want any one.

MR. COMMISSIONER: (To Mr. Dewart). Mr. Hodgins sent for you he says in consequence of something that he says occurred this morning, as you are acting for Mr. Travers. Some questions have been put to him as to a cheque for \$3,000, the person to whom it was paid and as to other moneys that were paid out, the bank's moneys improperly to other persons. He has declined to make any statement and says with regard to some at all events, if not all of them, that he promised he would not disclose. Mr. Hodgins has made an application to commit him for contempt in declining to answer, and I suppose the object is that you may be here to know what is going on.

MR. H. H. DEWART, K.C.: Very well; do I understand that Mr. Hodgins is pressing the motion to commit for contempt now?

MR. COMMISSIONER: He has made the motion.

MR. DEWART: As far as Mr. Travers is concerned I understand that this \$3,000 was up for consideration some time ago and Mr. Travers asked to have an opportunity to consult me and he did so, and asked me what his duty was in reference to it. I told him that if the payment of the money or any other money related to questions in connection with the organization of the bank, or the payment to anybody in connection with the organization or with the securing of the certificate or any payment of a character that affected the solvency of the bank as regards some other person being a payment made improperly to another person, that it was his absolute duty to answer it; but he declined to tell me who the money had been paid to and I do not know. I say that with the utmost frankness, because he has never indicated to me, but he assured me that this had nothing to do with any of the lines that I had directed his attention to.

MR. COMMISSIONER: He has made the statement on oath that it went to nobody in connection with the issue of the certificate, no one in the Department or connected with the Finance Department, he has limited it to that.

MR. DEWART: I did not understand him to have so limited his statement. I understood him to say it had no connection with the granting of the certificate, and as having been his counsel in the previous proceedings, although perhaps I am not in the same position now as his counsel, yet I felt that having acted for him before when he asked for my advice, I should under all circumstances give him such advice as I could; and he has pleaded guilty to the taking of certain sums and to the full responsibility to the taking of those sums; if those were personal matters of his own I did not feel as counsel I could advise him to go into the details further.

MR. COMMISSIONER: In what sense personal?

MR. DEWART: If he had used moneys for his own personal benefit.

MR. COMMISSIONER: It may be so, but I do not understand him to suggest that.

MR. DEWART: I must confess I so understand the matter and I thought under those circumstances he might not fairly not further be put upon the torture rack of going into the details of what he had done with the moneys he got.

MR. COMMISSIONER: Did you understand that, Mr. Hodgins?

MR. HODGINS: No, he never made any suggestion of that kind.

MR. COMMISSIONER: I do not know that anything would be gained; he has been asked about money he put into various things, the place at Maitland and the horses and that sort of thing and he has answered as to that; he has not suggested there were loans made to friends but he has given the impression to me at all events that they were sums improperly withdrawn from the bank and paid out for some other corrupt purpose.

MR. DEWART: I did not so understand the evidence from anything I saw or from what Mr. Travers said to me; I did not understand there was any suggestion he had made any of these payments for corrupt purposes, and rather he took the responsibility of having made those payments, although he may have withdrawn the money improperly from the bank, but there was no suggestion of its being withdrawn for an improper purpose as far as the bank's business is concerned; that is the position he has steadfastly taken with me.

MR. COMMISSIONER: He has left one matter in a very unsatisfactory state for one man that has been examined here, examined twice; he came for the purpose of denying that he had anything to do with the \$3,000 cheque; and some statements have been made by Mr. Travers to-day that seem to indicate that he would contradict that statement if his lips were not sealed; he has not said so in terms, but if it is not so in justice to the gentleman who was examined yesterday it ought to be so said, I think.

MR. DEWART: I understood that Mr. Travers—I don't know what he said to-day, but my learned friend was good enough to give me an opportunity of looking over the evidence and I did so; it was rather voluminous and I must confess I do not remember finding anything that indicated that there was any suggestion on his part that any of these payments were made corruptly.

MR. HODGINS: What did he mean by saying it was not paid to anybody in or connected with the Finance Department?

MR. DEWART: My learned friend will readily understand that there might be other reasons for limiting this statement; he did not want to go into the details of his own personal affairs.

MR. HODGINS: This is the third or fourth time it has come up and I am quite sure he has had every opportunity of making an explanation to remove the impression he undoubtedly created, so much so that a witness who was here yesterday said he had not participated in it.

MR. COMMISSIONER: That was not in consequence of anything Travers said; that was in consequence of something that appeared in the World.

MR. DEWART: I did not understand him to refer to Mr. Calvert.

MR. COMMISSIONER: But to-day the thing is left in such a position that any man who was an enemy of Mr. Calvert might say he indicated if he could speak he would deny what was said yesterday.

MR. DEWART: I think I understood Mr. Travers to say that if any question was put to him as to whether the \$3,000 cheque had gone to any particular individual he was quite prepared to answer it, and if there is any such question put now it is for Mr. Travers to say if he is prepared to answer that.

MR. HODGINS: If you are suggesting that this was a perfectly personal matter of his own that is an idle suggestion. The suggestion was that this was used in connection with the certificate, and to say any one could possibly know all his private affairs and ask for A. B. and C. is absurd.

MR. DEWART: I have not the remotest idea to whom the cheque was given, but Mr. Travers told me that if a specific question was put to him with reference to certain persons—as I understand the particular object of Mr. Hodgins question



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now is the fact that some person has said certain things and, as the Commissioner says, unless that is contradicted it might reflect upon somebody—

MR. COMMISSIONER: No, not what that gentleman said, but that something that Travers said to-day may lead people to think that he would if his lips were unsealed, contradict that statement. Mr. Calvert came here yesterday and swore he had got no money directly or indirectly; he had nothing to do with the \$3,000 cheque. Mr. Hodgins was discussing the cheque with the witness, and he made an observation that led me to think at all events that he insinuated that that statement was not true; he did not use any person's name, but it is so easy to hurt a man by innuendo.

MR. DEWART: I do not know, I have had no opportunity of seeing Mr. Travers.

MR. COMMISSIONER: Would you care to confer with him?

MR. TRAVERS: Would not you allow me, Mr. Commissioner, to rectify that. I think there is a misunderstanding, because I never intended any such thing. I do not wish you to infer that Mr. Calvert was not telling the truth yesterday. If I did so, I certainly did not intend to do so.

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W. R. TRAVERS, Recalled:—

MR. COMMISSIONER: What do you say about that \$3,000? A. I did not pay it to Mr. Calvert, no.

Q. Had Mr. Calvert directly or indirectly anything to do with the cheque or the receipt of the proceeds of it? A. Not as far as I know.

Q. Why do you say as far as you know? A. Because I did not pay it to Mr. Calvert and did not have anything to do with him in respect of it, or any words in regard to it.

Q. Did you hear he was to receive any part of it? A. Not reliably, no; I cannot say anything more than that; I never had any talk with Mr. Calvert on money matters in any shape or form.

Q. Don't you think you had better tell us the exact truth about that \$3,000 cheque and get done with it? A. I do not care to do it; I am sorry for myself.

Q. What do you think of the suggestion that you and Mr. Dewart should confer and see if there is anything that he thinks you ought to say in justice to anybody? A. I will confer with Mr. Dewart.

Mr. Dewart and Mr. Travers confer.

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WALTER DUNCAN, Recalled by—

MR. HODGINS: Mr. Stewart Lyons of the Globe was a witness this morning and he said that he had had an interview about the time of the Lindsav prosecution in your office, and that he saw a file of papers there which you went over while he was looking over your shoulder, he said a good deal more than that, but that is enough for the first question; do you remember that circumstance? A. No, I do not remember. It is quite possible; they come into my office three or four times a day or oftener, the reporters, sometimes half a dozen at a time.

Q. He said he found you very much annoyed at your having to go to Muskoka on a wild goose chase, and you possibly talked more freely on that account than you otherwise would have done? A. I cannot recollect it; I know that I went

to Muskoka and was on a wild goose chase up there, at least I did not accomplish what I went after, and it is quite possible I had an interview with the reporters.

Q. This is Stewart Lyon, the associate editor of the Globe; he also said that you went over this file practically as I understood from one end to the other so that he could see all that was contained in it, and that he saw a letter, a copy of a letter which was supposed to be sent to Colonel Matheson, saw that in the file and remembered the contents so sufficiently well to publish a pretty good facsimile of it later on; that interview with him is not one you would confuse with the interview with a reporter? A. It is quite possible he may have been there; I have not any recollection.

Q. He also suggested that in answer to my telling him that I thought the papers he saw had no connection with the Lindsay case, that they had been brought up to your office from the liquidator's office, he was not very clear how or why, but he thought he had had something to do with it? A. No recollection whatever.

Q. He has a very distinct recollection? A. Probably he would have a better recollection than me. There was such a confusion about the time those papers were seized.

Q. This is long afterwards, Lindsay was tried a considerable time afterwards; Lindsay went away, you know? A. Yes, I remember.

Q. This was when Lindsay was being tried after he came back if Mr. Stewart Lyon is right? A. I cannot recollect him being there.

Q. You see he gives you certain facts that might recall it to your memory? A. I cannot say he was not there, I have no recollection of it.

Q. No recollection of talking freely to him about Muskoka? A. At the time that Beattie Nesbitt cleared out I know I gave an interview when I came back from Muskoka, but that was at the time just immediately after Dr. Beattie Nesbitt left Toronto.

Q. Is that all you can say with regard to what Mr. Lyon has told us this morning as to his interview, he certainly saw the papers? A. I do not know what I would be doing with the papers there; if I had anything to bring it back to my recollection; I don't see what I would be doing with the papers.

Q. Do you remember seeing Stewart Lyon about the time that Lindsay came back and was being prosecuted? A. I cannot say that I do; he may have been in there in my office and I may not remember it; I am kept pretty busy there, and since Lindsay was arrested I have had about eight or nine thousand cases.

Q. Is Stewart Lyon a frequent visitor in the Detective office? A. No.

Q. Cannot you remember it? A. I do not remember it; it is quite possible he may have been.

Q. Would you show him papers if that be so, or let him peruse them over your shoulder? A. Was it the papers pertaining to the Lindsay case?

Q. No, it was papers in which a letter written by Travers to the Provincial Treasurer Colonel Matheson in which Travers spoke of the promise to get deposits through Dr. Beattie Nesbitt and the World, he said he saw that one there? A. I have not any recollection of it.

Q. He said they were in a file and were turned over? A. That undoubtedly would be right, because all those papers were on a file pertaining to that; that is quite right about the file.

Q. You have no further recollection? A. No.

Q. Not able to say whether what he tells us occurred or not as far as you know? A. The papers had been out of my possession and I got them back, and then they went out of my possession again and I got them back, and then Detective Guthrie had them, this particular file—

Q. I am not interested in the general question, just this particular interview? A. I have not any recollection.

Q. Another matter, Travers says that when you first examined him, you remember having a couple of interviews with him in your office? A. Yes.

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Q. When Fitzgibbon and yourself and I think Mr. Clarkson were present, the interviews were taken down in shorthand? A. I do not think that was in my office, it was down in the bank.

Q. You were there? A. Yes.

Q. He said that this cheque for \$3,000 which has been mentioned was picked out by you and you looked at it and said "I know who got that" or "I know who you gave that to", and you mentioned a name, and Travers said no, it was not that; he said you were so near the truth that it made him rather uneasy, he was afraid you would find out more about it. That cheque has disappeared; do you recollect the circumstance? A. I do not recollect that in the bank. I remember about the \$3,000 cheque and I remember asking Mr. Travers about it and he refused to tell me who it was, and I did mention a name to him.

Q. When was that done? A. I do not remember whether that was in my own office or whether it was down in the bank premises. Mr. Bicknell was present and Mr. Woods, and possibly Mr. Clarkson at that interview, I think there was a gentleman there, Mr. McAndrew.

Q. Do you remember the cheque? A. I remember a cheque for \$3,000 and my recollection was there was "C" either on the stub or on the cheque.

Q. Who was it payable to? A. That I cannot remember.

Q. Who was it endorsed by? A. I do not remember that.

Q. That cheque ought to be forthcoming? A. There is no doubt whatever as to that.

Q. I have exhausted I think pretty nearly everybody who has had access to that? A. I cannot understand where it could be; it ought to be in Mr. Clarkson's possession.

Q. I have had all the papers Mr. Clarkson has and gone through them carefully? A. Because all the cheques that I had went back, and I do not think any one would have stolen it out of my custody.

Q. Was it used in any of the prosecutions? A. I do not think that it was.

Q. Why not? A. I am only speaking from memory, I do not know that it was, but my impression is it was not.

Q. You evidently suspected that money had gone somewhere where it should not have gone? A. Undoubtedly; I got a little information and I challenged Travers with it and he denied it.

Q. Was the matter laid before any of the Crown officers? A. It was talked over I think with Mr. Corley.

Q. You were never able to learn anything about the destination of the money? A. No, I was not.

MR. COMMISSIONER: What name was it you mentioned? A. Calvert.

Q. Why do you say you had information that led you to think it was he? A. Some one intimated to me that he had got some moneys from Travers, and I saw the letter "C" and of course that bore that out to a certain extent, and I asked Travers about it and he denied it.

Q. Did he say anything to you about you were near to it? A. No, he said this, if you mention the right name I will tell you who got that cheque, and he said "or, if you prefer a criminal charge against any other person I am quite prepared to tell the truth about it".

Q. As I understand Mr. Lyon's testimony, either through his Police Court reporter or somebody else, he learned that you had in your possession these letters about the deposit with the Provincial Treasurer and that he went over for the purpose of getting access to those and seeing them, that he found you there angry because you had been sent upon a wild goose chase, and if I recollect right he said that he asked if something that was in the file had not to do with your having been sent on a wild goose chase, is that accurate? A. I think he is mistaken as far as that, I have not any recollection of having an interview with him.

Q. It is a fact that you were annoyed and made statements that you had been sent on a wild goose chase, the authorities knowing or having warned Nesbitt that you were coming; did you make a statement of that kind? A. I made a statement I think along that line when I came back, but that was the time that Dr. Beattie Nesbitt cleared out.

Q. What foundation had you for making that statement? A. I had applied for a warrant for Beattie Nesbitt some two weeks before he cleared away.

Q. To whom? A. To the Crown Attorney, and was refused it.

Q. On what ground? A. I was refused it on the ground that he had a right to say when a warrant could issue and the police could not apply for a warrant and I could not get one. I reported the facts to Colonel Grasett, who brought the matter up at the Board of Police Commissioners and then I was sent up to interview Mr. Cartwright with regard to the powers of the City Crown Attorney and Mr. Cartwright told me, I said he might put it in writing—he told me verbally first, and I asked him to put it in writing,—the powers under which warrants should issue, and he laid down that of course it was the privilege of the Police Magistrate or Justice of the Peace to issue them on any citizen going and making complaint under oath that an offence had been committed. As soon as we got that from Mr. Cartwright, I immediately had a warrant issued for Nesbitt's arrest.

Q. By a Police Magistrate? A. Yes, Colonel Denison I think the warrant was sworn before and I at once set out to try and get him apprehended. I found on going up there nothing but his tracks through the snow.

Q. He had gone? A. Yes.

Q. It seems a little singular that Mr. Lyon should have gone to see you on this particular business, should be as specific as he has as to the file being turned over in his presence apparently—I should think the inference I would draw—in order that he might see what was in it without your having handed it to him, and that you should have no recollection of that? A. I cannot remember him, I do not remember Mr. Lyon speaking to me.

Q. It just occurs to me that Mr. Lyon may be mistaken as to the time, because the irritation you would have had would have passed away, one would have thought, by the time Mr. Lindsay came to be tried? A. Yes.

Q. The irritation was at the time you came back, but I understood him to say that he thought it was about the time of the Lindsay trial. He says also which differs from what you have said, unless it was on a later occasion, that there was no letter from the Provincial Treasurer to Travers or to the bank in that file; what do you say to that? A. My recollection was that there was a letter from Colonel Matheson.

Q. You would know whether there was or not, it would not be a question of recollection? A. I would not swear positively that there was or not; my recollection is that there was a letter.

Q. Did you read all the correspondence? A. I did not.

Q. None of it? A. I read some of it.

Q. You apparently read the letter from Travers to Colonel Matheson, were not you curious enough to read the reply? A. I may have; there was a lot of talk with regard to this file of letters, and I said to one of the Crown Attorneys there is not sufficient I think that we can proceed in any case, and he said "Let me have the letters", and he took the letters away, and of course I do not know what was on the file when they went away, I do not know what when they came back; I did not take an inventory of what was on the file, and I said that there was nothing that I could see whereby we could reach the World Newspaper with a criminal charge.

Q. When did you read the copy of the letter from Travers to the Provincial Treasurer, when it first came into your possession or later? A. I believe it would be soon after it came into my possession.

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Q. Do you want me to understand you read that and did not read the answer? A. I would not like to be too positive, for I have only a hazy recollection of it, and it was a matter that I dropped entirely, because it was not one that we could lay any charge, and of course the letters would be of no interest to me.

MR. HODGINS: In your evidence on the former occasion you were asked, "do you remember seeing the letter from Colonel Matheson", and you said "that is my recollection, but Detective Guthrie would remember more clearly than I would"? A. He was more familiar with the papers than I was.

Q. A little later: "You gave me quite a number of those"? A. That letter of Matheson's ought to have been on that file. They disappeared in some way and could not be found for some considerable time, the whole of that file; I did not have them, and it was said that they were likely to make use of some of them at some of the elections, either the Dominion or the Provincial elections, and I think Mr. Clarkson sent up once to me for them, and I made a search for them and did not find them, but they turned up afterwards".

Q. "You handed them to me when this commission formed? A. Yes".

Q. And I stated I opened them myself and there was no letter of Colonel Matheson's among them. Your recollection then was that there was this letter of Colonel Matheson's in the file? A. That is my impression that it should have been in that file.

Q. I have seen detectives swearing out informations and getting warrants at the Police Court without ever consulting any Crown Attorney or anybody else; why did not you make the attempt? A. The Police Court Clerk would not draw the warrant without a fiat from Mr. Corley, and Mr. Corley refused to issue it.

Q. What about the Magistrate? A. Colonel Denison was not consulted; I simply reported everything I did to Colonel Grasett, my superior, and he discussed the question with the Magistrate afterwards, with the result I was sent up to the Department.

MR. DEWART: Mr. Travers desires me to state that in anything he said today he had not the slightest intention of referring to Mr. Calvert or that he wanted to contradict anything that Mr. Calvert said. He finds he has been so often contradicted by other witnesses on other points, that he prefers not to make the statement, because he does not want to make a statement simply because there might be two contradictory witnesses against himself, and he might be prosecuted for perjury, and under these circumstances he has, having advised him as to what his position is, declined to answer under the provisions of the Evidence Act.

MR. COMMISSIONER: The Evidence Act does not protect him from a prosecution for perjury in the statements he makes; he has no privilege.

MR. DEWART: Sometimes when a man is in custody he has more privilege than when out.

MR. COMMISSIONER: When a man is under sentence unexpired for some years he has more privilege.

MR. TRAVERS: I am not taking advantage of that.

MR. DEWART: No. Mr. Travers wants me to say further that these moneys that were paid came out of commissions to which he was entitled under his agreement and therefore are not matters with regard to which he feels so far as the bank is concerned, he or anybody else was liable.

MR. COMMISSIONER: Although I have not to pass upon any questions of law, there may be very serious questions of law as to whether these commissions were properly paid out of the bank money. What I am anxious to avoid, one of the things I would like to avoid, I would not like that anything that Travers had done

here should militate against him hereafter. Supposing some question arose about remission of part of his sentence, the fact that he had refused to give this information would probably be a bar to anything of that kind being effected—I am not suggesting that it is possible any such application would be successful. Then there are other prosecutions hanging over him and I pointed out to him that people are feeling very sore about the way their money has been lost, and they may press some of these other prosecutions in their bitterness. Some very bitter letters have been written to him that he handed in to me, not so bitter to him, but very bitter letters have been written to me and I have no doubt to Mr. Hodgins.

MR. DEWART: I am sorry that the suggestion should come from you that possibly some statement he might make might aid in the remission of his sentence.

MR. COMMISSIONER: No, the suggestion is that his non-disclosure might prevent.

MR. DEWART: I hardly expected the suggestion should come from the Court. It has come to me so frequently from other sources, and it has been so persistently pressed upon him by those who desired him to make statements in their interest, that I am sorry it has come to be—

MR. COMMISSIONER: I cannot help your sorrow or your gratitude; I made the statement and I think it is a very improper thing for you to make any comment on it.

MR. DEWART: All I can say is this, that the letters have been presented before the Court; they show sufficiently the kind of influence that has been brought to bear upon him by every class of person to endeavor to get him to make some statement that would be in their interest.

MR. COMMISSIONER: I do not think I have seen any.

MR. DEWART: I thought some 20 or 30 letters were laid before you.

MR. COMMISSIONER: Yes, I saw some 17 letters but they are all guarded by saying, "we do not want you to say anything but the truth".

MR. DEWART: But the suggestion is very strong. I have been asked to take briefs in this matter which will bring influence to bear in Mr. Travers' behalf, and it was suggested by a gentleman here yesterday, at the instance I believe of Mr. Laidlaw, that if I took the brief on behalf of the depositors and so on, that their influence might be very influential on Mr. Travers' behalf. I have refused to discuss the matter with the gentleman that came to see me; I have declined to discuss such matters. I do not know what his reasons are for not giving this evidence. I know he has declined to give it and declined to communicate with me in regard to this matter, and if he takes that second stand I cannot esteem it within my duty to advise him to take any other.

MR. COMMISSIONER: If he wants to make any explanation as to what he is supposed to have stated about Calvert he can make it now.

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W. R. TRAVERS, Recalled:

MR. TRAVERS: All I have to say is I did not intend you to infer that I alluded to Mr. Calvert. I am sorry you did think so, because I have no reason for thinking or knowing that Mr. Calvert had any interest in that \$3,000 whatever.

Q. You made a statement a little while ago that Inspector Duncan mentioned Calvert's name; you said he was pretty close to it? A. He did not mention it that way; I do not wish to put words in—

Q. That is what you said? A. Yes, I said so, but I say Mr. Duncan did not mention Mr. Calvert's name in that way; he mentioned it in another way, which brought it in; he was on the wrong track, and I did not wish to set him right. That was his first conclusion, but it was not for me to correct him.

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MR. COMMISSIONER: Well, I suppose that is all there is. Don't you think in view of what Inspector Duncan has said Mr. Corley ought to be called.

MR. HODGINS: In reference to the warrant?

MR. COMMISSIONER: Yes, what the reason was.

MR. HODGINS: Well, it may be just as well; I am trying to communicate with Mr. Lynch-Staunton.

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 ARGUMENT.

MR. HODGINS: Mr. Mikel and Mr. Weldon represent the depositors in this case, and I notified Mr. Mikel and Mr. Weldon and Mr. Laidlaw that to-day would probably be the final sitting, and if they had anything to say that this would be the time to do so. Mr. Mikel says there are one or two matters he would like to bring before you. Mr. Laidlaw's letter I think I showed you; he has left for England and did not propose to address the Commission.

MR. COMMISSIONER: It is a little unusual hearing counsel, but I do not want to refuse if any light can be thrown, but there is no use discussing any question of law with me—I see some law books—I have nothing to do with the law, I have simply to report the facts, and if Mr. Mikel or Mr. Weldon think they can be of assistance I shall be pleased to hear them.

MR. MIKEL: I had no intention of addressing you in reference to any conclusions that might be drawn upon the evidence at all, but simply to ask if findings were to be made or if facts were to be referred to as having been given in evidence, that some of these facts that might perhaps be later looked upon favorably to the interests we represent might be mentioned in any report that, as Commissioner, you would be making. It is quite unnecessary to address you on any of the conclusions because I would not assume that the Commissioner would be drawing conclusions on the evidence, perhaps, at least I would not suppose that any conclusions such as the negligence of any particular individual or anything of that kind would be drawn, or that the Commissioner would be pointing out the exact cause of the failure of the bank.

MR. COMMISSIONER: That is what I am called upon to do; that is the very purpose of the Commission, as far as I can.

MR. MIKEL: I suppose it might be said that the cause of the failure of the bank arose from very many different circumstances, and if any particular one or more of those circumstances were to be referred to, we might perhaps deem it advisable in the interests of those we represent to ask you to include a number of items as being the cause of the failure, perhaps.

MR. COMMISSIONER: Have you been in communication with Mr. Laidlaw?

MR. MIKEL: Not for some time.

MR. COMMISSIONER: Mr. Laidlaw desired, and I have had Mr. Clarkson make up a statement showing the exact position of the bank on the 30th of November, 1906.

MR. MIKEL: That is what we have to-day.

MR. COMMISSIONER: It is one of the papers with that. There is one for each 31st of December and up to the time of the closing of the bank, showing the losses and how they occurred.

MR. MIKEL: There are some facts that perhaps would be helpful to us to have found; I might leave a statement of them with you.

MR. COMMISSIONER: I think you had better state what they are publicly and you can leave the statement as well, if you like, if it is not too long.

MR. MIKEL: If you intended to report that the cause of the failure was due to some particular circumstance or circumstances or some particular facts as

appeared in the evidence, that is a matter we might want to say something upon. I do not know, of course, whether you would limit your report or finding in that matter purely to the financial operations of the bank after the bank got started, or whether the general conduct from the inception of the organization of the bank down to the present time would be viewed. We of course feel that the entrusting of the bank into the hands of those who had the management of it was the initial mistake and that ought to appear as one of the reasons, the causes of failure.

**MR. COMMISSIONER:** What does that mean, that the charter ought not to have been granted by Parliament?

**MR. MIKEL:** It ought not to have been granted to the individuals to whom it was granted. We think an investigation at the time the charter was granted, or at least the certificate of the Treasury Board was granted, would have shown that the provisions of the Act had not been complied with; it would have shown that the persons asking for the certificate were not persons to whom such a certificate should be given, and that that was really the real cause of it, because where we find persons committing the acts that subsequent events have shown they committed, or Mr. Travers in particular, when it is shown that those acts had been committed at the time, and that a reasonable investigation would have made it apparent to the Treasury-Board that they had been committed, these facts themselves would at once have demonstrated that Mr. Travers was not a person to whom a certificate should have been granted, and having committed these acts and these offences under not only the Criminal Code but the Bank Act, having committed these offences—

**MR. COMMISSIONER:** What do you refer to as offences?

**MR. MIKEL:** Deception in reference to the payment of the money, that was an offence of course. Investigation would have established that that was committed, and when a person is shown to have committed an offence of that kind involving that deception it would be reasonable to presume that they would practice similar—

**MR. COMMISSIONER:** What do you say the deception practised was?

**MR. MIKEL:** Representing that stockholders had paid up in cash the amount required by the Act, whereas the evidence now shows that was not the case.

**MR. COMMISSIONER:** The Act does not say in terms about what each subscriber has paid upon his stock. That is cured in the Ontario Company's Act, made clear. However, I am not to pass on the law.

**MR. HODGINS:** \$250,000 thereof.

**MR. MIKEL:** That is the amount subscribed. So that it renders it reasonably clear it is \$250,000 of the stock subscribed that must be paid in.

**MR. COMMISSIONER:** But there is nothing to indicate that that must be paid by the stockholder himself; may not anybody pay it on behalf of the stockholder?

**MR. MIKEL:** My recollection of section 15 is that it is made reasonably clear. (Reads section 15 of the Bank Act). If \$500,000 is to be subscribed by stockholders and \$250,000 thereof is to be paid in cash, I would submit that that means that those stockholders are to pay the money, or of course some person might make a present of the money to them and they could then pay it over; the money must come as their money not as the result of discounting notes, or not by paying in their own notes. I think it is fairly contemplated it should be in their cash but not by their notes. I could easily understand that they might get the money from any source they wished as long as it became their money, and it was paid over in that way; but where they hand over the notes, which I understand the evidence in this case shows they did,—those notes were handed over and discounted so that they did not comply with the Act in paying the amount required in cash, and that is the act complained of, and there was the deception, if that is the view of the law, practised just prior to the issue of the certificate, I submit that that is one of the contributing causes. We submit it is the principal cause.



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MR. COMMISSIONER: Is it any more the cause than if a man had taken a train to-day instead of to-morrow, and had been killed, that his taking it to-day instead of to-morrow was the cause of the accident? Is it not only a remote cause.

MR. MIKEL: I submit not. I do not know that the illustration mentioned is exactly in point any more than to say that if the janitor of a building hands over the keys to some person whom he knows has committed a crime of a character of robbery and is going there for that purpose, if the key is handed over the result would be the natural result, that is if there was robbery followed, it would be looked upon as the natural result of the janitor handing over the keys.

MR. COMMISSIONER: Nobody has suggested that when this bank was started apart from the payment of \$40,000 out for preliminary expenses, it was not intended to operate the bank and make money with the bank for the shareholders. All this was done whether rightly done or not with the idea of enabling the bank to begin business; that was the purpose of it. What would have happened if it had not been so? If they had not got the certificate and started, the charter would have been forfeited.

MR. MIKEL: And the bank would not have gone into operation.

MR. COMMISSIONER: What would have become of the money the shareholders had paid?

MR. MIKEL: I do not know for the moment what would have been the legal result; at any rate the bank would not have gone into existence and the depositors would not have been invited to put their money into the bank and they would have been saved that loss, and a reasonable investigation would have disclosed enough to the Minister and to the Treasury Board to enable them to either prosecute or in some other way make public the methods by which the bank was thought to be organized and would have prevented it, and would have saved the depositors.

MR. COMMISSIONER: Did you follow Mr. Fielding's evidence? He made the statement that perhaps may call for some answer; if there was this fraud known to the people and to the stockholders, Parliament was sitting, the representative of the constituency was there, why was not an attack made at once? Why was not the Minister brought to book for having improperly issued this certificate? That is his argument.

MR. MIKEL: I would not undertake to justify what the Members did or did not.

MR. COMMISSIONER: Nobody did anything, the stockholders or anybody.

MR. MIKEL: The one set of men whose duty it was to do something was the Minister and the members of the Treasury Board; and they did something in the face of all this evidence.

MR. COMMISSIONER: You are starting with the hypothesis that there was something wrong and they ought to have detected it.

MR. MIKEL: Yes.

MR. COMMISSIONER: That something was wrong, the only information they had as to that was from persons who assumed to possess knowledge that the wrong had been done. If the Minister of Finance was not as careful as he should have been in probing these charges why did not those who made them, Mr. Fielding suggests, probe them on the floor of Parliament, challenge what had been done.

MR. MIKEL: They may have a good explanation, and I do not know that our contention would be weakened by their being able to give that or to suggest a reason why they did not do it; but at all events it would not relieve the man whose duty it was to do it, nor it would not relieve the Board whose duty it was to do it. These men, Sir Edmund Osler and Mr. Henderson brought to the Minister's attention the facts they had. They may have felt that they had done all that could reasonably be expected of them, and there was no duty cast upon them by statute or otherwise to do even that, but there was a duty cast upon the Minister by the Statute.

MR. COMMISSIONER: No, that is not the force of Mr. Fielding's position. Mr. Fielding says they did not tell him what they say they did, and to confirm his statement he advances that argument, if they had told him what they say, and he had in defiance of it issued the certificate why was not he attacked in Parliament, because it was when Parliament was sitting.

MR. MIKEL: I do not know why they did not attack him in Parliament.

MR. COMMISSIONER: What were the shareholders doing all these four years?

MR. MIKEL: I suppose that they were assuming that the Minister had properly and legally authorized the bank to commence business and get their stock sold, and deposits from the depositors.

MR. COMMISSIONER: They knew perfectly well they were not paying for the stock according to the stock subscription. They were giving notes which they must have known were intended to be used as far as they were concerned.

MR. MIKEL: I can easily see that as to the stockholders, they were in a measure treating Mr. Travers as their agent and perhaps they would not be justified to the same extent that the depositors would be in saying we were misled. They had a right to assume that the provisions of the Act were carried out and that the Minister saw all things necessary were done, and when the Minister was notified by Mr. McCarthy, and names given to him of individuals, of persons who were said to be persons who had paid by notes instead of by cash, and who were making a claim of fraud and illegality in the organization of the bank, naturally they would expect if charges of that kind were brought to the attention of the Minister he would inquire from those individuals.

MR. COMMISSIONER: That was not the nature of Mr. McCarthy's communication. Mr. McCarthy acting with Mr. Laidlaw had brought a suit on behalf of certain shareholders to cancel their subscription and to wind up the bank, to cancel their subscriptions on the ground that they had been obtained by fraud—an individual action, not an action on behalf of the body of the shareholders, indeed it could not be. In the letter which sent a copy of the writ, if my memory is correct, Mr. McCarthy mentioned the fact that he had information that money had been raised by discounting notes of the subscribers.

MR. MIKEL: According to my recollection the affidavit of Mr. Laidlaw that accompanied the writ to the Minister also contained that statement that notes were being used in that way. The only inquiry the Minister appears to have made as the result of that was an inquiry from Mr. Travers, the man who, if these charges were true, was the guilty man, and if he was guilty enough to perpetrate these acts, naturally he would be guilty enough to try and conceal them. The Minister might have gone a step further and asked some of these individuals whose names were communicated to him in the writ and the affidavit of Mr. Laidlaw.

MR. COMMISSIONER: That would not have told him anything; that would have only told him that these people had brought a suit to set aside the subscriptions and succeeded in getting their stock taken off their hands.

MR. MIKEL: I also think that some of these names were names of men whose notes had been given and were under discount, and I think also the facts communicated go the length of showing that Mr. McCarthy was never even communicated with.

MR. COMMISSIONER: He withdrew his objection.

MR. MIKEL: He withdrew his action, but he was never communicated with to find out if there was any truth in the allegation that notes were being used in this way, no effort so far as I can recollect the evidence was made further than to inquire from Mr. Travers. We submit that if further inquiry had been made, and it was reasonable that further inquiry should be made when charges of that kind were coming up, if it had been made, it would have stopped the organization of the bank and saved the depositors from loss. We therefore submit that this is one of the causes for the failure of this bank. People who organize banks in this way commit a breach of the very Act under which they seek incorporation or seek the

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right to do business, commit a breach of law, commit a crime under that Statute. It seems to me the natural presumption would be that if people commenced business in a perfectly legal and proper way that they would continue in a legal and proper way; but where they commence with deception the presumption is that they are going to continue in that way.

MR. COMMISSIONER: There has been enough crime in it without stigmatizing as crime—nothing antecedent to the issue of the certificate was in the nature of a crime that I know of, unless it was that the affidavit was false. If that was so, I suppose it is crime; but calling hard names does not strengthen the matter.

MR. MIKEL: Surely not; I am referring to that for the purpose of drawing what would be the natural inference from organizing an institution of this kind in this way; would it not be the natural presumption that that would continue?

MR. COMMISSIONER: Supposing this bank had gone on and had been a flourishing bank, had not gone into the crazy things it did, and the stock was worth \$200, would not they have said Mr. Travers was one of the finest organizers, that he had got this bank on this footing by having the pluck to raise money on these notes?

MR. MIKEL: I admit that would have been the general plaudit he would have received, but it would not have mitigated at all the nature of the offence; it would have been satisfactory to those who had had dealings with the bank, but it would not have changed the nature of the acts at all, and I do submit that whenever anything may reasonably be presumed to follow from an act, the act is the natural and reasonable and proximate cause; and I think it could fairly be said that one of the causes of this failure was the manner in which it was started. It seems to me to be a reasonable conclusion and I have no doubt that the offences that were committed afterwards, or the general conduct of the business, criminal and otherwise, perhaps that was carried on afterwards contributed to it, but they were only incidents after all. It must get back to the primal and initial cause which we say was the permitting of this bank to be organized, the only safeguard the depositors have.

MR. COMMISSIONER: Why don't you go one step further if there had been no Act of Parliament incorporating the bank then there would have been no loss to these depositors.

MR. MIKEL: That of course academically might be all right to argue, but I do not think that the argument I have adduced is analogous to that position.

MR. COMMISSIONER: Is it not as much a proximate cause as is the issue of the certificate? Are not they both remote causes?

MR. MIKEL: I submit not. I submit there is a difference and I wish to press it upon you, Mr. Commissioner, and that is this, that where a proposition is started under the Bank Act legally and properly and all the requirements, all the safeguards that are required by the Act have been adopted, and it has been free from any offences and started in the regular and usual way, the presumption naturally would be that it would continue that way, and if disaster overtakes it through mismanagement that would be the cause, but where it is started wrong, where it is started by offences, where it is started in contravention of the Act and by deception and by offences I have referred to and which I have no desire to emphasize simply for the purpose of emphasizing them, but simply to show that where it started in that way it is a fair and reasonable inference that that sort of conduct will continue in the management and we know that sort of conduct did continue in the management and no doubt contributed to the loss the depositors will sustain.

MR. COMMISSIONER: Apart from applying the loan upon stock of persons who had not given notes that were discounted, the action taken was advised as legal and proper by two solicitors in this town, so we have been told, one Mr. Thomas Urquhart and the other Mr. Hunter; I think they both gave evidence to that effect.

MR. MIKEL: I recollect hearing some of Mr. Hunter's evidence, but my recollection of it is that he at that time thought he had not been sufficiently apprised

of the facts as he learned them afterwards when he gave that advice. I think that is the statement he made; whether I am correct in that or not I am not clear.

MR. COMMISSIONER: What they appeared to have thought was these notes had been given as you concede, as I understand it, with the implied authority to use them for the purpose of raising the money, that they were discounted without any liability of the bank at all—they were not discounted, the money was borrowed on the personal security of the General Manager, with these notes as collateral security; it was advised that that was a perfectly legitimate and proper transaction; that is as I understand their evidence; I am not saying whether I agree with that or not.

MR. MIKEL: That is satisfactory of course, but it does not explain the clauses in the declaration which state clearly that the money was not raised in that way and it was raised by cash.

MR. COMMISSIONER: No, you have not read it carefully enough. It was perhaps it might be called, an astute answer of Mr. Travers; he professed to answer the Finance Minister's question, but did not answer it at all. The question he was asked was whether the source was notes discounted. His answer was it was not the proceeds of any notes discounted by the provisional directors; that is where he fenced himself in.

MR. MIKEL: That does not improve matters; it simply adds to the evidence, that the party applying for the incorporation was adopting another means of deception and makes it further reasonable to presume that where that deception was being practised at the very threshold of the institution it would be reasonable to continue.

MR. COMMISSIONER: But that letter was true literally; it was true that the provisional directors had borrowed no money.

MR. MIKEL: If the Minister did not secure an answer to his question and did not get the evidence that the Act required he should get, it is all the greater reason for assuming that the Minister was negligent in that matter, and that that negligence was one of the causes of the disaster that followed. The Minister should have had a proper answer; he should have seen that the facts were made clear to him; and then there is the fact that although the organization of a bank is a somewhat unusual thing, it is not occurring every day, it is not occurring sometimes for several years, yet it was not properly and regularly brought before the Treasury Board.

MR. COMMISSIONER: That is disclosed by the evidence that is not so.

MR. MIKEL: Mr. Boville told us he had never been present at any meeting.

MR. MIKEL: Sir Richard Cartwright's evidence is it was passed around.

MR. COMMISSIONER: The evidence of Mr. Fielding is quite clear that the Treasury Board met regularly and passed it. The evidence is they met, not as they ordinarily would in the Finance Minister's office, but met as they could get a quorum together, that they did their business and then gave a minute of it afterwards to Mr. Boville; there is nothing wrong about that at all.

MR. MIKEL: I understood clearly from Mr. Boville's evidence that he had not been present at any meeting.

MR. COMMISSIONER: Of course he was not present, but they often had meetings when he was not present; his presence was not necessary.

MR. MIKEL: I can only submit the statement as I have already done so, that one of the causes for the disaster was allowing the bank to be organized in the way it was; that the Minister did not take reasonable precautions in view of the fact that he was himself suspicious, even before he had heard any reports at all he had misgivings about the bank which should have prompted a reasonable person to be more than ordinarily careful: He had the warning of Mr. McCarthy, he pointedly called his attention to the violation of the Act; no inquiry was made; and he had the names of other people furnished to him who were charging illegality against the organizer of the bank. With all these matters I submit he should have investi-

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gated; and even after the certificate was given, when Sir Edward Clouston wrote him a letter which he received the day after the certificate, was issued again mentioning this offence under the Bank Act, that he should have recalled that certificate; he should have asked for the recall.

MR. COMMISSIONER: How could he have recalled it.

MR. MIKEL: He could at least have written to the bank or the General Manager asking for that certificate to be returned. It seems to me there would be just grounds for him to apply to the Court for a mandamus of some description by which he would be required to return that on the ground that it had been obtained by misrepresentation.

MR. COMMISSIONER: And he would do that upon the statement in Mr. Clouston's letter.

MR. MIKEL: After consultation with Mr. Clouston if he required any further facts.

MR. COMMISSIONER: Why did not the Bankers' Association do something? They had an answer immediately from the Finance Department that the certificate had issued; why did not they do something?

MR. MIKEL: I am not here to offer any excuse for what they have or have not done, but I submit it was the Minister's duty to do that.

MR. COMMISSIONER: Does not it all tend to confirm Mr. Fielding's statement that it was all rumor, nothing solid to base it upon; these people had not information; it was just gossip; that is his position.

MR. MIKEL: Yes, but when he has rumor coming from not idle sources, not street gossip, but coming directly to him from responsible people well known people, who could have been approached with little trouble, and had the matter sifted to the bottom, and as subsequent facts show if he had taken a little trouble, exercised that little reasonable care and sifted the matter to the bottom, with very little effort he would have saved all this, and have saved the loss to the depositors. He did not choose to do that. He chose to treat it as common street gossip, I suppose, and of no importance, notwithstanding the source from which it came. Was it reasonable? We submit it was not reasonable, that he should have done so. This rumor added to his own misgivings, his own suspicions of the institution—

MR. COMMISSIONER: That is not the effect of Mr. Fielding's evidence at all. Mr. Fielding's evidence was it was not a strong bank, he thought it was not advisable for farmers to go into business of that kind; they had had two chances to establish their bank and they had failed, and he thought they ought not to get a third chance.

MR. MIKEL: That suspicion he had as to the possibility of its organization—

MR. COMMISSIONER: That farmers ought not to go into banking business, that was his—

MR. MIKEL: That should have prompted a reasonable person to be more careful in the organization of the bank, to take greater pains to see that every safeguard provided by the Act at least was fully complied with for the protection of the people who were invited to put their money into an organization of this character. I feel certainly that that is a proximate cause. I realise that a man starting a bank properly and regularly and honestly without any deception, without any improper conduct whatever, might meet with disaster, and the bank fail; but when we find the same kind of conduct that was practised in the organization of the bank, practised later on and producing the results, I submit it can be related back to the original cause and treated as a proximate cause or one of the causes. There are many things that arise from several causes, and it may not always be easy to say which is the more to blame; but at all events I submit that should be found as one of the causes if you feel it necessary or proper that the cause of the failure should be fixed as an absolute fact as a result of the evidence we have got. I did not anticipate that that would be the result, but if it is to be fixed as an absolute certainty beyond all question as to what the real cause was, the only cause or certain causes,

then I submit that should be included as one of them; and I do not know whether, as Commissioner you would deal with any question of negligence at all in the matter, but I assume perhaps you would not be drawing any conclusions of that kind. If you are, I submit that the Minister clearly neglected the provisions of the Statute; he did not take ordinary means; he did not take the kind of means that a member of a Municipal Council would take to satisfy himself; a Municipal official or a member of a council who would overlook matters of that kind and treat them as lightly as that, by which loss arose to his municipality would practically be drummed out of public life in his municipality.

MR. COMMISSIONER: Where do you live?

MR. MIKEL: In the good old County of Hastings, where we certainly do get after members of municipal councils who overlook even much smaller things involving much smaller issues than launching an institution that is going to invite depositors to put their money in on the assertion that everything the Bank Act requires as a guarantee for them has been carried out and carried out before a Minister who is supposed to be more conversant with these things than the ordinary individual, and by a Board composed of men who have superior experience and knowledge and capacity to deal with things of that kind. I feel it would almost look like Justice without her sword if depositors under these circumstances could not find some place within the four corners of the British North America Act by which they could be protected and their rights and interests dealt with in a way that would make good to them a loss such as this. I believe if the Crown could be sued, if it was possible to sue the Crown, that an action for negligence could be established.

MR. COMMISSIONER: Have you applied for a fiat?

MR. MIKEL: No.

MR. COMMISSIONER: Perhaps you had better.

MR. MIKEL: I am perfectly convinced—I doubt if any power short of an Act of Parliament could authorize a fiat to sue the Crown as represented by the Dominion Government.

MR. COMMISSIONER: I do not know; if there is a cause of action—

MR. MIKEL: I know of no provision in any written statute that would authorize the Dominion Cabinet to issue a fiat to bring an action of this kind. There are some particular Acts that authorize it, but I know of no existing—

MR. COMMISSIONER: If there is any cause of action against the Crown a fiat can be granted; if anybody supposes he has a claim which he can enforce in a Court you can get a fiat.

MR. MIKEL: We would be met at once with the maxim that the King could do no wrong, on the assumption that the King will do no wrong.

MR. COMMISSIONER: It is not the King; the reason of that is the odium of everything he does wrong rests upon his Ministers. Perhaps you would like me to suggest you should have an opportunity of applying for this engine of destruction.

MR. MIKEL: I should like very much when you are reporting if you would report that a fiat should be granted. That might help us at all events to some extent and we could test the issue as to whether or not an action for negligence could stand.

MR. COMMISSIONER: There is no use of any will-o'-the-wisp of that kind. Have you anything to say Mr. Weldon?

MR. WELDON: I do not know that I should project myself into these matters. If you would like to hear what I would say in connection with the matter I hardly think it would be right to take it up this afternoon. It is now well on towards 4 o'clock. We have had sittings of this Commission and it has lasted over some months, and I do not think that I could attempt for a moment to do justice to these unfortunate people who have suffered in this matter offhand like this; it would be necessary to take up the evidence all the way through, and make proper notations, so that it could be followed without a great deal of trouble. If the Court could see its way clear and would like to hear what I have to say in the matter I would be

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pleased indeed to get the matter in as good shape as I possibly could and lay it before you. On the other hand if you think it is inadvisable I have no complaint to make. Mr. Hodgins has followed the matter pretty carefully and brought out a great deal of evidence and I have no doubt he will do justice to all parties concerned. I think a very strong case can be made out for these unfortunate people, and if you would like to hear me I would like to take it up on any occasion the Court might see fit to appoint.

MR. COMMISSIONER: I do not quite understand what you mean?

MR. WELDON: I would not care this afternoon to go into an argument which would take a very considerable time and I have not had a chance to go through the evidence. I do not think it would be fair for me to get up at this stage and argue the case of some four thousand unfortunate people. If you wish to leave the matter over till next week—

MR. COMMISSIONER: Mr. Hodgins will be away next week and the week after.

MR. MIKEL: There are a number of findings I have in a memorandum here which I might leave with you.

MR. COMMISSIONER: Very well, Mr. Mikel; you might leave them with me.

MR. MIKEL leaves memorandum with Mr. Commissioner.

MR. WELDON: I do not know what we can do then under the circumstances.

MR. COMMISSIONER: The whole thing is very plain; there is not much dispute about anything. There is some conflict between Mr. Fielding and some of the witnesses, but with regard to everything else it is all pretty plain sailing is it not? We know how the bank started, we know the conditions under which the money was raised, we know how it lost its money after it started, step by step until it lost a million and a quarter.

MR. WELDON: That being the case and it being inexpedient to adopt the method suggested I might give three or four strong points in connection with the case of the depositors. In the first place the Government has always taught the people of this country that banking was a very serious and dangerous business; they have gone to work and said "Here, we cannot allow an ordinary individual to go into the business of banking; it is a very dangerous business". That is the attitude that has been assumed by the Government; so much so that they go to work and pass certain regulations and pass a special Act and say "Unless you comply with the provisions of that Act you cannot start into business". So much so that when, as intelligent a man as Dr. Beattie Nesbitt, a man who has had all sorts of business experience,—possibly no person who has been attending this Commission for some time has had more business experience than Dr. Beattie Nesbitt, and he comes here and says "When the Government granted the certificate I thought it was all right; they were there for that purpose; I am not a banker, and when the Government granted the certificate I took it for granted that everything was so, and was correct and proper". That being so what is the position of a poor farmer or river driver? How is he going to guard himself? I think these people are entirely without blame. There are features in connection with the Farmers Bank that occur in no other bank that ever failed in this country. In the first place it is the worst failure we ever had in this country. Here is a statement that shows the failures of banks since confederation; in 15 out of 24 failures the depositors were paid in full; there has been no case before where there has been such an absolute failure, where there is not a cent left to pay the depositors anything.

MR. COMMISSIONER: You have a valuable mine.

MR. WELDON: We will see. I would advise my clients at any time to sell it at 4 cents on the dollar.

The next feature in connection with the matter is this, that no time since Confederation or before that time for that matter has there ever come up any question as to the sufficiency of the certificates that had been granted by the Government. This is the first time that ever came up.

**MR. COMMISSIONER:** The first time that anybody has had the cheek to raise it, perhaps.

**MR. WELDON:** Possibly so. My learned friend Mr. Mikel in dealing with the matter took up some of the things that had been spoken about so frequently in Parliamentary debates and other places, but there is one thing that should have been mentioned, and that was this, that Mr. Travers was asked by you as to what was the cause of the failure of this bank, and he said "Well, I started off with short capital, and I had to go into all these deals to try and recover myself". You were speaking a moment ago about proximate cause and remoteness and so on. Mr. Travers is the one man who knows more about this matter than any person else. He states that as the reason that this failure occurred. No doubt the failure was caused by these injudicious investments and lack of proper management on his behalf. He says that was caused by his anxiety to make up the proper capital, and to make up the losses of organization that had been sustained at the inception of the bank. Therefore I submit the natural result of starting the bank with insufficient capital was the failure. The Government had said you cannot start a bank unless you have \$250,000 of paid up capital. There must be a reason for that. They have naturally concluded, after having had very considerable experience, that they cannot allow a bank to start in business without having sufficient capital, and they say the smallest amount of capital you must have is a quarter of a million dollars. Mr. Travers started 25 or 30 branches with about \$145,000 of paid up capital; that is less than \$5,000 or \$6,000 to run a branch with outside of the deposits of the people.

**MR. COMMISSIONER:** Some branches run without any capital, lots of them.

**MR. WELDON:** On the other hand I submit you should take into consideration the fact that the bank premises in lots of places cost \$5,000 and \$6,000 in some instances cost \$12,000 or \$14,000. That is the object aimed at by the Statute; I submit that the Statute said you must have sufficient capital because otherwise if you have not it is a perilous thing to do to start into this thing, and naturally when Mr. Travers did not have sufficient capital—I must say that Mr. Travers I think has been of very considerable assistance in this matter, he has refused to tell some things, but I presume he does not want to go back on his pals—however, to come back to the point I was endeavoring to make, that the reason of the failure was because of not sufficient capital, that if proper inquiries had been made at the time—I do not blame Mr. Fielding so much, for Mr. Fielding was an exceptionally busy man, and it is all right to come in now after the event and say he ought to have done this that and the other things—I do not say that—a Tory Minister might as well have done it as a Liberal Minister; a great many people have endeavored to make politics out of this thing, a lot has been written, but it is not a matter of politics at all, it is a matter where a great many people have suffered grievous loss through no fault of their own, and I am not going to say Mr. Fielding was in any way to blame; but what I do say is he was a busy man and he just simply failed to take the precaution, not possibly himself personally at all, possibly some member of his staff; they simply failed to take the precaution that an ordinary man of prudence would have taken in connection with his own business. The Statute cast a duty upon him, if not upon his officers, and his Department did not exercise the amount of diligence that should have been exercised in the circumstances. It is all right after the thing is over to say this, but he was busy delivering his Budget speech and he simply under the circumstances did not look after the thing as closely as he might have done.

**MR. COMMISSIONER:** Guilty with extenuating circumstances, is that your verdict?

**MR. WELDON:** I do not go that far. There has been a whole lot of political talk; he was simply too busy to pay very much attention to the matter. It was not a sin of commission, but a sin of omission; he simply did not realize possibly the great amount of danger there was in connection with it. But this thing has all been



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gone over before. No doubt the Court is as well informed on it as I am and I do not wish to weary you with that. With respect to the findings that are to be made in connection with the matter I think the terms of the Commission are to report the evidence—

**MR. HODGINS:** To inquire into and report all material and relevant facts.

**MR. WELDON:** There is one other thing; this is a very broad and large subject; if one had an opportunity to talk one might go at the thing for half a day. Mr. Travers has suggested an amount of \$3,000 and some other sums that appear to have been spent for some purposes which he does not like to divulge. In anything I have to say I do not wish to speak harshly or say hard things about any person. All I would like to do is to perform my duty with respect to my clients. But as to where the money went, I do not think we need be in a very great deal of difficulty; let us see what happened, shortly before the issuing of the certificate, and see who would have a motive or an object to be gained by the giving of that certificate. Shortly before the issuing of the certificate we find that Mr. Stratton introduces Mr. Travers to the General Manager of the Trusts & Guarantee Company, for the purpose of securing this loan; the loan is obtained, the consideration being, so it is alleged, the sum of \$1,000 of a bonus and interest at 10%. The Trusts & Guarantee Company loan \$80,000 of money of their own or their clients or customers on a lot of Farmers notes; and what would have happened supposing they had not got the certificate from the Government? The position of these men, I submit would be just about like this; the money on deposit with the Minister of Finance, the Treasury Department, would have to be returned to those men. The Trusts & Guarantee Company could not get their money back again, because their money had been spent; they could not sue the people who had given them these notes, because they would be met with the defence that you took these notes with notice. That being so, we consider the cheque paying that loan was hidden and concealed and issued in some other name, issued to the Bank of Montreal, and when the cheque was returned the payment was returned in some other person's name, still covering it up; when they elaborate the most perfect scheme they can, they go to work and get one of the shrewdest practitioners in Toronto I believe to provide a most ingenious scheme for defeating, I submit the provisions of the Bank Act, and all this is done, so it is said, to make a paltry little thousand dollars—not only that, but they had to go to work and borrow \$55,000—and a thousand dollars would hardly pay Mr. Hunter's fee in connection with the matter—Mr. Hunter on a transaction involving \$100,000, and evolving a scheme he would be entitled to receive good pay—

**MR. COMMISSIONER:** I do not see where this is leading.

**MR. WELDON:** The reason I say that, if the certificate had not been issued by the Finance Department what position would the Trusts & Guarantee Company have been in? I submit we see who would have a motive in obtaining the certificate, and what pressure would be brought to bear. All that one can but conclude is that these men must have realized the fact that in the event of the certificate not being granted they would be in a desperate state of affairs. I think that is a reasonable conclusion and I have not any doubt at all that they realized that fact, as shrewd a man as Mr. Stratton and Mr. Hunter and Mr. Warren who was also a lawyer would realize these facts. Mr. Travers has refused to tell where that money went, that \$3,000 and other moneys; I do not know where the money went and who got it, but what I do submit is, and I have nothing against the Trusts & Guarantee Company. I am not concerned in their affairs at all except in so far as this is concerned, that if they had not got that certificate, if they had failed the Trusts & Guarantee Company would have been in a very bad position, and therefore I submit that it was incumbent upon them to see that certificate was granted. Naturally these things are all concealed. Mr. Travers does not wish to say to whom he gave this money, and does not desire to make any divulgence of these things but I submit it is very plain that one cannot help but see that under these circum-

stances pressure, if it were necessary—it may have not been necessary—but pressure if it were necessary was absolutely certain to be brought by some person connected with that crowd. I do not wish to say anything more. These unfortunate clients of mine over the country have undoubtedly suffered an extreme loss to which they were in no sense a party. They have done nothing wrong, they have taken the report of the Government, the invitation of the Government to deposit their money in one of these banks and have suffered in that way. Of course this thing has all been helped along, and a great deal of false confidence has been enthused or instilled in the people of Canada by, I do not say by whom, but by certain interested parties—It has all been done to help us to believe that the banking system of Canada was the most wonderful system, that no person could lose. Since this thing came up last month, here is an article in the North-West Farmer, a paper, the pioneer farm paper of Western Canada, and they go on and tell us such things as the probability of loss to the depositors reduced to a minimum; and there is a case where every cent is gone, hardly anything left, except the gold letters on the window. With the enormous capital required by the Government, and there is not an atom of Government regulation.

“It is practically impossible for a bank to fail in Canada”—this is a long article vouched for by the Editor—

“All banks must stand by each other that the depositors may suffer as little as possible”.

What actually happened in this Farmers Bank case? As soon as the crash came—possibly this is not very much in line except it is a very serious thing I think to go to work and lead the people to believe all these sort of things that are altogether untrue—for instance “All banks must stand by each other”. There is no such law or no such condition. As a matter of fact the conditions are exactly the opposite. The banks of this country enjoy the monopoly of issuing bills which nets them without any tax or any cost to them, in the aggregate five million dollars a year; they have \$100,000,000 of circulation in round numbers, and they ought to get \$5,000,000 a year interest on that. In order that the people of this country shall have stable belief and ample confidence in the bills issued by the bank they put up this Circulation Redemption Fund 5% of the circulation of each bank, simply so that every person shall be satisfied and safe. When a crash comes, when a bank fails what happens? They go to work they do not take any money out of the Circulation Redemption Fund, they take all the money put in by the depositors; they take the depositors' money and they pay off all this circulation as a preferred lien or claim against the estate; the result is instead of standing together for the protection of the depositor they stand together to take what the depositors have put in there. The earnings from the issue of circulation of the banks of Canada for one month would pay the entire loss that the depositors will be put to in connection with this failure. This is a critical case.

“It does seem as if the interest of the Canadian depositors could not be guarded more closely”. It is altogether erroneous, and this is a statement that should not be allowed to be made. But the point I started out to make was, that after all has been said, after all that appeared in the public press of this country, when any person has the hardihood to go to work and publish that now you I think will realize the unfortunate position of these people. They had ample confidence and implicit faith in the banks of this country. they thought like Dr. Beattie Nesbitt that the bank had obtained its certificate and that everything was all right.

MR. HODGINS: Mr. Corley is here, and I would like to ask him a few questions.

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J. SEYMOUR CORLEY, Recalled:

MR. HODGINS: We had Inspector Duncan up here, and Mr. Stewart Lyon I should say was here first; he spoke of an interview with Inspector Duncan, in which he said Duncan was annoyed at having been sent on a wild goose chase to Muskoka and Inspector Duncan then said that he had applied for a warrant some time before the warrant was issued.

MR. COMMISSIONER: Two weeks before.

MR. HODGINS: And he was refused by you on the ground that you had the authority or the right to say when it was to be issued? A. Are you referring to the time Duncan went to Muskoka to get Dr. Nesbitt?

Q. Yes? A. Duncan is absolutely in error. We first decided there was a good cause for prosecution against Nesbitt on Saturday morning in Clarkson's office. There was Mr. Bicknell who was solicitor for the liquidator; there was Mr. Clarkson, one of Bicknell's assistants, or junior, and Duncan, Duncan was there at my request. We went into the matter fully and we decided to lay a charge of conspiracy, and a charge of theft in reference to the Keeley Mine transaction; that was on Saturday afternoon. Duncan left me I should say after 1 o'clock to hunt up the Magistrate, that I know of my own knowledge, I know that he had difficulty in getting a Magistrate because there was not any around that Saturday afternoon. I know he took the train and went to Muskoka after Nesbitt, and Nesbitt had gone in the meantime. If he had taken the trouble to telegraph before he left to seven of Inspector Rogers' men along that line he would have got him; he had to pass seven of Rogers' men before he got away.

Q. He said he applied for a warrant two weeks before it was issued? A. I have no recollection of him applying for it; if he did it was on insufficient evidence. He got one as soon as we had evidence. There was an immense amount of evidence and that had to be gone through with Mr. Clarkson; he was working with myself and Mr. Bicknell and I were in very close touch looking to see if the criminal law had been broken. It was only on Saturday we were able to get these charges against him after conference with Mr. Bicknell, Mr. Clarkson, Duncan and one of Bicknell's juniors and myself.

Q. Duncan says he applied and you refused it, and said you were the one that had jurisdiction to issue warrants, and he then reported to Colonel Grasett, and it came up before the Attorney General and he was sent to the Attorney General's Department? A. I think he is referring to the matter of extradition later. He issued several warrants without consulting me, for instance against Wilson, he never consulted me at all, he went into Colonel Denison and swore them while the Colonel was sitting on the Bench.

Q. Was that the point that came up and was decided by the Attorney General's Department? A. What point?

Q. The point whether you had the right to refuse a warrant? A. The point never was discussed, I never heard of it before.

Q. He said he applied to you and you said no, that you were the one to say when the warrant should issue? A. I could not take that authority; under the law the Magistrates have authority to grant warrants.

Q. Two weeks before the warrant did issue it would have issued if you had not stood in the way, that is the impression? A. Impossible to stand in the way; three-quarters of the warrants in the City of Toronto I never know about. In serious cases they ask my advice. The Magistrates never inquire into the circumstances; either the Police inquire or I do.

Q. If Duncan applied to you for a warrant would he be found to show you reasonable cause before you sanctioned it? A. I certainly would not advise the Magistrate to issue a warrant without reasonable cause.

Q. When was the first time you had submitted to you evidence which in your judgment warranted the issue of a warrant? A. On the very day Mr. Duncan went to Muskoka for Nesbitt.

Q. Who submitted that, Duncan? A. No, Bicknell, Mr. Clarkson and Mr. Bicknell's assistant; there were several of us there in that bank room of the Farmers Bank upstairs; I would not have known these facts except from Mr. Clarkson. Mr. Duncan is not an accountant and could not find them out, and I could not find them out.

MR. COMMISSIONER: Is your memory clear enough to say that what he says happened did not happen? A. I do not know what he said.

Q. He said he came to you desiring to lay an information against Beattie Nesbitt, that he did that about two weeks before the warrant was actually issued, and that you declined? A. Did he say on what ground?

Q. That it was your privilege to determine and that he had no right to lay informations? A. We never had a discussion of that kind, because I know quite well the Police always have the right to go to a Magistrate and ask for a warrant.

Q. Is that so? I got the impression that where a serious offence was charged, that the information had to be initialed? A. The practice is coming in that way, but it has not been in the past. Some of the most serious matters arrests have taken place at night and on Sunday when I never knew anything about it until the men were brought into Court.

Q. There was a suggestion that this was an effort on behalf of the friends of Dr. Beattie Nesbitt to prevent his arrest? A. I am no friend of his, and he was never a friend of mine.

Q. And he was warned? A. If there was any warning it did not come through me or through my office; I have no interest in Nesbitt.

Q. You know nothing about any such thing? A. No, absolutely nothing.

MR. HODGINS: Q. You spoke about the Provincial Police; is not there friction, jealousy perhaps would be the better word, on the part of the City Police? A. Perhaps it is bad feeling; some of the force are friendly.

Q. Do you know whether Inspector Duncan is one of those that entertains that feeling? A. I believe Inspector Duncan and Inspector Rogers do not think too much of one another; there has always been considerable ill feeling in the Toronto Police force itself.

Q. That might account for it? A. I think he felt so sure of getting him that he did not bother.

Q. He came back apparently thinking he had gone on a wild goose chase? A. He had not; Nesbitt had just walked across the lake and took another train. Inspector Duncan and I were shooting at a place last fall where Nesbitt changed from the regular train to a freight train and the conductor told us both about it, not knowing who Duncan was. Inspector Duncan seeks my advice very often. It might have been he submitted the case to me and I said there was not sufficient evidence, and to wait for evidence. I was not arresting everybody whose name was mentioned in the Farmers Bank; I had to have some evidence; I had a duty that way too.

The Commission adjourned at 4 P.M. to 11.45 A.M. to-morrow, June 29th, 1912.

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Toronto, June 29th, 1912.

The Commission resumed at 11 A.M., Osgoode Hall.

PETER RYAN, Sworn, Examined by—

MR. HODGINS: You are Registrar of East Toronto? A. Yes.

Q. Had you any occasion to visit Ottawa, in 1906? A. I cannot say, but very probably.

Q. Do you remember the time when Travers was down there? A. I remember seeing him there once.

Q. About in November, 1906? A. I cannot give you the date and I cannot give you the year.

Q. Did you know him before? A. No.

Q. How did you become acquainted with him? A. I think Mr. Hunter introduced me to him.

Q. What Mr. Hunter? A. The lawyer, I think it is William Hunter.

Q. W. H. Hunter? A. Yes, a stout man.

Q. You had not known him before? A. No.

Q. Did you see much of him down there? A. No.

Q. Who did you introduce him to? A. I did not introduce him to any one.

Q. What did Mr. Hunter introduce him to you for? A. Merely the ordinary rule that obtains when you meet any one down there, two men together, introduce one not known to the third party, that is all.

Q. Where did you meet him? A. I think it was on the floor of the Russell House.

Q. You were staying there? A. Yes.

Q. He was there for several days, were you there too for that length of time?

A. No, I have not slept a night in Ottawa in years.

Q. Just there for the day and out again? A. Yes, that is all.

Q. A flying visit? A. Yes, that is all.

Q. I suppose you know Mr. Calvert? A. I do.

Q. Did you make Mr. Travers acquainted with him? A. I do not remember, such a thing is possible, but I have not the slightest remembrance of it.

Q. Would you remember if you introduced him to any one else? A. No, I do not think I did, I would be very much surprised if I did; I know I did not do so, sure.

Q. Did you introduce him to Mr. Emmerson? A. No, never.

Q. Did you know what his business was down there? A. I have a recollection that they told me it was in relation to their new bank they were establishing.

Q. Whom do you speak of when you say they told you? A. Mr. Hunter and Mr. Travers, I think they mentioned that.

Q. Were they in difficulty at all? A. Not that I knew of, I knew nothing of their business whatever.

Q. Did not ask you to help them? A. I do not remember that they did, I could not help them.

Q. Of course I do not know, they might have thought so? A. Well, I know but I was not in a position to help them, none whatever; I dare say I would have done it if I could have done it.

Q. Was it not the case that they asked you to help them? A. I do not remember it, because I could not help them; they might have thought so, but I know it was beyond my power.

Q. How did you happen to be down there? A. I cannot tell you, I have been there many times on ordinary business; I certainly did not go on that business.

Q. Did you go knowing they were going? A. No, not the slightest idea of them being there.

Q. Mr. Hunter is a friend of yours? A. Not particularly, I know him as I know you, I never had any business with Mr. Hunter.

Q. You are not sure whether you introduced him to any one? A. I do not remember anything.

Q. You think it is possible you did to Mr. Calvert, but you are not sure you introduced him to any one else? A. It is just this, on the floor of the Russell House you would meet public men, and occasionally they would come up and speak to me, and if they were present there would be a mutual introduction, and that is all I remember; that is all that was possible.

Q. After the introduction did you see any one in their interests at all down there? A. No.

Q. Do you know who they saw in connection with the matter? A. I have not any idea; I have just the haziest recollection of having seen them, that was all. I have no hesitation in saying I would have helped them had it been in my power just as I would very likely help any one, but I was in no position to do it.

Q. Did you have any dealings with Mr. Travers after that? A. Yes.

Q. How soon? A. Opened an account in his bank.

Q. How soon? A. Not very long after it opened.

Q. How did you come to do that? A. Well, I do not know why, it was convenient to us, but it had no bearing whatever upon that.

Q. Upon what? A. Upon my meeting him at Ottawa or anything of the kind.

Q. Did you ask any one to introduce Travers to a third party? A. No.

Q. Did you help him in any way down there? A. You mean a member of the Government?

Q. Yes? A. No, never.

Q. To any one else, a member of the House? A. No.

Q. You are quite sure of that? A. Very sure.

Q. What makes you so sure of that? A. Because I would have remembered it had I done so, because all things of the kind that are of an unimportant nature as I tell you I would have helped them if I could, but I was in no position to do it.

Q. After you saw him down there and were introduced to him did you see him again down there? A. I do not think so.

Q. Quite sure you left there that night? A. I think so, I have not been, I do not remember having slept a night in Ottawa for a great many years.

Q. When you saw them they had not got the certificate? A. I could not say whether they had or not.

Q. I thought you said they were down there about the certificate? A. They were down there in connection with their bank, I did not know the procedure or anything about it.

Q. The state of mind before they got the certificate and afterwards would be quite different, and I judged from something you said that it was before the certificate was granted? A. It must have been, because they were down upon their bank business, and that only I gleaned since because I did not know the procedure of getting the certificate or the conditions, but I had nothing to do with the granting of the certificate, good, bad, or indifferent.

Q. After the interview you say you did not see Travers again that you remember? A. Not in Ottawa.

Q. Did you see Hunter? A. I do not think so; I might have seen him fifty times but it did not impress me.

Q. Did you see Guthrie? A. No, you mean Hugh Guthrie?

Q. No, I mean his brother, Donald I think it is? A. No, Mr. Donald Guthrie is the elder, the father.

Q. Norman Guthrie? A. I don't know him at all, never heard of him.

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Q. You have no recollection of seeing Travers again? A. No.

Q. Did you see any one on his behalf? A. No.

MR. COMMISSIONER: Did you see Mr. Emmerson on that occasion? A. I have not the slightest remembrance, my Lord.

Q. Were you acquainted with Mr. Emmerson? A. Intimately.

Q. It was during the session of the House, the House was sitting at the time?

A. I think so.

## W. R. TRAVERS. Recalled:

MR. HODGINS: When you were in Ottawa did you meet Mr. Ryan? A. I did.

Q. Where? A. In the Russell House.

Q. How did you come to meet him? A. Mr. Calvert, if I remember right, introduced me to him.

Q. Mr. Calvert said he only met you when you presented the letter of introduction to him? A. He is mistaken about that, because we were in the Russell House together, and he introduced me to several people.

Q. Introduced you to Mr. Ryan? A. Yes, that is my recollection.

Q. And did your acquaintance with Ryan go any further? A. I did not see Mr. Ryan again till after I was back in Toronto.

Q. Did you get an introduction from Mr. Ryan to anybody? A. No, I remember saying to Mr. Ryan what my business was briefly. The meeting was very short, and I asked him if he would put a word in for me. I think, if I remember right, he said he would speak to Mr. Emmerson. He says not here, but that is my recollection.

Q. Were you introduced to Mr. Emmerson? A. I cannot recall that I was, not by Mr. Ryan. I was up in Number 6 Committee Room with Mr. Calvert after that and I was introduced to fifteen or twenty, I cannot remember all who I did meet.

Q. You were up in committee room number six? A. Yes.

Q. And were introduced to whom? A. I was introduced to a number there, I could not recall; I have been trying to, but I could not remember who they were, there must have been fifteen or twenty there.

Q. Was Mr. Emmerson among the number? A. I am not sure about that, I am undecided; I cannot recall the man.

Q. Did you get any assistance from any of those to whom you were introduced? A. Not beyond asking them to put a word in for me.

Q. Have you any further information that you are willing to give. A. Well, I have been thinking over this matter very seriously and been worrying about it, and do not want you to feel that it is on account of any harsh proceedings, that, Mr. Commissioner, you want to propose, to force me to tell what I am about to say; I want to say more from my personal feeling towards you and admiration of you than otherwise (I feel that perhaps it would be better for me if I did not say what I am going to say): Before going to Ottawa I was told by a party, I do not remember who it was, I do not wish to be pressed on that point, I don't know whether it was Dr. Nesbitt or Mr. Lindsay or Mr. Lown or Mr. Stratton, or whom, I cannot say, that I had better take \$3,000 with me and give it to Mr. Ryan. I went down there without the \$3,000, and I put a cheque in an envelope addressed to Mr. Ryan, payable to the order of myself; on that cheque I marked "C" on the back of it I put a number, which I think represented Mr. Ryan's room number; that is why I want to see the cheque. That is all I ever saw of Mr. Ryan. I don't know whether he got the cheque or did not get it, but I put with that cheque my

card, stating that I would pay that in cash when presented in Toronto. The cheque was duly presented to me in about a month or six weeks afterwards, I don't know whether by a bank messenger, it came to my counter, or by some other messenger, and I paid it, and I got the cash together and paid it. That is as far as I am prepared to go in the matter.

Q. What did you do with the envelope and the cheque in it? A. I put the cheque in a private drawer in my desk?

Q. In Ottawa? A. I handed it in to the clerk of the hotel.

Q. Addressed to whom? A. Mr. Peter Ryan.

Q. With his room number on it? A. That is my recollection of it, because I put the room number on the back of the cheque, I thought perhaps it might be useful to me some time.

Q. When did it come back to you? A. About a month or six weeks, I cannot remember exactly the date.

Q. Your advice was to give it to Mr. Ryan before you went down? A. Yes, and not to say anything about it at all. I said nothing to Mr. Ryan about it; I simply enclosed that cheque, and I supposed he would get it or leave instructions for it.

Q. Do you know what became of it? A. I do not.

Q. Do you know who got the money? A. I do not.

Q. Then, just tell us again when you got down there how you made Mr. Ryan's acquaintance? A. I saw Mr. Ryan in the rotunda when I was with Mr. Calvert, that is my recollection. Mr. Calvert introduced me to two or three people and I asked him, if I remember right, I asked him to introduce me to Mr. Ryan and he introduced me to him. I had five or six words, he knew what I was on, my mission; I asked him if he could put in a word for me and he said he might, and if I remember right he mentioned Mr. Emmerson's name, but since he says not I am puzzled as to whether he did or not.

Q. Mr. Emmerson had interested himself, had he not, in the early stages or do you know that? A. No, I do not know that he did; I never heard of his name in connection with it before; I heard of it afterwards but not before.

Q. That cheque that came back would not be presented directly to you, would it? A. We were not in the Clearing House then and they would come to the counter for their settlements each day. If it came from a bank messenger they would draw the cash for it at the counter, but the cheque was brought in to me by one of my officers and I gave him the money for it and took the cheque. I had provided for it in the meantime and I took the cheque and put it in my desk, and that was the end of it.

Q. Was it stamped by any bank? A. I could not say that now, although I have seen it within a year, I am not satisfied about that. I remember seeing a number on the back in pencil and my recollection goes that I put down Mr. Ryan's room number.

Q. What officer would bring it in to you? A. At that time it would have been Mr. Frayne.

Q. Where is he? A. I do not know where he is; he left the country, he was a defaulter and absconded.

Q. The cheque was payable to yourself, and had you endorsed it? A. Yes, that is my recollection.

Q. Did you leave it in Ottawa? A. Yes, I left it in an envelope there; took chances on it.

Q. You did not take any pains to find out who was presenting it? A. I did not want to know; I did not want to know anything about it.

Q. You did not know? A. No, and I do not know to-day.

Q. You paid Mr. Frayne the \$3,000 in cash? A. Yes, I gave him the money and he took it out and handed it to whoever was there at the counter.

Q. Did you see who was there? A. I did not.



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Q. You had been expecting this? A. Yes, I was looking for it every day.

Q. What did you charge the \$3,000 up to? A. It is charged up to my commissions, that is my recollection; I drew it out in several cheques.

Q. It would be about a month after the bank organized? A. Yes, it would be fully a month afterwards; it would be along the middle of January, perhaps six weeks.

Q. You say you charged it up to your commissions? A. I had drawn the money out of commissions prior to the cheque coming in and I was providing that \$3,000 to keep it on hand for the cheque.

Q. Just waited for the cheque to come in day by day. A. I was.

Q. Did you make any inquiries afterwards as to who had got that money?

A. No, I did not; I did not want to know.

Q. What you have told us here to-day you do not know who actually got the money? A. I do not.

Q. Why did you make such a mystery about it? A. Well, I do not know that there was any particular mystery about it, I did not feel like starting the question at all.

Q. You told me if I were to ask you certain names that you would answer yes or no to them? A. You have had Mr. Ryan called here, and he says he did not get it; at least, I understand he said he got nothing from me; I do not know whether he did or not.

Q. Supposing I had asked you that question, named over several names? A. I would have told you just exactly what I have told you now.

Q. Did you attribute your success in getting your certificate to the cheque? A. I thought it all helped: I knew that when they got the charter through, at least when I say I knew, I was told by Mr. Lown, when they got the charter through they had to use some money there.

Q. So that you were not surprised? A. I was not a bit surprised, no.

Q. When you had the suggestion made to you, did you make inquiries as to where the money would go to? A. No, I did not, I did not care, I did not want to know.

Mr. HODGINS: Perhaps Mr. Ryan ought to have an opportunity of saying something.

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PETER RYAN, Recalled:

Mr. HODGINS: You have heard Mr. Travers' statement? A. Yes.

Q. What do you say to it? A. I have got to say that I have never in my life been so surprised at any statement; I am as ignorant of the \$3,000 cheque as it is possible for a babe in its mother's arms to be; I never heard of it before. Mr. Travers' cheque may have reached some other quarter; of that I know nothing, but I certainly never saw it. What is more, Mr. Hodgins, I would be pleased to show my bank books, deposit books: I had no such sum: I do not think that I even slept that night in Ottawa, and I never take a room when I go there. I simply put my bag, unless it was an odd case, and I cannot imagine it. I had no room in Ottawa. I will furnish with the greatest openness and frankness my deposit book, and if you can see any trace of anything of the kind, of course I will stand convicted, but I never saw one cent of it. I know nothing about the cheque, I never saw it, and until this moment know nothing whatever except what I read in the papers. I can appreciate Mr. Travers' position, and he can imagine that it might have come to me or you or to anybody else, but of that I am not at all responsible.

Q. You see, he says he put it in an envelope addressed to you? A. I never got it, never saw, never heard of it till now. I say that with the full sense of the responsibility of my oath and before this Commission, willing to take any kind of loss of public confidence or respect or punishment by law or in any other way if it could by any possibility be shown that I had anything whatever to do with it. I can say no more; absolutely ignorant of it, Mr. Commissioner; absolutely never heard of it until now. I will be glad to show you any documents that I have got in that way, and I am just surprised that they could have imagined that I would have been a messenger, and I was, unfortunately, hard-up at the time, but I was not likely to become a messenger in such a case.

Q. Did you have any talk to any of the four gentlemen he has named, Beattie Nesbitt, Lown—? A. No, I never heard of Mr. Lown until I read his name in the paper, and I have never seen the gentleman.

Q. I think Mr. Travers mentioned Lindsay?

MR. TRAVERS: Dr. Nesbitt and Mr. Stratton.

MR. HODGINS: Did you ever hear of this bank certificate or bank charter? A. Not the slightest; two of the gentlemen I do not know; I am sure I never spoke to the Doctor about it.

Q. You knew Lindsay? A. No; I know Nesbitt.

Q. Who do you know? A. I know George Lindsay, but that is not the one.

Q. Out of the four, which are the two you know? A. Dr. Nesbitt and Mr. Stratton.

Q. Having heard what Mr. Travers said, can you recall the occasion of his being there more distinctly than you did before? A. No, I do not; I am very sure that Mr. Travers' statement and mine agree, excepting he says I was introduced by Mr. Travers, and I thought it was Mr. Hunter, but it was so unimportant I did not bother with the thing; unimportant, entirely so, and I had no connection with it, good, bad or indifferent. I assure you, and I am stating it on my solemn oath, that I know nothing whatever about that \$3,000 or any sum, greater or smaller, in connection with the transaction. If I can say anything more impressive to you, Mr. Hodgins, I will be glad to do it. I will show you my books; I have no such sum as \$3,000.

Q. I do not think it is suggested you kept it? A. No, nor I never got it.

Q. The suggestion is it must have gone to some one else? A. I never got it.

Q. However, your offer is one that I think I ought to accept? A. I will be very pleased to show you anything that I have got. I can sympathize with Mr. Travers in thinking the devious ways of the heathen Chinese might be indulged in, but I certainly was not the medium, nor do I know anything about it, and until this moment I had not the slightest idea that such a thing could ever arise in connection with myself.

MR. COMMISSIONER: Do you think you could ascertain the purpose you were in Ottawa for? A. No.

Q. By inquiry? A. No; if I got the dates possibly I might.

Q. Between the 21st and the 30th November, 1906? A. I will take down the dates.

MR. HODGINS: Travers arrived in Ottawa the 28th November and left on the night of the 30th.

MR. COMMISSIONER: The 28th to the 30th inclusive? A. Mr. Travers and myself are very liable to make a mistake as to whom introduced us, but I could have made no mistake about \$3,000; it was just the kind of a sum that would have impressed itself upon me at that particular time, and I never saw it nor never heard of it.

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Q. Was that one of the times you were down or one of the times you were up? A. I could not tell you, but I know I am innocent of this; I have had my share of all sorts of ups and down, but this is a new thing; it would be a new role to be playing, too.

Q. Those are the dates? A. I will do the best I can, and particularly if you come to my office I will turn up all my letter books and see if I wrote anything on this date to show I was in Toronto at the time.

MR. TRAVERS: Do you remember standing on the top of the stairs auctioning off something? A. Very likely.

MR. TRAVERS: That might help you? A. That would, undoubtedly.

MR. HODGINS: The top of the stairs where? A. At the Russell House.

Q. Auctioning something off? A. Yes, that was the usual place where we wished to make men rich buying timber.

Q. Auctioning what off? A. Some timber limits.

Q. That probably was what you were down for? A. Very likely.

Q. You could fix the date; I suppose you were paid commissions on those sales? A. I forget now.

MR. COMMISSIONER: You ought not to forget that? A. Sometimes we did not get the commissions, because sometimes we did not make sales.

MR. HODGINS: At all events, your books will probably show something about that? A. Yes, and more than that if you will come this afternoon I will be glad to show you anything I have.

Q. I won't promise to do that, but I am going to suggest to the Commissioner that the Commission had better stand adjourned to some later date so that I may make the inquiry? A. Very well.

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W. R. TRAVERS, Recalled:

MR. HODGINS: You have heard what Mr. Ryan says, does it change your view in any way as to what you did? A. Not the slightest.

Q. You made a remark that he was probably auctioning something off there, what did you mean by that? A. I thought you were trying to fix some dates for him to help him out, and it came to my mind, having seen him on the stairs in his brilliant way he has of putting those things.

Q. Before or after your introduction? A. I could not say that now.

MR. COMMISSIONER: Does that mean that he was selling timber limits? A. That was my recollection of him, seeing him there; I may say first I remember seeing him up the stairway offering something for sale; I did not pay very much attention to it.

MR. HODGINS: You wrote the number of his room on, at least some number that you think was the number of his room? A. That is my recollection of it.

Q. On the cheque? A. Yes.

Q. What would the sense of that be? A. I had in my mind that possibly I would want to remember it.

Q. So that when the cheque came back you would remember it? A. Yes.

Q. What did you put "C" on for? A. Certificate.

Q. Did not write certificate on it? A. No, I put a "C" on it; I thought I would keep the cheque, it might be useful to me some day.

Q. I have communicated with Mr. Lynch-Staunton and he was unable to be present to-day, but he says that he has no recollection whatever of having any interview with you, that he never saw the letter from Colonel Matheson or any cheque for \$3,000, and if you saw either of them you did not bring it to his atten-

tion? A. I would not like to contradict him in that, but he cannot possibly not remember having an interview with me.

Q. He says he has no recollection, that if you saw either of those documents that you did not bring them to his attention; I think myself that is consistent with what you said yesterday? A. I would not like to contradict him, I saw the documents.

Q. You saw them on the table? A. Yes, and he was in and out and the detective was there; I do not know which one it was now.

Q. Was that before the trial that he was to conduct? A. It was before one of the trials, I could not say which one.

Q. I suppose you have followed this case pretty closely, you remember that he was retained to prosecute and that he did not do so? A. Yes, I remember that.

Q. And some one else did? A. Yes.

Q. Was it just before the trial that he was expected to take? A. That is my memory, I could not say exactly.

MR. COMMISSIONER: There were two or three bills found when I was sitting at the Criminal Assizes and they were traversed to the next Court. Mr. Staunton was there then; and I think it was at the Court they were traversed to that he was not able to attend, and Mr. DuVernet took his place? A. I was up there so many times.

MR. HODGINS: Mr. DuVernet prosecuted Lindsay. Was it Lindsay that Mr. Staunton was to prosecute? A. No, I do not think so.

MR. HODGINS: Mr. DuVernet took the case against Stratton in the County Judge's Criminal Court.

The Commission adjourned *sine die*.

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Toronto, July 16th, 1913.

The Commission resumed at 11 a.m., at Osgoode Hall.

PRESENT:

HON. SIR WILLIAM MEREDITH, Commissioner;  
FRANK E. HODGINS, K.C., and JOHN THOMPSON, K.C., representing the  
Dominion Government.

MR. HODGINS: Mr. Ryan, Mr. Scott is here, and he would like to be called first. I just wanted to ask you if you had any objection.

MR. RYAN: Not the slightest.

JOHN G. SCOTT, Sworn, Examined by—

MR. HODGINS: Q. You are Master of Titles? A. Yes.

Q. And I think you were Master of Titles in 1906? A. Yes.

Q. Do you know Mr. Peter Ryan? A. Yes.

Q. Mr. Peter Ryan has supplied me with an account kept by him in the Home Bank of Canada in the name of Peter Ryan in trust, and on the 18th January, 1907, there is a deposit of \$3,000 which he tells me was a loan from you, and I would like to hear what you can tell us about that item? A. A loan hardly describes what it was. Mr. Ryan suggested that there was some British Columbia timber advertised, and he suggested it might be a good thing to bid for it, He

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said if I would supply \$3,000 he would look after it. We put in a bid and it was not accepted; there were some a good deal higher than we were, and the money was returned to me.

Q. What about the date? A. The 18th January, 1907.

Q. Let me see the cheque? A. (Mr. Scott produces cheque and hands to Mr. Hodgins).

Q. Yes, that appears to bear out the entry. Can you tell us about the return? A. Yes, it was returned in different items: February 1st, \$2,050 was returned. Then shortly after that \$350 was returned, and then \$400 returned. May 17th \$200 was returned; June 1st, \$400, and \$500—

Q. It was all in 1907? A. Yes; there is \$100 that has not been returned yet. There was some arrangement by which Mr. Ryan got \$1,000 of it re-loaned; that is the reason why it has not all been returned.

Q. It looks from the entries here as if on the 22nd January he had got \$2,000 of it back? A. I have it entered here 1st February; very probably it was that time.

Q. There is a cheque in his account dated January 22nd? A. Yes, it is not entered here till February 1st.

Q. You did get that and you made an arrangement to re-loan him the \$1,000? Yes.

Q. Those were British Columbia timber limits? A. Yes.

Q. Were those limits he was selling? A. No, it was some the Government were advertising, and he thought there might be a good chance for speculation.

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PETER RYAN, Recalled:

MR. HODGINS: You promised to make some investigation when we were last here into why you were in Ottawa at the time and so on? A. Yes.

Q. Have you anything more you want to say? A. Yes, I was in Ottawa on the 28th November, 1906, conducting timber limits sale at the Russell House of the Manawan Timber limits, Province of Quebec. Is there anything further.

Q. I just want to know if you have anything further to say in addition to your evidence of the other day that has occurred to you? A. No, there cannot be anything where there is an absolute and positive blank, and an absolute and positive denial of any complicity in the thing.

Q. I was not alluding to that phase of it; you promised to make some inquiries, you said you could not remember? A. No.

Q. I thought probably you should be called to have an opportunity of saying so? A. I availed myself of it; I have not been idle. I immediately referred to my letter book, I also referred to other things that brought it to my recollection very clearly that it was upon that day, because I got a letter from the Russell House at Ottawa giving me a list of the Toronto people who were present on that occasion and Mr. James Pearson, barrister of this city, accompanied me down that night interested in the sale with me, and when I got the list of course it gave me very clearly the knowledge I was seeking as to the date of this sale. It will be found in the Canadian Lumberman, or in the Ottawa Journal you will find it a day or two before that, if Mr. Thompson will inquire when he is down here, as I understand this Commission meets to-morrow there, you will find I was there upon that business.

Q. Did you find out how long you stayed there? A. I only stayed there that day, the 28th; I returned home as I stated on the night of the 28th.

Q. You have a distinct recollection of that? A. No, I cannot have.

Q. Why do you say so? A. Because a telegram from Ottawa, and the searching of the register of the hotel tells me that I left that night. I will give you

the letter. Just indicate what in the searching of the hotel register would indicate you left that night? A. Because I had not a room; I always stay at the Russell House.

Q. And take a room there when you stay? A. No, I have not stayed more than two nights in twenty years, but if I did stay I would stay there; never stayed anywhere else. You would not expect me to carry in my memory very clearly whether I stayed there or did not stay.

Q. No, I do not; I just want to find out what you have recollected or been able to find out since; because you naturally could not be very clear about it then, and I thought you might have found out something about it since? A. No, but as you are going to Ottawa to-morrow you will be able to find the register; it has been exhumed.

Q. I understand that; we have subpoenaed Mr. Mulligan, but I cannot ask him just now? A. You will find his statement corroborates mine.

Q. Who were you selling timber limits for? A. For myself.

Q. You say Mr. Pearson was interested? A. Yes; but permit me to remark to you that that has no bearing whatever upon this subject before the Commission. I suppose I am not expected to account for every act and every word I said and every act I did.

Q. I have no objection if you do not desire to answer the question? A. I am glad to answer anything that is pertinent, but I cannot be expected to remember everything that I did then.

Q. Your recollection of that entry in your Home Bank Account which you have been kind enough to furnish me with accords with Mr. Scott's evidence? A. Yes.

Q. Was the repayment as he described, the \$2,050? A. I do not know, I have no ledger; it is altogether memory with me. I will venture to say that Mr. Scott's statement is accurate.

Q. Yes, it appears to be. Your Farmers Bank account—you kept an account there? A. Yes.

Q. Shows a cheque about the 1st of February of \$2,050; did you keep an account in several banks at that time? A. You have them all there before you.

Q. These books I have before me indicate the bank accounts; the Sovereign Bank, Farmers' Bank, Bank of Montreal, and Home Bank? A. Yes, in fact, Mr. Hodgins, I only remembered when I was in bed about the Home Bank; I was so desirous of furnishing you all the information that I went there and they very kindly made me up a statement as I had no book. The book had been destroyed and the cheques and everything else that I thought would not be of the slightest interest to me. I remembered having got that \$3,000 from Mr. Scott and for that purpose.

MR. COMMISSIONER: Did you offer the limits for sale at Ottawa? A. Yes.

Q. At what hour? A. The afternoon I think.

Q. Where? A. At the Russel House.

Q. When was it that you saw Travers and what hour? A. I could not say.

Q. Was it before or after the sale? A. I do not know.

MR. HODGINS: You failed to sell? A. Yes.

Q. You supplied me with quite a number of letters showing you did tender in January? A. Yes.

Q. Were you able to ascertain the figures at which you put in a tender? A. No, but I wrote on July 8th and I think you have a press copy of my letter to the Department asking them to send me a full copy of my tender, they have not done so. I presume they have been on their holidays. I have got no information from them; and I will be very glad if you or Mr. Thompson will call at the Department of the Interior to-morrow and get copies.

Q. You asked me to subpoena several gentlemen here? A. Yes.

Q. That is the members of the old Board that Mr. Travers mentioned as possibly having suggested to him? A. Yes.

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Q. I have done so? A. I thank you.

Q. And I propose to call them, but I would just as soon call them one by one and ask the others in the meantime to retire? A. Very well.

Mr. Lown, Dr. Beattie Nesbitt, J. W. Lindsay retired; Mr. J. R. Stratton could not be present till later.

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WILLIAM H. HUNTER, Recalled:

MR. HODGINS: You have been already examined, and I think you said you went down with Travers to Ottawa? A. Yes.

Q. And that you returned? A. Yes.

Q. Before he did? A. Yes.

Q. The day you were in Ottawa I think was the 28th? A. Yes.

Q. You were there only the one day? A. Just the one day.

Q. Did you meet Peter Ryan there? A. I have no recollection of doing so.

Q. That is as far as you can go? A. Yes. Mr. Ryan called on me and asked me if I recollected, and I was unable to recollect it.

Q. Mr. Travers has said this: "Before going to Ottawa I was told by a party, I do not remember who it was, I do not wish to be pressed on that point, I do not know whether it was Dr. Nesbitt or Mr. Lindsay or Mr. Lown or Mr. Stratton or whom, I cannot say, that I had better take \$3,000 with me and give it to Mr. Ryan". Mr. Ryan has asked me to subpoena you and I presume for the purpose of asking you whether you made any suggestion of that kind? A. Not at all, I had no knowledge of the \$3,000 matter until this came out after the bank's failure.

Q. Tell me, when you came back apparently you went in and saw Mr. Fitzgibbon and you asked him to send down three cheques to Travers? A. Yes.

Q. You no doubt had some conversation with Travers about the cheques? A. Yes.

Q. He says that he went down without the \$3,000 and so on, what was Travers' reason for wanting cheques sent down? A. I think I said before on that point, he told me he was going to be there longer than he expected, that he thought he would go down to Montreal to make some arrangement about a lease; there was a mix-up over a building that had been taken by a canvassing agent; also to arrange about redemption of bank currency; and he did not know how long he would be away and he asked me to have some cheques sent down to him; that was the whole conversation as I recollect it.

Q. And did he say anything to you about Peter Ryan while he was in Ottawa? A. I do not recollect his mentioning Peter Ryan at all.

Q. Did you meet any one else down there in connection with the bank certificate? A. Yes, I met Mr. Ross, the chief clerk, we called on.

Q. Did you meet any one else connected with either the Department or Parliament, any one who would have any influence in a matter of that kind? A. No, I met no one.

Q. Met nobody? A. Nobody connected either with Parliament or the Department. I did meet both Guthrie and Pringle in connection with Smith's claim, but that was the only other parties I recollect meeting at all in connection with the business of the bank.

Q. Did you go and see Mr. Boville when you were there? A. No, I think Mr. Ross was the only man we saw.

Q. When you came back here according to Mr. Fitzgibbon's letter you read over the subscriptions, you say you do not think that is correct, that you looked at the book instead; Travers has since said that the actual subscriptions were sent down to him in Ottawa? A. I have said before that if they were I did not know it.

Q. He did not ask you to have them sent down when you left him? A. No.

MR. COMMISSIONER: Did you see Mr. Calvert when you were in Ottawa on that occasion? A. I don't think I knew Mr. Calvert at all.

Q. Did you see him? A. I certainly did not see him.

Q. What would Travers want with three cheques upon your explanation? A. I do not know sir; I think my evidence was before—

Q. What would he want two or three if it was simply to pay his expenses of moving about? A. That I know nothing of I might suggest if he had a settlement to make on the question of that lease in Montreal he would need one.

MR. HODGINS: It has just occurred to me there are a couple of matters, that while you are here I would like to ask you about them; there was a note which was spoken of, I think the name was Elliott, in connection with some defalcation connected with the bank in one of its outlying branches, and the amount appears to have been returned or disposed of by getting a note from I think a man named Elliott. Mr. Travers said he did not know who Elliott was, that it was a matter in your hands and it was sent over from your office; do you recollect the circumstances? A. No, I cannot place it.

Q. Do you remember the fact that up north somewhere the bank lost a considerable amount of money—McCallum? A. McCallum was in the Toronto branch, not up north.

Q. You do remember about him? A. I remember McCallum, because there was a prosecution there.

Q. Do you remember afterwards having a suit or taking any steps to collect the amount? A. No, I do not think there were any such steps taken.

Q. Mr. Travers says the note came from your office.

MR. TRAVERS: You are on the wrong track; it is Tamlin. A. That was not an officer of the bank.

MR. TRAVERS: No. A. That was a customer of the bank. There was a suggestion there that Mr. Tamlin had discounted some forged paper—

MR. HODGINS: We are not interested in the charge itself; you remember the circumstance? A. Yes.

Q. Do you remember it was afterwards settled in some way through your office? A. Yes, that was settled through my office; a brother-in-law of his came down from London and made some settlement.

Q. What was his name? A. That I have forgotten.

Q. How does this note come into existence; the note was for a large amount, nothing ever was paid, nobody ever knew who the maker was, and Mr. Travers says it came through your office? A. It may have been given by the brother-in-law, produced by him.

Q. Could you find out? A. I think I could.

Q. When the bank failed were you connected with a Graphite Company? A. Yes.

Q. A stockholder—and had you made yourself liable to the bank in connection with this debt? A. No.

Q. Were you a director? A. Yes.

Q. In round numbers how much did the bank advance to that concern? A. They had a stock interest along with a bond interest as I remember, it amounted to \$30,000; there was an overdraft of about \$50,000.

Q. What was the extent of your interest in the company? A. Financially?

Q. Yes? A. I had, including moneys that I had advanced after the failure, about \$18,000 in the company.



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Q. After the failure of the bank? A. And before; the property was operated under lease; I supplied the money.

Q. Was it a close corporation? A. It was intended to be a preliminary company to a public flotation.

Q. Who was interested in it besides yourself? A. The bank was interested, Mr. Brumell was interested.

Q. What do you mean by the bank was interested? A. They held a portion of the stock as a bonus with the bonds.

Q. Who got up the company and got the bank moneys advanced? A. I fancy I had the most to do with that.

Q. Has that ever been made good? A. We are still working on it.

Q. Was Mr. Travers interested in it? A. He had no personal interest in it.

Q. Who was interested on behalf of the bank in the formation of the company? A. There was some stock stood in Travers' name as manager in trust.

Q. Did you get it up entirely yourself or in collaboration with anybody else? A. Mr. Travers knew the steps under which I was getting it up.

Q. Did you have any one else connected with you getting it up? A. Mr. Brumell the man who had the properties and process.

Q. And you got it up, put some stock in Travers' name and got the bank to advance? A. Yes.

Q. On the bonds? A. Yes.

Q. And out of those I suppose Brumell was paid? A. No, he got no money out of it.

Q. Did he get any money out of it? A. No one got any money out of it, it was all expended in the development of the property.

Q. Did Brumell put in the property for nothing? A. That particular, the last property was purchased by the company from Sparks of Ottawa; part of the money of the bank went into the purchase price.

Q. I thought you said Brumell had the property? A. Yes, he had the control of the property.

Q. Had he the title to it or merely an option? A. He had some agreement with Sparks.

Q. Did he turn it over to the company at an advance? A. No, no advance, no profit of any kind made.

Q. So far as you know? A. I know all about it; I know there was no profit.

Q. He carried through the purchase from Sparks? A. Yes.

Q. How much was paid to him? A. \$5,000 on account and a mortgage given back for the balance.

Q. Has that been paid? A. No, it is still on it.

Q. All the money you say was expended in development? A. Yes; the mill had to be refitted and the property re-opened.

Q. Who looked after the bank's interests in the matter in getting responsible parties on the loan? A. Mr. Travers I presume.

Q. Were you ever asked to become liable? A. No.

Q. Was Brumell? A. No.

Q. How soon after the bank started did the company get advances from the bank? A. I think that would be the fall of 1909 or the summer of 1909.

MR. COMMISSIONER: I do not understand about these bonds, what bonds was it that the bank had? A. The bonds of the Graphite Company.

Q. An incorporated company? A. Yes.

Q. What bond issue was there? A. There was a bond issue of \$100,000.

Q. What became of those bonds? A. The bonds were pledged to the bank.

Q. For what? A. For the advances.

Q. For all the advances? A. They originally had \$25,000 or \$30,000 of bonds by direct purchase; the rest of them were pledged.

- Q. What did they buy the \$25,000 of bonds at? A. Par.
- Q. What became of the money? A. The money went into the property in the re-fitting of the mill and the operation of the property.
- Q. Who was the solicitor of the bank at this time? A. I was solicitor of the bank.
- Q. Were you ever personally answerable for the debt before the corporation was formed? A. I may have been for part of it; I think I was one note for \$5,000.
- Q. Who was on the rest of it? A. I think Mr. Brumell.
- Q. What did that rest consist of, how much? A. It may have been \$15,000.
- Q. Who was Mr. Brumell? A. A mining engineer in the Province of Quebec.
- Q. A man of any means? A. He has some means I think.
- Q. Worth anything? A. I think so.
- Q. You did not answer Mr. Hodgins' question as to whether the liability to the bank has been settled? A. The liability is still outstanding.
- Q. How much is it? A. I think it is about \$80,000 including the amount of the bonds.

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ALEXANDER S. LOWN, Recalled:

- MR. HODGINS: What do you know about this \$3,000? A. Nothing.
- Q. Did you have any talk with Travers before you went to Ottawa? A. I may have.
- Q. About getting the certificate through? A. I cannot remember; I do not remember of any conversation.
- Q. Do you know Mr. Peter Ryan? A. I know him by sight; I have never spoken to Mr. Ryan in my life; I know him by sight.
- Q. You had known him in 1906? A. I knew him by sight.
- Q. Was it your idea that there would be any difficulty in getting the certificate? A. I did not know of any.
- Q. They turned it all over to Travers and if there was a difficulty he was to surmount it? A. Yes.
- Q. When did your office as provisional director cease? A. It ceased on the day of the holding of that meeting, the 26th November.
- Q. As a matter of fact it did not actually cease then, you continued to act? A. There was nothing done after that.
- Q. You knew when Travers left for Ottawa I suppose? A. I do not remember seeing Mr. Travers between the time he left for Ottawa and the holding of that meeting.
- Q. You had had some experience with political difficulties in Ottawa, had not you? A. I had been down several times in connection with various renewals of the Acts.
- Q. And you had experienced difficulties from time to time getting renewals? A. Not very serious difficulties.
- Q. You had quite a serious difficulty the last time? A. I do not think so; I was down there several days.
- Q. You got Mr. Calvert to take charge of the Bill, didn't you; you canvassed the Committee thoroughly? A. Both myself and Mr. Urquhart were down there; I canvassed a number of the Committee myself.
- Q. Don't you remember telegraphing triumphantly that the committee had turned down Mr. Fielding? A. I do not remember anything about that.

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Q. You remember there was difficulty? A. More difficulty I think with the first renewal than there was the last, if I remember right.

Q. Travers says that somebody suggested that he had better grease the wheels in Ottawa? A. I did not suggest it.

Q. Did you suggest anything of the kind? A. No.

Q. Have you any distant recollection of any conversation? A. I have no—

Q. You are not likely to have left him altogether on the 26th November— if Travers was going down in a day or so to get the certificate on which depended your share of the additional \$10,000? A. The matter was entirely left in Mr. Travers' hands.

Q. You would not drop out so completely as to have no interest in the matter? A. We certainly had an interest in it.

Q. Then he said somebody, he gives the names of four, he does not say which, suggested to him he had better take down some money? A. It was not I suggested it.

Q. Did you make any suggestion to him? A. No, not on that—not that I remember of.

Q. You were going to say not on that line? A. Yes, I was going to say that.

Q. What was the line you followed? A. I have no recollection of ever discussing what he would do down there. Mr. Travers appeared to be perfectly sure and perfectly able to take care of himself.

Q. There are just four people named, Dr. Nesbitt, Mr. Lindsay, Mr. Lown and Mr. Stratton; he mentions the four as having suggested taking \$3,000 down there and giving it to Mr. Ryan? A. I did not suggest it, and I never heard of any of the others suggesting it.

Q. What suggestion did you make? A. I do not remember making any suggestion.

Q. You had had a good deal of experience in Ottawa, as I understand it, over these extensions of time; you are very likely to have had some talk with Travers about how you have surmounted your difficulties and how he could surmount his? A. We surmounted our difficulty by personally seeing the members; that is the only way we did; we never used any money or anything of that sort.

Q. Do you say you made no suggestion of that kind? A. I made no suggestion of that kind, not that I can recollect.

MR. COMMISSIONER: Did you tell Travers you had had to use money in connection with the renewal of the charter? A. No, I never did.

Q. Have you ever been able to find out about that money you got, the \$560; do you know what it was for now? A. I do not know anything more about it than before; the money was paid in small amounts; it was mostly used by me for travelling expenses; it was out of pocket expenses as far as I can recollect.

Q. That is all you know about it? A. That is all that I can recollect about it.

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W. J. LINDSAY, Recalled:

MR. HODGINS: You had succeeded in getting rid of the difficulty over what is known as the Laidlaw subscriptions? A. Yes.

Q. In October? A. I presume it was about that time.

Q. You knew it was money that had been raised by Travers? A. I do not know anything about that; the money was placed to my credit; I don't know where it came from.

Q. You did that for the sake of getting the thing through quietly? A. I was asked to do it.

Q. In removing opposition? A. I was asked by the solicitor to do it.

Q. And you did it? A. Yes.

Q. You acted on the solicitor's requests without caring one way or the other whether it went through or not; is that the attitude you take, that you were perfectly indifferent as to whether you would ever get a cent of commission if the bank did not go on, or were you vitally interested in it? A. It was not as a matter of commissions I was interested in it, it was a matter of business.

Q. They are somewhat similar in this case; do you take the attitude you did not care whether the certificate was got or not? A. I do not think I ever thought of commissions; I was called in and asked if I would do so and so; I afterwards put in my bill for the work done.

Q. And without thought of your commissions you did it; well, we need not go into that any more. Travers has named a group of men, all of whom were interested at that time, according to my view, some one of them having suggested to him that he had better pay some money in Ottawa; are you the one that made the suggestion? A. No, sir; I noticed that in the paper. As far as Peter Ryan is concerned, I did not know whether Peter Ryan was black or white.

Q. You do not pretend to be such a child as to not know Peter Ryan? A. I had never met Peter Ryan.

Q. You knew who he was? A. I do not recollect that I did; I am not a Toronto man.

Q. You say you did not know anything about Mr. Peter Ryan's position?

A. No, I did not even know he was a registrar.

Q. Where have you been living? A. In Western Ontario.

Q. Milton? A. No.

Q. In Western Ontario; you could hardly have suggested his name to Mr. Travers? A. No, I did not.

Q. He says, Dr. Nesbitt or Mr. Lindsay—that is you? A. Yes, I presume so.

Q. Mr. Lown or Mr. Stratton, he cannot say whom, suggested that he should take down some money? A. If he had mentioned some more it would have been a still larger group.

Q. Had you any conversation with him? A. No, sir.

Q. Before he went down? A. No, sir.

Q. Or when he came back? A. I do not know that I had; I do not think I was in the city. Let me tell you I was absent for a month, I was in Montreal and in Ottawa, and got a telegram from New York from Major Currie, and I went down, and I came back through with Mr. Harry Corby, and I had all this data where I was at this particular time, and I was not in the city.

Q. Within six days after the granting of the certificate you got \$10,000, so that you cannot assume you were so absolutely indifferent? A. I came back a few days before the organization meeting.

Q. That is before the 26th November? A. Yes.

Q. And you were paid your cheque on the 6th December; you do not mean to say you were away between those two dates? A. No, but I was away prior to that, at the time he would be going to Ottawa.

Q. He went on the 27th and you came back on the 26th November, so that you had every opportunity of speaking to him; do you mean to say you did not speak to him? A. I did not.

Q. A distinct recollection of that? A. I would have a recollection if I had done so.

Q. I am asking you if you did? A. I did not.

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Q. You have a distinct recollection? A. I am absolutely sure I did not mention Peter Ryan's name because I could not.

Q. Had you a conversation with him? A. Not on that matter; I may have had a conversation, but I do not remember any conversation, but I certainly know I could not mention Mr. Peter Ryan's name because I had not the pleasure of his acquaintance.

Q. But you knew the usefulness of money, because you had just been using it to buy these people off? A. It was not a matter of buying off, it was a matter of giving them what was coming to them.

Q. You were familiar with the use of money? A. It was just the same as though you had asked me to go out and do a certain work and I said I would try and do it.

Q. Did you make any suggestion as to the value of the use of money in smoothing things out in Ottawa? A. I did not.

Q. Is Travers mistaken? A. When you hear what I say—

Q. Is he mistaken? A. Absolutely, as far as I am concerned.

Q. Can you account for his naming you? A. No, I cannot account for that, nor I cannot account for many of his actions in the last four or five years either.

MR. COMMISSIONER: I would like to understand exactly what your position is; do you want to give the Commission to understand that you took no interest at all except merely employed to go out and arrange with these stockholders at Milton? A. I took the same interest in doing it that as I did in the placing of the stock.

Q. Please answer, did you feel you had any personal interest in the matter? A. I felt I would like to see the bank go through.

Q. Answer my question? A. I was personally interested in the matter of commissions in connection with the bank.

Q. Did you not know that the effect of the success of the Laidlaw suit would be to prevent the bank going into operation, did not you hear that? A. I knew for a positive fact it would not go into operation if he succeeded.

Q. What would have been the result upon your claim for commissions? A. I felt when my work was done in placing stock at any time that my commissions were due and payable.

Q. Payable by whom? A. By the organization or the parties that had made the contract with me; at the same time—

Q. You felt no interest then in getting the bank started? A. I was quite anxious to see it started, and quite anxious—

Q. I do not mean sympathetic, I mean a personal interest? A. Yes, a personal interest.

5. You were personally interested also in getting the certificate, were not you? A. I did not know there had to be a certificate got.

Q. Never heard that? A. No, did not know anything at all, only the charter.

Q. When did you first hear that? A. In fact I think it was after the bank suspended.

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DR. WILLIAM BEATTIE NESBITT, Recalled:

Mr. H. H. Dewart, K.C. was present during Dr. Nesbitt's examination.

MR. HODGINS: Your name has been mentioned by Mr. Travers as one of the four that had a discussion with him before he went down to Ottawa to get the certificate; you see you had been elected as a director and I think as president, on the 26th November, I assume you were naturally interested in what Travers was to do, that is to get the bank started; am I right in that? A. In what?

Q. That you were interested in what Travers was to do in the way of getting the bank started? A. Mr. Travers informed me as I told you before that he had complied with all the requirements necessary, and the issuing of the certificate was simply a matter of form; that is all I know about it.

Q. Did you believe that? A. I believed that absolutely; I had no reason for believing anything else.

Q. You knew that had to be granted by the Government? A. Yes.

Q. Do you say you thought absolutely it was a mere matter of form? A. Under the Act, as he showed it to me, he had to have so much money paid in and so much stock subscribed, and he had done that. Well, then as I understood it went through as a matter of form after that.

Q. You and he discussed his having complied with the Bank Act? A. He simply mentioned that.

Q. You said he showed you the Act? A. I did not mean he showed me the Act, but he said the Act required that there should be so much paid up and so much subscribed, and then when this was done they applied to the Government for their certificate and the certificate was granted as a matter of form.

Q. What was the occasion of your conversation about the requirements of the Bank Act? A. There was no occasion for the conversation about the requirements of the Bank Act; it was after the meeting and I do not remember very clearly, it was after the meeting, and he was going down to Ottawa to apply for his certificate, and I mentioned, as any one might, that he had complied with the requirements, and he was going to get his certificate.

Q. Did not you discuss that before the meeting when you were elected president? A. I cannot remember what little discussion we had before the meeting.

Q. I asked you whether you did discuss what he had done towards getting the bank organized before you accepted the presidency? A. He told me he had got his money, he had arranged, his money had been paid in, the amount that he required, and he had got the necessary stock subscriptions; that is as far as I know.

Q. What was the reason for that discussion, that conversation? A. What would be the normal reason? He wanted me to become president of the bank and he told me the position he had his affairs in, when he asked me to become president.

Q. You becoming president would want to know? A. I did not want to know; he wanted me to be president and he told me.

Q. You said you did not want to know? A. It does not follow in the way you put it.

Q. Do you mean to say he volunteered the information and you did not seek it; is that fair way of putting it? A. Yes.

Q. Did you investigate further, did you ask to see a verification of that? A. I cannot remember what occurred now.

Q. You say you thought it was a matter of form if he had complied with those conditions? A. Yes.

Q. Was time of any importance? A. I do not remember anything about that at all; I have not the slightest recollection about the thing having to be done in a certain time or not.

Q. You said it would follow as a matter of course; I suppose you know that sometimes the wheels of the Department run pretty slowly? A. I do not know.

Q. Did you never experience that? A. No, I cannot say that I did.

Q. Always ran pretty fast where you were concerned? A. Of course; the Conservatives do things much more promptly I have considered than the Liberals.

Q. It is quite likely you might have had some fear that Travers would meet with delay in Ottawa at that time? A. I did not think about it at all.

Q. Strange to say in this case I do not think any one could have acted with more promptitude so that your view would not be borne out by this particular case.

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Did you make any suggestion to him before he went down as to how he should go about it? A. None whatever.

Q. Leave that entirely to him? A. Certainly left to him, he knew about the banking business, I did not.

Q. And the solicitor? A. They knew about the banking business, I did not know anything about it; they knew what was requisite, I did not know anything about it.

Q. Getting it through did you not make any suggestion as to what would help it through? A. I had no reason for making such a suggestion.

Q. Did you? A. I certainly did not.

Q. Is he wrong in speaking of some one of four, yourself, Mr. Lindsay, Mr. Lown and Mr. Stratton who suggested the use of money? A. He is absolutely wrong as far as I am concerned, because I would not make such a suggestion under any circumstances. I have been in public life all my life, and I never did a thing that I thought was wrong, and I certainly would not start with Mr. Travers or anybody else.

Q. Did you know Peter Ryan? A. I was Registrar of West Toronto; Mr. Ryan was a Roman Catholic appointed by the Grit Government; I was an Orangeman appointed by the Tory Government; that is as far as I knew him.

Q. It does not tell me anything? A. I was in Mr. Ryan's office once that I remember of in my life, and that was shortly after I was appointed; he took me up and showed me around his office, and his engravings—he has some very handsome engravings there. I always had a high regard for Mr. Ryan as a citizen, and I knew him as I knew thousands of more men in Toronto.

Q. You knew what Mr. Ryan's position was? A. I could hardly avoid it.

Q. Did Travers ever tell you when he got back anything about how he had got it through? A. I never remember Mr. Travers mentioning Mr. Ryan's name in any manner, shape or form in connection with the bank.

Q. Did he tell you how he had got it through? A. No; I understood he had things in perfect shape and he was very successful.

Q. When he came back? A. When he came back.

Q. As president, when he came back I should think you would be the one who would want to know? A. When he came back he told me he had got his certificate, that he had things in perfect shape; and as he said before he went down he did not think there would be any difficulty about it, and he had practically no difficulty at all. And as I understood he said it was a lot of red tape, it was not the way you run a bank, the way they run a Government.

Q. He said a lot of red tape? A. It seemed to him a lot of red tape; they ran a Government differently from the way they ran a bank.

Q. I suppose on that point his opinion would not be of very much value, but it was expressed to you at that time? A. Yes, I remember something to that effect.

MR. HODGINS: Mr. Stratton is to be here at a quarter past twelve. Is there any one here you wish to ask to be called, Mr. Ryan?

MR. RYAN: Mr. Atlas I understood you would call. I do not know him, but I asked you to call him because I understood he had some testimony to give.

MR. HODGINS: You asked for Mr. Calvert who will give evidence later on, and for Dr. Beattie Nesbitt, and Mr. Lindsay, Mr. Lown, and Hon. J. R. Stratton and W. H. Hunter.

MR. RYAN: Yes, I just wanted to have a house cleaning at once as far as I was concerned.

MR. HODGINS: I will call Mr. Fitzgibbon.

JAMES G. FITZGIBBON, Recalled by—

MR. HODGINS: When you sent the cheques down to Mr. Travers in Ottawa on the 29th November, 1906, did you take them out of the bank cheque book? A. I do not know whether I did or asked Mr. Shaver to tear them out. I certainly sent them down.

Q. What bank were they on? A. The Traders Bank in Toronto.

Q. This stub book has not been put in; are those the stubs of the Traders Bank cheques up to the time the account was closed? A. Yes, sir.

EXHIBIT 90: Stubs of Traders Bank cheque book.

Q. You either took the blank cheques out yourself or got them from Mr. Shaver? A. Yes, who had the custody of them.

Q. When was the balance drawn out, do you happen to recollect, finally? A. I cannot tell from memory; I can tell from the stub here, that the last cheque payable to the Union Bank was on January 3rd, 1906, it is marked here, but it should be 1907.

Q. What was the amount of it, would that indicate that the balance was drawn? A. On the 21st December the then apparent balance was drawn out.

Q. How much? A. \$74,579.53 was drawn out on the 21st, and January 3rd, \$264.16 which probably was the interest up to the 31st of December on that account.

Q. On the 31st December, 1906, practically all the money would have been drawn out? A. Yes.

Q. When these three blank cheques were taken out and sent down by you, they must have been regarded by you as outstanding unless accounted for? A. Yes, we left space in the cash book to write them in when we were advised by Mr. Travers what they were drawn up for.

Q. Was that cheque book under your control? A. No, sir.

Q. Whose? A. Mr. Shaver had the custody of it.

Q. Had you the signing of the cheques? A. No, sir.

Q. You never signed any of those Traders Bank cheques? A. No.

Q. Who signed those? A. Mr. Travers.

Q. Space was left then in the books to account for those three cheques? A. Yes.

Q. Look at the stubs there, you notice Pringle & Guthrie's? A. Yes.

Q. Was that ever entered up? A. Yes.

Q. What about the other two cheques? A. The next one is marked cancelled.

Q. I am not speaking of the stub, what about those other two cheques, were they entered up? A. I could not say.

Q. As accountant you would certainly want to know, would not you? A. The books were written up at the end of the month; when Mr. Travers came back these cheques were I presume returned, the two unused ones were returned and used subsequently.

Q. Why do you presume anything about it? A. I do not know.

Q. If there was a \$3,000 cheque outstanding that Travers knew about, if it was one of those cheques it would be a cheque on the Traders Bank? A. Yes.

Q. Where would it be presented when he wanted payment of it? A. At the Traders Bank.

Q. Were you shown that there was any cheque outstanding. A. No.

Q. Who directed the transfer on the 21st December to the Union Bank of all the money available? A. Mr. Travers.

Q. There was no such sum as \$3,000 left in the Traders Bank? A. Not after the 31st December.



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Q. What would happen to any holder of that \$3,000 cheque, what would happen to it if they presented it to the Traders Bank? A. It would probably be refused by the Traders Bank, no funds.

Q. And protested, I suppose? A. Very probably.

Q. Did you make inquiries from Travers when that transfer was made to the Union Bank, as to whether all the cheques had come in? A. No, sir, I presumed that they are all marked off here, and the check mark that they had been checked and posted.

Q. You presumed that, but as accountant the Traders Bank was the sole account you had at that time? A. Mr. Shaver had entire charge of the cash book and the drawing out of these cheques.

Q. The writing of them? A. He kept the books and checked off the bank balances.

Q. What on earth were you doing? A. I was busy ordering stationery and the outfit for the bank, it had to be done in the month.

Q. Were you paying no attention to what was being done with the cash on deposit? A. I would certainly have known if there was a \$3,000 cheque outstanding if we had been advised to write it on the stub.

Q. Was it not any part of your duty when the balance was taken out to ascertain if all the cheques were provided for? A. All the cheques we had a record of were provided for.

Q. How do you know? A. By the stubs, and the cash book was written up from those.

Q. Did you know that they were all provided for? A. I knew from hearsay from Mr. Shaver that he had checked them off, and the balance in our books agreed, from the posting of these stubs, agreed with the balance as shown by the Traders Bank books.

Q. You felt you should know it? A. Yes.

Q. And you did inquire from Shaver? A. Yes; the books balanced.

Q. And if a cheque had been presented at the Traders Bank the account was closed, and refused, and a Farmers Bank cheque, it would have looked pretty bad just at that juncture? A. Yes, it certainly would.

Q. Did you ever hear anything about that cheque that Travers says was presented at the Farmers Bank? A. No, I know absolutely nothing about it.

Q. The Farmers Bank was in operation in January, 1907? A. Yes, we opened on the 2nd January.

Q. If a cheque signed by the Farmers Bank, per Travers, general manager, came in from outside and was carried into the bank by somebody—? A. Drawn on the Farmers Bank?

Q. Assume he had changed one of these Traders Bank cheques and made it a cheque on the Farmers Bank according to his evidence as I recollect it, he would sign it Farmers Bank or W. R. Travers manager, so that it would be drawn from the funds of the Farmers Bank, what would become of that cheque if it came in, whom would it go to? A. It would be presented to the paying teller in the office downstairs.

Q. Who was the paying teller? A. I think it was Mr. Borrowman, I am not sure.

Q. It would be a head office disbursement? A. Yes.

Q. It would come to you? A. Yes, through the Toronto branch next day.

Q. It would come to you before that, would not it? A. No.

Q. At that time the bank was in operation and this was practically a head office cheque? A. Yes.

Q. There would be no head office account in the Toronto branch? A. All the head office disbursements paid out by the Toronto branch are charged to the head office and advised to us.

Q. I want to know whether there was any account in the teller's ledger headed "head office" which would have a balance in it to which we would charge head office cheques? A. Certainly there would be a head office account in the Toronto branch.

Q. If a cheque of \$3,000 came in would he have any option about paying it or would he make inquiries from anybody? A. I should not think he would need to.

Q. If it came in by the hand of a messenger it would be an unusual thing, a cheque payable to Travers, manager, and endorsed by him, coming in from some man on the street who wanted the money for it, and should no inquiry be made? A. I say there ought to be.

Q. Was there any inquiry made from you? A. Not from me; I would not see it until after it had been paid and sent up the next morning with the other head office disbursements.

Q. You say no inquiry was made from you in January? A. No.

Q. When were the cheques, the Farmers Bank cheques themselves printed? A. I could not say positively as to that; I ordered them the first or second week in December and they were not delivered until close on to the end of the month.

Q. Would they be delivered after the 21st December, which appears to be the date at which the Union Bank got the money? A. I should say so.

Q. Delivered after that? A. Yes.

Q. Have you a positive recollection about that? A. No, but I know it was very late in the month because it took some time.

Q. Any cheque issued previous to that, if issued on an account in which the Farmers Bank had money would be issued on the Traders Bank? A. Yes, the Traders Bank up to the 21st of December, and after that up to the end of December and possibly running into January, on the Union Bank; the account was transferred to the Union Bank on the 21st December.

Q. If drawn in November on the Farmers Bank it would have to be a changed cheque? A. Yes, I should say so.

Q. The cheque on its face would indicate that? A. Yes.

Q. I do not see on any of those stubs there at that time any "C" or anything else? A. No, sir.

Q. So that if any of those is the stub of this cheque, "C" was not put on the stub? A. Not that I know of; I do not see it here; I do not see even a cheque for \$3,000 here on the Traders.

Q. Do you remember a cheque for business premises, \$3,000, in January? A. In January the cheques would be drawn on the Farmers Bank.

Q. Do you remember a cheque for \$3,000 in January charged to business premises? A. I do not recall it, but I dare say there was one; I could tell you from the stubs. That would be signed by me.

Q. You spoke of a \$6,000 cheque which you were directed to make out by Travers and you marked it on the stub, "Account C"? A. Yes.

Q. Did he tell you what "C" was for? A. No, sir.

Q. What did you understand it to be for? A. I did not understand it to be anything. I simply carried out instructions. He said it was to be charged to his commissions and just mark it account "C", so that he would be able to identify it, and if I remember rightly it was charged up to commissions.

Q. Did you investigate afterwards to find out what that \$6,000 was used for? A. No, sir.

Q. Never interested yourself? A. No.

Q. Why not? A. It was not my business.

Q. You thought there was something suspicious about it? A. No, sir.

MR. COMMISSIONER: If the cheque were drawn on the Traders Bank and presented at the Traders Bank after the account was closed, would it not be pro-

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bable that there was a sensible man in the paying teller's box, and he would refer the holder of the cheque to the Farmers Bank and say the account had been closed?  
A. He might do that.

Q. Supposing you had been there? A. I certainly would have done so.

Q. If that had happened, what would have been done with the cheque in the ordinary course when it came to the bank? A. It would in that case, being presented to the Farmers Bank, drawn on the Traders Bank, the teller or the manager, whoever it was presented to, would naturally take it up to Mr. Travers for authority to pay it.

Q. If Travers paid it out of the money he had there for the purpose of meeting it when it was presented, it would not go through the bank books at all? A. No.

Q. Did you ever see that cheque yourself? A. Not that I know of.

Q. You have not the slightest idea what did become of it? A. No, I thought I saw the cheque here in the early days of the Commission; I was shown a \$3,000 cheque.

Q. It has never been here to my knowledge.

MR. HODGINS: This \$3,000 cheque, dated January 7th, 1907, is Exhibit 60, is that the cheque that you saw here? A. Yes.

Q. That is what you were thinking of when you last spoke? A. Yes; I remember the figure on the back of it, but I thought it was on the Traders.

Q. That cheque is signed by the Farmers Bank, Travers, General Manager, payable to himself and dated January 7th, 1907? A. Yes.

Q. And is endorsed by himself? A. Yes.

Q. Would what is on the back indicate that twenty bills of the denomination of \$100 and two \$500-bills were paid out on that? A. Yes.

Q. And that was accepted by the Union Bank and would the stamp on it indicate it was paid by the Union Bank or is that paid by the Farmers Bank? A. No, sir; it is paid by the Union Bank of Canada on the same day it was drawn.

MR. COMMISSIONER: What was that charged to?

MR. HODGINS: Travers said it was charged to bank premises.

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JAMES R. STRATTON, Recalled:

MR. HODGINS: Mr. Travers, when last examined, made this statement: "Before going to Ottawa I was told by a party, I do not remember who it was, I do not wish to be pressed on that point, I do not know whether it was Dr. Nesbitt or Mr. Lindsay or Mr. Lown or Mr. Stratton or whom, I cannot say, that I had better take \$3,000 with me and give it to Mr. Ryan"—this was before he went down to get the certificate, and he mentioned your name? A. I had no such conversation.

Q. Had you any conversation with him? A. None whatever. I swore the last time I had no conversation with any one with regard to the bank further than the advance made by the Trust Company.

Q. You had a conversation with Travers when the \$80,000 was being negotiated? A. Yes.

Q. And the \$20,000 as well? A. No, I was not there when that was made.

Q. You at all events know about the matter, that the certificate had to be got, that that was his object in getting the money; the \$80,000 was intended to complete the amount? A. The \$80,000 was a loan to Mr. Travers.

Q. I am only indicating the purpose? A. I knew we were making the loan on the notes handled by Mr. Travers, but what the purpose was I was not informed at that time what the loan was for.

Q. Were you not informed what the loan was for? A. No.

Q. Why did you sign a cheque making it payable to the Bank of Montreal?  
A. I had nothing to do with the signing of the cheque.

Q. Do you mean to say he came to you and you did not ask what that \$80,000 was for? A. Any discussion he had in the matter was with Mr. Warren. I knew the loan was being made to Mr. Travers, and it was to be used in connection with the Farmers Bank, but how I was not informed.

Q. Do you deny having that conversation with Mr. Hughes Charles, of Peterboro? A. I deny having it in the sense that Mr. Charles put on it.

Q. You did discuss the loan? A. Yes.

Q. You did not discuss the amount that had been made out of it? A. I said the Trust Company made a loan.

Q. That was before the bank started? A. Just about the time.

Q. Do you still say you did not know what he was getting the \$80,000 for?  
A. I still say that I did not know he was obtaining the \$80,000 to make a deposit with the Government; he and Mr. Warren had all the conversation with regard to it, and all I said to Mr. Warren was, if his security was all right, it was all right.

Q. Did he discuss his security with you? A. He discussed that with Mr. Warren; my conversation with Mr. Travers and Mr. Warren was very short.

Q. Did you know who Travers was? A. Not till that time, never heard there was such a man in my life.

Q. Did you hear he was getting up the Farmers Bank? A. Not till he came in and spoke of it at the time.

Q. He told you at that time? A. He said the money was for the purpose—

Q. For the purpose of what? A. These notes had been given to the Farmers Bank and the Farmers Bank directors had endorsed them over to Mr. Travers; as I understood, the loan was a direct loan to Mr. Travers.

Q. But you knew the object of it? A. The object was not discussed with me.

Q. You knew it? A. I cannot say I did or did not, as there has been so much newspaper talk and so much about it since.

Q. You generally want to know a little more about a loan than that? A. Not in a case of that kind where the security is ample.

Q. You are not quite so easy as that? A. Sometimes you know you trust your general manager, the details of a transaction.

Q. Did you have no talk with him at all after that? A. None whatever.

Q. Never made a suggestion to him when you did have your talk that he might help things in Ottawa? A. Never used such an expression.

Q. You know Mr. Peter Ryan? A. Yes, I know him pretty well.

Q. Know his position? A. I do; I had no conversation with Mr. Ryan.

Q. So that you would recollect if you had any conversation in which his name was mentioned? A. Sure.

Q. Was there any such? A. None such.

Q. Sure? A. Positive of that.

MR. RYAN: Mr. Pearson is here, and he will corroborate about the sale at Ottawa; if anything is lacking there he can tell you.

MR. HODGINS: I really do not think he can make it clearer at all. One can never tell what comes up.

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PETER RYAN, Recalled by—

MR. HODGINS: I think you are in a position to throw some light on when the Farmers Bank cheques were ordered and delivered? A. Yes.

Q. If you can give me the information so that I can depend on it, I will be glad to have it? A. In my efforts to clear everything up I have been fairly busy since, and amongst other places I went to Rolph & Clark, the engravers and lithographers, having heard that the Farmers Bank cheques were engraved by them. I ascertained there—I am sorry the papers are locked up in my little box and I left my keys at home, but I can give you the dates.

Q. What are the dates? A. They were ordered by the Farmers Bank on the 21st of November, 1906, and the first delivery of their cheques made on the 31st December and the second delivery of cheques on the 2nd of January; the third delivery on the 15th of January. I have them all in my memory.

Q. That accords pretty well with what Mr. Fitzgibbon says? A. I think so, except Mr. Fitzgibbon cannot give you the particular dates and I have given them to you.

Q. And that is from an inquiry at Rolph, Clark & Company? A. Yes, I went there for the purpose of ascertaining whether there had not been some mistake in issuing a Farmers Bank cheque on the 28th of November.

The Commission adjourned at 12.45 p.m. to 2 p.m.

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The Commission resumed at 2 p.m. July 16th, 1912.

GEORGE TAYLOR DENISON, Sworn, Examined by—

MR. HODGINS: You are Police Magistrate in the City of Toronto? A. Yes, sir.

Q. And a great many of these cases arising out of the Farmers Bank prosecution came before you? A. I think they pretty nearly all did; I do not remember very clearly.

Q. I suppose I cannot ask you to remember the individual exhibits that were produced before you, but have you any system in your Court of marking Exhibits produced? A. Yes, they are marked by Mr. Webb, and he passes them up to me, and I sign them. If you show me any I have signed I will tell you.

Q. There are some that have been signed in that way? A. I think that is almost invariably done unless they are put in in a bundle, and then the bundle is marked.

Q. Into whose custody do they come then when they are marked by you as Exhibits? A. They are generally kept with the papers by either Mr. Webb or Mr. Morrison until they are sent over to the other Court, if it is for an investigation and it is going to the other Court they go across there and we are through with them. If I am trying the case summarily they will keep the papers and they will be there at the Police Court. I tried Mr. Travers summarily.

Q. Mr. Morrison is the Police Court Clerk and Mr. Webb is his assistant? A. One of them.

Q. So that they would be responsible I suppose for the custody of them till they got rid of them in your Court? A. Yes, they would look after them until they got rid of them.

Q. What jurisdiction have the Detective force—I do not know that I quite understand what their relation is to the Police force;—when an information is laid and papers come into the hands of the detectives? A. They are very often left with them. We have every confidence in the Detective Department and we

very often leave them with them; at least I perhaps should not speak confidently about that, Mr. Morrison could tell more about it, but my impression is very often the papers are left in the hands of the Detective Department if they are interested in the working up of the case.

Q. Have the Police Commissioners passed any rule regarding the custody of papers the Detectives seize? A. No, I do not think that would be in their line of business at all, because they have not any control over my Court.

Q. I am speaking of any regulation regarding the custody of papers when seized by the Police? A. When they are seized by the Police, the Police take charge of them until they are brought up and used in the Court, and sent over to the other Court, if they are sent over to the other Court.

Q. Would it be within the Province of the Police Commissioners to make any regulations regarding the custody of the papers? A. I suppose they might if it was necessary, but they assume the detectives will take proper care of them.

Q. Are there any regulations preventing them being seen by unauthorized people, although I fancy that sometimes they are, at least I heard so, that the detectives have shown papers to people. In this case two papers are missing and we are trying to locate them? A. They got over to the High Court I fancy, or at least were lost on the way. We cannot be held responsible for what happens after they have gone and left our hands, you know; they may have gone to the County Court. Mr. Morrison or Mr. Webb probably could tell whether they left our hands and were sent over. I could not tell because I never hear anything about these cases after I have committed for trial.

Q. Can you tell me this, the question was raised during the investigation; is it possible for a detective or a member of the Police force to get a warrant for the arrest of a criminal? A. Yes, if the detective comes to me with an information sworn to charging a man with a criminal offence, and with a warrant prepared and so on, I swear him, and he goes away and that is the end of it; I do it by scores and hundreds.

Q. You sign the warrant? A. For a detective, yes, and any informations that come up to me from my own clerk's office I swear them at once; any that come from Inspector Archibald I sign those in piles that high without having time to read them.

Q. As a special mark of favour to him? A. No, he is the officer who is supposed to attend to that. I sign them and Mr. Morrison generally takes them off as fast as I sign them. I do not think you gentlemen who are dealing in the other Courts have any idea of the amount of business we do; for instance this morning on my calendar I had about 125 or 126 cases on the list, 42 indictable offences on the roll. Well, you can easily understand we have no time to look into things. As far as I am concerned I do them as quickly as I can, and there is no possibility of devoting much time, and what is more I do not know what it is going to come to, because this last half year, I got the return up to the 30th June, and there were 3,483 cases additional, more than there were the six months before. I do not think there were 3,000 writs issued in the Superior Courts of the Province.

Q. There would be nothing to prevent a detective getting a warrant? A. No, if he brings the information properly prepared, they generally come with a warrant and copy together, or a warrant anyway and I swear them and sign them.

Q. It has been suggested that the Crown Attorney was the only officer who could authorize the issue of a warrant? A. There may be some little foundation for that in this sense; sometimes my clerks will refuse a warrant, they think there is no case and they will say "We will give a summons" and if they are not satisfied I think then my clerks say "Go and see Mr. Corley and get an order", and they will perhaps go and get an order and the thing comes down and is made out.

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Q. If they did not go to Mr. Corley they would go to you? A. They do not very often go to me; if they came to me and I looked into it, I might say "You are quite right about that" and I would not give a warrant. They generally go to Mr. Corley. As far as regards the detectives, a detective brings me a warrant and I will swear it for him, you know, because they are supposed to know all the facts and I do not.

Q. You think Mr. Morrison will know about the custody of these papers? A. I think he ought to know about that.

## CURRAN MORRISON, Sworn, Examined by—

MR. HODGINS: You are the Police Court Clerk? A. Yes.

Q. You are also a Justice of the Peace I believe? A. Yes.

Q. Have you the jurisdiction of a magistrate to issue warrants? A. Yes, I issue them.

Q. At the request of anybody who brings an information? A. No; parties who apply to me for an information, either for a summons or a warrant, I look into the case, and if I am not satisfied with it I would not grant it.

Q. But if satisfied? A. I would.

Q. Do you require the Crown Attorney's authority? A. No, I do not.

Q. Are many warrants issued by you for the Police and the Detective force? A. Yes, in the absence of the Magistrate I sign them all, those that are brought to me.

Q. Do you take charge of the papers that are connected with the case? A. No, Mr. Webb attends to that.

Q. He is one of your assistants? A. Yes, he sits in Court and takes the Exhibits as a rule.

Q. When he does that in whose custody do they remain? A. If they are important papers they generally go into the vault.

Q. In your office? A. Yes.

Q. And when you part with them to the High Court or the County Court or the County Judge's Criminal Court what do you do? A. Take a receipt for them.

Q. From whom? A. Whoever we deliver them to.

Q. Generally to Burns? A. The Constable?

Q. Yes? A. For the Crown Attorney.

Q. Very often there are quite a number of papers in the hands of the Police or the Detective Office that are not filed as Exhibits? A. Yes, we would not have anything to do with those at all.

Q. Do they never come under your control at all? A. No, not unless they are put in we would not have anything to do with them at all.

Q. While the exhibits are in your possession has any one the right of access to them in practice? A. No, not any one; if he has proper authority we would let him see them.

Q. That would have to be referred to you or Mr. Webb and he would then judge? A. Yes.

Q. You would permit inspection? A. By defendant's counsel or anything like that would let him see them at once.

MR. COMMISSIONER: Do you allow the counsel for the public, as the Press probably call themselves, access to papers? A. No, we do not always.

Q. Do you ever? A. If the Court is being held, and any member of the Press should ask for a paper I suppose Mr. Webb would let him see it while the Court is sitting.

Q. But not until it becomes public property? A. No.

JOSEPH E. ROGERS, Sworn, Examined by—

Mr. HODGINS: You are the Superintendent of the Provincial Police? A. Yes.

Q. Did you occupy that position for the last couple of years? A. Since 1909.

Q. Speaking generally what are the functions of the Provincial Police with regard to criminals or suspected criminals? A. We take absolute control of all criminal matters in the unorganized portion of the province; we assist the High Constables in the organized portions of the province when requested, the City Departments, or anybody else.

Q. When requested; what do you call the unorganized districts? A. The Districts of Muskoka, Parry Sound, Nipissing, Algoma, Kenora.

Mr. COMMISSIONER: Without County organizations? A. Yes.

Mr. HODGINS: I did not know whether you were using that with regard to the newer portions of the province? A. No.

Q. If any one is in any of these districts it would be within your supervision or charge? A. Yes.

Q. As distinguished from the organized districts where the local police are supposed to be supreme? A. Yes.

Q. You remember a warrant for the arrest of Dr. Nesbitt was issued, when did you learn of it? A. The first information I had was through a communication from Mr. Corley which was received by me on the 26th January, 1911.

Q. Were you requested to make the arrest or were you furnished with any information to do so? A. Copies of two warrants were forwarded to the Deputy Attorney-General with the request that any assistance that could be rendered to do so.

Q. On whose information were those warrants sworn out, the copy of the warrant would show would it not? A. No.

Q. Who was the warrant granted by? A. Curran Morrison; both are dated on the 14th of January, 1911.

Q. Were any steps taken by your Department to act upon those when you received that request? A. Yes, at the time we received these warrants, of course, the Press had given an account of Dr. Nesbitt's escape from the island in Muskoka.

Q. How long before? A. Some days.

Q. Had you any reports indicating where he was during the week previous to your getting that notice? A. I had a report from my officers, one stationed at Bala, one at Parry Sound, one at either Webbwood or the Soo that he had passed them; three of my officers saw him between Bala and the Soo.

Q. When? A. At the time he left the island.

Q. At that time had they or you any information that he was alleged to be guilty of any offence? A. No, the first notice that we had from the Police Department that Nesbitt was wanted was some time in March, 1911.

Q. You got the information from the Police Department in March, 1911? A. They sent me a number of circulars which they asked me to distribute among my men in the north.

Q. I suppose that is the first official notice you got? A. Yes.

Q. Did you get any request from the City Police for assistance previous to that and previous to Dr. Nesbitt leaving the country? A. None, whatever.

Q. Mr. Corley's letter to you enclosing the warrants was for the purpose of what, extradition or what? A. No, Mr. Corley wrote and asked us to do what we could to apprehend Nesbitt.

Q. Is there any reason you can give why you were not applied to earlier by whoever had the information? A. I cannot explain that sir. I may say between the time that Mr. Corley wrote us and the time that the circulars were received by my Department all information that came to my knowledge was for-



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warded to the High Constable of the City of Toronto, the Chief Constable, I think on two or three occasions, information came I sent it to them before we knew officially that he was wanted.

Q. Take this particular case; here is a Farmers Bank failure, the papers are seized in Toronto, the locality is Toronto, and some one accused of an indictable offence is up in Muskoka, the information about the crime is down here, the offence is down here, was it your duty, having seen or learned anyway that such an offence had been committed to interpose,—was that the duty of the City Police or you—I do not understand why some action was not taken? A. I did not know that a warrant had been issued, for Dr. Nesbitt till I received the communication through the Deputy Attorney-General from Mr. Corley which was on the 26th.

Q. Did you know anything about any information that was laid against him? A. I did not.

Q. What is the course that is adopted, when a warrant is sworn out, say in Toronto, and the execution of it is in one of the districts where you have jurisdiction, what is the usual course pursued? A. Well, the Police here sometimes communicate direct with my inspector or through the office here in Toronto, and which ever way it receives prompt attention.

Q. What is the course when a warrant is issued in Toronto for the arrest of somebody up in your jurisdiction, who executes it? A. If they request or notify us that a person is wanted we immediately try to apprehend the person for them, but that is only when we get a notice; we do not know what warrants are issued in Toronto.

Q. Inspector Duncan seemed to have been dissatisfied with what he thought was his failure to get a warrant without the permission of the Crown Attorney and seems to think if he had got it a week earlier he would have been more successful; are you able to say whether that is the case? A. I cannot speak as to that.

Q. If you had had information a week earlier, or a warrant, could you have arrested Dr. Nesbitt? A. If we had had the information the day the warrant was issued, and a request from the Police for assistance I am satisfied we could have apprehended Dr. Nesbitt before he got to Sudbury.

Q. Are you able to account at all for why you did not get that request? A. I have no explanation, I cannot say.

Q. There was a suggestion that there was a certain feeling of jealousy between the Provincial Police, or friction, and the City Police? A. Absolutely none between the two departments, while there was friction between Inspector Duncan and myself.

Q. Had that friction occurred in 1911? A. Prior to that, but my Department have apprehended several people in the Cobalt and other northern territories; no friction whatever as between the two Departments; we are working in harmony.

MR. COMMISSIONER: What is the nature of the friction between you and Inspector Duncan? A. Really so far as I know, a matter of jealousy on an extradition that I was directed to take up by the Premier and the Attorney-General.

Q. It is professional entirely? A. Purely a personal matter that he took objection to at that time.

MR. HODGINS: Perhaps I should just ask you this; Inspector Duncan was asked whether it was a fact that he was annoyed and made a statement that he had been sent on a wild goose chase, the authorities knowing or having warned Nesbitt that he was coming; he was asked if he made that statement or a statement of that kind and he said, page 1604, "I made a statement I think along that line when I came back, but that was the time that Dr. Beattie Nesbitt cleared out"; so far as you are or may be an authority, was any warning given of any kind to Dr. Nesbitt? A. At the time mentioned there I did not know that a complaint had been made against Dr. Nesbitt nor did I know that a warrant was issued for his arrest."

MR. COMMISSIONER: You are not answering the question he asked you, if there was any warning given? A. None whatever from my Department because I did not know that he was wanted.

J. W. SEYMOUR CORLEY, Recalled by—

MR. HODGINS: Adverting to the evidence of the last witness, you remember notifying Superintendent Rogers? A. Yes, it is the duty of the police to notify at once of warrants where the people are suspected to be in this jurisdiction.

Q. In order to catch them? A. Yes; if they have left the country the information is sent by me to the Deputy Attorney-General to arrange for their extradition; that is why that letter was sent to Mr. Cartwright; I notified my superior officer that this man was absent from my jurisdiction, and there was a warrant for him. He had known of it from conversation with me previous to that.

Q. Previous to the time that the warrant was issued, had you any knowledge with regard to what was charged against Dr. Nesbitt? A. No evidence was ever submitted to me of any crime against Nesbitt that would justify an arrest until Mr. Clarkson submitted the information. Then I sent for Inspector Duncan; he and Mr. Bicknell and Mr. Bicknell's clerk, and Duncan and I were together, and he left to get a warrant and I went to my house on Saturday afternoon and Duncan went and got a warrant and went north. There was a suggestion of a warrant being asked for before that by Duncan; it was to charge Dr. Nesbitt with forgery in making a return to the Government; it was one of those monthly returns, I think, that he had made a false document, consequently a forgery, by signing a document that was untrue, with his own name; I did not think that was forgery, I did not think it came under that class of crime. I submitted that to my superior officer, Mr. Cartwright, who said he did not think it was forgery. Inspector Duncan said it was, and he said the County Judge said it was. I had my doubts, and I submitted the matter to Mr. Cartwright, and he said he thought I was right.

Q. Was that the first time a warrant was asked for? A. There never was a warrant asked for; that matter was submitted to me before Duncan swore out a warrant on the information furnished by Mr. Clarkson.

Q. I thought you said a warrant was asked for? A. No, that was discussed whether it was a forgery; there was no application made for a warrant. He did not need to consult me, if he had any evidence, or without evidence, as Colonel Denison said, he could have gone to him with a sworn information that a man had committed a crime and got a warrant.

Q. He said the County Judge had told him it was forgery and you said it was not? A. Yes.

Q. That being the case, had he the right to go to the Magistrate if he chose to swear that he believed this crime had been committed? A. Whether he had a right to do it or not, he did do it afterwards, and he could have got it then. Colonel Denison never reads the information sworn to, nor does he read the warrants submitted to him; they are written by his clerk, and as he swore to-day, sworn to before him in bunches; I have seen them that thick, perhaps fifty or sixty at a time, and he signs them while Court is going on, and hearing evidence in other cases. I wanted to make it clear, the first mention of a warrant against Nesbitt was that morning of the day on which Duncan left for Muskoka.

MR. COMMISSIONER: When the warrant was actually issued? A. Yes; on that same warrant, Superintendent Rogers reminds me, that he was arrested in Chicago and they did not proceed on it, because it was not considered forgery.

Q. What you mean—was eventually Duncan did lay an information for forgery in respect of the return? A. Yes, sir.

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Q. And he was sought to be extradited on that, and what? A. They did not consider it a forgery in the States; it would have to be a forgery against the laws of both countries, and it certainly was not against theirs, as they said.

## WILLIAM R. TRAVERS, Recalled:

Mr. HODGINS: You have heard the evidence this morning of the four or five gentlemen that were named, one of whom is said to have made a suggestion to you to take the money down and give it to Peter Ryan? A. Yes, sir.

Q. Are you able to pick out the one now? A. No. I do not think it was Mr. Stratton, because it was said to me in my office upstairs, and I know he never was there, it came to my mind. In the absence of the cheque to refresh my memory I cannot throw any further light on it.

Q. The cheque would not help you to remember who suggested taking it down? A. I think if I had the cheque it would probably assist to unravel it. The cheque was taken from my desk, it was in the hands of the Crown, I saw the cheque there in the hands of the authorities; with that cheque I could refresh my memory in such a way I think that would enable you to solve the question. I want to correct, though: I said I was in No. 6 Committee Room in Ottawa; I should have said 16.

Q. These are the stubs from which the cheque came (Exhibit 90)? A. I cannot say that without seeing the cheque.

Q. Why not? A. I do not wish to be contradicted and adverse criticism made in the newspapers, as they are, without something to go on that I can absolutely carry through, and in the absence of that cheque I cannot go any further.

Q. What bank was it on? A. It was on the Traders Bank.

Q. Was there any cheque book being used at that time other than that? A. No; no other official cheque book.

Q. If it came out of that—? A. I do not say it came out of that.

Q. Do you remember saying that on the cheque or on the stub, the first time you mentioned it, there was a "C"? A. No, I never referred to the fact that there was a "C" on the stub in any of my evidence; what I did say was that Duncan found "C" on the stub and tried to locate the cheque he had with that stub.

Q. I do not find any "C" on the stub in that book? A. I saw a stub of the cheque book in his hands that had a "C" on it.

Q. What bank? A. That I cannot say without seeing the stubs.

Q. If it was a Traders Bank cheque it would be a Traders Bank stub? A. Yes, but I cannot say what the stub is now.

Q. What is there on the cheque that would tell you? A. There are several things on the cheque; if I had it I think I could refresh my memory.

Q. That would tell you who made the suggestion of these four or five people? A. I cannot answer you that question; I want to see the cheque and I think I can give you such information that you can unravel it.

Q. Why cannot you give it now? A. No, I cannot give it now; my memory does not serve me right; it is over six years ago.

Q. What are you trying to think of? A. I have been trying to assist you in the matter; I have gone as far as I can go.

Q. The cheque would assist you in what direction? A. If I see the cheque it will assist my memory; I want to see what number I put on the back of it; I want to find out whose room that was; I am satisfied it was given to me as somebody's room, and I want to see who I paid the cheque to.

Q. Don't you think this cheque (Exhibit 60) was the cheque you drew out and paid the money? A. I would not think so; I have been thinking over it, and I do not think so; that is not the cheque.

Q. Would not that be the cheque that was drawn out to pay this other cheque? A. I do not think that is the cheque.

Q. Look at the back? A. Yes, but I do not think that is the cheque.

Q. What do you mean by that is not the cheque? A. The cheque you are referring to.

Q. I am referring to that \$3,000 cheque; I am asking you if that is the cheque that drew the cash out to pay the \$3,000? A. I do not think so; it may have been, but I do not think so.

Q. If the \$3,000 cheque was on the Traders Bank you knew that that was outstanding? A. No, I did not; I knew it had not been paid.

Q. Were not you a bit apprehensive that if you drew all the money out of the Traders Bank, left nothing in there, that whoever presented that cheque would meet with more or less difficulty in getting the money? A. That is the very reason I put my card in with it to present it to me, because I knew I had not the money, because all the money was up in Ottawa, and I also knew I was going to change my bank account very quickly.

Q. Of course you knew the money would come back the moment you got your certificate? A. I was not sure after the hitch that took place when the money would come back.

Q. What hitch took place? A. The first day I went there I expected to get our certificate and we did not.

Q. You mean on the 28th? A. The very first day I went to the Department I expected to come with the certificate.

Q. What was the hitch? A. The hitch was we did not get the certificate till the Friday following.

Q. What was the hitch? A. I do not know of any particular hitch any more than they held us up, or rather Mr. Fielding was too busy I suppose.

Q. I do not understand why you say you did not know the money would come back at once owing to the hitch? A. On the top of what we had gone through with Laidlaw's writ, and then their demanding a special list of shareholders, and getting down to Ottawa, and the question came up about subscriptions, one thing after another, I did not know what was in the wind.

Q. You got scared on the 28th November, in Ottawa and you sent Mr. Hunter back? A. I cannot say that.

Q. You told him to send you down these cheques? A. I did.

Q. You thought you would have to use them? A. I did.

Q. Did you tell him so? A. I did not tell him what I was going to use them for. I heard his evidence, and I would not like to contradict him; I know I told him I was going to Montreal.

Q. Did you say to the Traders when closing the account that if there was anything else came in it was to be sent on to the Farmers Bank? A. I did not, I do not know whether there were such instructions given from the office or not.

Q. Did you leave that cheque just to take care of itself and come back? A. I did.

Q. You said you had been drawing small sums from time to time to provide for that? A. I said I had provided for it.

Q. I do not find any small sums had been drawn by you at all between the two dates? A. I do not know if I said small sums or not; I said I had provided for it.

Q. I think you were a little more explicit, you said you had been drawing small amounts from time to time so as to have enough money to pay for it when it came in, and I do not find anything withdrawn between the dates; how had you provided for it? A. I will have to see the cheque and see when I paid it.

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Q. How had you provided the money with which it was to be paid? A. By drawing it out from my own account.

Q. From what bank? A. It may have been after the 1st January, out of the Farmers Bank and it may have been from the Traders Bank or the Union Bank on commission, account, I could not say.

Q. You would not have commenced to draw it before the 30th of November? A. I cannot say.

Q. That is the day the cheque is said to have been given? A. No, not till after I came back, some little time.

Q. There is nothing at all between the 30th November and December 7th, when that \$5,000 was taken out? A. I could not tell.

MR. COMMISSIONER: We have not got a date fixed when the cheque was paid; he says it was some time afterwards when the cheque was paid? A. No, I have not the date fixed; I am puzzled over that, because that is not clear in my mind; I would like to see the other cheque.

MR. HODGINS: We would all like to see that. A. That is not my fault it is not here. I want to add to my evidence that on the 17th June, I was up in the liquidator's office, and Mr. Peter Ryan came in and Mr. Clarkson stepped out and he came up to me and told me to be brave, that he would look after my interests.

Q. Who came up to you? A. Mr. Peter Ryan. The guard saw him; I do not know whether he heard what he said or not.

Q. What guard? A. The guard that is in charge of me.

Q. The 17th June, that is this year? A. Yes, just last month.

Q. If you saw the cheque and saw the room number on it and then traced up whose room it was, would it alter—? A. I cannot give you any further information without the cheque.

Q. Supposing you saw the cheque and the room number on it, and you found out at the Russell House whose room that was, would that change your evidence that it was Mr. Peter Ryan whose name was on the envelope? A. No, not in the least. That is quite clear in my mind.

Q. You put the room number on assuming it was his room? A. That is my recollection.

Q. If it turns out to be Brown, Jones or Robinson's room, do you think that would help you if you knew that? A. Yes, I think so.

Q. In what direction? A. I think that the number of the room I put on there would probably lead to something else.

Q. Indicate who got the money? A. I think so.

Q. Did you make any direction it was to be sent up to that room? A. No, I did not.

Q. Who was the paying teller? A. I could not tell you that.

Q. Who was the paying teller when that cheque came in;—I am instructed that Mr. Frayne was local manager and was not the paying teller? A. I could not tell you, no.

Q. That the paying teller was McCallum? A. I could not say.

Q. This is in January, the beginning of the bank's business, don't you remember who the paying teller was? A. I could not tell you; Mr. Fitzgibbon was paying teller for a while, and Mr. Frayne was teller, and Mr. McCallum was teller, I could not tell you which one.

Q. How did you find out the number of the room? A. My recollection is I asked somebody behind the counter.

Q. Do you know who that was? A. No, I could not remember who it was.

Q. That is what I was looking for, page 1664: "Q. What did you charge the \$3,000 up to? A. It is charged up to my commission, that is my recollection; I drew it out in several cheques". A little further down you say, "I had

drawn the money out of commissions prior to the cheque coming in, and I was providing that \$3,000 to keep it on hand for the cheque" ? A. That is correct.

Q. Mr. Ryan wanted some questions asked, and I suppose I may as well ask you them; but before I do that, so far as the books show there was no drawing at all of yours from November 24th to December 7th, when you drew the \$5,000 on the occasion of Dr. Nesbitt and Lindsay coming in and on the 19th December, when \$1,800 was drawn and nothing till the 20th February? A. Yes, but how many thousand dollars did I draw before that?

Q. Before the 24th November? A. Yes.

Q. My. Ryan wants to know whether you conversed with any one since the last examination on the subject of this cheque with the guard, for instance? A. No, I never said anything to the guard, with the exception of this morning to ask him if he would jog his memory with regard to Mr. Ryan coming in to see me.

MR. G. T. CLARKSON: There is not any doubt about that; Mr. Travers was in my office and Mr. Ryan came in and spoke to him in the passage-way.

MR. HODGINS: Did you ever mention Mr. Ryan's name to any of your associates? A. I don't think I did.

Q. Did you ever speak to him personally as to leaving that letter in there, did you ever speak to him personally about the cheque or suggest who got it or ask him what he did with it? A. No.

Q. Mr. Ryan says that you said you had pledged your honour not to disclose his name? A. No, I never said that.

Q. I did not recollect your saying it, but Mr. Ryan says you did not want to name him because you had pledged yourself? A. I cannot say whether Mr. Ryan got it or not, and I never said so and do not say so now.

Q. Mr. Ryan's impression is when you were examined before you pledged yourself not to mention his name? A. No.

Q. And he wants to know have you thought who the pledge was given to? A. I never said that.

MR. COMMISSIONER: I think that was from something I said when asking the witness to tell the destination of the cheque. I think I made some observation of that kind and I think probably that is what it has been confounded with.

Q. I think this was spoken of before, did you notice this cheque was drawn out in twenty \$100-bills and two \$500-bills (referring to Exhibit 60); is there anything in that to suggest what this cheque was for? A. I cannot recall what that cheque is for, but those figures on the back bring to my mind the money I paid out for the other one.

Q. What did you pay out for the other one? A. I paid out large bills for it, but after seeing that cheque I have an idea I changed the money for that, to make it larger than the money I had.

Q. You have said you did not see Mr. Peter Ryan get the money, no words passed between you and him about that before it was left or after it was left? A. No, sir.

Q. You said something about a card, I think you left something to be inferred which you did not say? A. I said I put in it that I would pay the cheque if presented to me at the counter in cash.

Q. Have you mentioned that before? A. Yes.

Q. When it was suggested to you as you have stated, that money would perhaps be very useful and Mr. Ryan's name was suggested, was nothing said by you to the person as to why Mr. Ryan's name should be mentioned? A. No, sir, I do not remember anything being said.

Q. Was it not a very loose way of dealing with \$3,000 without knowing anything at all about whether any arrangement had been made, or that you just trusted—? A. No, I just took that chance; I thought they knew what they were talking about who spoke to me.

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Q. How is it you cannot recollect the individual; I should have thought that would have impressed itself upon your mind? A. Well, when I mention a name they contradict it; I have a pretty good idea but I cannot swear to it.

Q. As I recollect what you said, what Mr. Hodgins was reading, besides the four persons whom you named you added "or somebody else"? A. No, I do not think so.

MR. HODGINS: What he said was: "Before going to Ottawa I was told by a party, I do not remember who it was, I do not wish to be pressed on that point, I do not know whether it was Dr. Nesbitt, Mr. Lindsay or Mr. Lown or Mr. Stratton, or whom, I cannot say".

MR. COMMISSIONER: Have you any recollection of when and where you last saw the \$3,000 cheque? A. The last time I saw the \$3,000 cheque was with Inspector Duncan.

Q. When? A. I cannot fix the time, it is some time ago.

Q. Can you fix it with relation to any of the prosecutions? A. It was about the time that you were to sit I think in the Criminal Court yourself, about a year ago.

Q. That would be May? A. There were two parcels of documents, there was one parcel of documents that referred to each of the cases that I had gone over with Duncan, there is another parcel that contained the World letters, the missing letter of Mr. Matheson, this cheque and some other matters in it.

Q. What kind of things? A. They were letters.

Q. All your private letters? A. Yes, there were other cheques there as well, I cannot recollect just what those were.

Q. You told us there was a discussion with him and he saying he knew to whom that went? A. Yes. He had the cheque in his hand, and he was asking me about the "C" that was on it; the "C" was on the number place; and then he turned it over and commenced to ask me a question about it further and I thought he would see the number on the back of it, and just about that moment somebody came in and spoke to him, and when he went back again he picked up another document, and I did not say anything more about it.

Q. Are any of the other papers that were there in that parcel missing? A. The World letters are missing.

Q. I thought they are here? A. No, sir, there were other letters there.

Q. Anything else? A. I do not remember just, there were several papers in it, different odds and ends, some private things of my own.

Q. Where do you say that letter of the Provincial Treasurer and that cheque for \$3,000 had been kept by you before the failure of the bank? A. I kept them in a private compartment in my desk; I had a folding top desk, there was one little place there that was locked up.

Q. Were those papers connected with the World newspapers and that cheque in the same place? A. Everything of a confidential nature was in that little compartment in my desk.

Q. This cheque and the World newspaper letters? A. And Mr. Matheson's answer to my letter and some other little private matters.

Q. Mr. Hodgins has asked you if you never mentioned anything about this \$3,000 cheque to anybody, was it not somewhat strange that among all these people, some one at all events, of whom, according to your statement had told you to pay the money, that you never mentioned it to him or anybody else? A. No, sir; when I came back the only relationship I had then was with Dr. Nesbitt; I did not see any of the other parties very often.

Q. Who brought you the cheque when it was presented? A. It was brought by one of my officers in the bank; my recollection was it was Mr. Frayne.

Q. You cannot name him with certainty? A. No.

Q. You think the number you got from the hotel clerk were the cheque and the memorandum put in an envelope? A. Yes, sir.

Q. How was that envelope addressed? A. I addressed it Peter Ryan, Esq., and I put the room number, whatever number I put on it.

Q. Are you sure you put his name? A. Yes, sir.

Q. And you think you got the room number from the clerk? A. Yes, sir.

MR. HODGINS: Was the letter sealed? A. Yes, of course I would seal it, I would not leave it open.

Q. Would you recognize the clerk whom you gave it to? A. I could not say whether I would or not; I have been in a great many hotels since then, all over the world nearly, I mean over in the Old Country and here.

Q. I notice in your evidence you gave before, you say, I asked you did you attribute your success in getting your certificate to the cheque, and you said you thought it all helped; you knew when they got the charter through, at least when you say you knew you say you were told by Mr. Lown when they got the charter through they had to use some money there? A. Yes.

Q. Was it Mr. Lown who made the suggestion you had better use it again?

A. He swore this morning he did not; I am not going to state positively till I have the cheque; if we had the cheque I think we would unravel it as I told you before.

Q. Did you ever subscribe to the testimonial to Mr. Fielding? A. No.

Q. Did the bank? A. No.

Q. Did you make a contribution to be used for the purpose? A. No.

Q. Quite sure of that? A. I never heard of it.

Q. It was currently reported, you know? A. I know it was.

Q. It was also as currently denied, that you had given quite a large sum?

A. The first I heard of it, of my giving anything.

Q. I am not speaking of you individually, I am speaking of you as manager of the bank or for the Farmers Bank? A. If I gave it for the bank Mr. Clarkson would find the entry.

Q. You would know; however I understand the denial was made that you had ever done it? A. That is true, I did not.

Q. I was asked to get your statement upon the subject? A. I did not.

Q. The bank did not? A. Nor the bank.

Q. Either directly or indirectly? A. No, not that I know of.

The Commission adjourned at 4 p.m. to 11 p.m. to-morrow.

Toronto, July 17th, 1912.

The Commission resumed at 11 a.m. at Osgoode Hall.

DONALD A. YEATS, Sworn, Examined by—

MR. HODGINS: You remember when the Farmers Bank failed and prosecutions began? A. Yes, sir.

Q. What was your occupation then? A. I was then with Inspector Duncan in his office.

Q. You remember what was done with the papers that were seized by the detectives? A. They were held by Inspector Duncan.

Q. He has an office in the City Hall? A. Yes.

Q. A room of his own? A. Yes, sir.

Q. How were they kept in that room? A. For a time they were kept in his office, and then I believe they were transferred, but I am not quite certain, but I kind of think some of the papers were transferred to the vault.

Q. In where, in his room? A. Not in his room but in the detective office.



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Q. Is that adjoining? A. Yes.

Q. Did you become familiar with those papers? A. Several of them.

Q. Did you know anything or did you ever see that \$3,000 cheque so that you could identify it? A. No, not just now I could not identify it.

Q. There was no cheque that you recollect distinctly there? A. There was talk about a certain \$3,000 but I never took very much interest in the cheque.

Q. Who was the talk between about the cheque? A. I heard Mr. Travers talking about the cheque and Inspector Duncan.

Q. Do you remember what they said? A. As near as I can remember it was Inspector Duncan asking Mr. Travers who gave the cheque, who got the cheque or something like that; I thought he was pressing for some information.

Q. Did he get any information? A. I do not just remember, I do not think so though.

Q. At all events that was apparently a live question between them, the inspector was anxious to know about that? A. Yes.

Q. Did the World file ever come under your notice, the file of papers, letters between the Farmers Bank and the World or between Travers and Greenwood and Maclean? A. I remember the file of papers, I remember the file on the first, I think it was the time the papers were first seized, but I do not remember ever seeing the file after that.

Q. Were they brought over to the Detective office? A. Yes, I believe so.

Q. And you do not remember seeing them after that? A. No, I cannot remember seeing them with the papers that were in the office after that.

Q. Who had access to those papers; when I speak of those papers I mean all the papers; who had access to them after they were seized and came over to Inspector Duncan's office? A. There was no person supposed to have access to them, with the exception of Inspector Duncan and Detective Guthrie; they were practically the ones that had charge of the papers.

Q. You say no one was supposed to have access; did you ever see any one in there inspecting the papers in the presence of Inspector Duncan or when he was away? A. Well, yes; on one occasion I saw Haverson, the reporter on the World.

Q. Who is Haverson? A. He is a reporter on the World.

Q. He was examined here and said he did not see them? A. I remember him distinctly looking at on one occasion a statement made by Mr. Travers, in No. 8 station, I believe.

Q. What sort of statement? A. A statement supposed to have contained disclosures with reference to certain men who had been mixed up in the Farmers Bank.

Q. Do you mean a typewritten statement? A. Yes, it was supposed to be a confession made by Mr. Travers to Inspector Duncan.

Q. I have got two such statements; I suppose it is probably one of those? A. This one was taken in No. 8 station.

Q. To what extent had he access to the papers, or did you see him going over the papers? A. Well, he was looking at this file on this particular day, and other days I saw him with Inspector Duncan going over the papers.

Q. But on the first date you speak of, was any one there? A. Inspector Duncan was there and he was sitting in the office.

Q. On all occasions he was there; is that what you say when Haverson was inspecting the papers, that Inspector Duncan was always present? A. Haverson in the office had, he seemed to have, more authority than anybody else so far as newspaper men are concerned.

Q. In what way; I am interested in finding the papers if possible? A. On several occasions he was going over papers; it was a common thing for him to go into Inspector Duncan's office and go over papers.

Q. Did he ask for them? A. No.

Q. What did he do? A. Simply went in and read what he saw fit to read.

Q. Did he ask Inspector Duncan for them? A. I just could not say.

Q. Who were present? A. Inspector Duncan at times showed him papers.

Q. More than once? A. More than once, several cases since that.

MR. COMMISSIONER: Other cases? A. Yes, sir; other cases pertaining to police matters.

MR. HODGINS: How many times did he come in and see Farmers Bank papers? A. Oh, well, the Farmers Bank, he was up there a good deal of the time at the time the Farmers Bank investigation was going on in the Police Court.

Q. Was he ever alone in the room? A. Yes, he was alone in the room a good deal; it was a common thing to see him in the room alone.

Q. When he was in there, who was responsible for the papers; was any one supposed to be keeping a tab on them? A. I was supposed to be in the office; he seemed to have a right to look at whatever he liked. Of course, the other newspaper reporters, I always prohibited them from seeing anything; Haverson was so associated with Inspector Duncan that it was a little out of place to ask him to stop looking at papers.

Q. Out of your place? A. Yes, out of my place.

Q. This \$3,000 cheque, did that crop up in the early stages? A. In the early part of the bank matter I think; if am not mistaken, I think it was shortly after Mr. Travers was convicted; it was in January, I believe, Mr. Travers was sentenced, shortly after that, but I could not say the exact date.

Q. Mr. Stewart Lyon was examined and said he went to Inspector Duncan's office at one time and he saw the papers? A. I remember a Globe representative in Inspector Duncan's office; one day I went in the office, a Globe representative was going over some papers with Inspector Duncan.

Q. Was he the Police Court reporter of the Globe? A. No, he was not.

Q. Do you know who he was? A. I do not know his name, I never did know his name; he was not the regular police reporter, but I knew he was associated with the Globe.

Q. What did he look like? A. He was a short man with a sort of a pale complexion, as near as I can remember; and he had a funny shaped head; his head was rather large and sort of pointed.

MR. COMMISSIONER: Hair? A. I think he was slightly bald, if I am not mistaken, but I am not quite sure; his hair might have been thin, but I cannot just say. If I am not mistaken he was fair.

MR. HODGINS: Good looking, no doubt, being a reporter. Then did you see him there more than once? A. Well, I saw him there, I am not sure whether it was more than once, I would not swear more than once in connection with this particular case, but I had seen him in the City Hall on previous occasions.

Q. When you say in the City Hall, do you mean in the Detective Office? A. Around the Police Court, but he was not a regular attendant.

Q. Any of the other newspaper reporters see the Farmers Bank papers to your knowledge? A. Not that I know of.

Q. Did any one else, other than the reporters from the papers that we have been mentioning, have access to these papers at any time? A. Not that I know of.

Q. Do you know Mr. W. H. Hunter, a barrister, of this city? A. Yes, sir.

Q. And do you know a man named Hobblerlin? A. Yes, sir.

Q. Do you know whether they had an opportunity of going over these papers? A. Well, at the time of the Farmers Bank investigation, Mr. Hobblerlin and Mr. Hunter called at the City Hall on several occasions, and mostly in the afternoons, and they went into a private room in the City Hall, Mr. Corley's private room, which is not used in the afternoon, his office, and the three of them were closeted in there on several occasions.

Q. What three? A. Mr. Hobblerlin, Mr. Hunter and Inspector Duncan.

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Q. Had they any papers with them? A. Yes, sir; I remember one afternoon, when I come to think of it, I remember going in there to tell Inspector Duncan that the Chief Constable was calling for him, and I saw them there with Farmers Bank papers on Mr. Corley's desk.

Q. Is the office you speak of, Mr. Corley's, which is not used in the afternoon, close to the Detective Office? A. No, it is back of the Police Court; it is close.

Q. In the same wing of the building? A. Yes.

Q. Going back for a moment, at the time you saw the gentleman you think was connected with the Globe, did you hear any conversation between him and Mr. Duncan in which Inspector Duncan expressed dissatisfaction with the way he had been treated over the Beattie Nesbitt warrant? A. I was only in the office for a minute at the outside on this particular occasion.

Q. That may not have been the same one that Mr. Lyon has spoken of; but when Hunter and Hobberlin and Duncan were together, do you remember what state the prosecution was in; had Travers been convicted? A. Travers had been convicted; none of these proceedings took place until after Travers was convicted.

Q. Had Hunter's name come up to your knowledge in the Police Court proceedings? A. Yes, it did; Hunter's name came up during the Police Court proceedings before Colonel Denison.

Q. In what way? A. I cannot just remember.

Q. I cannot put my hand for the moment on the copy of the statement of Travers that you call a confession, I will get it in a few minutes, but in the meantime do you remember it coming into your office, do you remember when it was received, the occasion of its receipt? A. I cannot just say.

Q. Do you remember any telephoning taking place after that came in? A. I cannot just say the telephoning, I cannot just swear to it, the statement.

Q. What telephoning do you remember? A. I remember on one occasion Inspector Duncan telephoning to the Globe and the World; to Haverson, of the World, and to somebody on the Globe; he could not get Haverson on the World, but he had a statement if they wanted to see it.

Q. He had a statement if they wanted to see it? A. I cannot say, but I kind of think it was the statement made by Travers in No. 8 station.

Q. Have you any way of fixing the date of that? A. No, sir; I have not.

Q. That must have been in the early stages of the matter? A. It was in the early stages of the matter, it was shortly after Mr. Travers was sentenced.

Q. Was it after that that the gentleman you thought was connected with the Globe came in? A. It was after that; I do not remember him coming up; that was at half-past six that night, and I think on that night Inspector Duncan had returned, from a Farmers Bank investigation in the Farmers Bank taken by Mr. Clarkson, the liquidator, and it was after that, and I had been waiting in the office till half-past six, and he telephoned for these gentlemen then, and of course I left the office right after that. Whether they came up or not I do not know.

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MR. HODGINS: Mr. Corley wishes to make a statement.

J. W. SEYMOUR CORLEY, Recalled:

Mr. Corley said: During the progress of the investigation in this conspiracy charge, towards the end of it after it had lasted several days, the Police Magistrate suggested to me in open Court that the name of Mr. W. H. Hunter should be added as a defendant. I said to him that we had gone over a lot of evidence and if we added it we would have to go over it again. It was in open Court, and Mr.

Monahan, the then acting Crown Attorney for the County, was sitting beside me, and I said to His Worship: "My learned friend from the County is here, he hears what you say and he agrees to add him before the Grand Jury" and Colonel Denison said that would be sufficient. It was after that that this interview spoken of by Mr. Yeats between Hunter and Hobberlin, who was a client of Hunter's and Duncan, who was a friend of Hobberlin's took place. I may say Mr. Hunter was never added as a defendant. I was consulted by Mr. George Lynch-Staunton, who was acting at that time as Crown Counsel as to whether Hunter should be added or not. I told him the Police Magistrate had said so, and he asked me if I would take the responsibility of leaving Hunter's name off, and I said no, I certainly would not. I thought the Magistrate's opinion should govern. Inspector Duncan was present on that occasion.

MR. HODGINS: What trial was it in which Mr. Hunter's name came up in the way you have spoken of? A. The conspiracy to deceive the Finance Minister.

Q. Against whom was the trial? A. There were so many of them I cannot remember who the defendant was. Mr. Monahan could tell me that, he could remind me of it; I know Travers was one, Beattie Nesbitt's name was there too, and I think the provisional directors and Stratton—the general conspiracy charge in which the directors were charged, and Mr. Stratton and several others for conspiracy in doing an unlawful act and deceiving the Finance Minister.

Q. I remember in one of those cases the Magistrate made the remark why was not Mr. Hunter added? A. The reason was I did not know Mr. Hunter had been actively engaged in it, I had not been told of it by Inspector Duncan if he knew it.

MR. HODGINS: I will find that date and have it put in, because it is mentioned in the evidence.

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PETER RYAN, Recalled:

MR. HODGINS: I have asked you to bring up your letter book of November, 1906; just look and see how the letter book corresponds with what you say, that you were in Ottawa on the 28th of November, and only there one day—that is a letter book kept here in Toronto? A. Yes, my own private letter book: On the 27th November, 1906, I wrote a letter to Mr. John C. Spry, Chicago. I do not find any letter copied on November 28th; on the 29th November, I wrote a letter to a gentleman whom I know very well, D. M. Mcfarlane of Vancouver.

Q. Any other letter on the 29th? A. Yes, there is one here to Joseph Martin, and there is one upon the 30th to Mr. Calvert of Roanoke, Virginia, on Post office matters. Nothing between the 27th and 29th.

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ALEXANDER G. MACKIE, Sworn, Examined by—

MR. HODGINS: What is your position? A. At present?

Q. Yes? A. I am assistant in the Police Court Clerk's office.

Q. What were you in 1910? A. Sergeant of Detectives of the City of Toronto.

Q. In 1911 you occupied the same position I suppose? A. Yes.

Q. You remember the Farmers Bank investigation? A. I remember a little of it.

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Q. Where were the papers that were seized kept? A. They were kept by Inspector Duncan and detective Guthrie; I never saw any of them.

Q. In whose room? A. In Inspector Duncan's room most of the time I expect.

Q. Do you know of your own knowledge about any one being able to see them? A. No, I do not; I did not see any myself at all.

Q. Did you ever see any one in there going over them? A. There are continually people in there, but I did not see any of the papers.

Q. Did you see any one in there who was inspecting the papers? A. No, not at the time when I was in.

Q. Do you know Mr. Haverson of the World? A. Yes.

Q. Did you ever see him in there? A. In the office?

Q. Yes? A. Many a time, most every day.

Q. Did you ever see him inspecting the papers? A. No, I could not say I have; I never was in there at any time when there were any papers in connection with it, and I had nothing to do with it, I was not allowed to know anything at all about it.

Q. Mr. Yeats said something about Haverson's position there, what position has he in connection with the Detective office? A. His position I suppose is the same as any other reporter, that he was quite frequently there, very frequently in fact.

Q. Had he any more rights there than any one else, or did he exercise any more? A. He apparently did sometimes exercise them; I do not suppose he had any more rights than anybody else though.

Q. What do you mean by apparently he did? A. I have seen when he would come in any of the detectives or anybody else who might have been in there at the time, they have been asked to leave; Mr. Yeats, who was a clerk under Duncan would be asked to leave and the door would be shut; and they would be in there together.

Q. Who would be in there together? A. Inspector Duncan. Of course that might happen with any citizen who might happen to come in to see the Inspector.

Q. Did it happen continually with Haverson? A. Very frequent, not continually but very frequent.

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MR. HODGINS: The evidence was taken in the conspiracy case of the King vs. Watson and others on the 15th February, 1911, and during the course of that investigation at page 60 the questions were asked speaking of Smith in Ottawa, and Travers was asked:

"Q. Was Hunter acting for you? A. Yes."

"Q. Did he know there was this difficulty about getting the thing through?  
A. He knew Smith was threatening trouble."

"Q. On account of this? A. Yes."

"Q. Hunter must have known this was made up with borrowed money too?  
A. I am quite sure he did because I took him into my confidence when I made up the list."

"HIS WORSHIP: Why isn't he in it?"

"MR. CORLEY: I didn't know about it."

"HIS WORSHIP: I think he ought to be added at once; it is only fair to him."

"MR. CORLEY: I will have him notified of what has been said and he can appear here."

MR. HODGINS: So that is the date at which the Police Magistrate said that, and I think that fixes the date pretty well.

## EDWARD A. HOBBERLIN, Sworn, Examined by—

MR. HODGINS: Are you a member of the firm of Hobberlin Bros.? A. I am manager and secretary-treasurer.

Q. You have a brother as well, have you not? A. Yes.

Q. What is his name? A. M.

Q. Where is he now? A. He will be on his road to the Coast now.

Q. Are the firm clients of W. H. Hunter? A. Yes, W. H. Hunter is solicitor.

Q. Are you the Hobberlin whose name has been mentioned here this morning as having been with Mr. Hunter and Inspector Duncan in their offices? A. No, not me.

Q. At the time the Farmers Bank failed or after the prosecutions were begun? A. No.

Q. Who would that be, which of the Hobberlins would it be? A. That would be the one that would be at the Coast, if any, that is A. M.

Q. What would he have to do with the matter, does he know Inspector Duncan? A. Nothing except as a personal friend, just knows him.

Q. Of whose? A. Inspector Duncan; he is acquainted with him I believe.

Q. Is he a personal friend as well as a client of Mr. Hunter's? A. Just a client.

Q. Was there any other Hobberlin in the firm? A. Mark Hobberlin, but he has nothing to do with it; the only person if any would be A. M. Hobberlin.

Q. The name given to us was E. A. Hobberlin? A. It is wrong.

Q. You were never closeted with anybody, I suppose, in the Detective Office? A. No.

MR. COMMISSIONER: Had the firm of Hobberlin or the company anything to do with the Farmers Bank? A. No, nothing whatever.

Q. You know nothing, I suppose from what you have said, about what they would be together for if they were together? A. Absolutely nothing.

## DONALD A. YEATS, Recalled:

MR. HODGINS: The two statements that I have got here of Travers, the first one is dated on Saturday, taken on Saturday, the 21st January, 1911, at No. 8 Police Station, Toronto, in the presence of Inspector Duncan, Detective Guthrie, and George Angus, chartered stenographic reporter; the next one is taken on the 25th January, 1911, at the head office of the Farmers Bank, Adelaide street, Toronto, in the presence of Inspector Duncan, Detective Guthrie, Mr. G. T. Clarkson and others? A. I refer to the statement that was made in No. 8 Police Station.

Q. That would be the one taken on the 21st January, 1911? A. Yes, sir.

Q. Then I see that the preliminary investigation in the main conspiracy case against Watson and others was begun and taken on the 17th February, 1911? Can Mr. Travers tell the date on which he pleaded guilty?

MR. TRAVERS: The 13th January, 1911, I pleaded guilty.

## WILLIAM SINCLAIR SHAND, Sworn, Examined by—

MR. HODGINS: You are in the Police Department? A. Yes, sir.

Q. What is your position? A. Property clerk.

Q. And do you keep a list of warrants? A. Yes, sir.

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Q. You keep the books in which the warrants when issued are all entered?  
A. Yes, sir.

Q. What is the practice when an information is sworn out and a warrant signed by the magistrate in Toronto, are you required to register it at once? A. Yes, sir.

Q. You have your book here? A. Yes, sir.

Q. Is the warrant registered immediately it is issued? A. In some cases, where a man would be taking a train to leave the city, sometimes it is not registered, but the custom is and the rule is always to register it before the warrant leaves the office; but if a man committed an offence and was trying to get a train sometimes the detective would take the warrant and rush to the train, and it would not be registered.

Q. Are you in the Police Department or in the Detective Department? A. In the Detective Department.

Q. Have you the note of the notification or registration of the Beattie Nesbitt warrant? A. I guess it is entered in the book.

Q. Turn it up? A. I do not know what date it would be.

Q. I see there is a warrant against W. R. Travers on 31st December, 1910; follow it up from that? A. There it is, Dr. Beattie Nesbitt.

Q. You have four warrants there entered up on the 31st January, 1911; two for conspiracy, one for false returns and one for forgery? A. Yes.

Q. That is the date at which they reached you, is it? A. I would not be clear on that point.

Q. What is your practice as to entering? A. It is the custom.

Q. If you got a warrant on the 31st January, issued two or three days before, what date would you put in your book, the date of the warrant or the date you got it? A. The date I got it.

Q. Would that indicate the date you got it? A. No, I would not be clear on that either.

Q. Why not? A. Because it may have been handed to me later and entered up as being issued in that particular month.

Q. Have you any recollection about the Beattie Nesbitt warrant? A. I am inclined to think that that was the case; that those were handed to me some little time after they were really issued, and I entered them up in the latter part of that month because it was in that month they were issued.

Q. Does the handwriting indicate anything about those last four, the ink and so on? A. Yes, I can see it is a different ink and different time.

Q. And that is what makes you think so? A. Yes.

Q. Your recollection is they were handed to you some time after they were issued? A. Yes.

Q. Whom by? A. I expect it would be by Inspector Duncan.

Q. Is there any reason you know of why they should not have been handed to you the date they were issued? A. No.

Q. If they had been, would that have been in accordance with the almost invariable practice? A. That would be the regular practice; I should get them the day they were issued.

Q. This would be an exception then? A. Yes.

Q. When that is entered there and registered, is any notification sent out?  
A. That would be a matter entirely with the inspector; I would have no interest in that matter at all.

Q. What is the practice about it when the warrant is issued; it is, as you say, brought to you and recorded immediately? A. Yes.

Q. Then what takes place with regard to its execution; is there any notice given to the city police, for instance? A. There is a report made of the circumstances in connection with the warrant and the offence committed; those are con-

veyed by the detective who is marked for the case to the inspector, and he either wires or telegraphs to whatever city the man is supposed to be in.

Q. If those were not returned to you, handed in to you promptly on being issued, would that delay the notification? A. Not necessarily; the inspector could still write or still communicate with outside points.

Q. The practice is as you detail: bring it to you, have it recorded and the report goes on, and notification? A. Yes.

Q. Is there any book called the "Occurrence Book"? A. Yes, in which all reports are made of everything.

Q. What do you remember about entries connected with these warrants in that book? A. The occurrence would not be made owing to the number I see here opposite Dr. Beattie Nesbitt's name; the occurrence with reference to that case has not been made till late in the year of 1911.

Q. Why would that be? A. That I could not say; that is a matter entirely with Inspector Duncan.

Q. That he would have to account for? A. Yes.

Q. You have a series of numbers there? A. The number of the report would indicate that it was not made until late in the year.

Q. That is taking it in its proper sequence? A. Yes.

Q. It would be considerably later than those that appear prior to it? A. Yes.

Q. Is it your duty to notify anybody, the city police for instance, immediately on a warrant being issued? A. Yes, in the Divisional cases if the warrant is issued for a man, in whatever district the man is supposed to be I ring up and notify the acting detective that a warrant has been issued for a man, giving the name and address and giving the offence.

Q. That is when the warrant is issued you notify, if possible, the most likely spot? A. The detective would not receive that report till the following morning when he comes down to the office.

Q. He would not receive that? A. He would not receive the written part of it; I would give him all that is on the occurrence over the telephone and he would act on that, if he could get the men in the night before.

MR. COMMISSIONER: He is speaking only of the city? A. Yes, just of the city.

MR. HODGINS: Does not it go further than the city? A. No, I would not interfere outside the city.

Q. Would not you send them to all divisions in the city? A. For instance, if there is a warrant for a man in Stratford I would not interfere at all, I would simply communicate the facts to Inspector Duncan.

Q. If a man was in West Toronto or might be there and might be in East Toronto? A. I would telephone to the station.

Q. To which? A. To No. 10 or No. 9 station, as the case might be.

Q. Suppose you were not certain which it was in? A. If that was the case I would have to leave it in abeyance till the detective got the report himself on the following morning.

Q. Would it go on the occurrence sheet what you did? A. The telephone message would not. You understand when the warrant is taken out, the party taking out the warrant would come up to the office and give all particulars about the man that is wanted, and from that I would telephone to the different stations. The detective would not receive that report till the following morning.

Q. That is what I thought, that you put it on your occurrence sheet and notify the other stations? A. Yes.

Q. Did that take place in the Beattie Nesbitt case until the warrants were finally turned in? A. Apparently from the number the report in his case was not made till very late.



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Q. Would the notification therefore be delayed? A. Apparently we were not familiar with the facts until later.

The Commission adjourned at 12.05 p.m. until to-morrow, July 18th, 1912, at the Railway Committee Room of the Senate, Ottawa.

Ottawa, July 18th, 1912.

The Commission resumed in the Railway Committee Room of the Senate, at 11 a.m.

PRESENT:—

HON. SIR WILLIAM MEREDITH, Commissioner.

FRANK E. HODGINS, K.C. and JOHN THOMPSON, K.C. representing the Dominion Government.

GEORGE EDWARD MULLIGAN, Sworn, Examined by—

Mr. HODGINS: Are you the proprietor of the Russell House in Ottawa? A. Yes.

Q. You were I suppose in 1906, were not you? A. Yes.

Q. Have you your hotel register of November, 1906, with you? A. Yes.

Q. Let me see it? A. (Produces).

Q. This stops at November, 28th, have you not the one succeeding that? A. Yes.

Q. Where is it? A. Down at the hotel.

Q. Why was it not brought up? A. I supposed that was the only one you wanted.

Q. I want the other one? A. I will send for it. The reason why that book did not come up I am asked something I do not know anything about.

Q. You refused to let Mr. Thompson go over the books? A. I refuse to let anybody go over our books.

Q. If you had allowed him to indicate—? A. Mr. Thompson might have indicated to me and I would have brought whatever he wanted brought.

Q. Have you sent for it? A. Yes.

Q. You have Mr. Peter Ryan registered I see on the 28th? A. Yes, sir.

Q. And Mr. James Pearson? A. Yes; we have quite a few from Toronto there on that date.

Q. I suppose that would indicate his arrival in the morning would it not? A. Yes, sir.

Q. There is no room number? A. No, he did not have a room.

Q. How do you know? A. It would have said in that column.

Q. This does not indicate he had a room? A. No, he had no room.

Q. Was Anderson with him? A. That I am not in a position to say, I do not know.

Q. Who came with him? A. I do not know that anybody came with him. Mr. O'Brien is coming up here, I have sent him after that book and he will be able to give you more information on that point than I.

Q. Is that "E.P." after his name? A. That means European.

Q. Have you rooms A. B. C. D. and so on, as well as numbered rooms? A. No, sir.

Q. I suppose you know Peter Ryan? A. Very well.

Q. Was he in the habit of staying at the hotel when he came down? A. Yes, sir, I have never known him to stay over night except once in my life I think;

he used to come in in the morning and go out on the late train. Our cash book does not show that he paid us anything on that date. On the European plan he would pay as he got his meal, the cheque would be handed him after he had his meal and he would pay the cashier and it would not appear in the cash book.

Q. I thought you had a system under which you could sign a cheque there?

A. Yes, in that case that check is brought to the office and charged up to his account.

Q. Look and see what his account shows? A. I can tell you what his account shows; it does not show in this book; I will have that brought up for you.

Q. What book is that you have? A. This is the cash book; it is merely transferred in our transfer ledger with European plan marked after it with no room attached to it.

Q. What book is this you have got? A. This is my cash book; I have sent for the other book.

Q. Will you send for the ledger? A. Yes, sir.

Q. Now, let me look at the cash book? A. Yes; his name would not appear there if he paid for his meal in the restaurant unless he signed a check which the transfer ledger shows he did not do.

Q. Do you find him on the 29th or 30th or did you look? A. I did not look.

Q. Your hotel is, and was at the time, a resort was it not for almost everybody that comes down? A. Well, we had up to the present time—

Q. A great meeting place? A. Yes.

Q. Do you remember what Mr. Ryan was doing that day at your hotel? A. No, sir, I do not.

Q. Did you see him at all? A. Of course I have seen him quite often, but I would not remember that particular date.

Q. You have no recollection whether he was there for a day or two days? A. None in the world except just what the book shows.

Q. Would you know when Mr. Hunter who is registered the same day, went up—do your books show? A. Yes, sir.

Q. This one or the ledger? A. The ledger will show.

Q. The same with regard to Travers? A. Yes.

Q. Could Mr. Ryan have the use of a room of he wanted it? A. I suppose he could, but it would be assigned to him on the book.

Q. He was well known? A. Yes.

Q. If he wanted a room without your charging for it he could have had it? A. We would charge him for it.

Q. Just for the temporary use during the day? A. Surely, he might throw some person out of a room that day; all hotels charge.

Q. I am speaking of your hotel? A. Yes, of course if he wanted it for five minutes or so to wash he might get it; if he occupied it for any length of time he would have to pay for it, and it would show on our cash book.

Q. Had you any guests on that day who had rooms who were not registered?

A. I prefer your asking that question of Mr. O'Brien, because he would know better than I do.

Q. What is your knowledge of it? A. I could not say, I do not know, they did not get them through myself.

Q. It is possible there may have been some, if so O'Brien will know? A. O'Brien will know if they had.

MR. COMMISSIONER: Who is F. W. Grant, of Midland? A. I do not know him.

Q. Who is J. T. Johnston, of Toronto? A. I think he is a travelling man; my room clerk looks after that book and he will know.

Q. George Anderson, don't you know him? A. No.

Q. What does room 7 mean in pencil here? A. Sample room.

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Q. That would indicate he was a commercial traveller? A. Yes. Those figures were made by Mr. O'Brien. I guess I do not know Anderson. I think Anderson was afterwards connected with the Rea Co. over here, I think that was the man.

Q. Is he a tall black haired man? A. No, he is a red haired man.

Q. Who is George Ross, of Toronto? A. That might be the Hon. Mr. Ross.

Q. No, he is George W., room 135; probably Mr. O'Brien may be able to tell. There was George Ross, the Post Office Inspector, would it be he? A. I do not know.

Q. What does that tick mean in red ink? A. That means likely he did not want a room when he came in, and they just ticked it off.

Q. What do these figures 30 and 25 mean? A. That means rate.

Q. The rates vary? A. It is a private mark of our own.

MR. HODGINS: Do you ever have auction sales of timber limits? A. Yes.

Q. Is that of frequent occurrence? A. It was a few years ago, more so than to-day; because any limits that are sold around here as a rule are sold in our place.

Q. Where do they sell them? A. From the stairs as a rule, or just from the lobby.

Q. Just outside the office of the hotel? A. Years ago when we had big stairs in the office there in the lobby they used to sell them from the stairs; the last couple of years they stand on a table in the lobby.

Q. Did you make any charge for selling in there? A. No, sir.

Q. You let some one come in and not even pay for a room and use your hotel to sell limits and not charge them? A. Yes, it is an attraction, it brings a lot of people there.

## WILLIAM S. CALVERT, Recalled:

MR. HODGINS: I do not think when you were examined before I asked you whether you knew Mr. Peter Ryan? A. I do.

Q. Have you known him for a long time? A. For a number of years; I do not remember when I met him first.

Q. He is registrar of East Toronto? A. Yes.

Q. A well known politician I am told? A. Well, I do not know in regard to a well known politician, I do not know that he has ever run as a member.

Q. You live in the west of Ontario and we had a gentleman from there who said he did not know Mr. Ryan and never heard of him? A. I read that in the paper the other day.

Q. You would not go that far? A. No, I know Mr. Ryan very well as a friend.

Q. He was a politician although he did not occupy a seat in Parliament? A. I understood he used occasionally to speak on the stump.

Q. I think you could safely go that far? A. Yes, while I never heard him.

Q. Did Travers know him before he met him in Ottawa? A. I have not the slightest idea whether he knew him or not.

Q. He says you introduced him? A. I saw by the papers that he had asked me to introduce him to Mr. Ryan, whether I did or whether I did not, I have not the slightest idea, because I have introduced many a man and I do not know whether I introduced him or not, I have no recollection of it whatever.

Q. What Travers says at page 1660 is this:

“Q. Mr. Calvert says he only met you when he presented the letter of introduction to him? A. He is mistaken about that, because we were in the Russell House together and he introduced me to several people.”

“Q. Introduced you to Mr. Ryan? A. Yes, that is my recollection.”

WITNESS: My recollection of that would be that that would be after the introduction. I do not remember of ever seeing or hearing of Mr. Travers, I may have heard of him, because he says he wrote to me—but I do not remember anything of the man at all until he brought the letter of introduction; I had nothing in common with him, and consequently I knew nothing of him in particular.

Q. You think if you introduced him to anybody it would be after he presented his letter of introduction? A. I would think so, because I have no recollection of ever meeting the man before, and if I did introduce him I would simply introduce him in a casual way.

Q. That was at the Russell House; he also says he was in No. 16 Committee Room with Mr. Calvert after that, and was introduced to fifteen or twenty? A. I do not know what he would be doing in 16; I do not remember him in connection with the charter at all.

Q. What do people do in 16? A. Simply as people would come in here and chat with their friends.

Q. What is room 16? A. Right off the House of Commons. It is the Government Members room. No. 6 is the Conservative room; nothing in that any more than friends stepping in and chatting with other people.

Q. I am only getting your recollection as contrasted with Travers; would he be right in saying that he was in that room and he was introduced then by you to fifteen or twenty? A. I do not suppose for one moment I would take the trouble to introduce Mr. Travers to fifteen or twenty members; he may have come in there and I may have introduced him; at that time I suppose Mr. Travers was looked upon as the coming man in connection with the Farmers Bank; he had been in Hamilton a good many years and I suppose had a fair reputation, and I knew nothing of him; naturally you would say “This is Mr. Travers.”

Q. You had charge of the bill? A. I had charge for Mr. Urquhart and the provisional directors. I did that in many cases.

Q. You say he would be looked upon as the coming man? A. I presume if he came down representing the Farmers Bank as being introduced by Mr. Urquhart and probably—I do not remember what the letter said, but I presume it was giving me to understand that he was likely to be the manager of the bank, I suppose we would look upon him as a man of some standing.

Q. You had a room at the Russell House? A. I was at the Russell House probably in the neighborhood of 14 years on and off.

Q. You had a room there at the Russell House at this date? A. Yes.

Q. What was the number of it? A. I have had different rooms; I fancy at that time I had room 80, I am not just sure. I occupied room 80 for quite a while, and I fancy it would be at that time.

Q. Did he present his letter of introduction to you early in the day? A. In the morning a boy came to my room.

Q. With the letter? A. No, with his card I fancy, or told me a gentleman wanted to see me, I cannot remember exactly, and I said “All right, I will see him shortly”. I was getting ready to come up to the House of Commons and I said “I will come down and see him when I am ready”. And I came down to the rotunda and met the gentleman and he gave me the letter of introduction; that is my recollection of it.

Q. The letter did not accompany his card? A. I do not think so; I cannot just remember but my impression is he handed me the letter. I said “All right, Mr. Travers I am going up to the House,” and on the way up Mr. Fielding the Finance Minister was in the building, and we walked across here and the messenger was at the door and he said Mr. Fielding was not in, but he will be in shortly. We

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stood there perhaps three or four minutes, there were one or two other gentlemen standing there at the time and Mr. Fielding came in and I introduced him the ordinary way as I would anybody else.

Q. Just as Mr. Fielding came in? A. Mr. Fielding came in, we just met him at the door and I told him, I fancy we stepped into the door, and I introduced Mr. Fielding to Mr. Travers, and my recollection is I came up here to the House.

Q. Travers arrived on the morning of the 28th that would be the day? A. I do not remember the day.

Q. When was it you introduced him to people in the Russell House, later on in the day? A. I do not recollect of introducing him to any person in the Russell House; if I did, it was in the most casual way.

Q. Did you meet him after you had left him with Mr. Fielding, did you meet him again? A. I have no recollection of meeting him because I had no interest in it, I was not interested at all further than to please Mr. Urquhart and the gentlemen connected with it.

Q. Did you have any communication from Travers after you left him at the door of the Finance Minister's room? A. Not that I remember of.

Q. Possibly you may have seen him? A. I may have seen him, but it was simply a matter of routine business with me, and whatever I did, I did it in the ordinary way, and of course I do not recollect of having seen him.

Q. You have told us that? A. I do not recollect of having seen him at all.

Q. Did you hear from him afterwards? A. I do not remember hearing from him; I might have but I do not remember.

Q. Did you meet W. H. Hunter? A. I do not think I know Mr. Hunter; I cannot place Mr. Hunter.

Q. Did you see Mr. Fielding afterwards and ask him what he had done for Travers? A. I don't think I did. I do not remember of having done so.

Q. Mr. Travers I suppose had explained what he wanted to you? A. The letter said he came down for that purpose to get the certificate for the Farmers Bank I presume.

Q. He was in a hurry to get it? A. I suppose he was.

Q. Having introduced him? A. He had only a limited time to get it, we only gave him six months, and I do not remember when the six months would be up.

Q. In January? A. Well, he got the certificate in November.

Q. Did you never have curiosity enough to ask Mr. Fielding afterwards? A. I never asked Mr. Fielding as I did hundreds of things and hundreds of times, various things; I was not interested in it particularly further than a public man to give them the legislation that I presumed was correct. It was a bill called the Farmers Bank, and I was a little interested that it would not be turned down, because I would not want it to be said that we turned down a bill of farmers and we gave it to somebody else.

Q. I suppose that motive would operate in the face of opposition to the granting of a certificate? A. It would what?

Q. It would operate, if there was opposition to the granting of the certificate? A. Operate to give it to them?

Q. Yes? A. If it was correct they were entitled to it.

Q. Did you tell Mr. Fielding that? A. I told Mr. Fielding that; my recollection of it is if it is correct then they are entitled to it, and not if it is not.

Q. Had it been a matter of discussion whether or not it would be advisable or inadvisable? A. Not with me.

Q. To turn down the farmers' application? A. No, no discussion with me.

Q. Mr. Travers represented the farming element in seeking a bank? A. I do not know that Mr. Travers was taken into consideration particularly at all.

Q. It was the farming element? A. No, it was the gentlemen promoting the bill in the first place, and they seemed to be good men.

Q. Who were they? A. The provisional directors, and Mr. Urquhart as their solicitor.

Q. Who were they? A. Mr. Fraser, Dr. Ferguson and the other gentlemen; I presume they were all good men.

Q. Did you get a note from Mr. Travers after his interview with the Finance Minister? A. I do not remember any note.

Q. Did you get any envelope from him? A. No.

Q. Did you ever see any envelope addressed to Peter Ryan? A. No, directly or indirectly in any shape or form, or anybody else in connection with anything of the kind, and such a suggestion was never mentioned to me or by me.

Q. What suggestion? A. About giving an envelope or a cheque or anything of the kind.

Q. Was any contribution made by Travers to the party funds? A. Never that I knew of, never known to give a nickel.

Q. Would you know if he had? A. I might not know.

Q. Did you introduce him to Mr. Emmerson? A. Not that I know of; do not remember introducing him to anybody but Mr. Fielding; if I did it was a most casual thing.

Q. Were you advised by Mr. Fielding when the certificate had been issued? A. I do not think so, no.

Q. Or by Mr. Boville? A. No; do not remember of them ever advising me in connection with it at all. Why should they?

Q. I did not know whether you had interest enough to ask? A. I do not think I ever asked.

Q. Were you consulted after Sir Edward Clouston's letter was received by the Department? A. No.

Q. Were you advised of it? A. No, knew nothing of it until I saw the evidence.

Q. Were you ever advised that Mr. Leighton McCarthy had protested against the issue of a certificate? A. No, not advised.

Q. Never heard of it? A. Saw it in the papers.

Q. Did you discuss that phase of it with the Finance Minister? A. No; Mr. Fielding did not discuss those things; he generally dealt with them himself.

Q. Or Mr. Boville? A. No.

Q. Or any one in the Department? A. No one that I remember of.

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Mr. George E. Mulligan produced the register of the Russell House, beginning the 29th November, 1906, and also the ledger.

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JOHN O'BRIEN, Sworn, Examined by—

MR. HODGINS: You are the room clerk? A. Yes.

Q. You were also room clerk in 1906? A. Yes.

Q. We find on the 28th November Mr. Ryan's name there? A. Yes.

Q. Who did he come with? A. I could not say.

Q. I suppose you know him? A. Yes.

Q. He is a frequenter? A. Yes.

Q. Always comes there when he is down? A. Yes.

Q. You knew him pretty well? A. Yes.

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Q. What time does that indicate that he arrived? A. I could not say that; it is somewhere in the morning, but I could not say what time.

Q. You see "L" stands for lunch opposite his name? A. That is for lunch.

Q. And it would look as if he had not come in early to breakfast? A. No.

Q. Why did he register if he was not taking a room? A. The majority of people do that in case anybody should inquire for them or any telegrams come for them we would know they are there. There are a lot of people registered who did not have rooms.

Q. Did he have a room? A. No, sir.

Q. How can you tell? A. There is no room marked off.

Q. He might have had a room and not be marked down? A. Not as a rule, we do not do that.

Q. He was auctioning off some limits and you did not charge him for the use of the hotel rotunda, would not they give him the use of a room? A. No, the ledger shows too he did not have a room; here it is here.

Q. Under what date? A. The 28th November.

Q. Why is his name entered in this ledger? A. We always put them through because we have to copy the names off there.

Q. What do the entries indicate? A. This is the room and this is the arrival and this is the departure.

Q. What is the departure? A. He did not have anything, we marked him off.

Q. You do not put down any date, you just put a couple of strokes? A. Yes; that stands for European.

Q. Look him up on the 29th and 30th? A. He is not registered on the 29th or 30th in this book.

Q. What do these marks indicate in that register opposite his name? A. "E. P.", European; we marked him off as not staying over night.

Q. You do not find him there on the 29th or 30th, according to the ledger? A. No.

Q. What was Mr. Calvert's room at that time? A. He had several rooms there; I cannot just tell you offhand what room he has had.

Q. Look on the 28th? A. It would not show in here because he has been a regular boarder.

Q. Do not you keep a list of the regular boarders in any book? A. Yes.

Q. He thinks it was 80? A. He has had 80 and 146 for years.

Q. Would you look at W. R. Travers on the 28th or 30th; tell me when he arrived? A. He arrived on the 28th.

Q. Tell me when he left? A. He left on the 1st December.

Q. Would that be the evening of the 1st? A. It might be the evening of the 1st; on the European plan we charge for the night only; we have him marked out on the morning of the 1st December after breakfast.

Q. Would that indicate he left by the morning train for Toronto, having slept the night, November 30th? A. He slept the night of the 30th.

Q. Do you find W. H. Hunter registered and what date did he leave? A. He did not stay over night; he did not have a room either.

Q. He was there on the 28th, apparently left that night? A. Yes, sir.

Q. Was Mr. Emmerson a guest at that time? A. I could not say, sir.

Q. Would the ledger show? A. No, they would not show the permanent people.

Q. If he was a transient guest? A. No, sir.

Q. I suppose you recall Travers, you know him? A. No, I do not.

Q. Was not he there more than once after that? A. He might have been, but it is so long ago that I do not remember.

Q. Do you know Mr. Hunter? A. Yes, sir.

Q. Quite sure you do not know and did not know Mr. Travers at that time?

A. No.

Q. He stayed three days in the hotel? A. We had quite a few people there, and unless he was coming back and forth all the time we would not know him very well.

Q. He has said this, that he got from somebody at the desk in the hotel the room number of what he was told was Mr. Peter Ryan's room, and that he handed in a letter with that room number on it addressed to Peter Ryan, Esq.; have you any knowledge of that? A. No, sir.

Q. Supposing that took place, what would you do with the letter? A. If he sent it in a letter addressed to Mr. Ryan and Mr. Ryan had not a room we would give it to him as soon as we saw him; that is the reason they register.

Q. If he had not a room and a letter was handed into you addressed to Peter Ryan you would keep it and endeavor to get him as soon as you could? A. Yes.

Q. If it had a room number on it, say Peter Ryan, room 300, and you being room clerk knew he had not a room what would you do with it, send it up to the room? A. No, we would keep it at the office because we would know he had not a room.

Q. You know Mr. Calvert? A. Yes, sir.

Q. Did Mr. Ryan say anything to you about him? A. No.

Q. Make any inquiries about him? A. I do not remember.

Q. Mr. Calvert says Mr. Travers' card was sent up to his room in the morning of that date, and he came down and was presented with a letter? A. I do not remember that.

Q. Had any people at that time rooms who were not registered? A. Not to my knowledge; we always make them register before we give them a room.

Q. Sometimes if is inconvenient for some people to be on the register, is it not? A. They have to register for a room.

Q. A man coming there to stay there permanently? A. They do not register, people like that, who have the rooms by the month they do not register.

Q. So that there may have been people there who are not on the register who had rooms? A. Yes.

MR. COMMISSIONER: Who is George Anderson? A. He is a traveller from Toronto.

Q. Did he come with him? A. He came in at the same time.

Q. By the same train probably? A. Yes.

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THOMAS C. BOVILLE, Recalled by—

MR. HODGINS: You were examined before? A. Yes.

Q. And owing to something that Travers has stated I want a little further information from you; he says the actual subscriptions for these shares were sent down to him in Ottawa; you know what I mean, the subscriptions signed by the individual shareholders agreeing to take shares, which would be signed throughout the country and collected in the office of the Farmers Bank? A. Yes.

Q. And he said those were sent down to him while he was in Ottawa, and he went over those, as I recollect his evidence, or some of them, with the Minister; now I want to know whether you ever saw them? A. No.

Q. What he says is this, page 505: "Q. Did he ask you—that is speaking of Mr. Fielding—to see any of the subscriptions which you had sent down A. No, he did not, because I am under the impression that Mr. Boville or Mr. Boville's assistant looked at some of them; I remember taking them over.



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"Q. They are all here, a pretty large bundle? A. Yes, but they were not in that shape; we had them all in condensed form.

"Q. So that is was possible to carry them about? A. Yes.

"Q. What is your recollection of any one in the Finance Department looking at them? A. My recollection is I think it was Mr. Boville".

WITNESS: No, I never saw them; the only document with regard to the subscriptions which I have at all any recollection of seeing was the list of subscriptions attached to the affidavit, not the original subscriptions but the list as attached to the affidavit.

Q. He put the date at which he thinks you saw them the second day after Hunter left, which would be the 30th, that would be the day on which the certificate issued. On page 506:

"Q. And as you got your certificate on the 30th, I suppose if Mr. Boville saw those subscriptions he would have seen them on the 30th? A. On the morning the first time I went over.

"Q. Is that the morning you went over and just saw Mr. Fielding for a moment and was put off till the afternoon? A. Yes.

"Q. You took over your subscriptions with you? A. Yes, that is my recollection.

"Q. Who asked you to show them to Mr. Boville? A. I do not think anybody asked me, I was speaking to him as I passed in and laid them down.

"Q. You said you laid the subscriptions down when you were speaking to Mr. Boville; what did you do that for? A. I just invited him to look at them".

Then later on: "A. When we went in the first time we showed everything to Mr. Boville, all our notices and affidavits and everything".

Then on page 507 he says: "I am positive that we looked at two or three of those subscriptions".

WITNESS: I have no recollection whatever of any of those original subscriptions having been submitted to me.

Q. Would Mr. Ross by any chance have seen those subscriptions if they were down there? A. What date was this, 1906?

Q. Yes? A. I do not think Mr. Ross was appointed at that time.

Q. He said that in his conversation with the Finance Minister there were specific discussions with regard to some of the subscriptions, and that he made an explanation that certain subscriptions of the list should really have been taken off, and that there was no provision in the Bank Act to take them off, that he had to put on Lindsay's subscription to make a larger amount? A. I have no recollection of anything of that kind.

Q. The Lindsay subscription was a \$50,000 subscription? A. Was a large one, yes.

Q. And he thinks that was discussed? A. Yes.

Q. At page 508 he puts it this way: he speaks of Mr. Fielding's interview, then he says, "Mr. Boville's was very different altogether. I saw Mr. Boville as I passed through in the first place; I had no discussion whatever with Mr. Boville regarding any subscription, that list, or anything about the subscriptions, but I had the second day when I went in; he looked at them but did not pay very much attention to them, that is my recollection of it.

"Q. In order to make it quite clear you went into Mr. Boville's office with the subscriptions? A. The second day.

"Q. The day you got the certificate? A. The day I got it, yes.

"Q. Did you discuss any subscriptions with him? A. No".

Then a little later on, he said: "We deposited the list and the papers in the first place, and the second day I went there I laid the subscriptions down. I thought they would look at them while I was away.

"Q. Did you tell him what they were? A. Yes".

Then he says you could not help seeing them?

WITNESS: I have no recollection of the original subscriptions whatever.

Q. Did the Finance Minister, Mr. Fielding, discuss with you any individual subscription? A. I think our discussion was rather on general lines, that the subscription list was a large one and seemed fairly well distributed, but I have no recollection of the discussion of any particular subscriptions.

Q. He says he discussed specifically with Mr. Fielding the \$50,000 subscription of Lindsay; did Mr. Fielding discuss that with you? A. I have no recollection whatever of a discussion of that kind.

Q. Travers further says that he had three interviews with the Finance Minister; are you able to say whether that is in your knowledge or not? A. I could not definitely state as to the number of interviews; I knew there were some interviews.

Q. Did Mr. Travers mention to you the Laidlaw subscriptions which were the subject of a suit? A. No.

Q. Did you discuss them with him at all? A. No.

Q. Did Mr. Fielding mention it to you? A. No.

Q. Or any other individual subscription? A. No.

Q. He says there is no doubt that Mr. Fielding had been communicated with and spoken to by numerous people about the list, were you one of those who had informed Mr. Fielding at all? A. No.

Q. How did it come that that letter was written asking for the individual amounts paid on the various subscriptions? A. On account of these floating rumors which have been referred to before that it was possible that the directors may have been endeavoring to obtain advances from the banks to make up their \$250,000 we wanted to make certain whatever money came to us in the shape of a deposit came legitimately from the subscribers.

Q. Very shortly before Travers came down that letter was written? A. Yes.

Q. That was written anticipating an application? A. Yes.

Q. He brings you down the list showing you the subscriptions, the individual amounts paid apparently? A. Yes.

Q. And then it is that he says Mr. Fielding, and it seems natural although Mr. Fielding denies it, that inquiry would be made as to the individual subscriptions; did you make any inquiry? A. No, we relied on the affidavit.

Q. If Mr. Travers is right in saying he spoke to the Minister—the Minister denies it of course—at all events as you know you were not communicated with by either Travers or Mr. Fielding? A. No.

Q. He said that in discussing the Laidlaw subscription he pointed out that there was nothing to permit him to take them off the stock list once they were put on there; that is a peculiar question, and if it came up I fancy you would remember it? A. I fancy it would stay in my mind.

Q. Do you remember it at all? A. No.

Q. Had you discussed that with Mr. Fielding in a general way apart from any specific reference to the Laidlaw subscriptions? A. No.

Q. Did any telephone message come on the 30th before the certificate was issued from any one regarding the issue of the certificate? A. Any telephone message?

Q. Yes? A. Of what nature?

Q. Objecting to it being issued or saying that the letter was on the way? A. No.

Q. No telephone from the Bankers' Association? A. No.

Q. None from Sir Edward Clouston? A. No.

Q. Or Mr. Knight? A. No.

Q. Did you discuss at all with Mr. Fielding what he and Mr. Calvert have mentioned, the fact that this application was made on behalf of the farmers practically, and that they did not want it said that they had turned down the application? A. There may have been some conversation of that kind, but not a discussion.

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Q. Were you present at any of the discussions between Travers and Mr. Fielding? A. I may have been called in by Mr. Fielding for a few minutes, it is quite possible.

Q. Have you any definite recollection? A. No definite recollection.

Q. Could not say what occurred? A. No.

Q. The Ministers Budget speech had been delivered as far as I can make out on the 29th November? A. Yes.

Q. And the 28th was the day Mr. Hunter and Mr. Travers were in Ottawa? A. Yes.

Q. And if they came in apparently they did not see Mr. Fielding? A. No, I do not think they would because he would be very busy in his preparation, see nobody.

Q. Mr. Calvert's recollection is that he introduced Travers to Mr. Fielding on the 28th? A. It may be, but it is not likely Mr. Fielding would be interrupted in the preparation of his Budget.

Q. You think he would be busy? A. Yes, rather.

Q. Then you would be the one that he would naturally communicate with? A. Probably left his papers with me on the 28th.

Q. Was he conscious of any hitch on the 28th? A. No other hitch than any hitch that would arise out of my letter to him with regard to the subscriptions from each individual shareholder.

Q. Did he deliver those to you on the 28th? A. Yes.

Q. After looking at it as you did, did you say anything to him about it to lead him to think there was a hitch? A. No, I do not think so.

Q. Was there a hitch? A. There was not any hitch; the papers seemed to be in order; the list of subscriptions seemed to be fairly large and widely distributed, and on the face of it there apparently was not any hitch.

Q. You sent it over to the Deputy Minister of Justice the same day according to the letter? A. Yes.

Q. That would not have been done if you had not been satisfied with the list? A. No, we would have held that for discussion.

Q. Did any one speak to you on the 28th and urge you to help it through? A. Urge me?

Q. Yes? A. No.

Q. Or say to you, help it through? A. I have no recollection of any one having said anything to me of that nature with regard to putting through the certificate.

Q. I am not suggesting there was anything improper in that; did any one in a friendly way say to you "Now, here is this man down, help it through"? A. I have no recollection of anything of that kind.

Q. Did you have any talk with Mr. Calvert on the subject? A. I have no recollection of a conversation with Mr. Calvert; I may have met him on the street casually; I have no recollection of him coming to the office specially.

Q. Or any of the Ministers? A. No, no recollection of any Minister having spoken to me with regard to it.

Q. Nor any one else? A. No; I think the negotiations were between Mr. Fielding and myself altogether.

Q. You say the 28th and 29th and 30th were the three days and only the three? A. Yes.

Q. You do not recollect any one at all speaking to you? A. No recollection.

MR. COMMISSIONER: What day was the 28th? A. The Budget speech would probably be delivered on a Thursday; it was delivered on the 29th.

MR. THOMPSON: Wednesday was the 28th November, 1906.

MR. COMMISSIONER: Have any regulations been passed as to what is to be done in order to obtain a certificate? A. No regulations have been passed.

Q. None have been passed up to this date? A. No.

Q. You simply act upon the provisions of the Bank Act? A. Yes.

Q. How far is that a matter of routine before it reaches the Treasury Board or the Minister, departmentally, if I may use that expression? A. The various clauses of the Bank Act—what would probably be done, the various clauses of the Bank Act leading up to the granting of the charter would be taken, the notice in the Canada Gazette would be checked to see those were correct; the deposit would be examined to see that that was correct; the various steps, the election of directors and so on would be verified in whatever manner seemed best to us by affidavit or otherwise, but we satisfy ourselves that the various steps required by the Bank Act are taken; the duty is sometimes subdivided.

Q. That is primarily your responsibility? A. Yes.

Q. If the papers appear in order what is the next step? A. Then I would advise the Minister of Finance that the Department had gone through the papers and that they seemed to be in order, were apparently to us in order, and await his further instructions.

Q. Is there any certificate given by you or by any officer that the papers are in order? A. Not always; sometimes an officer will certify he has gone through the papers, and sometimes he will report verbally.

Q. Does the officer assume any responsibility for examining the list in order to determine whether it is a good list of shareholders? A. No; I myself would look through it and gather generally whether it is a good list.

Q. For what purpose? A. Simply for advising the Minister that the list was widely spread.

Q. Do you assume if it was not a satisfactory list the Treasury Board might refuse to grant the certificate? A. By all means.

Q. That you understand to be in the discretion of the Board? A. Yes.

Q. The letter that Mr. McCarthy had written had been withdrawn? A.

Yes.

Q. You treated it as if it had never existed? A. Yes.

Q. Do you not now see that that was probably a mistake? A. Oh, yes.

Q. The letter contained two branches, one of which contained information as to the discounting of the notes, and the other the complaints of his clients? A. Yes.

Q. So that as far as the discounting of the notes was concerned that remained, although the documents were withdrawn? A. Yes.

Q. But I suppose that escaped observation? A. That was off-set, sir, by the very clear and distinct affidavit.

Q. You had the affidavit? A. Yes.

Q. You spoke about a letter you wrote to Travers? A. Yes.

Q. I do not see it among the papers; what date was that? A. It should be there; it would be a week or two before that.

MR. HODGINS: November 21st is the date.

MR. COMMISSIONER: Is that this letter of November 21st, 1906; "Referring to your letter of the 23rd October, making a deposit under section 13 of the Bank Act of the sum of \$250,000, I have no doubt that you will be applying very shortly for a certificate under section 14 to commence business. In the papers to be submitted to the Board in support of the application there is a list of bona fide subscribers"—I suppose that meant there is to be a list? A. Yes.

Q. "There is a list of bona fide subscribers of capital stock of the bank showing subscriptions to the extent of \$500,000. Would you be so good as to have added to this list for submission to the Board a statement showing the actual amount of cash paid up by each subscriber". That last paragraph, what led to that? A. These statements that were spread abroad.

Q. I see in a letter you wrote to Mr. Clouston on the 3rd December you say: "I previously had some conversation with Mr. Fielding, who was very busy in the preparation of the Budget speech, with regard to this application. But on Friday

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last, the day after the delivery of the Budget Speech, Mr. Travers, the General Manager had an interview with him. In the course of this interview that gentleman gave a most positive assurance that 'Not a dollar' of the amount deposited had been borrowed. For the purpose of record Mr. Fielding wrote Mr. Travers a letter, of which I enclose a copy, asking for the assurance that the amounts set forth in the application as having been paid in were in every case bona fide cash payments. I enclose a copy of Mr. Travers' reply."

Were you present when the assurance was given by Travers or was that upon information? A. Probably upon the information of the Minister.

Q. Who dictated the letter of the 30th November, the one that is referred to in that letter to Sir Edward Clouston, the letter to Travers; was that Mr. Fielding's letter or your letter? A. Mr. Fielding dictated it, dictated by Mr. Fielding himself.

Q. I want to call your attention to the language of that letter and the language of the reply. After the early part of the letter which is not important: "There is a phase of the matter which I should like to bring to your notice so that you may consider it at once. It has been represented to us that in some previous instances where an application was in all respects apparently regular, there was actually an evasion of the intention of the Bank Act in relation to the paid up capital. We have been told that in some cases the subscribers did not actually pay in cash, but gave notes to the provisional directors which were used to raise the money. On account of information of this kind, which has reached us in relation to a previous case, we deem it proper to scan very closely every application for a certificate which comes to us."

Was not this in regard to this very application? A. That is Mr. Fielding's dictation.

Q. Mr. Fielding apparently was in error about that, because it was in regard to that very application? A. He may have had information of some previous case.

Q. But surely you know that what he would call his attention to would be the information about this particular case he was dealing with? A. I do not know.

Q. Then he says: "I shall be glad to have an assurance that nothing of the kind has taken place"—perhaps that was a polite way of letting Mr. Travers know—"I shall be glad to have an assurance that nothing of the kind has taken place in relation to the subscriptions for the Farmers Bank, but that the amounts set forth in the application as having been paid up have in every case been bona fide cash payments". That letter looks to me like a letter of a gentleman who did not know that any complaint had been made with regard to this particular one, because such things had occurred in other cases he was desirous of guarding against a similar thing happening? A. I would not like to interpret Mr. Fielding's dictation, but I have no doubt he had in mind that application.

Q. Are you sure that Mr. Fielding knew or had present to his mind when he wrote that letter, Mr. McCarthy's letter? A. I think so, yes.

Perhaps I may qualify it,—not so much Mr. McCarthy's letter as the general idea.

Q. Notice what Travers answer was and see it was no answer at all to the request; "In reply to your letter of the 30th November I have to say that in the case of the Farmers Bank of Canada the provisional directors did not raise the money in the way mentioned by you. You will find the statement put in by me absolutely correct as to the amount of the stock subscribed and the amount paid up." He did not answer the question at all? A. Not quite.

Q. The fact was, as we have found, that the money was raised upon the notes, the provisional directors did not raise it all, he raised it; that I suppose escaped notice? A. You must bear in mind that between the previous to the writing of that letter of Travers Mr. Fielding had a conversation with Travers.

Q. Would not that naturally make a man suspect? A. In view of the previous unconditional statement made by Travers in regard to the correctness of the method of raising the money I presume that was lost sight of in the case of that letter.

Q. I fancy if it had gone to the Minister of Justice's Department they would probably have noticed the difference. They are not lawyers in the Finance Department; and it was a very carefully prepared reply, as specious as it was brief? A. Specious, yes.

Q. How did it occur to you or to the Minister that he would be likely to get anything better to reply upon in the form of a letter when he had the sworn statement of the man whose assurance he was asking for, one was under oath and the other was not? A. I presume Mr. Fielding something to show he had taken—

Q. To put him on honor? A. Yes.

Q. Don't you think a thing of this kind indicates that some examination should be made by the Department at the source? A. That is what we do now; we have had cases since and we have.

Q. You do not rely upon any affidavit? A. No.

Q. You see at this time we really had no reason to suspect the bona fides of Mr. Travers other than any other general manager of a bank.

Q. Supposing he had frankly told you, "The provisional directors had notes of good farmers, \$100,000 odd, they endorsed them without recourse to me, I was managing the whole thing, and they were handing it over to me, and I borrowed upon my personal security, hypothecating these notes I borrowed \$80,000 which I applied to the credit of these men whose notes I held", what would have been the action of the Department. A. It would have been a question then whether that could have been regarded as a payment in cash, and probably we would have taken legal advice as to it.

Q. Apparently there is no information sought as to what the preliminary expenses of floating a bank are? A. No, it had not been usual to ask for that.

Q. It apparently cost about \$41,000 to get this bank up to that stage? A. Yes.

Q. If you had been told that either ten or fifteen per cent of a premium had been paid to Travers and his agents for securing subscriptions for the stock and that that had been paid out of money of the subscribers, would that have made any difference? A. The cost of collecting subscriptions?

Q. Not collecting them but of getting them? A. The agents commission?

Q. Yes? A. If the commission were fair and reasonable if we had the information we would not regard it as a very serious obstacle; of course if the expense of organization is excessive it is a question to bring before the Board, the Government; it is something they should know.

Q. I suppose if this were to be done over again it would probably be in writing what the objections were so that it could be in writing how they were disposed of? A. Yes.

MR. HODGINS: I am asking this question at your own request? A. Yes.

Q. Owing to what Mr. Travers has said, it appears that a sum of \$3,000 was received by somebody, Mr. Travers being under the impression that the receipt of that was going to help his getting the certificate through, did you get any part of that? A. Absolutely and unreservedly no.

Q. Do you know anything about any such sum of money or any sum of money having been used? A. Absolutely and unreservedly I have no knowledge of any such sum of money having been used in that way or any other way.

MR. COMMISSIONER: Travers himself said not. A. I would like to have it confirmed by better evidence.

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JAMES BROUGH of the Timber Branch of the Department of the Interior was present, but was not sworn. The following discussion took place between Mr. Brough and Mr. Hodgins:

MR. HODGINS: I would like to know the amount that Peter Ryan offered by tender for these limits which he has mentioned on the 22nd January.

MR. BROUGH: One cheque was \$350 and the other \$2,050.

MR. HODGINS: My recollection is there were four tenders by him that day copied in his letter book or it may have been three.

MR. BROUGH: No, there were only two that day.

MR. HODGINS: Were any tenders put in Mr. Scott's name or Mr. Pearson's name?

MR. BROUGH: These were on behalf of J. G. Scott.

MR. HODGINS: Were there no others, only the two?

MR. BROUGH: Yes.

MR. HODGINS: On the 22nd January?

MR. BROUGH: The 23rd January.

MR. HODGINS: That is the date they would be received here.

MR. BROUGH: Yes; that was the date of the opening of the tenders.

MR. HODGINS: Those were the only two, Ryan, Scott or Pearson.

MR. BROUGH: Yes.

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MR. HODGINS: Mr. Ryan asked me to examine the Members of the Treasury Board; I have made some inquiries. I think if they had been convenient in Ottawa, I would have examined them to satisfy him, but I think at the present while he has not withdrawn the request, I do not think he is insisting upon it. Mr. Fielding has been examined and of course has covered the ground, and I do not think either Sir Richard Cartwright's or Mr. Brodeur's denial probably is necessary unless something more is said than has already been said.

MR. COMMISSIONER: In reference to this \$3,000?

MR. HODGINS: Yes. I think I can fairly take the responsibility of not calling them. So that at present I have no further evidence to offer here.

The Commission adjourned sine die.

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Toronto, December 12th, 1912.

The Commission met at 11 a.m. at Osgoode Hall.

## PRESENT:

HONOURABLE SIR WILLIAM MEREDITH, Commissioner.

JOHN THOMPSON, K.C., representing the Dominion Government.

WILLIAM LAIDLAW, K.C., representing the shareholders.

W. C. MIKEL, representing depositors.

THE COMMISSIONER: Is there any further testimony?

MR. THOMPSON: There is no further testimony; but there has come to my notice a letter written by the Deputy Minister of Finance dated May 2nd, 1907, which perhaps ought to be filed as an Exhibit.

MR. COMMISSIONER: Very well; I suppose a copy of it is in the Return?

MR. THOMPSON: Yes.

MR. COMMISSIONER: The Returns that were made in answer to this request are on file.

MR. THOMPSON: Yes. A copy of a letter in reply to that, written by the general manager to the Finance Minister, was attached to it.

MR. COMMISSIONER: Let them both go in together.

EXHIBIT 91: Letter from T. C. Boville, Deputy Minister of Finance, to W. R. Travers dated May 2nd, 1907, and letter in reply from Travers to Minister of Finance, dated May 11th, 1907.

MR. THOMPSON: I have no further testimony to offer.

MR. COMMISSIONER: Has anybody else any evidence to offer? Mr. Clarkson, is there any information you can give that will be of any importance that we have not got from you?

MR. G. T. CLARKSON: No, sir.

MR. COMMISSIONER: No further light about that \$3,000 cheque?

MR. THOMPSON: You remember, sir, we adjourned to Ottawa and the clerks in the Russell House were examined, and they were unable to throw any light upon it. No new evidence has come to light since then. The chief clerk at the Russell House was to prepare a statement for me in connection with the people who had registered at the Russell House during certain days. I looked over that and there was nothing in that to throw any light upon the matter at all.

MR. COMMISSIONER: The cheque has not turned up.

MR. THOMPSON: No.

MR. COMMISSIONER: There was no stub for any cheque of that kind.

MR. THOMPSON: No, sir.

MR. COMMISSIONER: Nor any entry.

MR. THOMPSON: There is a cheque of \$3,000, but that is already on file.

MR. COMMISSIONER: Let me see that one. (Exhibit 60). This is January, some time after.

MR. THOMPSON: Yes.

MR. COMMISSIONER: Was this charged to commissions?

MR. G. T. CLARKSON: No sir, charged to fixtures and furniture.

MR. COMMISSIONER: Have we learned what the actual destination of the money was?

MR. G. T. CLARKSON: Mr. Travers, I understood said he got the money and cashed the cheque. I do not remember what evidence he gave as to the disposition of the money.

MR. COMMISSIONER: I think Mr. Travers might be called and asked about this.

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W. R. TRAVERS, Recalled:

MR. THOMPSON: One of the exhibits (Exhibit 60) is a cheque for \$3,000 on the Union Bank of Canada, dated January 7th, 1907; was that the cheque that you deposited in Ottawa to some unknown person? A. No.

Q. Look at that cheque, exhibit 60? A. I was unable to say what that was used for in my examination, and I cannot say. What I did say was this, that after this cheque was shown to me and I saw the moneys on the back of it I said it might have some connection with the other money but I could not say without seeing the date of payment of the other cheque.

Q. You told us you were expecting that \$3,000 from Ottawa and had made provision for it? A. Yes.

Q. I think your testimony was that when the cheque came in you collected the funds and cashed it? A. I cashed it. This cheque was shown to me, I think you will see in my evidence I said I was puzzled because the appearance of this



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money looked to me like the money I paid for that cheque; if I had the other cheque and I paid it on this date, I would almost be able to swear positively that was the money.

Q. Your impression is you may have issued that cheque on the Union Bank to provide funds for the cheque which you gave in Ottawa? A. No, I did not say that; I do not know what this was used for; I think in all probability, at least it is possible, I changed the money I had in my desk, in my box, for that money; that is why I said if I had the cheque that we might see where that was deposited and what bank, which would clear up the whole thing.

Q. You are referring now to the proceeds of this Union Bank cheque? A. I do not know what that \$3,000 was used for, the books do not show, paid to me.

Q. Would the date of this Union Bank cheque be about the date on which you were expecting the \$3,000 cheque from Ottawa? A. I could not say that; it seems to me too early; I think it was later than this.

Q. You think the cheque from Ottawa came in after the Union Bank cheque? A. Yes, I think it came in later than this.

Q. Did you give the cheque in Ottawa in October? A. I gave it on November 28th.

Q. I thought your testimony was to the effect that the Ottawa cheque came in about a month or six weeks after? A. Yes, that is what I said, about a month or shortly after the bank opened.

Q. Would not that correspond with the date of the Union Bank cheque? A. Very nearly so.

Q. What is the date of the Union Bank cheque? A. This was January 7th,

Q. If you were expecting a cheque from Ottawa in would not you likely make provision for it some time before? A. I did make provision for it some time before; I commenced making provision for it at once.

Q. If the cheque from Ottawa came in about six weeks after you had issued it, that would be about one week after the date of the Union Bank cheque, would not it? A. I should say so, about that time; I cannot say exactly what the date was; I cannot positively swear to that.

Q. My impression is you said the cheque came in about six weeks after? A. Yes, about a month or six weeks I think I said.

Q. And the Union Bank cheque is dated about five weeks after? A. Yes. I cannot say that that cheque was issued for the purpose of taking up the other cheque that I left in Ottawa, but in seeing that money on the back, as I said before, it gives me the impression that that is the money I used. If I had the other cheque to fix the date of the payment, and it was the date, then I would be quite sure of it.

Q. Did you meet Mr. Peter Ryan in Ottawa the first day you arrived? A. I did.

Q. Was it the day or the following day you placed the cheque for \$3,000 in an envelope? A. It was on that day.

Q. The same day? A. Yes, that is my recollection, that it was that very day, that very night.

Q. Do you remember on what bank the cheque was drawn? A. On the Traders Bank.

Q. Was it one of the three cheques sent you by Fitzgibbon? A. No, it could not have been; I did not get those for two or three days afterwards. I had cheques in the office in my possession on every bank, so that if shareholders came in to make their payments on their stock I always had a blank form. I took a blank form of the Traders Bank down with me, and then after settling with Smith, Hunter said to me, "you may want something else, I will have some more cheques sent down", that is the way those cheques came to be sent down.

Q. In what other banks than the Traders Bank did you have money which would meet any \$3,000 cheque? A. At what time?

Q. At the time you went to Ottawa? A. I had not money in any other bank.

Q. Was the Traders Bank the only bank? A. Yes, that is the only bank.

Q. So that if you issued that cheque for \$3,000 it must have been on the Traders Bank? A. It was on the Traders Bank, I am quite sure of that.

Q. And probably a Traders Bank cheque? A. I am quite sure of that too, it was a Traders Bank cheque.

Q. And you are quite sure it was not one of the three cheques which Fitzgibbon sent to you? A. I am clear on that because I did not get them, let me see, it would be the 30th they came down to me.

MR. COMMISSIONER: You paid Guthrie & Pringle apparently on the 4th December, according to this stub (in exhibit 90)? A. I think I post-dated that cheque so as to be able to get home before it would be presented.

MR. THOMPSON: You paid their account when in Ottawa? A. That is my recollection of that, that I did; if that is one of the cheques it is certainly paid while I was there.

Q. When you were in Ottawa you used two of the three cheques, did you not, that were sent down to you by Fitzgibbon? A. I don't think I did; I think I only used one for Guthrie & Pringle; I am not sure whether—

Q. Did you not issue a post-dated cheque to cover Smith's account at the same time? A. No, I gave Smith an I.O.U.

Q. How was the I.O.U. subsequently paid? A. Paid by cash. Mr. Shaver proved that for you; he said he drew it on the Traders Bank and paid it to him; the cheque is on file.

Q. There was a cheque issued subsequently to Smith? A. Yes; I am quite sure it is not one of those cheques.

Q. Do you recollect what became of the remaining cheques which were sent to you at Ottawa? A. I could not say; the stubs should speak for themselves I should think; I very seldom saw the cheque book at all. The cheques were always made out and brought to me to sign; I did not see that cheque book all the time the business went on as much as I did while I was here at this investigation.

Q. What was the date the money was drawn from the Traders Bank?

MR. G. T. CLARKSON: That the money was withdrawn from the Traders Bank in entirety?

MR. COMMISSIONER: Yes.

MR. G. T. CLARKSON: 21st December, 1906, \$53,000 was drawn out then.

MR. THOMPSON: Do you remember the name of the clerk in the Russell House who gave you Peter Ryan's room number? A. No, I could not say what his name was.

Q. Was it one of the clerks in the hotel? A. It was.

Q. Are you quite sure? A. I am satisfied of that.

Q. Was it from one of the clerks that you got your information? A. Yes, my recollection is that he told me the number of the room and that I put on the back of the cheque.

Q. You thought he was giving you Mr. Peter Ryan's room number? A. I did think so.

Q. I might say that Mr. Peter Ryan was not registered in Ottawa at the Russell House? A. That may be true; that may be the reason I asked for the number. I do not remember looking at the register, but that may be the very reason I asked where I could find him.

Q. What you state is the clerk in the hotel gave you the number when he was applied to by you for Mr. Peter Ryan's room number? A. Yes.

Q. Is there any further light you wish to throw upon this? A. I wish I could; I cannot throw any further light in the absence of that cheque; I think if we had the cheque it would unravel itself. I cannot do it.

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**MR. COMMISSIONER:** Why did you not anticipate this cheque would be presented to the bank? **A.** Because I intended to move my money, as soon as I got back, from the Traders Bank.

**Q.** It might have been presented any day between the day you issued it and the day you withdrew? **A.** That was the reason I left my card stating that I would pay it in cash, because I was afraid perhaps it might be sent in and the Traders Bank would refuse it, had I withdrawn the money.

**Q.** Why would the Traders Bank refuse it? **A.** If I had not the money.

**Q.** If it came in after you withdrew? **A.** Yes.

**Q.** When do you say you have seen that cheque since the failure of the bank? **A.** My recollection was that I saw the cheque at the time that you were to preside at the Assize Court; that would be in May, 1911, if my memory is correct.

**Q.** Where did you see it then? **A.** I thought I saw it in the County Crown Attorney's Office while Mr. Lynch-Staunton was there, but he said it was not so and I do not wish to contradict him.

**Q.** What is your memory as to whom that cheque was payable? **A.** That cheque was payable to myself and endorsed by myself.

**Q.** In Blank? **A.** Yes, sir.

**Q.** And marked with the letter "C"? **A.** It was marked with the letter "C."

**Q.** What would "C" signify? **A.** I am not quite sure whether I put "Charter" on it, I do not remember whether I marked it at the time or whether I marked it afterwards.

**Q.** What do you mean by afterwards? **A.** After I had paid it.

**Q.** What did you do with the cheque when you paid it? **A.** I put it in a private drawer in my desk with some other papers.

**MR. THOMPSON:** Was the cheque the same colored paper as those which are produced of the Traders Bank? **A.** Yes, about that color; of course the shade varies; I don't know what printing it was; I think it was exactly the same color as that one.

**Q.** Did you notify the Traders Bank you expected a cheque in for \$3,000 and request them to send it over to you if presented? **A.** The Traders Bank were notified if any cheques were presented after the money was withdrawn to send them over to the Farmers Bank.

**MR. COMMISSIONER:** You did not know but what that cheque might be presented the next day? **A.** If it had been presented then it would have been paid by the Traders Bank and gone through in the ordinary course.

**Q.** Then why did you put in a memorandum and say to present it to you? **A.** Because I intended to transfer my account immediately I got home; I had difficulty with the Traders Bank, and I did not intend to leave the money with them a moment longer than possible.

**MR. THOMPSON:** How was it you did not make provision at an earlier date than about six weeks after the issue of the cheque—did not you expect the cheque to come in immediately? **A.** I expected the cheque to come in any day, and I commenced making provision for it at once.

**Q.** If you commenced to make provision for it at once that Union Bank cheque which has been produced would hardly have reference to the Ottawa cheque? **A.** Yes, I think that the money for this Union Bank cheque was used for some other purpose, I cannot remember just now; I think I traded the money for this, because that looks to me like the money I paid for that cheque, and I thought you could trace that into some bank if it was necessary.

**MR. COMMISSIONER:** In that way you would have \$6,000? **A.** No, this \$3,000 must have been used for some other purpose.

**Q.** You got money on that \$3,000 cheque, Union Bank, then if that \$3,000 was in your possession awaiting the presentation of this cheque, you would have had \$6,000? **A.** Yes; \$3,000 of this was used for my own purposes.

Q. I thought your suggestion was to change the money you had into bills of this bank? A. What I say is this, that after seeing that I think I changed the money I had to pay the cheque and use this, and I think this went to another party, but I am not positive now; I cannot swear positively on that; when the Telegram comes out and says I committed perjury I want to see the facts and the cheque before me, and I will give you the particulars; I think this went to another party, \$3,000 to one and \$3,000 to another; that is why I cannot say that.

Q. Who did you expect would lose this \$3,000? A. The \$3,000 that I left in Ottawa was to come out of my commissions.

MR. THOMPSON: When you say you made provision for the \$3,000, did you have the money in your own account? A. I did not.

Q. Where did you keep it? A. The money that I drew on my commissions I kept in my desk in a box that I put in the vaults every night.

Q. Was the money which you provided to meet the \$3,000 cheque, kept in the vault or in a box? A. Yes, passed in and out every night, kept there waiting for it to come in.

Q. And if you took that money to pay the \$3,000 cheque from Ottawa, is it possible you drew the money from the Union Bank to replace that \$3,000? A. No, I am quite sure this went to another party altogether.

Q. To whom did that money go? A. I cannot say positively; I have an idea that \$3,000 went to one and \$3,000 went to another.

Q. In the same interest, for the same purpose? A. I cannot say that, not for this \$3,000. (Exhibit 60.)

MR. COMMISSIONER: As I understand you nothing passed at all between you and Ryan about any payment or in reference to the cheque? A. No sir.

Q. No reference to it afterwards by Ryan? A. No, Ryan never mentioned it to me afterwards by words. Of course I always felt that there was something between us.

MR. THOMPSON: I understand Ryan was in the Farmers Bank very frequently after that? A. Yes.

Q. Almost up to the time of the failure? A. Yes, he was in and out very frequently.

Q. And yet no reference either directly or indirectly made to that payment? A. No, I don't remember ever speaking to him about it.

MR. COMMISSIONER: What particular service was the payment to provide for? A. I could not say that; I understood that there were necessary expenses down at Ottawa to get matters through there; I supposed it was in connection with that.

Q. How long was it after you left the cheque till the certificate was issued? A. Two days, I think.

MR. COMMISSIONER: Anything else?

MR. THOMPSON: No. I have a telegram from Mr. Weldon, stating his train is delayed, but he has nothing special to suggest.

MR. COMMISSIONER: Anybody else anything, because this will be the last meeting probably? You do not desire to say anything, Mr. Thompson, as to the points upon which you would like a finding, or to which you would like to direct my attention?

MR. THOMPSON: No, sir; I have nothing to offer in that line. The Commission was to ascertain what evidence could be offered on the various points, but neither my former colleague nor myself held any brief for any particular interests

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or individuals and it occurred to me that your report would cover anything that might be said. We did not hold a brief for anybody in particular, and we did not think it was necessary to emphasize any particular part of the evidence.

The Commission adjourned.

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Toronto, Dec. 6th, 1912.

The Commission resumed at 12 noon, at Osgoode Hall.

## PRESENT:—

HONOURABLE SIR WILLIAM MEREDITH, Commissioner.

J. THOMPSON, K.C., representing the Dominion Government.

There were also present, WILLIAM LAIDLAW, K.C., representing the shareholders, I. E. WELDON, representing depositors, and SAMUEL SHARPE, M.P. and H. B. MORPHY, K.C., M.P., representing a committee of Members of Parliament whose constituencies, it was alleged, had been effected by serious losses resulting from the failure of the Farmers Bank.

MR. COMMISSIONER: Mr. Sharpe, are all those you expected present?

MR. SHARPE: We expected a considerable number, but they are not here just yet.

MR. COMMISSIONER: Is Mr. Thornton coming?

MR. SHARPE: Yes; we expected him here. He was Chairman of the Committee.

MR. COMMISSIONER: We will wait a while, and in the meantime I will ask Mr. Fitzgibbon a few questions. I see he has just come in.

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JAMES G. FITZGIBBON, Recalled:

MR. COMMISSIONER: I want to ask you a couple of questions; I have forgotten when you said that you entered the service of the bank? A. About the 19th of November, 1906.

Q. You ought to know about the minutes of the provisional directors? A. No, sir, I knew nothing about the provisional directors meetings or anything in connection with them.

Q. Why not, you were an officer of the provisional directors? A. No, sir.

Q. There was nobody else but the provisional directors at that time? A. I was engaged by Travers, and I had nothing to do with the provisional directors. All I did when I first went in was to get up the stock list until the organization meeting.

Q. If you got up the stock list you were responsible for the entry that certain stock was allotted on the 24th November, where did you get that information? A. Got that from the books that were entered up before I went in.

Q. Not in the books at all, there is no trace of any meeting later than the 9th November I think it is; where did you get that? A. Mr. Shaver attended to all the stock subscriptions and the allotment.

Q. Who looked after the minutes of the meeting? A. I never saw the minutes when—

Q. Don't you know who looked after them? A. Mr. Travers is the only one I knew had anything to do with them.

Q. The report of the provisional directors (exhibit 15) shows that the expenses of the organization up to date "as far as has been paid by the Board amounts to the sum of \$44,403.65". In what purports to be a copy of the report in the minute book, instead of the words in the report it says that the expenses of the organization up to date "as far as has been paid by the Board amounts to the sum of \$41,291"—that means the substitution of the figures \$41,291 for the figures \$44,403.65; how did that come about? A. I don't know anything about that.

Q. You were accountant, were you not? A. Yes.

Q. How did it come about when you opened the books these expenses were entered at thirty-two thousand dollars odd? A. I could not say, except Mr. Travers gave the figures to Mr. Shaver, who wrote up the books. I may say if my memory serves me rightly, I made some sort of an analysis in pencil of the disbursements. I think the first entries of the new bank were made in the old provisional directors' cash book by Mr. Shaver as he went along; and subsequently I made an analysis of the disbursements and everything else in pencil and handed it to Mr. Travers and upon the basis of that he made out the figures for Shaver to enter upon the first books of the bank.

Q. What was the purpose in falsifying this report? A. I can assure you I had nothing to do with it.

MR. COMMISSIONER: Was that cash book ever put in?

MR. G. T. CLARKSON: I don't think so.

WITNESS: I am pretty sure the first cash book of the bank was re-written from the old provisional directors' book, that is from the 26th of November up to the 1st of January when we opened.

MR. COMMISSIONER: This report is dated the 22nd of November? A. Yes, that was just a day or so after I went in.

Q. They did not do anything after the 22nd? A. I had nothing whatever to do with the provisional directors in any shape or form.

Q. Those shares were apparently allotted on the 24th, two days after the date of this report; you cannot throw any light on this? A. No, sir, beyond that, if Mr. Clarkson has that bundle of pencil memoranda that were in my desk there might be something there that would throw light on it.

MR. COMMISSIONER: You had better let him see those and see if he can find that.

MR. G. T. CLARKSON: Yes; we have some memoranda there.

MR. COMMISSIONER: It looks as if the minutes of the provisional directors were kept on sheets? A. Yes.

Q. And then they appear to have been written up in typewriting? A. Yes.

Q. And pasted in the books generally? A. Yes.

Q. That was latterly; earlier they were transcribed. A. That was before they had a stenographer; when they got a stenographer in Mr. Travers dictated the minutes to her and they were put on sheets and just pasted into the book.

MR. COMMISSIONER: Mr. Sharpe, shall we wait any longer?

MR. SHARPE: I hardly think it is advisable. They have missed the train or connections, or something.

MR. COMMISSIONER: If you wish, in order to give them an opportunity, I will adjourn until 2 o'clock. I suppose if they are coming they will be rather disappointed if they have not the opportunity of being here.

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MR. SHARPE: Mr. Weldon and Mr. Morphy do not think it is advisable to wait. If they intended to come they would have come. I have no objection whatever; although I have some other work to do this afternoon I will come here at 2 o'clock if you think it is advisable.

MR. COMMISSIONER: I am only suggesting it to you. You are one of a party of gentlemen I understand that wanted to be here.

MR. SHARPE: Yes. I may say I am one of the Members of Parliament representing a constituency that has been very vitally and injuriously affected by the failure of the Farmers Bank. We are quite conscious of our responsibility in the matter, and we presume to offer a list of questions to you with the idea of asking you to find specifically upon these questions. It is not necessary to take up your time by any lengthy remarks in regard to the extreme suffering that prevails in consequence of this failure. We are close to the sufferers, we hear their wailings and their heart-beat, because the suffering is very intense. We believe that this is a special case differentiating it from any other bank failure in the history of the country; we do not think there is another case where the certificate to do business had been obtained under such circumstances, and we especially press upon your attention and consideration certain facts relative to the issuing of the certificate. We submit on the evidence that the certificate was obtained from the Department of Finance by the perjury of Travers and by bribery, not necessarily in respect of any member of the Department of Finance, but certainly money was freely spent by somebody that was presumed to have influence with the Department, and, on the evidence, we submit strongly that the Department of Finance has been guilty of negligence to say the least of it. We respectfully urge upon your attention and your consideration that the Department of Finance, the officials of the Department of Finance have been guilty of negligence, and, while technically they are not on trial, they at least have been very prominent in connection with the issue of the certificate, and we submit the evidence would justify your finding that the Department of Finance has been guilty of negligence in issuing the certificate. Of course Travers' subsequent mismanagement had a good deal to do with the failure of the bank, but we feel that Travers' management was made possible only by the negligence of the Department of Finance. Fraud was practised upon the Department, but we submit had ordinary diligence been exercised the fraud would have been discovered by the Department. We think the Department of Finance acted wrongly in failing to take proceedings to recall the certificate and to punish Travers for perjury upon discovering it. Had the Department exercised due diligence after the discovery of the perjury all the subsequent losses would not have occurred, could not possibly have occurred. The bank might possibly have failed through somebody else's mismanagement, but certainly it would not have been through Travers' mismanagement. Travers should have been prosecuted by the Department of Finance, the certificate should have been recalled, proceedings should have been taken to warn the public that the certificate had been obtained by fraud or perjury, or both, and not to deal with the bank; and then all the losses would not have occurred.

We are appearing here, Mr. Commissioner, off our own bat, so to speak; we are rather busy men in different parts of the province; we have not been able to follow the proceedings from day to day, we have not been able to attend daily, and we do not know what presentation counsel made, and we do not want in any way to have our action taken as a reflection on the counsel that have been engaged in the case. As I said before, we are close to the losers, and we hear their complaints and their heart-beats over these losses, and for fear some of the matters may have been possibly overlooked we have presumed to press on your attention the matters that we think are of prime importance in connection with this inquiry, and if these matters have not been overlooked then we desire to emphasize them, and to repeat and reiterate their importance. We hope we are not too late in pre-

senting these matters. It was suggested we might be too late, but I see all the evidence is not yet in, and you have not yet formulated your report, consequently I presume we are in plenty of time in presenting our case. I may say twenty or thirty members of Parliament met several times at Ottawa and conferred over this matter, and appointed a committee, of which Mr. C. J. Thornton was chairman, Mr. Morphy was a member, Colonel Hugh Clark and Mr. Richard Blain were members, and I myself acted as secretary of the committee. We formulated certain questions which I am going to submit to you and ask you to find upon them. This committee formulated these questions and submitted them to the members of Parliament, and they all signed a memorandum asking Hon. Mr. White, the Minister of Finance, to forward them with the request that there be specific findings in reference to them, but for reasons of his own he did not think perhaps it would be well to do that, but thought it more advisable if we would present them in person, and we are here for that purpose. We believe if these questions are not answered specifically the whole investigation would miss fire; the whole object and purpose of the investigation is with a view of obtaining, as I understand it, and my actions from the beginning to the end in this matter have been with a view of finding some justification, some foot-hold upon which the Government could grant relief. We are pressing the Government to grant relief; we think they should; we think it is a special case, and we think the facts brought out in the investigation, supplemented by the facts that were brought down to Parliament, the official Return brought down to Parliament, justify the country in doing something for these unfortunate sufferers, and for that reason we submit to your Lordship the following questions:

1. On the evidence adduced, does your Lordship find that the Department of Finance issued the certificate to Mr. Travers after having received notice that fraud was being practised on the Department?

2. Were \$3,000, or any sum or sums paid to anyone by Mr. Travers to induce the issuance of the certificate?

3. After having received notice of the fraud being practised by Mr. Travers to obtain the certificate, could not the Finance Department have recalled, or taken proceedings restraining the use of, the certificate or given notice to the public that fraud had been practised and warning the people not to deal with the bank?

We think that is the manifest duty, that having received notice of fraud either before or after issuing the certificate, they should have exercised due diligence to protect the public in connection with the matter. If you find that Travers has been guilty of perjury in getting the certificate, was there some duty devolving upon the Department to warn the public?

4. After having received Mr. Leighton McCarthy's letter pointing out the fraud that was being perpetrated by Mr. Travers on the Department of Finance, did the Department take necessary and sufficient steps to protect the stock subscribers? If so, what were taken and by whom?

5. In the opinion of your Lordship, did the fact that the amount of capital required by the Bank Act, was not fully paid up when the certificate was issued by the Department of Finance, cripple or hamper the operations of the Farmers' Bank from the date of the issue of the said certificate and thus encourage reckless speculation?

MR. COMMISSIONER: I do not understand that question.

MR. SHARPE: That is more or less a speculative question.

MR. COMMISSIONER: You said capital paid up; of course, it was not all paid up, it was not intended to be paid up.

MR. SHARPE: But the minimum amount required by the Bank Act.

MR. COMMISSIONER: You had better make it read that way.

MR. SHARPE: We mean the minimum amount of capital required was not paid up when they started business.



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MR. COMMISSIONER: However, I understand what you mean.

MR. SHARPE: As I say we are conveying the sentiments of twenty or thirty members of Parliament who feel their responsibility in this matter, who are quite anxious to see some relief granted to those they represent, and consequently we are moved to presume upon you and ask you to consider these questions and answer them as the evidence may justify. Mr. Morphy is here, and perhaps he has something to say.

MR. MORPHY: Nothing at all; I am quite content with the statement Mr. Sharpe has made. It seems to cover the ground.

MR. COMMISSIONER: You might let Mr. Thornton know. It was he that notified me that you would be here. I will be here till 3 o'clock anyway, and if he comes to town you might let him know that I will hear anything he has to say.

MR. SHARPE: Thank you very much.

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Toronto, December 26th, 1912.

At 3 p.m., Mr. C. J. Thornton having arrived, the Commission resumed.

MR. COMMISSIONER: Will you say what you have to say, and explain what you think necessary, Mr. Thornton?

MR. C. J. THORNTON: We had arranged to meet your Lordship at noon, that was your telegram, and I expected to be here at 11 o'clock to-day, but my train was three hours late, and the other members of the delegation waited on your Lordship, and of course I was not there. The train being late explains my absence.

Being Chairman of the special committee appointed by the members to see what we could do to help our people, I was in possession of the letter to the Finance Minister in which we requested that certain questions should be answered by the Commissioner if he should see fit to answer them, and we are here to-day because Mr. White advised us to put the questions ourselves to the Commissioner.

MR. COMMISSIONER: Are these the questions which Mr. Sharpe has placed before me?

MR. THORNTON: I presume so.

MR. SHARPE: Yes, sir.

MR. COMMISSIONER: There is no use repeating that.

MR. THORNTON: While I have the letter which we addressed to the Finance Minister, I do not think it is important to file it.

MR. COMMISSIONER: I do not think it is important.

MR. SHARPE: Should you mention the name?

MR. COMMISSIONER: I do not think it is important, if you say between twenty and thirty.

MR. THORNTON: I think, to be exact, twenty-five; every member who was directly interested and was asked to sign this letter. There are eighteen names to it. We did not ask the members of the Government who were interested, for the reason that we thought it was not wise to do so, because of the fact of their being members of the Government.

MR. COMMISSIONER: Then I have the questions; Mr. Sharpe has stated what they are, and left a copy of them here with the Clerk of the Commission.

MR. SHARPE: Yes, sir.

MR. COMMISSIONER: Very well, Mr. Thornton.

The Commission adjourned.

Toronto, January 7th, 1913.

The Commission resumed at 11 a.m. at Osgoode Hall.

**PRESENT:**

The Commissioner, HON. SIR WILLIAM R. MEREDITH.

WILLIAM R. TRAVERS, Recalled:

By MR. COMMISSIONER: Q. Who prepared the declaration made by you on the 27th November, 1906, that was forwarded to the Department of Finance when the application was made for the issue of the Treasury certificate? A. Mr. W. H. Hunter.

Q. He knew, I understand, when he prepared it the way in which part of the \$250,000 had been provided, that is by the borrowing from the Trusts & Guarantee Company, and the spreading, as it has been called, of the payment on certain of the shares? A. Yes, it was all explained to him.

Q. You seem to have desired to evade answering, while appearing to answer, the questions that Mr. Fielding put to you. Mr. Fielding wrote: "We have been told that in some cases the subscribers did not actually pay in cash, but gave notes to the provisional directors, which were used to raise the money." Now, if you qualify that, "which were used to raise part of the money", was that information not accurate, had not subscribers not actually paid in cash but had given notes to the provisional directors, is not that the fact? A. In fact, that is the case.

Q. And is it not a fact that these notes, or some of them, were used to raise part of the money which was deposited? A. Undoubtedly, those notes were used.

Q. That is the question he asked you. Your answer was, "The provisional directors did not raise the money in the way mentioned by you", was not that put in that form for the deliberate purpose of making it appear you were giving him the assurance that he was asking for, when in fact you were not? A. Well, that is an evasive answer.

Q. And intended to be evasive? A. I considered at that time, as I had put the transaction through personally on the advice of my solicitor, that I was not, while in fact I was evading it, that I was not doing so.

Q. What he wanted to know was whether the subscribers' notes had been used to raise the money; you did not answer that question, but you evaded it by telling him that the provisional directors did not raise the money? A. Yes, sir; that is the fact.

Q. Do you know who prepared the report of the provisional directors of the 22nd November, 1906 (Exhibit 15)? A. Mr. Lown, I think.

Q. Was it true to state, "That the Board have to report in the first place that they have a sum of \$579,200 *bona fide* subscribed"—the *bona fide* being underlined—"and out of the subscriptions thereon they have paid into the Treasury Department of the Dominion Government the sum of \$250,000"—was that true? A. Well, in form it is true; in fact—

Q. Out of the subscriptions had they paid that, all that? A. Not out of the actual money paid on the subscriptions, but by the borrowing of the money.

Q. Did the provisional directors know the way in which the money had been raised? A. Yes, sir.

Q. All of them? A. Yes, sir.

Q. I see that the expenses of organization up to the date of the report so far as paid by the Board are stated to amount to \$44,403.65; were those figures in the report when it was signed and when adopted by the provisional board? A. I could not swear to that positively; there was some discussion about leaving the space blank until it was taken up by the permanent board.

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Q. It looks as if those figures had been filled in by the same hand; perhaps you can tell me in whose handwriting they are? A. The figures \$579,200 are in my handwriting; and the figures \$44,403.65 are in my handwriting.

Q. What conclusion does that lead to as to the form in which this report was when it was adopted by the provisional board? A. I would be inclined to think that they left that blank for me to put in the correct figures.

Q. Or was it the fact that you filled them in before the report was signed? A. I could not swear to that positively; I am not sure about it.

Q. That 5,790 practically is in accordance with the list of shareholders that you furnished to the Department? A. I believe so, yes.

Q. And includes the Laidlaw shares and the shares—? A. Every share that stood on the book at that time.

Q. Although some of them were conditional, and the condition was never complied with, and they never became operative? A. Quite so.

Q. Just look at this minute book (provisional directors' minute book, Exhibit 9); did you ever see that before, minutes of meeting of the provisional board of the 24th November, 1906 (showing to Mr. Travers a typewritten sheet which was afterwards filed as Exhibit 92)? A. I cannot say whether I saw this exact sheet before; that appears to be a copy of the original minutes.

Q. That looks as if it were in the same typewriting? A. It is the type-writing machine that was used by us at that time, I recognize that.

Q. How would it come that that was not entered in the minute book of the provisional board? A. Well, my recollection is that the original one was signed by Mr. Lown, as chairman, and it was pasted in that book.

Q. There is no sign of it? A. Would you permit me to look at the book, please?

Q. You see the last one there is in November some time? A. My memory serves me it was pasted in the wrong place, and when Mr. Lindsay was suing me and I was under examination for discovery, this was detached and was not put back in its proper place, and I am sure I have seen the original minute.

Q. Where were you examined for discovery? A. I was examined before Mr. Bruce.

Q. In the action of Lindsay against you? A. Yes.

Q. Or against the Farmers Bank? A. Against both of us.

Q. Whose name was first? A. I think I was examined first, personally.

Q. Which name in the writ, was it Lindsay vs. The Farmers Bank and Travers, or Lindsay vs. Travers and The Farmers Bank? A. I think it was Travers and The Farmers Bank.

Q. What year would that be in? A. That would be in 1909.

Q. Before the suspension of the bank? A. Yes, sir; some months before.

Q. What became of that suit? A. It never came to trial.

Q. It was not settled? A. No, sir.

Q. That you think is a copy of that minute? A. I am satisfied that is a copy of the minute as far as I can remember.

Q. Because all those shares that appear in that list are included in the list you sent down, I think? A. Yes, sir; they are all on the list; I am sure of that.

Q. Did you include in that list shares that had not been allotted until the 24th November? A. If I remember right there were \$500,000 without those shares on the books.

Q. But still there was the statement—I suppose your declaration was made on the 27th; perhaps that may be the explanation? A. It strikes me there was a post-script put to the list that was sent to the Government explaining that.

Q. There is a small post-script saying that certain ones were added afterwards; they do not include the whole of these, they include only 35 shares; this contains 193 shares, and all you returned as subscribed after the 22nd October,

1906, were 35; you did not include Nesbitt's? A. I can explain that. Nesbitt's subscription was ante-dated, although apparently it was not allotted till that time.

Q. What do you mean by ante-dated? A. It dated back to the 22nd October.

Q. Although, in fact, signed when? A. It was signed, I could not say exactly, but a few days before the meeting.

Q. As I understand it, the subscription of Lindsay for the \$50,000 stock was signed in blank in the first place? A. No, sir; I do not think so.

Q. When was Lindsay's? A. Lindsay's was signed shortly before the meeting, I do not remember just what date it was, but shortly before; whether it was a week or two weeks I don't know exactly.

Q. How did you come to make a declaration stating that of the foregoing the following were received subsequent to the 22nd October, 1906, and omit Lindsay's and the ones in this statement that are omitted; was not that a misstatement? A. Here is Lindsay's allotted on the 26th October.

Q. This is the 22nd, your date; do you think Lindsay's subscription was signed before the 26th October? A. I would say so after seeing this minute.

Q. I observe in this report the expenses of organization are said to have been \$44,403.65, in what purports to be a copy of that report submitted at the first meeting of the shareholders those figures are inserted at \$41,291, how did that come about (comparing the \$44,403.65 in the provisional directors' report, Exhibit 15, with a copy of that report in the director's minute book, Exhibit 10)? A. My recollection of that was that when Mr. Fitzgibbon was superintending the entering up the minutes by Mr. Shaver, that he called Shaver's attention to the fact that the \$44,403.65 did not agree with the figures that were sent to Ottawa, and there must be some mistake, and I think that they were entered up then to correspond with the figures on the original statement.

Q. As sent to Ottawa; in whose handwriting are those figures. (In Exhibit 10)? A. Those are Mr. Shaver's.

Q. When you came to open the books they were entered at neither of those figures, but entered at \$32,127? A. Well, I cannot explain the exact figures in that case. Mr. Fitzgibbon had to make some adjustments there to make the books balance in some way, and in discussing the expenses with the Permanent Board, my recollection is that the \$10,000 that was paid to the provincial directors, they thought it should not go in the expenses, that we should charge it up to something else.

Q. To what? A. And as we had a lease for 20 years of the premises, we consider that that was a valuable asset and if I remember right the \$10,000 was charged up to that.

Q. Is it not a fact that cheques that you had received from persons who had subscribed for shares to the amount of \$9,000 were treated as representing \$9,000 of that amount? A. I could not swear to that positively, but having seen that memorandum there in Mr. Fitzgibbon's handwriting which I am satisfied I never saw before in my life till Mr. Clarkson showed it to me (referring to what was afterwards filed as Exhibit 93) I would think that that was exactly what was done.

Q. What possible justification was there of not crediting the account of the shareholder with that amount, how could you excuse that? A. Because those amounts had been spread out of the borrowed money.

MR. COMMISSIONER: (To Mr. Clarkson): Is that so?

MR. G. T. CLARKSON: Yes, that is correct.

MR. COMMISSIONER: It would follow when the money of the bank was taken to pay the borrowed money, there ought to have been entries made to readjust that. A. Then there were notes given by these people which readjusted it later on; one case I remember distinctly, in Mr. Gilchrist's case there was a note of \$3,000 taken and the cheque was surrendered—a note for \$2,700, less \$300 he paid.

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Q. Is there anything further; this I hope will be the very last meeting of the Commission, is there anything further you can tell me that will help to answer the questions I have put? A. I cannot think of anything I can say now.

J. G. FITZGIBBON, Recalled:

MR. COMMISSIONER: You are already sworn? A. Yes, sir.

Q. In the report of the Provisional Board of the 22nd November, 1906 (Exhibit 15), the expenses of organization are stated at \$44,403.65; in what purports to be a copy of the report which appears in the minute of the first shareholders meeting the figures are \$41,291 (in Exhibit 10); why were those figures or one set of them at all events not brought into the bank's books? A. I could not say.

Q. Did you prepare that statement (Exhibit 93)? A. Yes, sir.

Q. Does not that show that they were put in at \$32,000? A. If they were put in at \$32,000 it was under Mr. Travers' instructions.

Q. But you made up that account? A. Yes.

Q. You were readjusting all the figures? A. Yes.

Q. How did you get at your \$32,000? A. That is more than I can say.

Q. You must remember how you got at it, because I think we all know? A. Unless Mr. Travers told me to take off that \$9,000, or whatever the amount was.

Q. What \$9,000? A. These cheques that were held in the cash.

Q. That would not account for the \$3,000 difference between the figures in the Minute Book and the figures in the Report? A. I cannot say anything about that; I had nothing to do with the minutes nor with the report.

Q. Do those figures not indicate that what you were trying to do was to arrange the figures so that that balance of \$32,000 would be justified? A. No sir; this statement was taken out from the books of the bank to show what the figures actually were so far as I could make them out.

Q. But that was not true, the figures show that much more than \$32,000 had been expended by the Provisional Board in preliminary expenses? A. I could not give a definite answer without going over those figures.

Q. Did not Mr. Clarkson show them to you? A. No, sir, I have not seen them since I drew them up.

MR. CLARKSON: That is an exact copy of the bank cash book of the first month? A. I took this off from the cash book to find out how the figures were, and they were apparently the figures according to the book.

Q. Into whose possession did the Minute Book of the Provisional Board come? A. Mr. Travers took possession of that and gave me a receipt for it, at least gave me a receipt to the bank, because I never had anything to do with the Provisional Board.

Q. There are your figures? A. Yes, sir.

Q. This is at the commencement of the business of the bank? A. No, it is before the bank opened for business, after the interim between the granting of the license and the opening of the business.

Q. Preparing to open? A. Yes.

MR. CLARKSON: The interim directors' books were carried along, and their cash book was carried along till the 31st December, and then that book was entirely put aside and the permanent books written up entirely differing from the interim directors' cash book.

MR. COMMISSIONER: Not entirely differing, I suppose?

MR. G. T. CLARKSON: Absolutely.

MR. COMMISSIONER: What do you mean by that?

MR. G. T. CLARKSON: Not entirely, but the entries in the permanent books are different from the entries in the provisional book which was written up part of the distance by Mr. Shaver.

MR. COMMISSIONER: Were they re-adjusted; do you mean re-arranged, or were they different figures?

MR. G. T. CLARKSON: The interim book was dropped and the permanent books re-cast on this basis. There are a great many entries that are similar, and there are entries which are dissimilar.

MR. COMMISSIONER: What kind of entries dissimilar.

MR. G. T. CLARKSON: These entries do not appear; those are the summary of the spread amounts of the capital stock and interest (referring to a statement prepared for the use of the Commission.)

MR. COMMISSIONER: That would probably be explained by being in this item.

MR. CLARKSON: Yes.

MR. COMMISSIONER: It does not appear in the same form?

MR. CLARKSON: No, sir.

EXHIBIT 92: Copy of what purports to be the minutes of a meeting of the provisional directors of the 24th November, 1906.

EXHIBIT 93: Copy in Mr. Fitzgibbon's figures (in pencil) of the cash book of the Bank for the first month after organization.

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ALEXANDER S. LOWN, Recalled:

MR. COMMISSIONER: You are already sworn; I see that you became Chairman of the provisional board at a meeting held on the 13th February, 1905, replacing Dr. Ferguson? A. Yes.

Q. Who had charge of the minute book of the Provisional Board (Exhibit 9)? A. Mr. Smith was secretary; I think Mr. Fraser was in the first place, and afterwards Mr. Smith.

Q. What became of it eventually? A. I do not know anything about the minute book after I—

Q. I mean when the provisional board finished its labors what was done with their minute book? A. The minute book was left in the bank.

Q. That report (Exhibit 15, report of the provisional directors) bears your signature; who drafted it? A. I drafted it.

Q. Were the figures shown in paragraph 4 in it when it was signed by you? A. I rather think they were; to the best of my recollection they were.

Q. How did you come to sign or to be a party to that report which stated that \$579,200 had been *bona fide* subscribed? A. Those figures were furnished me from the books of the bank.

Q. Do you mean to say you did not take any pains to verify them? A. No, I did not check those figures, I simply asked the amount of the subscriptions.

Q. Did you know that several gentlemen's subscriptions were conditional? A. I did not.

Q. Never heard that Mr. Forget's was? A. Well, I do not think it was conditional.

Q. Where did you get the figures for the expenses of organization? A. Apparently they were furnished by Mr. Travers.

Q. Was this your creation (in Exhibit 15): "Said Board also desire to submit to the shareholders that as a result of their labors they have secured for the subscribers to the capital stock of the said bank a franchise extremely valuable in their opinion from the fact that in the future such franchises will be extremely

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difficult to obtain, and in the second place from the enormous increase which is equally sure to obtain from the increasing trade, wealth and prosperity of the country"—that should be country," should it not? A. Yes.

Q. "And which must yield to the said subscribers both good dividends and increase in the value of their stock provided they are only loyal to the institution." Do you think you were a very good prophet? A. I do not appear to have been.

Q. Where did you get that idea from, or the ideas involved in that paragraph? A. I certainly thought that the bank, and I think so still, that if the bank had been properly managed it would have been successful.

Q. Were you present at the first meeting of the subscribers? A. Yes.

Q. I see at that meeting the report was read and the figures you had reported for the expenses of organization were reduced from \$44,403.65 to \$41,291; how was it you did not call attention to that? A. I certainly did not know; it would be impossible in a report being read and not having them before you to detect the difference.

Q. Do you mean to say you did not carry in your mind the amount that had been expended, that you had written into this on the 22nd November? A. Not the exact amount; I knew in round figures it was somewhere about forty thousand dollars.

Q. It appears from the books of the provisional directors that a number of shares, I think they amount to nearly 200, were allotted on the 24th November, 1906, there is nothing in the minute book to indicate that any such meeting was held on that day? A. I know nothing about—

Q. What is the last meeting according to that book (Exhibit 9)? A. There was a meeting on November 6th, 1906, and that seems to be the last meeting here.

Q. How did you come to allot shares on the 24th November? A. There may have been the meeting on the 24th November.

Q. Is that the way the business was carried on? A. The minutes would be signed by me, and I think Mr. Shaver was acting as secretary, and they would be afterwards entered up by him.

Q. Is that minute of November, the last minute, signed? A. No, this one is not apparently signed; that certainly is not the original minute, because all the original minutes were signed by me.

Q. You appear to have signed the copies in the book, they are all copies apparently? A. They are simply pasted in, typewritten copies.

Q. There is what purports to be a minute of the meeting of the 24th November? A. I have no recollection even of this meeting myself.

Q. You know nothing about that? A. I know nothing about this; we may have had a meeting there.

Q. This stock subscription book, the alphabetical one, shows that three McCorquodale shares were allotted on the 24th November; do you think that Mr. Shaver was acting—? A. Mr. Shaver was clerk I think; I think there is something in the minute here; after Smith resigned I think there is something appointing somebody. I notice on October 26th, 1906, the minutes of the Board are written apparently in Mr. Shaver's handwriting.

Q. I understand that you knew of the way in which the \$100,000 which formed part of the \$250,000 was raised? A. I knew it was raised on the strength of the shareholders' notes, but the way in which it was raised I do not know.

Q. What is that? A. I say the exact manner in which the money was raised I did not know.

Q. I see there were two resolutions passed which in terms say that the notes were to be used for the purpose of raising money to make the deposit. I see on July 4th, the minutes say: "It was moved by Dr. John Ferguson, seconded by John Watson: that the Chairman of the Board, the Secretary-Treasurer of the Board, and W. R. Travers, General Manager, be authorized to endorse all notes made in favor of the Bank for the purpose of raising money to make deposit with

the Treasury Board of the Dominion Government"—do you recollect that resolution? A. No, I do not recollect it apart from the minutes.

Q. Is there any doubt that that resolution was passed? A. I do not think there is any doubt that that resolution was passed.

Q. On the 8th October, 1906, it was moved by James Gallagher, seconded by John Ferguson: "That the provisional directors execute a Power of Attorney to W. R. Travers for the purpose of endorsing all notes in their names as provisional directors, and of signing their names to a note or notes for the purpose of raising funds to put up the deposit with the Government, and we authorize the secretary to hand over all notes to W. R. Travers for the said purpose"; how did you come to decide to raise the money by using these notes, either discounting or borrowing on them; what warrant was there for that? A. Mr. Travers was acting under advice at the time and we were assured—

Q. Under whose advice? A. I think at that last resolution he was acting under Mr. Hunter's advice.

Q. Do you mean to say you did not find out—did you get advice as to whether what you were doing was a proper thing to do, a lawful thing to do? A. I was under the impression it was a lawful thing to do myself at the time.

Q. Having done that did you not take the trouble to find out what Travers had done, and how the money had been applied? A. No.

Q. Why? A. This much I did, I knew that the money was actually at the credit of the Bank, that was the only thing I was careful to find out; the money was not used for any other purposes than the Bank purposes.

Q. Did you think this was an accurate statement (in Exhibit 15): "The Board have to report in the first place that they have the sum of \$579,200 *bona fide* subscribed, and out of the subscriptions thereon they have paid in to the Treasury Department of the Dominion Government the sum of \$250,000"—Was that true? A. I knew that \$100,000 of that had been raised—

Q. I am not asking you that; please follow the question: The statement that out of the \$579,200 *bona fide* subscribed the directors had paid in, that is the provisional directors, had paid in, to the Treasury Department of the Dominion Government \$250,000, is that true? A. In the sense that that was the proceeds of the money for the subscriptions and negotiable securities for the subscriptions I thought it was.

Q. Whose credit was to be pledged for the loan? A. I suppose the notes of the subscribers.

Q. You authorized Travers to pledge the credit of the provisional directors? A. Which was never done.

Q. You authorized him to do that? A. Yes, but as a matter of fact it was not done.

Q. Why was not it done? A. I do not know, Mr. Travers was doing the negotiating, and I suppose he gave that security the parties who were advancing asked.

Q. Was not that done for the express purpose of enabling Travers to say that the provisional directors had not borrowed any money? A. We were never consulted about the matter.

Q. Was not that done in that way for the express purpose of putting it in the power of Mr. Travers to say that the provisional directors had not borrowed any money? A. I don't know.

Q. You do not know why it was put in the shape it was? A. In the shape in which the money was ultimately borrowed?

Q. Yes? A. No, I do not know because I knew nothing about what was in Mr. Travers' mind, or in the minds of the Trusts & Guarantee Company.

Q. But the plan according to the provisional directors was as far as these minutes show that they were to raise the money on these notes; do you want it to go without any further explanation that you never took the trouble to find out how



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it had been borrowed, the terms? A. I don't know how we could have; if we had asked Mr. Travers I am certain he would not have told us.

Q. What is that? A. I say I do not know how we could have found out; the matter was carried on by Mr. Travers, and if I had asked him I do not think he would have told me.

Q. Why not? A. Because I do not think he would have.

Q. Why do you think he would not have? A. Simply because I think so.

Q. What was the reason, have you any reason? A. I have no reason excepting my knowledge of Mr. Travers.

Q. What does that mean? A. Mr. Travers would simply say it was none of your business; that is the answer I would simply expect to have got from him.

Q. The proposition is, knowing that was the attitude he would take, that you deliberately put all these notes in his hands and gave him a power of attorney to borrow money on your credit? A. The only one thing which I did know or cared to know was the money was placed to the credit of the Bank.

Q. But you give the impression that Travers was a man that would not give you any satisfaction, and yet you were a party to authorizing him to use the notes of the subscribers and to pledge your credit for the money that he was borrowing; do you think that sounds reasonable? A. Mr. Travers and Mr. Hunter at that time were negotiating with the securities to raise that money.

Q. Mr. Hunter says he was not? A. Well, he was with Mr. Travers; I did not know any further than that.

Q. That is the way you desire to leave it? A. Yes.

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 DR. JOHN FERGUSON, Recalled:

MR. COMMISSIONER: You are already sworn; what do you know of a meeting of the 24th November, 1906? A. I could not say anything definitely as to date of any of the meetings, but I was always under the impression that the allotment of stock was performed at some ordinary regular meeting. There might have been a meeting on that date, although I would not at all remember it now as to having occurred at that date.

Q. Would you recollect? A. There might be no minute of it.

Q. Why not? A. There might not; you see not keeping the minute book and knowing nothing of that, there might be a meeting at which we would allot stock and probably no formal record made in the minute book.

Q. Were not these minutes kept? A. Yes, but this was so very close and probably the last meeting held, and I would not afterwards know of its being recorded.

Q. The last recorded one is the 6th November, and this minute of the meeting of the 24th November was two days before the meeting of the subscribers; will not your memory permit you to say how late? A. I have the impression from memory that there was some meeting close to the date at which we gave up our final connection with the organization work, but the date I could not give you.

Q. You knew that a considerable part of the \$250,000 that was sent to Ottawa to make a deposit had been borrowed on notes that the subscribers had given for shares? A. Yes; certainly, I knew of that.

Q. How did you come to be a party to the two resolutions, one authorizing Travers to use the notes for that purpose, and the other appointing him attorney to pledge your credit for the loans? A. The first one in July would be for the purpose of raising money upon those notes; later on, as advised by Mr. Travers, and I presumed he was acting under legal advice and I relied upon him; he was

an experienced banker; in that matter, he stated to me that those notes should be made to the provisional directors, and by the provisional directors endorsed over for the purpose of securing the money.

Q. The money borrowed? A. Yes, and that would lead of course to the subsequent resolution of the provisional directors appointing him attorney to endorse those notes made by the shareholders to the provisional directors, and to be endorsed in that way over for the purpose of securing the loan.

Q. Where did you find your authority for using these notes for any such purpose? A. My authority was Mr. Travers' own statement that as a banking transaction it was quite proper, and in addition to that I had my own judgment to guide me, and I believe that it was a perfectly correct transaction, these notes were made by shareholders to the provisional directors, the provisional directors endorsed them over and secured money on them when the shareholders did not have any ready cash, and consequently used them for making the deposit for them without implicating the Bank.

Q. That is not what was done; what was done was to borrow the lump sum upon all the notes; used Mr. A's note to borrow money to pay what B. ought to pay? A. As to the specific detail of using the notes I did not know.

Q. Was it not all wrong to do anything more, even assuming your view of the law was correct, than to authorize these notes to be discounted in order to raise money for each subscriber? A. I thought that was done; I did not know of the bulk transaction.

Q. That is not the form of your resolution; your resolution is not that he was to discount these notes—July 4th: "Be authorized to endorse all notes made in favor of the bank for the purpose of raising money to make deposit"—? A. What would be in my mind would be what I am telling you now, that each note would be used as an individual transaction for each individual subscriber.

Q. Can you tell me why it was that the later resolution authorizing him to pledge the credit of the provisional directors was not carried out? A. No, I did not know that was the form of the resolution, but the purpose under that resolution recited that Mr. Travers—

Q. Well, it was a very serious matter for you to be personally answerable for an hundred thousand dollars, did not you take the trouble to find out whether you were or not? A. The trouble was this that I was advised at the time that the money had been secured and placed to the credit of the bank, so that it could not be improperly used.

Q. You were present when this report of the 22nd November was adopted by the Board, I suppose? A. I do not remember what the record of the minutes would say, whether I was present or not, but I knew of the contents of the report.

Q. That report is dated the 22nd November? A. Yes.

Q. And in that the figures that are given are as they existed according to the Bank's books after the 24th November, because if there was a meeting on the 24th at which shares were allotted those shares ought to have been included in this amount, because your report was two days earlier? A. Just in there I could not give you any information; my memory does not connect that transaction with those individual shares or allotment.

Q. That purports to be the minute of the special meeting held on the 24th November at which it is said to have been moved by Mr. Fraser, and seconded by you, that the following stock be allotted, look at that and see (Exhibit 92)? A. Oh well, if I seconded the resolution I would be present.

Q. You say you have no memory; that is a copy? A. That may be a copy, and might or might not be correct; I say I cannot remember.

Q. Look at the list of shareholders and see if you can tell; there is one prominent one at the top? A. I do not remember the names of the shareholders as given there; I cannot remember, certainly I do not remember the one that you refer to there as being on the list.

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Q. Did you appreciate what paragraph 4 of this report says (Exhibit 15): "The Board have to report in the first place that they have the sum of \$577,200 *bona fide* subscribed, and out of the subscriptions thereon they have paid in to the Treasury Department of the Dominion Government the sum of \$250,000"? A. I fully believed that there was that much subscribed, because that was the information advanced by those that were keeping the record, and I believed and believe still that the securing of the money in the way it was secured was quite *bona fide* and quite a proper transaction.

Q. Was it true that out of the subscriptions, on the stock subscribed, the provisional directors had paid in to the Treasury Department \$250,000? A. Yes, I think so, using the funds secured in all these ways that it enabled them—

Q. If you had to do this thing over again do you think you would put it in that shape? A. I don't know; I certainly would not object to the same arrangement of facts, that is taking a personal note from a subscriber and discounting it and using the money to his credit, as I understood the transaction to be done.

Q. Do you know where the figures for the organization expenses that are mentioned in this report were got? A. They were taken from the books, as I presumed, and entered up there.

Q. Do you mean to say that this Board did not take the trouble to verify any of the things that they were certifying to the shareholders? A. You see we had Mr. Smith as Secretary for a time, followed by Mr. Shaver, Mr. Lown was acting as chairman of the provisional board during that period; Mr. Travers was acting organizer, and I would accept without auditing the books myself personally the statements submitted.

Q. Did you look at the book to see if it agreed with the book? A. I don't know that I did; I know I many a time looked through the books in verifying other statements made, whether I did that here or not I cannot say, but I know many many times I went through the columns of the books, verifying other features, but I cannot say as to that.

Q. Were you present at the first meeting of shareholders? A. No.

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ALEXANDER FRASER, Recalled:

MR. COMMISSIONER: You have heard what has been going on here this morning, what do you say as to there having been a meeting on the 24th November at which that resolution was passed? A. Is that the resolution of allotment?

Q. Yes; moved by you; it says—A. I have no recollection; I have no doubt this would be correct if I moved it, I would think so, but I have no recollection; if I moved it I would be there, but I have no recollection of the dates of any of the meetings at all.

Q. Can you recollect how long before the first meeting of the subscribers the last meeting of the Provisional Directors was held? A. I should think it would be within two weeks.

Q. That is two days according to that? A. I have been trying to recollect while the others were giving their evidence; I have a recollection of a meeting at which we spoke of the coming meetings of the shareholders pretty close to the time of their meeting.

Q. I should have thought there was one name on that that would have probably fixed the thing in your mind; look at the first name, a large subscription (on Exhibit 92)? A. I have no knowledge of that, nor did I have any knowledge that he had any connection with the organization till I learned from the newspapers after the meeting.

Q. If you were at that meeting you must have known that he was taking that, you moved it according to that minute? A. I have no recollection at all of that.

Q. And that does not bring it to your mind? A. No, and I think it would.

Q. Is the inclination of your mind that such a meeting was not held? A. No, I think there was a meeting held, but I did not know that that would be returned that way.

Q. That that was a correct minute of what took place? A. I should not think the first entry was dealt with at that meeting, that would be my recollection distinctly; because immediately after the meeting, the very day after the shareholders' meeting when I learned from the newspapers what took place, not being present at the meeting myself I was very much astonished, and I remember that astonishment to the present day, and I would not be astonished if I had seen this subscription.

Q. You were present when this report was adopted by the Provisional Board? I suppose (Exhibit 15)? A. Yes.

Q. Mr. Lown tells us he drafted it, was it drafted in consultation with the other members of the Board, or was it his own production? A. My recollection is not distinct on that, but my impression is it was read to us; the business was generally prepared in advance of our meetings.

Q. You had not much to do to earn the fee you were getting if that was so? A. We discussed, of course, what was brought before us.

Q. According to the report that was sent in to the Government, as I understand it, and according to the figures sent down as to the amount of stock subscribed, these shares in what purports to be the minutes of the meeting of the 24th November as being allotted on that day, are included; how could that be in a report dated the 22nd November, two days before the meeting? A. I cannot enter into that; I have no explanation whatever of that.

Q. Would you suggest that it was an error in the date? A. It might be so.

Q. You knew the directors had deliberately determined to raise what money was short to make up the \$250,000 on the subscribers notes, and had authorized Travers to procure the money, you knew that? A. That is putting it not exactly as we would put it.

Q. Put it the way you would put it? A. In the first place, and this may explain our position, some of the provisional directors were not sure that notes should be taken at all from subscribers, but at that time Mr. Travers assured us that we were wrong and he was right. We took legal advice on that point and had advice from Mr. Urquhart, who was retained by us some time previously and subsequently to advise us as to our actions. That advice was that Mr. Travers' view was correct. We, therefore, took the notes, and considered that they were the equivalent of cash; we were so informed and understood that all that was regular and correct; the realizing on the notes in a proper way, as we thought would have been done, did not seem to us as far as I can remember anything of our discussions to have been anything but regular and correct.

Q. But your resolution was not that he was to discount these notes, but he was to endorse all the notes for the purpose of raising money to make deposit with the Treasury Board? A. Does that mean that they could not be discounted?

Q. No; what I am calling your attention to is you did not tie him down to discounting them? A. As to the manner of raising the money I think we all felt that Mr. Travers was in the position not merely of the responsible coming General Manager, but our adviser as to the correct way in which it should be done.

Q. Surely it did not require any adviser to make it clear to you that you had no right to use Mr. Smith's note to raise money to pay Mr. Jones' subscription? A. Certainly not, but we never imagined that that would be done, nor did we

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know it was done as far as I know until after the bank closed, and proceedings were taken in Court.

Q. Why did not you find out how the money had been raised, you had given authority to pledge your credit, as I judge from your resolution? A. Yes.

Q. Did you not take the trouble to find out whether your credit had been pledged, how the money had been raised, or did you leave it to Mr. Travers? A. The manner of doing it as far as I know, was left to Mr. Travers, but Mr. Travers reported that it had been done, and the money was to the credit of the bank and had been sent to Ottawa.

Q. Supposing he had endorsed your name under this authority, and the note had not been paid, did not you appreciate you would be personally liable to make good to the lender? A. Well, Mr. Travers had the handling of the transactions and I think that all of us had confidence in Mr. Travers' integrity; I do not suppose it ever occurred to any of us, in the circumstances it would be a most unusual thing for a man to do wrong at the beginning of an institution to which he expected he would give his life work.

Q. Let me ask you the same question I have asked the other two members of the Board who have been called: Was this a frank and accurate statement of fact, "The Board have to report in the first place that they have the sum of \$579,200 bona fide subscribed"—particularly I am asking your attention to what follows—"And out of the subscriptions thereon they have paid in to the Treasury Department of the Dominion Government the sum of \$250,000"? A. I believed that to be correct, because it is so stated to us.

Q. Out of the subscriptions? A. Yes. We regarded subscriptions by note bona fide subscriptions; we regarded money raised properly on those notes to be bona fide subscriptions.

Q. But surely it was not true that out of the subscriptions you paid \$250,000? A. Why should not it, if the amount subscribed was correct why should not out of that amount the proper amount be sent?

Q. Was not the proper thing to have said, "The Provisional Directors have used these notes for the purpose of raising so much money, whatever it was, to make up the deposit? A. That would have been easily done if we had for one moment doubted the regularity of the transaction and the legality of it too, because you must remember at that time the point was never raised or dreamt of that these notes were not proper subscriptions so far as the provisional men were concerned.

Q. Do you say raised, because you took advice? A. That was within our own meeting, and it was settled by Mr. Urquhart's letter.

Q. Is there anything lurking in this expression—you probably recollect the eloquent terms in which the draughtsman of this report spoke of the prospects and the future of the bank—the proviso is what I call attention to: "Provided they are only loyal to the institution". Where was the fly in the ointment that led to that? A. Well, sir, I am not prepared to say, but if I were guessing at the thing, if it were permissible to guess, I would say that is a very common expression at the annual meetings of such institutions.

Q. I should hope not; you do not at the beginning suggest a doubt as to the loyalty of your subscribers? A. The co-operation of subscribers and friends and shareholders is always asked for and solicited at these meetings; I think it is a very common street expression.

Q. May I suggest what might possibly have been the reason; I suppose you knew, at all events it was the fact, that certain of the subscribers had taken the ground that they had been induced to subscribe by false pretences, and had taken steps to have their subscriptions cancelled and the bank prevented from going on; was not that what was done leading to the expression? A. I think not, sir. I

think on that point this might be said, I think the provisional directors understood or believed they understood what was behind those proceedings and they certainly had the idea, rightly or wrongly, that these proceedings were purposely with the intention of embarrassing the organization, and the removal had brought expressions of regret—

Q. From whom? A. From some of the subscribers that withdrew.

Q. The removal of what? A. The removal of the suit.

Q. I do not quite understand what that means; that you had been foolish enough to settle it? A. No, no, but we were told that the subscribers that had moved in the Laidlaw suit were sorry they had done, it, and would not have done it had they understood the true inwardness of that effort.

Q. Did they show their faith by their works, by giving back the money and being reinstated as shareholders? A. Speaking from what happened afterwards a carload from that section came down to endorse the bank and took part in endorsing the provisional Board's action at a meeting of the shareholders, or two carloads, and did it unanimously.

Q. I thought it had been said that the meeting was held very promptly before these people could get there? A. No, the report given to us and I think the record will show the meeting took place at the hour advertised, and on the arrival of these later a second meeting was held where everything was explained to their satisfaction.

Q. What do you mean by saying what was behind this suit by the shareholders? A. The provisional directors felt that that suit was not a genuine suit, that is to say that it was to some extent invited; we may have been wrong in that idea.

Q. What do you mean by invited? A. That it never would have taken place if these subscribers had not been approached and the actions suggested to them by outsiders.

Q. Actuated by what motive? A. Actuated by probably personal motives, and probably wider motives than personal ones, put personal motives it was explained to us that way. We firmly held that opinion, and I think we hold it to the present day.

Q. You apparently were not of the same opinion as some people that the powers of the provisional directors were very much limited, and that they had no right to deal with any of the assets of the bank? A. On the legal aspect of that of course I could say nothing.

Q. You were not advised as to that? A. Yes, we were advised.

Q. By whom? A. We were advised by Urquhart.

Q. No, no, I mean of using the notes to raise money? A. Well, so far as that is concerned we understood and I believe we understood it on a definite statement, because we were frank in our discussion, that Mr. Travers had legal opinion behind his position.

Q. Do you mean to say that you were content with Mr. Travers' statement and did not ask who it was that gave that opinion? A. I would not say so; my recollection is that Mr. Travers told us. For instance, Mr. Travers told us that he did not wish to continue with Mr. Urquhart as counsel, and we had no objection to the counsel that he named to advise him from day to day.

Q. At all events you did not take any advice as to whether what you were doing was legal, lawful? A. That is in giving the power of attorney?

Q. In using these notes for any purpose? A. Well, I do not know of any legal advice we got directly as a Board on that, I mean to say written, but I have no doubt and my recollection is, we had that explained to us as being proper and legal by Mr. Travers.

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A. S. LOWN, Recalled:

MR. COMMISSIONER: In the subscribers list I see Nesbitt 100 shares, and Gilchrist 30 shares. You see there is nothing in the minutes to show that the shares that are mentioned in this document, which purports to be the minute of the 24th November, were ever allotted; and, therefore, if this minute is correct, they were allotted only on the 24th of November; your report is dated the 22nd November, and all these shares which purport to have been allotted, amounting to nearly 200, on the 24th November, are included in this figure you have there (in Exhibit 15); what do you say about the date of that report? A. The date of that report may have been the date on which I drew it; it should possibly have been dated the 24th.

Q. I do not see anywhere any minute of any meeting at which this report was approved or submitted except this meeting; look at that, and assuming that it is a minute of a meeting of the 24th, what do you say as to the date of the report? A. If this is a correct minute of the 24th (Exhibit 92), then the date of the report (Exhibit 15), should have been the 24th.

Q. I want to see if your memory can be refreshed at all about this meeting; I see "A. W. Lown"—A. That is not my initial.

Q. Perhaps that is a mistake in the copy—one share allotted; would not you know when that was allotted to you? A. I would not remember the exact date of course.

Q. Would not you know whether it was at the last meeting? A. It would be allotted to me at the last meeting, of course.

Q. I see the same day Mr. Hunter was allotted one share—looking at that are you able to say whether that meeting was held as the minute purports? A. I cannot say whether it was held on the 24th or not, because that would be impossible for me to remember what took place on the 24th of November, 1906.

Q. Except by knowing that that was two days before the meeting of subscribers; you were very much interested in this thing, you were to become a manager of one of the branches, and you had been Chairman? A. I could not recollect.

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 GEORGE T. CLARKSON, Recalled:

MR. COMMISSIONER: Where does that document come from (Exhibit 92)? A. I obtained this document personally in going over the files of the bank about three weeks or two weeks prior to the commencement of these sittings.

Q. Was that the only copy you found? A. If my memory is right there were three copies, or perhaps the original and two copies.

Q. Is that minute book of the provisional board (Exhibit 9) in the same condition as it was when it came into your hands? A. Absolutely.

Q. There is nothing to indicate in that book that any meeting was held on the 24th of November? A. There is not.

Q. You heard what Mr. Travers said about a signed minute having been produced on the examination for discovery; have you any knowledge of that? A. I was particularly interested in getting hold of this minute, because I had reason to believe when this bank first came into my hands that a lot of these stock subscriptions had been ante-dated, and beyond that I had come across some correspondence between Maccorquodale and Luxton which showed that some of the subscriptions had been ante-dated as a matter of fact according to the date of the letters, and so I was looking for this minute and I could not find it, but prior to the sittings here I went over every file of correspondence in the bank personally,

and I came across two or three of these copies, and I remember drawing the condition of the minute to the attention of Mr. Thompson and Mr. Hodgins. I believe the other copies differ from this somewhat in that there are one or two names left off which we had on this list, or perhaps inserted in writing; that is my memory.

Q. Was that signed? A. No, sir, not to my memory.

Q. If Travers is right what he speaks of would have taken place before the books came into your hands? A. Yes, long before they came into my hands.

Q. Where did you find Exhibit 93? A. That Exhibit came out of Mr. Fitzgibbon's private desk in the head office of the bank. What happened was at the inception of these proceedings we were looking for some papers that could not be found, and Inspector Duncan insisted that they must have been present in the bank by reason of information given to him; so we made a search in Mr. Fitzgibbon's desk and we found a lot of the papers, including those we were looking for amongst them. So I had them all taken out—I don't know whether the Inspector had them intact himself, I think he took them away intact, but anyway when they came back to me they came back in a separate parcel, and they have been kept in a separate parcel ever since, and that was amongst them.

Q. What is this Exhibit 93? A. To my mind it looks to me as though—there are figures relating to the accounts of the bank drawn up by Mr. Fitzgibbon—to my mind it looks to me like a statement drawn up for writing up the cash book and not as a copy for writing up the permanent cash book so as to strike a balance.

Q. As shown where? A. As shown in the permanent books.

Q. And had it any bearing on the representation that had been made to the Department of Finance? A. It has this connection, sir, that the representation made to the Department of Finance was that they had received \$291,310 of capital stock subscriptions, and the first item starts out with collections of \$291,310; the first two or three pages of those are later accounts apparently. That was taken off that report to the Government.

Q. And they started with that as the basis? A. As the basis of the account.

Q. And the account, I judge from what you were saying, was made out to make it agree with that? A. It is common sense that account was made for the purpose of casting up the books that way, not the books made up and the account copied from it.

Q. The preliminary expenses were entered, as we have already heard, the organization expenses, at \$31,127.71? A. Yes, sir.

Q. That is some \$12,000 less than the actual sum expended? A. Yes.

Q. What was the purpose of that as far as your knowledge as an accountant enables you to say? A. It means they were trying to hide \$12,000 of expenses, and the way they did it was this, I think the accounts showed it to me when I went over them, and the evidence given proves it; they had \$9,000 of cheques in the drawers which they carried in cash.

Q. Cheques on account of shares? A. Yes, on account of shares.

Q. Not debited to the bank? A. No, they had credited these men with the same amounts as the cheques as having been paid on their stock out of the money borrowed on the notes, so they disregarded these cheques entirely; the cheques as cheques were not entered in the bank books at all; they carried them in their till as cash; then there was \$3,700 left over out of borrowing from the Trusts & Guarantee Company, that made some \$12,728.

Q. How left over? A. Out of the \$100,000 they had spent all but about \$3,728.

Q. Spent how? A. Spread it, spread \$75,995, and they had used \$20,000 to cover securities which existed as securities and not as cash, and the balance it left them \$3,700; that with the \$9,000 of cheques made \$12,700 odd, and it is the exact difference between.



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Q. What did they do with that? A. Later on when they repaid the borrowings of the Trusts & Guarantee Company, they charged up that \$12,000 as against organization expenses, bringing it again into the account.

Q. You heard what Travers said? A. Yes.

Q. Is he mistaken about that? A. No, there is a charge of \$12,000 made to the bank premises account, but if Mr. Travers is right that that \$10,000 applies to this, then the \$12,000 charged against the Guarantee Company took up some other expenditures by a similar amount. He is right that there was a charge of \$10,000. You were asking me the other day about the prospectus. That is the only copy we have been able to find. It appears to be the one used in England. (This prospectus was subsequently filed as Exhibit 95). There is a statement in there (in Exhibit 63) showing the exact dealings with that \$9,000 of cheques.

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F. C. CLARKSON, Recalled:

MR. COMMISSIONER: What is that? A. That is an alphabetical list prepared from the Return Exhibit 5, stock subscriptions as represented in the documents furnished as a list of shareholders when application for the certificate of the Treasury Board was made, and payments thereon to the 27th of November, 1906.

Q. That shows in the first column the name of the subscriber? A. Yes, his address, the date of his application, the number of his shares, the amount, the date of the allotment and payments in cash to the 27th of November; the next column, payment by transfer of security, payment by note, and payment received on account of note to the 27th of November.

Q. That is another column? A. Yes. The next column shows the Trusts & Guarantee loan, how it was spread.

Q. How that was applied? A. Yes, and how it was applied towards shareholders. Next column is shares cancelled, giving the number of shares and the date of the cancellation. The next column is the Laidlaw accounts.

Q. That is the shareholders that brought suit and were represented by Mr. Laidlaw? A. Yes.

Q. Is that an accurate statement from the books? A. Yes, sir.

EXHIBIT 94: Alphabetical list prepared from the Return exhibit 5, stock subscriptions as represented in the documents furnished as a list of shareholders when application for certificate of the Treasury Board was made, and payments thereon to the 27th November, 1906.

Q. You have prepared a copy of the minute book of the provisional directors? A. Yes, sir.

Q. Is that it? A. Yes, sir.

Q. The original you will require for the purpose of the liquidation? A. Yes, sir.

This copy of minute book of provisional directors to be substituted for the original minute book, Exhibit 9.

Q. What is this? A. This is a copy of the minutes of the permanent board.

This copy of minute book permanent directors to be substituted for the original minute book, Exhibit 10.

Q. I understand you will require for the purpose of the liquidation, these two stock subscription books and the transfer books? A. Yes, sir.

Q. Is it practicable to get on with the liquidation without them? A. No, it is not.

Q. You will require the original records? A. Yes.

Q. If they are given out I suppose the liquidator will undertake to produce them at any time when they are required? A. We will undertake that.

MR. G. T. CLARKSON: Yes.

MR. COMMISSIONER: Then it can be noted that those books, after I have examined them as far as I require to do so, may be handed out to Mr. Clarkson upon that undertaking.

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DR. JOHN FERGUSON, Recalled:

MR. COMMISSIONER: I see from the minutes of the provisional board that a prospectus was approved in order to be printed at a somewhat early date, do you remember that? A. Yes, there was a prospectus issued.

MR. TRAVERS: March 21st or 22nd, 1906, I think is the date.

MR. COMMISSIONER: There was one earlier than that.

MR. G. T. CLARKSON: In the very first report of the acting Secretary in the meeting of the 26th August, 1904, that "Mr. Lown and he would likewise report progress as to the prospectus".

MR. COMMISSIONER: At a meeting that was held before this minute book one of the conclusions arrived at was that it seemed desirable, (D) that Mr. Fraser and Mr. Lown be requested to prepare material for prospectus, "and to enquire the cost of printing form". I think further on the prospectus was approved. I see November 28th, 1904: "The Secretary submitted a draft prospectus, which with certain amendments was adopted, and on motion of A. S. Lown, seconded by Mr. James Gallagher, 1,500 copies were ordered to be printed". Where is that prospectus? A. I do not know; there were some of them printed, how many I could not say, and I suppose perhaps some distribution of those was made at the time by some of the agents under Mr. Smith.

Q. You cannot say where they are to be found? A. No, I have not a copy.

Q. I should think the keeper of the Archives would have one of them. Look at that, was it that prospectus? (In the Return Exhibit 5)? A. No, that was the one that was arranged after Mr. Travers came in.

Q. I would like to see that prospectus to see how far it compares with the later one, whether it reflected the modesty of those who were looking after the business at that time. Then in March 22nd, 1906, I think Mr. Travers told us? A. Yes, March, 1906.

Q. It is on the 21st March, 1906: "Moved by Dr. Ferguson; seconded by J. Watson: That the Prospectus as presented be approved of". Is that the prospectus (in the Return Exhibit 5)? A. I suppose that might be the one that Mr. Travers had; I think that is the one that Mr. Travers formulated.

Q. The one commencing on page 10 of Exhibit 5? A. Yes.

Q. Do you know anything of that one? A. No, I never saw that one to my knowledge.

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ALEXANDER FRASER, Recalled:

MR. COMMISSIONER: Do you know anything about the prospectus that was approved on the 28th November, 1904? A. Yes, sir.

Q. Do you know where that prospectus is? A. No; they were given to Mr. Smith for distribution by his agents.

Q. You did not keep one? A. Well, I think there were some of them in the office of the bank all the time the provisional men were there; what became of

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them I don't know, that is beyond those that were distributed. They were for Mr. Smith's use and for his agents in offering stock.

Q. Did you ever see that one (afterwards filed as Exhibit 95)? A. I have no doubt I have. I have no clear recollection of having seen it before it was printed.

Q. This is evidently one after the bank was organized and the Board had been elected? A. Oh, I do not recognize that; but there was one issued before the bank was organized.

Q. That is the one that appears in Exhibit 5 with the name of Mr. Forget? A. Yes; I have never seen that other one then.

Q. In the light of present events it is somewhat interesting reading: "Instead of incurring the heavy expenditure and investing large amounts in office premises, advertising, in cities and large towns, branches have been opened..... at minimum cost"—I do not suppose you know much about that; I should have thought the office premises account was a pretty extravagant account. The next proposition is—it is in italics—after speaking of avoiding the competition of older established banks, by opening these branches; "This is clearly demonstrated by the fact that in less than four months after commencing business and accrued profit has been shown equal to over 6% per annum on the average paid up capital during that time"—what do you think of that? A. Well, sir, I had no connection whatever with the bank after the permanent directors were appointed, I knew nothing of its affairs, absolutely nothing.

Q. Then it is stated that judging by this and the fact that this result had been obtained during the worst months for banking during the year, from every indication the bank should be earning 10% per annum on the paid up capital by the end of this year. In all probabilities when that prospectus was issued the bank had lost every dollar of its capital? A. Of course that is a matter we could not possibly know.

Q. I suppose you are not at all responsible; you were not an officer of the bank after the first meeting of the shareholders? A. No, sir.

Q. Can you tell me: When you and Dr. Ferguson put forward, one proposing and the other seconding, the resolution to give up the business of attempting to organize the bank, and to divide the expenses among you—do you remember that? A. Yes.

Q. That was lost? A. Yes.

Q. Two voting for? A. And three against.

Q. Who were the three who voted against? A. They were the other members; there were five on the Board.

Q. That would be Gallagher, Watson? A. And Lown.

Q. That was before Mr. Travers came upon the scene? A. Yes, sir.

Q. What were the reasons that led the majority to disapprove of what you proposed? A. They evidently were more hopeful in bringing the organization to a successful conclusion than we were. When we took up the matter, these were the three who were at the beginning of the organization and asked us to join them. We always considered that they were the leading three among the provisional men. When we took it up we thought there would not be very much difficulty in securing subscriptions; as our experience grew as to that difficulty, I distinctly remember that we made this proposition, while we believed that we personally could pay back from ourselves the moneys expended—

Q. Have you any idea what the amount expended was at that time? A. I cannot recollect just now, but I remember that in making a division of what each man's share would be of the five that we thought we could stand it.

Q. What was the measure of your strength? A. It was not very large.

Q. Would it be less than \$5,000 that was spent then? A. Oh no.

Q. It would be more than that? A. Yes.

Q. You cannot give even approximately the figures at this time? A. Well, I cannot recollect. The motion was defeated, and we were pretty much convinced ourselves that the hope the others then had, and the ways they saw before them would succeed.

Q. When was it they turned you and Ferguson out of your positions of honor? A. We never took up the positions at any time with the intention of being more than helping our friends.

Q. Did it at all synchronize with the rejection of your motion? A. Oh no; we had abandoned the positions before then.

Q. Evidently you did not approve of what was done when Mr. Lown deposed, or when the Board deposed Dr. Ferguson and put Mr. Lown in his place, you voted nay? A. That was not our point of view. Our point of view was this, that when we took the matter up we did not expect it would be as onerous or as hard as it proved to be, and we had not the time to give to it. We desired relief as quickly as possible from the duties, and then Mr. Smith and Mr. Lown took them up.

Q. I do not know why, if that was so, you voted nay according to this? A. That is perhaps another question altogether; I understood you were still speaking of the abandonment.

Q. Oh no, no; I am talking about when they decided that Mr. Lown should be the Chairman? A. I remember that point also.

Q. What was the reason for that change that took place on the 13th of February, 1905, when Watson moved, seconded by Gallagher, that the motion appointing Dr. Ferguson Chairman of the provisional board, and so on, be and is hereby rescinded, and that Mr. A. S. Lown is hereby appointed Chairman of the provisional board, and so on. You voted nay; the Chairman, apparently being in the chair, did not vote? A. We had reached the stage then when a man having a practical knowledge of banking was necessary, because moneys were being received and had to be properly handled, moneys on subscriptions. We discussed two or three men, one of whom we thought might be suitable, and one had been practically decided upon to take over the work of organization after Smith. Then we were unanimous as to that man, but between meetings we heard that his habits were not such that we could trust him, and the others did not think that Dr. Ferguson and I were right in opposing him. It was a mere matter of detail and it brought about that.

Q. You are a little in error I think, judging from these minutes, because that motion that I just read to you having been carried, Mr. Lown took the chair; then Dr. Ferguson moved, seconded by you: "That whereas it is manifested that the promotion expenses will be heavy, it is deemed unwise for the provisional directors to accept any remuneration for their services other than their necessary travelling expenses and legitimate disbursements, and whereas the provisional directors of the Farmers Bank of Canada have received certain sums for attending upon meetings, be it resolved that the same at once be refunded". Another resolution, moved by Dr. Ferguson, seconded by Alexander Fraser, "That in view of the fact that the charter of the Farmers Bank will lapse at an early date and it is evident there are going to be grave difficulties in the way of disposing of the capital stock of the bank, be it resolved that all moneys paid in shares now placed be returned, and the expenses up to date be defrayed equally by the provisional directors". Does that look as if you were trying to get back at the majority for having deposed the Chairman? A. No, the real thing there, Dr. Ferguson and I had not confidence in the man that the majority thought was suitable to do the office work and relieved myself particularly of what I was up to then doing in my spare time; then when the majority differed from us in that, the Chairman had to be changed in that because he would come in practically daily contact with the new man.

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Q. There is nothing to show any conflict? A. I do not suppose these things would be minuted.

DR. FERGUSON: If I may be allowed to give you my impression, I had expressed the opinion previously that perhaps the wise course to take, would be to desist from further efforts at organization. Some of the others did not coincide with that view, and that friendly division took place; there was nothing acrimonious at all occurred; it was in the best of feeling, and the arrangement was made by which Mr. Lown became Chairman, and then after that I wished formally to put myself on record with regard to the view that I had expressed previously to ceasing to be Chairman.

MR. COMMISSIONER: Why did Mr. Fraser dissent? A. Dissent signified the non-approval of the main reason why, that is regarding the man; the man was decided upon, and a gentleman called on me and told me he understood that this man was to be entrusted with the office work and to lead in the organization of the bank; and he told me his habits were not very good. I reported that to my colleagues and the three of them thought there was not much in that, they did not agree with me.

Q. But you see what a malicious man, looking at the order in which these resolutions appear, might say it was plain what the object was—I am glad you have given that explanation—that having deposed the Chairman the deposed gentleman moved and Mr. Fraser seconded that they should lose all their fees? A. As a matter of fact the getting of the man, they pinned their hope on that to pull them out of their trouble.

EXHIBIT 95: Prospectus of the General Development Company, offering (in England) capital stock of the Farmers Bank.

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The Commission adjourned.

Certified correct MSS. pages 1 to 1879.

E. NIELD, C. S. R.,

*Official Reporter.*