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ROYAL

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REPORT

MR. JUSTICE MURPHY

ROYAL COMMISSIONER APPOINTED TO INVESTIGATE ALLEGED CHINESE FRAUDS AND OPIUM SMUGGLING ON THE PACIFIC COAST

1910-11



OTTAWA
GOVERNMENT PRINTING

DIGEST OF FACTS

RE

YIP ON AND YIP SUE POY.

First.—Yip On and Yip Sue Poy are partners in a mercantile business at Vancouver.

This fact was admitted by Yip On before the inquiry. The first question to be considered is whether evidence given by Yip On at the Commission can be used against him at the trial. Immunity was offered him as to such evidence, but his counsel declined to accept it, stating that to do so would weaken his position. His counsel, however, intimated that such evidence could not be used against Yip On even after such offer of immunity had been made was rejected.

If it is concluded that such evidence cannot be used, then proof of the partnership can doubtless be obtained obiter.

Second.—Yip On was the Chinese interpreter at Vancouver from 1903 to September, 1910.

This fact will be easily proven by the customs officials.

Third.—During Yip On's term of service as such interpreter, Chinese who were not merchants were passed through the customs as merchant exempts. Their real status was known to Yip On, and he was acting as interpreter when they entered as such exempts.

These facts can be proven by the evidence of Fung Chang Ming, p. 2307 *et seq.*, and by the evidence of Yip Dit Chor, p. 2340 *et seq.*, and of Young Jem Sun, p. 2347 *et seq.* The evidence of the two last is unsatisfactory as there was a night's interval between their evidence in chief and their cross-examination, and they to a large extent then denied what they had stated in chief. However, doubtless leave to cross-examine them as hostile could be obtained.

It is to be noted that all these men entered Canada in 1907, and therefore the limitation provisions would probably apply as to any prosecution under the Act itself. Mr. McCrossan suggests such prosecution might be laid under section 573 of the Criminal Code.

Fourth.—Great numbers of Chinese entered Canada at Vancouver as merchant exempts.

This can be proven from the records.

Fifth.—A private investigation into Chinese matters was started in August 1907 at Vancouver. Can be proved by Mr. Foster.

Sixth.—On September 3, 1910, a warning cable (Ex. 60) was sent from Vancouver to Hong Kong.

This can be proved by the telegraph staff.

Seventh.—Yip On admitted in the box that Ex. 63 was in his handwriting. He also wrote several specimens by direction of counsel for the Government when in the box. Messrs. Sproat and Cunningham, handwriting experts, using Ex. 60 and the specimens written in court as a basis of comparison, expressed the opinion that the sender's address on the back of Ex. 60 (which is unsigned) was that of Yip On. This signature is Yip On's firm name and address.

Eighth.—On September 6, 1910, three warning cables, Ex. 52, 53 and 18a, all signed Hing Sam were sent to various parties in Hong Kong.

Can be proved by telegraph staff.

Ninth.—Hing Sam is one of three names borne by Yip On.

Can be proved by his admission in the box if admissible. If not, possibly evidence may be obtained in Chinatown, Vancouver.

Tenth.—Handwriting experts, Sproat and Cunningham, using the same basis of comparison, declared this signature to be Yip On's handwriting. If admission of Ex. 60 and specimens made by Yip On are not admissible, difficulty will probably be experienced in getting many specimens of Yip On's writing to use for purposes of comparison at a criminal trial. However, two copies of his firm signature written by himself as given to a bank can be proven by the bank manager, and may serve the experts as well.

Eleventh.—Letters addressed to Yip On as Hing Sam were intercepted on a vessel, *Empress of India*, on October 7, 1910, which letters quoted verbatim one cable sent on September 6, 1910, and indicated fully the nature of the fraud being perpetrated. (Ex. 93 and 94.) Translations of all cables and letters can be had by reference to the Commission report.

The fact can be proven by Messrs. Foster, Lew and Lee Mon Kow. The letters speak for themselves.

Twelfth.—These letters bear the signature of Yip Cat Woon and the stamp of Nam Mow, agents for Yip On in China. This fact can be proven by Yip Sue Poy and by Yip On's admissions as receivable.

None of the cables of September 6, 1910, are addressed to Nammow, but one is addressed to Yip Cat Woon, who is reputed to be Nammow's manager.

This can be proven as current report by Lee Mon Kow. No more definite proof is obtainable.

Thirteenth.—Ex. 337, from New Westminster to Hong Kong, addressed "Conclusion," informing him of the fact of Yip On's suspension, and Ex. 330, detailing all steps in connection with the investigation were sent by Yip Sue Poy, Yip On's partner. This can be proven by the operator who received them.

Fourteenth.—Several other cables, as to which see report of the Commission, all dealing with passports, and the investigation can be proven as probably sent by Yip Sue Poy.

(See Wilson's evidence, p. 2192.) Translations of all these cables will be found in the main report.

Fifteenth.—On the first boat intercepted (*The China*, September 17, 1910) a number of suspicious letters were taken. One in particular directly implicating Yip On. (See main report.)

The defence likely to be set up is also dealt with in the main report. In the opinion of the Commission if Yip On is put upon his defence he will be convicted. He certainly will be if he goes into the box and the jury does its duty.

If these facts do not justify the prosecution of Yip Sue Poy, he might possibly be convicted of perjury, if that crime can be committed before such a forum as the Commission was.

He swore positively that he did not send Ex. 337 and 330. The only corroboration of the operator's evidence that he did send these cables would be the evidence of handwriting experts using specimens written by Yip Sue Poy, whilst in the box by direction of the Government counsel, that these messages are in Yip Sue Poy's handwriting.

If a prosecution is decided upon, Mr. McCrossan should be employed to conduct it, as for any other counsel to familiarize himself with all the details necessary would be a herculean task.

D. MURPHY,
Commissioner.

REPORT OF HON. MR. JUSTICE MURPHY RE CHINESE FRAUDS.

To His Excellency the Governor General in Council:

MAY IT PLEASE YOUR EXCELLENCY:—Your Commissioner appointed by Order in Council, dated November 12, 1910, "to further investigate and report upon the frauds recently shown to have existed in connection with the unlawful landing of Chinese immigrants in Canada at British Columbia ports, and any other evasions in violation of chap. 95, R.S.C., 1908, 'An Act respecting and restricting Chinese Immigration,' and 7-8 Edward VII, chap. 14, 'An Act to Amend the Chinese Immigration Act,' and Orders in Council based thereon, and to investigate and report upon the results of the operation of the Opium Act, viz., 7-8 Edward VII, chap. 50, 'An Act to prohibit the importation, manufacture and sale of opium for other than medical purposes,' with special reference to any opium seizures that have taken place under said Act and disposition thereof," begs leave to report as follows:—

The Commission opened in Vancouver on December 19, 1910, and held numerous sittings in that city. Sittings were also held at Victoria and Nanaimo, these three being the British Columbia ports at which Chinese enter Canada in the West. So far as Nanaimo is concerned, it is not a direct port of entry, but of late years a practice has grown up at Victoria of manifesting Chinese merchants' sons destined for that city upon the customs office there, the object being to attain a more thorough enforcement of the Act by making investigations upon the ground instead of at a distance.

Mr. George E. McCrossan, barrister, of Vancouver, B.C., appeared before the Commission on behalf of the Dominion Government. On December 21, 1910, Mr. Gordon Grant, barrister, of the same city, applied for a status as counsel for the Trades and Labour Council of Vancouver. As Mr. McCrossan had previously suggested that representatives of that body present at the hearings be allowed to ask questions if they so desired (*see evidence, McCrossan, p. 123*), and as Mr. Grant stated that he was in possession of a list of names of material witnesses whom he desired to have called (*see Grant, p. 125, q. 999*), his request was granted.

Mr. S. S. Taylor, K.C., also of Vancouver, appeared on behalf of Yip On, the former Chinese interpreter at the port of Vancouver, who had been dismissed a couple of months previous to the commission being issued for suspected complicity in the alleged frauds.

In this report references to pagination and to exhibits refer to the transcript of evidence taken, and to exhibits produced at the inquiry, unless otherwise stated.

At an early stage the main inquiry became complicated with a subsidiary issue which was so intimately connected therewith as to imperatively demand investigation. Briefly stated, this issue as first presented was a charge that prominent members of the Liberal party had done all in their power to prevent any probing into the alleged frauds, because they were participants therein. These statements were contained in a letter, dated November 14, 1910, sent to the Minister of Customs, which appeared on the official file relating to the subject matter of the inquiry forwarded to the Commission from Ottawa. Through an oversight this letter was not made an exhibit, but its contents, so far as material, were set out at pp. 336, 337 and 338. The original, Mr. McCrossan states, has been returned to Mr. O'Hara, the Chief Comptroller of Chinese Immigration at Ottawa. The matter was speedily cleared up, it being shown beyond peradventure that the allegations could not be supported by evidence of any kind (*see Judge Grant, pp. 335 to 363 inclusive, and McLean, pp. 1579 to 1584*).

The charges re-appeared, however, in a somewhat modified form in the cross-examinations carried on by Mr. Gordon Grant, which were throughout very largely directed to establishing that the Honourable W. Templeman, Minister of Inland

Revenue, and some members of the Liberal Executive Committee of Vancouver, especially Mr. Robert Kelly, had endeavoured to burk any investigation into the alleged frauds. In fact, it is clear, now that the Commission is closed, from Mr. Grant's examination of the witnesses whom he requested to have subpoenaed when applying for a status as counsel, that with the single exception of Mr. Foster, the Secret Service officer sent out to make inquiry in the first instance, they were material only because he hoped to establish these accusations by their cross-examination. (See cross-examination, Senkler, 368 *et seq.*; ditto Pound, 420 *et seq.*; Kelly, 8118 *et seq.*; Templeman, 3445 *et seq.*). Even in Mr. Foster's case Mr. Grant's cross-examination was largely directed to the same end. (See p. 1236 *et seq.*). The same purpose was indicated in his cross-examination of several witnesses called by Mr. McCrossan. (See cross-examination, Munro, 1037 *et seq.*; McLean, 1581 *et seq.*; Glover, 2480 *et seq.*; Yip On, 2226 *et seq.*). Finally, Mr. Grant went into the box largely for the same purpose. (See his evidence, p. 1253-1276, 1315-1319, 1346-52). The reasons for pointing this out will be seen later.

Apparent weight attached to the charges, supported as they were by Mr. Grant's attitude, because telegrams from the accused parties to Ottawa were on the official file (Ex. 275, 393, 394, 395 and 417), not indeed requesting any hushing up of a proposed investigation, but asking the re-instatement of Yip On, and of Mr. Boweli, the Collector of Customs and Comptroller of Chinese Immigration at Vancouver, after both had been suspended by the Department. When these telegrams were sent, as will be seen, Mr. Foster, the secret service officer, was in Vancouver, and though he had failed up to that date to get any evidence admissible in a court of law against Yip On, he had acquired a knowledge of facts and obtained possession of letters calculated to arouse grave suspicion. The parties who sent the wires knew of Mr. Foster's presence in Vancouver, and what his mission was. They did not know what evidence he had, and with the exception of the Hon. Mr. Templeman they made no effort to ascertain before forwarding the telegrams. (Kelly, 8129, q. 34384-87, p. 3141, q. 34482-88). Hon. Mr. Templeman did see Mr. Foster, but it was charged his purpose was to stop further action on that officer's part because further activity would be injurious to the Liberal party.

These grave allegations introduced a political element into the inquiry which placed the Commission in an awkward position. Either the widest latitude had to be given or else the Commission might in turn be open to the accusation that it too was anxious to screen individuals, especially as its personnel was the nomination of the Hon. Mr. Templeman, as appeared from the official file. The first horn of the dilemma was chosen in the belief that the traditional honour of the bar would prevent any abuse of the privileges accorded pursuant to this decision by the counsel to whom they were extended. The sequel will show that in the case of Mr. Grant this belief was ill-founded. This began to be apparent somewhat early, but the position taken was not receded from in the expectation that Mr. Grant would eventually justify his conduct by production of evidence. To place the question of opportunity beyond dispute, he was specifically asked at the last session of the Commission if he had anything further to adduce (3451 at foot of page, and at p. 3453, questions by Commissioner).

Charges against the Honourable W. Templeman

As will appear, these stand upon a different footing from those against the other parties. Accordingly they will be dealt with first.

To malign the private character of a Minister of the Crown before a Royal Commission to gratify personal spleen engendered by balked intrigue is to merit the pillory of public scorn. To knowingly falsely accuse a Minister of the Crown before a Royal Commission of prostituting his office by using his official influence with his fellow ministers and with a public servant for the purpose of burking an inquiry into alleged frauds affecting the administration of a most important part of the public

business of Canada, is to cause right thinking citizens to regret the limitations of the criminal law to punish such conduct.

Both of these things were done by Mr. David Lew, a Chinese resident of Vancouver, and Mr. Gordon Grant, before this Commission in reference to the Hon. Mr. Templeman. As to the first, both testified that Mr. Foster had stated to them that the minister was intoxicated on one occasion when he visited Mr. Foster. (Lew, p. 1023, q. 8351-64, Grant, p. 1257.) Granting that Mr. Foster did make the statement, the fact that he did so was utterly irrelevant to the issues raised as both Mr. Lew and Mr. Grant well knew. True, it did go to the question of Mr. Foster's accuracy of memory and frankness in giving his testimony, for the Commission is constrained on the evidence to believe he did make the statement as alleged. He did not deny having done so, merely asserted that he did not remember (*see* Foster, p. 1240, q. 9692), and his manner when so testifying was not convincing. On the other hand, Macara, Grant, Lew and Ferris all agree that he did so, and their evidence on this point is given with circumstantial detail. With the question of Mr. Foster's credibility, however, Mr. Lew had no concern, and indeed at the time he introduced the statement into his evidence, Mr. Foster had not been called. As to Mr. Grant, it seems clear from a perusal of the inner history leading up to this commission as hereinafter detailed, that impeaching Mr. Foster's credibility was not his object, even if that were within his province as counsel for the Trades and Labour Council, but it is believed his true motive was revenge for balked intrigue. Indeed this conclusion does not rest on deduction alone, for Mr. Grant in his evidence admits that he was piqued because he had not been appointed Government counsel before the Commission (*see* Grant, p. 1841, q. 10099-10107), the securing of which position was a minor feature of the intrigue referred to, and for this he knew Hon. Mr. Templeman was responsible (Senkler, p. 376, q. 2951 and 2952), just as it was obvious to Mr. Grant, fully conversant as he was with the inside facts, that the minister was responsible for the defeat of the whole plan. This plan, as will appear in due course, had for its object matters of much more importance than any question of mere legal patronage. Mr. Lew being a party to the same intrigue, had the same motive for gratuitous vilification.

And in passing it may be said that the Commission, had it been seized at the outset of the facts now proven, would not have allowed Mr. Grant to act as counsel on the inquiry of issues raised by him in the investigation of which he perforce must have been a witness, as will fully appear, if absolute injustice was not to be done to several innocent people. Aware of this, and of his intention to raise such issues as he must have been, Mr. Grant's action in accepting a retainer is regrettable and renders his abuse of the privileges accorded him as counsel the more flagrant.

As the accusation of drunkenness has been given much prominence in the press, it is only fair to the minister to state that it was conclusively disproved not only by his own evidence (p. 3441) but by that of Mr. Glover (p. 2478, and particularly 2479, q. 18949-50), and of Mr. Kelly (p. 3113, q. 34237).

That the second charge against him was made with knowledge of its falsity is shown by Mr. Grant's own evidence. His version is that Mr. Foster stated the minister came to him and opened an interview relating to Mr. Foster's work by saying, "Foster, I want this investigation stopped, it is going to hurt us too much." (Grant, p. 1257, at top), but on learning the evidence in Mr. Foster's possession, the minister directed him to go on with his work and assured him of his support (Grant, p. 1257, q. 9775 and 1258, q. 9776). Accepting this as true, it is clear that the minister's opposition only lasted so long as he had a wrong impression of the facts. When apprised of them, he promised him every assistance, instead of opposing him in his operations. Asked to justify his course at the investigation in the face of this, Mr. Grant's only excuse was that he feared Mr. Templeman would again fall under Mr. R. Kelly's influence (Grant, p. 1215, q. 10014-10026). But he had, as shown by the same reference, no reason other than alleged vague rumour for believing the minister was influenced by Mr. Kelly, and he had not even the justification of vague rumour

that Hon. Mr. Templeman had in any way changed his express determination to assist Mr. Foster in every way. Moreover, as will be shown later, he had every reason to know that if Mr. Kelly had any influence it would be used—as in fact it was used—not to balk a genuine investigation, but to defeat the intrigue in which he, Grant, and others were concerned, and hereinafter fully detailed, the success of which depended upon the suppression of facts intimately connected with Chinese affairs at the port of Vancouver.

It would be an abuse of language to state this charge without foundation. As shown, the very evidence adduced to support it disproves it. The true account of what Hon. Mr. Templeman did will be given in its proper place. He could hardly be called upon to prove a negative, but it may be worth recording that Mr. O'Hara, Chief Comptroller of Chinese Immigration at Ottawa, who would know of any opposition, testified that in no way had the minister attempted directly or indirectly to stop the investigation, but on the contrary had urged that it be rigorously carried out (O'Hara, p. 3432, q. 36513-19), and this is corroborated by the Hon. Mr. Templeman's letter to Sir Richard Cartwright (Ex. 418), hereinafter dealt with.

Charges against Members of the Liberal Executive of Vancouver, Particularly Mr. B. Kelly.

The charge against these gentlemen was likewise disproved, but to appreciate the evidence it is necessary to trace the workings behind the scenes before the investigation was staged. The only basis for the accusation was the fact that the telegrams above referred to had been sent. These, as a perusal will show, did not ask that any proposed inquiry be stopped, but they did request the re-instatement of Mr. Bowell and of Yip On, and did protest emphatically against the appointment of Mr. Lew to the position of interpreter at Vancouver, and did insist that recommendations for that position be received from the Liberal Executive. They also stated that the charges against Yip On had not been sustained. Clearly such wires under all the circumstances call for an explanation. This is furnished by the inner history now to be detailed.

Inner History Leading up to the Commission.

The central figure in this is Mr. T. R. E. McInnes, of Ottawa, and it dates as far back as 1908. On April 21 of that year Mr. McInnes forwarded an elaborate report to the Minister of the Interior dealing with Canadian trade with China, and opening and closing with pointing out the desirability of appointing a Canadian Trade Commissioner at Shanghai (Ex. 413, p. 4). In what capacity Mr. McInnes was acting does not clearly appear, but he had had some previous connection with the Government relative to the Oriental riots which occurred in Vancouver in the fall of 1907, and apparently had at the time the report was written some further relations with the Department of the Interior, as it opens by a reference to some previous report sent by him to that Department. His own explanation—not in connection with this particular report, for it was not before the Commission when he gave his evidence, but in reference to his activities in general—is that he acted in an advisory capacity to the Government. In view of what follows it is worth noting that this report, though dealing exclusively with trade matters, was not forwarded to the Department of Trade and Commerce but to that of the Interior.

On May 31, 1908, a letter was sent by the Department of the Interior to the Minister of Trade and Commerce for his information. Mr. McInnes seems to have become aware of this—indeed, as will be seen, his knowledge of occurrences in some of the departments was both accurate and promptly acquired—for on July 18, 1908, he wrote to the Deputy Minister of Trade and Commerce in reference thereto (Ex. 413, p. 1). As a matter of fact there was already a Canadian Trade Commissioner at Shanghai.

This official died sometime in December, 1908, and Mr. McInnes was mentioned as his successor. He states Mr. O'Hara sent for him and asked him to take the position (McInnes, p. 1729, q. 13761) and Mr. O'Hara rather bears this out. (O'Hara, p. 3339, q. 35751 to 35878). At any rate matters progressed so far that the order in council, for Mr. McInnes' appointment was actually drawn up and approved by the Minister of Trade and Commerce and sent to the Executive Council. He did not, however, obtain the position, and he knew that the cause was the opposition of the Hon. Mr. Templeman (see McInnes, p. 1729, q. 13761-63, and O'Hara, p. 3355, q. 35971, and p. 3364, q. 36027). It is this fact that connects the incident with the present investigation.

The next fact of importance is a report by Mr. McInnes, dated November 10, 1909. This deals exhaustively with the illegal entry of Chinese into Canada, and for the first time so far as transpired before the Commission the principal charges which eventually led to the commission being issued were brought to the attention of the Government. This report was also sent to the Department of the Interior, though it dealt with matters exclusively under the administration of the Department of Trade and Commerce. Mr. McInnes, however, states that he at this time was acting in an advisory capacity to the Immigration Department generally—which department is under the control of the Minister of the Interior (McInnes, p. 1640, q. 13296), and was specifically employed to draft a new Immigration Act (McInnes, p. 1642, q. 13298-13302). This Act of course had no application to the restriction of Chinese immigration *per se*—that being dealt with in the special Act administered by the Department of Trade and Commerce. But having obtained information pointing to the perpetration of frauds under the Act last referred to, Mr. McInnes quite properly drew the attention of the Government thereto. One of the sources from which he obtained this information was Mr. Lew (McInnes, p. 1647, q. 13336-44).

Nothing apparently was done, however, and some time after, apparently in June, 1910, Mr. McInnes interviewed Mr. O'Hara in reference to the same alleged frauds (O'Hara, p. 3343, q. 35876-78). At this time, apparently, Mr. McInnes was not in the employ of any department, for the Immigration Act which he was retained to draft, was assented to on May 4, 1910.

Shortly after this interview, Mr. Lew arrived in Ottawa, and Mr. McInnes introduced him to Mr. O'Hara (O'Hara, p. 3343, q. 35879-80, and p. 3412, q. 36389), telling the latter that Mr. Lew had a good deal of information re Chinese frauds. Mr. Lew swears that this was a mere pleasure trip with no particular object, and that he paid his own expenses (Lew, p. 643, q. 5984, and pp. 823, 824, 825 and 827, q. 6981-4). Mr. McInnes, however, admits that to his knowledge at the time one of Mr. Lew's objects was to see the Government in respect to conditions re Chinese immigration at Vancouver (McInnes, p. 1758, q. 13981-87, and p. 1732, q. 14029), and that he thinks Mr. Lew told him his expenses were being paid (McInnes, p. 1764, q. 14042-6). Mr. McInnes knew that Mr. Lew was coming to Ottawa before he arrived (McInnes, p. 1758, q. 13988-92). In view of the fact that it was Mr. McInnes who first approached Mr. Lew in reference to the alleged frauds, probably about the date of his first report there (November 10, 1909, Lew, p. 641, q. 5357-59), coupled with all that transpired between these parties subsequent to this visit, the Commission is forced to the conclusion that Mr. Lew took this trip pursuant to a previous arrangement between Mr. McInnes and himself for the purpose of bringing about an investigation into Chinese entries at the port of Vancouver.

If their object had been to bring to the attention of the Government frauds which as this report will show were actually being perpetrated at the time, their action would be highly commendable. The evidence, however, as it is submitted, that having become aware in part of what was going on, Mr. McInnes determined to use that knowledge to attain his own ends—the nature of which will be indicated in due course—and enlisted Mr. Lew, who was an intimate friend of many years standing, to assist in bringing about the desired accomplishment. Mr. Lew not only gave Mr. O'Hara a great deal of information about frauds, but he offered

his services free of charge to the Government to assist in ferreting them out (Lew, p. 1001, q. 8195-97, and Ex. 270, being letter O'Hara to Lew). He swears his sole motive was a desire for the public good (Lew, p. 1004, q. 8210).

His information being definite and pointing to serious frauds, it was decided to send out a secret service officer to investigate, with whom Mr. Lew was to co-operate (see correspondence Lew and O'Hara, Ex. 97, 98, 99, 100 and 102). Mr. McInnes became aware of this decision and applied to Mr. O'Hara for authority that he too should act in the matter, but this request was refused (O'Hara, p. 3412, q. 36391-3).

Despite Mr. O'Hara's refusal to employ him, Mr. McInnes on July 12, 1910, not more than ten days after Mr. Lew left Ottawa on his return journey, started for the Coast, advising Mr. Lew by wire that he was coming (Ex. 238). On arrival, he conferred with Mr. Lew re the investigation and proposed steps in connection therewith to be taken by himself on his return from Calgary, whither he went in the last week of July, intending to return about August 10, 1910 (see last clause of Lew's letter to O'Hara, Ex. 100). In the view taken of Mr. McInnes' actions, it is to be noted that Mr. Foster was expected to arrive and begin work about July 20, 1910 (see Lew to O'Hara, Ex. 100, opening statement), but that he did not make his presence known to Mr. Lew until Monday, August 8, 1910. Within less than ten days of that date, Mr. McInnes was back in Vancouver, for on August 17, 1910, he wired the Minister of the Interior, using the nom de plume of Julian Roy, reporting the successful prosecution of two Chinese women (see Ex. 232, Roy to Minister of Interior). Indeed the interval seems to have been of shorter duration, for the wire referred to was sent after conviction was procured, and Ex. 239 shows that Mr. McInnes was on the scene in time at any rate to have an interview with the magistrate before the trial, and apparently that the raid whereby the women were captured was originated by him. However that may be, he was in Vancouver by August 17, 1910, and speedily sought out Mr. Foster, who thereupon became as clay in the hands of the potter. By August 21, 1910, Mr. McInnes was in full control of the investigation, and so continued until September 12, 1910, when he left to look after the Ottawa end, consigning Mr. Foster to the careful custody of his trusted friend, Mr. Gordon Grant, another friend of many years' standing, and the same gentleman who subsequently appeared as counsel before this Commission.

That he was in full charge during his stay is shown by Ex. 123, dated August 21, a wire from him to the Minister of the Interior to the effect that he is going to Seattle to examine Chinese stowaways held by the American officials for deportation in order that he may ascertain the truth of a rumour that fifty Chinese had been smuggled ashore at Vancouver. Even his phraseology shows the true state of affairs. He states: "Foster goes with me." Arrived in Seattle, he examined two of the stowaways and obtained a Chinese note book containing a suspicious letter to one Fat Sun in reference to smuggling men ashore at Vancouver. Returning to Vancouver he located Fat Sun, ascertained that he was a friend of Yip On, and then handed the note book to Mr. Foster. He next proceeded to obtain specific cases of fraudulent admission of Chinese into Vancouver, and, on September 2, 1910, had secured two declarations (Ex. 107 and 108) in relation thereto (see Ex. 240, McInnes to Minister of Interior). September 6, 1910, he had elaborated a plan, Ex. 241, to be followed out by Mr. Foster for the further prosecution of the investigation which he inclosed to the minister on that date.

Whilst Mr. McInnes was thus advising the Minister of the Interior as to the progress of an investigation with the initiation and progress of which the Interior Department had no concern, and which related exclusively to the operations of an Act entirely within the administration of the Department of Trade and Commerce, which department had declined Mr. McInnes' request to be engaged in the investigation, Mr. Foster was reporting proceedings to Colonel Sherwood, his chief, but curiously enough never mentioning the activities of Mr. McInnes. The only time that Mr. McInnes' name appears in any document forwarded by Mr. Foster is in the attestation clauses of the two declarations above mentioned. (Ex. 107 and Ex. 108.)

Its occurrence on these was probably due to the fact that they were written by the justice of the peace who took them, and who couples Mr. Foster and Mr. McInnes as "of the Dominion Police of Vancouver." (See Ex. 108 and 109.) Apart from this omission, Mr. Foster's reports of August 24, 1910 (Ex. 136), September 6, 1910 (Ex. 137), and of September 7, 1910 (Ex. 139), closely parallel those of Mr. McInnes of August 19 (Ex. 239), and of September 6 (Ex. 240). No new evidence is submitted except on the subordinate question of the watch kept upon the boats at Vancouver, whilst the same facts bearing on the main issue of frauds and particularly of Yip On's connection therewith are duly related.

Mr. Foster's report of September 7, 1910, to Colonel Sherwood (Ex. 139) puts forward as his own the identical plan for operations which had the day previously been fathered by Mr. McInnes, and by him transmitted to the Minister of the Interior.

Prior to the securing of the declarations, Ex. 107 and Ex. 108, on September 2, 1910, Mr. McInnes had brought about a meeting between Mr. Foster and Mr. Grant (see Foster p. 1225, 9580-83). Indeed, if Mr. McInnes' statement to the minister is to be credited, this meeting took place prior to the trip to Seattle on August 21, 1910, for in his report of September 6, 1910 (Ex. 240), p. 1, he states that Mr. Grant—in the report called Roy—was to have made the Seattle trip, but activities by him on the opium branch of the investigation prevented. If Mr. Grant was to go on this Seattle trip he must already have had the entire confidence of Mr. Foster. However that may be, he certainly had won this before Mr. McInnes left, to such a degree that he was shown all reports sent by Mr. Foster after that date, and in fact wrote at least one of them which Mr. Foster dictated to him. (See Grant, p. 1338, q. 10089 to 10092.) Mr. Grant devoted himself as whole heartedly to the work as did Mr. Lew, keeping in close touch with Mr. Foster, whilst that gentleman was in Vancouver, and accompanying him to Victoria on his second trip made on October 7, 1910, to intercept incoming passport men and take them off at that port as hereafter narrated. He even made suggestions on that occasion as to how the work should be done (see Grant, p. 1332, q. 10077). Like Mr. Lew, Mr. Grant was doing all this at his own expense without expectation of remuneration (see Grant, p. 1305, q. 9973 and p. 1332, q. 10077), and purely from a desire for the public good (see Grant, p. 1351, q. 10135).

Incidentally he was in conjunction with Mr. Lew (whose communications with Mr. McInnes he saw—see Grant, p. 1338, q. 10089), faithfully reporting, by wire principally, to Mr. McInnes as will be seen hereafter every move made in connection with the inquiry. In passing it may be remarked that both he and Mr. Lew destroyed all these communications with Mr. McInnes, and the replies thereto, with a single exception, before the Commission sat, and had not copies been obtained from the telegraph offices the Commission would have been in ignorance of their contents (see Grant, p. 1339, q. 10092-95, and q. 10098; see Lew, p. 843, q. 7118-7126). The single exception is the letter of October 24, 1910, Ex. 276a, from Mr. Grant to Mr. McInnes, the contents of which, standing alone, give no inkling of the true relations between the parties. Even now it is clear from the papers thus secured that the whole of this interesting correspondence is not in the possession of the Commission.

To take up the thread of the narrative from September 12, 1910, when Mr. McInnes left British Columbia. On that day he wired from Laggan whilst en route to the east to Mr. Lemaire, Secretary to the Premier, requesting that cognizance be taken of his 10th inclosure (Ex. 241) to the Minister of the Interior, this being the plan for Mr. Foster's future operations (Ex. 244). Whether as a result of this or of Mr. Foster's letter of September 7, 1910 (Ex. 139), proposing the same method of procedure, Mr. O'Hara, on September 14, 1910, wired Mr. Foster to proceed as suggested (Ex. 404).

The scheme thus outlined was to temporarily suspend Yip On, the Vancouver interpreter, and Mr. Lee Mong Kow, the Victoria interpreter, on the eve of the arrival of one of the boats from the Orient. Mr. Lew was to take Yip On's place—it having been the custom for Yip On to meet incoming boats at Victoria and travel thence to Vancouver—and either represent that Yip On was ill and he was substituting, or else

he was to impersonate Yip On. It was expected that evidence would thus be secured from fraudulent passport men incriminating Yip On. Accordingly Mr. Foster demanded of Comptroller Bowell that he suspend Yip On, which, after some demur, was done.

For some unexplained reason Mr. Foster decided not to ask for Mr. Lee Mong Kow's suspension, and he communicated this decision, and also the contents of Mr. O'Hara's letter forthwith to Mr. Lew, who faithfully at once wired the whole information in code to Mr. McInnes (Ex. 245). Mr. McInnes replied also in code the same day (Ex. 247), stating that Mr. Foster had been given full discretion, thus showing he was keeping closely in touch with affairs at Ottawa, and evidently had accurate sources of information. The wire contained some peculiar directions to Mr. Lew, and wound up with a request to wire results. Both parties used assumed names in signing these wires, a practice they kept up with but two exceptions on Mr. Lew's part, and with none on Mr. McInnes' part, throughout their numerous wires. Mr. McInnes was Brown and Mr. Lew, Cedar.

It has been stated Mr. Bowell demurred to the suspension of Yip On. On September 15, 1910, Mr. O'Hara had wired him to obey Mr. Foster (Ex. 140). To this Mr. Bowell replied on the 16th (Ex. 141), protesting against employment of Mr. Lew. Mr. O'Hara answered directing Mr. Foster be obeyed, and that he must have a free hand (Ex. 142). On September 17, 1910, Mr. Bowell replied that he would carry out instructions (Ex. 145).

Mr. McInnes was aware of all this as shown by his wire of September 16 (Ex. 247) already referred to and by his further wire to Mr. Lew of September 17, 1910 (Ex. 246), informing Mr. Lew that Mr. Bowell had been instructed to obey orders.

Messrs. Foster and Lew proceeded to Victoria and carried out the proposed plan, obtaining evidence which will be dealt with in its proper place. By September 20, 1910, Mr. Foster was in a position to briefly wire results to his chief (Ex. 146). The same day Mr. Gordon Grant, under the nom de plume of Julian Roy, was able to wire a much more detailed account of all that had happened to Mr. T. R. E. McInnes (Ex. 248). This also was in code, the same code as was used by Messrs. McInnes and Lew.

And here it may be stated the Commission was for a long time in the dark as to the personality of Julian Roy. On receipt of the official files a request was forwarded to Ottawa for the attendance to give evidence of Messrs. Roy and McInnes. Mr. O'Hara informed the Commission by letter that he did not know who Roy was, and that Mr. McInnes declined to enlighten him (see Ex. 271, O'Hara to McInnes, and O'Hara, p. 3414, q. 16403-07). He had applied to Mr. McInnes for this information because such of the Roy wires as came into his hands had been handed to him by Mr. McInnes. Both Mr. Foster and Mr. Lew before the Commission denied all knowledge of the identity of Julian Roy (Foster, p. 1056, q. 8556-59; Lew, p. 829, q. 6105-6, and 6109-10, and p. 850, q. 7157-65). The truth was eventually obtained when Mr. Grant went into the witness-box, subsequent to this testimony of Messrs. Foster and Lew. It then transpired that Mr. Grant himself was the reincarnation of Julian Roy, his first embodiment in the flesh so far as his activities came before the Commission being Mr. T. R. E. McInnes. The reincarnation took place on the eve of Mr. McInnes' departure from British Columbia in September (see Grant, p. 1265, q. 9907-10, and p. 1308, q. 9981-84). Asked to explain the object in using this assumed name, Mr. Grant first hedged (see Grant, p. 1310, q. 9987-88), and being again recalled to the point, stated it was a precaution so that no one would know he was connected with the investigation (see Grant, p. 1311, q. 997-98). It certainly served a purpose in Ottawa, as will be seen later.

To revert to the main story. Mr. McInnes on receipt of the Julian Roy wire, telegraphed on September 21, 1910, to Mr. Lew his appreciation of what had been accomplished in the following terms: "Heartly congratulations. Hudson delighted. Action certain." (Ex. 251.) Hudson, under the code, was O'Hara.

Concurrently with these wires, however, events were happening at the coast which gave Messrs. McInnes and Lew considerable trouble and out of which grew the charges against the Hon. Mr. Templeman, and members of the Liberal Executive hereinbefore outlined. Some inkling of Mr. McInnes' activities leaked out in Vancouver, and Mr. R. Kelly heard of them. His information was that Mr. McInnes was endeavouring to oust Yip On for the purpose of installing D. Lew in his place, and that the change was desired not from any desire to improve the service, but for the personal benefit of those seeking to bring it about. (See Kelly, p. 3109, q. 34275-6, and p. 3133, q. 34427-32). To test Mr. Kelly's candour on this matter, Mr. Grant was specifically requested by the Commission to cross-examine in reference thereto. (See Kelly, p. 3144, q. 34502.) The result is set out at p. 3145, q. 34506-09, and shows that Mr. Kelly believed what he alleged.

It was well known in Vancouver that there was great rivalry between the Canadian Pacific Railway Steamship line and the Blue Funnel line to secure the Chinese passenger traffic. It was known also that Yip On's uncle was the Canadian Pacific Railway agent for Chinese passenger traffic in Vancouver, and that Sam Kee, a friend of Mr. Lew, acted in a similar capacity for the Blue Funnel line. As will be seen later the interpreter could do a great deal in the way of influencing the passenger traffic to one or the other line by making entrance of incoming Chinese difficult or easy at his pleasure. Mr. Kelly from the information he had of the activities of Mr. Lew, believed his object was to secure control of the post of interpreter for the benefit of the Blue Funnel line (see Kelly, 3134, q. 34429-31), and (p. 3145, q. 34507-9, and p. 3146, q. 34503-10), and from other information he had he believed Mr. McInnes was the man behind the whole investigation from the start, and that Mr. McInnes had brought it about and was active in it, not for any improvement in the public service, but to further his personal interests (p. 3110, q. 34276, and p. 3145, q. 34508).

These two beliefs actuated Mr. Kelly in what he did. The motive he attributed to Mr. Lew was not proven before the Commission, but sufficient was proven to indicate that Mr. Lew had his eye on the position of interpreter. It was also shown that Sam Kee was agent for the Blue Funnel line (Sam Kee, p. 272, q. 2159); that he was a friend of Mr. Lew (Lew, p. 830, q. 7014); that Mr. Lew knew of the struggle between the Canadian Pacific railway and the Blue Funnel (Lew, p. 971, q. 8090); and that a Chinese passenger agency was very valuable (Lee Mong Kow, p. 2726, q. 31988-89); also that its value depends upon the number of passengers secured as the remuneration is a commission on each ticket sold (Lee Mong Kow, p. 2726, q. 31987). These facts coupled with Mr. Lew's peculiar connection with Mr. McInnes, which will appear more fully as the story proceeds, and with Mr. McInnes' recommendation on October 21, 1910, to the Premier that Mr. Lew be continued as interpreter (Ex. 266, p. 2) together with Lew's reputed unsatisfactory character (Pound, p. 418, q. 4180; Kelly, p. 3112, q. 34285) might well lead to the conclusion that Mr. Kelly's opinion of Mr. Lew's activities was justified. As to the motive attributed by Mr. Kelly to Mr. McInnes, it will be seen that in the opinion of the Commission the suspicion was founded on fact.

Just at this juncture Hon. Mr. Templeman came to Vancouver, and at a dinner at the Vancouver Club on the evening of either September 20 or September 21, probably September 20, 1910, met Messrs. Kelly, Senkler, McDonald and others. After dinner he went into a room with the three named. He was informed by them that Yip On had been suspended, and that Mr. Lew, who he was told was crooked, was acting in his place, and was wholly unfit for such a position of trust because of his undesirable character. Further that the investigation was really over, and that nothing in particular had been elicited against Yip On (see Kelly, p. 3436 and 3437). As to this last statement, whilst as will be seen Mr. Foster had failed to get any legal evidence against Yip On, he did have in his hands moral proof, if credited, of his complicity in the frauds. The parties interviewing the minister had not approached Mr. Foster to ascertain what he had because of their belief, justified in the opinion of the Commission, that he was being used to promote the McInnes intrigue

(Kelly, p. 3144, q. 34502-06). Instead they had interviewed Mr. Bowell, comptroller, and Colonel Worsnop, surveyor of the port of Vancouver, and Dr. Munro, medical inspector, who all assured them of their thorough belief in Yip On's honesty (Kelly, p. 3130, q. 31394-7). The fact, however, that Mr. Foster had not been seen must have been told to the minister by his interviewers, for some of them as will be seen, went with him very shortly after the interview, when he set out to ascertain what Mr. Foster really had discovered (Glover, p. 2479 at top, and Templeman, p. 3448, q. 36557-60). Whilst there is no direct evidence that Hon. Mr. Templeman was told of the suspicions entertained against Mr. McInnes, it would seem that he was from Mr. Kelly's evidence (p. 3113, q. 34287) and from the minister's statement that the fear expressed to him as a reason for asking prompt action on his part was that Mr. Lew's appointment to the interpretership was then imminent at Ottawa (Templeman, p. 3437, q. 36533). Because of this fear, Hon. Mr. Templeman sent a wire (Ex. 417) to Sir Richard Cartwright recommending the re-instatement of Yip On (Templeman, p. 3438 at top page).

Although sending the wire as requested he deemed it only right that he should see Mr. Foster, and he did go from the club to Mr. Foster's rooms somewhat late in the evening for the purpose of interviewing him, but finding him in bed, made an appointment with him through Dr. Munro, who was at Mr. Foster lodgings, to see him next morning (Templeman, p. 3438, and Munro, p. 1035, q. 8427-8).

This is the occasion to which Messrs. Lew and Grant swore Mr. Foster referred when as they alleged he said the minister was intoxicated. As already stated, the Commission believes that Mr. Foster did make some such statement, and it is thought that, living as he was in an atmosphere antagonistic to the minister as the sequel will show, he inferred because of the lateness of the hour that the Hon. Mr. Templeman was under the influence of liquor, and next day so stated to Mr. Lew, who brought it up at the Carleton Café luncheon on October 15, 1910, where either Mr. Foster repeated it, or Mr. Grant did in his presence (see Grant, 1259, q. 9781-85; Ferris, p. 1325, q. 10050).

That Mr. Foster was thoroughly poisoned against the minister, and was hand in glove with Mr. McInnes is shown by the letter of November 10, 1910, from him to Mr. Lew (Ex. 306), which is such an extraordinary document to be written by one in Mr. Foster's position, and throws so much light on the inner history of the investigation that insofar as it refers to Chinese matters it is here set out verbatim:—

OTTAWA, Nov. 10, 1910.

Dear Friend LEW:—

Your letter of Nov. 2 received to-day. I showed it to Sherwood & he had copy made and he took it to O'Hara. He was just speaking to O'Hara for a few minutes. He is greatly pleased with our work, he told me there was going to be a Royal Commission appointed sure. I had talk with T. McI. he states you are not the only target that they are firing at from Vancouver for he has had to stand some pretty hot shots, he says he has the necessary papers to prove them liars, they had him before the Premier twice. Sherwood said when I was talking to him the day I got home that O'Hara wanted to have a talk with me, and he would let me know when he would see me, but so far I have heard nothing about him meeting me, they seem to be leaving everything to the Commission. I was talking to Tom again to-day, and he stated he had talk with O.H. yesterday, but Tom is afraid Templeman will stop the R. Commission when he returns from the West if he can but I think Temp say is pretty small or in other words he is a light weight in this and particularly with O'Hara now since he has the record of your successor who is Templeman's appointment. I am returning Card Sherwood said it was not necessary to have a writing expert compare the writing for O'Hara and he also were convinced what you stated was correct. Sherwood also stated C. P. R. were going to look fully into your case. You seem to have Sherwood & O'Hara on your side now, but you know you are still in the hands of the politicians.

I was summoned from Edmonton to Chicago the first of Nov, as fingerprint expert to give evidence at a murder trial. I was able to swear positively to the prints. I was there for two days, but left as soon as I got of the stand & have not heard if the accused was found guilty or not.

Yours respectfully,

E. Foster.

Curiously enough this is the only paper held by Mr. Lew relating to the subject matter of the inquiry that escaped destruction at his hands, and though vigorous search was made by Mr. Lew, it could not be found until after Mr. Foster left Vancouver (Lew, p. 1367, q. 10248-51). It was then produced by Mr. Grant who introduced it before the Commission in his cross-examination of Mr. McInnes stating he had obtained it from Mr. Lew (p. 1845, q. 14569-71).

Pursuant to appointment, the minister saw Mr. Foster on the morning of the 21st and heard from him what progress he had made. Mr. Foster informed Hon. Mr. Templeman that he had failed to get any legal evidence incriminating Yip On, but had acquired knowledge of facts that looked very suspicious. Hon. Mr. Templeman told Mr. Foster of the wire he had sent, and it was agreed the investigation should go on, Mr. Foster suggesting the advisability of sending a secret service man to China. The minister pointed out that it would be well to re-instate Yip On, thus putting him off his guard if guilty, and, in the meantime carry on the proposed secret investigation. To this Mr. Foster assented, and with the end in view, the minister's wire was allowed to stand. The interview closed by the minister promising to assist Mr. Foster in every way (Templeman, pp. 3439 and 3440).

That this is a correct statement of what happened is shown by the letter sent (Ex. 418), written September 24, 1910, by Hon. Mr. Templeman to Sir Richard Cartwright, detailing the plan he had proposed to Mr. Foster. It is corroborated even by Mr. Grant's version of what Mr. Foster stated at the Carleton luncheon as having happened, with the exception of the introductory portion as to the minister opening by requesting that Mr. Foster stop the investigation. Mr. Foster strenuously denied having said this, and it is of little moment to decide whether he did or whether Messrs. Lew and Grant manufactured it. The facts show there was a distinct object in view by Messrs. McInnes, Lew and Grant, and to what extent Mr. Foster was a dupe, and to what extent a participant in the intrigue it is bootless to inquire. He at any rate at once communicated the facts both of the night visit and of Hon. Mr. Templeman having informed him of sending the wire to Mr. Lew, who forthwith on September 21, 1910, wired the information to Mr. McInnes in the usual code, adding that the minister had tried to deceive Mr. Foster (Ex. 252).

In the afternoon of the same day Mr. Bowell dismissed Mr. Lew and re-instated Yip On, a matter which will be discussed in its proper place. Mr. Lew forthwith wired this to Mr. McInnes (Ex. 255). Mr. McInnes replied the same day as follows: "Ask Hunter wire strong protest to Wood immediately. I will see Smith to-morrow. Don't give up. Signed Brown." (Ex. 254). Hunter was Mr. Foster, Wood was Colonel Sherwood, and Smith was Sir Wilfrid Laurier. On September 22, 1910, Mr. McInnes submitted a memorandum to Sir Wilfrid Laurier, and attached thereto copies of the two wires he had received from Mr. Lew as to Hon. Mr. Templeman's interference and his own dismissal, and Yip On's re-instatement. This memo. (Ex. 258) was calculated to impress the Premier with the view that an attempt was being made at the coast to burk the investigation, and in the light of the facts set forth in this report, will justify careful perusal.

The desired effect was produced, and Mr. McInnes had the satisfaction of wiring Mr. Lew on the same day as follows:--

"Temp over-ruled. Hunter instructed brook no interference. If he wires Wood confirming your statement McPherson re-instated, Bird will be suspended. McPherson dismissed. Signed Brown."

Temp. was the Hon. W. Templeman; Hunter, Mr. Foster; Wood, Col. Sherwood; Bird, Mr. Bowell, and McPherson, Yip On (Ex. 259). He followed this on the same day by a warning wire which clearly indicates what he and Mr. Lew were about. By some over-sight this was not made an exhibit, but the press copy made by the telegraph company was duly identified by the proper officer, and is amongst the papers. It is in this report referred to as 259a:

"David Lew.

"Ottawa, Sep. 22/10.

Play carefully. I n't be dictatorial." (It then advises Lew to be advised by some person whose identity was not sworn to before the Commission.) "Everything coming our way. Smith squashed Temp. recommendation of McPherson. Both Bird and Temp. wired against you personally. Bird said you were tea ring leader. Hudson will suspend Bird soon as Hunter wires confirmation your telegram that Bird dismissed you, and re-instated McPherson. Liverpool office seriously want Bird's scalp. McPherson out for good.

Brown."

Hudson was O'Hara, tea signified opium. The meaning of "Liverpool" was not ascertained owing to the wire not being put in as an exhibit. The other code words have already been explained. On the same day Mr. Foster wired confirmation as desired (Ex. 147), adding that he was mailing transcripts (meaning of the evidence taken on the investigation held by him hereinafter referred to). He communicated this fact of mailing the transcripts to Mr. Lew who as usual wired the information to Mr. McInnes, and advised him that he (Lew) was forwarding a copy of his (Lew's) confidential report to Mr. O'Hara (Ex. 111) to him (McInnes) (Ex. 260). This confidential report (Ex. 111) contained a statement that Mr. Lew had been informed that Mr. Templeman had interfered and insisted on Yip On being re-instated (*see* p. 2 of Ex. 111). Mr. Foster's confirmation brought about Mr. Bowell's suspension on September 22, as Mr. McInnes had prophesied it would (*see* Ex. 259, 259a).

Mr. Bowell thereupon went to Mr. Kelly and informed him of the fact (Kelly, p. 3109, q. 34275). Mr. Kelly had already, as shown above, formed his opinion of the proceedings. He, however, saw Col. Worsnop, the surveyor of the port of Vancouver, and inquired of both him and Mr. Bowell if they had any reason to suspect Yip On and was assured they had not (Kelly, p. 3110 at top). He also saw Dr. Munro as already stated.

He thereupon got such members of the Liberal Executive as were available together—Mr. Senkler, the president, being absent from town—and the wire, Ex. 393, to Sir Richard Cartwright was sent as follows:—

"Collector Bowell should be re-instated. Our friends unanimous for Yip On. Think department acting unwisely."

This was signed, J. H. Senkler, President Liberal Association. Some question arose before the Commission about Mr. Senkler's name being signed to this when he was not present, but it was explained that it was used officially and not personally, as in fact appears on the face of the telegram (*see* Pound, p. 402, q. 4004). The next day a similar wire was sent to the Premier signed in the same way (Ex. 394), and a further wire (Ex. 275) to Sir Richard Cartwright demanding the right to nominate interpreter and opposing appointment of Mr. Lew. This was signed by the secretary, Mr. Kelly on the same day personally wired the Hon. Charles Murphy to the same effect. (Ex. 395).

It is these wires as above pointed out that constitute the sole basis for the charge against members of the Liberal Executive of attempting to burk the investigation. They were sent as has been seen in the belief that Mr. Lew was attempting to capture the interpretership for his own purposes, and that Mr. McInnes was actively assisting for his own ends, and that the success of the intrigue would be highly prejudicial to the public interest.

In the opinion of the Commission as already stated, not only were these beliefs justifiable, but as to the most important factor, viz., the purpose of Mr. McInnes' activities, were strictly in accord with the facts.

As the matter was presented to the Premier, however, as the narrative shows, it bore an altogether different complexion. He at once communicated with the Trade and Commerce Department, and there found that very suspicious details of facts pointing to Yip On's complicity in the alleged frauds were on file. These were set out in the various reports sent in by Mr. Foster and Mr. Lew hereinafter dealt with. One of these reports (Ex. 135) asserted without, however, giving any proof that the Customs officials at Vancouver had knowledge of these frauds. Very probably, also the Premier saw Ex. 112, a wire dated September 25, 1910, from Mr. Lew to Mr. McInnes, sent to be communicated to Mr. O'Hara, and Ex. 150, a wire dated September 26, 1910, from Mr. Foster to Col. Sherwood. The first pointed to complicity on Mr. Bowell's part, the second to Yip On's guilt. Sir Wilfrid Laurier, therefore, on the 26th September, 1910, replied to the Senkler wire:—

"Sorry not agree with you. Have looked into the matter and *prima facie* case against Yip On so strong as to warrant suspicion. Matter will be looked into again but meantime suspension must be maintained." (Ex. 36a.)

On September 26, 1910, Mr. Lew wired to Mr. McInnes reporting progress, and stating a letter containing "good stuff" had that day been intercepted. (Ex. 112a.)

In the meantime, an official inquiry into the status of the suspected passport men, who arrived on the *Empress of China* on September 17, and who were detained in Vancouver had been determined upon by Mr. Foster, and was to open on September 30, 1910. Mr. Foster had on September 20 conducted a private inquiry which failed to elicit any direct evidence against Yip On despite the intercepted letters incriminating him hereinafter summarized, with which he confronted the passport men. On September 28, 1910, Mr. Foster wired Col. Sherwood that he intended to employ D. G. MacDonnell, K.C., as counsel for the Government (Ex. 153). Messrs MacDonnell, K.C., and Senkler were the regular counsel for the Department. Apparently this decision was a slip on the part of Mr. Foster made without consulting Mr. Grant, or else the statement was put in the wire to lull any suspicion that might have been aroused at Ottawa as to Mr. Foster's course of action. At any rate Mr. Grant, as Julian Roy, sent a night letter to Mr. McInnes. (Ex. 152) as follows:—

"Night Letter.

"Vancouver, B.C., September 28, 1910.

"Japan left to-day. 18 Chinese left over on detention. Foster fixed hearing of Chinese for Friday. Yip On engaged counsel represent Chinese, also paid good retainer for three interpreters to against David Lew. Regular counsel for customs here is unsafe and would be dangerous to Foster. Shed very poor accommodation. Chinese were allowed to mix with regular passengers. No way prevent Yip On and associates communicating with Chinese. David Lew is very game so far. Lived up to his reputation. Threats have been made upon him. All Viceroy's certificates written only in Chinese. All drafts carried by boxes are worthless.

Julian R."

"Boxes" in code meant passport men.

Mr. McInnes on the 29th wired Mr. Lew (Ex. 262):—

"Ottawa, September 29, 1910.

"Rush.

David C. Lew,

Chinese Interpreter,

Vancouver, B.C.

Lettergram not received till 4 this afternoon. Took immediate action. Hunter instructed retain Gordon Ferris for to-morrow and additional interpreters. You suggest Lee Kee.

43358—3

Brown."

Lee Kee is a friend of and closely allied with Sam Kee, agent for the Blue Funnel Line (Lee Kee, p. 1903, q. 15090-103).

He also wired Mr. Grant the same day, (Ex. 263):—

"Ottawa, September 29, 1910.

"Gordon Grant,
Barrister,
Williams Building,
Vancouver, B.C.

Foster has just been officially instructed retain you on investigation to-morrow with Ferris.

Brown."

The usefulness of the Julian Roy name is thus apparent, for the authorities to whom doubtless Ex. 152 was shown would never connect Julian Roy with Gordon Grant, whom Mr. McInnes was recommending for counsel in lieu of the regular men whom the wire characterized as dangerous. It is worth nothing that as early as September 23, 1910, Mr. McInnes was endeavouring to have Mr. Grant appointed as counsel (see statement on p. 2 of Ex. 276, McInnes to Grant, a document which will also repay careful perusal).

Mr. McInnes was a busy man on September 29. He drew up a memo. for the Premier (Ex. 257) in which he suggested that Messrs. Ferris and Gordon Grant be instructed to act as counsel, called on Mr. O'Hara at noon, and in the afternoon prepared another memo. for Mr. O'Hara (Ex. 261) evidently subsequent to the receipt of the Julian Roy wire. In this he strongly urged the appointment of his proposed counsel, Messrs. Ferris and Grant, and strenuously opposed the employment of Mr. Senkler. On September 30, 1910, Col. Worsnop, who was to make the investigation, of his own volition he swears (Worsnop, p. 400) and I see no reason to disbelieve him, wired asking that Mr. Senkler be appointed counsel. His reason was that he was about to preside over the official inquiry as to the status of the passport men, and had known Mr. Senkler for many years, who not only advised him in his official capacity, but was also his personal solicitor. Knowing the importance of the task he was about to undertake, he desired Mr. Senkler's assistance owing to his confidence in that gentleman as a legal adviser (Worsnop, p. 400). Mr. O'Hara replied that Mr. Senkler was on record opposing the action of the Department (Ex. 36). Apparently Mr. McInnes had some difficulty in having Col. Worsnop's application turned down, for on October 1, 1910, he wired Grant (Ex. 242) as follows:—

"Ottawa, Oct. 1, 1910.

"Gordon Grant,
Barrister,
Williams Building,
Vancouver, B.C.

Private:

Worsnop asked Hudson retain Road counsel. Hudson refused. Temple Murphy insisted but Smith sustained Hudson. Worsnop instructed prevent Boxes counsel privately interviewing Bales. Tell Cedar keep eye on this. Also continue tea trail. Hunter's authority over Worsnop confirmed this morning.

Brown."

"Murphy" was the Hon. Charles Murphy; "Bales" meant suspects. "Road" meant regular department.

He followed this by a detailed statement by letter of his doings (Ex. 276). The following is an extract, but the whole document will repay perusal:—

"Private.

Gordon Grant, Esq.,
Barrister,
Vancouver, B.C.

October 1, 1910.

Dear Sir,

re Chinese affairs.

I practically staked my reputation with the powers that be in making good provided I was given a free hand and my suggestions followed. They have not gone back on me—and am confident now will back me to a finish—but the position has been fierce. This very morning the Secretary of State sent word to O'Hara to cancel the appointment of yourself and Ferris and appoint Senkler in your places. O'Hara refused and appeal was made to the Premier. I wired you the result half an hour ago. This is a big chance for Ferris and yourself Gordon—a keen interest is being taken over here in the matter, especially in view of the stand taken by Templeman, Ralph Smith, Senkler and the Liberal Executive on behalf of the accused and against the investigators."

On September 30, 1910, Mr. Lew wired Mr. McInnes a full summary of the proceedings at the inquiry (Ex. 112b). On October 2, 1910, Mr. Lew again wired Mr. McInnes, again summarizing proceedings and stating they showed Mr. Bowell at least negligent and incapable (Ex. 264). On October 4 and 10, 1910, Mr. Lew again wired reporting progress (Ex. 264a and 265), and made his final report by wire on October 23, 1910 (Ex. 267). Mr. Foster left for the East shortly after. On October 12, 1910, Mr. Foster recommended a Royal Commission, and even went so far as to suggest the Commissioner (Ex. 165, p. 2) although it was not until October 15, 1910, that he got counsel's letter recommending that such course be adopted by the Government (Ex. 170). On October 24, 1910, Mr. Grant wrote Mr. McInnes (Ex. 276a) urging a Royal Commission which he had as counsel advised on October 15, 1910.

One naturally asks what was the object of all this activity. Mr. McInnes justifies it by producing a letter (Ex. 234) from Mr. W. D. Scott, Superintendent of Immigration in the Department of the Interior, reading as follows:—

"Ottawa, July 8, 1910.

"Sir,

It has been decided that you should again visit the western provinces with a view to reporting along the same lines as you did in your reports to the minister of the 10th December, 1908, and the 10th November, 1909, touching on immigration questions and the administration of the Immigration Act in those provinces. It is understood that this will occupy your time until sometime in September and I may say that during your absence from Ottawa it is proposed to pay you \$10 per day to cover everything outside of transportation, for which I am getting you a pass. I understand that you will be prepared to leave here on or about Tuesday next.

Your obedient servant,

W. D. Scott,

Superintendent of Immigration.

T. R. E. McInnes, Esq.,
Citizen Building,
Ottawa."

But no intelligent man, not to say a lawyer, as was Mr. McInnes, could construe this letter as giving authority much less as directing its recipient to come to the coast and take over the management of an investigation into Chinese frauds, which was about to be carried on by the Department of Trade and Commerce, and which related to an Act, the administration of which was exclusively the business of the Department. And in this connection it is to be remembered that Mr. McInnes had applied to the Department of Trade and Commerce to be employed in this particular investigation and had been refused. As a matter of fact, Mr. McInnes did not pretend when before the Commission that the letter could be so construed (McInnes, p. 1782, q. 14190-92.) Still less could it be said to authorize him to arrange that

Messrs. Grant and Lew get information of every move of Mr. Foster, and of every step of the investigation, and to wire full accounts to him at Ottawa. Especially do its terms fail to explain Mr. McInnes' activities after his return east—which as shown above were most pronounced—for they show that his employment was to be at an end on his arrival back at the capital. Yet it was after that date that all the events happened which led to the particular charges under discussion being made, and these events as shown were brought about by this interference of himself and his associates with the investigation. In this connection it would be interesting to know who paid for the numerous wires exchanged between these parties after Mr. McInnes' return to the East, but on this point the Commission has no information. It is worth noting also that Mr. Lew must have left Ottawa the first week in July, for he reached Seattle on July 12, 1910, having lost a couple of days *en route*, as he informs Mr. O'Hara in his wire from that city sent on that date (Ex. 97). He left the East as soon as the investigation was determined upon, as this wire and his subsequent correspondence with Mr. O'Hara shows. Mr. McInnes' application to have a hand in the inquiry, and the refusal of that request must have occurred, therefore, also in the first week of July. Mr. Scott's letter was obtained on July 8, 1910, and its concluding paragraph indicates that it was written after a talk with Mr. McInnes, *re* the trip it directed him to take. In view of his subsequent activities it would likewise be interesting to know if it was obtained by solicitation on the part of Mr. McInnes, and who it was that suggested its scope, but the Commission has no information on this point, and the facts are left to speak for themselves.

Inquiry was made of Messrs. Foster, Grant and Lew before Mr. McInnes' arrival for an explanation of these activities, since they had been so closely connected with them, and since in the case of Mr. Foster at any rate, an explanation seemed demanded in view of his position with the Government. Neither Mr. Foster nor Mr. Lew could give any explanation (see Foster, p. 1210, q. 9463-79; Lew, p. 837, q. 7059-61). Mr. Grant, however, did give the Commission the impression that Mr. McInnes was instructed by Sir Wilfrid Laurier himself (see Grant, p. 1299, q. 9952-54). In fact, he swore Mr. McInnes had so informed him, (Grant, p. 1352, q. 10141-44). The previous credentials mentioned in the first citation of evidence by Mr. Grant refer to authority given to Mr. McInnes in 1907, at the time of the Japanese riots in Vancouver (see Grant, q. 9899-02).

Mr. McInnes himself, however, on arrival did not put forward any such claim (see McInnes, p. 1725, q. 13734; p. 1781, q. 14190-92). His first explanation was good citizenship (McInnes, p. 1725, q. 13732-3). Later on, however, under stress of cross-examination he admitted that he had a personal motive which he refused to divulge. (McInnes, p. 1783, q. 14199-209). Mr. McInnes, as will be there seen, stated that he expected to be remunerated not in a commercial way, but from the power he would gain from the esteem of certain powers in China. Whilst he denies that financial considerations in any way actuated him, his cross-examination showed that as far back as 1905 he had incorporated the Pacific & Oriental Trading Company, of which he was a member, for the purpose of trade with China (McInnes, p. 1732, q. 13789-92). Though this company never entered business, he kept it in mind. He spoke of it to a Captain Worsnop, and had interviews in reference to it with one Mr. Bethune in 1906, 1907 and 1909. (McInnes, p. 1741, q. 13847-68). Captain Worsnop, who is no relative of Colonel Worsnop, Comptroller of the Port of Vancouver, swore he had an interview with Mr. McInnes in July or August, 1908, in reference to Chinese trade, and that Mr. McInnes stated he would be able to command the influence of the Canadian Trade Commissioner to assist the proposed company (Worsnop, p. 2517, q. 30326-32). Mr. McInnes denies this, and it is unnecessary to decide the correct version. The point is that Mr. McInnes admittedly had a personal motive in these activities which he stated was not commercial, but the nature of which he declined to outline to the Commission.

Whatever it was, one step towards its accomplishment was the at least temporary appointment of Mr. Lew as interpreter at Vancouver, and of a judge to hold an

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inquiry (see Ex. 266, letter Oct. 21, 1910, McInnes to Sir Wilfrid Laurier). A more important requirement apparently was the nomination of the permanent interpreter at Vancouver, for he bitterly complained to the Premier that despite all he had done he was not consulted when this post was filled (see his letter October 28, 1910, Ex. 236).

Such then is the inner history as gleaned from documents written by the parties concerned. The one man to be feared as being likely to frustrate the plan was the Hon. W. Templeton. As Minister from British Columbia he would of course be likely to be consulted *re* appointments and also *re* any investigation. Mr. McInnes had not forgotten, as shown by his manner when giving evidence on the point, that it was Hon. Mr. Templeton who had prevented his appointment to the post of Trade Commissioner in China. He probably connected Mr. O'Hara's refusal of his services on the investigation with the same minister. He certainly strongly assailed him in his letter to the Premier of October 28, 1910. It turned out that this fear was well grounded, for the Hon. Mr. Templeton not only nominated the interpreter, but also the Commission of Inquiry, and the appointments were made in accordance with such recommendations without consulting Mr. McInnes.

The whole plan having thus come to naught, Messrs. Grant and Lew, associates of Mr. McInnes, determined to make things as interesting as possible before the Commission for the minister, and such members of the Liberal Executive as were known to be his strong supporters, and personal friends. In justice to Mr. McInnes it must be said that there is nothing on the record to show that he was a party to this. He indeed was unwilling to appear at the hearings at all and wired the Commissioner that he had no direct knowledge that would throw light on the subject of the inquiry (McInnes, p. 1712, q. 13631, and Ex. 235). The charges were accordingly made and the telegrams quoted as proof. In the light of all the foregoing the Commission finds not only that the charges were entirely without foundation, but that the sending of the telegrams were very much in the public interest.

These charges have been minutely examined, first because the personal integrity of a Minister of the Crown and of prominent citizens of Vancouver was assailed; and second, because the whole result of the investigation so far as successful criminal proceedings against the guilty parties are concerned is endangered by the fact of the existence of the intrigue which caused the sending of the telegrams. As will be seen, the existence of this intrigue was set up at the investigation by counsel for Yip On to explain away the evidence against him and its existence will undoubtedly constitute Yip On's defence should any criminal proceedings be decided upon.

Chinese Frauds at the Port of Vancouver.

To come now to the real matters which the Commission was intended to investigate. Chinese may enter Canada fraudulently—

First.—By arriving as stowaways.

Second.—By members of Chinese crews coming ashore and instead of returning, sending friends desirous of returning to China aboard in their stead.

Third.—By members of Chinese crews when ashore changing their attire and attending before the officials as residents of Canada, and obtaining permits authorizing them to visit China, and return within one year as provided for by the Act. These obtained, they once more don their sailor suits and go aboard. Arrived in China the permits are sold to intending immigrants who resemble the vendors sufficiently in appearance to pass the loose identification until very lately in vogue at the port of Vancouver.

Fourth.—By impersonating residents of Canada who have obtained such permits and who do not intend to return and who therefore dispose of them for a consideration.

Fifth.—By representing themselves as the wives, sons and daughters of pretended merchants resident in Canada.

Sixth.—By representing themselves as merchants when they are not.

As to the first four heads, no direct evidence that successful evasions under them had taken place was given before the Commission. In the nature of things it could not be unless guilty parties themselves came forward and confessed. But it was clearly shown that ample opportunity for their occurrence existed.

Stowaways.

As to stowaways, it was proven that in August, 1910, the *Kumeric*, a vessel of the Bank line, sailing between the Orient and Pacific coast ports, the headquarters of which are at Seattle, brought over no less than fifty-three. This number were actually captured, two being detected by the ship's watchman trying to get ashore at Vancouver, which is the first port of call on this side for this line, twenty-five discovered by the American authorities at Seattle, Washington, whither the ship went from Vancouver; twenty-six more being found by American officials at Portland, Oregon, where the last of the ship's cargo was discharged. This demonstrates two things: (a) the extent to which the stowaway route is being used; and (b) the futility of endeavouring to check it by any search of the vessels whilst laden with cargo. A thorough search was made at Seattle by the American inspectors, yet, as seen, twenty-six escaped detection and were only found when the vessel was finally emptied of cargo at Portland.

It is to be noted also that amongst those captured at Seattle was one Yuen Jen Hing, who was recognized by the American authorities as having been captured at Tacoma, Washington, as a stowaway, on the *Oceano*, another steamship of the same line, in March, 1910, and deported. According to his statement there were twenty-three stowaways on board the *Oceano* on this March trip, and twenty of them were landed successfully at Vancouver (see Inclos. 1 attached to Ex. 240). The other three were captured at Tacoma in March, and they then stated that twenty had landed in Vancouver (Loftus, p. 198, q. 1544).

To the lay mind it seems impossible that fifty-three stowaways could be aboard a vessel throughout the long voyage across the Pacific, and the fact not be known to others than the members of the crew, and possibly one or more petty officers. This opinion is confirmed by the evidence of Captain Davidson, of the C.P.R. liners (p. 249, q. 1947). Captain Loftus, master of the *Aymeric*, another vessel of the Bank line, however, states that such number might be on board without the superior officers' knowledge (p. 203, q. 1592-3), and it is but just to add that on the Blue Funnel line, another line running from the Orient to Vancouver, the whole crew, with the exception of the captain, engineer and chief steward are Chinese (Worsnop, p. 54, q. 369), and possibly the Bank line crews are also almost entirely Chinese even as to the superior officers. The only evidence as to the Bank line is that Chinese crews are carried. The C.P.R. liners also have Chinese crews, but in their case the superior officers are white.

However that may be, the presence of the same man as a stowaway in March and July points to an organized scheme for carrying on the business, and in fact Mr. Foster states that he was so informed in Seattle by one of the men captured in trying to land at Vancouver, and that the objective was Canada and not the United States. (Foster, p. 1059). Further, a letter was obtained from the Customs officers in Seattle which was picked up on the *Kumeric* apparently written by one of the stowaways to a Chinaman in Vancouver, advising him that five men intended for Vancouver had been unable to land owing to the close watch—by the ship's watchman, not by the Government employee detailed for that purpose, as will be seen—and asking assistance in landing, failing which a large sum of money would be lost (Inc. 2 to Ex. 240). Clearly then the stowaway route seems to have been extensively used, and there was no reason, so far as the Government was concerned at any rate, why it should not be used successfully.

The ship's Chinese crews would be only too eager to engage in a traffic so profitable. They could doubtless get the stowaways aboard easily enough at Chinese ports,

when the white officers were so few as they are on the Blue Funnel line, and probably on the Bank line. On the C.P.R. vessels this would be more difficult, because the white officers are more numerous, and because as the evidence shows, a sharp lookout is kept when in Oriental ports, and no one is allowed on board the last twenty-four hours before sailing (Davidson, p. 250, q. 197). In fact, only isolated instances of single stowaways, or at most of only two at a time, on this company's liners came out in the evidence, and it is unlikely that their ships were used to any great extent. As seen, however, on the Bank line in one instance, a very different state of affairs existed, and there was evidence to show that stowaways used these vessels extensively.

The only difficulty to success would be an effective watch by the Government when the vessels were in port. The ships maintain—or rather try to maintain—a watch of their own, for the number of their Chinese crew is checked up by the authorities when they arrive in port, and again on their departure, and if the full complement is then not present the vessel has to pay head tax on the missing. Clearly, however, this watch, even if effective, is only concerned with the crew, and in any event the Government in such an important matter as the coming of Chinese into Canada—involving a loss of \$500 on each successful illegal entry, to say nothing of the utter defeat of the primary intention of the Act, viz., restriction of such immigration—ought not to depend on any private system of watching maintained for a particular purpose. Up to last autumn, however, that is subsequent to the reports of Mr. Foster, the Government watch at Vancouver was simply farcical, and the port so far as stowaways were concerned practically free, and this to the knowledge of Mr. Bowell, the Comptroller, as will be seen.

In the first place, but one man was detailed to watch a vessel for the whole night through, that is from 6 p. m. to 6 a. m. (Bowell, p. 88, q. 731-2). The practice to the knowledge of the Comptroller was for even this one man to have the ship about midnight to go for lunch (*see* Bowell, p. 89, q. 738). The Comptroller apparently believed this lunch was obtained up town, but in reality it was taken aboard the vessel, which the one man was supposed to watch, during which time the vessel would be wholly unguarded. Moreover, the man was stationed on the wharf and was expected to watch the gang plank which apparently was in place during the whole night. The water side of the vessel was therefore wholly unguarded, and as admittedly it would be impossible for any one man, even if trustworthy, to guard both this and the wharf, the watching staff at Vancouver was clearly not sufficiently numerous. The Comptroller was likewise aware of this (*see* Bowell, p. 88, q. 737-8), and although he asked in a general way for more help, he did so apparently more in connection with the general customs service than with the watching of ships. He, at any rate, never reported that ships were left wholly unguarded whilst watchmen went to lunch. (Bowell, p. 89, q. 740-56.)

But even the slight check of one watchman was useless, because the men employed were incapable and untrustworthy. Instead of being absent for lunch they were accustomed to take supper, lunch and a third meal on board the vessels they were watching, so that at three periods between 6 p.m. and 6 a.m., the vessels, so far as the Government were concerned, were wholly unguarded. (*See* Busby's Report, Sept. 28, 1910. Ex. 194.) At the date of that report, four men were employed as watchmen when their services were required, this being the whole force for day and night service. Mr. Busby reports on them as follows:

- "W. A. Kent, aged 48, given to drink and unreliable.
- "T. Physick, aged 63, physically unfit and service unsatisfactory.
- "H. H. Warburton, 50, cripple and unfit.
- "J. McPherson, given to drinking and unreliable."

That this report is correct is shown by the evidence of secret service officer Quin (p. 973 *et seq.*). He worked as a C.P.R. watchman on the Vancouver wharf from August 29 to September 29. He states that the Government watchman and the ship's watchman would retire into the interior of the vessel, and frequently spend the

greater part of the time there from midnight to 5 a.m. Drinking went on to a great extent. White men, Chinamen and even on one occasion a white woman went on and off the vessel at will at all hours of the night. Members of the crew went to and fro to the city as they listed. The visitors treated the night watchman (McPherson) to liquor and seemed to be very intimate with him (Quin, p. 973 *et seq.*). On two occasions McPherson was found drunk in the morning by the landing-waiter (Fagan, p. 310, q. 2524-28), and this was reported to his superiors with no effect but a reprimand (Fagan, p. 312, q. 2540-48). He was the man principally employed as night watchman, and was the watch on the *Kumeric* on the night of August 6, 1910, when she was in port with the fifty-six stowaways on board. The next morning was one of the occasions, on which he was found drunk and incapable, so had it not been for the ship's watch, all the stowaways could have come ashore if they so desired. The Bank liners' watch was furnished by their local agents at Vancouver, and was probably, on this occasion at any rate, a man who either could not be corrupted or else an opportunity to approach him was not found in time. McPherson's advanced intoxication indicates that those on shore interested in the scheme knew of the stowaways, and put him *hors de combat* so that he would not be aware of the magnitude of the operations. His condition on that morning was reported to the comptroller (Bowell, p. 104, q. 865, 74), yet he was not dismissed.

Mr. Bowell stated he would not have employed these watchmen if left free to choose, as he knew them to be incapable, but that he was forced to act on a list from Ottawa (Bowell, p. 109, q. 907-11). He admits, however, that if they proved inefficient, his duty was to report them to headquarters, and this he did not do (Bowell, p. 110, q. 912-14). Further, the statement that he was bound hard and fast as suggested is shown to be erroneous by the evidence of Inspector Busby, whose duty it would have been to select the watchman had he been in Vancouver at the time of their employ (Busby, p. 1401, q. 10421-22). The Department whilst forwarding names, expected fitness to be determined by the local authorities (Busby, p. 1402, q. 10428-31).

It is unnecessary further to digest the evidence as to the watch kept at the port of Vancouver, but it may be added that as there is no harbour patrol, vessels report their arrival as suits their convenience. In the second week of December, 1910, for instance, the *Boveric*, of the Bank line, with a full Chinese crew arrived at 7 p.m., and did not report to the customs office until near noon next day (Fagan, p. 220, q. 1740-53), and of course no watch was assigned to her as her presence was unknown to the authorities (Fagan, p. 222, q. 1751).

At Victoria, the vessels do not enter the harbour, but touch at an outer wharf which is shut off by high gates. They seldom remain there for more than a few hours, and apparently an effective watch is kept over them during their stay.

The Blue Funnel and Bank Line vessels, and a large number of tramp vessels from the Orient (Roe, p. 3071, q. 34025-31), however, go to coal at Union Bay on Vancouver Island. The C.P.R. boats coal at Vancouver. It is clear then if stowaways are on board the first mentioned ships, they may come ashore at this island port. There is but one man in this branch of the Government service at Union Bay, the customs officer, and no attempt whatever is made to watch the vessels, but reliance is placed on the ship's watchman (Roe, p. 3073, q. 34043-59). Vessels may be there all the way from 24 hours to several days (Roe, p. 3073, q. 34041). As already pointed out the ship's watchmen are only concerned with the ship's crew, and have no interest whatever in stowaways. So far as Union Bay is concerned, therefore, it is an open port for stowaways and smuggling.

No regular liners go into Nanaimo, but tramp vessels frequently call there for coal, and no watchmen are employed, although vessels lie there over night often. (Smith, p. 3032, q. 33883-92). They do not, however, come direct from the Orient, but are often manned by Chinese crews. Reliance is here placed on the fact that smuggling means connection with Chinese on shore and on the additional fact that United States ports are the first ports of call (Smith, p. 3034, q. 33905-20).

This state of affairs is also true of Boat Harbour, a subport of Nanaimo on Vancouver Island. It is another coaling station for tramp vessels similar to those calling at Nanaimo, and but one man is in charge for the Government just as at Union Bay (Smith, p. 3028, q. 33858-62).

From all this it is clear that the number of stowaways who have entered Canada in the past is only limited to the number who attempted that route, except such as were detected by the watchmen employed by the vessels themselves.

Frauds by Chinese Crews of Vessels.

(Class 'A.')

As to those entering under the second head, viz., by members of crews exchanging places with Chinese on shore, their number would not be great, but as matters were carried on at Vancouver there would be little difficulty in their way. As seen, the Chinese crew came and went at pleasure at night. Indeed, it was at one time apparently thought that as the ship was accountable for the head tax on any absentees, the matter of access to the shore did not concern the Government officials (Schoullar, p. 308, q. 2512-18). The only chance of discovery would be when the crew were checked over on leaving. Whilst some pretence was made of identifying individuals at Vancouver by means of personal characteristics recorded on the ship's crew list, it is obvious that this was at best but a slight check when it is remembered that the number ranged from 80 to 120 on each ship (Worsnop, p. 54, q. 369); and that the checking would be hurriedly done just prior to the sailing of the vessel.

Slight as it was, however, it was rendered wholly nugatory by being left virtually in the hands of Yip On, whom the Commission finds to have been entirely untrustworthy. The method adopted was to allow him to go in company with a white officer to Victoria and for these two to check up the crew en route to Vancouver. The officer would read off the descriptions from the manifest, and Yip On would check off the individuals (Bowell, p. 103, q. 851-57). When the vessel was about to sail, Yip On would at Vancouver again check, but the officer assisting would not be the one who had accompanied him to Victoria (Schoullar, p. 309, q. 2520-2). Illegal entries at Vancouver by this method therefore were only limited by the numbers—necessarily small—who desired to utilize it, and who had made proper arrangements with Yip On.

At Victoria, as seen, the vessels remained but a short time, and the opportunity would seldom arise. Moreover, the evidence is that a strict watch was there kept, and no Chinese members of the crew allowed to go up town.

Frauds by Chinese Crews of Vessels.

(Class 'B.')

As to the third head. Members of the crew obtaining leave of absence permits, and selling such permits to intending immigrants, these also in the nature of things would not be numerous, but success was equally assured at Vancouver. When a Chinaman desired to obtain such leave there he applied to one of the officers at the wharf. Yip On's services were then called upon to measure the man's height and to call off such identifying marks as might be found upon him. (Yip On, p. 2264, q. 17880-82; and Grant, p. 2735, q. 52063-70). These were recorded in a book, together with the man's name, address and occupation, all of course obtained through the interpreter. The applicant was then handed a card on which was a number, being the number opposite his name in the description book. He was expected to present this on his return, but in a great many instances this was not done, it being explained that the card had been lost. No importance attached to it in any event, as its only purpose was to aid the officers in finding his record when the man returned. Until

after Mr. Foster's reports, no photograph was obtained, but reliance was placed on the record as above outlined. Owing to the close personal resemblance of Chinese as a race, this at best was a poor check. Poor as it was, however, it seems to have been carelessly applied, for the rod used in measuring applicants was found by Mr. Busby in 1907 to be an inch in error, the first foot only consisting of eleven inches (Ex. 175). Mr. Bowell, it is true, states he was aware of this and allowed for it, but the matter was only remedied after Mr. Busby called attention to it. As probably the same rod would be utilized to measure the returning men the matter is of importance only as showing the general carelessness exhibited in connection with the work.

It is more worthy of note that the accuracy of the record such as it was depended entirely on Yip On, for as stated it was he who called out the data to the recording officer (Yip On, p. 2264, q. 17880; and Lee Mong Kow, p. 2735, q. 32063-70). On a man's return Yip On again called out such marks of identification as the man presented—or perhaps it would be more accurate to say as Yip On knew would fit the record (see comments under next head)—and these were checked with the record by some white officer (Bowell, p. 71, q. 395-98).

In Victoria, whilst the interpreter and some white officer made up the record on a man's departure, on his return two white officers acted, and the interpreter merely translated, having nothing to do with the checking, except that the rule was that he as well as the two white officers must be fully satisfied that the applicant fulfilled all the requirements of his record (Newbury, p. 2806, q. 32695-706).

As stated, those entering illegally under this head would necessarily be few, and success would likely depend on Yip On's connivance as he doubtless could detect that applicants for permits were not residents of Canada, but the Commission has no doubt that, given proper inducements, connivance would be forthcoming.

Impersonation of Leave of Absence Men.

What has been said as to the third class of possible illegal entries applies with equal force to the fourth, viz., immigrants impersonating permit men who had gone to China, and not intending to return had sold their permits to intending new-comers. In each case the only check was identification by imperfect records, and in each case at Vancouver even this depended entirely on the integrity of Yip On. Obviously, however, illegal entries under this head would be more numerous, as Chinamen frequently remain in Canada only until they have acquired what is a competence in China.

There was evidence before the Commission that Yip On who had during the day access to all the records, including the identification records (Worsnop, p. 10, q. 66-74) was often seen in the Government office at night copying from the books, particularly just before Oriental boats were scheduled to arrive in port (Evans, p. 1363, q. 10205-21). It is true that Mr. Bowser explains that by stating Yip On was employed to make copies of identification records intended to be sent to Victoria (Bowser, p. 1615, q. 13132). That explanation, however, only emphasizes the fact that Yip On had full access to the records, and Yip On himself admits he got no extra pay for such work, if he did it. As he it was who called off the identifying marks, the number of illegal entries under this head would seem to depend mainly on the number he chose to admit. He had ample opportunity both to make proper selections and to fully instruct such selections when made, for as stated he went to Victoria to meet each C.P.R. liner that came in and travelled on such liner to Vancouver. He was accompanied on such trip by some white officer, but the latter of course did not understand the Chinese language. The distance between the two cities is some 80 miles.

This practice started when the C.P.R. liners were first put on. Its purpose, according to Mr. Bowell, was to avoid delay (Bowell, p. 69, q. 576-87). The evidence is, however, that the only work *en route* was the counting of the crew and the passengers, and the checking of both with the ship's manifest (Cosgrove, p. 293, q. 2392-96; Schoullar, p. 303, q. 2480-87; Lew, p. 681, q. 6165-72). As there are always and neces-

sarily members of the Chinese crew on board who can speak English, through whom orders to line up could be given, the presence of the interpreter was unnecessary, and gave ample opportunity for frauds to be arranged not only under this head, but also under that of pretended new merchants. In justice to Mr. Bowell it should be stated that he swears he notified headquarters when this practice was inaugurated by him (Bowell, p. 70, q. 586).

— In Victoria the efficient checking of the identification records with applicants for exemption as returning residents of Canada, already described, would make frauds difficult, and it is unlikely that they occurred there.

Frauds by Entry as Merchants' Wives, Sons and Daughters.

The fifth possibility of illegal entry was as the sons, wives and daughters of merchants. The Chinese, as the statistics show, do not bring in any large number of women, but the crop of alleged merchants' sons who have come in as exempts has been growing year by year. In 1910 there entered as exempts under this head 353 at Vancouver (Ex. 350), 109 at Victoria (Ex. 412), and 35 at Nanaimo (Smith, p. 3043, q. 33943), or a total of 497 for British Columbia alone. The Commission has no statistics of the number entering elsewhere in Canada during the same period, as these, if any, are manifested to Customs ports at point of destination.

In Vancouver the proofs accepted that a man was a merchant entitled to bring in a son as exempt were an affidavit by himself and some Chinese friend, a copy of the declaration of partnership under the British Columbia Partnership Act, and an unsworn certificate signed by white merchants that they knew the man to be a merchant actively engaged in business. — As examples taken at random, see Exs. 41 and 45.

The Chinese affidavits obviously were of but little or no value considering the strong inducement to make them and the impossibility of any prosecution for perjury, inasmuch as they were technically true in the sense that the deponents were all actually registered partners of some Chinese firm.

As to the partnership declaration, there is no doubt that great numbers of Chinese in British Columbia get themselves registered as members of firms for the express purpose of bringing in sons. — Ex. 232 shows that there are 528 firms with 2,561 members registered in British Columbia. This list is not complete, as firms may be registered in a large number of county court registries, some of which do not appear of Ex. 233. It is to be remembered also that all who claim to be merchants do not appear on the registered declaration. An instance of this will be set out when dealing with Poon Shung Lung, the new interpreter.

As stated, the statistics show a steadily increasing number of sons coming in. In Victoria the number given from 2 in 1904 to 109 in 1910 (Ex. 412); in Vancouver from 13 in 1904 to 353 in 1910 (Ex. 350). Chinese firms were shown frequently to have from 12 to 20 members, and despite the certificates obtained from white merchants to the effect that the parties applying to get in sons were actively engaged in business, it was shown in two specific instances that parties so certified to were engaged in other occupations entirely (Fagan, p. 189, q. 1465-68). In Victoria, independent research was made, but not in Vancouver, and it is obviously very difficult to do. In fact, many white merchants apparently signed these without knowing to what use they were to be put (Newbury, p. 2815, q. 32724-26). It is doubtless true in the greater number if not in the majority of cases, that men thus certified to were not even clerks in stores. Frequently in the country, and even in the cities, the stock of these Chinese partnerships amounts to less than \$1,000, yet there may be as many as twenty alleged partners, and it may be quite true that these twenty all have some small interest in the business, but of course not more than one or two of them are actually employed in carrying it on. No affidavit has to be made to obtain registration under the British Columbia Partnership Act, so no risk of the criminal law is incurred even if parties are registered who have no interest whatever, whilst the liability

for debts is not to be feared, first because often the extent of the business is so small as to make the risk virtually nominal, and second, because the alleged partners have no property that can be levied upon, all their surplus earnings being regularly transmitted to China.

The evidence before the Commission also pointed to a system of business as prevailing amongst the Chinese whereby clerks and even artisans employed in and about the business were all partners with limited interests, although they usually drew nothing but a salary, the business producing no profits.

In Victoria, independent inquiry was made by the officials when possible as stated, but not in Vancouver. In fact, inasmuch as the word "merchant" is not defined in the Act, it is doubtful if the authorities could refuse free entry to a person proven to be the son of a member of one of these partnerships, even if the latter was in no way actively concerned with the carrying on of the business.

Another feature of importance in connection with this phase of the question is the custom of adopting male children prevalent amongst the Chinese. Any one at all conversant with their habits knows that if a Chinaman has no son of his own, he will very frequently adopt one or more no matter how many female olive branches he may be possessed of. To guard against these adopted sons being brought in as exempts, the regulations require that the alleged father and son be examined separately as to family history, &c., and if discrepancies occur which are not satisfactorily explained, the applicant is rejected. That this is no imaginary danger is shown by the fact that the Chief Comptroller at Ottawa on the request of a prominent Chinese resident of that city domiciled in Canada for many years, had two boys passed at Vancouver without examination as sons of merchants in Eastern Canada. Owing to the high standing of the Ottawa merchant, no examination took place when the boys went east. Yet some little time after this Commission had been sitting, this Ottawa merchant attended at the Chief Comptroller's office and informed him that these boys were adopted sons. The head tax was thereupon paid, the merchant explaining that he believed the exemption clause applied to adopted sons. (O'Hara, p. 3377, q. 36128 *et seq.*). Whether true or not, this explanation is obviously one that could be put forward whenever detection occurred, and would probably relieve the party concerned of criminal consequences. The check supplied by the regulations would seem to be fairly but not entirely efficient if the interpreter is honest. Its nature is of course known to the Chinese community by experience, and if the incoming boys are properly coached by previous letter as to answers to be made, there seems no reason why they should not agree with those given by the father, even though the examinations are consecutively and separately held.

In Victoria, where great care has been exercised in carrying out the provisions of the Act, this weakness seems to have been felt, for whenever possible an affidavit that the applicant was the true son of the merchant claiming him as such was required from some third person. (Newbury, p. 2814, q. 31721.)

This of course could only be made by a Chinaman, and cannot be regarded as entirely satisfactory. It was, however, the best that could be done under the circumstances, as apparently no official record of such matters is kept in China. Even if such were in existence it will be seen when the passports are discussed that too much reliance can easily be placed on Chinese official documents, and that without imputing any bad faith to the dignitaries issuing them.

If the interpreter is dishonest, since he translates the answers of both father and son, he can make these examinations appear quite satisfactory when there is in reality no relationship between the parties. This is particularly true when, as in Yip On's case, he has opportunity beforehand for hours of consultation with incoming passengers. The questions to be put are set out in a form which is supposed to be confidential, but as seen, nothing in connection with Chinese matters was confidential, so far as Yip On was concerned. This is true also of the interpreter at Victoria, Mr. Lee Mon Kow, who is a clerk in the customs office there, and has the custody of Chinese records (Lee Mon Kow, p. 2785, q. 32513-17). In his case, however, the confidence reposed in him

seems merited. He is possessed of independent means and therefore probably not so susceptible to temptation; but it is only just to add that in the opinion of the Commission he is a man of integrity. So far as the forms being confidential is concerned, it is evident that the interpreter, even if denied access thereto, could easily memorize them, in fact would do so involuntarily, owing to it being his duty to constantly translate them. This merely emphasizes the point that even if every care is taken the honest administration of this phase of the Act as it stands at present is entirely dependent upon the honesty of the interpreter. Even then, as shown, frauds may be perpetrated by careful coaching beforehand.

It is worth noting that although the Act regulating Chinese immigration fixes a maximum number, depending upon the vessels' tonnage, that may be brought by each boat, yet in calculating this number no exemptions of any class are included (Fagan, p. 184, q. 1433-45). This is the construction put on the Act by the Vancouver officials, and it seems to be correct. The result is that the tonnage restriction is entirely inoperative so far as exemptions are concerned. In other words, it applies solely to poll-tax men.

The dependence on the interpreter is yet more absolute in the case of the last head of possible illegal entry to be considered—Chinese entering as merchants who in reality are not merchants at all.

Frauds by Entry as Merchants.

Exempt merchants have likewise shown a marked increase of late years, but this increase has been confined almost entirely to the port of Vancouver. From the time that the head tax was raised to \$500 in 1904 to December 31, 1910, there have been fifty-four Chinese entered at Victoria under this head (Ex. 412), and of these some eighteen were members of a Chinese government official's suite (Newbury, p. 2812, q. 32716) and are classified as new merchants, although they had nothing to do with trade and presumably did not remain in Canada at all (Davey, p. 2582, q. 30968-70). The true number passed as merchant exemptions during these six years was thirty-six, and of these thirty-one brought the Chinese passports (Ex. 363, Davey, p. 2627, q. 31248-50) hereinafter discussed. These were not honoured in Victoria, but independent evidence was in every case required as shown by the notes on the passports themselves and by the evidence (Davey, p. 2626, q. 31239). Five such passports were rejected in Victoria from the time they were first presented early in 1907 to the date of the Commission sittings. Several other passports not in the Chinese language were also rejected there during the same period.

As will be seen in Vancouver, on the contrary, they were the open sesame to free entry. At that port there entered free during the same six years 389 under such passports, and seven were rejected (Ex. 13). Yet the total number of new arrivals of all classes at Victoria since the increase of the head tax in 1904 was 5334 (Ex. 412), in Vancouver 5198 (Ex. 350). These figures are not strictly accurate, for under the head of merchants are included merchants who had gone to China from British Columbia and overstayed their year's leave, and returning obtained exemption under the general merchant clause of the Act. There were 194 instances of this at the port of Vancouver during the six years. The Commission was not furnished with the number of similar cases in Victoria, but it is unlikely that it is greater than the Vancouver number, and in all probability not as great, as the latter city is the point of departure for the mainland, and the Chinese population of the mainland is probably fully as great if not greater than the Chinese population of Vancouver Island, for which Victoria would be the more likely point of departure. It can therefore be safely concluded that the influx through the port of Victoria was at any rate as great as through the port of Vancouver. Certainly the poll-tax number was much greater at Victoria, 4340 as against 3451 (see same exhibits). The greatly disproportionate number of exemptions, both new merchants, 389 to 36, and merchants' sons, 924 to 579 (same exhibits), at Vancouver is therefore significant.

Before dealing with the causes of this, it is to be observed that under the Act as it stands Chinese could, without any fraud on the part of anyone in the Government, employ, qualify and enter Canada as merchants without being at all merchants in the sense intended by Parliament. All they would have to do would be to put, say, \$100 Mexican, or about \$50 gold, into some business in China, and enter the store or warehouse for a period sufficiently long—say six months—to familiarize themselves with the general method of conducting the business, and then enter Canada as merchants. No cross-examination as to knowledge of business methods would shake them, and the Act makes no provision for exclusion because of the limited amount of capital invested. It does not even require that such applicants must intend to engage in mercantile pursuits in Canada. When it is remembered that \$500 in Canadian currency represents over \$1,000 in Chinese currency in exchange, and very much more in purchasing power, the incentive to thus qualify is very great, and the Chinese astuteness of mind would doubtless have discovered this long ago had not an easier means by direct fraud been at hand. Vancouver was chosen as the vulnerable spot owing to the laxity of administration there.

Charley Yip Yen, Yip On's brother, was interpreter at Vancouver for many years up to 1902, when he retired and went to China and established a banking firm known as the Mack Yick Company. Yip On succeeded to his position as interpreter (Yip On, 153, q. 4368-77). In those days the head tax was but \$100, but in 1904 it was raised to \$500. Charley Yip Yen paid a visit to Vancouver in 1907 for the purpose of organizing in Canada the Chinese Reform Association. This organization is not very powerful either in China or in British Columbia. Previous to this visit, the Chinese passports hereinafter dealt with had begun to appear at Vancouver and Victoria, but only in small numbers. Charley Yip Yen himself came in on one on the occasion of this trip. As shown they were not honoured at Victoria, but as will be seen they were at Vancouver. Shortly after Charley Yip Yen's return to China, these passport men began to come in regularly, each boat bringing about a dozen. There was a considerable increase on this number during 1910, 132 having been passed in up to October 1. After the Foster investigation gained publicity, they suddenly ceased, no passports being presented after the boat arriving October 30, 1910 (Worsnot, p. 58, q. 394-6).

Each of the men admitted as new merchants in Vancouver since the fall of 1907 had passports written in Chinese issued by the Viceroy of their province (Ex. 116 is a translation). The wording is peculiar, and the description of the person to whom it is issued means not necessarily that he is a merchant, but he may be a person connected with trade any way, thus including peddlers, hucksters, and doubtless many other classes excluded by the Act. The proper term for merchant in Chinese is not used here alone as it should be, but is qualified so as to include these other classes (Lee Mon Kow, p. 3023, q. 33821-32; and particularly, p. 3024, q. 33830-32). Not only that, but some eight or ten accepted at Vancouver as genuine in 1907 were apparently never issued by the Viceroy at all, as they did not bear his surname, without which they were not genuine (Lee Mon Kow, p. 3031, q. 33809-19). Undoubtedly, however, the greater number of them were really issued as they purported to be.

As will be seen, this was no proof that the Viceroy knew that the parties thus certified to were even qualifiedly connected with trade. In the first place he never saw the applicants, as was admitted by these passport men who appeared before the Commission, and whose names are given hereafter. In fact it is a very difficult thing for any ordinary individual to see such an official (Lee Mon Kow, p. 3031, p. 33806-809). The method adopted was to employ people called "gentry" in the Chinese villages, who on payment of \$92.00 Mexican would obtain the passport. A photo was attached to it when issued, but this bore no identification mark whatever by the Viceroy. After being issued, the passport was taken to the British Consul, who vised it, that is certified that it was really issued as it purported to be, but in no way certifying to the qualifications of its holder, whom in fact the consul never saw. For this a fee of \$2 was paid, and it is worthy of note that the apparently unauthorized

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passports referred to above were viséd in the usual way. It is also to be observed that on the Department at Ottawa writing the British Registrar General for Hong Kong in reference to a passport issued by him in English—suspicion having arisen on this side as to the status of its bearer—it was informed *inter alia* in reply that that official regarded it as his duty to assist Chinese to immigrate (Ex. 379).

For a time after the passports came into use the British Consul did not identify the photograph attached thereto in any way either. On representations being made by Mr. Bowell, whose attention had been drawn to the matter by the Comptroller at Victoria, the matter was taken up by Ottawa, and thereafter the consular seal was impressed over the photograph. It is clear, however, that in the interval between its issue by the Viceroy and its vise by the Consul the photo. could easily be changed, as it was only pasted to the passport. This could even be done after the consular seal was used, for it is an ordinary die seal which could be readily duplicated. A scrutiny of several of those passed at Vancouver tended to show this course had at times been adopted. Notice of reasons for rejection on some passports refused at Victoria also show that their bearers confessed to having changed the photo. (see Ex. 361). The name of a genuine merchant could therefore together with his photo be presented to the Viceroy, and a passport obtained. The name was mentioned in the body of it, but on substituting a photo. the impersonator would assume the passport name until he got through the Customs.

The five passport men who came in, and who were brought before the Commission, admitted that they passed the customs under fictitious names, in fact they could not deny it for they had signed forms produced from the records (see Yip Dit Chor, p. 2342, q. 18580-84; Yong Jem Sun, p. 2351, q. 18878-82; Gin In, p. 2399, q. 19174-8; Yip Lee, p. 2416, q. 19364-72; Fung Chang Mung, p. 3212, q. 34817-20).

These documents were in Chinese, and therefore were not in compliance with the requirements of the Act, yet they were taken at Vancouver as giving the right to enter free. Mr. Bowell says this was not so, but that he is in error is proven by the testimony of the landing waiters (Mr. Fagan p. 169, q. 1329-37; p. 174, q. 1368; p. 227, q. 1784-92; and Mr. Bowser, p. 1599, q. 13013-18; and p. 1602, q. 13032-46). True, forms of questions had been provided by the Department so that the Comptroller could satisfy himself as required by the Act, and these were duly filled up, but merely as a matter of routine, as a perusal of them shows, the answers to the principal questions being practically identical even to the wording in almost all cases, and as was directly testified by Mr. Fagan (p. 173, q. 1355). In fact, unless an applicant had such a document, Mr. Bowell would not pass him at all no matter what his credentials were (see Parke, 1277-8; Sam Kee, p. 279; q. 2238-43). As will be seen, the Commission acquits Mr. Bowell of all complicity in the frauds, and it is believed the explanation of this conduct is that he really believed these passports were valid as complying with the Act (see evidence Fagan and Bowser above cited). That this was an error was pointed out by Mr. Foster in September, 1910, much to Mr. Bowell's surprise, if Mr. Lew's report to Mr. McInnes is to be believed (see Ex. 112, Sept. 25, 1910).

That frauds were committed under colour of these passports was proven beyond question as the following facts will show. Two men bearing them and taken off the boat at Victoria in October admitted that such was the case, and gave full details. (Davey, p. 2588, q. 31005-11). Unfortunately these men were deported to China, so their evidence was only got second hand. But five passport men who had come in as exempt merchants, and who were identified by their photos, on the passports they had used, were actually produced before the Commission. Of these Yip Dit Chor and Yong Jem Sun were typesetters in China and were following that occupation in Vancouver (see their evidence, pp. 2340-6, and 2461 to 2465; and 2347-54 and 2367-92). Gin In was a journeyman goldsmith (see 2393-2408); Yip Lee, a journeyman jeweller, or at best a peddler of wares made by himself, and Fung Chang Ming was an editor, and is now a Chinese school teacher (p. 3207). As to three of these they did not when testifying pretend to be merchants. A perusal of the evidence of the

other two, the goldsmith and jeweller, will show they should not have been admitted as exempts under the merchant class (p. 2393 *et seq.*, and p. 2409 *et seq.*). Strenuous endeavours were made to locate other passport men, but none could be found.

It is the opinion of the Commission that there was an organized conspiracy for the purpose of entering free these passport men, and that Yip On, and probably his partner, Yip Sue Poy, were the active agents on this side, whilst several firms in China acted in conjunction with them, amongst these being Charley Yip Yen's firm, the Mack Yick Company.

That such was the case sworn to by Fung Chang Mung (*see* p. 3212, q. 34817-865) and his story was not shaken by cross-examination. It was also sworn to by Yip Dat Chor and Yong Jem Sum, but their evidence was given late one evening, and on being recalled for cross-examination next day, they so entirely contradicted their testimony of the previous day that no weight can be attached to it. The conspiracy is also outlined in the declarations of Len Dong and Lim Duck (Ex. 107 and 108), but these men, though searched for, could not be found, and hence could not be called before the Commission. Details of the same kind were also given by the two men who confessed in Victoria, as already stated.

Chinese evidence is so unsatisfactory, however, that if the proof was confined to the testimony cited an affirmative finding could not be made, especially in view of the defence set up on Yip On's behalf. There exists, however, documentary evidence, which taken with Yip On's manner in the box, and his unsatisfactory explanations when confronted therewith, it is considered, puts the matter beyond question.

All Chinamen have two or more names, and Yip On is also known as Yip Hing Sam or Yip Ting Sam (Yip On, p. 452, q. 4357-62). His brother, Charley Yip Yen, as stated, had started a bank in Hong Kong, under the style of Mack Yick Company (Yip On, 453, q. 4368-76). Yip On tried at first to give the impression that this firm was closed up (Yip On, p. 453, q. 4381, and p. 455, q. 4401), and he volunteered the statement that his brother's connection with it had ceased two years ago. (Yip On, p. 453, q. 4379.) His reason will shortly appear.

On September 3, 1910, an unsigned cable (Ex. 60) was sent from Vancouver to Hong Kong addressed to Fung Gam Shung, as follows:—

"If you can do it stop as something may start up."

(Yip On, p. 471, q. 4571-79.) Incidentally it may be stated that all cables were in the official code issued by the Chinese government, and that they cost \$1.18 a word (Bailey, p. 546, q. 5187) to send. On the back of this, September 3, 1910, cable, is written the sender's name and address, "Wing Hong On, 38 Pender St.," apparently in the handwriting of the sender. "Wing Hong On" is the name of Yip On's firm, for he carries on business at 38 Pender St., in Vancouver, and is the principal member of the firm named (Yip On, p. 452, q. 4355-57). Two handwriting experts testified that the name and address on Ex. 60 were written by the same hand as Ex. 63, which Yip On admitted having written (Yip On, p. 1971, q. 15709-13; and p. 1974, q. 15723 and p. 2292, q. 18113). The expert testimony also covers Ex. 52, 53, 54 and 13a hereinafter mentioned. Of course too much weight must not be attached to opinion evidence, but here it is of value as cumulative proof, as will be seen.

On September 6, 1910, two identical cables (Ex. 53 and 54) were sent from Vancouver to Hong Kong, purporting to be signed by Hing Sam (Yip On) addressed to Yip Get Woon, and Yip Yee Gai, respectively, reading as follows:—

"Strictly stop and wait for letter."

(Yip On, p. 467, q. 4537-38.) That same day a further cable (Ex. 52) addressed fungamshung went from Vancouver to Hong Kong likewise purporting to be signed by Hing Sam, reading:—

"Strictly select a few sending letter." (and apparently) "Do not let them bring any letters."

(Yip On, p. 476, q. 4613-18).

On September 16, 1910, the day Yip On was suspended, an unsigned cable (Ex. 13a) was sent from Vancouver to Hong Kong addressed Nam Mow, worded:—

"Stop Mack Yick up. Leegeequam son come. Everything very hard now. Tell Get Woon Big tun."

On the back is the sender's name and address, Yip Sue Poy, 51 Pender St. This man is Yip On's partner in the Wing Hong On firm (Yip On, p. 452, q. 4362-4). The first three cablegrams were sent through the C.P.R. office at Vancouver, and the fourth through the Great North Western office in the same city.

On August 18, 1910, Kamsheung had cabled from Hong Kong to Yip On:—

"Afterwards at your request."

(Ex. 61); and it was suggested to Yip On when in the box that Funggamshung and Kam Shung were one and the same person. He, after some hesitation, admitted receipt of this cable, but claimed he did not know what it meant, nor did he know the sender (Yip On, p. 494, q. 4778-811). In reference to Chinese names it is to be observed that they are of course spelt phonetically when written in Roman characters, and slight variations are sure to occur. Also that when they consist of three characters, the first is frequently not ordinarily used. For instance, Yip Hing Sam would often be spoken of as Hing Sam.

On September 17, 1910, a cable purporting to be signed by Yip Sue Poy (Yip On's partner) was sent to Hong Kong addressed Kwongyee, worded:—

"Don't let passports come."

(Ex. 356). The translation was obtained with the greatest difficulty from Yip Sue Poy (p. 2558, q. 30722-765), and was only placed beyond doubt by coupling this evidence with some obtained from Lee Mon Kow in Victoria (p. 2784, q. 32509). This cable was sent through the C.P.R. office in the city of New Westminster. That city and Vancouver are distant about fifteen miles from each other, and a half hour tram service connects them.

On September 18, 1910, an unsigned cable was sent from Hong Kong to Wing Hong On (Yip On's firm) at Vancouver, reading:—

"Cable late Mack Lee going."

(Ex. 62.) Yip On first disclaimed all knowledge of this cable, but eventually acknowledged its receipt. When asked to explain he made utterly absurd statements (Yip On, p. 502-06) and was trapped into admitting that it was from Nam Mow before he knew the copy in the hands of Mr. McCrossan was unsigned (Yip On, p. 506, q. 4893-94). It is clearly a reply to the cable sent from Vancouver to Nam Mow of September 16, 1910. (Ex. 13a).

On September 28, 1910, a further unsigned cable (Ex. 333) was sent from New Westminster addressed to Nam Mow, Hong Kong:—

"Be careful about letters sent. Notify Big Tun. Fungamshun, Leegee Gai must not show outside."

This ends with the code number for the Chinese word "Sam" (Yip On and Yip Sue Poy, p. 2175).

On October 9, 1910, Yip On left Vancouver for the east (p. 2177, q. 17292), and did not return until after the Commission was sitting for some little time.

On October 12, 1910, another unsigned cable, (Ex. 337) was sent to "Conclusion, Hong Kong," evidently a cable address, but the person represented by it could not be ascertained, that information being on file only at the receiving office at Hong Kong. The cable read:—

"Yip On, brother, suspended from position last boat."

(Yip On, p. 2258, q. 17840-1; and Lew, p. 2260, q. 17861). Apparently from this "Conclusion" was Charley Yip Yen's cable address. This cable was proven by the operator to have been sent by Yip Sue Poy (Dikdale, p. 2355, q. 18712-3).

The next day, October 13, 1910, Yip Sue Poy, as was again proven by the operator (Dildale, p. 2355, q. 18707-11) again through the Westminster office sent a lengthy unsigned cable (Ex. 330) costing \$93, addressed to Jinwah, Bigtun, Hong Kong. Yip On had in August, 1910, sent a cable to Junwah Sue Yip in reference to some mining deal in which they, his brother Charley Yip Yen, himself and several other parties in Vancouver were interested (Ex. 63). This was the only cable Yip On admitted sending, and as he admitted it was in his handwriting it formed one of the basis of comparison used by the handwriting experts (Yip On, p. 514, q. 4935 *et seq.*; and particularly, p. 519, q. 4989-95).

The cable of October 13, 1910, detailed everything that had occurred both at Vancouver and Victoria, in reference to the passport men, requested that the Viceroy and Reform Association be set in motion and make a complaint to Ottawa, and asked to be advised if any more passport men were coming (Yip On and Yip Sue Poy, p. 2143 *et seq.*).

On October 15, 1910, another unsigned cable (Ex. 332) was sent through New Westminster to Nam Mow:—

“Hing and Hue are both suspended from their jobs. Still strictly investigating.”

Hing is one character of Hing Sam's (Yip On) name, and Hue is one character of one of the names of a brother of Yip On (known before the Commission as Yip Quong) who substituted for him as interpreter when Yip On was ill (Yip Quong, p. 2496, q. 3012834; Yip On and Yip Sue Poy, p. 2163, q. 17243-273).

On October 31, 1910, another lengthy unsigned cable (Ex. 331) went through the New Westminster office, addressed to Big Tun, informing him of the outcome of the Victoria proceedings, then just finally concluded, as will be shown hereafter by the deportation of the remaining passport men who came in on October 1, 1910. This cable stated that all the passport men had been deported; that strict investigation was still going on, and requested that Kam Shun and Yee Gai be informed, adding “they will understand” (p. 2163, q. 17191-239). The operator who received this message practically though not conclusively identified Yip Sue Poy as the sender, and stated that when filed a fictitious address was given by the sender (Wilson, p. 2193, q. 17408-12).

This completes the list of cables sent and received, so far as was shown before the Commission. In addition, however, letters, on their face apparently from the China end of the conspiracy, were intercepted and introduced in evidence. These will now be dealt with.

As already stated, Yip On was at Mr. Foster's request suspended on September 16, 1910, just on the eve of the scheduled arrival of the *Empress of China*. It will be remembered also that it was the practice of the Vancouver office to send a customs officer and the interpreter to Victoria. Mr. Foster, on September 16, 1910, went down with the customs officer, taking with him Mr. Lew as interpreter, pursuant to the plan determined upon and already outlined. They boarded the *China* at Victoria, and Mr. Lew announced himself to the passengers as taking Yip On's place, and asked if anyone had any letters. These were expected because of the interview that Mr. Foster or Mr. McInnes had had with one Yee Qui who arrived on the *India* on August 28, 1910 (see McInnes, to Hon. F. Oliver, p. 4 of Ex. 240, and Foster to Col. Sherwood, Ex. 139). In a very short time eleven letters (Ex. 66 to 76 inc.) were produced, all by one individual, and Mr. Lew took the man producing them to Mr. Foster to whom they were handed (Lew, p. 697, q. 6235-49; and Foster, p. 1134, q. 9112). Mr. Lew had called over the manifest, and as each second-class passenger answered, Mr. Lew asked for a letter, and the man pointed to the person who had produced the eleven (Lew, p. 700, q. 6244). Passport bearers always came second-class, and not steerage, as did the ordinary coolies. This was doubtless a precaution, for suspicion would be aroused if pretended merchants were found to be travelling steerage. It was, of course, known that the ship's manifests were used by the customs officers in checking passengers.

There were seventeen second-class passengers on the *China*, and sixteen of them either had letters in their possession or were named in the eleven handed to Mr. Foster. The whole seventeen claimed to be merchants, and all had the Chinese passports already described (Worsnop, p. 40, q. 269, and p. 42, q. 274).

The eleven letters were in separate envelopes, each of which was addressed Hing Sam to hand to Goon Gee (Yip On, p. 574, q. 5404-06. The address was a slight error, but Yip On when pressed admitted that these letters were intended for him under the name of Hing Sam (Yip On, p. 571, q. 5370-408, and particularly p. 573, q. 5390-92, and p. 574, q. 5404-05). Goon Gee was apparently a fictitious name used as a blind, for Yip On disclaimed knowledge of any such person (Yip On, p. 572, q. 5386-88), and Mr. Lew, who is well acquainted in Chinatown in Vancouver, having lived there a great many years, had never heard of him, and although he made inquiry, could get no information (Lew, p. 711, q. 6303).

These eleven letters were all in circular form, the only variations being such as were necessary to make applicable to different individuals. They were addressed to Goon Gee and signed Fong Yee Kee, and read:—

“Your humble friend named—(here name of one of the passport bearers was inserted). Has been in business many years in Canton. Now came on the *Empress of China* to Canada to look for trade or business. When he arrives for fear that customs or doctor stop please look after him and oblige.”

(Lew, p. 708, q. 6290, and Yip On, p. 571, q. 5366.)

After delivery of these letters to Mr. Foster, for which purpose Mr. Lew and the bearer of them had come up from the second-class cabin to where Mr. Foster was on the deck above, Mr. Lew went down again and presently returned with two more letters (Foster, p. 1136, q. 9120-21). These two letters (Ex. 77 and 79) were given to Mr. Lew by a man who appeared on the manifest as Wong Chin, but this was not his true name, which was Quong Quock Hing, as Ex. 77 shows (Lew, p. 705, q. 6272-75). This letter (Ex. 77) was addressed to Chuck Mun, and read:—

“Chuck Mun, Greeting,—I came on the *Empress of China*, safely arrived. What I requested you to attend to before please attend to immediately. I saw one Lew who said he did not receive any secret (or any inside) word from Hing Sam so that is why I again send you this note so you could attend to it immediately and oblige. My certificate or passport name appearing is Wong Chin. Please have it arranged so I will be landed. Dated the 8th month, 16th day. Signed Quock Hing.”

(Yip On, p. 578, q. 5445-51, Lew, p. 705, q. 6278.) Yip On (Hing Sam) knew the man to whom this letter was addressed (Yip On, p. 577, q. 5430-5) but claimed he did not know where he was at the time he gave this evidence (Yip On, p. 578, q. 5444) and unfortunately he could not be located so as to be compelled to attend and testify. Over and over again throughout the sittings this difficulty of locating Chinese was experienced, as has been already mentioned when speaking of the passports. The envelope of the other letters was addressed c/o Wing Hong On (Yip On's firm), and the letter itself (Ex. 79) read:—

“Hing Sam, Sir, Greetings, I obtained passport to come to Canada to carry on business. Wong Chuck Mun has begged you to look after me to be landed. Wong Chuck Mun last month returned to Canada. While he was at home he said he would discuss the matter with you to have it settled. Chuck Mun told me to take this boat to come here. I have discussed it with Chuck Mun so I send you these words so you can ask Chuck Mun for my passage for fear that Chuck Mun would not know that I came on this boat so I notify you. Please go and see Chuck Mun and have it settled. With many thanks.

Signed, Won Chin.”

(Lew, p. 715, q. 6315.)

Mr. Lew states that the man who handed over these letters before doing so asked if he (Lew) were the regular interpreter, and what his name was. Mr. Lew refused

to give his name, and the man left, but soon returned and requested Mr. Lew to go to his stateroom. He there informed Mr. Lew that he had only one passport with him, "you know those regular kind," and had made his arrangements as to being landed with Chuck Mun at Hong Kong, who was to fix up matters with Yip On. He added that he had a letter he wished to have taken to Chuck Mun, and that he had been afraid to talk at first as he did not know who Mr. Lew was. He then handed Mr. Lew Ex. 77, and as the latter was leaving said: "Wait a minute, I have one for Yip On the interpreter," and handed over Ex. 79 (Lew, p. 711, q. 6304).

The boat arrived at the wharf, and although Mr. Foster had requested the C.P.R. official in charge to keep Yip On and his friends from the wharf, which was agreed to (Foster, p. 1133, q. 9111); she was only docked a few minutes when Yip On and his brother were on board (Foster, p. 1136, q. 9128). Mr. Foster then attempted to take the second-class passengers to the detention shed on the wharf, but was ordered to return them on board by Col. Worsnop. Mr. Foster says the reason given him was that the shed, which is the property of the C.P.R., was used by the Government under an agreement with the railway company that only steerage passengers would be put in it. (Foster, p. 1137, q. 9130-32). Col. Worsnop agrees, but in addition explains that they were ordered back because there were women in the party Mr. Foster was bringing off the ship, which fact Mr. Foster admits (Foster, p. 1138, q. 9132) and there was no accommodation in the shed to segregate the sexes, and night was coming on (Worsnop, p. 47, q. 317-318).

An endeavour was made to keep them from having communication with Chinese on shore after this return to the ship, but it failed. Two sons of Wing Sang (who is Yip On's uncle and local Chinese ticket agent for the C.P.R.) (Lew, p. 715, q. 6334-36) went on board the next morning (Sunday) after the boats arrived, and had a talk with the passport men (Foster, p. 1140-1).

Mr. Lew remained on watch at the vessel more or less from her arrival until Mr. Foster's private inquiry began, which was on the afternoon of Tuesday, the 20th September. Some little time after the vessel docked (Lew, p. 704, q. 6262) he received a further letter (Ex. 78). This letter is in an envelope addressed to Yip Hing Sam, and the letter itself is addressed in the same way (Yip On, p. 586, q. 5526-29). It was evidently written after the vessel reached port, for it states the fact of the rejection of a passenger by the doctor, and this had occurred on Saturday evening. (Munro, p. 1033, q. 8423). It covers the case of three passport men and states that eleven or twelve other passengers besides the writer have come on the vessel, all being guaranteed entrance by some one in Hong Kong called Fong Kim Chow, who had given a letter for each individual to be handed to Yip Hing Sang. It goes on to say that the merchant's passport cost \$1.100 (this would be Mexican) and requests that the matter be looked after at once (Lew, p. 703).

It will be remembered that one of the numerous cables noted above was addressed to Funggamshung. The spelling of all Chinese names is as stated of course phonetic, and the facts indicate that Fong Kim Chow mentioned in this letter is the Fung Gam Shung of the cable.

Mr. Foster's private inquiry on the 20th, and the more extended public one held by Col. Worsnop on September 30, and following days, came to naught as the passport men refused to give any information or to explain these various letters, except that their counsel whom they denied employing and who was really employed by Vancouver Chinese, put forward the suggestion contained in the intercepted letter hereinafter mentioned that Mr. Lew had directed the letters to be written.

Their attitude was doubtless the result of the visit of Wing Sang's sons and possibly of other communications with Vancouver Chinese, for if Messrs. Foster and Lew are to be believed, determined efforts were made by city Chinese to get in touch with the detained passengers. Some of these attempts were detected.

On September 26, 1910, in particular, Messrs. Foster and Lew assert they intercepted a letter concealed in a package of tea, addressed to Quong Quock Hing, who appeared as seen on the manifest as Wong Chin, the man who handed Ex. 77 and 79

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to Mr. Lew. It was taken from a Chinese citizen of Vancouver who was discovered on the wharf near the detention shed, where the passport men then were. The man was apparently waiting for an opportunity to throw it through the windows (Foster, p. 1152, q. 9202-05). This letter read:—

"It is rumoured you have stated amount of money paid for guarantee landing. How did you come to leak that out. If you are asked why did you write to Yip On, this shows some secrecy, you must answer, 'I do not know Yip On,' but say this man Lew instructed me what to write in order to be landed so I wrote accordingly. You must remember this."

(Ex. 150.) Apparently it was unsigned.

Possibly other attempts at communication succeeded.

However that may be, the letters intercepted on board ship would not of themselves be evidence in a court of law against Yip On and they were all that Mr. Foster had on September 22, 1910, apart from the statutory declarations 107 and 108, which by themselves would carry little weight even if the men who had made them could be located. He was, therefore, forced to inform the Hon. Mr. Templeman, as has been stated, on the morning of that day that he had failed in getting evidence to justify the arrest of Yip On.

These passport men were however all deported as a result of Col Worsnop's investigation. Some of them had Chinese drafts on local firms which on presentation were stated by the drawees to be bogus. Some of them had gold sovereigns to the amount of from \$100 to \$125 (Foster, p. 1156, q. 9215-16), and see transcript of evidence before Col. Worsnop.

As a general rule all passport men coming in had from \$100 to \$150 in gold which would be produced to the Comptroller on their examination. It is to be observed that in the form embodying queries to be put on examinations of new merchants one of the questions is as to the amount of money the applicant has with him. It is suggested—and the letters intercepted at Victoria to be dealt with presently bear out such suggestion—that the conspirators in China would supply this gold to further disarm suspicion on the part of the customs officials, and that Yip On would collect it after the men were passed.

It having been found impossible to prevent communication between passengers and Chinese ashore at Vancouver, Mr. Foster determined to take off the second-class passengers at Victoria from the next incoming ship, the *Empress of India*, due to arrive there October 8, 1910, and received instructions from Ottawa giving the necessary authority. This plan was carried out, Messrs. Lew and Foster—and as has been seen, Mr. Gordon Grant—going to Victoria where they picked up Mr. Lee Mon Kow.

Messrs. Foster, Lee Mon Kow and Lew went from there to the quarantine station some 14 miles distant, and, going aboard the pilot's launch, met the vessel about 3 miles out at sea (Foster, p. 1173-75). Mr. Foster, owing to counsel's suggestion that Mr. Lew had manufactured the letters, searched him before they went aboard the ship, taking everything out of his pockets (Foster, p. 1175, q. 9319). Arrived on board, Messrs. Lew and Lee Mon Kow went to the intermediate quarters, Mr. Lee Mon Kow introduced Mr. Lew to the Chinese passengers as the man taking Yip On's place. (Lee Mon Kow, p. 2750, q. 32198-200.) Mr. Lew then asked for any letters or documents, and one man handed out a bunch of letters (Ex. 80 to 92 inc., inclosed in separate envelopes), thirteen in all, addressed in the same manner as the circular letters obtained on the *China* by Mr. Lew, even to the same error being made (Lew, p. 779, q. 6631-34), (Ex. 80 to 92 inc.). In addition, three other letters were obtained (Ex. 93, 94, 95) from different individuals. Exs. 93 and 94 being from the two men who subsequently confessed at Victoria (Lee Mon Kow, p. 2762, q. 32309-10). Messrs. Lew and Lee Mon Kow initialled each letter as it was produced, and then delivered them all to Mr. Foster (Lee Mon Kow, p. 2753, q. 32228-428) who also initialled them.

The translation of the thirteen circular letters was identical to that of the *Empress of China* ones (Lew, p. 779). The address on the letters and also the signatures were also identical with those appearing on the *China* letters. (Lew, p. 780,

q. 6636 *et seq.*). The only variations were again the names of individuals to whom they referred. Although these letters are called circular letters, they were all written and all in the same handwriting (Lew, p. 780, q. 6637-39).

The envelope in which Ex. 93 was inclosed was addressed to Yip Hin San and Yip On denied that this was meant for him on the ground the second word was not Hing (Yip On, p. 597, q. 5661-69). But the address on the letter itself he had to admit was his name (Yip On, p. 694, q. 5728-29). This letter was signed Yip Get Woon, and over the signature was stamped Nam Mow (Yip On, p. 598, q. 5670-72). The custom is for Chinese managers to sign their individual names, and place over this the firm seal when writing on firm business. Yip Get Woon is reputed to be the manager of Nam Mow Co. (Lee Mong Kow, p. 2758, q. 32272). It will be recalled that Nam Mow were the Hong Kong agents of Yip On's firm, and that the cable Ex. 53 of September 6, 1910, was sent to Yip Get Woon, whilst the cables of September 16, Ex. 13a; of September 28, Ex. 233, and of October 15, Ex. 331, were all sent to Nam Mow. The latter was dated the 8th month, the 14th day, which would be September 17, 1910. (Lew, p. 782, q. 6658). It opened by discussing money matters, showing the business relationship between Yip On and the firm. It then proceeded:—

"I have guaranteed Mack Yuck, Ying Sam and Tam Fung to come on this steamer. When they arrive look after them I have drawn \$150 from Mah Yick Co." (Charley Yip Yen's firm, as will be remembered) "for Mack Yick's passage Your cable of the Chinese eighth month and third day (Ex. 53, Sept. 6) stating 'Strictly stop and wait for letter' received and fully understood. I should have obeyed your order but as I have previously purchased second-class passage \$100.00 would be lost. Thus I was obliged to send two pieces of provincial goods one named Fund Wong and one named Chin Fuen on *Empress of India*. I delivered to them merchants passport and \$300 gold. Please receive them accordingly and credit on your books. Please look after them to be landed safely. When everything is settled write to me and let me know and relieve my worry."

(Lew, p. 770, q. 6591).

The envelope of Ex. 94 was correctly addressed to Yip On, under the name of Yip Hing Sam as he admitted (Yip On, p. 609, q. 5747-48) and was dated same day as Ex. 93, signed Yip Get Woon (Yip On, p. 609, q. 5747) over which was the stamp of Nam Mow (Yip On, p. 612, q. 5780). It read:—

"Mr. Ting Sam, Dear Cousin Ting Sam (as has been stated Yip On did not dispute that the 'Hing' in his name might also be written 'Ting').—Your letter received and contents carefully noted stating to chose our domestic goods, &c., carefully, if not good friends, I will not receive them. What has been done Big Tun does not know. Will know when see letter. Your cablegram of 8th noon 3rd day which said strictly stop and wait for letter by that I fully understood I should have obeyed your order but I had previously purchased second-class cabins paying each \$50 if not sent then \$100 would be lost. Thus I was obliged to send them, sending two pieces of provincial goods one named Fong Wong and one named Chin Fuen. Each was given seven large gold pieces and one medium gold piece to take along.—Please inspect inquire and receive them and attend to these fellows to be landed all right. What things should be and how, I have told these passengers thoroughly. If not I shall only send you one on each steamer and whatever should be told I will tell."

Ex. 95 was also correctly addressed to Yip On as Yip Hing Sam, as he admitted (Yip On, p. 613, q. 5788) and was signed by Big Son. (Yip On, p. 613, q. 5789). This man is probably the Bigtun to whom the cables of October 13 (Ex. 330) and of October 31 (Ex. 331) were sent. The facts indicate that he is, and phonetic spelling is probably accountable for the change of the T to S. An alternative address Yip Hue Cham is given in this case on the envelope (p. 781a, q. 6651). Yip Hue Cham is another name for Yip Quong, brother of Yip On, (p. 781a, q. 6652) who, as has been seen some-

times substituted as interpreter for Yip On. This reads, "Hue Chain or Hing Sam, Sirs, I have Lee Cun Wing, Ching Dat Wing and Ten Bing Tam coming on board *Empress of India* coming to Canada looking for business, all good men. These three traders and old friends of mine. I am informed that your port is still very severe on examination of eye cases. When arrived look after them and greatly oblige." Dated 8th Moon 13th day (Sept. 16, 1910, see Lew, p. 782, q. 6657). A postscript was added: "Chang Dat Wing purchased at Shanghai for gold a draft brought with him. Please identify him" (Lee Mong Kow, p. 2783, q. 32500-03).

The passport men, eighteen in number, were all disembarked at Victoria, and two of them—as already stated the bearers of Ex. 93 and 94—confessed they had heard in their villages that there was a cheaper way of getting into Canada than by paying the tax. They were told that Yip Get Woon would be able to give them details. They went to him and he got the passport. They never went to the Vice-oy. They paid \$1,100 Mexican. This price included their intermediate passage, and expenses to Vancouver (incidentally this shows the great profit made by the conspirators, \$1,100 Mexican being approximately \$550 gold). They were given \$150 gold each, with instructions to hand this to Yip On, and were working men who would be penniless when they had obeyed this order. One expected to be a cook, and the other a labourer. (Davey, p. 2588, q. 31005, corroborated by Lee Mong Kow, Mr. Newbury, Messrs. Foster and Lew).

None of the others would admit that they were attempting fraudulent entry. They were given the option of sending for \$1,000, and when the money arrived, \$500 to be retained until they proved they were established in business, but they declined. Their reply was they had passports vised by the British Consul, and they were entitled under treaty to come in, and if there was any fraud the British Consul must have been a party to it. (Davey, p. 2592, q. 31022).

All but two had gold in sums of from about \$100 to \$150. Two had drafts on Wing Sang of Vancouver (uncle of Yip On) for \$1,100 and \$1,200 gold respectively. These drafts were forwarded by the customs officials for presentation and were duly honoured (Davey, p. 2593, q. 31023-32). As a result, one man was admitted on probation, \$500 being retained until he showed himself to be established in business in Canada—a thing he had not done up to February 7, 1911, though he entered in October (Newbury, p. 2847, q. 32866, and p. 2853, q. 32907-09). The other failed to satisfy the Victoria officer, Mr. Newbury, and was deported. When the *India* touched at Victoria on her return voyage, the remaining seventeen were given the option of returning on her or waiting a yet further examination. They had already had several examinations with counsel on their behalf present. The further delay was granted at the request of the Victoria Chinese Board of Trade at Victoria (Newbury, p. 2855, q. 32913). Seven chose to go, but the remaining ten elected to stay and fight the matter out. They were all finally deported, as already stated, on the next outgoing steamer.

A reference to the translations of the cables of October 13, 1910 (Ex. 330), and of October 31, 1910 (Ex. 331), and a comparison of their dates with occurrences in Victoria, will show that the first was sent immediately after the seven elected to go home, and the second directly after the balance were deported, and that they contained an accurate account of what had happened.

In addition to the cables hereinbefore set out, there were two others, dated September 6, 1910, and October 18, 1910, respectively, from Hong Kong, addressed Tan-sang, Vancouver. These were received by Yip Quong (Yip On's brother and substitute), but no intelligible translation could be made as the numbers had a special significance. The explanation given by Yip Quong of their meaning was so absurd that it cannot be believed. (Yip Quong, p. 2541, q. 30580-647.)

All this apparently damning evidence against Yip On is endeavoured to be explained by his counsel by bringing up the McInnes intrigue. It is contended that the cables were manufactured and sent by some of the parties to that intrigue so as to incriminate Yip On, and that the letters were written by Mr. Lew and taken aboard or else sent from China by parties in league with Messrs. McInnes *et al.*, for the same purpose.

In proof of the first contention, it is pointed out that cables were sent on September 3 and September 6, whilst Yip On was not suspended until September 16, and that these are the cables quoted in the return letters. The Commission is unable to agree, despite the fact that the intrigue is considered proven. If the cables were sent for the purpose of furthering it, one or two at most would have served, and when it is remembered that these cables cost \$1.18 a word, and that one of them cost \$98, the suggestion is preposterous. Moreover, as already shown, there is direct and credible evidence that Sue Poy sent the \$98 wire (Ex. 330), (Dildale, p. 2354, q. 13701-11), and also Ex. 335 (Dildale, p. 2355, q. 13712). There is also evidence of Mr. Wilson, the other operator, that when he received Ex. 332, 331, and 333, a fictitious address was given, and that he believed the sender was Sue Poy (Wilson, p. 2192, q. 17404-7422). Mr. Dildale was most positive, and it so happens that whilst ordinarily it is every difficult for a white man to identify Chinamen, Sue Poy has a most peculiar face which, as Mr. Dildale truly says, once seen is not likely to be forgotten.

The Commission believes the difficulty presented by the fact of the wires being sent before the date of Yip On's suspension is cleared up by the existence of the two declarations incriminating him (Ex. 107 and 108). These were taken on September 2, 1910, the day before the first warning cable was sent. There were three Chinese present besides the deponents when the declarations were made (South, p. 2028, q. 16186-92), and doubtless some one of the five informed Yip On or his friends. Probably this was done by the deponents themselves, for as seen they could not be found to be brought before the Commission. Once the facts of the interview at which Ex. 107 and 108 were obtained became known, Mr. Lew would be watched, and his constant activity with Messrs. Foster and McInnes would confirm the belief that trouble was at hand.

Moreover, Mr. Foster, in his report of September 7, 1910 (Ex. 139), speaks of an interview occurring apparently before September 6, 1910, with a Chinamen who entered as a fraudulent passport man on August 28, 1910. This man too may have told Yip On.

Then as to the intercepted letters having been manufactured. If the genuineness of these depended solely on the testimony of Messrs. Lew and Foster, much could be urged casting doubt on their authenticity. Mr. Foster, it is believed, was not frank in his evidence before the Commission in two particulars. First, in his denial of having stated that Hon. Mr. Templeman was intoxicated, and second, in his explanation of his action in recommending a Commissioner. Mr. Lew was unworthy of belief when he said he went to Ottawa on a pleasure trip and also when he swore he knew nothing of Julian Roy. These conclusions are set out for consideration in reference to the criminal prosecution of Yip On. Despite them, however, the Commission believes the statements of Messrs. Foster and Lew in so far as they relate to the main story of their investigation. A jury might not. Fortunately the receipt of all the letters on October 7, 1910, boat, *Empress of India*, is confirmed by Lee Mong Kow, and his credibility is beyond question. No attempt was made to show when he was under cross-examination that he was in any way connected with the intrigue. As the circular letters then obtained were identical with those obtained by Mr. Lew on the *China*, it is clear he could not have carried these last on board that steamer.

As to the contention that the second lot of letters were prepared in China and forwarded with the purpose that they be intercepted, that could not have been arranged by letter, for there was not time after the sending of the cables to which they referred, and if done by cable the messages would have been found, for all files of all offices in Vancouver and New Westminster were closely examined, and every suspicious cable impounded and translated, save the two already mentioned, and these came from Hong Kong.

There is also the direct evidence of Fung Chang Hung (p. 3207 *et seq.*) circumstantial and detailed, that he was given the passport by Charley Yip Yen, and told what name to assume, furnished with a fake draft and informed by Charley's brother was interested in the customs house, and would look after everything. He was also

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given a letter to Yip On which he duly delivered whilst en route from Victoria to Vancouver, and was passed as an exempt though he was to Yip On's knowledge coming to Canada to edit the newspaper of the Chinese Reform Association, this being stated in the letter he carried (Fung Chang Mung, p. 3207 to 3224). He came to Canada in June or July, 1907, being amongst the earliest passport arrivals. He produced before the Commission the fake draft which was drawn on Wing Shang, uncle of Yip On, the same man on whom were drawn the drafts presented at Victoria in October, 1910. This evidence, in the opinion of the Commission, was not shaken on cross-examination. It was suggested that the witness belonged to the faction adverse to Yip On, but it was proven that he came to Canada to enter the employ of the Yip On party, and has continued in their employ ever since. He was hired, he says, by Charley Yip Yen, to edit the newspaper of the then newly formed Chinese Reform Association at Vancouver. Now, Yip On was in 1907, and for several succeeding years, the vice-president of that association (Yip On, p. 2269, q. 17925-928) and a shareholder in the publication (Yip On, p. 2430, q. 19507), and he is still a shareholder in the company which took over the first publication and is now carrying on the business (Yip On, p. 2430, q. 19507). The Chinese school in which this man was employed when brought before the Commission is also run by the Chinese Reform Association (Fung Chang Mung, p. 3211, q. 34810-13). He was discovered by the accident of his being incidentally referred to by another witness. His passport was then looked up and he was identified from the photo. attached thereto. Care was taken that he had no chance to confer with Mr. Lew after he was subpoenaed. A white officer of the Commission served him and brought him direct to the sittings at which he testified.

There is also the evidence of Yip Dit (Chor (p. 2340 *et seq.*) and of Yong Jim Sun (p. 2347) which is mentioned, so that it may be considered in connection with taking criminal proceedings against Yip On. The Commission, as stated, considered it of no weight in view of the volte face made by both witnesses during adjournment over night. Admittedly, however, these men entered as merchants when they were really typesetters, and likewise admittedly they have during all the years since their arrival been working on the same Reform Association paper in Vancouver with which, as shown, Hing Sam or Yip On has been throughout closely connected, and were still so employed when brought before the Commission. They likewise were taken to the sitting by a white officer, and kept secluded until their evidence in chief was given. Unfortunately, owing to the lateness of the hour when this concluded, their cross-examination was not proceeded with, and the night interval wrought a wondrous change in their evidence.

The evidence of Gin In, goldsmith, and Yip Lee, jeweller, is also worth noting in this connection. They did not, it is true, inculcate Yip On, but it is clear from their evidence they should not have passed as exempt merchants. These men very shortly after their arrival entered the employ of the Li Sang firm (Gin In, p. 2394, q. 19120-23, and Yip Lee, p. 2415, q. 19347). Two of the partners in the Li Sang firm are Yip On and Yip Quong, his brother, (Yip On, p. 2266, q. 17896-97, and p. 2267, q. 17911-14). The two men, Gin In and Yip Lee, claimed to have acquired an interest in the business after being here two years, but Yip On could not tell the names of any interested in the concern save Wing Sang (his uncle), Wing Quong (his brother) and himself (Yip On, p. 2268, q. 17915-21). No one connected with the business got anything out of it but their salaries (Yip Quong, p. 2516, q. 30320-25).

In addition, there is the confession of the two men at Victoria outlining the same scheme in essentials as that testified to by Fung Chang Ming. True, that only came before the Commission through third parties, but that they repeated it correctly is not disputed. The contention set up that it might have been falsely interpreted is answered when it is stated that the man acting in that capacity on the occasion when it was made was Lee Mong Kow (Lee Mong Kow, p. 2776, q. 32435). On the other hand, Yip On's manner and evidence spoke eloquently of guilt. As to the first, the Commission was forced on more than one occasion to rebuke him, and even to threaten

to commit him for contempt before he would proceed with his testimony. (Yip On, p. 509, q. 4908; p. 519, q. 1994; and p. 520 at foot page, and p. 522, q. 5009-11). This occurred when he was being confronted with the incriminating cables and letters. On other points not dangerous to him he gave his evidence quite glibly.

As to his statements, it has already been remarked that he claimed to be under the impression that the Mack Yick Co. had wound up their business. Yet the cable of September 16, 1910 (Ex. 13a) shows the contrary, and as will be seen, he did not in the end positively deny sending this, but took refuge in the statement that he did not remember.

When asked about the Nam Mow Co. he replied he thought them to be exporters of oil (Yip On, p. 455, q. 4403-4), yet it developed that they were the general agents of his firm (Wing Hong On) and did all that firm's purchasing in China (Yip Sue Poy, p. 1412, q. 10486-88; Yip On, p. 2210, q. 2210, q. 17542) and from whom numerous letters were received (Yip Sue Poy, p. 1414, q. 10505-14; Yip On, p. 530 q. 5049). None of these letters, however, could be produced to the Commission, though such production was asked for. Finally, Yip On was forced to admit that he knew Nam Mow to be ticket brokers for trans-Pacific lines, and to be also lodging-house keepers (Yip On, p. 2205, q. 17491; and p. 2210, q. 17544). Further, his partner, Yip Sue Poy, had been in China about two years ago, and whilst there had had discussions with Nam Mow as to the business of the firm of Wing Hong On, as to which he fully informed Yip On when he returned (Yip On, p. 2208, q. 17518-36).

He admitted that he got letters from passengers on every boat (Yip On, p. 528, q. 5037-40; and p. 515, q. 5806-21).

He also admitted, though his business is mercantile, he lodged some passengers at his place after each boat (Yip On, p. 2211, q. 17549-59; Yip Sue Poy, p. 1492, q. 11397), and it was proven that they paid what they could afford for the accommodation (Yip Sue Poy, p. 1494, q. 11421-32). Their stay was usually from one to two weeks (Yip Sue Poy, p. 1495, q. 11435).

Confronted with Exs. 52, 53 and 54, the cables signed by his name, he, after much hesitation, admitted that the handwriting looked like his, and that he could not remember whether he sent them or not (Yip On, p. 618, q. 5829 to 5883).

He first stated that he did not think he got any cables from Hong Kong in August, but finally admitted that he had seen Ex. 61 from Kamsheung to himself, though he did not understand its purport (Yip On, p. 493, q. 4775-854).

As already stated, he first denied receipt of the September 18 unsigned cable to Wing Hong On, but later admitted it. He could, however, give no intelligible explanation of its contents (Yip On, p. 502, q. 4858-905; and p. 552, q. 5225-244). Likewise as to Ex. 60, again, after much delay he finally declined to swear whether the address of the sender, "Wing Hong On," was in his handwriting or not (Yip On, p. 522, q. 5008-11), and admitted that the handwriting on the face looked to be the same as Ex. 63, which he admittedly wrote (Yip On, p. 525, q. 5014-16).

He also admitted that he did not believe the numerous passport men were all really merchants, but he was merely the interpreter and considered it was the business of the white officials to discover this without any information from him (Yip On, p. 564, q. 5311-26). As has been seen, he well knew these men, though pretending, when passing the customs, to be about to open up business in Vancouver, had not done so. He explains that he thought they had all gone east (Yip On, p. 2212, q. 17561, and p. 2215, q. 17580-83). In fact, his evidence is full of glaring inconsistencies, and damning admissions, but it would be a waste of time to pursue the matter further.

There was abundant evidence that there has been no appreciable number of new arrivals entering business in Vancouver in recent years.

The Case of Mr. Bowell.

As to Mr. Bowell, the Commission has no hesitation in deciding that there was no participation by him in these frauds. It is true, however, that some evidence was

adduced that tended to cast suspicion upon him. In the first half of the year 1907, shortly after the Chinese passports began to appear, Mr. Blair, an officer in the Vancouver custom house, was approached by a Chinaman of that city and requested to enter into a scheme for smuggling Chinese into Canada. The plan proposed was in essentials the one outlined in this report, and Yip On was to be the chief agent at Vancouver in carrying on the operations. As an inducement, Mr. Blair was told that the traffic had already been going on successfully for some time, and that dozens of Chinamen had entered Canada fraudulently, Yip Yen (Yip On's brother) already often spoken of, being named as the person who attended to the business in China, and Yip On seeing that no difficulty arose at the customs in Vancouver. Mr. Blair on July 11, 1907, sent a detailed account of all this to Inspector Busby, of the port of Vancouver (Ex. 182). On August 10, 1907, Mr. Busby sent a copy of Mr. Blair's letter to his superior, Mr. McMichael, Chief Inspector of Customs, who resided in Toronto, with a covering letter indicating that the matter might prove to be of importance (Ex. 183). On September 10, 1907, Mr. McMichael replied to Mr. Busby directing that the substance of Mr. Blair's report be given to the customs officials at Vancouver (Ex. 184). Mr. Busby swears he accordingly laid the information before Mr. Bowell (Busby, p. 1382, q. 10334-39). As he is a most careful officer there is no doubt his statement is correct. In fact, Mr. Bowell does not deny it, but states merely that he does not remember (Bowell, p. 3258, q. 35171-177). Yet, as has been seen, despite this warning, Yip On was given every opportunity to defraud the customs if so inclined.

On July 9, 1908, Collector Newbury, of Victoria, wrote Mr. Bowell (Ex. 367, p. 1) sending him a passport issued by the British Registrar General at Hong Kong. This passport was in English, and is the one that caused the correspondence above referred to in which the Register General stated he considered it was his duty to assist Chinese immigration.—The bearer of this had attempted the identical fraud that probably had been and certainly was to be so successfully carried on at Vancouver from 1907 to September, 1910. In fact, the system was actually at work when Mr. Bowell received this letter. Mr. Newbury was able to inform Mr. Bowell therein that by severe cross-examination he had found the bearer was using an assumed name, and had procured the passport by subterfuge or collusion. Mr. Bowell's attention was also called to the fact that the passport had affixed to it the applicant's photo, and was also informed that Mr. Lee Mong Kow had got private information that attempts to evade the Act by such certificates were to be made in the future. On July 10, 1908, Mr. Bowell acknowledged receipt of this letter (Ex. 367, p. 2).

Again, on August 31, 1908, Collector Newbury warned Mr. Bowell of the necessity of closely watching passport bearers (Ex. 365, p. 1). On September 1, 1908, Mr. Bowell wrote Mr. Newbury thanking him, and commending his views (Ex. 365, p. 2). The particular passport referred to in this letter had been issued by the Governor of Macao in a language other than English or French, and had been vised by the British Consul at Canton. Mr. Newbury had rejected the applicant.

When the method of conducting Chinese immigration business at Vancouver is remembered, the neglect of all these warnings calls for some explanation. This, it is believed, is furnished by the statements contained in Ex. 188 and 189. It is but just to Mr. Bowell to record that the conditions outlined in these exhibits no longer exist, and have not for a period of some two years last past. During these two years no information was received by Mr. Bowell, so far as transpired before the Commission, which would direct his attention to the possibility of frauds being perpetrated.

It is true that Mr. Fagan shortly after he took over the duties of landing waiter in June, 1910 (Fagan, p. 125, q. 1005-6) was struck by the number of passport men coming in free, and spoke to Mr. Bowell about it, who replied that he thought it might be well to again submit the document to Ottawa (Fagan, p. 169, q. 1323-28). He did not do so, but it must be remembered that for two or three years last past Mr. Bowell has been set a well-nigh impossible task. His duties are primarily those

of Collector of Customs, and the enormous increase of business at Vancouver in this branch of his work—it increased from a million dollar port to one of four millions, exclusive of Chinese head tax, within the past four years (Bowell, p. 3288, q. 35398)—was urged by Mr. Bowell as a reason why the Chinese immigration work was neglected (Bowell, p. 3287, q. 35394-400).

In the opinion of the Commission this fact, whilst not wholly excusing Mr. Bowell, does clear up any suspicion of deliberate wrong-doing on his part. The relative volume of purely customs business is also not to be forgotten, when comparisons are made between methods adopted at Victoria and at Vancouver in handling Chinese business.

Another matter that must be cleared up if the view taken by the Commission of Mr. Bowell's conduct is to be accepted is his re-instatement of Yip On after he had relieved him from the office of interpreter at Mr. Foster's request. Doubtless, as Mr. Bowell admits, it would have been more proper for him to have wired to Ottawa for instructions, but it is believed such course was not imperative. Mr. Bowell's orders were to carry out Mr. Foster's instructions, and he obeyed, relieving Yip On whilst protesting by wire to the department that Mr. Lew, whom Mr. Foster intended to employ, was a person in whom he (Mr. Bowell) had no confidence (Ex. 140, 141, 142 and 145). He erroneously, but the Commission is convinced, honestly believed in Yip On's integrity, a belief shared by Col. Worsnop, his chief assistant (Worsnop, p. 69, q. 576-7).

The position with which Mr. Bowell was confronted was as follows: Mr. Foster had gone to Victoria with Mr. Lew and accompanied the *China* to Vancouver, and had taken off the passport men and held a private inquiry concerning them. This Mr. Foster had completed on the evening of September 20, 1910, and so informed Colonel Worsnop, so that the regular work of passing out the other passengers could go on (Foster, p. 1145, q. 9167). This was to be done by the regular staff. Mr. Bowell's father was in Vancouver, and was leaving on September 21. After he had gone and after lunch, Mr. Bowell went to the detention shed where the work of passing the Chinese is done. This work had been in progress in the morning, and Mr. Lew had acted as interpreter, but Mr. Bowell states he did not know that such was the case as he was spending this last forenoon with his aged father (Bowell, p. 3274, q. by Mr. Grant and reply, 35291). Arrived at the shed, Mr. Fagan, who usually assisted at the examinations, asked what interpreter was to be used, and Mr. Bowell, who, as has been seen had no confidence in Mr. Lew, determined to see Mr. Foster and make sure that the latter was through with his investigation. It is to be noted that Mr. Bowell was not about to deal with passport men, but with merchants' sons, returning residents of Canada, &c. He consulted Col. Worsnop, who replied he did not know what interpreter should be used unless Yip On, the regular employee. Mr. Bowell went accordingly in search of Mr. Foster, and met him on the street. He asked Mr. Foster if he were through, and Mr. Foster replied that he had finished the previous evening. Thereupon Mr. Bowell told Mr. Foster that he would re-employ Yip On to carry on the regular work. Mr. Foster replied that if he did so it would be on his own responsibility, and he followed Mr. Bowell to the shed and repeated the same statement. Mr. Bowell replied: "I understand," and added, "if I go to work I am not going to have any person but my own interpreter." (Bowell, p. 3269, q. 35264-76, and Foster, p. 1145, q. 9167-71). He thereupon re-instated Yip On and dismissed Lew as has already been seen. It is to be observed that Mr. Foster did not direct Mr. Bowell not to employ Yip On. Neither did he give Mr. Bowell any information that there was cause to suspect Yip On's honesty (Foster, p. 1145, q. 9167-85); and the latter knew nothing about what had come out at the private inquiry (Bowell, p. 3275, q. by Commissioner to 35296). Mr. Bowell had on August 22, 1910, just a month previously, been reprimanded by the department for using Yip On's brother as interpreter when Yip On himself was sick, and had replied that in future he would use no one except the regular man (Yip On) without authority (Ex. 106).

To suggest that this action on Mr. Bowell's part indicated that he was in collusion with Yip On in the frauds, as was done by Mr. Grant (cross-examination by

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Grant, p. 3274, q. 35292-3) because he wished to pass out the suspect merchants with Yip On as interpreter, is to consider him to be without intelligence. He knew nothing of what information Mr. Foster had, but he did know that an inquiry had taken place by that officer in reference to these same merchants. If he were a party to the fraud the last thing he would have attempted under the circumstances would be to re-instate Yip On and pass these men out, well knowing that Mr. Foster was still in the city, and after repeated warnings from that gentleman as to his having to take the responsibility of such re-employment of the suspected interpreter.

Probably, as he himself admits, he acted unwisely, but there was some justification. He had heard rumours of the McInnes intrigue (Bowell, p. 3289, q. 35405-07), and felt that Mr. Foster was not treating him fairly (Bowell, p. 3270, q. 35268). That he was right in believing an attack was being made on him by interested parties is shown by the wires of Messrs. Lew and McInnes, already quoted (Ex. 259a and Ex. 120).

The affair, however, bore an altogether different complexion as presented to the authorities at Ottawa. Charges had been made as early as August 8, 1910, to Mr. Foster by Mr. Lew implicating the white customs officials as well as Yip On in the alleged frauds, and Mr. Foster had reported them to Ottawa (Ex. 135). The telegram sent by Mr. Grant as Julian Roy on September 20, 1910 (Ex. 248), stated that the Vancouver officials obstructed Mr. Foster, and any one reading it would believe that these officials were responsible for Yip On's friends getting into communication with the passengers on the ship when she docked. This wire Mr. McInnes undoubtedly laid before the Ottawa authorities, Mr. Foster's wire of the same date (Ex. 146), whilst probably innocuous if standing alone, yet when read along with the much more detailed report contained in the Julian Roy wire would tend to confirm this view. As has been seen Mr. McInnes wired Mr. Lew that if Mr. Foster confirmed Mr. Lew's wire of Yip On's re-instatement Mr. Bowell would be suspended (Ex. 259 and 259a), and that this confirmation was duly sent the following day. It was in this language:—

"Bowell dismissed Lew yesterday. Re-instated Yip On which seems very peculiar to me."

(Ex. 147.) The last phrase, coupled with the contents of the Roy wire (Ex. 248) and Mr. Foster's wire of September 20 (Ex. 146), as also with the fact of the original charges, made it easy for Mr. McInnes to represent Mr. Bowell as being at least insubordinate, and a worthy object of suspicion, and to bring about his immediate suspension on September 22, 1910, as Mr. McInnes had prophesied (Ex. 259 and 259a). Mr. Bowell at once wired Ottawa his version of the matter, and Mr. Foster was on September 23 asked to explain (Ex. 149). Mr. Foster did so as follows:—

"I told Bowell I had finished investigation. He asked me if I was through with D. Lew, I answered, yes. He said he would dismiss him and re-instate Yip On. I told him re-instatement would be on his own responsibility. He said he would be responsible. I was greatly surprised that he would have as interpreter man who stands charged with being in collusion with these same Chinese to land them illegally in country. Do not think Bowell intended disobeying orders."

It is to be observed that whilst Mr. Foster acquits Mr. Bowell of intention to disobey orders—a thing he had failed to do in his first wire (Ex. 147)—he expresses surprise at Mr. Bowell's action when Yip On stood charged with fraud. But as seen he had in no way communicated this fact to Mr. Bowell, nor indeed had he forbidden him to re-employ Yip On. Mr. Foster was, in the opinion of the Commission, here again a pawn in the hands of others, who *inter alia* desired to implicate Mr. Bowell before the Ottawa authorities.

The suspension was allowed to stand as perforce it must have been in the face of such charges and documents as those here cited.

The only irregularity of which Mr. Bowell was shown to be guilty was the acceptance of a fee of \$2.50 for issuing a certificate to Canadian Chinese merchants desirous of visiting the United States. The American law allows of such visits if the merchant produces a certificate of his standing from an officer of the Canadian customs.

There is some clerical work to be done in connection with the issue of this document, and when this was done at the customs house, a fee of \$2.50 was charged which was retained by Mr. Bowell (Bowell, p. 3283, q. 35361-63; and 3288, q. 35402-3). It was only charged when the work was done at the customs house, not when the applicant brought the necessary papers with him (Bowell, p. 3283, q. 35361-62). There was no authority for doing this (Newbury, p. 2872, q. 32862-3) except that Mr. Bowell states the practice had begun in Mr. Milne's time at Victoria, Mr. Milne being Mr. Newbury's predecessor in office.

Whilst irregular, however, Mr. Bowell undoubtedly thought he was entitled to pay for labour he was not called upon by his duties to perform, and no consciousness of moral wrong-doing can be imputed to him for what he did in this connection.

Although thus exonerating Mr. Bowell from any charge of dishonest conduct, the Commission is forced to conclude that he was negligent in this matter of Chinese immigration.

As has been shown, he placed the administration of the Act virtually in the hands of the interpreter. He accepted the Chinese passports as complying with the Act when in truth they did not, as they were in a language other than English or French. He knew the farcical nature of the watch kept on ships at Vancouver, yet failed to report it.

His attention was called in 1907 to the possibility of the very frauds that doubtless were then going on at his port, and which in the opinion of the Commission were extremely frequent from that date on to September, 1911. He was again notified as to their possibility in 1908. Even as late as June, 1910, Mr. Fagan called his attention to the great number of passport men obtaining free entry as merchants. All of this shows negligence which to some extent may be excused through the great pressure of his other duties as customs collector, but which cannot be passed over in fulfilling the duty imposed on the Commission by the terms of the order in council creating it.

Status of Poon Shung Lung, present Chinese Interpreter at the Port of Vancouver.

In February or March, 1909, this man went to China from Toronto (P. S. Lung, p. 2440, q. 19628-34). He registered out as a merchant, claiming to be a member of Wuon Hong Haw, 183 Queen street, Toronto (P. S. Lung, p. 2439, q. 19616-21). His name was not on the partnership declaration, but he had bought out the share of one Yong Fook who was duly registered as a partner (P. S. Lung, p. 2440, q. 19622-24) and Ex. 38. There were twenty registered partners in this firm (see same Ex). By his own admission he was only connected with the business for four months before leaving to China (*Ibid*). He returned to Vancouver from China in January or February, 1910, and remained there, being informed that the Toronto business was not doing well (P. S. Lung, p. 2441, c. 19644). Yip On was a member of this Toronto firm, which Poon Shung Lung alleged was wound up some time in May or June, 1910. On the other hand inquiry in the east showed that a firm of Kwong Hong Hing was still doing business at 183 Queen street, Toronto, on January 5, 1911, ostensibly as Chinese grocers, but according to the police of that city their dealings were chiefly in opium (Ex. 273). The difference in the last word of the firm is probably another instance of phonetic spelling. Poon Shung Lung though he states he had \$1,000 invested, seems to have taken very little interest in the whole matter since his return (see his evidence, p. 2433 *et seq*). He brought with him back from China a wife and two sons, aged 17 and 13 years, respectively, whom he passed through as exempts on the strength of his being a merchant (P. S. Lung, p. 2442, q. 19648-50). He claimed these boys to be the sons of the wife who accompanied him (p. 2434, q. 19541-47; p. 2452, q. 19765-66). A Mr. Dickman, Chinese missionary, was called to prove that Poon Shung had been married to this lady during his last visit to China. If so, then the boys must have been entered fraudulently. Mr. Dickman's evidence was unsatisfactory (Dickman, p. 3292 *et seq*). His wife was then called and she testified

to having received a letter from China informing her that the interpreter had been but recently married to his present wife (Mr. Dickman, p. 3294, q. 35435-45) Both of these witnesses gave the Commission the impression that they were not telling all they really knew. On the other hand, it is to be observed that in his declaration (Ex. 38) made to get registration outwards, he mentions a wife and two sons. It is, however, possible that the boys are children by a wife who was left in China. The charges cannot be considered proven, but they were not entirely cleared up to the satisfaction of the Commission.

Opium.

As to opium, no evidence whatever was adduced to substantiate the charge that white officials in the service instead of destroying opium when seized, sold it and converted the proceeds to their own use. Mr. Foster investigated this, and reported on October 17, 1910, that it was without foundation (Ex. 171).

Though there is no direct testimony as to who put forward this charge, it was apparently the same parties who brought about the investigation in reference to the smuggling of Chinese, for Mr. McInnes in his memorandum submitted to the Premier (Ex. 257) suggests the appointment of a judge to inquire into the administration of the Act "with full powers of searching Customs records, and examining Customs officers."

A statement (marked 499 for identification) was filed by Col. Worsnop showing total seizures made at Vancouver and the disposition thereof. (Worsnop, p. 3177, q. 34658-61). Only six tins were seized which were destroyed. All the other seizures remained in the hands of the authorities until November 10, 1910, when they were by direction of the authorities forwarded to Ottawa (Worsnop, p. 3177, q. 34658-85). They had not been destroyed owing to the absence of a proper furnace (Worsnop, p. 3177, q. 34667).

There is no doubt however that opium enters Canada as freely as it ever did, in fact more freely, as there is now no duty to pay (*see* Mulhern, Police Inspector, Vancouver, p. 3298, q. 35467; Langley, Chief Police, Victoria, p. 2895, q. 32960-63). All that has been stated in reference to opportunities for stowaways to come ashore applies, of course, with much greater force to the question of opium smuggling. Opium may be put up in half-pound and one-pound tins. These tins are of no great bulk, and can be made of any shape convenient to aid the drug being smuggled in. One method was described by a Mr. Crawford, who was convicted in December, 1910, of smuggling opium at Vancouver. He was caught with a belt full of tins of opium around his body concealed by his clothes. If his evidence is to be credited, he had already made many successful trips ashore with opium before he was captured. (*See* Crawford, p. 1929 *et seq.*). He also stated that the Chinese, who of course assist in coaling the C.P.R. liners, would place the opium on the coal hulk (*Robert Kerr*) in the harbour at Vancouver whilst the *Empresses* were being coaled, and there being Chinese or white associates on board of this, these latter would safely deliver the drug (p. 1959, q. 15570-72). He asserted that there was a regular opium ring, the head of which was one "Con." "Con" warned him by letter to Hong Kong last autumn that a stricter watch was being kept at Vancouver. This man "Con" was proven by Mr. Quinn's evidence to have been a constant visitor to the *Empresses* when in port, and to be apparently on intimate terms with McPherson, the watchman (*see* Quinn, p. 975 *et seq.*). Mr. Quinn endeavoured to follow and identify "Con," but failed. The Commission had reason to believe that he formerly conducted a small tobacco shop in Vancouver, but inquiry showed that he had closed this up and gone to the American side when it became known that an investigation into opium was about to commence.

In justice to Yip On it should be stated that no direct evidence was given against him in reference to opium. Crawford did swear that it was to Yip On's place that he took the opium, but on being taken to identify the store it turned out that he was mistaken, and had delivered the drug at another place. Yip On's connection with the

Toronto firm of which Poon Shung Lung claimed to be a member, and whose business as seen is reported by the police to be largely dealing in opium, is not, however, to be forgotten.

It is almost impossible to prevent opium being shipped in direct, and passed through the customs concealed in packages of other goods. Suspicious parcels are of course searched, but all parcels of Chinese goods imported from the Orient, owing to their great number, cannot be opened and examined.

It will be noticed from Colonel Worsnop's statement (499a) that detections of opium smuggling were much more frequent after the new watchmen were put on at Vancouver in October, 1910, than they had been previous to that date. It is clear, however, that absolute prevention of opium smuggling is well nigh impossible, no matter how efficient the watch (Worsnop, p. 3200, q. 31771). Since the Act prohibiting its importation came into force, its price has greatly risen, and therefore smuggling is highly profitable. The difference in price on board ship as compared with the price in Vancouver was stated before the Commission to be from \$5 to \$7 per pound. Whilst much may be done to mitigate the evil by a proper system of watching, yet as it is impossible to keep it out entirely the only method of putting an end to its consumption is by drastic amendments to the present Act. The Commission is informed that an amending Act is being passed during the present session, but as its scope is not known, the suggestions considered justified by the evidence will be made.

In the first place, it is to be noted that the police regard this question of opium as falling within the purview of the duties of the customs officials, rather than within their own (see Mulhern, p. 3299, q. 35472-73; Langley, p. 2898, q. 32967). The reason is that as only importing or selling are offences under the present Act, the police are practically powerless. Messrs. Mulhern and Langley recommend that to smoke opium or to have it in one's possession—unless by druggists and physicians—be made an offence under the Act. Further, that drastic right of search be given when opium is suspected to be in any premises, without the necessity for going through all the routine now required by the Act, and that the punishment for any offence be both fine and imprisonment (Langley, p. 2896, q. 32964-73; and Mulhern, p. 3300, q. 35474).

The necessity for drastic right of search is shown when it is considered that the Chinese construct in Chinatown special rooms with steel doors, and with many exits, as well as look outs, at which a watch is stationed (Mulhern, p. 3301, q. 35477-78; Langley, p. 2899, q. 32972-73). These places are now used principally for gambling, but a real attempt at suppressing opium smoking would doubtless result in their construction as places where it could be used safely. Sudden action, therefore, would be the only effective means of detection, and for that the right of search should be practically discretionary with the chief of police.

The necessity of imprisonment and fine being imposed as punishment is shown by the belief of the officials that fines are rarely paid for offenders by the opium ring. (Worsnop, p. 3204 at foot.) If these amendments were made to the Act, the police would doubtless become more active in attempting to enforce its provisions. Assuming the law has been or will be put into more workable shape by thus amending it, the Department of Justice might usefully request the Attorney General of British Columbia to call the attention of all police officers, provincial and municipal, to the fact that transgressions against it are criminal, and not merely breaches of the Customs Regulations.

Summary of Conclusions.

First.—The charges both of personal and official misconduct against the Hon. Mr. Templeton found to be entirely without foundation.

Second.—The charges against certain members of the Liberal Executive of Vancouver were shown to be untrue.

Third.—The existence was demonstrated of an intrigue on the part of Mr. T. R. E. McInnes, with whom was associated Mr. David Lew and Mr. Gordon Grant, to establish some sort of connection with the administration of the Chinese Restriction Act at the port of Vancouver by obtaining control of the position of Chinese interpreter, and possibly in other ways. Its object was to serve some personal end.

Fourth.—Mr. Foster, Government Secret Service officer, was utilized to advance this intrigue. To what extent he was a dupe, and to what extent a participant, is uncertain.

Fifth.—Ample opportunity has existed at the port of Vancouver for the illegal entry of Chinese into Canada in the various ways enumerated in the body of the report.

Sixth.—The administration of the Chinese Restriction Act at Victoria has been careful, and as effective as defects in said Act would permit.

Seventh.—The port of Union Bay is practically a free port for the entrance of Chinese, and for smuggling opium into Canada. The ships of two lines running direct from the Orient go there to coal before setting out on each return voyage.

Eighth.—This condition of things obtains to almost the same extent at the ports of Nanaimo, Ladysmith and Boat Harbour. No ships direct from the Orient call at these ports to coal, but tramp vessels carrying Chinese crews are numerous.

Ninth.—A system of direct fraud to secure illegal entry of Chinese into Canada as merchant exempts has flourished at the port of Vancouver, probably since 1907. It is impossible to determine how many Chinese have thus entered Canada, but it is probable that the majority admitted there under the Chinese passports secured fraudulent entry.

Tenth.—The interpreter Yip On was directly concerned, and a participant in these frauds. This is probably true also of his partner Yip Sue Poy.

Eleventh.—Numbers of Chinese have probably entered Canada as exempt sons of merchants who did not fulfil the law's requirements to entitle them to such free entry. This has been accomplished:—

(a) By wholesale registration of Chinese as members of merchant firms who possibly have a small interest in such business, but who are not actively engaged in mercantile life, but are really laundrymen, labourers, clerks, &c.; and

(b) By such persons and genuine merchants as well, bringing in individuals as sons who in fact were no blood relations to them.

Twelfth.—The method of identification in vogue at Vancouver until last autumn was defective, and as carried out practically valueless.

Thirteenth.—The watch kept on ships at the port of Vancouver up to the same date was farcical.

Fourteenth.—Mr. Bowell had no connection with any wrongdoing, but was negligent in the performance of his duties insofar as they appertained to the admission of Chinese into Canada. In fairness to him it must be stated that the dual position of Collector of Customs and of Comptroller of Chinese Immigration, in recent years at any rate, have made impossible demands upon his time.

Fifteenth.—Some suspicion rests upon the new interpreter, Poon Shun Lung, in reference to the admission of his alleged sons in January, 1910, and likewise in reference to his former connection, if his statement is to be believed, with a firm in Toronto regarded by the police of that city as principally engaged in illicit opium traffic.

Sixteenth.—Under the Act as at present framed the Government is dependent in a large measure on the integrity of the interpreter, and in the matter of the admission of new merchants, wholly so.

Seventeenth.—The charge that customs officials sold opium after seizure, and appropriated the proceeds, is untrue.

Eighteenth.—The quantity of opium coming into Canada is regulated simply by the demand for the drug.

Nineteenth.—Whilst more efficient watching will prove a preventive, total exclusion of opium cannot be hoped for, and consumption must be discouraged by drastic amendments to the Act on the lines suggested by the police officers of Vancouver and Victoria above set out.

Recommendations re Prosecutions.

First.—That the digest of facts forwarded herewith be submitted to the Department of Justice for advice as to whether they justify a criminal prosecution of Yip On and his partner Yip Poy.

Second.—In the event such advice being of an affirmative nature, that this report be not made public until such prosecutions have been launched, and at least the preliminary hearings held.

The reason is that the direct evidence of Yip Dit Chor, Yong Jem Sun, and Fung Chang Ming will doubtless be necessary. If it becomes known that criminal proceedings are in contemplation, these men will probably disappear, and to locate them, as the experience of the Commission in searching for passport men shows, will be a most difficult if not impossible task.

Recommendations re Chinese Immigration.

It is assumed that the object of existing legislation is restriction and not revenue. During the period from April, 1910, to January 31, 1911, there entered Canada Chinese as follows (Ex. 416):—

| | |
|---|-------|
| At Victoria, paying poll tax..... | 2,512 |
| " exempts..... | 166 |
| At Vancouver, paying poll tax..... | 1,289 |
| " exempts..... | 545 |
| At Nanaimo, paying poll tax..... | 9 |
| " exempts..... | 29 |
| At Montreal, paying poll tax..... | 153 |
| " exempts..... | 25 |
| At other Canadian ports, paying poll tax..... | 30 |
| " " exempts..... | 2 |
| | <hr/> |
| | 4,760 |

These figures include merchants resident in Canada who have overstayed their year's leave, but a liberal allowance for this class would be 160. Four thousand six hundred Chinamen entered Canada, therefore, during this period of ten months, of whom 3,993 paid the poll tax of \$500. A perusal of this report will show that probably more than half of the remaining 607 entered fraudulently, either as merchants or merchants' sons, and were really labourers or artisans.

Clearly in the face of such an influx during a brief time the Act has failed to accomplish the purpose for which, it is assumed, it was passed. To raise the poll tax would probably prove equally futile. The Chinese at the coast have learned to recoup themselves for such levy by raising the rate of wages. Since 1904, when the head tax was raised to \$500, the rate of wages of Chinese domestic servants has doubled, and a pronounced rise has occurred in the rate paid Chinese when engaged in other occupations. Chinese labour is frequently furnished by syndicates or boss Chinamen, who contract to supply so many men at so much per day. The money is paid direct to the boss Chinaman, there being no contractual relationship between the employer and the labourer. These syndicates, therefore, can afford to pay head tax on coolies even of

\$1,000 each, as they run no risk of loss. The business is highly profitable, as the coolie can be paid a sum which is princely as compared with what he could earn in China, and yet a wide margin can be retained as profits. The utility of any head tax no matter how high as a restrictive measure is, therefore, open to serious question. In addition, the higher the head tax the greater the incentive to secure fraudulent entry.

The Commission, therefore, recommends that if practicable an arrangement be made with the Government of China similar to that now in force with Japan, whereby a fixed number of Chinese only be allowed to enter Canada in each year, the Chinese Government in issuing permits to give preference to merchants. In return, the Chinese Restriction Act to be made inapplicable to subjects of China. A similar arrangement to be made with any other Government having Chinese subjects, and the Act likewise to be thereupon inapplicable to such persons.

Should this prove not possible, and it is necessary to proceed along present lines, then the following recommendations are submitted for consideration:—

First.—The administration of the Act to be placed entirely under one Department with separate officers and staff. At present Chinese immigration falls within the scope of three different departments. The Department of the Interior is concerned with it, inasmuch as the provisions of the general Immigration Act, administered by that department, apply to Chinese as well as to all other classes of immigrants except where their operation is excluded by the *ad hoc* provisions of the Restriction Act. The Restriction Act itself is supposed to be administered by the Department of Trade and Commerce, but this is now done by utilizing the services of officers of the Customs Department. The result is seen in the abuses that have crept in as outlined in this report. There is divided authority and no definite responsibility. It was apparently no person's duty to check the work done in reference to Chinese immigration. Inspector Busby, on assuming office, did attempt to do so, and made a report on December 12, 1906 (Ex. 173) to his superior officer in the Customs Department. This was forwarded to the Department of Trade and Commerce, and elicited a reply that intimated to Mr. Busby that his activities in this direction were not appreciated (Ex. 176). He thereupon abandoned any further supervision of Chinese immigration matters (Busby, p. 1379, q. 10320-22). Had any proper system of inspection been in force requiring the inspector not merely to check records, but also from time to time without notice to attend when the actual work was being done, the frauds at Vancouver could never have assumed the magnitude which they in all probability did, and proportionately large sums would have been added to the revenue.

Logically, it would seem that the general Immigration Act and the Chinese Restriction Act should be under one department.

But even when that is done, and a proper system of inspection established, it will, it is submitted, be necessary to have at least a small staff whose peculiar business will be Chinese immigration. Obviously, the Act on its present lines makes the Government dependent to a very large extent on the interpreter, and this feature cannot be remedied if the exempt class remain as at present. To say that the Comptroller must be satisfied that an applicant as a merchant exempt is a bona fide merchant is, in most cases, to say that he must believe his interpreter, for it is the latter who gives the English replies to the questions put. What has been said in this report relative to Yip On and Poon Shung Lung illustrates the difficulty of getting Chinese worthy of trust to fill such a position. Apparently the Government has such a man in Mr. Lee Mong Kow at Victoria, but he is an elderly gentleman, who will probably retire ere long. Even in his case, the holding of the dual positions of interpreter to the Government and Chinese ticket agent for a Pacific steamship line, is not desirable, and if asked to choose he would probably select the latter as the more remunerative. It therefore seems imperative that the Government should obtain the services of a qualified white man for this position. Such persons must be fairly numerous in the Orient, and the importance of the matter from the standpoint of revenue, not to mention restriction, should justify the offer of a salary sufficiently attractive to secure a desirable man.

When secured, he should be made the chief of staff dealing with Chinese immigration at the coast. Chinese interpreters might still be utilized in dealing with others than parties claiming exemption, but all of these, no matter upon what section of the Act their claim is based, should be examined by such officer. No great inconvenience would be caused thereby, for the white overseer could meet the incoming vessels at Victoria, or for that matter, at the quarantine station, and complete the examination of parties claiming exemption, and disembarking at Victoria in time to proceed to Vancouver, and continue with the work there without unduly detaining such exempts. In fact, the matter of delay would be chiefly important in the case of merchants, and Victoria statistics prove that apart from fraud their numbers are likely to be so limited as to make their examination a matter of but little time.

As an alternative, the Act might be amended by providing that merchants to be exempt must obtain a certificate of their standing from the Canadian Trade Commissioner in China. The Commission is not sufficiently informed as to conditions obtaining in the Orient to express an opinion whether this plan is feasible or not.

In any event, it is submitted, the Act should be so amended as to make the merchant exempt status depend not merely on the applicant having been a merchant in China, but also on his proving intention and financial ability to enter mercantile business in Canada, the onus of proof in each case to be cast upon him. The matter is difficult, and requires careful consideration, as doubtless the object of the exemption is to promote trade between Canada and China, and too many conditions as to qualifications would tend to promote friction rather than encourage commerce, but it is clear the Act as it stands in this regard is defective.

As to the exemption relative to merchants' sons it is recommended that it be abolished, or at any rate greatly circumscribed. No matter how efficient the administration, it seems to the Commission from the facts stated in this report, it will be found almost impossible to prevent frauds under this head. The extreme difficulty of defining "merchant" so as to confine this exemption privilege to parties other than clerks, hucksters, &c., actually engaged in mercantile pursuits is apparent. As pointed out, this difficulty is much increased by the Chinese system of a large number of individuals associating themselves together as a firm to carry on what in reality is a very small business. This feature is altogether apart from any suggestion of deliberate frauds in partnership registrations of which, as seen, there have probably been numerous instances.

Again, the impossibility of getting reliable proof that the real relationship of father and son exists seems to present an unsurmountable obstacle to the prevention of frauds in this connection; the more so because of the widely spread practice amongst the Chinese of adopting male children and thereby conferring upon them from the Chinese point of view the full status of true sons. The very large number of free entries under this head has been stated in the body of this report.

Should this recommendation appear too drastic, it is submitted that at any rate the age limit should be fixed much lower than under the present Act. If fixed at 12 years, there would doubtless be a great falling off in exempts as merchants' sons. There are Chinese schools on the coast, so that a Chinese education can be there obtained, and if these boys are intended to enter mercantile life in Canada—as the Act, it is assumed, means they should be—then their success will be much more likely if they come at an early age and acquire a good English education as well.

In reference to substitutions of individuals, the system of identification has been improved since last October by insisting on each outgoing Chinese filing a photograph with the authorities. This is attached to his identification record, and no doubt will prove a great check against impersonation. The ideal method, however, it is submitted, would be the adoption of the finger-print system. It is suggested by the Chief Comptroller that this might be objected to by the Chinese owing to its association with the identification of criminals. This objection, if it exists, could be met by making the matter optional with the applicant, informing him that if adopted by him no measurements, description or photograph would be necessary. In the opinion of the Commission a large number, if not the great majority of such applicants, would select

this and thus avoid the expense of having a photograph taken, and the inconveniences—not to use a stronger term—of being measured and of having personal characteristics and blemishes recorded, all of which are features of the present system.

As to the other methods of illegal entry enumerated in this report, the remedy is a proper watching of the vessels when in port. As seen, they depend on members of ship's crews being allowed to go ashore, which is contrary to the present regulations. In December, 1910, an order was issued requiring all ships arriving from Asiatic ports to employ a special watchmen to assist the customs watchman on board, or at the ship's gangway (Ex. 200), but whether this applies to ports other than Vancouver and Victoria the Commission is not aware. Whilst this is probably a step in the right direction, it is clear the Government must depend primarily on its own watchmen for the performance of this duty. Particularly is this true of opium smuggling. At Vancouver, a new system has been inaugurated consequent upon the disclosures made by the reports of Messrs. Foster and Quinn. There are now at night two shifts of watchmen to each ship. The vessels are consequently never left unguarded if the men do their duty, and as care has apparently been exercised in their selection, and as a system of inspection exists, it is probable that conditions are now greatly improved so far as the dock side of the ship is concerned. As to the water side, other watchmen were at the time the change was made put on to patrol this by means of row boats. The men complain that this is entirely ineffective, and in addition, is such work as should not be demanded of any one. Certainly to sit for hours in the darkness in a row boat with the rainfall that prevails in Vancouver during the winter months is an arduous task. That if duly performed it is of little value seems clear, for as the men state a boat thus manned is too slow and too noisy to admit of any effective patrol work. The Commission recommends that a swift launch with muffled motive power, and equipped with a search light, be obtained and continuously employed at night in the harbour at Vancouver. The Commission also recommends that the grievances spoken of by the new watchmen as to overtime pay be investigated (see evidence indexed as p. f. of Vol. 1). As is clear, these men occupy positions of trust, and if the conditions of employment are not considered fair, difficulty will be met in obtaining suitable persons to undertake the service.

A launch does not seem to be necessary at Victoria, owing to the liners not entering the harbour, and owing to the shortness of their ordinary stay at that port.

A radical change must be made at Union Bay in the watching of vessels there if illegal entries and particularly opium smuggling are to be stopped. The adoption of a more efficient watch will mean expense, but it is imperatively necessary.

To a minor degree, owing to no direct Oriental liners calling at these ports, this is also true of the ports of Nanaimo, Ladysmith and Boat Harbour.

The penalties for infringement of the provisions of the Act should be made more severe, and power should be taken to deport any person shown to have entered Canada by fraud. As the law is at present, there is apparently no authority to make such deportations, nor even to collect the poll tax in such cases.

In closing, owing to the reflections made in this report on Mr. David Lew, a word of explanation as to his employment by the Commission is in order. The Chinese communities at the coast constitute an *imperium in imperio*, and it is hopeless for white people to attempt to obtain information of value to such an inquiry as was intrusted to the Commission unless the co-operation of at least one well informed Chinaman can be secured. Mr. Lew was the only such person willing to assist so far as the Commission was aware, and therefore his services were retained. In justice to him it must be said he rendered much valuable aid, particularly by giving information which enabled the Commission to secure at its hearings the five passport men. Whenever he was used as interpreter, he was always checked by one or more other interpreters representing the interests of Yip On.

All of which is respectfully submitted.

I have the honour to be,

Your most obedient, humble servant.

DENNIS MURPHY,

Commissioner.

VANCOUVER, B.C., May 1, 1911.

SUPPLEMENTARY TO MAIN REPORT.

To His Excellency

The Governor General in Council:

MAY I PLEASE YOUR EXCELLENCY:

Your Commissioner appointed by Order in Council dated November 12, 1910, to investigate and report on Chinese frauds and on the operation of the Opium Act, craves leave to supplement the main report as hereinafter stated.

Whilst the documents dealt with in said main report were being examined, it was discovered that in addition to the wires therein set forth as having passed between Mr. D. Lew and Mr. T. R. E. McInnes, four others had also been exchanged. These appeared amongst the bundle of telegrams verified by the operator who was called to disclose to the Commission any and all wires pertaining to the matters being inquired into. Counsel for the Dominion Government, owing to the great mass of documentary evidence produced from time to time omitted to get these four wires translated and made exhibits. The code used in two of them was an entirely cypher code, and on your Commissioner finding these documents, he applied to Mr. McCrossan to secure translations. These could only be secured from Mr. Lew, who was absent from Vancouver. As it was thought undesirable to delay the compilings and forwarding of the report to await these translations, it was completed and forwarded without the wires referred to herein being dealt with. Mr. Lew has now returned, and has furnished the Commission with what apparently is a correct translation, though not given on oath.

Your Commissioner, therefore begs to supplement the main report by adding to the last paragraph on page 34 the following:—

"On October 23, 1910, Mr. Lew wired Mr. McInnes (Ex. 498a for identification). Is there any real use if proved new interpreter entered Canada by fraud."

Signed, — "Cedar."

To this Mr. McInnes replied on the same day, (Ex. 497a for identification): "O'Hara is absent. I am fighting. Templeman and Kelly are misrepresenting me to the Premier. You drop out for the present but get evidence if possible showing Interpreter Poon Lung and family entered Canada fraudulently. He is appointed temporary only."

Signed, "Brown."

Mr. Lew sent another wire to Mr. McInnes on October 28, 1910, informing him that the new interpreter had reported for duty (Ex. 496a for identification). He wired again the next day, October 29, 1910, asking for authority to search official files for material in connection with the new interpreter's record (Ex. 495a for identification). He apparently did not get this authority.

All of which is respectfully submitted.

I have the honour to be,

Your most obedient, humble servant.

DENNIS MURPHY,
Commissioner.

VANCOUVER, B.C., May 2, 1911.