

P.C. 17376

To His Excellency

The Governor General

May it please Your Excellency:

By your Commission bearing date the 27th day of January 1932, I was appointed under the Inquiries Act a Commissioner, as the Commission and Order state:

"to inquire into and report upon all matters  
"acts or things, of whatsoever nature and kind  
"arising out of or connected with the alleged  
"loss of the sailing vessel 'Gypsum Queen',  
"including, without limiting the generality of  
"the foregoing, the commission of any criminal  
"or other improper acts in connection with the  
"loss of such vessel, the inquiry by Commissioner  
"McDougall and payment" therefor;

Mr. Peter White, K.C., of Toronto was appointed by the Minister of Justice, Counsel to the Commission and after notice had been given in the public press, the taking of evidence was begun at the Parliament Buildings, Ottawa, on the 17th day of February 1932. Evidence was also taken in Montreal; in Amherst and Parrsboro, Nova Scotia; in St. John, New Brunswick; in New York and again in Ottawa. Senator H.J. Logan who appeared by the terms of the Order in Council, to be interested in the matter of the inquiry, and attended by himself or his counsel, Mr. L.A. Forsyth, K.C., of Montreal, all of the sessions of the Commission above referred to, and was given full opportunity to call and examine such witnesses as desired as well as to cross-examine all witnesses called by Mr. White, and at the close of the taking of the evidence to present full argument in respect of Senator Logan's connection with the subject matter of the inquiry.

Having no knowledge of the whereabouts of Captain Hatfield, to whom as appeared from the terms of the Order in Council a cheque for \$71,876.72 was issued as compensa-

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sation for the loss of the Gypsum Queen which was alleged to have been torpedoed and sunk by a German submarine, personal notice could not be given him, but in addition to the notice published in the newspapers, notice was sent by mail to his last known address and also in care of his daughter who lived in New York and whose address was furnished by Senator Logan. He did not however appear and all efforts to ascertain his whereabouts have proved unsuccessful.

The evidence respecting the cause of the loss of the Gypsum Queen taken at the sessions above mentioned was contradictory and inconclusive but from the inquiries which had been conducted prior to my appointment, and investigations made by Scotland Yard, it appeared that valuable and probably conclusive evidence could be obtained in England and as that evidence could not be satisfactorily obtained other than by a personal attendance and inspection of original documents and the taking of oral testimony of witnesses, I deemed it essential for the purpose of a thorough inquiry to proceed to England in order to obtain the evidence available and as will appear later, such evidence proved to be convincing and conclusive.

Mr. Forsyth did not consider that Senator Logan was sufficiently concerned with the matter of the actual loss cause of the loss of the Gypsum Queen to warrant his being represented at the taking of evidence in England and he was not represented at the sessions held in London and Liverpool, where 18 witnesses were examined and a considerable amount of documentary evidence obtained.

It was provided by the Versailles Treaty of June 28th 1919 that Germany should, by way of reparation, make compensation, inter alia, for damage to property of the nation of the opposing states, which included Canada,

where such damage was caused by acts of Germany or her allies or was a direct consequence of any operations of war.

In March 1923 the Honourable William Pugsley was appointed a Commissioner to investigate claims of Canadian Nationals under the foregoing provision of the Peace Treaty, and after his death in 1925, Mr. James Friel, K.O., was appointed a Commissioner to carry on such investigation. Mr. Friel made his report on 14th December 1927. After this report other claims were received and on the 6th of September 1930, Mr. Errol M. McDougall, K.O., was appointed a Commissioner to investigate and report upon claims not disposed of by the other Commissioners, the number of which as his report, made on the 6th March 1931, shows, being, at the time of his appointment, 150. One of these 150 was that of Captain Freeman Hatfield for the loss of the Schooner Gypsum Queen notice of which claim was first received through a letter of Senator Logan (Exhibit 28) dated October 3rd 1929, in the following terms:-

"Amherst, Nova Scotia  
Oct. 3rd, 1932.

"J.A. Duffy, Esq.,  
"German Reparation Claims,  
"Trafalgar Bldg.,  
"Bank Street,  
"Ottawa, Ont.

"Dear Mr. Duffy:

"Are further claims being filed for  
"Reparations? I have a letter from Captain Freeman  
"Hatfield of Parrsboro, N.S., who is now in charge  
"of the Soh. Ada Tower, in which he states:  
"I am writing you in reference to the Soh  
"Gypsum Queen. She was shot to pieces by a Ger-  
"man Submarine on July 31st, 1915 off the Coast  
"of Ireland and I want to get paid for her.  
"She was a vessel of 609 tons net reg."

"If further claims are being filed, I desire  
"to put one in for Captain Hatfield.

Yours faithfully  
(sgd) H.J. Logan.

"P.S. He was the Capt. of the Soh. Gypsum Queen."

The reply (Exhibit 29) sent to Senator Logan was in the following terms:-

Rooms 201-5 Trafalgar Building,  
Ottawa, October 7, 1932.

"Sir,

re Captain Freeman Hatfield.

"In reply to your letter of the 3rd instant, I have the honour to advise that numerous belated claims are being received at this Office, and I have received no instructions to refuse to accept the same, but am directed to point out that no assurance can be given that they can be assessed, owing to the fact that the Commissioner has completed his duties and that Parliament has made no provision for their consideration.

"It is thought advisable, in the circumstances, to have the declaration form completed by the claimant so that this Office will have full particulars of all of these claims should it be decided at some future time that they are to be dealt with.

"I am therefore enclosing a blank Statutory Declaration Form to be completed by Captain Hatfield.

"I have the honour to be,

"Sir,

"Your obedient servant,

Secretary.

"The Hon. Senator H.J. Logan,

"Amherst,

"N.S."

Instead of filling in the form provided which he explained he thought "too long and unnecessary", Senator Logan prepared a declaration (Exhibit 8) setting out that "on the 31 day of July 1915 while off the coast of Ireland the Gypsum Queen was attacked and sunk by a German Submarine" and furnishing other particulars. This was signed by Capt. Hatfield and declared before the British Consul at Jacksonville, Florida on 29th October 1929. Other affidavits or declarations were procured in May 1930 and, apparently almost as soon as Mr. McDougall was appointed, these were filled with the Commission, for on Sept. 16 Mr. Duffy, the Secretary, wrote Senator Logan (Exhibit 30) acknowledging receipt of "four Statutory declarations". Oral testimony was taken by the Commissioner at Moncton, N.B., on 6th October 1930 and at Boston, Mass., on Oct. 11th. The witnesses who gave viva voce evidence were Waptain Hatfield, Alliscn the 2nd Mate and Welsh the Cook, each of whom also made claim for loss of personal effects and solatium. The affidavit or declaration of each of them

was also filed as was also what purported to be an affidavit of A. Burrows one of the sailors. It had been shown that the 1st Mate named Upshaw was dead and there had been filed in September what purported to be affidavits of the only other members of the crew. All of the deponents swore that the vessel had been torpedoed by a submarine which they had seen and all gave more or less corroborative detail as to its movements.

Prior to the appointment of Commissioner McDougall, the Secretary of the Reparations Commission wrote the High Commissioner's Office in London referring to the claim in respect of the Gypsum Queen and stating:-

"The admiralty Record in the possession of this Office does not disclose any record of the sinking of this vessel, and I would appreciate if you would enquire of the Board of Trade in order to ascertain to what the loss of this Schooner was attributable."

The reply received was in the following terms:-

"OFFICE OF THE HIGH COMMISSIONER, C 13/5 17th June, 1930.

"Sir, "I have to refer to your letter of the 28th May No.D-9, relative to the case of Freeman Hatfield, No.1634, and to say that, as a result of enquiries I have made at the Board of Trade, I am informed that the loss of the Schooner 'Gypsum Queen', reported missing in July 1915, was regarded as due to Marine Perils and not a direct consequence of hostilities or any operation of war.

I am, Sir,  
Your obedient Servant,

(sgd) Lucien Pacaud  
Secretary."

"The Secretary,  
Canadian Reparations Commission,  
Rooms 201-6, Trafalgar Building,  
Ottawa."

The Commissioner was aware of this correspondence and in his report referring to it, he states as follows:

"The Admiralty records do not contain the name of the 'Gypsum Queen' as having been torpedoed, in fact the only reports received infer that she was lost due to marine perils. The evidence adduced before me, however, established clearly that the vessel was destroyed in the manner indicated. The statement of the master is corroborated by the testimony of A.D.Welsh (Case 1755) and Alexander"

"Allison (Case 1806) and there have been filed  
"of record affidavits to the same effect by the  
"remaining members of the crew who were not  
"Canadians. I conclude, therefore, on this branch  
"of the case that claimant has successfully estab-  
"lished the loss of his vessel by direct enemy  
"action."

He confirmed this under oath before me.

The only other ground for causing suspicion of the bona fides of the claim was the length of time which had elapsed before any claim was made and the explanation given of that was that Capt. Hatfield had been for several years in the West Indies and other southern seas and had been unaware of his right to obtain compensation for his loss. This seemed quite reasonable, and in view of the fact that the Commissioner had scores of other claims before him apparently quite as stale, it would have required very little to allay any suspicion which might exist on that ground.

As already stated the evidence of Captain Hatfield was not available to me but I took the evidence of Welsh and Allison the two other witnesses who gave oral testimony before Commissioner McDougall. Welsh an old man of 74 weak in body and not very strong in mind stood by his former story as far as his memory, which seemed very unreliable, would support him, but Allison an intelligent strong middle aged negro, repudiated him, and admitted that he had no reason to think that the vessel had been torpedoed. Naturally one hesitates to place much reliance upon the testimony of an admitted perjurer, and I may also add that Allison did not impress me as a reliable witness apart from this. From the records of the Shipping Master at Halifax it was learned that the names of the four sailors on the Gypsum Queen's last voyage, were Kenneth Stevens, age 23; Arnold Burrows, age 37; Ladius Gordon, age 23; and Ohas. Stanley, age 26. These were all West Indians except Stevens who was born in Nova Scotia and

161737 (6) 12

7

whose evidence I was able to obtain at St. John. He confirmed the Shipping Master's records as to the other members of the crew. He also stated that it was due to storm that the masts of the schooner broke off. But he admitted that he was below deck at the time and felt a jar which he ascribed to the mast striking the side of the vessel when it fell. He said he saw no sign of a submarine and thought he would have, if there had been one to see. The effect of this evidence was somewhat negative.

At New York, I obtained the evidence of one Capt. Pratt a retired Nova Scotian Captain who had met Capt. Hatfield in Liverpool just after he had arrived on board the Cymric which rescued him and his crew. He had known Capt. Hatfield for many years and the latter told him he had just been landed from the wreck of the Gypsum Queen and he gave him an explanation of how the wreck occurred. I quote the following from his evidence:-

"He said, there had been a strong wind, sir, and the wind died out and left them on -- the vessel rolled more than ordinary, which is quite a natural thing to do.

" Q. What effect would that have?

" A. That would put more strain on the rigging.

" Q. And the rigging gave way?

" A. And the rigging gave way and lost -- some of his masts went.

" Q. You asked him then if he had any insurance and he said he had war risk?

" A. War risk, yes sir.

" Q. Yes? - Did he say how much?

" A. Well, I --- as near as I could make out he said \$35,000. I think, is --- I would not like to swear to that but I believe that it was \$35,000., but he said that had been arranged by Whitney down here."

Inquiries from the Insurance brokers failed to elicit any information, all records as far back as 1915 having been destroyed and any person who might know having died.

As stated the sailors on the Gypsum Queen were Stevens, Burrows, Gordon and Stanley, whereas the names of the deponents in the affidavits filed on behalf of Capt.

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12

Hatfield before Commissioner McDougall were Burrows, Geo. W. Saunders, Wm. Jackson and Tony Matthews. In one of Capt. Hatfield's letters he expressed doubt of his being able to find the sailors who were with him, stating that they were liable to change their names after every voyage. We know that Burrows and Stevens were two of the sailors, and Stevens did not make an affidavit. There were only two others who that at least one of the three, Saunders, Jackson and Matthews was not on board the Gypsum Queen as he swore he was, and the affidavit was a false one whether the statements in it as to the loss of the vessel were false or not.

If the case had been that of a civil action in which Hatfield was a party and was present, there would have been no difficulty in deciding on this evidence against his claim for loss of the vessel, but that was not the situation presented to me and Hatfield had not the opportunity of explaining or denying the evidence and my duty was to ascertain the facts and that evidence was not sufficiently conclusive to establish the fact definitely, especially in view of the other features of the inquiry depending on it.

The evidence which was obtained in England, however, was of a very definite and decisive character. The log and the officers of the White Star Steamer Gymeric which rescued the crew of the Gypsum Queen, showed, that at the time of the rescue on the 31st day of July 1915, the Gypsum Queen was in Latitude 48° 16' N and Longitude 23° 16' W, about 600 miles from Fastnet at the South West of Ireland and not 60 or 70 miles as sworn by Capt. Hatfield.

The records and the officials of the Admiralty established that there was on the 31st day of July only one German submarine, the U. 28, in the Atlantic Ocean.



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and that on the 30th she sank the Steamer Iberian 9 miles from Fastnet and that at 4.15 p.m., on the 31st she sank the Turquoise about 55 miles away and at a point 660 miles from where the Gypsum Queen was on the morning of that day and that her maximum speed would not exceed 9 miles per hour.

To afford a clear visual representation of the situation the Admiralty Office furnished a sketch plan of the area in question showing the operations of the U.28, a photostatic copy of which is appended to this report.

The evidence also showed that in 1915 no German submarine ever was nearly as far west as the place where the Gypsum Queen was wrecked.

It was also pointed out that a submarine would probably not carry more than 10 torpedoes and that the cost of each would be large, probably £400 or £500 and that a torpedo would almost certainly not be wasted on a small schooner of 600 tons when a submarine had nothing to fear, and could as well destroy it by fire or otherwise, much more economically. The evidence also indicated that the effect, if the schooner had been torpedoed would almost certainly have been quite different from what was the actual condition of the Gypsum Queen. Evidence was also obtained from the agents of the consignees of the cargo of the Gypsum Queen and from the insurance brokers, and it was established that while the total freight on the cargo was £1836.8.8 there had been advanced on account of it £1254.8.7 whereas Hatfield had sworn in support of his claim that the advance was only \$1,300. The cargo and freight advance were insured against ordinary marine risk and against war risk and the insurance was paid in full under the former policy and not under the latter. The policies were produced and handed to me but all other records had been destroyed. In the usual course, however, in the proof of loss, a statement

H. 1737 19

12

under oath, from the Captain, as to the cause of the loss would be required though it was stated that if that could not be obtained Lloyd's List might be accepted. The evidence from Lloyd's which was taken, showed the Gypsum Queen reported as a marine loss on July 31st. She was also reported as having been sighted as a derelict on Aug. 10th and again on Aug. 14th, when the masts were gone and decks broken open.

Although the witness thought it probable that the Captain's evidence had been obtained he could of course go no further. However, there was on file with the Board of Trade an affidavit sworn by the Captain as required by the Merchant Shipping Act setting out the cause of loss. The original was produced and a photostatic copy of it is with the exhibits. The affidavit which is on a printed form and dated the 4th August 1915, after setting out certain particulars proceeds as follows:-

"12. That the said Ship proceeded on the intended voyage as above stated all well until about 5 a.m. on the 31st July. The wind had been increasing during the night. The vessel was on a course E x S. Mag. 665 miles west of Fastnet carrying mainsail, foresail and three jibs."

"13. That on Saturday the 31st day of July at 5 a.m.; the tide at the time being --- the weather heavy squalls and rain, and the wind in the N. blowing force about 9 with a heavy sea from the N., the said Ship was struck on the port side forward by a heavy sea which carried away the fore rigging and fore mast, jibboom, fore shroud mainmast, and broke the mizzen mast. The vessel continued to ship heavy seas and the deck load commenced to break up. Deponent could do nothing with his vessel which was unmanageable and breaking up. At 9.30 a.m., deponent and crew were taken on board the Str. 'Gyrric' of Liverpool. The vessel was awash, waterlogged, when last seen."

"16. That the loss of the said Ship is estimated by deponent at £2,000 Pounds Sterling, and on the said Cargo at £5,000 to £6,000 Pounds Sterling, and that the Ship was not insured, the Cargo in unknown Pounds Sterling, and the Freight in nil Pounds Sterling."

"18. That in deponent's opinion, the cause of the casualty was stress of weather and could not have been avoided."

The officer before whom the affidavit was sworn appeared as a witness before me and inasmuch as a letter had been produced in the earlier stages of this inquiry, from Captain Hatfield stating that if he had made such an affidavit he must have been drunk, the witness was asked about this and while he said he had no personal recollection of this particular circumstance, he had never taken an affidavit from an intoxicated person as he always refused to take any until the deponent was in a fit condition to make it. He said also that the information given in the affidavit was always as furnished by the deponent, written in as given, and read over before being sworn to. It may be noted that there is no sign of unsteadiness in the signature or lack of clearness in the statements made. It will be observed that in this affidavit he estimated the value of his vessel at £2,000 though he asked Commissioner McDougall to put it at over \$100,000.

There was also another document on file with the Board of Trade under the provisions of the Merchant Shipping Act, called a "Release on Termination of Service". This gives particulars of the ship, master and voyage. As regards the voyage, "2.15.15 Halifax, N.S." appears as "commencement" while under the heading "Termination" appear the following words and figures:-

"31.7.15 665 miles West of Fastnet - vessel abandoned-  
"Discharged L'pool."

There follows a statement of mutual release by Master and Crew. It is dated 4 Aug. 1915 and is signed by Hatfield, Upshaw, Allison and Welsh.

Reference may be made to one other bit of evidence. Mr. Caley, the 2nd Mate of the Cymric, who commanded the boat which rescued the crew of the Gypsum Queen, stated that all of them including the Captain spoke of the heavy weather which had caused their disaster, but the next day in a conversation

B. 1737 (6)

Hatfield had with him he asked him if he thought the Captain of the Gynric would say that the Gypsum Queen had been torpedoed. Mr. Osley told him he knew he would not, and that Capt. Hatfield and all the crew had admitted it was the weather and moreover they were not then in the submarine zone.

Although in his affidavit he stated he had no insurance, the particulars of the affidavit show that only ordinary marine insurance would be of importance, and Capt. Pratt as already stated said he told him he had war risk insurance. This would explain his desire to secure some support for a claim under it as well as his readiness to make an unfounded claim. Of course unless he swore before Commissioner McDougall that he had no war risk insurance his whole case would have nothing to rest on, to the extent at least of the insurance for the insurance moneys would have compensated him for his loss.

In view of the evidence to which reference has been made there can be no room for doubt that the Gypsum Queen was not torpedoed and that the claims for compensation by Captain Hatfield, Welsh and Allison were all unfounded, and that the testimony of each of them in support of the claims was false and as far as Captain Hatfield is concerned there seems no doubt that it was false to his knowledge and that he was therefore guilty of deliberate perjury. It is probably so as to the other two though the evidence is by no means so conclusive beyond the admission of Allison as regards his statement, for which he made some atonement by his subsequent voluntary evidence.

Since returning from England and indeed after the foregoing conclusions had been reached and set out, I have received, what, though perhaps not strictly evidence, as not being under oath, and relating to the records of a

foreign country, yet, furnishes confirmation of the correctness of the conclusions arrived at, in a written statement or certificate of the German Admiral Spindler, the Head of the German Naval Records Department, which is entirely in accord with the evidence furnished me by the British Admiralty. A letter of the British Naval Attache at Berlin with a copy of Admiral Spindler's statement, with an English translation accompanies the documentary evidence and it will be seen that he emphasizes the fact by stating that "No other commercial vessel (i.e. than the 'Turquoise' and 'Nugget' previously mentioned) was sunk, damaged or attacked on the 31st of July 1915 in the above mentioned area by U. 28 or by any other German U. boat." The area mentioned was off the West coast of Great Britain and Ireland where he says the only German U.boat at that time was the U.28.

Some suspicion appears to have existed that the Gypsum Queen had been scuttled but there was no evidence to support it, and the circumstances pointed the other way. The life boat was broken by accident or design but that would tell against rather than in favor of that suspicion. There appeared to be nothing to gain by sinking the ship and at the time of the disaster the prospects indicated that if the ship sank they might all lose their lives.

The question naturally arises whether any fault attached to Commissioner McDougall in allowing a claim which is so clearly an unfounded and false one. This question seems to fall within the scope of my inquiry, though during the hearing I expressed the opinion that I did not think I was concerned with it, but since the conclusion I have formed on this subject in no way reflects on Mr. McDougall it may be, and it seems only fair to him, that I should express it. Certainly there is no ground whatever for suspicion of misconduct on his part and the only ground for

criticism would be for failure to look more carefully into the report from the Admiralty that the loss of the Gypsum Queen seemed to be an ordinary marine disaster. We all know it is very easy to be wise after the event but one must look at the situation as it then existed. Mr. McDougall was appointed in September 1930. He had 150 cases to dispose of without counsel to assist in bringing out the evidence. The inquiry through the High Commissioner's Office had been made by the Department several months before, apparently as a matter of routine. If the reply received had shown just what the records of the Board of Trade disclosed the course of the inquiry would have been very different and it is almost certain that the claim would have been disallowed, but the reply was of a very indefinite character, and the matter was not pursued further by the Department. Mr. McDougall then found the information, some months old, which might naturally convey to him nothing more than that the records of the Admiralty not showing this loss to have been due to warlike operations it was assumed that it was not, and when the evidence was given showing it took place where no one but those on board could know the true facts and all of them united in attributing it to a torpedo from a submarine, in my opinion he was justified in accepting their evidence if as given it seemed trustworthy, which apparently it did. Except on the ground of over generosity in amount, I see no justification for any criticism of the award and as that is a matter of judgement I am not sure that my opinion is worth any more than that of Mr. McDougall and I may also be prejudiced by the knowledge I have acquired that at the time of the loss Hatfield put the value of his vessel at £2,000 and that there was in fact less than £600 due him for freight. Mr. McDougall seems to have felt himself somewhat bound by precedents set by his predecessors

and as his award of \$40,000. was in fact only one-third of the estimated amount of loss he no doubt concluded he was making a most substantial reduction. Moreover in determining a matter of damages, it should not be overlooked that one, whether Judge or Commissioner is very much handicapped in having estimates from one side only.

It becomes necessary now to consider the evidence in relation to the connection of Senator Logan with the transaction and, in order of sequence, the first matter calling for consideration relates to the evidence adduced by him before the Reparations Commission in support of the claim, for he acted throughout as solicitor and counsel for the claimants.

As already pointed out one at least and probably three of the declarations or affidavits of purported members of the crew were made by other than sailors on board the schooner. There was nothing however disclosed, to indicate that Senator Logan was in any way responsible for this, the documents apparently having been obtained by Capt. Hatfield and sent to Senator Logan in due course, and except for the fact of the absence of nearly all copies of Senator's Logan's letters to Hatfield and of one other circumstance, there seems no ground for suspicion of the good faith of Senator Logan in the early stages of the case.

The one circumstance to which I refer has relation to a purported declaration under oath of Allison, the 2nd Mate of the Gypsum Queen. This purports to be sworn on the 8th of May 1930 before the same Notary Public as was the one by Wm. Jackson on that day and which was produced from the files of Commissioner McDougall. Senator Logan says the two were received by him under covering letter of May 8 from Capt. Hatfield and that with the two others by Saunders and Matthews already mentioned sworn on May 10

and received by Senator Logan under a covering letter of the same date, they were sent by him to the Secretary of the Reparations Commission and the letter of Mr. Duffy the Secretary (Ex. 117) of Sept. 16th to which reference has already been made is produced as an acknowledgement of their receipt. The receipt, however, is simply of "four declarations". There appeared to be no letter accompanying them and as Mr. Duffy's letter was addressed to Senator Logan at the Senate it would appear that he was in Ottawa and probably handed them in without a covering letter. This document was not in Commissioner McDougall's files and as far as could be ascertained never had been, and it first appeared before me when it was produced to Allison in New York. He repudiated it and it quite clearly is spurious. The signature is not Allison's and the name was typed in the body of the document and signed "Allerson" the way in which Hatfield spells it in his letter of July 13, 1931 (Ex. 129) of which in both places there is a bungling alteration to "Allison". I feel quite satisfied that the "four statutory declarations" referred to in Mr. Duffy's letter of the 16 Sept., were the three found in the files and the one by Hatfield on which his claim was founded, made in Oct. 1929 and which Senator Logan definitely states (p. 1262) he forwarded to the office of the Reparations Commission. There appears to be no record in that office of its receipt, and since there was no reparations commission till Mr. McDougall's appointment on 6th September, the 16th of September would seem to be a sufficiently early date to send it in with the others which also had been made months before. None of the four purporting to be by members of the crew is in the form of a "statutory declaration" while that of Hatfield is. The others while using the words "I declare this to be a true statement" purport to be under oath, and if among the four there had not been something to suggest a "statutory declaration" it seems



improbable that Mr. Duffy would have used that term. Allison swore before Commissioner McDougall on 11th October that he had not heard of Capt. Hatfield since 1915 until two or three months before that date which would be subsequent to the 8th of May when the spurious affidavit was sworn. While he swore before me that it was only a week before I think the former is more nearly correct and if it is, the knowledge Capt. Hatfield had acquired of Allison's existence and whereabouts would be a perfectly good reason for not making use of the fictitious affidavit. Senator Logan says he had had personal interviews with Hatfield and received definite instructions. The withholding of this spurious affidavit might have been innocent on the part of Senator Logan, but if so, one would naturally not expect him to swear that he had in fact sent it to the Commissioner. The circumstances surrounding it certainly justify suspicion.

Then the evidence in regard to one document calls for very careful examination and consideration.

On Sept. 22nd 1930 the Deputy Commissioner wrote Senator Logan stating - "I am enclosing a questionnaire to be completed by the claimant and I should be glad if you would obtain from him a certified copy of the Ship's register or other evidence of ownership." In the same letter he advised him that the Commissioner would sit at Moncton on Oct. 6th and at Boston on Oct. 11th and 13th. This letter was addressed to him at "The Senate, Ottawa" (Ex. 120). The questionnaire was answered by Capt. Hatfield and returned in covering letter of Senator Logan dated Sept. 30th 1930 from Amherst, N.S. (Ex. 31). It is in regard to the compliance with the other part of the Deputy Commissioner's requirement to furnish evidence of ownership that the chief difficulty of this inquiry arises and in

461737 (2)

12

respect to which a large proportion of the evidence has been directed which calls for grave consideration.

By the Merchant Shipping Act 1894, Section 4, it is provided that in ports in British possessions, the Chief Officer of Customs shall be the "Registrar of British Ships" and by Section 6 he is required to keep a book called the "register book". It is also provided by that section that the property in a ship shall be divided into 64 shares and that no one may own a severed fraction of a share. From 1916 to the fall of 1931 when he was superannuated, Mr. J. S. Henderson was the Collector of Customs at Parraboro, N.S., and as such, Registrar of British Ships. There came into his custody as such Registrar, two register books containing entries relating to the Schooner Gypsum Queen, she having been registered in the office of the Registrar at Parraboro at the time of her construction in 1891. For convenience of reference and as an aid to the explanation of the evidence, photostatic copies of the pages of the register books containing these entries are appended to this report.

The two books were designated in the office "A" and "Q", the latter containing the continuation of the record from the former and while it will be seen that the forms differ slightly as regards the particulars of the ship, that has no significance for the present inquiry. The photostatic copies are of the exact sizes of the pages of the book and as will be seen the folio comprises both right and left side of the book, the importance of which will appear later, and I use these terms of direction throughout with relation to the person facing the books. The heavy diagonal lines across the sheet which appear black in the copy, are, in the book, heavy lines made with a red pencil and were made according to usual practice Mr. Gillespie the then Acting Registrar, says at or about the

time of the last entry, to indicate that the registry was closed.

The document submitted by Senator Logan to prove ownership in Hatfield is in the following words and figures:-

"I. J.S.Henderson of Parrsboro, Nova Scotia, Shipping Master do hereby certify:  
 " The ship Gypsum Queen was built by David S.Howard at Parrsboro and launched in April 1891.  
 " The ship the Gypsum Queen was registered in the Shipping Office at Parrsboro on the 25th day of April 1891.  
 " The first registered owners were Edward Wilson Dimock of Windsor, Nova Scotia, fifty-six shares, and David Shank Howard of Parrsboro, Nova Scotia, eight shares.  
 " Edward Wilson Dimock died and his fifty-six shares were transferred to the Gypsum Packet Company, Limited. Registration date March 2nd, 1906, and David Shank Howard transferred his eight shares on March 21st 1906, to said Gypsum Packet Co., Ltd.  
 " Gypsum Packet Company Limited transferred to Frederick C.Lockhart of New York, broker, all the shares of the ship. Frederick C.Lockhart transferred twenty-two shares of said ship to Robert S.Kerr and forty-two shares to Hubert Elderkin and Joseph Elderkin, September 13th, 1906, Kubert and Joseph Elderkin transferred to Robert S.Kerr forty-two shares of said ship, February 6th, 1906.  
 " Robert S.Kerr transferred all the shares of the ship to Captain Freeman Hatfield on March 19th, 1906.  
 " There has not been any transfer registered since March 19th, 1906.  
 " The dimensions of the ship, according to the registration were:  
 " Length from the fore part of the stem bowsprit to the aft side of the head of the stern post, 155 feet and 5 tenths.  
 " Main breadth to outside of plank, 27 feet and 8 tenths.  
 " Depth in hold from tonnage deck to ceiling at midships 16 feet.  
 " **TONNAGE**  
 " Gross tonnage 652.22  
 " Registered tonnage 609.42  
 " Dated at Parrsboro, N.S.  
 " October 8th, 1930 J.S.Henderson, Shipping Master."

This does not purport to be a certified copy of the register but rather a certificate of particulars, facts and transactions. It is admitted by Senator Logan that it was prepared by him. He says that in its present form it was dictated by him to a stenographer from notes which he made in the Registrar's Office. It will be seen that it fails to show any reference to the entry stating that the

registry had been transferred to Bridgetown, Barbados, but on the other hand does contain the statement, not as an independent paragraph but as a second sentence of a paragraph following a statement of transfer. "There has not been any transfer registered since March 19th, 1906."

This document was put in evidence for the purpose of establishing ownership of the Cyprus Queen in Hatfield at the time she was lost on the 31st July 1915, but it was clear from the register that any dealing with the ship after Jan. 18, 1907, when the registry was transferred to Bridgetown, would not appear in the Parrsboro register, but it would be necessary to search the Bridgetown register and perhaps others, if there had been any further transfer of the registry.

The document was therefore misleading in purporting to be evidence of ownership at the time of loss, since the Parrsboro Registrar could, as of that date, give no certificate.

If the entry of the transfer to Bridgetown was deliberately omitted and in its place the statement that there had been no transfer, inserted, it would seem to be little, if any, less than the fabrication of false evidence for the purpose of misleading the Commissioner.

The evidence on this point therefore becomes of great importance, and for the present the question of whether the signature to the certificate is that of Henderson, or is forged, as Henderson maintains, may be left aside.

In considering the motive one naturally asks why should the certificate not have been an honest one? It would mean of course that it would not prove the fact of ownership, but that an application would require to be made to the Registrar at Bridgetown for a further certificate. This certificate bears date October 8th, and the

No 1737 (4)

12

search on which it was founded could only have been a few days earlier. Part of the evidence had been taken at Moncton on Oct. 6th and the remainder was to be taken at Boston on Oct. 11th. It was clear therefore that no certificate from Bridgetown could be obtained in time for that, but it would surely have been a reasonable request to make to the Commissioner to allow that part of the evidence to stand over and the certificate to be put in when obtained. It is true Senator Logan could not know what the Bridgetown certificate would disclose but if he believed that the claim was an honest one that need give him no concern.

If on the other hand he knew that the claim was a dishonest one and that the schooner was not torpedoed, he would probably suppose, and Cap. Hatfield would almost certainly think, that a certificate from Bridgetown would defeat the claim, for by the terms of the Merchant Shipping Act (S.21) the owner must immediately notify the Registrar of the ship's port of registry, when the ship is lost and in default is liable to a fine of £100. The final note in the Parrsboro register states "Certificate of Registry not yet delivered up". Although there is no entry of its being later delivered up, it was so in fact, and was received in the Department at Ottawa from Parrsboro and sent on to the Registrar General in London on 16 Mch. '07. It was produced to me from the Registrar General's Office and a certified copy is with the exhibits (No. 158). It has this endorsement on it - "Custom House, Parrsboro, N.S., March 7th, 1907. Transferred to Bridgetown, Barbados, on January 18th 1907" which is signed by "E. Gillespie" Registrar. The certificate contains at the foot of the first page, inter alia, under a heading "Notice" "Should the vessel be lost, sold to Foreigners or be broken up

161737 (6)

12

Notice thereof together with the Certificate of Registry, if in existence, should immediately be given to the Registrar of Shipping at the Port of Registry under a penalty of £100 for default."

There is no evidence that Hatfield complied with this condition but there can be little doubt that he would know his duty and he had certainly made an affidavit for the purpose of the Registrar General advising of the loss and the cause thereof the statements in which he might well think would be communicated to the Port at Bridgetown and therefore that a certificate from Bridgetown would be fatal to his case. As a matter of fact the registry books at Bridgetown, as was found by returns on file with the Registrar General in London and by the certificate of the acting registrar dated 6th Aug. '31 (Exs. 156 and 157) did show that the vessel foundered on 31 July 1915, but did not show the cause, the entry being as follows:-

"Registry closed this 9th day of September 1915 - vessel foundered off the Irish Coast on 31st July 1915 - advice received from the Collector of Parrsboro, N.S. dated 21st Aug. 1915 - Certificate lost with the vessel. sgd. S.T. Harrison, Registrar of Shipping."

No trace of any advice from Parrsboro could be found and Mr. Hugh Gillespie who was an assistant in the office in August 1915 had no recollection of any such advice and thought that no copy of letter sending such advice would be kept. Although of interest as a matter of curiosity - it seems of little real importance how the advice was obtained and it is really not so much what the records of the Bridgetown Office did show as what Capt. Hatfield would suppose they would show, that would likely deter him from asking for a certificate from there, and if Senator Logan knew at the time all that Capt. Hatfield knew, he would

naturally suppose that the Bridgetown records would put the case out of court.

No assistance it thus seems can be gained from the consideration of motive, in the absence of knowledge of whether Senator Logan knew what Hatfield knew. Moreover there would be no need to consider the question of motive, if full reliance could be placed on the evidence of Senator Logan, for he states very positively that when he was taking his notes he did not see the entry of the transfer of registry to Bridgetown, and that he knew nothing of it till long after the award was made. To determine the truthfulness of this statement, it is necessary to examine the evidence with care, for two witnesses swear with equal positiveness that the entry was pointed out to Senator Logan when he was taking his notes.

In the first place the importance of the appearance of the actual pages of the register books is plain. It seems difficult to understand how any person of normal intelligence could make any sort of a search of the page of Book "Q" (Ex. 66) for the purpose of ascertaining its contents and fail to notice the entry of the transfer of registry to Bridgetown. On the right side there is really little else. As will be later seen the explanation of Senator Logan is that the contents were read to him and that this was not read.

Then the heavy red lines across the pages would be likely to suggest something to a normal person and if he did not know their meaning put him on inquiry. No one who looked at the books could fail to see them.

The evidence of Mr. Henderson was taken at Parramero with the books before him and I quote the following from his evidence:- (page 329)

"MR. WHITE: Q. Then, did you see Senator Logan about this time in your office?  
" A. Yes sir, several times.

K 1737 (B)

12

" Q. Several times, did you say?

" A. Yes.

" Q. And what occurred?

" A. Well, the first time he was there -- the first time he was there, I was out.

" Q. Yes?

" A. A young lady in the office attending to the typewriting and that --

" Q. What is her name?

" A. Miss Pettigrew?

" Q. First name?

" A. Grace, and I was doing Government work, you know, and I was crossing the road from the Commerce Bank going over to the office and Mr. Logan called me. The office is right across the road, and he said 'Henderson, I have been up in your office and I have been looking up some notes there'. He says, 'A young lady was kind enough to show me the books' and he says, 'I want to come in again when you are there', and I said 'All right, Mr. Logan', and he came in again in a day or two and I turned over the books -- turned up those books ---

" Q. What books?

" A. These books here.

" Q. I want you to be particular about the books, please. I show you Exhibit #65 which is a book of transactions "A" and Exhibit #66 which is a book of transactions "Q"?

" A. Yes sir.

" Q. Now to what books do you refer when you say he looked at 'these books'?

" A. I mean those books here.

" Q. You mean these two that I mentioned?

" A. Those two that you mentioned.

" Q. And what was done with reference to these books?

" A. He asked to look at the register of the 'Gypsum Queen'. I kept those books in the safe, you know. I took them out and spread them on the long desk we had there and turned up the register of the 'Gypsum Queen', first in the book "A" and he got out a pencil and a piece of paper and he made some notes there. And then I turned up book "Q" and showed him what became of this vessel, and that she was not registered in Parrsboro, that she was registered in Barbados.

" Q. Yes?

" HIS LORDSHIP: Q. You say you pointed that out to him?

" A. I pointed that out to him, sir. He asked me the question why this vessel was registered in -- transferred from Parrsboro to Barbados and I told him that it was on account of the certificated mates; the law in Canada required a vessel of 400 tons or over, to have a certificated mate. In Newfoundland and Barbados it is different."

Though investigations had been conducted by the Department partly through the Police, and Mr. Henderson had been brought to Ottawa and questioned about the matter, the name of Miss Pettigrew had not come up until mentioned by Mr. Henderson in giving his evidence. At the noon adjournment which was taken during the course of Henderson's testimony I gave instructions to have Miss Pettigrew



summoned, and as soon as Henderson's evidence was concluded she was called. Miss Pettigrew was an intelligent young woman, 34 years old. After graduation from the High School she had taught school for a year and then entered Mr. Henderson's office and had been with him 13 years at the time of his retirement in the fall of 1931. Mr. White had had no opportunity of interviewing Miss Pettigrew to ascertain what evidence she could give and his opening examination was very brief, and Mr. Forsyth had no questions to ask. With the hope that she might throw a little more light on the subject I asked a few questions after which both Mr. White and Mr. Forsyth continued the examination. As I consider her evidence of great importance I quote at some length from it as follows:-

"A. Well, Mr. Logan came into the office one afternoon and Mr. Henderson was out on business and asked if he could see the registry of the 'Gypsum Queen', and I showed him the books and he made some notes from them. And I told him if there was anything further he wished to know he had better see Mr. Henderson.

"Q. Yes?

"A. And he went out and that is all there was.

"Q. That is all there was to it? Then, were you there when he came back?

"A. Yes I was.

"Q. And were you present during any conversation that took place in regard to the ---

"A. No, - there are two rooms in the building down there and I was in the outside office, I was not in the room where they were.

"MR. FORSYTH : No questions.

"HIS LORDSHIP : Q. Did Mr. Logan ask for anything except to see the register?

"A. No, Nothing.

"Q. You say he went away and when he came again you heard no conversation?

"A. Well, I heard part of it; I could not help but hear part of the conversation.

"Q. What did you hear?

"A. I don't know as I heard very much the second time he was in.

"Q. How much did you hear?

"A. I just knew he was taking notes of the registry and they were talking it over.

"Q. The second time he was in?

"A. Yes.

"Q. You don't remember anything particular they said?

"A. There is nothing particular they said that I can recall at all."

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"MR. WHITE: Q, and was there another occasion on which

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12

"He was there later?

"A. Not until last summer.

"Q. Were you there then?

"A. Yes, I was.

"Q. What happened in your hearing then?

"A. Well, Mr. Logan and Mr. Fullerton came in one day and they were taking off some notes again and I heard them discussing as to why the ship was transferred to Barbados, but I didn't pay a great deal of attention to the conversation and only know that matter was discussed between them.

"MR. FORSYTH: Q. Well, now Miss Pettigrew, why didn't you tell Mr. White in the first place that you knew that? I would just like to know just why you didn't tell him that you heard this conversation at all?

"A. He asked me whether I was present. I was outside in the other room.

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"Q. But are you positive that on the occasion when Mr. Fullerton and Mr. Logan were there that you heard them discussing the reasons for transferring the registry of the ship to Barbados?

"A. Yes, I did.

"Q. And that is the only time you heard that discussed?

"A. Well, I would not be positive about that. I didn't pay enough attention to it the first time he was in to know whether he did or not.

"Q. You are positive about this time and you are not positive about any other time?

"A. I showed him where that was transferred to Barbados the day that he was in to see me about the books.

"Q. You made a special point of that?

"A. Because he was taking notes off and I naturally thought he wanted it all.

"Q. And you stood there right beside him and showed him -- ?

"A. Yes, I showed him.

"Q. You stood there all the time?

"A. Yes.

"Q. You are positive about that?

"A. Yes.

"Q. And did you show him the second time he came in?

"A. No, I didn't have anything to do with him the next time he was in.

"Q. What did you say to him about her being transferred to Barbados?

"A. Well, I could not give my exact words.

"Q. Well, just come as close to it as you can?

"A. Well, as I remember it, I told him the vessel had been transferred to Barbados at a certain date and that any further information that he wanted would have to come from the port of registry.

"HIS LORDSHIP: From Mr. Henderson?

"A. Well, if he wanted --

"Q. No, don't make any explanation, I want to know what you said, I didn't hear you?

"A. I told him any further information would have to come from Mr. Henderson. I understood anything further he would have to get from the port of registry where she had been transferred to.

"MR. FORSYTH: That is your understanding. What did you tell Mr. Logan?

"A. Well, I told him he would have to get anything further from Mr. Henderson.

"Q. You didn't tell Mr. Logan that he would have to

"get anything further from the port of registry at Barbados?"

"A. I could not just tell you what I did tell him."

The evidence of Henderson and Miss Pettigrew was taken at Parramatta on Feb. 23, 1938 in the presence of Senator Logan and not until after our return to Ottawa was Senator Logan's evidence taken on March 12, 1938.

His explanation of what took place varies substantially in most material respects from that given by Mr. Henderson and Miss Pettigrew and cannot be reconciled with it.

To appreciate portions of it it is necessary to have a mental picture of the room in which the inspections of the books took place. I personally visited the office. As one enters from the outside hallway, the door opens into a comparatively small office. Facing one on entering is a window and immediately to the left is a door leading into the larger office. On the left wall in the space between that door and the window is a high sloping desk probably 8 feet long and to the right of the first door is the safe in which the register books were kept. The register books were lying on the desk when the examination was made and the notes taken by Senator Logan. The latter's narration, to his own counsel, of the events leading to the obtaining of the notes, was as follows:-

"Q. Now, what happened when you went to Mr. Henderson's office first?"

"A. Mr. Henderson being a sort of local Poo-Bah,--

"Q. Well, Mr. Logan, really, I think we will get along faster - His Lordship has spoken about the

"thing - I think we will get along faster,

"- I just want to deal with these facts first - Was

"Mr. Henderson in his office when --- ?

"A. I think, since I have said Poo-Bah, I ought to finish that sentence.

"Q. Well if you want to -

"A. Yes, he was the Inspector of Wrecks, Collector of Customs, Shipping Master and all kinds of offices,--

"HIS LORDSHIP: Q. Well, what did you do -- ?

"A. I went to Mr. Henderson's office and when I went in, there was a girl there.

"HIS LORDSHIP: That is the young lady who gave evidence at Parramatta?"

"A. I have since known she is Miss Grace Pettigrew: I did not know her at the time. I asked if Mr. Henderson was in and she said, no, I made some enquiries from her in reference to the 'Minas Queen' not the

661737 (A)

12

" 'Gypsum Queen' but the 'Minas Queen'.

"Q. Was that a ship that had been lost?

"A. Yes and for which I was acting for some of the children.-

"Q. Of the owner's?

"A. Children of the --

"Q. Of the deceased owners?

"A. The deceased mate, as a matter of fact. She told me she knew nothing about these matters.

"Q. These what?

"MR. FORSYTH: Matters.

"WITNESS: About these matters - about these ships - but that I could see Mr. Henderson.

"MR. FORSYTH: Q. Now, just at that point, Senator

"Logan, Miss Pettigrew says that you came into the office when Mr. Henderson was out and asked if you could see the registry of the 'Gypsum Queen';

" 'I showed him the books and he made some notes from them and I told him if there was anything further

" 'he wished to know, he had better see Mr. Henderson.'"

"MR. WHITE: What page?

"MR. FORSYTH: Page 395.

"Q. Did you on that occasion see the registry of the 'Gypsum Queen' or make any notes?

"A. I did not.

"Q. You saw those two books that were in Parrsboro, that were before the court there. Did you examine

"those books at all when you were in the office on that occasion?

"A. I did not.

"Q. Now then, you state that Miss Pettigrew told you that she had nothing to do with these matters?

"HIS LORDSHIP: Didn't know anything about them?

"MR. FORSYTH: Didn't know anything about these matters.

"I beg your pardon - Well, whatever it was you said, after that, what happened - After she made that statement?

"A. I do not know that time if the books were outside in the office. I don't think they were. I don't think she could carry them if she tried to get them out.

"Q. Never mind about that. I just asked you what was the next thing that happened?

"A. I lifted my hat and said 'Good afternoon'.

"Q. Then, did you go out of the office?

"A. I went out of the office and afterwards met Mr. Henderson.

"Q. When? - whereabouts?

"A. Down the street somewhere, I don't know exactly where.

"Q. All right. Then, what conversation did you have with him, if any, then?

"A. I told him that I wanted to find from the records, as to whether or not Freeman Hatfield was the owner

"of 64 shares or the whole of the ship 'Gypsum Queen'. He said he was.

"Q. He told you that on the street?

"A. On the street.

"Q. Yes?

"A. 'Well'. I said 'Would you mind giving me a certificate to that effect.'

"Q. What did he say?

"A. He said, he would be glad to do so.

"Q. Well, then did you go back to the --

"A. We then went back to his office.

"Q. On the same day, was it?

"A. One the same day.

"Q. Yes?

"A. I think by this time it was after hours, but I don't know.

"Q. Then, would you mind just one thing before we go to that. It is a matter that I overlooked myself. I want to speak about Miss Pettigrew's evidence. She states in her evidence --- that---

"MR. WHITE: Page?

"MR. FORSYTH: 394 and 5 --- That she showed you where that was transferred to Barbados, 'The day that he 'was in to see me about the books,' Page 400. Now I want to ask you, Senator, you have told us that Miss Pettigrew --- you didn't see the books that day you saw Miss Pettigrew and had the conversation with her. Did Miss Pettigrew at any time ever show you the books?

"A. Never."

He then went on to relate that Henderson took the books out of the safe and put them up on the high desk and opened Book "A" (Ex.65) and read out the particulars of the ship and of the transactions entered on the left side of the folio, Henderson standing on his right side and leaning on the desk and book in such a way that his arm was on, and more or less covering the right side of the book. When Book "A" was completed Book "C" was opened and he thinks placed on top of Book "A" and the continuation of the record was read out to him from Book "C" (Ex.66) by Henderson, standing in the same way with his arm over the right side of the book, in consequence of which the entry on the right side, relating to the transfer to Bridgetown was concealed and was not seen by him.

There is much support for his evidence as to the way in which the notes were obtained, to be found in the evidence of Henderson, who agrees that he stood on Senator Logan's right side and pointed out the entries of the transactions, and that Senator Logan wrote down the particulars. It would seem that it would be necessary for Senator Logan to be to the left of the Book so that the paper on which he was taking the notes could be on the desk, for if it lay on the book it would conceal the entries, and I was satisfied by the cross-examination that Henderson's eyesight was such that he could not read the entries on

the left side of the book without standing fairly close to them, and he might very easily have placed his arm upon the other side of the book without any intention of concealing anything. Moreover, he was later asked by the Department to furnish a certificate respecting the Gypsum Queen, which he did, and which is filed as Ex. 71. This was given on July 17, 1931 a few days before he was brought to Ottawa for examination. It will be observed that it consists of two parts with two certificates. The first sheet is on Form 19 stated to be "Transcript of Register for Transmission to Registrar General of Shipping and Seamen". It is in fact, however, a transcript, from, rather than of, the register and the certificate states that it is a true copy of the "registry" i.e., the registration and not the "register book" and it is in fact a copy of the original registry of the Gypsum Queen in 1891. The 2nd part consists of two sheets on Form 20, one sheet being insufficient to hold all the entries. The certificate states that it is "a true and correct copy of all the transactions relating to the Schr. Gypsum Queen as found on the Registry Books of this Port." It would be more accurate to say "copy of the record of all the transactions" but the meaning is quite clear. It is to be noted that in the Register Books on the right hand side under the division "Summary" there are several columns 9-13 which do not contain a record of the particulars of the transactions but rather a record of the result of them, e.g., if William Brown the owner of all 64 shares transferred to John Smith 20 shares there should appear in column No. 10 the names as owners, William Brown and John Smith, and opposite their respective names in column 12 for numbers of shares, 44 and 20. Then if Brown again transferred 10 shares to Fred Jones, column 10 should show after that particular transaction, the names William Brown, John Smith and Fred Jones, and opposite their names respectively in column 12; 34, 20 and 10 and it might be

that after a transaction consisting of a transfer of a single share to one person it would be necessary to fill in, in columns 10 and 12 a score of names and figures. In other words the last entry in columns 10 and 12 should show the name or names of the owner or owners with their number of shares, the result of all transactions up to that time. In the certificate Ex. 71 none of the entries in the division "Summary" are noted, with the exception of the last one and in the course of the examination of Henderson I ventured a criticism of the accuracy of the certificate in which I was wrong, owing to my mistaking the word "registry" for "register". The stenographer has made the same mistake. But Henderson could give no explanation of why the entries on the right side of the book were not transferred in the certified copy in the appropriate place instead of drawing a line across the page. All he could say, and in this Miss Pettigrew agreed with him, was that it was usual to give the name of only the last owner. The fact is of some significance in connection with the evidence of Senator Logan explaining his failure to set out in the certificate any particulars to be found on the right side of the page. If as is seen to be the case, Mr. Henderson did not consider it necessary to note them in a certificate prepared by himself it seems quite reasonable to suppose it would seem to him not necessary for Senator Logan to note them. But Henderson said repeatedly that he had called the attention of Senator Logan to the notice of the transfer of the registry to Bridgetown.

I was not wholly satisfied that entire reliance could be placed on the evidence of Henderson, not on the ground of lack of veracity, but rather on the ground of infirmity of memory and powers of attention, and of thinking and speaking with accuracy, and if there had been nothing more than this I would not have felt that it could be safely

found that Senator Logan had knowledge of this entry when he prepared the certificate, since he emphatically denied that he had. But there was much more. Throughout his testimony there were many little things both in words and manner that raised doubts in my mind of the honesty of Senator Logan's evidence, there were in addition two or three facts directly bearing on this which satisfied me that his evidence was not to be relied on.

In the first place his account of his interview with Miss Pettigrew when he first went into the office, and that with Henderson in the street immediately following, seems too improbable to be worthy of belief. There is no suggestion of any plausible reason why, when he went to the office to see the books, he should not have told Miss Pettigrew what he wanted, or why he should have referred to some entirely foreign matter, and as regards what he says took place on the street, it seems to me most unlikely. There is not the least suggestion that Henderson had ever seen the entries in the register books regarding the Gypsum Queen. Nothing respecting its registry had happened during his tenure of office. If he had seen the record he would have noticed that the registry was closed and had been transferred to Bridgetown. He never had been a henchman of Senator Logan who classed him as one of his bitterest political enemies, so there is no reason to think he would be likely to go out of his way to oblige him. In this state of facts it is very difficult to believe that when asked on the street, Henderson at once assured Senator Logan that Hatfield was the owner of all 64 shares of the Gypsum Queen and that he would give a certificate to that effect.

Then we have the evidence of Miss Pettigrew. The manner in which she gave it and the circumstances under which it was obtained satisfied me that it was truthful.



and should be accepted. As far as it is possible to see she is entirely disinterested and I can see no ground whatever for thinking as Senator Logan states that she is influenced by Mr. Henderson. No doubt her sentiments towards him are friendly but there is no reason to suppose that they are hostile to Senator Logan, or that any sentiment which she may have would cause her to perjure herself. Though she was severely cross-examined by Mr. Forsyth, especially when she was called a second time at Ottawa after a two months adjournment and after Senator Logan had denied the truth of her evidence in toto, while there was some slight confusion shown it was nothing more than is to be expected in the case of any ordinary inexperienced witness unaccustomed to speak with strict accuracy, and I saw nothing to raise doubt of the truthfulness of her testimony. The circumstances under which it was obtained as outlined above give it in my opinion, increased value.

On this branch of the case then, my conclusion is that Senator Logan's attention was specifically drawn to the entry in the Register Book, of the transfer of the registry to Bridgetown, Barbados, and that his failure to incorporate that fact in the certificate prepared by him and his insertion of a clause stating that there had been no transfer after the transfer to Hatfield, could have been for no other purpose than to mislead the Commissioner so that he would accept the certificate as evidence that Hatfield was the sole owner of the Gypsum Queen at the time of her loss. The evidence also satisfies me that the Commissioner was misled, as it was intended he should be.

It becomes necessary now to consider the certificate in another aspect. When Mr. Henderson's attention was first called to it, he denied that the signature was his,

16173714

12

and that he has strongly maintained before me. On the other hand Senator Logan as emphatically affirms that Henderson did sign it in his presence, and not merely that, but that he also signed, previously, one in the same terms which was mislaid or lost. There is no hint that since then it has been found.

The interest of Senator Logan as a witness is self-apparent and while at first glance it might seem that Mr. Henderson is disinterested it is in reality not quite so. It is naturally in his interest that it should be established that he has not been guilty of wrong doing. Of course it is proper to consider that since that wrong doing was not criminal but one of lack of care and attention one would hesitate to think that he would commit perjury to clear himself.

As is usual and to be expected expert and semi-expert testimony was given. At Parrsboro at the request of Senator Logan about a dozen witnesses were called who were more or less familiar with Henderson's handwriting and all agreed that the signature looked very much like his, a bank manager acquainted with his signature saying that he would not have hesitated to accept it as a genuine signature. This, however, does not carry us very far because all admit and anyone can see on a comparison with admitted signatures that if it is a forgery it is a skilful one for it bears a great likeness to his actual signatures, but that is of course an essential quality of every skilful forgery.

After our return to Ottawa four experts were called, all men who had spent much time in the study of handwriting and well qualified to give an opinion on its genuineness, Mr. Stein of New York having had exceptionally large experience in its study and the giving of evidence on the subject, and being an excellent witness.

Pg 1737 (A)

12

Again as, is usual and is to be expected the experts had diametrically opposite views on the subject, two being of opinion that the signature was genuine, and two being equally satisfied that it was a forgery.

The explanation of the great conflict, so common in the evidence of experts, lies in the fact that they are giving evidence of opinion in matters where there is often room for great difference of opinion, and that too, of honest difference. No one, perhaps, better than one engaged in political life, can understand the possibility and frequency of honest differences of opinion. The adage "The wish is father to the thought" furnishes some explanation for the experts' opinion. The usual expert witness is called to give evidence to support the case of the party who calls him. The problem being one in which there is room for difference of opinion, he begins his investigation, not with an open mind, but with the purpose of searching for evidence to support a particular conclusion. It is natural that he should unconsciously magnify the importance of the evidence which does support that conclusion, and minimize that pointing to a different one, and so reach the desired conclusion with an honest mind, and if he cannot reach it, naturally he is not called. It is for that reason that a Judge must place less reliance on the conclusions arrived at by the expert than upon the reasons and evidence by which he reaches it.

Mr. Forsyth called Mr. Stein and Mr. Hazen. Naturally he would not have called them unless their evidence would be favorable to Senator Logan's contention. I do not question its honesty for there is much to be said in its support. Mr. Farmer and Mr. Jacob were called by Mr. White. Theoretically at least witnesses called by the Crown have nothing but the truth to seek or support but practically of course they feel themselves more or less on one side and that fact no

p61731A

12

doubt has its effect on the way they look upon the evidence, though perhaps not to the same extent as witnesses called for a party.

Something like forty admitted signatures of Henderson, one dating as far back as 1919, were put in evidence for the purpose of comparison with the disputed signature and these were all examined by the experts with meticulous care with the aid of microscopes, ordinary magnifying glasses and enlarged photographs. Ex. 100 contains photographs of 28 of these genuine ones with 4 of the disputed ones (the latter being marked 7) all enlarged about 3 times. The evidence of the four experts comprises over 600 typewritten foolscap pages. No good purpose would be served, and a great amount of time and space would be involved, in attempting to analyze this evidence with particularity but there are a few outstanding features to which I think it is desirable to direct reference.

All of the witnesses agree that Osborn's "Questioned Documents" is a standard text book of high authority on the subject of questioned handwriting and I quote a few precepts laid down in that work (pp 27 and 28)

"It is obvious that the best standards of comparison are those of the same general class as the questioned writing and as nearly as possible of the same date."

XXXXXXXXXXXXXXXXXXXX

"A positive conclusion that a signature is fraudulent can sometimes be reached by comparison with a small amount of genuine writing."

XXXXXXXXXXXXXXXXXXXX

"More standard writing may, therefore, be necessary as a basis for a positive opinion that a writing is genuine than is necessary to show it is fraudulent."

XXXXXXXXXXXXXXXXXXXX

"the writings most to be depended upon as standards are always those bearing dates nearest to the date of the disputed writing and that are of the same general class. This is true for the reason that writing of different individuals varies in differing degrees as written at different times and for different purposes and the only way to learn of these habits of any writer is through standard writing."

86-1737 (6)

2 request 12

And on page 32 it is pointed out that "Rewritten writings and forced writings are not usually the best standards of comparison."

Only 3 of the enlarged signatures are prior to 1930 and they go back to 1923 and 1924 when Henderson was in his early 60's and no doubt a much more vigorous man than he is now, for he shows distinct evidence of age and loss of physical vigor. Of the other admitted signature only 2 are subsequent to 1924 being 1927 and 1931 and the earliest goes back to 1919.

There are a few prominent points of difference between the disputed signature and the admitted ones stressed by the witnesses, which appear to me to be of such importance as to call for special mention. In the first place the first standard of the H of Henderson in the questioned signature has a decided curve to the left with the pen leaving the paper to the left. It is in the ordinary copy book style much as I write the initials of my name and to some extent as Senator Logan sometimes writes that of his first name. There is not one of the admitted signatures that is similar to this., from beginning to end. The first standard in all of them is a straight line or an approximation to it, indicating an intention that it should be. The only ones that show any tendency to a curve to the left are those written at Mr. Forsyth's request during his cross-examination and they bear marked evidence of shakiness due to age or nervousness, and as Osborn points out, such writings not being normal, are unsafe guides. There is this further fact about the admitted H's, that where the pen does not leave the paper at the bottom of the final standard it always rises to the right and not to the left as in the disputed one. Both Mr. Stein and Mr. Hazen admit these differences as being more than normal variations but both

Q61737(6)

12

say they think that is an evidence of genuineness, which would seem to mean that a forger to be sure his signature would be taken for a genuine one should make its variation from the genuine one, decided and pronounced. On this point in his examination in chief Mr. Stein said (p.882):-

"My interpretation of this difference in the capital 'H' in the first part is that here is an obvious difference between any standards that we have had available for comparison, and the signature in dispute, and that that obvious difference tends more towards genuineness than it does towards imitation; and I make that statement partly because if this disputed signature is an imitation, it is a highly skilled imitation, and the other reason is because the very principle of imitation of a signature is to make the imitation look like the genuine ones, and without putting anything in to it that would in any way obviously attract suspicion or attention to it. Now, in my judgement that beginning part of the 'H' is an obvious departure from most of Mr. Henderson's signatures and in that way is an accidental difference that in my opinion tends more towards genuineness than it does towards imitation."

and Mr. Hazen also in examination in chief said (p.1032):-

"The question is, how much importance has that curve in the 'H'. How much significance has it? To me, it is an evidence of genuineness. A forger would naturally make the 'H' as Henderson usually makes it if he were imitating Henderson's signature, but it is executed in a perfectly natural manner, there is no effort to make it in a straight line as he usually does."

Now assuming that Mr. Hazen is right that a forger would desire to make the letters as Mr. Henderson usually does, he must know how "Mr. Henderson usually does" in order himself to do so, and it is not at all probable that he would be furnished with all the signatures we have. As I have said, the first staff of the disputed "H" is of a much more common type than is that of the admitted ones and a forger with only one or two signatures before him would have no reason to think that a straight line with the rise to the right instead of the more ordinary one with some curve and rise to the left was the normal if not indeed the invariable practice of Mr. Henderson, and if he did, and made the stroke different, on the reasoning of these experts that would be evidence of its genuineness. Frankly the reasoning does

not appeal to my judgement. The fact is that in no signature that we have of Mr. Henderson extending over many years is there an "H" similar to the one in the disputed signature and if Mr. Henderson never did write an "H" like that, it necessarily follows that he did not write this one.

Then another difference perfectly consistent in all the later signatures, though not so in those of the earlier ones, is to be found in the connection or lack of connection between the "d" and "e". In the disputed signature the two letters are made with one continued and continuous movement. That is not the case in any admitted signature of the later years. In one of the request signatures made in July 1931 the tail of the "d" touches the "e" but the pen was clearly lifted and a new start made with the "e". In the others there is a distinct interval between them. This would seem to be entirely consistent with what one would expect as the writer grows older and the hand becomes somewhat unsteady and moves more slowly and with more deliberation. Mr. Stein while admitting this material difference does not attach great importance to it, as he thinks it may well be a reversion to former style. Osborn, however, points out the desirability of making comparisons between writings of the same period.

Then another very distinct difference is to be found in the formation of the letter "o" which in the disputed signature is a clear letter "v" a sharp narrow acute angle at the bottom with straight lines descending and ascending without a suggestion of a curve. In all of the admitted signatures we see the intention to make a partial circle or curve though in some it is less pronounced than in others but in none is there not some indication of a curve at the bottom or on the sides.

There was a multitude of other minor differences of the letters and of the character and quality of the handwriting pointed out and explanations given of them, to which it seems unnecessary to refer in detail for at the conclusion of the evidence of the experts I was of the opinion that the preponderance of it, that is to say, of the soundness of the reasons for reaching a conclusion was against the genuineness of the signature and after a careful examination of the record since, I see no reason for changing my mind. Moreover, I could not avoid the impression that Mr. Stein, who was a most frank and intelligent as well as competent witness, would have found his task much easier, and would have reached the desired conclusion with less difficulty and with at least equal confidence, if he had set out to find satisfactory evidence and reasons for holding the signature to be a fraudulent one.

Leaving the opinion evidence and turning to the direct and circumstantial evidence, we find as has already been said that Senator Logan asserts that Henderson signed the document in his presence, while the latter denies that he signed it or was asked to sign it.

The evidence indicates that both bear excellent reputations in the community and no doubt the reputation of each is as dear to him and is his to the other, but naturally, having come to the conclusion that the Senator's evidence in another respect cannot be accepted as truthful, its weight on this point is somewhat weakened, but any finding that the signature was forged must be found on the strength of evidence of forgery and not on the weakness of evidence of genuineness and it is necessary to see what the other evidence bearing on this point is. On October 11th, 1930 before the Reparations Commission, at its Session in Boston, Senator Logan filed a copy of the purported certificate by Mr.



No 1737/61

12

Henderson, the terms of which have been set out above. The record of the Commission shows Senator Logan to have then said:- "I have a shipping certificate from the Shipping Master of Parrsboro. Perhaps we better put it in now, subject to producing the original. This is a copy, but I will produce the original later." He then filed Ex. 32. Subsequently under covering letter dated at Amherst, October 22nd, 1930 he sent to the Commissioner the purported original which is Ex. 7. In his evidence before me (p.1305) we find the following:-

"Mr. Forsyth: Yes, I want you to tell His Lordship why you filed -- perhaps I should put the question this way to shorten it: Did you have at one time --

"HIS LORDSHIP: Prior to that?

"MR. FORSYTH: Prior to Boston, a certificate signed by J.S. Henderson?

"A. I did.

"MR. WHITE: This is exhibit #7, I think?

"HIS LORDSHIP: Exhibit 32, the unsigned one.

"MR. FORSYTH: Q. And what became of that document?

"A. I don't know - it was mislaid.

"Q. And was it because of that mislaying that you filed this one?

"A. It was when I was going from Amherst to Boston going over my papers in connection with this claim, I commenced to search my papers out and get them in regular form, and I found I didn't have the certificate.

"Q. Yes?

"A. I was considerably exercised over this, but it was gone nevertheless.

"Q. Then you arrived in Boston?

"A. And I arrived in Boston and was presenting my claim, my case; I told the Commissioner that I had evidently mislaid this original document but that I would -- I had no doubt it was in my office and I would secure it upon my return and send it to him. I do not know whether he suggested it or not, but at any rate, I filed the copy. I said, 'I will file this copy and when I get home I will send you the original.'

"Q. All right. Now, then I want you to tell His Lordship the circumstances, how you came to get the original, what happened and all about it, the obtaining of the original of 32?

"A. I knew as a matter of fact that there was no need of any certificate of registry.

"MR. WHITE: Q. There was no need of any certificate of registry?

"A. Of the ship: It was solely a question of Canadian nationality.

"MR. FORSYTH: Of what? Of whose Canadian nationality?

"A. Of the claimants. I had presented several claims.

"HIS LORDSHIP: You had --

"A. I had presented several claims previously to the the Honorable Doctor Pugsley, to the late Honorable Dr. Pugsley, and to Mr. James Friel, K.C. I therefore, considered that ---- knowing that numerous

PB 1737 (1)

12

"claims had been paid to owners where the registration was outside of Canada ---"

"HIS LORDSHIP: Q. Well, you say you had presented several claims. Were those cases where the registration was outside of Canada?"

"A. No, no, but that I was not required to file any certificate of registry."

"MR. FORSYTH: Q. Well, Senator, we were discussing the circumstances connected with the obtaining of the original certificate of Mr. Henderson."

"HIS LORDSHIP: Your last statement was you had presented several claims previously to the late Hon. Dr. Fuglesy and Mr. Friel. I understand that in these cases you were not required to give certificates of registry?"

"A. I had not been asked to give any certificates."

"Q. You had not been asked to give any?"

"A. No sir. And I knew that numerous claims had been paid on ships not registered in Canada, at all, to the owners of ships not registered in Canada at all. For instance, the steamship 'Briardean' a Nova Scotian ship, she was registered in Newfoundland, the owners were paid in Nova Scotia."

"MR. FORSYTH: Q. What I had in mind when I asked you the question was really the actual facts, the things that you did in obtaining the original certificate?"

"A. Well, I was in Parrsboro, where I reside, --"

"I thought that Mr. Gillespie --- QUESTION That is not the Gillespie who gave the evidence?"

"A. No the brother."

"Q. Yes, what did you think about him?"

"A. Had charge of the shipping books at that place."

"HIS LORDSHIP: Q. You thought he had, you say?"

"A. I thought Mr. Gillespie, who had been the registrar of the port and was the registrar up to 1919, at least, ---"

"MR. FORSYTH: Q. Well, did you see Mr. Gillespie?"

"A. I saw Mr. Gillespie and he said Mr. Henderson had the books over at his office."

"Q. Then, did you go to Mr. Henderson's office?"

"A. I then went to Mr. Henderson's office."

The evidence of what followed has already been quoted.

It will be seen that he stated that no certificate of registry had been required in other cases. At the close of his examination in chief, however, he stated that he was perhaps wrong in this in respect to some of the cases and when the record of one of the other cases was produced and it was found that he had been asked for a certificate which he had promised to furnish, he volunteered the statement that he had not furnished it. It seemed a little peculiar that he should think it could be to his credit that he had failed to keep the promise he had made to the Commissioner but the idea he had, apparently was, that the important thing was that an award had been made

161737(16)

12

without a certificate though he failed to appreciate that if that had been due to the Commissioner overlooking that some of the evidence he had expected had not come to hand, it would not go far to establish that a certificate was not needed. He seemed also to confuse the certificate of registry with a certificate of the registrar of the dealings with the ship after its registry, for the purpose of showing ownership.

It is to be noted also that in the document Senator Logan has described Mr. Henderson as "Shipping Master". I shall have occasion to refer to this later but in the meantime it may be observed that he does not refer to Mr. Gillespie to whom he went for information as "Shipping Master" which he apparently was not, but as "Registrar of the Port"; which he was until Henderson was appointed Collector of Customs, which office carried with it the office of registrar.

The following extract from the evidence of Senator Logan in his examination in chief gives his account of the obtaining of Mr. Henderson's signature to the two documents which he says he procured, and incorporated with it is Henderson's account relating to the alleged second one, and he denied as already stated, any knowledge of any earlier one. (p.1331):-

"MR. FORSYTH: All right, now Senator. So that we have the point where you had a certificate prepared in your office in Amherst? Now, speaking --- you have said there were two - I am speaking of the first one, you see. What did you do with that?"

"A. I took it back to Parrsboro.

"Q. Yes, and then what did you do with it?

"A. I went to Mr. Henderson's office. I told him I had the certificate ready. He said 'All right, let me see it?' I handed it to him; he read it over and he signed it.

"Q. All right -

"A. Standing at my right at the desk, - standing at his right --- I was standing at his right at his desk, this high desk.

"Q. You were at his desk?

"A. I was at his desk; the desk, as you will remember, is about that high and I was here, at his right, when he signed that document, in my presence.

"Q. I am not talking about the one that you are

No. 1737/14

12

"talking about, I am talking about the first one.

"A. Well, that is the first one.

"Q. This is not the first one, is it?

"A. We are talking about the first one, now though.

"Q. I am talking about the first one, yes. Now you gave evidence this morning that you mislaid one?

"A. Yes.

"Q. That you filed what purported to be a copy of it in Boston, and now we find on the file exhibit #7.

"Now, I want you tell me the circumstances under which you obtained exhibit #7 - that one?

"A. I came home --- I filed a copy with Mr. McDougall.

"I came home from Boston and went to my office and

"searched everywhere that I could think of to find

"this original certificate. I failed to find it. I

"then prepared another certificate from my office

"copy and went back to Parrsboro.

"Q. Well ---?

"A. When I got back to Parrsboro I was in my library

"with my wife and daughter. I called Mr. Henderson

"on the phone ----

"Q. When you speak of your daughter, you are speaking

"of Mrs. Logan's daughter, really, are you?

"A. Mrs. Logan's daughter, not mine.

"Q. Miss McKenna, her name then was?

"A. Yes, Josephine.

"Q. Well you called Mr. Henderson?

"A. I said to Mr. Henderson on the phone ---

"HIS LORDSHIP: You know Mr. Henderson's voice I

"suppose do you?

"A. Oh yes.

"Q. And he was he who answered the phone?

"A. He who answered the phone.

"MR. FORSYTH: Q. What did you say to him?

"A. I said to him on the phone 'I mislaid that certificate you signed. I would like you to sign another.'

"He said, 'All right, come to the office.'

"HIS LORDSHIP: He said 'All right' - what?

"A. Come to the office, his office.

"MR. FORSYTH: Q. Then what did you do?

"A. I went to his office.

"Q. At once?

"A. I am not sure about that, My Lord. I am not sure

"whether I went there at once or whether it was not

"in the late afternoon or something like that; but I

"went that afternoon or the next morning or afternoon.

"---I either went that day or the next. I walked in

"his office with #7 as I can refer to now, can I?

"Q. Yes, tell us what happened?

"A. I went in his office with #7. I handed it to him.

"I don't think he was so particular about reading it

"at that time - glanced over it and he signed it in

"my presence.

"Q. Where did he sign that?

"A. He signed it at this high desk, I standing at his

"right side and he at my left.

"Q. All right now Senator, would you just sit down.

"I want to read you a statement which Mr. Henderson

"made in his evidence in Parrsboro? He says 'Mr. Logan---

"MR. WHITE: Page, if you please?

"MR. FORSYTH: Page 356 'Mr. Logan called me up from

"his office and he said he had either lost or mis-

"laid the notes that he got when he was in to say

"office and asked me would I be in if he came down,'

"and I said 'I probably would.'

"Well now, first I want to ask you about the first

"statement - 'Mr. Logan called me up from his office

"and said he had either lost or mislaid the notes'

" 'that he got when he was in to my office,'  
 "In the first place, have you any office in Parrshoro?  
 "A. None whatever.  
 "Q. Did you call Mr. Henderson from your office in  
 "Amherst?  
 "A. No.  
 "Q. Then, did you say to him anything about losing or  
 "mislaying the notes that you got when you were in  
 "his office?  
 "A. I did not.  
 "Q. Now then, that same occasion he said, 'Well, he  
 " 'came down after a while and he took notes again,  
 " 'went over and took the notes the same as I suppose  
 " ' ---mind you, I didn't see his notes.' First about  
 "that, did you take any notes when you went after the  
 "telephone conversation?  
 "A. I did not. I only took notes once in my life.  
 "Q. From the book?  
 "A. From the book.  
 "Q. And he says there, 'He stood there and I stood at  
 " 'the corner of the desk with the book, and he wanted  
 " 'to know -- he would ask me about the different  
 " 'people that was owners and transferees, you see.  
 " 'When he came down the second time he went through  
 " 'all the same paraphernalia.' Now then, I want to  
 "ask you whether that statement is correct, that you  
 "went through the same thing the second time?  
 "A. I did not.  
 "Q. 'And he took his notes and he went out again.'  
 "Is that statement correct? 'He took his notes and  
 " 'went out again?'  
 "A. That is not right."

Senator Logan it will be seen says his wife and her daughter were in the room while he was telephoning to Henderson. Mrs. Logan was called by Mr. Forsyth and she swore that she overheard her husband's part of the conversation and that he said "Mr. Henderson I have mislaid or lost the certificate which you signed for me and I would like to get another." Then she heard him say "Well I will come to your office" and "Thank you." She then went on to say that on the occasion when he went to Henderson's office, by arrangement, she and her daughter called for him in the car at the Post Office. Her evidence of what then transpired is as follows:-

"Q. The Customs Office is there?  
 "A. Yes and we waited for him there and he came down  
 "and he got in the car and I said, 'Did you get the--  
 "MR. WHITE: Please, --  
 "MR. FORSYTH: Don't tell us what you said to the  
 "Senator.  
 "Q. Now did you see anything on that occasion - don't  
 "tell us of any conversation between yourself and the  
 "Senator?  
 "A. What do you mean?

B 17 37/64

12

"Q. Did you see any paper or document?

"A. I did.

"Q. Do you think if you saw the paper you saw that day you would recognize it?

"A. I would think so.

"Q. Will you take a look at exhibit #7?

"A. Yes that is it.

"Q. Pardon?

"A. That is the same I would say.

"Q. You looked at the document, the one you saw,

"was there a signature on the one you saw?

"A. Yes.

" EXAMINED BY MR. WHITE;

"Q. Where was the document when you saw it?

"A. That I am speaking of now?

"Q. Yes?

"A. When I saw it?

"Q. Yes?

"A. My husband brought it down in his pocket.

"Q. Yes, and took it out?

"A. Yes.

"Q. ---Out of his pocket?

"A. Yes.

"Q. And showed it to you?

"A. Yes.

"Q. And opened it up?

"A. Yes.

"Q. And you saw the signature?

"A. I did.

"Q. And read the document?

"A. Yes.

"Q. Can you explain why all this was done?

"A. My interest in my husband's work.

"Q. Is that all?

"A. Yes.

In considering Mrs. Logan's evidence it must be looked at as affected by much the same quality of interest as her husband's. Indeed we all know that a wife will often go further to protect her husband than she would to protect herself. But after all when we examine it carefully it will be seen that this aspect is not of great importance. Every Judge knows that few witnesses in reporting a conversation speak with an absolute memory of the actual words used. The most they can do is to remember the impression the words made and that is explained in their own words, and apparent conflicts of testimony can frequently be reconciled if that is kept in mind. It is clear that a telephone conversation took place between Senator Logan and Mr. Henderson. The words used by the Senator conveyed a certain impression to his wife, and a certain one to Mr. Henderson, but it by no means follows that the impression was the same. Assuming that both witnesses are honest and

are trying to give an honest account of the conversation, and suppose the word used by the Senator "papers" or "document" or some such word, and not "certificate", to his wife that would mean "certificate" from what she knew either then or after, and in trying to remember what was said she might honestly think that was the word used, while to Henderson it would not mean "certificate" at all because he knew of no certificate, but as he did know of notes taken down on paper that is the impression that would be conveyed to him. Miss Pettigrew says that when he left the telephone, Mr. Henderson said that Senator Logan was coming down to take some more notes. Under our somewhat artificial rules of evidence that would probably be ruled out but it certainly has some probative value. For these reasons I think this evidence has not as much significance, as at first blush, it seems to have.

Then when we consider her evidence of seeing the signed certificate, it will be seen that it is no evidence whatever of the signature having been made by Mr. Henderson. Improbable as the story seems, yet, even if true, it only shows that when Senator Logan returned from Mr. Henderson's office he had the signed certificate which without doubt he had on the 22nd of October when he sent it to the Reparations Commissioner. The evidence was, however, no doubt given in the belief that it supported the evidence of Senator Logan and looked at in the aspect of having been prepared for that purpose it loses its improbability. If Senator Logan returned from Boston with a forged certificate which Captain Hatfield would apparently be quite prepared to use and which without doubt could be obtained there with little difficulty, it would be quite natural that he would desire to anticipate any question which might subsequently arise as to its authenticity and provide means of establishing its reliability, then having

Q. 1737 (H)

his wife, possibly in all innocence, call for him and inspect the signed document, would seem to provide evidence to meet that contingency. When presenting it he must have thought it furnished support to the case he was trying to establish, and naturally, beforehand he would think it would.

It is clear that Senator Logan did not require to obtain any more notes, for Ex. 7 is in the exact terms of Ex. 32 which had previously been filed and no doubt Senator Logan had other copies from which Ex. 7 was prepared as he says it was. It has puzzled me greatly and given me much anxious consideration to find some reasonable explanation for this visit to Mr. Henderson's office which would appear to be consistent with the other evidence which seems to me deserving of credit. The above is only a surmise, it is true, but on it only, am I able to see any probability in the story told by Mrs. Logan, or any way of satisfactorily explaining the visit to Henderson's office.

Unstable as is Henderson's memory, as I have already said I do not believe him dishonest, and it seems to me he could not have been in error in thinking he had never signed, or been asked to sign, any certificate if he had in fact signed two. Mr. Forsyth in a very severe cross-examination sought to show the unreliability of his testimony and with a certain measure of apparent success. But it was in fact more apparent than real in my opinion. As has already been stated Mr. Henderson was brought to Ottawa and examined in the Department of State during the summer of 1921. Mr. Forsyth asked him if he had told, on this examination, that he had pointed out to Senator Logan when he was making his notes that the registry of the Gypsum Queen had been transferred to Bridgetown and he said that he was satisfied that he had. Then Major Relph who had taken down in long-hand the substance of the examination



Q6 1737/14

12

was asked if Henderson had given this information and he stated that it did not appear in the record he had written and he had no recollection of it, and he felt satisfied that he would have put it down if it had been said. As I have already stated Miss Pettigrew's name had not been mentioned up to the time Mr. Henderson's evidence was given, though as has already been shown she was able to give most important information on the point. From that and other facts I am quite satisfied that up to the time this inquiry started the question of whether this signature was forged, was so prominent that everything else was obscured, and the significance of Senator Logan's knowledge of the transfer of the registry was scarcely if at all considered. That being so, it would not be at all improbable that Henderson would not be asked anything about this, or that he would not mention it, or if he did, that it might not be recorded. When he was examined the importance of this had become fully realized and he probably thought he had mentioned everything of importance and therefore had mentioned that. If he was wrong in this it is not sufficient I think to justify me in doubting his honesty. It was his memory which was at fault.

There is another circumstance which seems of some importance. In the certificate (Ex.7) Senator Logan has described Henderson as "Shipping Master" which in fact he was, though he had only been so since some time in the previous year. But the certificate is not one which a shipping master can properly give since he has nothing whatever to do with the registry of the ship. By Section 124 (h) of the Canada Shipping Act which is included in Part III under the title "Seamen", "Shipping Master" is defined as:

"the officer appointed by the Governor in Council as "superintendent" of a shipping office and includes the

1737 (61)

12

"chief officer of the Customs in any place where the  
"custom-house is the shipping office and no superin-  
"tendent has been appointed by the Governor in Council;

His duties are defined by Section 134 and they are concerned with the sailors and not with the registration or title of the ships. Henderson says he held this office not by appointment to it. He was such under the latter part of the definition and by virtue of Section 129 (2) and he says it was his custom when he gave certificates as shipping master to describe himself as "Acting" Shipping Master. While Henderson might have failed to notice his description in the beginning of the document it seems most improbable that he could have failed to notice it when it appears very prominently under the place for his signature and where the disputed signature of Ex. 7 is. There are two things about this which would have attracted his attention, first the absence of the word "Acting", and second, that it was an entirely improper description of the person giving the certificate, the proper description being "Registrar of Shipping". This circumstance I think adds strength to the evidence of Henderson in denying his signature.

Then it must not be overlooked that, as I have already found, the certificate was misleading, and in that sense false, to the knowledge of Senator Logan and he would naturally realize the danger involved in presenting it to Henderson for signature with the risk of his detecting its defects and refusing to sign it, which might very probably result in the claim failing.

There is one other matter that occurs to me as worth mentioning and that is that when Senator Logan showed Henderson a copy of this certificate and the latter denied that he had signed it, according to the evidence of both of them, Senator Logan said "I can prove by a hundred people this is your signature." Since, even if it was signed by

12  
Henderson, no one but the Senator saw him sign it, that could not mean other than that those persons would base their evidence of its genuineness on its resemblance to Henderson's handwriting which suggests to me that what was in Senator Logan's mind was the thought of its resemblance to a genuine signature rather than of its actually being one. There may be very little in this and I do not attach much importance to it but it seems entitled to consideration.

For the reasons I have mentioned and having regard to the general character of the evidence to which detailed reference cannot well be made, and after due consideration given to all the evidence direct and circumstantial pointing to a different conclusion, I find myself lead to the conviction that the signature to Exhibit 7 is not the signature of Mr. Henderson whose signature it purports to be. Under the circumstances disclosed, it necessarily follows that Senator Logan in presenting it to the Commissioner was uttering a forged document.

Naturally it is both distasteful and distressful to find myself forced to this conclusion. It would be painful in any case but it is especially so in the case of one who has been held in high esteem and has filled so prominent a place in the public life of Canada, and I had hoped at the commencement of, and during, the inquiry that the proper conclusion would be otherwise, but in that I have been disappointed.

Fortunately I am relieved of the unpleasant duty which usually devolves upon a Judge, after such a finding, of pronouncing a specific penalty as a consequence. If any penalty other than the loss of respect and esteem is to be imposed, that must be done by some other tribunal, and if that tribunal is a court of law it will be after evidence before it and not on the evidence before me, and in such case some of the points which have given me difficulty may be more

B. 1737/14

12

satisfactorily cleared up, but I have endeavoured with the aid of able counsel to explore every avenue to which access could be obtained, though as has been shown some have been closed to us. It is only fair also to say that, as will probably be apparent from a perusal of my reasons, I think it cannot be said that a jury on this evidence would be unwarranted in taking a different view of some of the evidence and in drawing different inferences in some respects, which would be entirely within its province if it had to deal with the case.

The conclusion I have reached, however, is the expression of my judgment, found after most careful consideration with the benefit of a long judicial experience in such matters and helped by the conclusions reached on other branches of the inquiry.

We now come to the consideration of the payment of the award and the disposition of the moneys.

The award of the Reparations Commissioner is dated January 8th, 1931, but it was delivered with his report dated March 6, 1931. It recommended payment to Captain Hatfield of \$40,000, with interest thereon at the rate of ~~4~~ 5% per annum from the 31st day of July 1915. A cheque was issued in favor of Capt. Hatfield bearing date March 21, 1931 for \$71,276.72 which included the interest to that day at the specified rate. The cheque was in fact several days earlier but, I understand due to some matters of accounting, it was post dated. It was not, however, held in the Department but sent to Senator Logan who was in Ottawa attending the Senate. Instead of sending the cheque to New York, he sent to New York for Capt. Hatfield who came to Ottawa and was here on the 18th, when he and Senator Logan took the cheque to the Bank and had it cashed. The circumstances

attending this were somewhat unusual. Although Senator Logan had been a member of the House of Commons or the Senate the greater part of the time since 1896 and had a bank account with the Royal Bank in Ottawa, he telephoned to Major Relph, the Deputy Reparations Commissioner asking him to come to the Bank of Montreal, upon which the cheque was drawn, and identify Capt. Hatfield. Major Relph did as requested. Capt. Hatfield said that he wished to catch the afternoon train for New York and asked for payment of the cheque in bills of large denominations, i.e. Dominion of Canada bills of \$1,000. and \$500. denominations, which are designated in the Bank as "legals". Even with payment in the largest bills possible, it would take over 75 bills to pay the \$71,276. a comparatively bulky parcel. The Bank did not have on hand nearly enough legals to satisfy the requirements and offered what it had and the largest denomination of its own bills which, however, made too bulky a parcel. It was suggested that a draft be taken and Major Creighton the Manager stated that Capt. Hatfield seemed disposed to accept that suggestion for part of the amount, but changed his mind and when told that the Bank could procure the legals from the Department of Finance decided to wait for them. This was near 1 o'clock and upon telephoning to the Department it was found that the official who signed the bills was out for lunch and there was a delay in getting the bills, so that it was, Major Creighton, says, between 2.45 and 2.55 p.m. when the payment was actually made. \$65,000. was paid in legals and the remainder in bank bills and the money put in an envelope which Senator Logan put in his pocket and they left. On the same day they went together to the Royal Bank where Senator Logan had an account and Capt. Hatfield deposited \$35,500, or approximately one half

11/37(4)

12

of this to his credit for transmission to New York as soon as exchange was favorable. On the next day the 19th Senator Logan deposited to his current account in the Royal Bank \$5,000. in 10 \$500 bills and on the day following he transferred \$5,000 to a savings account in the same bank. A day or two later he presented a \$1,000 legal for change. Thus it appeared that he had probably received at least \$6,000 of the money paid to Hatfield. It was apparently known and was subsequently admitted by Senator Logan that he had told that he received nothing for his services from Hatfield, and had only been paid his expenses. When he gave evidence he made an explanation of how he came to have \$6,000 of the money. As I shall have occasion later to make some observations about this it seems desirable to give the evidence in its exact terms, commencing at when they left the Bank of Montreal together (p.1357):-

"A. I picked the envelope up at Captain Hatfield's request.

"Q. Well, did he make the request there, I mean?

"A. He said, 'You had better take this along with you.' and we went out of the bank.

"Q. And you took the money yourself?

"A. I took the money myself.

"Q. I mean you carried it out of the bank? -- All right, then, what happened?

"A. We went to my room at the Chateau Laurier.

"HIS LORDSHIP: Where? In the hotel?

"A. Chateau Laurier. I said to Captain Hatfield

" 'You should not put this money in a Florida bank

" 'because banks in the United States are going broke

" 'every day, and particularly in Florida.' I knew

" 'this particularly because I had an account myself

" 'in a bank in Florida, I happened to get my money

" 'out, however, before it went broke. I told him,

" 'I said, 'I want to advise you,' I said, 'As an old

" 'man about 72 years old, you worked hard all your

" 'life. You have got this money and I want you to

" 'not lose it.' I said, 'If you take it down in

" 'thousand dollar bills you are liable to get robbed

" 'and if you put it in a Florida bank you are liable

" 'to lose it.' He thought for a while then he said,

" 'Well, perhaps you are right, although I don't

" 'know, I will disappoint this man in Florida.'

"I said, 'You had better come with me over to the

" 'Royal Bank and buy a draft' -- Oh, in the meantime

" 'before that, I said, 'My expense account with you

" 'is \$2,500.' I talked to him about buying a draft

" 'in the Royal Bank. Finally he said, 'I will tell

" 'you what I will do; I will put \$35,500. in the

Q. 1737 (6)

12

" 'Royal Bank to be sent forward to New York.'  
 "I had told him about the Royal Bank having an  
 "agency in New York and how convenient it would be.  
 "He then said to me, 'I have been tramping the deck  
 "of a schooner for the last fifty-five, fifty-six  
 "years, I don't know anything else except sailing  
 "a schooner. I have lost two ships; I want to  
 "invest in another.' I said, 'Well, you cannot  
 "invest in shipping in Ottawa.' 'Well' he said,  
 "Perhaps I can in Montreal. I have some friends  
 "down there.' I said, 'I don't know, but I am very  
 "doubtful if you can invest it in Montreal.'  
 "Q. In? --- referring to shipping, I suppose?  
 "A. Referring to shipping.  
 "MR. FORSYTH: My learned friend looks at me -- we all  
 "know well enough, that the Senator must have referred  
 "to investing it in shipping, not investing in St.  
 "James Street.  
 "MR. WHITE: It seems to me that Senator Graham said  
 "something about that in the Senate.  
 "THE WITNESS: I said to him, 'Captain Hatfield I  
 "want to get some money.'  
 "MR. FORSYTH: Q. You had previously told him about  
 "the \$2,500. had you?  
 "A. Yes, the \$2,500. I had taken up.  
 "Q. Yes?  
 "A. I said, 'You know about the stock I have, preferred  
 "stock in the Maritime Coal, Railway and Power  
 "Company.' We had talked it over on other occasions."

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"Q. Then, how many shares did you have of it?  
 "A. I had two hundred and seventy-seven and one  
 "hundred and thirteen, a total of three hundred and  
 "ninety.  
 "Q. And what is the par value of the stock?  
 "A. \$10.00 a share.  
 "HIS LORDSHIP: Q. You had 390 shares, you say?  
 "A. Yes.  
 "MR. FORSYTH: Par value of \$10.00?  
 "A. Yes.  
 "MR. WHITE: Three thousand, nine hundred dollars  
 "at par.  
 "MR. FORSYTH: Q. Then, let us get back to the conver-  
 "sation with Captain Hatfield about the stock?  
 "A. I said to him 'I would like to sell you this  
 "stock' because it was not a stock very much  
 "marketed; it was not on the -- more of a private stock.  
 "Q. It was not quoted --- was it quoted on any exchange?  
 "A. No.  
 "Q. Or anything of that kind. I should not have said  
 "quoted, but listed on any exchange. Well, what  
 "happened?  
 "A. He said, 'I will take that stock'.  
 "Q. Well?  
 "A. I endorsed the stock over to him.  
 "Q. That is, you endorsed the certificates?  
 "A. Yes.  
 "HIS LORDSHIP: Q. When did you do this? While you  
 "were having this conference?  
 "A. While we were having this conference.  
 "MR. WHITE: That is here in Ottawa.  
 "A. Yes.  
 "MR. FORSYTH: Well, now, just to complete that, do  
 "you know whether --- let me see, how much did he

B6 1737 (6)

"pay for it?

"A. Three thousand, nine hundred.

"Q. Three thousand, nine hundred for that. And do you know whether that stock has ever been transferred into Hatfield's name on the books of the company, Senator?

"A. I don't know anything about it. I inquired".

Objection was taken and some discussion ensued, then later:-

"HIS LORDSHIP: Q. You probably know whether you have been receiving any dividends since that? - That is nearly a year ago?

"A. Well, I had received dividends up to that time.

"Q. Not since that?

"A. No.

"Q. How are the dividends paid?

"A. There are no dividends, like most other stocks, the crash came and they have not been paying dividends.

"Q. They have not been paying dividends since that time?

"A. They have not been paying dividends since that time.

"MR. FORSYTH: Q. But when they did pay dividends how were they paid, by cheque or how?

"A. Pardon.

"Q. When they did pay dividends, how were they sent, by cheque or otherwise?

"A. They were sent by cheque."

As will be seen this accounted for \$6,400. coming into Senator Logan's hands.

Resuming the consideration of the evidence respecting the Senator's bank accounts, which was given before he gave evidence, we observe that Senator Logan had had a savings account in the Canadian Bank of Commerce at its Montreal Branch during a portion of the year 1930, with a considerable credit balance. This, however, had been closed out on June 5th, 1930. On March 24th, 1931, it was reopened with a deposit of \$7,000. which the deposit slip shows was made up of 7 \$1,000, bills. On May 30th, the interest amounting to \$39.02 was credited and on June 15th it was withdrawn. On the same day \$3,000. was deposited, which it appeared was accomplished by a voucher of \$5,000. which was withdrawn from the Royal Bank at Ottawa, less \$2,000. cash paid to Senator Logan. This made \$10,000 in the Commerce savings acct., which stood in the name of "The Hon. Hance J. Logan, the Senate, Ottawa, Ont." and on



the same day that was transferred to another savings acct., in the same branch in the name "H.J. Logan, In Trust,"

In the branch of the Bank of Commerce at Amherst there had been opened an interest bearing acct., in the name of "Senator Hance J. Logan, In Trust", with a deposit of \$1,000. on April 10th, 1931. It was withdrawn by two cheques which seem to have no relation to this inquiry, but on June 27th, there is a deposit of \$4,000. which was part of a cheque for \$5,000. on the Montreal acct., where it was charged up on June 29th, the \$1,000. difference being paid to Senator Logan. There was a further deposit in the Amherst acct., on Aug. 5th of \$1,000. a portion of a sessional indemnity cheque, the session having closed on Aug. 3rd, as the volume of Statutes for the year shows. On Aug. 7th \$2,000. was withdrawn from the Montreal acct., and on Aug. 10, credited to the Amherst acct. The \$3,000. which remained in the Montreal trust acct., with the interest credited to the account was subsequently checked out in various amounts all apparently for Senator Logan's personal use or expenses, the last being withdrawn on Feb. 19th, 1933. The \$7,000. which was in the Amherst trust acct., on Aug. 10 was wiped out by the charging up on Oct. 21st of a cheque for \$7,000 in favor of Freeman Hatfield which is marked "in full for balance". The interest on the account amounting to \$41.50 was credited on Nov. 30, and withdrawn on Dec. 8, by cheque of Senator Logan in favor of "Cash".

It should be noted that the significance which might seem to attach to the change of name on the transfer in the Montreal office of the Bank of Commerce from the personal acct., to the trust acct., is probably not justified, for an examination of the deposit slip shows the name "Senator H.J. Logan" though the word "Senator" was dropped in entering the account in the ledger.

B 1737 (6)

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The cheque to Capt. Hatfield for \$7,000 being stated to be "in full for balance" called for an explanation which Senator Logan gave during the course of his evidence. For the sake of exactness I quote a short extract from his evidence (p.1366) :-

"A. Well, he went to the bank and he bought --- and he deposited \$35,500. I did my very best to persuade him to deposit all the balance he had, but all I could get him to do was to get him to put in \$35,500.00. He was absolutely ignorant of banking--

"Q. Yes? Well, then, when did he go away from Ottawa?"

"A. He took the rest of the money and went away that night.

"Q. And where did he go to do you know?

"A. He went to Montreal.

"Q. All right; then, when did you next see him?

"A. Two or three days afterwards, I got a letter

"from him.

"Q. Have you got that letter here?

"A. No, I haven't.

"MR. WHITE: Where is it?

"MR. FORSYTH: Q. Do you know where it is?

"A. No just a note saying 'Come to Montreal'

"HIS LORDSHIP: Where was the letter from?

"A. Montreal.

"MR. FORSYTH: Well, did you go to Montreal?

"A. I went to Montreal. Captain Hatfield came to the

"Windsor Hotel; he was in bad shape.

"Q. What do you mean by that?

"A. Well, he had been drinking. He said to me 'I

"'cannot buy any ship here.' Well, I said, 'What do

"'you want me to do?' He said 'I have been buying

"'some stocks but I want you to take the balance of

"'my money and invest it for me in Canadian Securities,

"'and let me go home to New York.'

"Q. Yes?

"A. He handed me twenty-eight thousand, five hundred

"dollars. I gave him a receipt for it and told him

"I would do the best I could."

Senator Logan then produced broker's statements showing the purchase by him on March 24th, 1931 of \$5,000 Montreal Tramway Company's bonds for \$4,920.68; \$7,000, Montreal Island Power Co's. bonds for \$7,152.94 and two lots of \$5,000. each of Beauharnois Power Corp'n's. bonds for \$4,633.51 each, making a total of \$22,000. par value of bonds for which he paid \$21,362.64.

While there was nothing in the documents showing that the bonds were not purchased for himself, they were he says, in fact purchased for Hatfield out of the moneys given him by Hatfield, and apparently paid for in currency. This

06/1737/121

12

left a balance out of the \$28,500. of \$7,137.36 and he deposited on that day, as already stated, \$7,000. to his own credit in an interest bearing acct. The \$137.36 he says he thinks probably he charged in his expenses. His evidence is that the bonds so purchased were kept by him for some time in his steel box at the Senate; that he contemplated exchanging them for other securities; that during the month of April Hatfield was in Ottawa and saw them, and that in May he sent them to him, and that later, in July he sent the balance of \$7,000. to Hatfield at the latter's request. In support of his evidence he produced 4 letters which he said he received from Hatfield. As these letters call for careful consideration I set out their contents in full:- Exhibit #126:

"New York May 5(or 15) (1931)

"Dear Senator Logan:

"I beg to acknowledge receipt from you of  
 "five one thousand dollars bond of the Montreal  
 "Tramways Co., seven one thousand dollar Bonds of the  
 "Montreal Island Power Company and ten one thousand  
 "dollar Bonds of the Beauharnois Power Company for  
 "which I thank you this will leave 7000 of mine which  
 "you still hold. If you do not invest this for me  
 "soon please send it to me and oblige.

Yours truly,  
 Freeman Hatfield."

Exhibit # 127:

"New York June 29 (1931)

"Dear Senator Logan

"If you have not invested the Balance of  
 "7000.00 Please send me the check for the same to  
 "close our accounts. Kind regards and good wishes.  
 Freeman Hatfield."

Exhibit # 128

"New York July 6 (1931)

"Dear Senator Logan

"I received your check for 7000.00 this  
 "squares our accounts I may not cash this Check at  
 "Present but it will show how we Stand in case  
 "either of us should pass out good wishes and good  
 "health.

I remain Yours truly,  
 Freeman Hatfield."

Exhibit #131.

"New York Oct. 19 ?

"Dear Senator Logan

161737 (61)

12

"Just a word to say that I am still here and  
"will be for a month yet I expect then I will move  
"out somewhere. I Cashed the Check you gave me I  
"dont know Just when I will go to work again. my  
"address will be the same.

"I read over very carefully the papers you  
"sent and I think them o.k.

I remain yours truly,  
Freeman Hatfield."

The cheque referred to in the letters dated July 6th and October 19th, seems to bear date July 3rd though there has been a change in the day, the month and the year. It is drawn on and was charged up to a savings acct. though there is nothing on the cheque to show that it is on a savings acct. It has, however, on it the words "in trust" whereas one of the earlier cheques on this account had not even that, while in form it was as this was on a current acct., but it was charged up to the proper account although Senator Logan had an open current account in the same branch.

There seems however a trace of unnaturalness about the letter of July 6th. As a matter of fact, the cheque was not charged up until Oct. 21st as has already been pointed out, but that a person who a few days earlier had asked for the cheque for this large amount should intimate on its receipt that he might not cash it at present, seems, at least, peculiar. That he did not in fact cash it for months, if he received it on the date of the letter, seems even more singular, especially when one considers that, as will subsequently appear, the whole of the \$35,500 which he had deposited in an interest bearing account had disappeared by the end of July.

After the evidence of Senator Logan was taken the further hearing was adjourned for about 2 months while some further investigations were being made one of which related to this cheque, and when the hearing was resumed an officer of the Royal Bank from the New York Branch gave

evidence of the cashing of this cheque. He says:-

"A. This cheque was handed to us on October 16th, 1931, with a request that we cash it. As the cheque was not certified we declined to cash it, forwarding the item to our Amherst branch for collection."

The payment of the proceeds was made on Oct. 23rd. While therefore it was actually presented to the bank by Hatfield 3 days before the date of the letter he did not receive the cash for it until 4 days after its date. We have not the envelope of this or any other letters from which we can get the assistance of any date mark. The proceeds of the cheque only amounted to \$6,169.78 owing to the great slump in Canadian funds commencing in the preceding month.

Evidence was also given of Captain Hatfield's account showing that the \$35,500. which had been sent to him in March had gradually disappeared and that on July 29th 1931 there was only \$10.72 which was less than the interest that had been credited.

On returning to the consideration of the letter of July 6th, we find a letter of Hatfield's dated July 13th the regularity of which there seems no reason to question (Ex. 129). It is headed "New York" and begins by saying "I came back from Arizona on Friday". In a P.S., he says "I will be going west again soon." There seems little doubt therefore that he is referring to the State of Arizona. Friday preceding the 13th was the 10th which left just 4 days after the date of the letter of July 6th, to go from New York to Arizona and back both letters purporting to be written in New York. As Arizona is almost the width of the Continent from New York it seems clear that it could not be done. Which means that the letter dated July 6th was not written on that date.

Then turning to the internal evidence furnished by the

letters themselves and their appearance, we find that Hatfield always used the same sort and size of paper, letter size, single sheets, ruled on both sides. Of the 14 letters from him produced by Senator Logan all are alike in these respects but in other respects there are significant differences. It will be seen on a comparison of the paper, the ruled lines, the texture and the watermark that the paper of the letters of Sept. 22 and Oct. 12, 1929 is similar but unlike all others. The same applies to the 3 letters of Nov. 21 and Dec. 27 of 1929 and May 5 of 1930. The paper of the letter of May 10, 1930 is unlike all others as is that of the letter of Oct. 2, 1930, and that of Jan. 21, 1931. The paper of all 4 letters above copied is quite clearly from the same pad or lot, but it differs from all others including those of July 13 and July 22, 1931 although they appear to be between the two of the above of July 6 and Oct. 19. Again from the appearance of the 4 letters it would seem that they are written with the same ink and pen and in appearance in this respect they differ from all others. They all begin "Dear Senator Logan" though no other letter begins in that way some being "Dear Sir" and some "Dear Mr. Logan".

One other circumstance might be mentioned. The first letter of May 5 or 15 states that:- "this leaves \$7,000. balance", which is the exact amount that Logan deposited but the balance would have appeared to Hatfield if he had received the bonds to be \$6,500. if he had no other guide than the par value of the bonds, or \$7,137.36 if he had a statement of the actual cost.

From all these facts it seems difficult to resist the conclusion that the letters are not honest letters but were all prepared at a later time for the purpose of establishing a fictitious case.

To pass from this manufactured evidence we find that very soon after the fact of the award was known in Parrsboro there was talk with intimations that the claim was fraudulent; Some one was sufficiently interested to write to England and procure from the Registrar General of Shipping a copy of the affidavit of Captain Hatfield on file there. This was sent to the Secretary of State, who communicated with Senator Logan. This was early in June. It seems quite clear then that active steps were being taken some weeks before that, and most likely that Senator Logan would hear something about it at least as early as June and perhaps earlier. On the 15th of June we find him transferring the \$7,000, which he had deposited on March 24, from a general to a trust acct. His explanation of this was that he wanted it to bear interest. Inasmuch as it had all the time been in an interest bearing account, that could not have been his reason. Moreover the interest on this sum which stood alone had been credited to the account on the 30th of May and was actually drawn out by him on the day when the transfer was made.

Although the balance due Hatfield on Senator Logan's own figures was \$7,137.36 he only deposited an even \$7,000. and while he says this was Hatfield's money he failed to give Hatfield the interest it earned.

On his own account he was a Solicitor trustee for a client to invest \$28,500. yet he kept no accounts and did not even deposit the money which would establish some record, through the bank account. One can, of course, understand that some politicians may deem it inadvisable to keep accounts, and this political experience may sometimes affect their professional practice but it seems hard to believe that an honest solicitor could deal with clients' funds of large amount in this manner, not merely loose

but actually involving a misappropriation of some of the Client's money.

But that is not all. Not only did Senator Logan keep copies of letters as all solicitors do, but he produced several, including one to Capt. Hatfield pointing out certain evidence desired, but of all the most important letters, or presumed letters, there are no copies. There is no copy of the letter forwarding the bonds to Hatfield, the receipt of which is acknowledged by the latter's letter above set out. It was during the session of Parliament and he admitted there were several stenographers available, but he could not remember whether the letter had been written by a stenographer or by hand in which latter event he thought he would keep no copy. It hardly seems believable that a solicitor would fail to protect himself by keeping some record of the sending of such valuable documents. During the adjournment, investigations were made in the Post Office Department to ascertain if there had been any registered parcel sent to Hatfield. On resuming an official was called and it was shown that there had been no registered parcel at that time. Senator Logan was also recalled after the adjournment and then for the first time he suggested that he might have delivered the bonds by hand, as he said he was often at Atlantic City. Hatfield's letter, however, gives no suggestion of a delivery by hand.

Early in June after the Secretary of State had advised him of the questions that had arisen about the bona fides of Hatfield's claim he wrote Hatfield and received a reply dated New York July 13. He said he kept no copy of his letter. He also said very definitely that when he wrote this first letter he had not seen a copy of the affidavit made by Hatfield in Liverpool. At the end of his second examination after the two months adjournment he produced what he said was a copy of this letter which he said he had



subsequently found. It however states that he had seen the affidavit and I feel a little doubt about this being a copy of his first communication to Hatfield on this point. Again he can produce no copy of the covering letter when he sent the cheque for \$7,000. The absence of copies of letters which any ordinary solicitor would be expected to keep gives ground for suspicion, as does the absence of Hatfield's letter asking him to go to Montreal, as he seems to have all of Hatfield's other letters, and Hatfield had stated to Major Creighton that he was going back to New York the day he cashed his cheque in the Bank of Montreal.

There is another significant circumstance in the fact that on the 3rd of July 1931, the date which the \$7,000. cheque to Hatfield now bears, and for more than a month after, there was in Senator Logan's account on which it was drawn only \$4,000. The fact is of some importance in that there is ground for suspicion that the cheque was not sent then. Senator Logan says he had sufficient money there and in Montreal and the Bank Manager at Amherst knew that. That might be a good answer if he were being prosecuted for giving a cheque without sufficient funds, but it does not seem satisfactory for the purpose of removing doubts about the regularity of the cheque.

Then we come to the question of interest paid on the bonds. During the time of the adjournment investigations were conducted for the purpose of ascertaining, if possible, to whom the interest and dividends had been paid after the transfer of the stock and the purchase of the bonds. It was found that the bonds were all bearer bonds and no success was gained in trying to trace payments. It was found, however, that as regards the stock of Senator Logan which he said he sold to Hatfield, his statement previously made that there

H 1737/64

12

had been no dividends paid after the sale, was incorrect, and when he was questioned again he admitted it. I quote his explanation (p.1636) :-

"Q. I suggest to you that there was on the first of April, 1931, a dividend paid of .15¢ a share and that you received it. What do you say to that?

"A. That dividend was earned when I sold the bonds.

"Q. When you sold --- ?

"A. Sold the stock, rather.

"Q. The 24th of --- ?

"A. The 28th of March that was earned.

"Q. Then the statement there had been no dividends since you transferred it, was not correct?

"A. It was an earned dividend. I was not giving him the dividend that had already been earned.

"HIS LORDSHIP: The dividend to which you had become entitled before you transferred the stock?

"A. Certainly, that is, there were twelve days, of course, --- that was the dividend for that quarter that had gone by.

"MR. FORSYTH: It would be rather interesting to know --

"MR. WHITE: Q. I suggest to you there was also a dividend paid on the 1st of July 1931?

"A. Yes, which I endorsed over to Captain Hatfield or which I paid to Captain Hatfield, rather.

"Q. Well, how, when and where?

"A. That amounted to \$54.00 I think, is not it?

"Q. Well, I am not -- I don't know the amount - .15¢ on 6400 shares, was it?

"MR. FORSYTH: 640

"THE WITNESS: Yes, 390 shares ---

"MR. FORSYTH: It would be about \$57.50, I would think.

"HIS LORDSHIP: \$58.50 would be .15¢ on 390 shares.

"MR. WHITE: Q. Well, what do you say about it?

"My question was: When, where and how, did you pay it?

"A. I credited that to Captain Hatfield.

"Q. Where?

"A. In his general account.

"Q. Where is that general account?

"A. It was not --- I don't mean I kept a general account, but I just credited him with \$58.50

"Q. Well, on what account?

"A. On the account between him and me.

"Q. Well, didn't the balance of \$7000. close the account?

"A. No.

"Q. Has there been any money passing between you and Captain Hatfield since?

"A. No, but there has been one or two credits one or two --- not credits, but debits.

"Q. In what book?

"A. In no book.

"Q. And what were the debits for?

"A. Oh, for expense account that I had.

"Q. Concerning what?

"A. Well, it was, one bill, I remember of, a certain bill I had to pay.

"Q. What bill was it?

"A. A bill for clothing, I think.

"HIS LORDSHIP: For what?

"A. A bill for clothing.

"MR. WHITE: To whom did you pay it?

"A. Yes.

"Q. To whom did you pay it?

Pb 1787 (61)

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"A. I don't remember now, how I paid that but I --  
"Q. I am not asking you that. To whom did you pay  
it?

"MR. FORSYTH: The name of the person to whom it was  
paid?

"THE WITNESS: I cannot remember; it is a man in  
new York - I cannot remember his name.

"Q. Did you get a receipt?

"A. I don't know whether I did or not.

"Q. Have you got a receipt for it?

"A. I have not.

"Q. How much did you pay?

"A. \$105.00, if I remember rightly."

This evidence appears to me shifty and is quite unconvincing.

There seems also an element of improbability in the account of what took place after the Hatfield cheque was cashed at the Bank of Montreal. They left the Bank only a few minutes before closing time and it is clear that the \$35,500 was deposited in the Royal Bank that day. Consequently they must have gone to the Royal Bank almost immediately, which is what one would think they would do. But Senator Logan says they went back to his room in the Hotel and they had a discussion which he admits lasted 10 or 15 minutes. They then settled the amount to be paid for expenses and made the sale of the shares which he then and there transferred, the certificates by some fortunate chance being in his room at the Hotel. There is an apparent artificiality about this as of something worked out to explain Senator Logan's ability to deposit \$6,400. the next day. But naturally one asks, why if it is manufactured did he not give it a greater air of probability? All the negotiations he speaks of could as well have taken place after they received the cheque before they actually received the money, and they could as well have got the certificates of shares from his room at the Senate, where he said he had a steel box, which would seem a much more likely place to keep them than in his room at the Hotel. It would, of course, not be surprising that Hatfield would

H. 1737 (6)

12

acquiesce without much demur to Senator Logan receiving \$2,500. for expenses and \$3,900. for his shares out of his gift of over \$70,000. which he had received through the latter's assistance. But the attempted justification of the amount of \$2,500. as actual expenses was not satisfactory. He had no outlay for disbursements other than his own personal expenses and when he travelled in Canada, of course as a Senator, he paid no railway fare. He kept no accounts of his expenses, though he had told Hatfield early that there would be no charge except for expenses. He speaks of several trips to New York for certain purposes, some of which would seem to be quite uncalled for and all of which could as well have been accomplished in fewer trips. Then he says Hatfield told him he had no insurance on the Gypsum Queen and he made a trip to Halifax he says to verify that. He does not explain why he selected Halifax as the place where Hatfield did not have the insurance. Of course the statement could not be verified, though it might have been found false, but a solicitor does not generally consider it his duty to investigate his client's statements to prove them false and especially at the latter's expense.

If his evidence had been that he had told Hatfield that he would only charge him a nominal fee to cover expenses, there would be less ground for criticism. But that is not what his evidence is and he seeks to show that his actual expenses amounted to \$2,500., whereas I think they fell far short of it, and the attempt furnishes some indication of the honesty of his testimony generally.

It is, however, only one of many instances throughout his evidence in which, in my opinion, Senator Logan has failed to give an honest and truthful account of the actual occurrences.

12  
P6 1737 (6)

The hearing of evidence in Ottawa was concluded on the 20th of May. Mr. White and I had our reservations made to sail to England on the 29th and in order to free counsel from any further attendance after my return, it was arranged that I would adjourn over the week end and Victoria Day and hear their arguments on the 25th. On the morning of that day Mr. Forsyth produced a telegram signed Alma Hatfield, and an affidavit made on May 23rd by Alma Hatfield, who stated that she is a daughter of Freeman Hatfield, that in May 1931 her father showed her \$22,000. of Canadian bonds and 390 preferred shares of Maritime Coal and Railway and Power Co., endorsed to her father by Senator Logan, all of which her father told her had been purchased for him by Senator Logan. She adds that she does not know where he keeps them or his present address and ends by saying:- "I am holding a responsible position and it is impossible" for me to get away from New York. In fact with so many seeking employment it would probably mean I would lose my position if I went away". She is described in the affidavit as "housekeeper". Mr. Forsyth stated that he first learned of the fact of this evidence on the preceding Saturday (the 21st), that he asked Mrs. Logan to go to New York and see if Miss Hatfield would come to Ottawa and give evidence, that on the preceding day (24th) he received a telephone message from Mrs. Logan stating that Miss Hatfield could not come to Ottawa and would telegraph him. She had the affidavit which she left at Mr. Forsyth's office and then went home to Nova Scotia.

Having regard to the fact that it only involves the loss of one day and two nights to come to Ottawa from New York, the reason given for not coming scarcely seems adequate, and seems to indicate an unwillingness rather than an inability to come. The Commission had been in New

York. Senator Logan knew of Miss Hatfield's existence and had been in communication with her. I pointed out that if I returned to New York I had no power to compel Miss Hatfield to appear before me and there was no indication that she would do so willingly, but no intimation was given that her voluntary presence could be procured.

This affidavit comes before me under most suspicious circumstances and as I have already found that the evidence previously adduced for the purpose of proving the transmission of these securities to Capt. Hatfield was manufactured and that no reliance could be placed on it, I consider that I can attach no value whatever to this affidavit.

There is therefore no evidence upon which any reliance can be placed that the securities purchased by Senator Logan ever were sent to Hatfield nor can I believe that they were purchased for Hatfield.

As I have already found, Senator Logan knew that the claim was an unfounded one and on his own admission he received \$6,400. in Ottawa and \$28,500 in Montreal or a total of \$34,900. and with the exception of the \$7,000. for which a cheque was sent to Hatfield, the evidence fails to satisfy me that he has ever accounted to any one for it.. Nor am I satisfied that the \$7,000. cheque was sent to Hatfield with the intent that its proceeds should be his. Rather it seems to me it was a part of the scheme of manufacturing evidence to establish a case.

There seems sufficient ground for a reasonable inference that Hatfield and Senator Logan had arranged to divide the moneys to be received, each taking apparently half. If so, that would explain the motive of Senator Logan in putting forward evidence which he knew to be false and misleading.

One hesitates to think that a person of the standing of Senator Logan and apparently with a stainless reputation would be a party to a conspiracy to defraud and perhaps if the transaction had appeared to him in that bald way, he would have kept out of it. But experience shows that serious crimes by persons theretofore of good standing are frequently the culmination by gradual and perhaps almost imperceptible steps, from a trivial stepping aside as a beginning. The solicitor who borrows from his trust acct., to meet an emergency is taking a risk, which may, and often has resulted in serious defalcation. The one who mingles his trust moneys with his own as Senator Logan says he did is taking an even greater risk.

Senator Logan says that when he saw Hatfield after he had written him about his claim he advised him to employ someone else as solicitor but that Hatfield said he could not because he had not the means. It would be very natural that Hatfield would be willing to agree with Senator Logan that the latter should be paid a contingent fee out of the amount realized. Whether that would be legitimate in Nova Scotia, I do not know, but such an agreement is legal under some jurisdictions, the advantages to a poor litigant in enabling him to prosecute a just claim being deemed to outweigh the danger involved in furnishing an incentive to a solicitor to use improper means in its prosecution by reason of his financial interest in the case.

Then there is another consideration. We know that to many reputable persons of apparently high principles, defrauding the Government, if we use a much softer term, if a sin at all is only a venial one. The tourist who enters Canada and smuggles something to avoid paying a just duty, is doing it. Many people do not hesitate to make false or misleading statements or conceal facts to

escape the payment of income or other taxes. Apparently the view of many is that the Government is legitimate prey. When we have the added factor in this case that the claim for compensation for loss of the Gypsum Queen was not merely against the Government, but was to be paid out of moneys to be advanced by Germany on account of reparations, we can see that, to many people, to obtain some of that money even on a false claim would be almost if not quite excusable, and when, whether, early or late, Senator Logan found out the true facts about this case it may not have seemed to him to involve any very serious departure from the path of rectitude for his sight would be dimmed by the amount of probable profit in view. The evidence indicated that on the basis of other claims that had been paid the Commissioner might allow on this claim nearly \$120,000., which with the interest payable would have brought the amount to \$200,000. The prospect to one of gaining one-half of that sum would have a very softening effect upon the harshness of any terms that he might otherwise ordinarily apply to the means by which the end was to be attained.

On the foregoing considerations, it appears to me that some of the improbabilities of Senator Logan having been guilty of the wrong-doing found, disappear or at least become of less magnitude.

While for the sake of clarity and methodical arrangement I have dealt with the evidence in its relation to the branch of the inquiry to which it seemed more directly to apply, and have expressed my conclusions with some definiteness in each case, it is not intended that it should be considered that the evidence on each branch stands by itself or that all of it has been mentioned.



It is on a consideration of the whole evidence comprising in its transcription almost 2,000 pages, of which I have been able, in the endeavour to keep my report within a reasonable compass, to refer to only the more salient features, that I have formed my several conclusions. I have endeavoured, however, to set out sufficient of the evidence to show a justification, and for the most part even a necessity for my findings which I now shortly restate for the purpose of summarizing them:-

First, as to the cause of the loss of the Gypsum Queen, the evidence established indubitably that she was not lost through the action of a German submarine, but that on the contrary the loss was due to ordinary marine peril and that in consequence there was no justification for any claim for compensation out of German Reparation moneys.

Secondly, as regards the evidence adduced before the Reparations Commission it follows from the first finding that that which related to the cause of loss was false. Also the evidence proved to my satisfaction that the documentary evidence put in by Senator Logan to prove ownership of the Gypsum Queen at the time of the loss, in Captain Hatfield in the form of a certificate purporting to be signed by J.S.Henderson was misleading and to that extent false, and that Senator Logan knew it to be such, and moreover that it was also false in that the signature was not that of J.S.Henderson, of which fact also Senator Logan was aware, though on this finding of forgery, as already explained there would be more room for doubt than there is in respect to the other findings were it not for the other findings.

Thirdly, as regards the payment of the amount of the award, I find on the Admission of Senator Logan that he

received approximately one-half of the moneys, and as there is no trustworthy evidence that it was not for his own benefit, I conclude that he received it for his own benefit, that being the natural presumption.

In closing I desire to express my appreciation of the kindness, courtesy and efficiency of all those who have assisted in my investigations and inquiry, not merely my paid assistants but also the many departmental officials both in Canada and in England from whom I have received evidence, information and assistance and particularly the staff of the High Commissioner's Office in London by reason of whose careful arrangements I was able to procure the evidence available in England without delay or inconvenience and especially are my thanks due to Mr. McLeod of that office who devoted much personal attention to the preparation and carrying out of all the details essential to the conduct of the inquiry in England. To Mr. White and Mr. Forsyth the counsel in the inquiry I wish to express my thanks and praise for the able and conscientious manner in which they performed their duties. Without their careful searching out of the evidence and placing it before me by their skilful examination and cross-examination it would have been difficult, if not impossible, for me to have reached the definite conclusions which I have formed and expressed.

All of which is respectfully submitted.

*Harvey Harvey*  
Commissioner.

Ottawa, July 30th, 1932.

