INTERIM REPORT

OF THE

ROYAL GRAIN INQUIRY COMMISSION

Vancouver, B.C., June 19, 1924

PRINTED BY ORDER OF PARLIAMENT

OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
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Price, 25 cents.

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IN THE MATTER of a certain inquiry conducted by the Honourable Mr. Justice William Ferdinand Alphonse Turgeon, Chairman of the Royal Grain Inquiry Commission (Canada), and Duncan Alexander MacGibbon, Ph.D., a member of the said Commission, beginning on May 15, 1924, and ending June 6, 1924.

Various parties interested in the inquiry were represented before the Commission by Counsel, as follows:—

Mr. S. B. Woods, K.C., Counsel for the Commission.

Mr. Wendell Farris, K.C., and Mr. G. McG. Sloan, Counsel for the Vancouver Harbour Commission.

Mr. G. H. Van Allen and Mr. J. D. Mothersill, Counsel for the Government of Alberta.

Hon. Sir Chas. Tupper and Mr. R. H. Tupper, Counsel for the British & Oriental Grain Company.

Mr. Douglas Armour, K.C., Counsel for the Pacific Construction Company and the firm of Davidson & Smith.

Mr. A. B. Macdonald, K.C., Counsel for the firm of J. S. Metcalf & Co.

Mr. F. G. T. Lucas, Counsel for the Grain Exchange Division of the Vancouver Merchants Exchange.

Mr. G. E. McCrossan, Counsel for the City of Vancouver.

Mr. Jos. Clarke, who requested to be allowed to appear on his own behalf as an interested citizen of Alberta.

REPORT OF THE COMMISSION

We, the above Commissioners, hereby submit our report upon the matters investigated by us at Vancouver, B.C., pursuant to instructions in that behalf received from the Honourable the Minister of Trade and Commerce. The investigation took place at Vancouver at public sessions beginning on May 15, 1924, and ending on June 6, 1924.

The matters referred to us for our inquiry arose out of a certain statement made at Winnipeg on March 13, 1924, at a session of the Royal Grain Inquiry Commission, by Mr. G. H. Van Allen, Counsel before the Commission for the Government of Alberta. This statement was submitted in written form and filed by Mr. Van Allen, who formally applied to have the matter investigated. He stated expressly that in taking this step he was acting on behalf of his Government.

The statement filed disclosed a situation supposed to exist at Vancouver regarding the handling, storing and shipping of grain and the facilities provided for these services, which, in the opinion of counsel, rendered an inquiry necessary with consequent action by the proper authorities. This situation consisted partly of facts concerning the acquisition, construction, and administraton of grain elevators and their accessories and of contracts made with respect thereto by the Vancouver Harbour Commissioners, and partly of rumours and suspicions of wrong-doing or of threatened wrong-doing by individuals, the whole being likely to result, in the opinion of counsel, in hardship and unjustified expense to the producers of grain, and particularly to the producers of the province of Alberta, who supply the greater part of the grain shipped through the port of Vancouver.

We find it difficult in disposing in this report of the various matters investigated by us, to select terms which will in all cases do justice to the attitude taken by Mr. Van Allen and also to those concerned adversely in the inquiry. Reference was made constantly throughout the sittings to the Van Allen "charges" and the Minister of Trade and Commerce, in his letter to us authorizing the investigation, uses the same expression. The fact is, however, that some of the matters under review are merely problems of administrative policy which we are asked to solve. Others, it is true, suggest past wrong-doing or convey an apprehension of future wrong-doing, but in both cases without any positive charges of guilt being made upon the responsibility of counsel against any person or corporation. In the circumstances we deem it proper to state at the outset that in dealing with suggestions that involve the honour or the integrity of individuals we have endeavoured not to lose sight of the presumptions in their favour which such persons are entitled to expect at all times.

When we examine the various considerations which led counsel for the Government of Alberta to ask for an investigation, we find, from a perusal of his statement, that the following propositions can be deduced:—

(1) That the grain elevators at Vancouver owned by the Vancouver Harbour Commissioners and the other grain shipping facilities provided, are being erected at a "tremendous" (apparently meaning "greatly excessive") cost, and that this cost will in due course fall upon the producers of grain. The increase in grain cargo rates recently sanctioned by Order in Council to become effective on 1st September next, is referred to as an instance of the manner in which the producer is already being called upon to pay. This proposition necessitates an

inquiry into the amount of money already spent or intended to be spent by the Vancouver Harbour Commissioners for the purposes in question and an examination of the various contracts for purchase or construction entered into by them. In particular it is stated that Elevator No. 3, known as the Woodward Elevator, has been taken over by the Harbour Commissioners and is being completed by them at great expense, and is being leased by them to the British and Oriental Grain Company upon low terms. It will be necessary to discuss all the circumstances surrounding the acquisition of this property by the Harbour Commission and the lease given by them to the company.

(2) That evil influences are at work upon the members of the Harbour Commission and upon those who occupy important positions under them in the handling and shipping of grain. That, as a result of such influences (or in some cases, possibly from an improper motive independent of such influences),

(a) contracts have been let upon an improper basis or to persons whose past record disqualifies them from receiving contracts for the expenditure of public money;

(b) a certain irregular device or contrivance in the form of a by-spout from the receiving leg of Elevator No. 1 has been found to exist, thus evidencing a design to commit fraud;

(c) certain persons have been appointed by the Harbour Commission to important positions in the conduct of the grain business who are discredited and disqualified by their past experiences from holding such positions.

This proposition opens up an inquiry of the most unusual and extremely difficult nature. As gathered from the Van Allen statement and as disclosed by the evidence it means in brief that the members of the firm, or former firm, of Davidson and Smith, at one time engaged in the grain business at Winnipeg and Fort William, and more particularly John R. Smith, one of the firm, have exercised the influence which led to the above condition of affairs and which, it is apprehended, may lead to trouble in the future. Mr. Van Allen refers to a number of transactions in which this firm was involved at Fort William and which, in his opinion, tend to discredit it. In view of the form taken by Mr. Van Allen's statement, we have found it necessary to hear a great deal of evidence concerning Davidson and Smith's record during the time they were in the grain business, their associations in Vancouver, the business relations and even the degree of acquaintanceship which each member of the Harbour Commission or their officials, and other persons concerned in the inquiry, had with them, or either of them. Likewise in this report, we think it proper, in view of the line of evidence pursued, to refer specifically to each case in which any such acquaintanceship or business relationship was shown to exist and to state its nature and its effect on the matters under investigation. We shall also have to examine the record of each official said to be discredited and disqualified.

(3) That improper practices are already at work in the elevators owned and operated by the Harbour Commission. Reference is made in Mr. Van Allen's statement to figures supplied by the Board of Grain Commissioners for Canada, which show that according to the returns made by the Harbour Commissioners to the Board for the period extending from August 31, 1923, to March 7, 1924, 232,252 bushels of No. 1 Northern wheat were shipped out in excess of the quantity taken in. Such a condition might be produced by the illegal mixing of grades of wheat, or by a failure to clean the wheat before shipment up to the requirements of the dockage percentage marked on the inspection certificate. This statement renders it necessary to examine the

figures of receipts and shipments of the elevator during the period in question and the facilities at hand for weighing and inspecting the grain. Incidentally to the matter of inspection the question arises of the advisability of appointing a Grain Survey Board at Vancouver.

After submitting the foreging propositions, Mr. Van Allen's statement deals with the relations which exist between the Vancouver Harbour Commissioners and the Board of Grain Commissioners for Canada. He complains that the Harbour Commissioners have refused to submit to the jurisdiction of the Board under the provisions of the Canada Grain Act, by failing to take out a license from the Board for their elevators and by trying to escape from the authority of the Board in other matters. He argues that the powers of the Board should be enlarged rather than restricted and makes suggestion for its constitution and jurisdiction.

Mr. Van Allen then deals with the question of the licensing of private terminal elevators to carry on the business of mixing grades of grain. This question of mixing is one of the most important questions now being dealt with by the Royal Grain Inquiry Commission. Mr. Van Allen suggests that in no case should the practice of mixing be sanctioned at Pacific ports.

Finally, Mr. Van Allen refers to a suggestion made in some quarters that wheat shipped through the port of Vancouver should be known as "Vancouver wheat." He opposes this suggestion.

In our opinion the above summary sets out the character and the scope of the case before us and will assist readers of this report to arrive at a general understanding of the considerations which led to the drafting of the eleven subjects of inquiry at the end of Mr. Van Allen's statement and of the extent to which it is necessary to pursue the inquiry into each subject.

The statement of counsel for Alberta concludes in the following manner:—

> "Therefore, on behalf of the Government of the province of Alberta, and on behalf of the producers of grain of that province, I now request that this Commission hold a further session at the city of Vancouver, some time during the month of April, to investigate thoroughly the following matters, and such others as may appear, namely:—
>
> "1. The circumstances of the installation and operation of the by-spout above referred to in Vancouver Harbour Commissioners' Elevator No. 1.
>
> "2. The administration and operation of the said elevator with particular regard to:—
>
> "(*a*) the personnel of the management and staff;
>
> "(*b*) receipts and shipments of various grades;
>
> "(*c*) weighing in and out;
>
> "(*d*) inspection in and out;
>
> "(*e*) need of Survey Board at Vancouver, etc.
>
> "3. The contracts pursuant to which the annex to Elevator No. 1 and Elevator No. 2 have been or are being constructed.
>
> "4. The connection, if any, between Davidson & Smith, or Davidson or Smith and the Pacific Construction Company.
>
> "5. The contractual relations, if any, between the Pacific Construction Company and the Vancouver Harbour Commissioners.
>
> "6. The proposed increase in cargo rates on grain at Vancouver.
>
> "7. The circumstances of the construction of the Woodward elevator and the contract between the Vancouver Harbour Commissioners and the lessees of the said elevator.
>
> "8. The question as to whether or not mixing of grain should be restricted or wholly prohibited at Canadian Pacific ports.

"9. The administration of publicly-owned elevators and whether or not the Vancouver elevators should be operated by,—

"(*a*) the Harbour Commissioners, as at present; or

"(*b*) the Board of Grain Commissioners, as formerly; or

"(*c*) a special Commissioner directly under the Minister of Trade and Commerce.

"10. In the event of the continuance of the present policy, the extent to which such elevators should be subject to the Board of Grain Commismissioners as to licensing, inspectors, regulations, etc.

"11. The proposal to establish a new grading system for wheat exported through Vancouver and the proposal to define such wheat as "Vancouver wheat."

After some consideration we have decided it advisable to deal with all of these matters in the order in which they are set out, even though this may be at the expense of a more logical order of treatment. Before proceeding, however, to take up each of these matters seriatim we find it necessary to deal parenthetically with the history of the firm of Davidson & Smith above referred to. This digression is rendered necessary by the fact that back of nearly all the complaints of undesirable conditions set out in the statement of counsel for Alberta there lurks the suggestion that the influence of the members of this firm is at work and that the said influence is an improper and harmful influence. Davidson & Smith were represented before us by counsel and J. R. Smith was examined at great length on those matters which involved the integrity and good standing of himself and his partner. Davidson did not give evidence before us and his name was not mentioned prominently except as a member of the firm of the Pacific Construction Company. Apparently the charges of improper influence referred to the activities or supposed activities of Smith. It devolves upon us now to set out the facts disclosed by the evidence concerning this firm, and particularly J. R. Smith, and later on we will draw any conclusions which may appear to us to be warranted by these facts.

The firm of Davidson & Smith were in the grain business for fifteen or sixteen years, and during a part of that time owned and operated a grain elevator at Fort William. This elevator was sometimes run as a private elevator (mixing house) and sometimes as a public terminal elevator. During the last period of its operation by the firm it was run as a private "regular" elevator, which means that the firm's warehouse receipts were recognized on the Winnipeg Grain Exchange.

In 1914 the ss. *Curry* was loaded with wheat partly at the Davidson & Smith elevator and partly at the elevator owned by the Dominion Government. After the cargo was loaded it was discovered that it contained an overshipment of about 10,000 bushels. Davidson & Smith immediately laid claim to this overshipment as having come from their elevator and belonging to them. An investigation was held by the Board of Grain Commissioners whereat it appeared that the excess shipment had come from the Government elevator, and Davidson & Smith withdrew their claim. The matter was complicated by the fact, discussed on this inquiry, that the Government weighman in the Davidson & Smith elevator had destroyed his weigh sheets instead of filing them with the chief weighmaster to remain on record. The suggestion behind this allusion to this incident before us was that Davidson & Smith had wrongfully put in a claim to 10,000 bushels of wheat which they knew was not theirs, and that collusion existed between them and the Government weighman. Smith, in his evidence before us, explained the position of his firm by stating that, being new in the elevator business, they concluded upon hearing of an overshipment in the vessel that an overshipment would more probably be due to some mistake or neglect in

their own elevator than in that belonging to the Government and that the claim was merely put in to protect their rights and abandoned by them when they saw the evidence adduced at the inquiry. In so far as the Government weighman was concerned, Mr. J. G. White, the chief weighmaster, testified that he had come to the conclusion at the time of the incident, that the weighman had destroyed the weigh sheets merely through an innocent mistake due to his inexperience, and that the only punishment inflicted on him was one month's suspension from employment.

In 1916, while the Davidson & Smith elevator was being operated as a public terminal elevator, the incident of the ss. *Robert Frier* occurred. The Fort William Grain Company, of which Smith was a member, shipped a quantity of wheat of different grades out of the elevator into this vessel, mixed the grain on board, brought the vessel back to the elevator and claimed the right to have the cargo so mixed inspected into the elevator. This the inspector in charge refused at first to do. Nevertheless the elevator took the wheat in and succeeded in obtaining inspection upon it the next day. Throughout this incident it appears that Smith and his associates were claiming the right to mix grain in a vessel, in the same way as it is possible to mix such grain in a private licensed mixing house, and to obtain a new certificate for such mixed product the component parts of which had already received individual inspection certificates out of the public terminal. The Board of Grain Commissioners held an inquiry into this matter and rendered a decision in the month of March following, wherein they held that no such right existed, that the Government inspector was justified in refusing to inspect and grade the grain out of the vessel into the elevator, and that Smith & Davidson had violated the rules in taking in the grain in the way they did.

In the summer of 1922 the American firm of Washburn-Crosby Company received a cargo of wheat shipped from Fort William to Buffalo, N.Y., on board the ss. *Pollock*. The wheat was loaded into two holds of the vessel numbered respectively 1 and 3. Hold No. 3 was loaded entirely with wheat taken from the Davidson & Smith elevator and No. 1 with wheat partly from this elevator and partly from the Grand Trunk Pacific elevator. The contents of both holds bore inspection certificates of 3 Northern grade. Samples were drawn from the shipment out of the elevators both by the Government inspectors and their samplers and also by an inspector and sampler acting for the purchasers of the wheat, the Washburn-Crosby Company. Complaint having arisen over the quality of the wheat loaded and sent on to Buffalo, an investigation was held by the Board of Grain Commissioners. It was found on this investigation that the wheat in hold No. 3 was graded 4 tough, only, and that in hold No. 1 of grade 3 tough. The Government inspector at the Davidson & Smith elevator was found to be in fault in having placed a higher grade on the shipment than it was entitled to. He was dismissed from the service of the Inspection Department, while the samplers who had drawn the samples for him were retained in the service, the assumption being that while the samples were properly drawn in the first instance they were tampered with fraudulently afterwards, and that this was made possible either by the inspector's laxity or by his collusion. The difference in value between the wheat bought and paid for and that delivered out of the vessel was about $38,000. Davidson & Smith were registered on the Winnipeg Grain Exchange and according to the rules of the Exchange were bonded with the London Accident and Guarantee Company for the due honouring of their warehouse receipts. Purporting to act under the authority of the rules of the Exchange which bind its members, the council of the Exchange held an investigation into the complaints arising out of the ss. *Pollock* shipment, and on October 18, 1922, the council declared Davidson & Smith to be in default in the sum of $38,985.74. An action is now proceeding in the courts of Manitoba

for the recovery of this sum between the Bawlf Grain Company, the Washburn-Crosby Company and the secretary of the Winnipeg Grain Exchange as plaintiffs and the bonding company as defendants. In regard to this matter Smith stated before us that neither he nor his firm had anything whatsoever to do with the sampling or the inspection of the cargo in question by the Government inspector, and had not offered him any bribe or inducement to overgrade the shipment. As to the investigation held by the council of the Winnipeg Grain Exchange he stated that his firm had refused to submit to their jurisdiction and had taken the position that the matter was one for the courts to decide. He states his whole attitude in the matter to be that the Government inspector having issued a No. 3 Northern certificate for this wheat he is entitled to rely on this certificate as sufficient compliance with his firm's obligations under the contract. In view of the pending litigation which will finally determine the rights of all parties we deem it improper to comment more particularly on this incident in our report.

Incidentally to this matter of the ss. *Pollock* shipment a question was raised as to the present status of Davidson & Smith upon the Winnipeg Grain Exchange. The facts show that Smith is still a member in good standing of the Exchange, while the firm of Davidson & Smith did not renew their registration privileges after October 9, 1922. It is not stated, however, whether this failure to renew was due to their own act or to a refusal of renewal by the Exchange.

As to the standing of this firm as elevator licensees, the facts show that an application on their behalf for a renewal of their private elevator license was made to the Board of Grain Commissioners in September, 1922, that the Board, acting in the usual course, sent the firm a form of bond to be entered into by a bonding company, that the bond was never returned to the Board, and that the application was allowed to lapse. For some time during the crop season beginning September 1, 1922, the elevator was without a license. Finally it was leased by Davidson & Smith to the Inland Seas Company and a license was issued to that company on November 3, 1922.

Smith stated that he and his firm decided to withdraw from the elevator business at the head of the Lakes at this time because they felt that the Board of Grain Commissioners and the Winnipeg Grain Exchange were unfriendly to them.

Both Davidson and Smith are members of the Pacific Construction Company, which they control. It is important to bear this connection in mind, as will appear later. Smith has made Vancouver his home since November, 1923.

The above narrative will explain why it is alleged by Mr. Van Allen, and no doubt believed by many who follow the grain business closely, that any influence that might be exercised by J. R. Smith upon the members of the Harbour Commission or their officials is a harmful influence and likely to lead to trouble. It has appeared to us that without this review of the history of Davidson & Smith it would be difficult for a reader of this report to gain a proper knowledge of the matters involved in some of the eleven subjects of inquiry or even to understand clearly why the inquiry into such subjects was deemed necessary.

We shall now proceed to deal specifically with each of the various matters set out in the eleven paragraphs in question in the order of their numbering in Mr. Van Allen's statement.

> " (1) The circumstances of the installation and operation of the by-spout above referred to in Vancouver Harbour Commissioners' Elevator No. 1."

In the spring of 1923 the J. S. Metcalf Company, grain elevator engineers, having their head office at Montreal, were employed by the Vancouver Har-

bour Commissioners to design a storage addition (referred to by Mr. Van Allen as the "Annex") to Elevator No. 1, and at the same time to recommend and design certain improvement in the main building with a view to increasing its handling capacity. They prepared plans accordingly and sent J. W. Perrigo, one of their employees, a grain elevator designer, to Vancouver to deal with the matter. Among other things, the plans called for the installation of one pair of Carter disc machines used for separating wild oats from wheat. After a consultation between Perrigo and the Harbour Commissioners it was decided, upon the recommendation of Colin McLean, the superintendent of elevators recently appointed by the commissioners, to install two double disc machines instead of one pair. This decision seems to have been a reasonable one. It then became necessary to find a means to convey the grain to these machines to be cleaned. The nearest leg that could be used for this purpose was the receiving leg. Perrigo decided that the most practical thing to do was to install a by-spout into this receiving leg through which grain could be conveyed to the discs. Perrigo's intention was that grain should be so conveyed to the cleaners only after it had been weighed, and that when not in use for this legitimate purpose the by-spout should be kept locked. This plan so conceived by Perrigo was adopted and resulted in the installation of the spout which has been the subject of much public comment during the last few months and the rumours concerning which gave birth to the agitation which resulted in the holding of this investigation.

It is a fundamental rule in the loading of grain into storage elevators that every precaution must be taken to ensure the free passage of the grain from the receiving pit, into which it is emptied from the car, to the weighing scales, without the occurrence of any leakage or diversion, in order that the owner may receive proper weights and the elevator become responsible for all the grain actually unloaded from the car. No positive rule on the subject has been enacted in Canada, but it is a well recognized principle of elevator construction. We are told that in the state of Minnesota the legislature has gone so far as to provide for the placing of the scales directly under the car. This illustrates the importance of the principle involved and of the tendency to adopt the most drastic methods, when necessary, in order to remove even the possibility of its violation.

Such being the case, the proposed by-spout was, in Perrigo's own language, an unusual thing in elevators, and before definitely making it a part of the design he wished to have the idea sanctioned, at least, he says, by Colin McLean, the superintendent of elevators. McLean approved of the proposal. It happened at the time that Mr. J. G. White, the chief weightmaster to the Board of Grain Commissioners was in Vancouver on business connected with the elevator; Perrigo believes that he explained his design to White and obtained his approval to the by-spout being installed on the condition that it be provided with a lock, so that it could not be used without the knowledge and supervision of the Government weighman. However, Perrigo's recollection is not clear. He cannot recall any particular conversation he had with White. He has merely a general impression that he did obtain White's sanction and he feels that without such sanction he would not have authorized the installation on account of its unusual character which he well understood. White is positive that he did not approve of the installation of the by-spout. It is admitted that Perrigo and White did meet and did discuss elevator plans, but White says the plans discussed were the plans of the new elevator, known as Elevator No. 2. White says that in regard to this elevator Perrigo did mention to him that he wanted to use a spout to one of the receiving legs whereupon White says he reminded him that where government weighing was to be carried on there should be no means of diverting grain between the car and the scales. He says

he told Perrigo his proposed installation would not be satisfactory. A great deal of evidence was given in corroboration of the version given by Perrigo and, on the other hand, of that given by White as to what occurred between them. It will be needless to go further into such evidence for it may be said that both White and Perrigo seem to have acted in good faith. White in his evidence, expressed the opinion that the controversy as to the facts arises out of a misunderstanding between himself on the one hand and Perrigo and McLean on the other.

In any event, Perrigo, who acted on behalf of J. S. Metcalf and Company, accepted the full responsibility for having, conceived the idea of this spout prepared its design and handed a plan of it to the contractors, the Pacific Construction Company, who were carrying out part of the reconditioning of this Elevator No. 1. The Pacific Construction Company is the company in which the principal interest is held by Davidson and Smith. The actual installation of the by-spout was made by sub-contractors, J. E. Tacey and Sons, metal workers of Vancouver.

The suggestion underlying Mr. Van Allen's statement regarding this spout was that its installation was instigated, presumably for an improper purpose, by Davidson and Smith. It is alleged that the Pacific Construction Company, controlled by Davidson and Smith, are in charge of the work, and that the only other by-spout of a character similar to the one in question was " discovered " by the chief weighmaster in 1915 in the Davidson and Smith elevator at Fort William. The facts show that the word "discovered" so used is misleading as it conveys the idea that the by-spout in the Davidson and Smith elevator was introduced surreptitiously, in a manner which would indicate a guilty intention, and that the chief weighmaster came across it by chance or as a result of an investigation prompted by suspicion. The chief weighmaster himself told us that the by-spout in the Davidson and Smith elevator was put in as part of the original construction of the elevator, that Smith himself drew attention to it, questioning him about it because he knew it was not " according to Hoyle " (in the language used), and discussing with White how it might be used so that its use might be controlled and the danger of misuse removed. White said that, considering that the spout was already in, he decided to leave it where it was, provided it was locked and sealed and the key given to the weighman so that it could not be used without his knowledge. He sanctioned its use with these restrictions; it was so used for a period of years, and he never had occasion to withdraw his sanction to its use. It should be added that the by-spout in the Davidson and Smith elevator is the only one of its kind at the head of the lakes.

Perrigo left Vancouver before the work of the installation was commenced and before leaving he handed to the contractors a sketch of the installation which was put in evidence and which shows clearly that provision was made by Perrigo for a padlock. The installation of the spout was completed by J. E. Tacey & Sons, on October 23, 1923, but when the elevator was visited by John Hollingshead, Assistant Chief Weighmaster on November 5, 1923, the hole had not yet been bored in the slide and frame for a lock, as will appear more fully later.

According to Chief Weighmaster White's recollection the first he heard of the existence of the by-spout was on October 31, 1923, when he received a letter dated October 31, 1923, from L. J. Lamoreaux, at that time a Government weighman in the elevator, calling his attention to the fact that the by-spout had been constructed, pointing out the danger of its mis-use and suggesting that the danger be removed by attaching a lock to shut off the spout. White immediately sent Hollinghead, his assistant, to Vancouver to look into the matter mentioned

by Lamoreaux (as well as some other important matters regarding the staff which required attention), and to use his own discretion in dealing with the case.

Hollingshead arrived in Vancouver on November 5, and examined the situation. He found the by-spout installed as described by Lamoreaux and he noticed that the necessary work had not been done to provide for the placing of the padlock required by Perrigo's sketch. It appears that the drill required for this work was being used by the metal workers for some other purpose. We feel bound to say that this delay in having the by-spout properly equipped for the padlock should not have been allowed to occur, and has not been explained satisfactorily to us. It was a very essential part of Perrigo's plan; in fact it was the only thing that rendered the plan at all acceptable, and this was well known to Superintendent McLean. The failure to furnish immediately the means of locking this by-spout was almost certain to create suspicion, and it did in fact, alarm Weighman Lamoreaux and prompt his letter to the Chief Weighmaster. According to Mr. McLean's own evidence, the actual time required to do the necessary drilling in the slide and frame was only a few minutes. Instead of being done at once this work was left undone for a period of nearly two weeks (until Hollingshead arrived), during which time the by-spout was capable of being used, and was in fact used, to convey grain.

Hollingshead insisted that the necessary boring be done at once. It was completed in his presence and a lock and key provided by the weighing department, the keys being carried by the weighman to whom application must be made each time it is desired to use the spout. From that time on, the use of the by-spout, thus guarded, was sanctioned by the chief weighmaster.

Later on, about April 1924, Superintendent McLean, in order, he says, to put an end to the talk and controversy going on in the country about this by-spout, had it disconnected from the receiving leg by cutting out a section of the spout. This operation, however, does not entirely prevent the use of the spout, as it may still be re-connected by use of a " telescopic " section. It is merely a precaution added to the lock and key.

As to the use made of the by-spout up to the time Hollingshead's visit, or since then, all suggestion of mis-use is strongly disclaimed by Superintendent McLean. Weighman Lamoreaux, in his letter to the chief weighmaster regarding the by-spout says: " I feel quite satisfied that same has not been used for an illegal purpose, but the situation is potential." And he suggested the lock. W. H. Mackenrot, the senior Government weighman in charge of the elevator says that he is quite satisfied from his own observation that no wrongful use was ever made of this by-spout.

The conclusions we draw from all the evidence adduced before us on this subject are as follows:—

(1) There is no evidence that the construction or installation of this by-spout was inspired by Davidson or Smith or by any person connected with them or with the Pacific Construction Company. On the contrary, J. S. Metcalf & Company's expert, J. W. Perrigo, states that the idea was his own, and he accepts full responsibility for it.

(2) There is no evidence that any illicit use was ever made of this by-spout.

(3) As this by-spout is at present safeguarded and controlled the weighing department is satisfied that no illicit use of it need be apprehended.

Notwithstanding the above conclusions which, in our opinion are the only ones that can be drawn from the evidence, we believe it necessary to recommend in the interest of all concerned, including the owners of the elevator and the shippers of grain, that this by-spout be removed entirely from the elevator. In

lieu of the practice now followed in connectioin with the Carter Disc machines provision should be made at once whereby no grain can possibly be conveyed to the machines except grain which has been weighed into the elevator and which has not been weighed out on its way to a vessel for loading. Further, we are of opinion that positive rules should be enacted making it impossible for such installations, with their consequent perils and suspicions, to be placed in any storage elevator operated under the Canada Grain Act. In case of the by-spout in question, there will, of course, be some inconvenience and expense entailed in making the necessary changes, but we have on this point the evidence of C. D. Howe, grain elevator engineer, who designed the elevator when it was first constructed and who is familiar with its present condition, who tells us that the necessary changes can be made for an expenditure of about $1,500. Mr. Howe explained the structural and other alterations necessary, the whole of which is set out in his evidence so that it is unnecessary for us to enter into a description of these matters here. We need only say that we are convinced of the practicability of Mr. Howe's plan and strongly recommend that the change be made and the general rule enacted as above set out, with the least possible delay.

"(2) The administration and operation of the said elevator with particular regard to,—

"(*a*) the personnel of the management and staff;
"(*b*) the receipts and shipments of various grades;
"(*c*) weighing in and out;
"(*d*) inspection in and out;
"(*e*) need of Survey Board at Vancouver."

Clause (*a*) of this head brings us again to the question of the influence suspected to be exercised by Davidson & Smith upon the members of the Vancouver Harbour Commission. It also questions the character of some at least of the principal officials employed in the Commissioners' elevators. It will be appropriate in the first place to deal with Colin McLean, Superintendent of Elevators. Mr. Van Allen, in the statement filed by him, deals with McLean as a former employee of Davidson & Smith at Fort William. After setting out the facts, as they were known to him, in regard to the case of the ss. *Pollock*, he states that according to his information "Davidson & Smith's elevator superintendent at that time, one McLean, is now in charge of No. 1 elevator." During the course of the inquiry Mr. Van Allen asked to have it noted that this statement regarding McLean was inaccurate. McLean was not at that time and never was superintendent of the elevator in question. The superintendent then in charge was one Gale, now said to be residing in Toronto, with whom we are not at all concerned.

McLean began his experience in the grain business as a grain trimmer. He was at one time head trimmer (in charge of loading) at the Government elevator at Port Arthur. During the season of 1916 he took contracts for loading grain vessels. From 1918 to early in 1923 he was employed by the Canadian Feed and Manufacturing Company, and from then on until he left Fort William for Vancouver at the end of June, he was employed by B. J. Ostrander & Co. During these five years he was superintendent of an inland private elevator doing a feed business principally. He was never at any time in charge of a waterfront terminal, either public or private, carrying on the sort of business that is carried on at the Harbour Commissioners elevator here. Nevertheless his application for employment to the Vancouver Harbour Commissioners was accompanied by testimonials as to his efficiency, ability and integrity from J. P. Jones, a former member of the Board of Grain Commissioners and now General Manager of the Inland Seas Elevator Company, F. Symes, Government Inspector of Grain in charge at the head of the lakes, S. G. Seagal, Harbour

Master, and Mayor Newton Edmeston, all of Fort William, and each personally acquainted with him for at least ten years. The Harbour Commissioners advertised extensively for applications to fill the position of Superintendent of Government Elevators. They received over seventy applications and selected McLean out of the number on the strength of his record as above and of the aforesaid testimonials.

J. R. Smith was a shareholder of the Canadian Feed Manufacturing Company and the B. J. Ostrander Company, by whom McLean was employed for some time, and he and McLean were well acquainted during the time they resided in Fort William. McLean says that after he had sent in his application to the Vancouver Harbour Commissioners he saw Smith in Fort William, told him of having made the application and discussed conditions in Vancouver with him. Smith, he says, had just returned from a trip to Vancouver at that time. Smith, McLean, and each of the members of the Vancouver Harbour Commission swear positively that Smith had nothing whatever to do directly or indirectly by way of recommendation or otherwise, with securing McLean's appointment, and we have no other evidence on the point. Mr. Beattie, of the Harbour Commission, who had the most to do with McLean's appointment, could not offer any cogent reason for the selection made of Mr. McLean over all the other competitors, some of whom, on the face of their applications appeared more readily qualified by their past experience for the position to be filled. Mr. Beattie was cross-examined closely on this point in a manner which indicated that the fact of Mr. McLean's selection having been made under the circumstances, was sufficient in itself to create the suspicion that some influence had been exercised in his favour. But notwithstanding this cross-examination the evidence remains as above stated, and we can find no evidence at all to justify a finding that Smith did in fact, influence the appointment. Nor can we find anything in McLean's past record which would tend to discredit him. No doubt McLean suffered in this regard from the wrong impression which prevailed, and which was embodied in Mr. Van Allen's statement, that he had been Superintendent in Charge of the Davidson & Smith elevator out of which the cargo was loaded in the case of the ss. *Pollock*, and therefore probably involved in any wrong-doing suspected to have occurred on that occasion. Upon the production of the real facts of this case at the inquiry, Mr. Van Allen was the first to state that an injustice had been done to Mr. McLean.

As to McLean's record since he was placed in charge of the elevators here, there is no doubt that he has spared neither his time nor his energy in supervising the handling and shipping of a volume of grain so great as to impose a heavy task on himself and on those employed under him, having regard to the facilities at their disposal and the disadvantages under which they were compelled to labour. Tributes to the efficiency of McLean and his assistants were expressed to us by representatives of the grain trade in Vancouver.

We state this, however, subject to certain remarks we shall have to make later on regarding various matters having to do with the administration of the elevators, such as the receipts and the shipments and the issuing and cancelling of warehouse receipts. We shall also find it necesary to comment upon McLean's relations with J. R. Smith in connection with the operation of the elevators under his charge.

We shall next deal with the case of H. S. Penfold, assistant, under Mr. McLean, as superintendent of Elevator No. 1, which includes the new annex to that building. Penfold's experience in the grain elevator business began in 1913 when he secured employment as a government weighman. He retained this position for one year and during part of that time was stationed in Davidson & Smith's elevator at Fort William. It was while Penfold was employed in this elevator that the incident of the ss. *Curry* occurred, and he is the weighman

who was suspended from the service for one month by Chief Inspector White, under the circumstances set out earlier in this report. These circumstances indicate that he had not been considered guilty of any wilful misconduct. From 1915 to 1917 he was employed by Davidson & Smith in their elevator at Fort William. He then went overseas for military service. Upon his return in 1919 he re-entered the service of Davidson & Smith at their elevator and remained with them until 1922. During the period of his employment with Davidson & Smith he was, at different times, house weighman, assistant superintendent and office worker. From 1922 until he came to Vancouver, Penfold was employed by the Inland Seas Elevator Company.

In so far as Penfold's past record is concerned the only thing that can be said against it, is the fact that he was suspended for one month upon the occasion in question in 1914. Under all the circumstances we believe that this one incident should not be allowed to stand in the way of his employment to-day. He was selected by McLean for the position he now holds in Vancouver from a list of applicants handed to McLean by the Vancouver Harbour Commissioners, to be dealt with by him. According to both McLean and Penfold, McLean did not know of Penfold's application for the position and did not suggest it to him.

Penfold was, of course, well acquainted with J. R. Smith. He says that about three weeks after having forwarded his application for employment to the Vancouver Harbour Commissioners he saw Smith in Fort William and asked and received his opinion about Vancouver and the advisability of coming here to work. He states, however, that he did not ask Smith to use any influence to have him appointed. Smith also swears that he had nothing to do with Penfold's appointment by way of recommendation or otherwise.

Penfold's record in the elevator here seems to have been satisfactory.

We now come to Sam King. King is assistant to McLean as superintendent on No. 3 Elevator. He was placed in this position by McLean. For some time before the war King was accountant in Davidson & Smith's elevator at Fort William. On his return from the front in 1918 or 1919 and down to the time he came to Vancouver in the summer of 1923, King was employed as book-keeper and office manager in the B. J. Ostrander & Company's feed elevator where McLean was superintendent. There is no evidence that Smith had anything to do with his appointment. Nothing was said in evidence against his efficiency or integrity in the past or in his present position.

Teddy Hamilton, house weighman in No. 1 Elevator, and Joseph Smith, night foreman in the same house, were both employed by Davidson & Smith at some time in the past. There is no evidence, however, that Smith had anything to do with their employment here, nor was anything discreditable alleged against them personally.

Finally we will deal with the case of W. R. Biernes, at present employed as house inspector by McLean. This case presents much more serious features than the others. Biernes was the Government inspector in the Davidson & Smith elevator at Fort William when the ss. *Pollock* incident occurred in 1922, and he is the inspector referred to in our statement of the facts in the *Pollock* case who was dismissed from the Government service after the Board of Grain Commissioners had investigated the case and given him full opportunity to explain his actions. Smith recommended Biernes to McLean for his present position. McLean admits this but says he did not need Smith's recommendation as he had himself known Biernes for fifteen years and had confidence in his fitness for the position. Nevertheless McLean admits that he knew of Biernes' trouble in the *Pollock* case and knew that he had been dismissed from the service of the Government. In the face of this he brought him from Ontario to fill his present position and did not disclose to the Harbour Commissioners the knowledge which he had regarding Biernes' record. McLean's position in the matter

seems to be that he had confidence in Biernes despite his trouble and was anxious to give him another chance.

There is nothing to be said apparently against Biernes' work in his present position and it may be that his conduct in the *Pollock* case was attributable to negligence rather than fraud. Therefore we do not care to go so far as to suggest that he be dismissed, but it does appear to us that, to say the least, McLean did not act with all due candour towards the Harbour Commissioners when he took Biernes into their employ without making full disclosures to them of all the facts concerning him.

We believe we have now come to the point where we can best deal with the question of the influence said to be exercised by Davidson & Smith, or more properly, by J. R. Smith, upon the members of the Vancouver Harbour Commission and upon Superintendent McLean.

In so far as Chairman Kirkpatrick and Commissioner Prenter are concerned, neither of them appear to have any acquaintance with Smith up to a very recent date, and it seems evident that neither of them did at any time act, to his own knowledge at least, under any influence exercised by Smith. On the other hand Commissioner Beattie had known Smith for twenty-four years. He says he had faith in his knowledge and judgment as a grain man and an elevator operator. Commissioner Beattie has always given his special attention, as Commissioner, to the handling of grain and the management of the elevators. He said that he has discussed such matters with Smith, and that on one occasion when he was leaving the city himself for some time and both the other commissioners happened to be away, he asked Smith to see McLean, to advise him, and to assist him in his difficulties. Ever since McLean took charge of the elevators, Smith has been his adviser. They meet frequently to discuss elevator business. Smith says he does this in order to assist McLean, also because his connection with the Pacific Construction Company takes him down to the harbour and to the vicinity of the elevators frequently; and he does it moreover in order to keep in touch with the elevator business, because, he says, he expects to go back into this business some day in Vancouver. McLean says that he began consulting Smith when he came here because he had known him for a long time and he did not know anybody else in Vancouver to whom he could go for advice. He repudiates the suggestion that he has placed himself in any way under the control or direction of Smith or has allowed himself at any time to be influenced by him in an improper manner. Smith, of course, has had many years experience in the grain business. Among other things, he was technical adviser to the Grain Commission appointed by the Dominion Government.

There is no evidence of any specific evil having occurred as a result of this close connection between Smith and McLean or Smith and Commissioner Beattie. Under the circumstances such evidence could only have come to us in the form of admissions, and we have none. It may very well be the case, as stated, that Smith has devoted his services out of a willingness to oblige and because of his desire to keep in touch with the grain business. We have only the evidence of the parties themselves on this point. When asked to give an instance of the character of the matters discussed between himself and McLean, Smith mentioned that McLean had consulted him about the advisability of running three shifts of men in the elevators, about payment for overtime, etc.

Whatever the facts may be there can be no doubt that the close relationship in question has given rise to a feeling of dissatisfaction and uneasiness in many quarters and has had a great deal to do with creating the demand for this investigation. Our experience has shown us that the business of a terminal elevator, and particularly of a publicly-owned elevator, is one that is closely watched and sharply questioned. Even if nothing more serious were to result

from such a connection as that which has been established between Smith and McLean, there can be no doubt that others engaged in the grain trade would resent a connection of this sort between the management of the elevator with which they are obliged to deal and one particular person, himself a member or a prospective member of the trade. Anything which would foster such a feeling ought to be avoided. We submit these considerations to the attention of all concerned.

"(*b*) The receipts and shipments of the various grades.
"(*c*) Weighing in and out.
"(*d*) Inspection in and inspection out.
"(*e*) Need of a Survey Board at Vancouver, etc."

It has been found convenient to bracket these four topics together as they are closely related.

Mr. Van Allen in his statement at Winnipeg, quoted figures obtained from the Board of Grain Commissioners relative to the handling of grain in the Vancouver elevator, which showed that between August 31, 1923, and March 7, 1924, that elevator shipped 232,252 bushels of One Northern in excess of receipts, after taking into account the grain of that trade in store at the commencement of the period in question. He also reported that the weekly stock reports filed with the Board of Grain Commissioners showed shipments of 160,024 bushels in excess of receipts. Mr. Van Allen pointed out that no explanation had been given for this disagreement and interpreted these figures, if correct, to mean that the mixing of grades of grain was being carried on in the Vancouver elevator, a practice prohibited by the Canada Grain Act.

We wish to point out, however, that such a discrepancy, if correct, does not necessarily mean that grades of grain have been mixed in this elevator. Mixing grades might account for an excess of shipments over receipts in this grade but an excess of shipments over receipts might also be possible through the accumulation of an overage due to cargoes of grain being shipped out containing dockage. The evidence of William Crawford, inspector at No. 1 elevator, is that cargoes of grain were shipped out containing from $1\frac{1}{4}$ to $1\frac{1}{2}$ per cent dockage. It is the practice of the inspectors grading grain into vessels to allow the contract grades to carry dockage up to 1 per cent and the commercial grades up to 2 per cent. Mr. Crawford expressed the opinion that the amount of dockage on grain shipped from Vancouver was no greater than on grain shipped from other ports. He did not know of any mixing at the Vancouver Harbour elevator and did not think that any had been done.

We have been unable to clear up the discrepancy between the figures of the Board of Grain Commissioners and those submitted by Mr. McLean, Superintendent of the Vancouver Harbour elevators. The totals submitted by Mr. McLean show practically an equality between the receipts and shipments of No. 1 Northern, but they do not check with those compiled by the statistician of the Board of Grain Commissioners based on the weekly reports submitted to the Board by the Harbour Commissioners. During the course of the inquiry here various attempts were made to bring these figures into agreement by the officials of the elevator and the officials of the Board of Grain Commissioners who were present. This they proved unable to do. After the close of the public sittings D. D. Young, technical adviser with the Commission, made further efforts, but reports on this date (June 18) that he cannot account for the discrepancy.

In view of this discrepancy it was suggested to us that a weigh-up of the house should be made, but this was deemed impracticable since the elevator contained considerable grain that had not been cleaned, and, particularly in

view of the heavy volume of grain passing through the elevators to vessels. It was feared that such a weigh-up would take at least a week, it might cause a serious and expensive tie-up of the port, with an embargo on shipments from Alberta and loss to the farmers and grain handling interests.

In view of all these facts and the impossibility of waiting here until the tangle is straightened out, we respectfully submit that this discrepancy should be investigated and pursued further by the proper officials of the Board of Grain Commissioners. W are assured by the chief weighmaster, Mr. White, that the reason for the discrepancy can be determined just as correctly at the time of the annual weigh-up at the end of July as it could if a special weigh-up had been made at the present time.

The rules and regulations established by the Board of Grain Commissioners governing the registration of terminal warehouse receipts provide that a warehouse receipt shall be issued for each individual carload lot or parcel of grain to the party entitled to receive it but that this receipt before being delivered to the party entitled to receive it shall be tendered by the warehouseman to the deputy registrar for registration. When a holder of this warehouse receipt wishes to ship the grain he surrenders his warehouse receipt to the warehouseman and when any grain is delivered or shipped the operator of the elevator tenders warehouse receipts to the deputy registrar for "registration for cancellation" to cover the shipment or delivery made both as to quantity and grade. The main idea behind the registration and cancellation of warehouse receipts is to protect the owner of the grain, to ensure that there is actually in the elevator the grain equal in quantity and grade to the outstanding warehouse receipts.

For a short time this spring the Vancouver Harbour Commissioners refused to register or cancel their warehouse receipts with the Deputy Registrar of the Board of Grain Commissioners. We are now assured, however, that the Vancouver Harbour Commissioners recognize the jurisdiction of the Board of Grain Commissioners in this respect and that there is now no question of the warehouse receipts of the Vancouver Harbour Commissioners elevators being duly registered and presented for cancellation.

There has grown up, however, at the port of Vancouver, a practice of shipping cargoes of grain out of the elevators on the surrender by shippers of the bills of lading for cars of grain, accompanied by the freight upon the car and a letter of indemnity from the exporter to the Harbour Commissioners for any loss to the Commissioners arising as a result of this practice. In certain instances exporters have been required to obtain a letter from their bank guaranteeing their letter of indemnity. The elevator then ships out grain from the stocks in store and when all the cars have been received which were to apply on that particular shipment out, the Superintendent of the elevator makes his cancellation of warehouse receipts for that shipment. This practice is undoubtedly an irregular practice, but has developed as a result of the immense demands made upon the port in relationship to the relatively small storage capacity. The grain trade are unanimous that this has helped out the situation by way of obtaining dispatch in making shipments and preventing a possible tie-up of the port. In view of the circumstances, while what has occurred cannot be condemned, it is clear that the practice presents elements of danger when carried to great lengths. It was reported to us during the course of the sittings that shipments had been made covering in round numbers 12,500,000 bushels of grain for which warehouse receipts had not been presented to the deputy-registrar for cancellation. Since our arrival here at our instance an attempt has been made by the elevator officials to reduce the amount of the warehouse receipts outstanding for cancellation. It is reported to us that the situation now is (June 18) that there are 974,601 bushels of shipments, prior to the

first of June for which warehouse receipts have not been presented for cancellation to the deputy registrar. Also that during the month of June up to June 18, there has been shipped from Vancouver 1,955,151 bushels and that against these shipments there has been cancelled 419,278 bushels, leaving a balance of 1,535,873 bushels of June shipments not yet cancelled. Giving all consideration to the difficulties attending shipment through Vancouver on account of insufficient storage and cleaning facilities we do not think there is any good reason why such an amount (12,500,000 bushels) of outstanding warehouse receipts for cancellation should have been allowed to accumulate. It would appear that the staff in the office of the Superintendent of Elevators is either not large enough to cope with the work or is not competent. If it be necessary for the practice to be allowed to continue until larger facilities, now in course of construction, are available at Vancouver, it should be very closely watched. Cancellations should be made as promptly as the flow of grain into the elevator will allow. On the question of grain received into the elevator and the issuing of warehouse receipts we found an undesirable condition to exist regarding the sweepings of grain out of unloaded cars and off the premises in and around the receiving bin. We found that the Superintendent of elevators had adopted the practice of appropriating this grain, storing it in the elevator and issuing warehouse receipts for it. He did this on the assumption that he was entitled to take this grain over and deal with it as if it were the property of the elevator, that is, of the Vancouver Harbour Commissioners. Five warehouse receipts amounting in all to over 1,600 bushels were issued in this fashion. One of these receipts for over 400 bushels was given by the superintendent to the Chief of the Harbour Police with instructions to sell the same and pay the proceeds to certain people whom he was employing to do detective work in the detection of pilferers of grain which had accumulated in this very manner.

This manner of handling grain sweepings cannot be justified. In the first place the unloading of the shippers' car should be a thorough unloading and the unloaded car should not contain sweepings of any value. Similarly every precaution should be taken to avoid waste through leaks and spills. If, after taking all due precautions in the interests of the shippers, it is found that any grain remains, the owner of which cannot be identified, such grain should be dealt with by the elevator management so as to be accounted for as part of their overage, under section 95(7) of the Canada Grain Act. No warehouse receipts should be issued or registered for such grain as was done in the cases referred to before us.

On this question of weighing and shipping, we wish to call attention to some evidence we received at the sittings on May 19, regarding a certain turntable spout in the Annex to No. 1 Elevator, used for spouting grain which has been weighed and is on its way to the ship. In referring to this matter we do not do so out of a desire to visit censure upon anybody. It is apparent from the independent expert evidence submitted that the irregularity which exists in the installation and working of this spout is due merely to the error of a draughtsman in the office of the J. S. Metcalf & Company at Montreal. Under the present system of operating this turntable, it is still possible, despite the precautions instituted by the elevator management, to divert grain after it has been weighed for shipment and to re-elevate into the elevator. We have already shown in dealing with paragraph (1) why every possibility of such a diversion should be removed. We may refer here to Rule 8 of the rules relating to the duties of weighmen issued by the Board of Grain Commissioners, both the spirit and letter of which should always be observed in the strictest fashion. And this rule should be expanded, if necessary, in order to cover all cases where its evident intention may be defeated. Chief Weighmaster White gave evidence on this

question and he recommended that provision should be made to have the spout locked in place when used to furnish a particular belt in such a manner as to be under the control and supervision of the weighman. This recommendation should be acted upon at once.

The need of a Survey Board at Vancouver has been strongly urged. At present grain going west is sampled at Edmonton and Calgary. Grain shipped, however, from points west of these two cities is graded on its delivery to the elevator at Vancouver by the inspector there. In the case of Calgary and Edmonton inspections, if the owner of the grain is dissatisfied with the grade he receives on a car he can apply for a survey and can call for a fresh sample to be drawn from his car if it has not been delivered at the terminal elevator and the identity of the grain lost. The owners of grain shipped to Vancouver from points west of Calgary or Edmonton have commonly no recourse for the identity of the grain is lost before they learn the grade placed upon their grain.

When a survey is called upon grain going to Vancouver and inspected at Edmonton or Calgary that survey takes place at Calgary. If a new sample is required this is drawn at Vancouver and sent back to Calgary. In the meantime the identity of the grain must be kept. A similar situatioin exists in respect to grain being received at the head of the lakes, the survey taking place at Winnipeg. The Commission has also before it a request for the establishment of a Survey Board at the head of the lakes.

In view of the fact that the whole position and value of Survey Boards are up for consideration and review before the main commission we do not think we should make any recommendation concerning Vancouver at the present time. The whole policy of having Survey Boards and their location will be considered at a later date and Vancouver's needs receive full consideration.

The same considerations apply to the recommendation made by Mr. Farris for the appointment of a member of the Board of Grain Commissioners with residence at Vancouver.

"(3) The contracts pursuant to which the annex to Elevator No. 1 and Elevator No. 2 have been or are being constructed."

In so far as the building of No. 2 Elevator is concerned we were informed by Mr. Van Allen that this contract had been referred to by him in error. The contractors are the Northern Construction Company, and in the opinion of the counsel no investigation was necessary.

Regarding the Annex to Elevator No. 1 we find that two contracts were let by the Vancouver Harbour Commissioners to the Pacific Construction Company. The first of these contracts was for the foundation and was awarded to them as lowest tenderers on a call for tenders issued by the Commission. The estimate for the work was $55,000 and the contract price was $42,807. The second contract was for the building of the superstructure. No tenders were taken for this contract but it was awarded to the Pacific Construction Company for a fixed fee of $35,000, arrived at on a cost plus 10 per cent basis, the estimated expenditure having first been placed at $350,000, which figure was raised later to $359,000. In addition to this fee of $35,000 the contractors were also to receive a fee of 10 per cent on all extras performed by them upon instructions. It was explained to us that the Harbour Commissioners found it necessary to let this contract for the superstructure on a cost plus 10 per cent basis on account of the exigencies of the situation. We are told that all possible delay had to be avoided in order to have the required facilities ready for the beginning of the grain shipping season. The work on the foundation was proceeded with in advance of the superstructure drawings being prepared. Then the arrangement made with the Pacific Construction Company enabled the superstructure work to proceed before the foundation was completed and also obviated the delay

necessary to call for tenders. It should be noted that the contract required the Pacific Construction Company to advertise for competitive tenders for all materials and equipment required for the superstructure contract. And these tenders were submitted to the Commissioners' engineers and their acceptance approved by them. No evidence was submitted to show that tenders might have been called for for the building of the superstructure, or that any other more advantageous contract might have been made. And the above being all the evidence we have, we do not feel called upon to comment unfavourably on the arrangement made between the Harbour Commissioners and the Pacific Construction Company. The contract for the superstructure was estimated to cost $359,000, but the actual expenditure ran up to $504,000—a difference of $145,000, or about 40 per cent. The estimate was prepared by J. S. Metcalf & Company. E. F. Carter, their engineer, explained that, all things considered, a considerable over-expenditure was to be expected, but he appeared to think that the excess was comparatively large notwithstanding the adverse conditions. We were not asked to proceed further or more particularly with this phase of the matter.

On this contract the Pacific Construction Co. were paid their fee of $35,000 plus $1,500 for extras. In addition to these payments they have put in a claim of approximately $10,000 for extras on the superstructure and one for approximately $15,000 for extras on the foundation. The Harbour Commissioners dispute both these claims and they are now being held up subject to arbitration or litigation.

"(4) The connection, if any, between Davidson & Smith or Davidson & Smith and the Pacific Construction Company."

Davidson & Smith have equal interests in this company, and between them they own the majority of its shares and thereby control the company.

"(5) The contractural relations, if any, between the Pacific Construction Company and the Vancouver Harbour Commissioners."

The Pacific Construction Company hold, or have held, the following contracts:—

(1) The construction of the Annex to No. 1 Elevator.
(2) Part of the re-conditioning of the original building of No. 1 Elevator.
(3) The completion of the construction of No. 3 Elevator.

"(6) The proposed increase in cargo rates on grain at Vancouver."

We disposed of this matter on June 4, 1924, and communications were sent to the Minister of Trade and Commerce and the Minister of Marine and Fisheries.

"(7) The circumstances of the construction of the Woodward elevator and the contract between the Vancouver Harbour Commissioners and the lessees of the said elevator."

Woodward & Company, Limited, originally bought the land from private parties and proceeded to erect thereon a small elevator designed to be used as a private house for mixing grain. Finally they encountered financial difficulties and negotiations were opened up between Woodward and the Board of Harbour Commissioners. These negotiations eventuated in an agreement which was ratified by Order in Council passed at Ottawa on September 22, 1923. This agreement provided:—

(1) That the Harbour Commissioners would purchase from Woodward & Company, Limited, the site of the Woodward elevator at the same price as that

paid by Woodward & Company, Limited, i.e., $94,000 plus an amount to be allowed for accrued interest and taxes.

(2) The Harbour Commissioners were to construct a pier or wharf on this property and do the necessary dredging to allow vessels to berth there, at an inclusive approximate cost of $125,000.

(3) The Harbour Commissioners were then to lease the property to Woodward & Company for a period of twenty-one years with provision for two renewals for two like periods.

(4) Woodward & Company, Limited, were to build on the property a modern grain elevator at a cost of not less than $285,000 with a work-house capacity of 150 to 160 thousand bushels and machinery capable of elevating 280,000 bushels per ten hour day, and under its lease were to maintain the pier or wharf and the elevator in first-class condition to the satisfaction of the Harbour Commissioners.

(5) Woodward & Company, Limited, were to pay annually in advance to the Harbour Commissioners a rental equal to 5½ per cent of the amount expended by the Harbour Commissioners on the purchase and improvement of the property, and in addition to such rent, were also to pay to the Commissioners, in equal annual amounts, for a sinking fund, a sufficient percentage on the Commissioners' investment, to liquidate the amount of the investment in twenty-one years from the date of the lease.

(6) Cargo rates paid by the company on grain shipped over the pier or wharf were to be credited annually to the company, to the amount of the proportion of rental payable on the cost of wharf and dredging.

(7) The company was to pay all insurance premiums for adequate protection and also to pay all taxes properly chargeable against the property.

(8) The Harbour Commissioners' investment was to be secured by the property (including all erections and improvements thereon) and provision was to be made whereby the Commissioners might take over the property at any time on fair terms. In case of default by the company, all improvements made by them were to become the Harbour Commissioners' without compensation.

(9) The elevator was to be operated as a public terminal elevator.

The Order in Council provided for an advance from the Minister of Marine and Fisheries, not to exceed $225,000, to carry the agreement into effect.

Woodward & Company, Limited, were unable to finance to its completion the building of the elevator, and work was stopped with the completion of a working house but without the provision of any storage accommodation. Later the building was looked over by Jas. Richardson & Sons, the United Grain Growers' Grain Company, Limited, and the Alberta Pacific Elevator Company, with a view to taking over Woodward's lease. The United Grain Growers' Grain Company, Limited, entered into tentative arrangements.

On November 16, the Harbour Commissioners instructed the John S. Metcalf Company, Limited, designing and constructing engineers, to report to them on the Woodward elevator concerning its " construction, life and capacity as a shipping house, as well as on general features; also considerations of insurance and the serviceability of the house as a public elevator."

They reported on November 24, that " in general the house is of a well-balanced design for the purpose intended (i.e., a private house), to serve a half million storage capacity or less and to ship out by one conveyor belt."

With respect to its operation as a public terminal elevator, they pointed out the elevator consists of a timber house with concrete foundations or piles. They reported:—

> " That fire destruction possibility is great, is indicated by the insurance rate, which the British Columbia underwriters state to be about $2.50 per $100 for the Woodward type elevator, as compared to 25 cents to 30 cents per $100 for the modern concrete type.

"It may be allowable to use timber in the construction of a private elevator, to keep down the first cost, and where quick returns may be anticipated to offset the high cost of insurance cover and the risk of loss of operation facilities. It should be stressed that although insurance may be carried to cover the major part of risk of loss by fire (and such losses are very many times total), the fire would result in the additional loss for a season of the use of storage and shipping facilities. So far as the general practice is concerned, timber elevators are obsolete for public elevator installations, for this reason alone."

Other undesirable features if the elevator were to be run entirely as a public house, were pointed out:—

(1) The full capacity of receiving and shipping could not be carried on simultaneously. To operate it satisfactorily would require an extension of the present working house.

(2) The track hoppers at the Woodward house were only 1,200 bushels, which would hamper fast working service; many cars now contain 2,000 bushels.

(3) Scale weights are rarely as accurate in a wooden type of house on account of "swaying" of the cupola under different conditions of loading. "This added to the timber support throughout gives uncertainty as to scale adjustment and accuracy of the weights as issued."

In general they reported:—

"The Woodward elevator site has excellent trackage facilities, which strongly recommend it; in our opinion the house is suitable for a profitable private house, but not for profitable use as a public house. Except at considerable cost there could not be obtained any great increase in shipping facilities. The same or similar investment made in providing additional concrete storage behind the rapid handling facilities which are under way for both elevators No. 1 and 2, would, in the present state of affairs make a much better return in service to the port as a whole, and also in cost of operation."

The United Grain Growers, after an expert had reported to them on the plant, withdrew from negotiations on the 16th of December, 1923.

In December, K. A. Blatchford, of Edmonton, came to Vancouver. He met Commissioners Beattie and Prenter and discussed the acquisition of the Woodward elevator. During the negotiations he also met Mr. J. R. Smith, of Davidson & Smith. He did not negotiate with Smith but asked him about the house. Smith said he thought it a good elevator to get a hold of for a small business, but not suited for a big turnover. In January he met the Harbour Commissioners and due to his representations the Commissioners entered into negotiations with the Agent acting for Woodward & Company.

On January 30, 1924, an Order in Council was passed at Ottawa on application of the Harbour Commissioners which cancelled the Order in Council of September 22 and authorized them to issue debentures to the amount of $650,000 under provision of section 26 of their Act of incorporation for the purpose of acquiring the Woodward elevator. The grounds upon which the application was granted were that the movement of grain through the port of Vancouver had increased to such an extent that before new facilities under construction by the Commissioners could be made available such congestion would result as would lead to an embargo being laid on grain shipments to Vancouver unless additional facilities could be provided within a reasonably short time. The Commissioners alleged they could make the working house available to handle carload shipments in thirty days and could complete the entire facilities including 500,000 bushels storage capacity, and necessary shipping facilities, in four months.

The Order in Council of September 22, 1923, required the Woodward elevator to be operated as a public terminal. By the Order in Council of January 30, 1924, no proviso of this sort was made.

The United Grain Growers and other companies previously interested were not notified of the change made possible in the conditions of operation by the Order-in-Council of January 30, 1924.

On February 2, 1924, the British Oriental Grain and Elevator Company, Limited, was incorporated under Dominion Charter with a capital of $250,000: President K. A. Blatchford. Of the capital stock $40,000 was issued and $20,000 actually paid up. Mr. Blatchford stated that it was the purpose of the company to operate a mixing elevator if that were legal, otherwise they will operate as a public terminal.

Under the Order in Council the Harbour Commissioners purchased from Woodward and Company the elevator and site for $120,000. They also acquired the right of Woodward and Company, Limited, in the work done by the Dominion Construction Company on the elevator. The Commissioners paid a liability of $28,000 to the Dominion Construction Company and determined to complete the elevator by day labour. They hired J. W. Cook, chief engineer of the Pacific Construction Company, as engineer in charge and also to do the construction. It was shown in evidence that sufficient work was done within thirty days to enable cars to be taken in and cleaned and taken out by car, but that the conveyor system to enable delivery to vessels had not been completed nor had the construction of the storage tanks as yet been authorized.

On March first, 1924, a form of lease between the Vancouver Harbour Commissioners (lessors) and the British Oriental Grain and Elevator Company, Limited (lessees), was signed under seal of the latter company by K. A. Blatchford, President, and A. Boileau, Secretary, but at the time of sitting was not completed by the Vancouver Harbour Commissioners, being signed by Guy H. Kirkpatrick, Chairman of the Commissioners, but the corporate seal not being affixed. (This lease, however, has since been completed by both parties.)

This agreement to lease provides for a twenty-one year lease of the Woodward elevator and site with the option of renewal for another twenty-one years at the same rental.

Without reciting all the conditions it appears that:—

(1) The lessee covenants to pay an annual rental which shall be equal to the interest paid on the bonds issued by the lessor, the proceeds of which have been used in the acquiring of the said property and making improvements thereon, together with an additional amount to be paid into a Sinking Fund in equal annual instalments which will retire the bonds within twenty-one years, together with an additional annual amount of one per centum on the amount of the bonds as a supervision charge, provided, however, that in no event shall the charges aforesaid be greater than (9) nine per centum per annum on the amount of the said bonus. In addition the lessee agrees to pay all the registration and solicitors' charges in connection with acquiring title to the land, and registration, solicitors' and trustees' charges in connection with the bond issue.

(2) Until the improvements on the property are completed the lessee shall from time to time pay only rental based on the amount of bonds, the proceeds of which have been actually expended in acquiring the property or making improvements thereon.

(3) The lessee covenants to keep insured in the name of the lessor the building, machinery and equipment.

(4) The lessee must keep the plant in good repair but in the event of the buildings, or any of them, through structural defects becoming unfit for the purpose of carrying on the operation of a grain elevator and warehouse if the

lessor refuses to make repairs thereto the lessee may at its option either make the repairs or cancel the lease. If they make the repairs the cost of the repairs shall be offset against the rental. Provided, however, that the rent shall abate while the repairs are being done.

(5) The lessor covenants that it will make an issue of $650,000 debenture bonds and will out of the proceeds complete the elevator with a workhouse capacity of 150,000 to 160,000 bushels capable of an elevation of 280,000 bushels per ten-hour day and a storage having a capacity of 500,000 bushels together with a dock or pier to provide suitable shipping facilities. The works to be completed not later than December 31, 1924.

(6) An amount of $12,000 is included in the annual rental, it being understood that against this rental the lessee shall be credited with all amounts paid to the lessors by the lessee by the way of cargo or other harbour rates up to but not exceeding $12,000 per annum.

George A. Touche & Company, in a report put in evidence, submit the opinion that the bonds will carry interest at 5½ per cent per annum and that the Sinking Fund should be based on an accumulation at the rate of 3 per centum per annum. On this basis the total rental would amount to $10.02 per $100 per annum, but the rentals under Clause 1 of the lease agreement are modified and restricted to a sum not exceeding 9 per cent on the bonds issued. On this basis the excess would absorb the 1 per cent per $100 for supervision and leave a direct loss of 2 cents per $100. In their opinion, on the most optimistic view arguable, on the basis of sinking fund accumulated at 4 per cent and with interest payable on bonds at 5 per cent the rentals would amount to $9.17 per $100, or the supervision charge would be reduced to 83 cents per $100.

John S. Metcalf Company, Limited, in their report state that the life of a well-built timber elevator should extend to obsolescence as a machine. The evidence of C. D. Howe, consulting engineer and elevator designer, is that a wooden elevator is of short life. He could not recommend it to be bonded for more than ten years. Very heavy repairs are required after that date.

In a letter of May 15, 1923, the Harbour Commissioners invite tenders for $650,000 worth of 5½ per cent debenture bonds secured on the revenue of the corporation.

The evidence does not disclose any good reason why the Harbour Commissioners should have entered into negotiations to secure the Woodward elevator. From the first it was recognized as a small wooden elevator designed for private operation as a mixing house. This involves the business of buying, treating, blending and selling grain, a business which a public body such as a Harbour Commission could not ordinarily be expected to carry on. We gather, however, from Chairman Kirkpatrick's evidence and from the terms of the Order in Council of January 30, 1924, that the Harbour Commissioners conceived it to be their duty to step in and provide grain facilities when private capital failed to do so. The Chairman in his evidence refers to the fact that Woodward was unable either to complete the building or to sell it, that the port was congested, that further facilities were badly needed, etc. These considerations, however, in our opinion hardly justify under any circumstances the acquisition by the Commission of an expensive plant, which, as the evidence shows, cannot be operated profitably as a public terminal elevator, and was not designed to be so operated.

When the arrangement with the Woodward Company fell through, the Harbour Commissioners had before them the report of J. S. Metcalf & Company on the elevator, which pointed out grave defects from the standpoint of its operation as a public terminal elevator. These defects, the engineers reported, prevent it from being profitably used as a public house, except at considerable

cost before there could be obtained any great increase in shipping facilities. Further they pointed out that the same or similar investment made in providing additional concrete storage capacity behind the rapid handling facilities for both elevators No. 1 and No. 2, would make a much better return in service to the port as a whole and also in cost of operation. Under these circumstances, and having referred to the limits within which, we venture to suggest, the duties of Harbour Commissioners should be confined, we consider that they acted improvidently in acquiring the Woodward elevator. Their was in our opinion no obligation upon the Harbour Commissioners to take it over merely because Woodward & Company were unable to complete it.

It may be argued that the lease to the British Oriental Grain and Elevator Company, Limited, is not in itself improvident in that it was the best obtainable. Indeed the evidence would show the terms to be onerous upon the lessees if the elevator were required to be operated as a public terminal elevator. Yet the terms are such that it is uncertain whether the rental will carry the interest on the Harbour Commissioners' issue of bonds, provide the necessary sinking fund, cover the supervision charges, and, since the sinking fund is based on a twenty-one-year period, provide funds under section 4 of the lease to repair possible structural defects developing in the elevator buildings.

Finally it does not appear to be sound public policy for the Harbour Commissioners to finance out of public credit the building of an elevator, capable of profitable use only as a private house, in order to lease it to a private company for private purposes, in the face of a report by competent engineers that the port's need of larger public terminal storage capacity could be better and more conveniently provided in connection with the Commissioners' own elevator, numbers 1 and 2.

"(8) The question as to whether or not mixing of grain should be restricted or wholly prohibited at Canadian Pacific ports."

We believe that this question can be resolved only on the basis of the general conclusions on the propriety of "mixing" formed from the evidence covering this problem taken by this Commission in its main inquiry. One practice should not be sanctioned for one part of Canada and another for another. If the mixing of different grades of grain in private terminal elevators is found after full consideration to be expedient the permission to do so should not be withheld from Canadian Pacific ports. The Pacific ports should be placed in exactly the same position as are other Canadian grain terminals. When the sittings were being held this finding was put on record, and, in view of the same, evidence and argument was not developed.

" (9) The administration of publicly-owned elevators and whether or not the Vancouver elevators should be operated by,—
" (*a*) the Harbour Commissioners, as at present; or
" (*b*) the Board of Grain Commissioners, as formerly; or
" (*c*) a special Commissioner directly under the Minister of Trade and Commerce."

Elevators Nos. 1, 2 and 3 at Vancouver are the property of the corporation of the Vancouver Harbour Commissioners, a body created by statute to administer the port of Vancouver. These elevators have been termed "publicly-owned" elevators. But on the other hand there are in Western Canada, Government elevators at Port Arthur, Calgary, Moose Jaw and Saskatoon where title is vested direct in the Crown. A Government elevator is in course of construction at Edmonton and another foreshadowed to be built at Prince Rupert. The operation and management of these elevators is a duty specifically imposed upon the Board of Grain Commissioners under section 13, subsection 3, of the Canada Grain Act.

Under section 122 of the Canada Grain Act, "the proprietor, lessee or manager of any terminal elevator shall be required, before transacting any business, to procure from the Board of Grain Commissioners a 'license' giving authority to carry on and conduct a terminal elevator in accordance with the law and under the rules and regulations of the Board." The proposition that the Board of Grain Commissioners should operate the aforesaid Vancouver elevators as publicly-owned terminals means, therefore, that the Government of Canada, acting under clause 13 of the Canada Grain Act, should acquire the ownership of these elevators and that the title to them should be vested directly in the Crown. It would be an anomaly for the Corporation of the Vancouver Harbour Commissioners to own the elevators and the Board of Grain Commissioners to operate them. Vested directly in the Crown, these elevators would automatically come under section 13, subsection 3, of the Act, and the Board would be charged with their operation and management.

The Vancouver Harbour Commissioners' No. 1 Elevator was originally constructed by the Government of Canada pursuant to section 13 of the Canada Grain Act, and pursuant to subsection 3 thereof placed under the operation and jurisdiction of the Board of Grain Commissioners. On July 31, 1923, it was transferred to the Vancouver Harbour Commissioners under Orders in Council of the 19th of January, 1923, and the 8th of June, 1923 (P.C. 125; P.C. 1037), and the transfer was effected by the Harbour Commissioners delivering to the Government of Canada bonds of the Corporation of the Vancouver Harbour Commissioners to the amount of $550,000 bearing interest at the rate of five per centum per annum.

The expenditures made by the Harbour Commissioners upon the addition to No. 1 Elevator and the construction of No. 2 Elevator have been financed in a very similar manner by the Government of Canada. Loans from the Government of Canada were made to the Corporation of the Vancouver Harbour Commissioners. These loans are secured by debenture bonds of the Corporation bearing interest at the rate of five per centum per annum. (9-10 Geo. V, c. 74; 13-14 Geo. V, c. 29.)

If it were deemed expedient for the Government of Canada to revest the title of No. 1 Elevator directly in the Crown and to acquire No. 2 Elevator, similar reasons would exist for acquiring the Woodward elevator (Elevator No. 3). It would, however, have to be taken over subject to the lease of the British Oriental Grain and Elevator Company. The final disposition of this house remains a problem since this elevator is designed for operation purely as a mixing house and on account of its wooden construction, lay-out, and small capacity, is unsuitable for public terminal operation.

The actual transfer of these elevators to the Crown from the Harbour Commissioners would require a determination by expert engineers of what conveyor galleries, jetties and other appurtenances are properly to be considered part of the facilities for delivering grain to vessels. A fair price being fixed for the inclusive property, the transfer would be made without difficulty, since the elevators have been built or secured with funds supplied by the Government of Canada. In exchange the latter holds the debentures of the Corporation of Vancouver Harbour Commissioners. The return of these debentures to the amount agreed upon by the Dominion of Canada to the Harbour Commissioners would complete the financial side of the transaction.

With these facts before us we are now in a position to consider the expediency of whether the Vancouver Harbour elevators should be taken over by the Government of Canada and if taken over whether they should be operated by (*a*) the Board of Grain Commissioners under the present statute, or (*b*) by a special Commissioner directly under the Minister of Trade and Commerce, or in some other manner.

The objection to the Harbour Commissioners operating public grain terminals are as follows:—

(1) The bulk handling of grain in terminal warehouses is a distinct business going beyond the ordinary services of warehousing commodities. It involves the cleaning of grain, the disposition of screenings, the question of overages and other problems quite foreign to the duties which devolve naturally upon a body such as the Vancouver Harbour Commissioners. The operation of terminal elevators is bound to distract the Harbour Commissioners and to interfere with them in the proper performance of their primary duty, the administration of the port.

(2) The operation of terminal elevators leads to difficulties over the general cargo rates levied for the services of the port. If the elevators make large profits, users of the elevators allege that cargo rates on grain should be reduced. Conversely it has been argued that cargo rates might rightly be increased because the Board is engaged in building terminal elevators or perhaps running them at a loss. Yet the two are absolutely distinct. A cargo rate is levied for the general services of the port and should not fluctuate with the success or failure of the Harbour Commissioners' adventures in terminal elevators. The truth of this observation becomes clear when we consider that private companies are already building terminal elevators at the port of Vancouver. The cargo rate on grain passing through the terminal elevators of private companies should in no way fluctuate or be determined by reason of success or failure of terminal elevators operated by the Harbour Commissioners.

(3) The assumption of dual functions by the Harbour Commissioners leads to conflicting interests and opens the door to favouritism and irregularities. As administrators of the port, the duty of the Commissioners is to hold the balance even between all terminal elevators receiving grain from cars and delivering it to vessels. But as operators of terminal elevators themselves, they are also interested in securing the greatest possible dispatch in receiving cars of grain into their own elevators and delivering cargo to vessels in competition with and opposed to other elevators owned by private companies. The volume of grain handled by a terminal elevator depends largely upon dispatch. The larger the volume of grain the Harbour Commissioners can put through their own terminal elevators, the more profitable will these elevators be to them. If they favour themselves in forwarding cars on their terminal railway to their elevators for grain delivery or in placing vessels in the harbour alongside their elevators for the outward shipment, private companies operating elevators or exporters using the terminal elevators of private companies are unable to complain, for they have really no relief. The Harbour Commissioners as Commissioners would be sitting in judgment upon themselves as elevator operators.

For these reasons we recommend that the elevators of the Vancouver Harbour Commission should be acquired by the Government of Canada and vested directly in the Crown.

As already pointed out, by section 13, subsection 3 of the Canada Grain Act, this would automatically charge the Board of Grain Commissioners with their operation and management. But the operation and management by the Board of Grain Commissioners means precisely the same kind of dual functions by that body as it does in the case of the Harbour Commissioners. Among the duties of the Board is that of making, with the consent of the Governor in Council, " rules and regulations for the government, control, licensing and bonding of terminal and other elevators and all other matters necessary to the proper carrying out " of The Canada Grain Act. These duties are of a semi-judicial, supervisory character entrusted to the Board with a view to the general administrative control of the grain trade.

The operation of terminal elevators should not be made part of the functions of the Board of Grain Commissioners, but should be divorced entirely from that body, since it is charged with the general administrative control of the grain trade. When this Commission visited Fort William and Port Arthur to inquire into the general operation of terminal elevators there, grave charges of irregularities were made against the elevator at Port Arthur owned by the Government of Canada and operated by the Board of Grain Commissioners. Without passing here upon the justification of these charges, it is sufficient to point out that if they had been proved against a public terminal elevator owned by a private company, the Board of Grain Commissioners, under section 242, subsection 3 of the Act, would have had the power to suspend the license of that elevator for a period not exceeding a year, and no doubt would have been called upon to do so. But in the instance that came before us at the head of the lakes concerning the elevator they were themselves operating they would be sitting in judgment upon their own officials.

At present the terminal elevators owned by the Government of Canada in Western Canada are under the superintendence of an officer of the Board of Grain Commissioners. We recommend that the operation and management of these Government elevators should be divorced entirely from a Board of Grain Commissioners. We do not go so far as to recommend whether they should be operated by a Special Commissioner directly under the Minister of Trade and Commerce or by a special representative national body created for the purpose. Both of these suggestions were placed before us. The principle we wish to lay down is that the operation of Government elevators should be centralized and should be entirely separate from the general regulative body in control of the trade. Our conclusion is therefore that while the elevators of the Vancouver Harbour Commission should be taken over by the Government of Canada, they should not be placed under the management of the Board of Grain Commissioners but along with the other terminal elevators vested in the Crown their management should be placed under a special commissioner or statutory body created exclusively for that purpose.

We point out there are certain elevators in Eastern Canada which are either vested in the Crown or have been financed on the national credit. It may well be that these elevators could be brought also under the management of the body or special Commissioner charged exclusively with the operation of Government elevators.

In any event this Commissioner or statutory body should in every respect be under the jurisdiction and control of the Board of Grain Commissioners and should operate under license from the Board in exactly the same way as any private company operating elevators.

We believe that responsible management being centralized under one authority exclusively charged with the operation of government elevators would increase the efficiency of these plants. The storage elevators at Moose Jaw, Saskatoon, Calgary and Edmonton could be operated in close connection with the terminal elevator at Port Arthur and the elevators at the Pacific ports. On the other hand, it would leave the Board of Grain Commissioners entirely free for the very heavy and responsible duties of general regulation.

"(10) In the event of the continuance of the present policy, the extent to which the Vancouver Harbour elevators should be subject to the Board of Grain Commissioners as to licensing, inspectors, regulations, etc."

The Order in Council of the 19th of January, 1923 (P.C. 125), by which the transfer of the Canadian Government elevator to the Vancouver Harbour Commissioners was authorized to be made specifically provides that " the Vancouver Harbour Commissioners shall concurrently with the issue of the said

letters patent enter into an agreement with the Board of Grain Commissioners whereby the said Harbour Commissioners shall be bound to operate the elevator aforesaid as a public terminal elevator within the meaning of the Canada Grain Act." This necessarily entails procuring a license from the Board of Grain Commissioners (Canada Grain Act, sec. 122), which license "shall give authority to carry on and conduct the business of a terminal elevator in accordance with the law and rules and regulations made by the Board." (Sec. 122, subsec. 3), and, of course, in no other way.

Strong representations have been made to us by the Canadian Council of Agriculture, the Government of Saskatchewan, the Government of Alberta, and by the Grain Exchange Division of the Merchants' Exchange of Vancouver that all elevator facilities used for the storage and transfer of grain should be under the jurisdiction of one national body such as the Board of Grain Commissioners for Canada.

Under the present centralized system of official supervision, with official standards, weights and certificates of grade, the marketing of Canadian grain has reached a very high level of efficiency. The Canadian Certificate of Grade issued by the Board of Grain Commissioners is accepted as final, and insisted upon by European importers. Any deviation at the Port of Vancouver from the present method of issuing these official certificates would be bound to create alarm abroad and would, for a time at least, certainly militate against the growth of Vancouver as a grain shipping port.

> "(11) The proposal to establish a new grading system for wheat exported through Vancouver and the proposal to define such wheat as 'Vancouver Wheat.'"

This proposal was disavowed by counsel representing the Vancouver Harbour Commission. We strongly deprecate as unwise any change in the system that would lead to divided responsibility and differences of method in the classification and inspection of grain for Western Canada.

At the conclusion of the sitting, Mr. J. M. McCrae, the President of the Vancouver Board of Trade, appeared before us and suggested on behalf of his Board that provision be made for the appointment of a committee of business men to confer from time to time with the Harbour Commissioners regarding the administration of the elevators. Mr. Lucas, Counsel for the Grain Exchange Division of the Merchants' Exchange, recommended that an advisory committee of members of the grain trade be appointed to consult with the Harbour Commissioners on all matters pertaining to the administration of their elevators, the imposition of cargo rates etc. This recommendation submitted by Mr. Lucas was suggested, he said, by the fact that the Harbour Commissioners intended apparently to finance their elevator out of their cargo rates on grain, and vice versa. In dealing with the question of cargo rates on June 4 we expressed the opinion that such a system of financing should not be followed. In our opinion the business of managing the harbour should be divorced from that of operating public or private terminal elevators. If our suggestions in this regard are acted upon the reason for Mr. Lucas' recommendation will have disappeared.

In any case we cannot recommend that provision be made by law or regulation to compel the Harbour Commissioners to exercise their powers or perform their duties under the direction or advice or with the concurrence of a voluntary body such as suggested by Mr. McRae or Mr. Lucas. In the

ordinary pursuit of their business the Harbour Commissioners will, of course, require information from those who are best qualified to give it, and will be free to ask for advice and to receive it. But we can see no lasting benefit to be derived from the creation of special machinery for the purpose of making it compulsory upon them to take the advice of a particular trade.

All of which is respectfully submitted.

W. F. A. TURGEON,
Chairman.

D. A. MacGIBBON,
Commissioner.

VANCOUVER, B.C., June 19, 1924.