

21-1924/1-31-5

Copy 1.

ROYAL COMMISSION

TO ENQUIRE INTO AND REPORT UPON AFFAIRS OF THE

HOME BANK OF CANADA

And in the matter of the Petition of the Depositors
in the said Home Bank of Canada

COMMISSIONER:

The Honourable Chief Justice McKeown

OTTAWA, THURSDAY, APRIL 24, 1924

No. 5

CANADA

IN THE MATTER OF A COMMISSION, appointing the HONOURABLE HARRISON ANDREW McKEOWN, a Commissioner to inquire into and report upon affairs of the HOME BANK OF CANADA.

AND IN THE MATTER OF THE PETITION of the Depositors in the said HOME BANK OF CANADA.

Before the Honourable Chief Justice McKeown, the above named Royal Commissioner, at Ottawa, Thursday, the 24th day of April, 1924.

Counsel:

EUGENE LAFLEUR, K.C., AND H. J. SYMINGTON, K.C.,
for the Government of the Dominion of Canada.

R. J. McLAUGHLIN, K.C., A. G. BROWNING, K.C., AND W. T. J. LEE,
for the Depositors.

Mr. LAFLEUR: If your lordship will permit, we are verifying some of these letters, ascertaining whether they are already filed.

Here is a letter that is offered by my learned friend, addressed by the late Mr. Z. A. Lash to James Fisher, K.C., on the 29th of February, 1916. I see no particular objection to that. I know Mr. Lash's signature; I know that that is his letter; and I suppose you have no other means of proving it?

Mr. BROWNING: No. It was in Mr. Fisher's bank file and sent by Mr. Fisher to Mr. Clarkson and produced in that connection.

Mr. LAFLEUR: I suppose that may be admitted? Do you want to file it now?

Mr. BROWNING: Yes. Shall I read it to your lordship?

His LORDSHIP: Yes.

EXHIBIT No. 132.

Filed by Mr. Browning, April 22, 1924.

Copy letter, Feb. 29, 1916, from Z. A. Lash, K.C., to James Fisher, K.C., re "Home Bank, Confidential, the Pellatt securities, etc."

(Copy)

BLAKE, LASH, ANGLIN & CASSELS,

February 29, 1916.

JAMES FISHER, Esq., K.C.,
173 Portage Avenue,
Winnipeg, Man.

Confidential.

Re Home Bank.

MY DEAR FISHER,—I received your letter of the just as I was leaving last week for a week's absence on business.

I saw Sir Thomas White while I was in Ottawa on Tuesday last, the 22nd, and I explained the position up to that time. Among other things, I told him

that we were endeavouring to perfect certain securities which we were taking from Sir Henry Pellatt, and that it was very important that nothing should occur to prevent this being completed. He understood, and said he would endeavour to avoid precipitating matters, as far as he could.

On my return yesterday, I received your letter of the 21st enclosing copy of another letter which you wrote to Sir Thomas on that day. I also received yours of the 23rd telling me of your conference with Mr. Haney, along with Messrs. Crerar and Kennedy.

I also received a letter from Sir Thomas, stating that he had received your letter of the 21st and saying, "It would appear to me that I would only be justified in allowing a reasonable time for the Bank to perfect its security and improve its position under the accounts about which I made inquiry."

I am writing Sir Thomas to-day, sending him a copy of your letter to me of the 23rd, and telling him that I hope that Pellatt's securities will be completed this week, and that so soon as Mr. Haney returns, I will ask to have a meeting of the Board called, in order that I may explain the whole position, including the substance of your letters to Sir Thomas White, and ask for definite instructions upon the all-important matter of having a thorough examination of the Bank's position made by an independent competent person not connected with the present management.

The more I consider the Bank's position, even assuming that every account will ultimately be collected in full, the more doubtful I feel as to the possibility of its continuing in business. The amount locked up indefinitely in four large accounts, is probably three times the paid-up capital, and more than half the total deposits; and if anything should take place which would cause a comparatively small percentage of the depositors to ask for their money, I do not see how the Bank could, without assistance from outside, continue with open doors.

I told Sir Thomas that my main object, since I learned in outline what the Bank's position was, has been to bring about a position, which, if the worst happened, would result in liquidation with open doors. This can only be brought about by the assistance of other Banks, and I want definite instructions from the Board as to how far I may go in this direction in consultation with Sir Thomas White, for he is now an essential element in the situation, which cannot be disregarded. He told me, and I could not dispute the correctness of his position, that, after you, on behalf of the Winnipeg Directors, had submitted to him information, which, to say the very least, was very disturbing, the responsibility was thrown upon him, which he could not avoid, and which would not be discharged because those who had invited his intervention might desire him to withhold further action. The statements relating to the three accounts about which he asked for information, were sent to him on the 22nd or 23rd.

Faithfully yours,

(Sgd.) Z. A. LASH,

His LORDSHIP: Mr. Browning, I have not in mind all the letters that have been put in up to the present, but is there contained in any of them statements to Sir Thomas White or to Sir Henry Drayton substantially the same as these which are made here in Exhibit 132 by Mr. Lash?

Mr. BROWNING: I presume so, my lord. The papers which have been put in were all from Mr. Fisher on behalf of the three Western Directors and were accompanied by the statements made in this letter.

His LORDSHIP: The statements made by Mr. Fisher, acting for the three Western Directors, would contain a good deal of surmise, but this seems to be so definite, by a man who was the Bank's Counsel, that I was wondering if statements of this kind had been drawn to the attention of the acting head of the Department.

Mr. BROWNING: The reason we are putting that in is in order that it may be before your lordship before Sir Thomas White has been examined.

Mr. LAFLEUR: I think it would be only fair to put that before Sir Thomas White.

His LORDSHIP: I think so.

Mr. LAFLEUR: Do I understand that this letter, or a copy of it, had been sent to every one of the Directors?

Mr. BROWNING: The letters, copies of which have been furnished to the Commission through the secretary, were delivered personally. This letter had not.

Mr. LAFLEUR: It is one of the letters received.

Mr. BROWNING: Yes, this letter came from Mr. Fisher, through Mr. Clark, son, through the Home Bank file.

Mr. LEE: I may say, sir, following your lordship's directions, we had a letter, signed by Counsel for the depositors, sent to all the Counsel in Toronto who represented the various Directors and those under indictment.

Mr. BROWNING: His lordship has the copy; the originals were delivered personally yesterday afternoon.

His LORDSHIP: I suppose that is what was handed to me a few minutes ago by the secretary.

Mr. BROWNING: We have ascertained to the best of our ability that those gentlemen were the only ones who were interested for the Directors. Mr. Ward Wright in particular is acting as General Solicitor for them all, and they were delivered personally by messenger.

His LORDSHIP: Perhaps you might state, Mr. Browning, if you will, to whom these letters were written, so that it may go on record.

Mr. BROWNING: Yes, my lord. The letter is dated April 23rd, 1924, and reads as follows:—

“ Re Home Bank Investigation.

“DEAR SIR,—It has been suggested by the Hon. Mr. Justice McKeown that as certain evidence has been submitted to the Commission which may affect some, or all, of the Directors, and that further evidence of a similar character may be given, that notice should be given to Counsel for the Directors so that they may have an opportunity of attending the sittings of the Commission, which will be resumed at Ottawa, to-morrow, Thursday, the 24th instant, at 10.30 a.m., in the Railway Commission Room.

“The chief witnesses to be called will be Sir Thomas White and Mr. Machaffie.

“Yours truly,

B/HC

“Counsel for Depositors.”

That was delivered to:—

Mr. W. N. Tilley, Chief Counsel for the Directors.

Mr. A. C. McMaster, who is associated with Mr. Tilley and acting for individual Directors.

Mr. D. T. Symons, who is acting for some of the Directors, I think Mr. Barnard, but I am not sure. He is acting for Mr. Jones, who is also under indictment.

Mr. Ward Wright, of Rowell, Reid, Wood & Wright, who is acting as solicitor for the Directors.

And to Mr. N. W. Rowell, who is acting with Mr. Tilley as one of the chief Counsel for the Directors.

And to Mr. T. N. Phelan, who is acting, I think, for Mr. Daly.

And to Mr. G. H. Kilmer, who is acting for other of the Directors.

And to R. S. Robertson, who is acting particularly for Mr. Barnard.

And to Mr. Hartley Dewart, who is acting for Mr. Calvert, who was the Assistant Manager, and who is under indictment.

Mr. LEE: I might say, my lord, that a motion was made yesterday in Toronto for further particulars of the allegations made by the Crown against these Directors who are on trial, and the other gentlemen who are on trial; that motion was taken under advisement by Mr. Justice Wright. Judgment upon that motion has been reserved, and Crown Counsel, Mr. McCarthy, I understand from the public press, has subpoenaed his witnesses for Monday next at the Assizes now going on in Toronto. If those trials go on, it seems to me, sir, that the Counsel for the depositors will not be in a position to place all the evidence before you as expeditiously as we would like. It seems to me that probably the Crown Counsel, Mr. Lafleur, might be able to advise us early this afternoon of whether Mr. Justice Wright has given judgment or is about to give judgment to-day or to-morrow upon that motion, because if that trial goes on, on Monday next, we certainly will not, I do not think, be in a position to go on with our evidence, because a great many of the papers will be in use by the Crown Counsel.

His LORDSHIP: Did we not secure all the papers in Toronto that we require, or copies of them?

Mr. LEE: We have secured a good many; as many as we possibly think we may require; but from time to time there is new evidence cropping up.

His LORDSHIP: I quite appreciate that, but I do not quite understand now the sum total of what you have said.

Mr. LEE: The idea running in my mind is, that if Mr. Justice Wright should give judgment either to-day or to-morrow ordering the defendants to go on their trial on Monday next, this Commission may have to adjourn sine die.

His LORDSHIP: Hardly that. We will be back again some time, I am afraid. We may have to take quite an adjournment.

Mr. LAFLEUR: It occurs to me that possibly it might be unfair to the parties in that litigation in Toronto that we should proceed while that trial is going on. I do not know how your lordship will view that, but I think that will have to be considered.

His LORDSHIP: Well, it will not be on till Monday anyway.

Mr. LAFLEUR: Not till Monday, and I expect to have filings either this afternoon or to-morrow morning. I ought to get a telegram from Mr. McCarthy advising me whether the cases are going on or not. If they are going on then it would be for us to consider whether we ought to press this inquiry during the pendency of that trial. It might conceivably interfere with both parties.

His LORDSHIP: Oh, I can hardly see how it could avoid interfering one with the other. It does not seem to me that they could be conducted simultaneously.

Mr. LAFLEUR: We might bring out evidence here which might be regarded as likely to influence a jury. There are many things which present themselves to one's mind.

His LORDSHIP: Well, Mr. Lafleur, how far are the questions, upon which the liability of the Directors would depend in connection with their trials supposed to commence next Monday, to be agitated in this matter which we are for the present giving attention to here?

Mr. LAFLEUR: This is my understanding. I do not profess to know a great deal about the litigation that may begin on Monday, but it is a conspiracy

charge, and my understanding is that all this evidence that we have been giving to you, padded profits, the inclusion of unpaid interest in the profit account, and the declaration of dividends made in consequence, the inflation of securities, and the values of real estate, all these matters will be necessarily gone into in that conspiracy charge, so that we may have to consider the propriety of going on notwithstanding the pendency of that trial.

His LORDSHIP: You see, Mr. Browning has more than once urged it on us that the claim the depositors are putting forward is against the Government.

Mr. LAFLEUR: Yes, quite so.

His LORDSHIP: As a foundation for that claim, I suppose they feel it incumbent upon them to show what that claim is, misconduct on the part of the Directors in the line that you have just indicated.

Mr. LAFLEUR: It seems to me that is the first step in the inquiry. If there was misconduct on the part of the Directors then it is hard to see why the Government should be expected to interfere with the administration of that bank. But granted misconduct, and misconduct such as has been suggested by the correspondence filed up till now, why, then, there may be a claim founded upon the obligation of the Government to interfere.

His LORDSHIP: Well, as far as the inquiry has gone we have pretty well completed that branch of the inquiry.

Mr. LAFLEUR: Yes, we have, although we have still some important witnesses to examine.

His LORDSHIP: On that branch?

Mr. LAFLEUR: I understand that Mr. Machaffie's evidence will be heard.

Mr. LEE: He will be here to-morrow.

His LORDSHIP: You see, if we could get by that feature of it, or to that stage of the proceedings so that we can say, well, that is behind us, or you gentlemen can say, I have put before you everything we have to offer in connection with that branch of our claim and now we will proceed to address ourselves as to whether, under the circumstances, the Government should have interfered in the way the petitioners set out.

Mr. LAFLEUR: It is my present intention, subject to what the Minister may decide, to give evidence through our special Auditor as to the state of the bank from the time of its inception until the time of the failure. That will be general evidence, which will also include evidence of the special years complained of by the depositors, and inevitably, I suppose, in the course of that examination, if it takes place, if I am authorized to proceed with it, that will bring in the conduct of the Directors. I do not see how we can avoid that.

His LORDSHIP: I do not either.

Mr. LAFLEUR: Perhaps we had better postpone a decision on this point until we have definite tidings from Toronto as to whether the trial is going on. If the trial does not go on I suppose we will have to go on. We cannot delay till the autumn because the trial may stand over for several months. If it does go on on Monday, conceivably we might be willing to accept the findings in that trial.

Mr. LEE: We would not want to be bound by that decision.

Mr. LAFLEUR: It may be open to consider that, and see if they are traversing the same evidence that we would have traversed, if those findings are satisfactory. I do not know what they will be, and, of course, I am not asking you to be bound by them.

His LORDSHIP: Are you then rather suggesting that if the Directors should be acquitted in these proceedings unfortunately pending against them counsel for the depositors might consider they have no case?

Mr. LAFLEUR: No. I do not think they would choose to be bound by that, not likely; they would want to have another trial before another tribunal.

Mr. McLAUGHLIN: The Directors whom we consider are the most guilty are both dead, the late Senator Mason and his son J. Cooper Mason who were President and Manager of the bank respectively.

His LORDSHIP: Do you say they are dead?

Mr. McLAUGHLIN: They are both dead, so of course they are not under indictment. Some of these Directors might be freed owing to their ignorance, or to their having been deceived. They might be acquitted of the conspiracy charge, which, of course, would not affect our case in any way.

Mr. LAFLEUR: There are many grounds on which the conspiracy charge might be maintained which would not affect this particularly.

His LORDSHIP: No, but I thought, from something which you said, that perhaps you were suggesting that the depositors might take those findings as conclusive.

Mr. McLAUGHLIN: Of course, as I say, both those men have passed on, and I imagine it is possible that the President, the late James Mason, and his son the Manager, J. Cooper Mason, may possibly have deceived some of the Directors. Take Directors at the time when these proceedings were going on, like Mr. Crerar, Mr. Persse, and Mr. Kennedy, these men, of course, it appears from the correspondence, were innocent of any wrong-doing.

His LORDSHIP: Are they under indictment?

Mr. McLAUGHLIN: No, they are not under indictment. Maybe some of the Directors under indictment are as innocent as they are.

Mr. LAFLEUR: The charges laid are with reference to occurrences in 1922, I think, shortly before the failure of the bank. It does not go back to 1916, or anything like it.

Now, there is another thing that I would like to mention to your lordship. There was some suggestion yesterday that I might be able to furnish my learned friends with documents which we have discovered in the course of our inquiry into the condition of the bank, and I said that I would consult the Minister and see whether these could be made available to them. I regret to say that I was unable to find the Minister, as the Parliament opens only this afternoon. I imagine he will arrive by the noon train, and my friends have considerably said they would postpone any application of that kind until I had an opportunity of seeing him. So that I am not able to give them communication of any documents this morning, if indeed there are any, which they have not got already, and that I doubt very much, because I think our Auditor worked in conjunction with Mr. Clarkson, perhaps not in conjunction but contemporaneously with and a great part of the time in the same room, so that it is not likely that we have anything, except by way of deductions, and those deductions will be made by our Auditor when he is examined in the course of his testimony, but I do not think we have any original documents which my learned friends have not got. We have copies which were made from the originals in Mr. Clarkson's possession, so that I doubt very much whether they can get any enlightenment from any papers I can show them. However, if they will specify anything in particular I will submit it to the Minister as soon as he arrives.

Mr. LEE: If a report has been made by Mr. Edwards to the Minister we would very much like to get a copy of that report.

His LORDSHIP: Mr. Edwards' report to the Minister?

Mr. LAFLEUR: I do not think it is at all likely that the Government would desire that report, which is a confidential report and generally contains not merely facts which have been discovered but suggestions and advice, to be

handed out. That is all in the way of a privileged communication, and I do not think my learned friend should ask for that.

In any event, I would not be prepared to give them an undertaking as to it without consulting with the Minister. You see, Mr. Clarkson did not file his report. He spoke from it and excluded certain parts which he thought in the interest of all concerned should not be made public. There are some pending claims and it would affect the recovery of those claims, or settlements which are now being negotiated with certain parties; it would affect all those transactions to have the details of an inquiry published in the newspapers. However, that I would submit to the Minister also when he arrives.

Mr. McLAUGHLIN: Of course, our view merely is that all of that should be placed before your lordship.

His LORDSHIP: The facts, yes, I think that is right.

Mr. McLAUGHLIN: We do not desire to have any confidential documents or anything of that kind, but if Mr. Edwards, the Auditor, has investigated and has tabulated the facts, why, nothing of course should be kept from you of that nature.

Mr. LAFLEUR: We will give my learned friends all the facts.

Your lordship will remember that we made an appointment with Sir Thomas White for half past two this afternoon, and as we have not got these documents that my friends were asking for, as I cannot get them, or permission to communicate anything this morning until I see the Minister, I suggest that we adjourn until half past two, in order to resume the examination of witnesses. Will that be agreeable?

Mr. LEE: Quite agreeable to us.

His LORDSHIP: Before we separate now, it has been determined to examine Sir Thomas White this afternoon, and Mr. Machaffie to-morrow.

Mr. LAFLEUR: Yes.

Mr. LEE: I communicated with Mr. Machaffie last night and he says he will be here to-night and will be available for examination to-morrow morning.

His LORDSHIP: Well, that is very good. The point I want to keep in mind, and one on which I know I will receive all possible assistance from you gentlemen, is that our proceedings here are being made available for the Committee on Banking and Commerce, and we want to push along so that they may have the material in their hands, and we will not loiter on that work, which will probably take us pretty well the rest of the week examining Mr. Machaffie and Sir Thomas White.

Mr. LAFLEUR: No doubt.

His LORDSHIP: Then you will give consideration, Mr. McLaughlin, as to your subsequent witnesses after Mr. Machaffie, so that they may follow along in rotation.

Mr. McLAUGHLIN: Yes, but I do not know that we will have any.

His LORDSHIP: Then we will resume at half past two this afternoon.

(Adjourned at 11 a.m. until 2.30 p.m. on Thursday, 24th April, 1924.)

AFTERNOON SESSION

OTTAWA, ONT., THURSDAY, 24th APRIL, 1924.

Proceedings resumed at 2.30 p.m.

Counsel:

(Same Counsel were present as at the morning session, and:)

SIR THOMAS WHITE, K.C., appearing on his own behalf.

SIR THOMAS WHITE: My lord, at the meeting of the Commission in Toronto on Tuesday you were good enough to suggest that I should have the privilege of being represented by Counsel. I do not regard that as necessary because I think the record and my evidence will make my position perfectly clear; and notwithstanding the old adage with respect to the client who has himself for a lawyer, I shall conduct my own case this afternoon; that is to say, I shall put in my examination in chief, and after cross-examination I shall, so to speak, re-examine myself, if that should be necessary; and later on in the course of the proceedings, if it carries your lordship's judgment, if anything should transpire that would seem to me to require that I should adduce any evidence, or at the conclusion that I should make argument, I shall ask your lordship for that privilege. At the present time it is not in my mind that it will be necessary. I now ask that I be allowed to continue my examination in chief. I am ready to go on.

HIS LORDSHIP: That is quite satisfactory, Sir Thomas, and will you sit down?

SIR THOMAS WHITE: Yes, my lord. I shall take advantage of your kindness and sit down.

I do not know whether or not, my lord, you regard the letters and communications and other documents which were presented at the first session as proven; or whether you desire me to prove such of the letters as proceeded from me, and those I received. I may say, to save time, as I am anxious to do, that I have looked over the record, and it seems to me, although the matter is now of eight years' standing, that these letters which have been on file in the Department since 1916 and down to the present time—I am referring now to those which appear in the evidence, in the first day's proceedings—were received by the Department and were letters sent out by me. I desire to refer to some of them individually, not necessarily all, because I have some comment by way of evidence to make upon them. I leave it for your lordship to say whether you think every one should be proven, so to speak, by me or not.

HIS LORDSHIP: I do not think so. We accepted the file from the Department as a public record.

SIR THOMAS WHITE: I think that is right, sir.

Now I will direct attention first to the confidential memorandum from James Fisher, for the Western Directors, which is Exhibit No. 2 in record No. 1. (Page 12.) I wish to state the circumstances under which that was received and what transpired when Mr. Fisher came into my office. You will observe, sir, that it is marked "Confidential." When Mr. Fisher came to my office and handed me that memorandum, I told him that if he left it with me I should decline to regard it as confidential. He said that he had intended it for my

information. I said that if he left it, I should have to take the matter up with the Home Bank and that I should decline to regard the matter as confidential. Mr. Fisher, after thinking the matter over, said he would leave it with me; and the document, with enclosures and all the letters from Mr. Crerar to James Mason, and all the other documents, a very large number of them, were left with me, so far as I recollect, and I am sure I am right, with that letter, and that appears to be the case from the evidence which was given at the first session by Mr. Roberts.

I mention specially that that Fisher communication and all Exhibits have been in the Department of Finance since 1916, because I am sorry to say that misstatements have been made regarding it and a wrong impression created. I do not think that on your lordship's mind a wrong impression has been created. But with regard to the petition it is stated that I merely referred the matter to Z. A. Lash. This is untrue.

On January 24th, 1916, I wrote James Mason, President of the Bank—(Ex. 43, page 75.)—that I had received officially Mr. Fisher's letter and called for report upon the loans mentioned. I direct attention specially to 43, and while I am glad to read the whole of it, there is one section at the end to which I desire specially to refer:—

“In directing to you this letter with reference to the memorandum which, as I have stated, has come before me officially, I am following the practice which we have hitherto adopted in similar cases, and am acting under the provisions of Section 113 of the Bank Act.”

Section 113 of the Bank Act is:—

“The Minister may also call for special returns from any bank whenever, in his judgment, they are necessary to a full and complete knowledge of its condition.”

In my letter to Mr. James Mason I told him that I was calling for this report because it had been the practice, and that I was acting under the provisions of section 113 of the Bank Act.

Now on January 26th, I wrote Sydney Jones, the auditor of the Bank, under section 56A of the Bank Act, directing him to report to me respecting these loans. See Exhibits 45, 46, 47, 48, 49 and 50, and see also Exhibits 69, 70 and 71. I will take these up one by one.

In the Bank Act of 1913 section 56A is:—

“The Minister may direct and require any auditor, appointed under the next preceding section of this Act”—
as Mr. Jones was—

“or any other auditor whom he may select, to examine and inquire specially into any of the affairs or business of the bank, and the auditor so appointed or selected as the case may be, shall at the conclusion of his examination and inquiry report fully to the Minister the results thereof.”

I do not want to argue the case at this stage, but I call your lordship's attention to the fact that it is an unconditioned discretion in the Minister with regard to calling for returns.

Now in Exhibit No. 45 I tell General Mason that I do not set any time limit: he had asked for thirty days' stay, but I suggested that his reply should be completed and forwarded at as early a date as possible.

I mention these things because of the statement that I engaged Mr. Lash, or merely referred the matter to Mr. Lash, as the petition says.

Exhibit 46 is my letter to Sydney Jones, the auditor of the Bank; and 47 is his acknowledgment. 48 is a letter advising Mr. Fisher of what I had done; namely, that I had under the provisions of the Bank Act, called for returns from the bank and from the auditor.

Exhibit 49 is another letter from Mr. James Mason stating that the Board has been in continuous session. Evidently reporting to me in answer to my letter. And Exhibit 50 is a letter from me to General Mason on the same subject.

Now as I am directing my evidence towards that statement in the petition, as I have stated, I proceeded under the Bank Act, strictly according to its provisions and the usage of the Department. I asked Mr. Lash later on when he and Haney came to see me, to take further security from Pellatt and Pellatt and to look into the Prudential matter. Haney to do nothing important without his advice and Lash to report to me. See the letter of Haney containing the unanimous resolution of the Board of October 29th, 1918.

I am going to ask your lordship to permit me to prove that, it has not been proven yet, and to put it in. Mr. Lee's copy, which I had this morning, was not quite accurately marked. This is in No. 3 of the proceedings.

Mr. LEE: That will be Exhibit 96.

SIR THOMAS WHITE: 96 I think probably is the one and I thank you for the suggestion. I testify that I received that letter, with the enclosure of the unanimous resolution of the Board, certified by its President. Now this is what it says:

"Early in 1916 Mr. Haney and Mr. Lash had an interview with the Minister of Finance, explained to him the then position of the bank, referred to the consequences of an investigation at the instance of the Minister, and explained to him the intentions of the Board with respect to the future control and management of the bank. Mr. Haney stated that it was his intention to consult with Mr. Lash upon all important matters relating to the bank's affairs before taking action thereon."

That is at page 183 of No. 3 of the proceedings. Mr. Lash was Counsel for the bank. He came down with Mr. Haney. I had confidence in Mr. Lash's integrity, his financial ability, and his legal ability, and I told him that I would expect that Mr. Haney would consult with Mr. Lash upon everything that was done, and that Mr. Lash would report to me from time to time with regard to the matter. I also said to Mr. Lash that I desired him to take security in the Pellatt account, which seemed to me to be weak, and to look into the Prudential Trust account, because a purely legal question of ultra vires had arisen there.

I did not engage Mr. Lash to make an investigation of the affairs of the bank, as has been stated; and Mr. Lash never received one cent. He did not act for me and was not entitled to receive anything. I asked him to do that and he was to look into the Prudential and to take securities there, because I did not know of any man that would do it better, and Mr. Lash was an absolutely honest man.

I next draw attention to my memorandum of an interview with Haney and Barnard. What number is that Mr. Lee?

Mr. LEE: Exhibit No. 51 at page 80.

Sir THOMAS WHITE: That memorandum is dated Ottawa February 2nd, 1916, "Memorandum re Home Bank of Canada," and reads as follows:—

"Messrs. Haney and Barnard, K.C., called on me a few days ago with reference to the affairs of the above Bank. They stated among other things that they had only recently become Directors and believed if given a little time they could reorganize the affairs of the Bank so as to place it upon a much better basis. They discussed with me generally the Prudential Trust account, the Frost Account, and the Pellatt account. I spoke to them strongly as to the necessity for bringing pressure to bear upon Pellatt and the Prudential Trust Company, whose affairs I stated I would probably investigate if I came to the conclusion that it was not

living up to its engagement with the Bank. I spoke strongly as to the Frost account and generally impressed upon them that a heavy duty developed upon them in respect of the administration of the Bank with which they were now identified. With reference to the matter of payment of dividends and taking into profit account interest upon such loans as the Frost loan, I stated that this was a matter of judgment developing upon the Directors who would have to be careful to see that they did not by payment of dividends impair the capital of the Bank and diminish the security of depositors and other creditors.

(Sgd.) W. T. WHITE.

The word "developed" in line 9 page 81 should be "devolved." "A heavy duty devolved upon them." I think that Mr. Haney had only recently become a Director and Barnard also.

Now I made that memorandum in pursuance of a practice which I followed in my Department. Any important interview of which I desired to preserve a record, I dictated the substance of it to my secretary, and filed the memorandum. I have many such memoranda as that and it is not an uncommon practice; a very useful practice I think.

Then I received a letter from Mr. Fisher, dated February 18th, 1916, and which appears at page 81 as Exhibit No. 52. I think I will read the whole of this letter, sir, if you will permit me. Otherwise I do not think you will get the run of it. It is dated Winnipeg February 18th, 1916, and reads as follows:—

"Hon. Sir THOMAS WHITE,
Ottawa, Ont.

Dear Sir THOMAS WHITE:—

Personal

Re Home Bank .

Referring to the memoranda and papers that I left with you on the 22nd ult., in connection with Bank matters, under instructions from my clients the three Western members of the Board, I had quite expected before this to communicate further with you, informing you as to any light that was thrown on the situation at the recent meetings of the Board. It happens, however, that Mr. Crerar, one of my clients, has been absent from the City practically ever since their return, so that they were unable to take the matter up fully with me. I quite expected Mr. Crerar to have returned yesterday, but now I learn that he will not be back until Monday next.

Meantime, I had a wire on the 15th inst., from Mr. Lash, in which it was intimated that he was in communication with you—that you were asking for a report on some matters, particulars of which he did not mention, but which I assume related to the matters referred to in my memoranda. In this wire, Mr. Lash stated, also, that he had written you explaining the present position, and that the Board was now in accord, and would have new management and full investigation as soon as possible, adding that he had the information that you asked for, but as it would be useless to you unless full investigation were made, he was holding it in the hope that you would allow investigation to be made under the direction of the Board, and he suggested that I should get my clients to communicate with you and make request accordingly.

Now, I regret that through Mr. Crerar's absence, I cannot confer with my clients on the subject of this telegram until Mr. Crerar's return. Meantime, however, I may say that the situation generally has been somewhat fully explained to me, and was discussed between us, imme-

diately after their return from Toronto, and I understood pretty fully the situation, and their ideas as to what steps they would wish to see taken in the immediate future.

It is true that my clients are most desirous to co-operate harmoniously with Mr. Haney, whom Mr. Lash, rightly as I think, regards as the strong man amongst the Eastern Members of the Board, and at the recent meetings I understand my clients gave evidence of such desire. But it was quite clear to me that they would not for a moment be content with an investigation to be conducted by the Board as at present constituted. It was decided, indeed, that after Mr. Crerar returned I was to prepare a communication to be sent to you, expressing most strongly their desire that a special audit of the Bank's affairs—touching especially the larger accounts in the Toronto office—should be directed by the Finance Department. These accounts would include especially the Frost, the Prudential, and the Barnard accounts. The latter, they strongly felt, should be fully investigated notwithstanding the settlement that had been reported to them recently, as referred to in the memorandum upon that account, and the attached papers. I was not, however, to write you until Mr. Crerar's return, when I would be able to submit to them a draft of the proposed communication. On receipt, however, of Mr. Lash's telegram I felt that I ought to reply in general terms without awaiting Mr. Crerar's return. I had delayed my reply hitherto in the expectation of his return yesterday, but now finding that he is to be further delayed I have thought it well to write now. I will no doubt promptly after meeting them early next week send you a further communication, giving more fully their reasons for this attitude.

Another point that they are anxious about is this: Prior to the meetings at which they recently attended a resolution was passed, giving the general manager leave of absence, and appointing his son, who is the assistant general manager, to be acting general manager. My clients were anxious that at once some fresh blood should be introduced into the general management for the time being, and proposed to have Mr. Adair, the Supervisor who made the Toronto inspection last year, acting assistant to the general manager. They were greatly disappointed that the Board refused to do this, but this point will be referred to more fully, perhaps, in my next communication.

As I must communicate with Mr. Lash on the subject, I trust you will approve of my sending—as I propose to do—a copy of this letter to him. My clients particularly wish to have Mr. Lash and Mr. Anglin fully understand their position, and I may add that they were especially pleased when at the recent meetings, and upon their suggestion, the Blake-Lash firm was appointed solicitors for the Bank. It appears that the Board, though pressed by my clients from time to time to do so, had never before—at least in recent years—appointed a regular solicitor for the Bank.

Yours very truly,
(Sgd.) JAMES FISHER."

It is in that letter he says they were not content with the investigation of the Board as at present constituted.

Then No. 53 is another letter from Fisher to me, and again he says:—

"It will be wholly unsatisfactory to have an investigation made by the Board as at present constituted."

He goes on to say:—

"It may be, indeed, that Mr. Haney has—and my clients would be pleased to know that he has—oversight to a large extent over the new business of the bank, which Mr. Lash states is 'only simple easy business.'"

Now I come to my letter of February 21st which shows the policy which I was pursuing at this stage. It is a letter I addressed to Mr. Fisher, in which I said this:—

“DEAR SIR,—I have yours of the 18th instant with reference to the above. The position I have taken with Mr. Lash is that I desire the statement which I have asked for on the complaint lodged by you on behalf of the Western Directors. It does not appear to me that I would be justified in foregoing my request for such information on the ground that the Board is now in harmony. You make certain definite explicit charges which I conceived it my duty to investigate. When I receive the report in those matters from the Home Bank or Mr. Lash I shall have to determine the course proper for me to take. My duty of course lies to the public and in view of the serious charges which you made I feel I cannot allow the matter to remain in abeyance. At the same time it will and should be my policy to give the reorganized Board of Management every opportunity to place the administration upon a sound basis provided that in my judgment this is possible.”

They were going to reorganize the Board; they were going to rid of James Mason; they had confidence in Haney; and I said:—

“It will and should be my policy to give the re-organized Board of Management every opportunity to place the administration upon a sound basis provided that in my judgment this is possible.”

Now, if you will look at some of the preceding letters you will find it was suggested that I should not call for this information from the Board, because they were going to reorganize the Board, and I said, if you reorganize the Board my policy would be to give it every opportunity to place the administration upon a sound basis but I want the report, which I got, and which has been on the public files of the Department ever since 1916.

I would call attention to Exhibit No. 59. In exhibit 59 I asked Sydney Jones for a detailed statement showing advances, repayments, and interest charges on the A. C. Frost Company account. I will just read the letter:

“OTTAWA, FEBRUARY 24th, 1916.

“SYDNEY H. JONES, Esq.,
Trinity College,
Toronto.

Re Home Bank of Canada

Dear Sir.—Referring to my previous letter requesting an investigation by you of certain accounts of the above Bank, I shall be glad if you will send me as soon as possible a detailed statement showing advances, repayments, and interest charges on the A. C. Frost Company account. The Western members of the Board have thought it desirable that I should obtain this information. Your prompt attention will oblige.

Yours truly,
(Sgd.) W. T. W”

Then I come to Exhibit No. 63, your lordship. Exhibit 63 is a very voluminous one, containing a full report from the Home Bank with regard to the account of Pellatt & Pellatt, the Prudential account and the Frost Timber account. It is a very extensive and voluminous report, as I have said, and it seemed to me, at that time, to be in its detail correct. It purported to be a history of these accounts, and I wrote Mr. Fisher a little later informing him that this had been received, and it seemed to be in full detail. That is in one of the letters here.

I may say to your lordship that, as a financial man in Toronto, the Pellatt firm, so far as I was aware, had a good business and borrowed from many institutions, but the collateral that they had in that account appeared to me to be rather unliquid. In addition to being unliquid it was too large an amount, too large a loan, and that is the reason why I insisted that that loan should be put on a better basis, that the interest which was in arrears should be paid up, and the loan put in process of reduction.

At the same time it did not occur to me that Pellatt & Company would not be responsible for their engagement, because, as I said, they had a good brokerage business and were extensive borrowers on collateral, and I had absolutely no reason to believe that that firm was threatened with insolvency, but I did not like the loan because it was unliquid and too large.

Now, as having a bearing upon my frame of mind at that time, I notice from this correspondence, unless I have read this incorrectly, that on the Prudential Board were Colonel Burland and Farquhar Robertson. Those men are both good business men, well-to-do men and good business men.

Now then, your lordship, as I have said, my policy was to give the re-organized Board of management every opportunity to place the administration upon a sound basis provided that, in my judgment, this is possible.

There is another aspect of it that I desire to draw to your lordship's attention, because it is referred to in the petition, and is relevant to what I afterwards did. In Mr. Lash's letter of March 4th, 1916, Exhibit 74 (Mr. Lash acting for the bank, not for me,—and I prove that letter, sir, as having been received by me), the last paragraph reads as follows:

"If the Bankers' Association were asked to interfere, my experience tells me that no matter what the pledge of confidence may be, and no matter how faithfully it may be kept by those giving it, yet the situation would become public property in a very short time, by the whisperings or talkings of others, including the bank's own staff. This would precipitate matters before we are ready to deal with them in the best interests of the public, and it is that which I am specially anxious to avoid."

As a matter of fact, the petitioners here in this case make that their argument. I draw your lordship's attention, in that connection, to what the petitioners say about the effect of an outside investigation. They say it would bring the bank down.

Now, there is the letter of March 8th.

Mr. LEE: What is the Exhibit number?

Sir THOMAS WHITE: This is to Z. A. Lash, it has not got a number.

Mr. LEE: What page?

Mr. McLAUGHLIN: Page 167.

Sir THOMAS WHITE: I will read it, sir, it is marked "personal".

"OTTAWA, March 8, 1916.

Re Home Bank

"Dear Mr. LASH,—I have yours of the 4th instant, and think it proper to defer action until after the 16th instant when I understand Mr. Haney's report will be received as to the British Columbia timber limits held in connection with the Frost account. It is altogether probable that after that date I shall feel it my duty to bring the bank's affairs to the attention of the association. They will then have before them the material with which I have been furnished and Mr. Haney's report, which they would no doubt desire to see before taking action.

Yours very truly,"

Sir THOMAS WHITE: Mr. Haney and Mr. Crerar had gone out West to examine the timber limits. I am speaking a little loudly for your benefit, Mr. McLaughlin.

Mr. McLAUGHLIN: I am much obliged; I hear you quite well.

Sir THOMAS WHITE: Then there is a letter dated March 9th from Fisher to myself:

"WINNIPEG, March 9, 1916.

Sir THOS. WHITE,
Minister of Finance,
Ottawa, Ont.

Re Home Bank of Canada

DEAR SIR,—Your letter of the 24th ult. come in due course, but absence from the city has prevented my replying to it earlier. I quite realize the delicacy of the situation and how important it is to avoid a mistake in judgment one way or the other. I can but repeat that my clients are entirely satisfied that the matter is in good hands when Messrs. Lash & Anglin are now the solicitors of the Bank.

As to the special information that my clients have touching the Frost account: it is not so much with respect to the amount of the account but as to the circumstances under which the advances were made. The information they have had has not, in fact, been verified, although they are convinced of the truth of it, but the whole matter, I may say, is known to Mr. Lash, to whom I am sending a copy of this letter."

Sir THOMAS WHITE: Then I come, sir, to a letter of March 16th.

Mr. LEE: Exhibit No. 78.

Sir THOMAS WHITE: Yes. It is from Mr. Lash to myself, and Mr. Lash says:

"MY DEAR SIR THOMAS,—The Board meeting of the Home Bank was held to-day. I attended and explained the whole position, and asked for instructions upon the matters which are most threatening.

The Board said they would continue in session until conclusions were reached. I said I would be available whenever they were ready. It is probable that the Sittings will be continued to-morrow.

I will communicate with you again to-morrow, and if necessary, I, or Mr. Anglin will go down and see you.

I told the Board that I had given you an assurance that the position would not be materially changed pending the further discussion with you, and they assented to that."

The point I am making is that Lash was acting for the bank, not for me.

Now, Mr. Commissioner, came next in order the reorganization of the Board, as stated in Mr. Lash's letter. Here is what happened. On March 20, 1916, I received the following personal letter from Mr. Z. A. Lash—this is in Mr. Lash's handwriting, from the Chateau Laurier:

Re Home Bank

"My Dear Sir THOMAS:—As I said in my note of 16th the Board met—they continued in session on Friday. I had to go to New York Friday night and arranged that either I or Mr. Anglin would see you without delay and explain matters. I returned home yesterday morning and received a message from Mr. Crerar (a W'p'g director) saying that he and Mr. Haney had arranged to be in Ottawa to-day to see you and

asking me to be here. I assumed that an appointment had been made with you and I came down last night. To my surprise I found that no appointment had been made and that you would not be here till to-night. Mr. Haney told me of what the Board had decided upon and after hearing him and his views *re* B.C. lumber, etc. I am in a much more hopeful frame of mind as to the future of the Bank.

1. General Mason and his son will have leave of absence till a better detailed knowledge of the position is obtained.

2. Mr. Haney was appointed Vice Pres. with the *de facto* position of President. He will make the affairs of the Bank the first charge on his time, till it is in a permanent position one way or the other and will if necessary devote all his time. He will accept no remuneration until it is seen that the Bank can afford it and then he will take what the shareholders may decide.

3. Mr. Macaffie (I think that is the spelling) the Manager of the Winnipeg Branch in whom Mr. Haney and Mr. Crerar have great confidence, will come to Toronto at once (he has been wired for) to assist Mr. Haney in investigating the general position and Mr. Haney will employ such outside assistance as may be required.

Mr. Macaffie is an old Bank Manager and was trained in the Merchants Bk. and B.B.N.A. He has been with the Home Bank about 7 years I think and most of the time in W'p'g.

4. The Pellatt securities have been approved and will be executed to-day. This will make his account quite safe I think.

5. The Board desire an opportunity of going on with the business—strengthening other accounts and straightening out tangles and it was with that in view that we came here to-day in order to explain the whole position to you and to ask you to give them this opportunity, by refraining for a while longer from asking the Bankers Association or other outside authority to interfere. We would stay over to-morrow and explain things but unfortunately Mr. Crerar must be in Winnipeg on Wednesday and I must be in Toronto to-morrow. I would like Mr. Crerar to be present with me when I see you in order that he may assure you, as he has assured me, that he is quite satisfied now and that Mr. Haney has the full confidence of the Winnipeg Directors. His appointment as V.P. was unanimous at the Board meeting, two of the three W'p'g Directors being present. I feel quite satisfied myself that the public interest will be served by the opportunity asked for being given and if you will kindly give us an appointment for some day next week, towards the end of the week, we will come here or meet you in Toronto and give full information and such undertakings as you desire that the general position will not be changed to the detriment of depositors, etc.

Faithfully yours,

(Sgd.) Z. A. LASH.

Now, then, there is Mr. Crerar's letter of March 20, 1916. I want to say, your lordship, that I had entire confidence in Mr. Crerar and the Western Directors, because they were the parties who, through their counsel, had brought these matters to my attention, these three principal accounts, and at that time I had no knowledge whatever, nor subsequently, of any other accounts that were weak or required to be investigated, only those three, and I think they referred to a Barnard loan, a small amount which had been cleared up. But the point I desire to make, in order that your lordship may understand the attitude of mind I had at the time, because that was important in determining the action which I took under the Bank Act where it was in my discretion to

call for an audit, or call for a statement from the auditor, or call for a statement from the Board, is that I had entire confidence in Mr. Crerar and the Western Directors who had raised the question.

I also want to say that I had entire confidence in Mr. Haney because they had confidence in him. The entire Board had united upon Mr. Haney as President, and I will give my views a little later, under oath, as to the opinions that I entertained of those men, because it is relevant to my state of mind at that time, and has a bearing upon how I reached my decision.

Now, this is the letter from Mr. Crerar:

Home Bank of Canada

"DEAR SIR,—You will have learned from Mr. Lash of our visit to Ottawa to-day to discuss bank matters with you, and our failure to see you through your absence from the city. You will also have learned of the change made at the recent meeting of the Board held in Toronto a few days ago, whereby the active management of affairs is placed in entirely new hands through Mr. Haney taking the vice-Presidency, and assuming direct executive control, with Mr. Machaffie, the Manager in Winnipeg, whom, for the time being at least, he is bringing to Toronto to assist him. By this arrangement I feel quite certain that the knowledge and information concerning the position of affairs desired by the Western Members of the Board, and also the changes they desired when they directed their request to you, and which they saw no hope of securing through the then existing management, can now be satisfactorily obtained without calling in outside assistance. In my opinion, the situation has materially improved within the past month, and, at this juncture with the changes in management recently made, it is better to have the enquiry proceed from within rather than from without.

Owing to the possibility of my being unable to attend a suggested conference with you next week, I am giving this letter to Mr. Lash so that he may place it before you. I may add that Mr. Kennedy, with whom I have discussed the views herein expressed, is in agreement with them. Mr. Persee, the other Western Director, is in the South, and so we have been unable to consult him. I feel, however, that were he here he would be in agreement with us."

Now, here is Mr. Crerar on behalf of the Western Directors telling me that he is satisfied with the reorganized Board, and they want an opportunity to go ahead, and he does not want an external audit. I must not suggest his motives, but I could easily understand it might have very serious effects upon the bank, and, because I am at a disadvantage here, I asked counsel for the Government to put in the resolution which was passed at a meeting of the Home Bank Board at which Mr. Crerar was present, and Kennedy, in which they said it would be found that the capital of the bank was intact.

Mr. LAFLEUR: That is in, Sir Thomas.

Sir THOMAS WHITE: Further, I asked for the report of Haney and Crerar that there would be no loss on the Western timber limits, that they could be realized on in from three to five years, to be put in.

Mr. LAFLEUR: That is also in Sir Thomas.

Sir THOMAS WHITE: All right, I am content.

Now, your lordship, the only other letter at this stage of the proceedings, for 1916, is Mr. Haney's letter of June 14th, and that closes the first stage, sir, in this matter, as between the Home Bank and the Department of Finance arising out of James Fisher's letter.

Haney's letter is dated June 14th, 1916, Exhibit 86, page 176. It is addressed to myself, and I am going to read it, with your permission. I will come back to that, because I want it specially referred to:

Home Bank of Canada

"SIR:—Referring to the letter of March 23rd last from Mr. Z. A. Lash to yourself which also bears my signature in concurrence. Mr. Lash promised that you would be kept informed from time to time as to the progress being made. In the absence of Mr. Lash from the city, this report may now be in order from me.

For convenience' sake the three accounts regarding which you asked for special information may be styled, "the Toronto matter", "the New Orleans matter" and "the British Columbia matter".

In the Toronto matter the additional securities mentioned in Mr. Lash's letter have now been put into shape; our customer is paying interest in cash quarterly, and while much of the debt may have to be carried until the termination of the war, it is, in the opinion of the Board, reasonably certain that no loss will accrue to the Bank.

In the New Orleans matter, progress has been made by obtaining control of an equity which I am satisfied will yield a substantial sum in reduction of the debt, and, therefore, greatly facilitate liquidation of the whole account.

In the British Columbia matter, negotiations mentioned by Mr. Lash are still pending; we have also been approached by other parties regarding the largest item, and prices mentioned are considerably in excess of the value placed upon it in our books.

On May 26th and 27th a full Board meeting was held and was marked by complete harmony throughout; all doubtful accounts were discussed, and appropriations for losses made; the aggregate of these appropriations, together with a considerable sum for good measure, is being transferred from Rest account. A definite policy was decided upon which will substantially increase our earning power.

In conclusion, I would add that much has been done to increase the proportion of immediately available assets; mercantile advances have been got in and quite heavy investments made in Government bonds and this policy will continue."

Now, that is from Mr. Haney, President of the Bank, in whom they all had confidence, and certainly in whom I had confidence.

Then I desire to call your lordship's attention to Mr. Lash's letter of March 23rd, 1916, to which Mr. Haney referred.

The SECRETARY: Exhibit 83.

Sir THOMAS WHITE: It is a long letter, your lordship, and I do not propose to read it because it is before you, and your lordship will read it, but it deals with these accounts and shows the improved condition of the bank. For instance, it says:

"With reference to the third account regarding which you called for a special return, additional securities have been obtained, and the Board now feels that no loss will be sustained by the bank on this account."

It also says:

"One of the first things which Mr. Haney did after he was appointed Director, was to go to New Orleans with a view of investigating the position down there, in order to form an opinion as to the security held by the Bank in connection with one of the accounts regarding which you called for special returns. Mr. Haney formed an opinion that by proper management, a substantial part of the value of that security could be

maintained, but the situation is not an easy one and requires careful and tactful treatment. In addition to going to New Orleans, Mr. Haney went to British Columbia, accompanied by Mr. Crerar, for the purpose of investigating the securities held by the Bank in connection with another of the accounts regarding which you called for the special returns. Mr. Haney and Mr. Crerar both came to the conclusion that the security held by the Bank showed a fair margin in value over the amount of the Bank's claim. Here again, the position is complicated, and requires careful and tactful management in order that the values of the securities may be realized without sacrifice."

I am going to make another suggestion, if I may, to counsel for the Government, because, as I say, I am at a disadvantage, that they ascertain what timber prices were in 1916 to 1918 in British Columbia, or any other place, and the demand for timber. There was the demand, great or small, the British Government and all the Governments paying almost fabulous prices for timber in the West. That should go in before your lordship because, as I have said, in some of these letters, it was a question of security in connection with those three accounts.

As I said, sir, that letter of Mr. Haney's of June 14th, 1916, closes one stage.

I had confidence in the reorganized Board, and believed they were sincerely desirous and hopeful of placing the bank on a sound basis, that is, if losses occurred on one or more of the three accounts they would be marginal losses, and not effect the solvency of the bank. That was my opinion, sir. I had absolutely no knowledge of any difficulty with any account other than those set out in the Fisher letter.

I want to refer to the personnel of the Board, because I want to give reasons for my confidence. I am giving you my evidence, and it is relevant for the reason that it has a bearing upon the question of my confidence, as to why I did not get the Bankers' Association to go in, that was in my discretion as to whether I should do that or not, and I want to tell your lordship how I regarded those men, if your lordship thinks that that is right.

HIS LORDSHIP: Certainly.

Sir THOMAS WHITE: Mr. Haney was known to me as a prominent contractor, reputed to be a man of good means. He had good standing in Toronto; he was on the Board of the Toronto General Hospital with myself, and I was much impressed by his ability and earnestness in his duties. Mr. Lash had confidence in him and expressed it to me more than once. So had the Western Directors, they all agreed upon him in substitution for Mason.

And I may say that James Mason was a prominent citizen of Toronto, was in good financial credit, apparently, very greatly respected in Roman Catholic Church circles, and he was a Senator of Canada.

As to J. Cooper Mason I might as well deal with him as Manager at that time. I doubt if I had ever spoken to J. Cooper Mason in my life. He was a son of James Mason whom I had known, and had a good record in the South African war. I do not think I ever saw Mason in my life more than two or three times. On those two or three occasions it was at meetings of the Bankers' Association which I had convened at Ottawa during the war, and he came down as Manager of the bank. I certainly knew absolutely nothing against him, and down to the day of his death I knew nothing against him. Nor do I know anything to this moment against Mr. Haney, that is, of my personal knowledge.

In Mr. Crerar I had implicit confidence, and in his co-directors from the West—I have said this already—because they had brought those accounts to my attention. They certainly appeared to be acting honestly.

Mr. LAFLEUR: Where are you reading from, Sir Thomas?

Sir THOMAS WHITE: I am giving my evidence.

Mr. LAFLEUR: I thought you were reading a letter.

Sir THOMAS WHITE: On account of having no counsel to advise me, Mr. Lafleur, I have before me what a counsel would have with his witnesses.

Mr. LAFLEUR: I am quite satisfied, Sir Thomas. I thought you were reading a letter and wanted to refer to it.

Sir THOMAS WHITE: In refraining from bringing the matter to the attention of the Bankers' Association I was influenced by three things:

(1) The harmonizing of the Board and its statements as to the position and prospects of the bank.

That was quite influential with me. They were all content and all agreed on Mr. Haney, and wanted to go ahead. The Western Directors had practically withdrawn their later request.

(2) Crerar's letter on behalf of Western Directors.

That is the second influence on my mind, a direct influence.

(3) Reluctance to take action which might bring down a bank which while it might have to face a loss on one or more accounts appeared to be solvent and to have its capital intact, because its Board had said that it would be found that its capital was intact, in their opinion.

There might be some marginal losses on accounts, but with an honest Board, as apparently they were, reorganized, only marginal losses, there was no reason for closing up a bank in my opinion.

Mr. LEE: You are only referring up to 1916?

Sir THOMAS WHITE: I will get over it all, I have it here.

Now I come to the Machaffie letter dated August 29th, 1918.

Mr. LAFLEUR: If it is not interrupting you I would like to know if the report you referred to is that on page 182, Exhibit No. 96, the report and resolution of the Directors.

Sir THOMAS WHITE: Yes that is Exhibit No. 96.

Mr. LAFLEUR: You asked me to file that, I said it was already in, I am pointing out where.

That report of Messrs. Haney and Crerar I will also look for, and if it is not in I will put it in.

Sir THOMAS WHITE: And the resolution of the Board at which Messrs. Crerar and Kennedy were present stating that as a result of their investigation in their opinion the capital of the bank would be intact. I mentioned that the other day and your Lordship said you would consider whether that should go in or not.

HIS LORDSHIP: Yes, it was left in abeyance.

Sir THOMAS WHITE: Now the Machaffie letter of August 29th, 1918, marked "register", Exhibit No. 88.

"Register.

OAKVILLE, ONT., August 29, 1918.

HON. Sir THOMAS WHITE,
Minister of Finance,
Ottawa.

Home Bank of Canada.

DEAR Sir THOMAS,—Referring to the report of James Fisher, K.C., to you on February, 1916, and to a conversation with the writer in December of that year; at that time there seemed some hope of selling a

substantial portion of the British Columbia timber held in the A. C. Frost account to a pulp company, this sale however did not materialize; this situation therefore is that the dividends for the years ending May, 1916, and May, 1917 were based on the addition of interest to doubtful accounts—in each year some 30 per cent more than amount of dividend being added to the Frost account alone—dividend for year ended May, 1918 was based on the anticipation of a profit in a British Columbia shipbuilding enterprise, in which the Bank is to receive 25 per cent of the profit, the balance being divided between M. J. Haney, President, C. A. Barnard, a Director, and F. J. M. Stewart, a personal friend of Mr. Haney's. In this connection a considerable amount of the bank's funds is locked up.

In view of the foregoing it seems evident that the actual cash disbursed in dividends during the three years under review was furnished by the increase in deposits, and that the aggregate risk of the public is much greater to-day than when Mr. Fisher approached you.

The total amount written up in the Frost account over the purchase price of the timber, if added to the amount of capital stock carried by the bank, would account for the entire capital.

Section 153 of the Bank Act is of course violated, Head Office officials unwilling to share the guilt are obliged to get out; since matters were reported to you the following gentlemen have had to resign:

Mr. Kennedy, Toronto Manager.

Mr. Adair, Supervisor.

Mr. Hase, Supervisor.

Mr. Machaffie, Assistant to President.

The shareholders' auditor, who was the late Col. Mason's selection, is not, I am told a chartered accountant, nor a trained banker; the position of important matters is concealed from the Board, and consequently the public are denied that measure of protection contemplated by Parliament at Section 58 of the Bank Act.

Transactions in which Mr. Haney and his friends have a personal interest were becoming, rather frequent, and in some cases the outcome was disastrous to the bank.

This lack of disinterestedness on the part of Mr. Haney, coupled with the fact that much important information is withheld from Mr. Lash, seems to justify the conclusion that the arrangement made by you with these two gentlemen does not afford the public an adequate measure of protection.

All of which is respectfully submitted, I am,

Yours faithfully,

(Sgd.) W. N. MACHAFFIE,

Late Assistant to President.

SIR THOMAS WHITE: I acknowledged that letter on Sept. 4th. I point out to your lordship that in previous letters I had asked assurance from Mr. Lash that interest would not be taken into profits. Your lordship will recall those earlier letters, it is not necessary I think for me to specially refer to them now. I at once took up that letter and again followed the practice of the Department and section 113 of the Bank Act, and asked the Board for a reply to that letter. I may say to your lordship,—and I think this is evidence, because the frame of mind is again important,—these letters are important but Ministers more or less frequently receive letters of such a nature from officials, and as far as my practice went, and section 113 of the Bank Act gives the power, you call on the Board of Directors of the bank for an answer, because

in nine cases out of ten there is some personal dissension involved, and the thing is cleared up. However, I regarded this as a very important letter. I wrote Mr. Lash this:

OTTAWA, September 4, 1918.

Re Home Bank

"DEAR MR. LASH,—I enclose herewith copy of a letter which I have received from Mr. Machaffie, late Assistant to the President of the above Bank. I shall be glad if you will take the matter up with the Board of Directors and have a report prepared dealing with the several charges made. I regard the matter as of the utmost public importance, and it is my intention to have a through investigation made through the Bankers' Association or otherwise. Before taking this step, however, I wish to have a reply from Mr. Haney and his Board.

Yours faithfully.

Z. A. LASH *Esq.*, K.C.,
Bank of Commerce Building,
Toronto.

Then follows some correspondence in which there was delay. My recollection is that I was away on the Victory Loan of 1918, I started the campaign in Winnipeg and went to the Coast and was away a considerable time so there was some delay in getting the answer. I do not think it is necessary to read all these intermediate letters, I come directly to Exhibit No. 96 which is the reply of the Board, with your permission I will read that because I regard that as a very important letter.

"THE HOME BANK OF CANADA,

Office of the General Manager.

TORONTO, October 29, 1918.

Mr. Haney submitted to the meeting a report to the Minister of Finance, to be sent to the Minister on behalf of the Board, and this report after consideration and amendment was unanimously adopted by the Board in the form following, and the President was authorized and instructed to forward copy of this report to Mr. Lash, with instructions to have same forwarded to the Minister.

REPORT

The Directors of the Home Bank of Canada have had under consideration a letter which the Honourable the Minister of Finance wrote to Mr. Z. A. Lash, K.C., the Bank's Counsel, enclosing copy of a letter dated August 29, 1918, from W. A. Machaffie to the Minister of Finance, in which certain statements are made with reference to some of the Bank's affairs.

The Minister of Finance in his letter to Mr. Lash asks that the matter may be taken up with the Board of Directors and a report prepared dealing with the several charges made. The Minister adds, "It is my intention to have a thorough investigation made through the Bankers' Association or otherwise; before taking this step, however, I wish to have a reply from Mr. Haney and his Board."

Owing to the absence of Mr. Haney, President of the Bank, and to Mr. Lash's absence and other engagements, the dealing with the matter by the Board has been delayed. Mr. Lash, however, informed the Minister of Finance of the reasons for the delay.

The Board feels that no good purpose would be served by entering into Mr. Machaffie's reasons for interfering in this Bank's affairs. The papers and correspondence with, and relating to Mr. Machaffie, and to the claims which he made against the Bank because he was not appointed General Manager as he expected to be, are open for the inspection of the Minister, should he wish to see them. They will probably afford the reason for Mr. Machaffie's present action which the Board thinks is not impartial or actuated by consideration for the public interests.

As the Minister of Finance seems to have placed more reliance upon Mr. Machaffie's letter and statements than the Board thinks they are worthy of, and to remove the wrong impression which that letter has evidently created, and on account of the importance of the matter, the Board feel that a reference to the position of the Bank as directed and managed two and a half years ago, and to its present position, is called for.

In the early part of 1916, certain representations upon the position of the Bank had been made to the Minister of Finance, and he expressed at that time the intention to have an investigation made through the Bankers' Association or otherwise.

Mr. Haney, now President of the Bank, had joined the Board of Directors shortly before these representations had been made. On his suggestion the then Board retained Mr. Z. A. Lash, K.C., as Counsel, and appointed the firm of Blake, Lash, Anglin & Cassels as Solicitors.

Owing to the disturbed condition of business and finances in Canada two and a half years ago, the Board was of opinion that any investigation into the affairs of the Bank by the Minister of Finance, or by the Canadian Bankers' Association, would be misunderstood, would cause a run upon the Bank, and would compel it to close its doors, with all the injurious consequences which would result therefrom, not only to the Bank itself but to its customers and to the public interests. The Board did not then, and does not now fear the fullest investigation, but they do fear the consequence to the Bank, its customers and the public, which would result from an investigation ordered by the Minister through the Bankers' Association or otherwise.

The Board recognized two and a half years ago, and now recognizes, the responsibility placed upon the Minister of Finance, with respect to the Banking System of Canada, and if, after full consideration and hearing the representations of the Bank, the Minister should conclude that, notwithstanding the consequences referred to, he is called upon in the public interests to order an investigation, the Board, would, of course, submit and afford all assistance possible.

Early in 1916 Mr. Haney and Mr. Lash had an interview with the Minister of Finance, explained to him the then position of the Bank, referred to the consequences of an investigation at the instance of the Minister and explained to him the intentions of the Board with respect to the future control and management of the Bank. Mr. Haney stated that it was his intention to consult with Mr. Lash upon all important matters relating to the Bank's affairs before taking action thereon. Mr. Haney also stated his conviction that if the Bank were allowed to go on undisturbed by the public distrust which would inevitably result from an official investigation, the making of which could not be withheld from the public, the matters forming the subject of the representations to the Minister, would and could be worked out and put into a position which would be entirely satisfactory to the Minister and that he would devote his best energies and his time to the accomplishment of that object. The Minister of Finance said that, on the representations made to him, and

in view of Mr. Haney's promise, he would not then order an investigation which might have the consequences referred to, and he would rely upon Mr. Haney and Mr. Lash keeping him informed of any changes in the Bank's position which would call for action on his part. That the Minister has been justified in his position, and that Mr. Haney's promises have been fully kept, will be made apparent by the statement which follows:—

The accounts which gave the Minister of Finance concern two and a half years ago were:—

- (1) A large account held at the Winnipeg office.
- (2) A large account held at the Toronto office.
- (3) A large account, the security for which was timber lands and limits in British Columbia.
- (4) A large account held at the Toronto office in connection with certain undertakings in New Orleans.

The Board of Directors have gone carefully into all the Bank's affairs; Committees of the Board visited the places where the interests of the Bank were greatest, and personally made themselves familiar with the positions. Mr. Haney and Mr. Barnard went to New Orleans and obtained full information of the situation there, and came to the conclusions as to the way in which it should be treated. Mr. Haney went to Manitoba and to British Columbia. In the latter place the timber lands and limits, in which the Bank is interested, were examined and information respecting them and the general conditions in the Province was obtained.

Account No. 1 has been fully liquidated.

Security for account No. 2 was taken and in the opinion of the Directors the balance thereof is now fully secured. The account has been reduced by \$284,091.27 of capital and all interest has been paid.

With reference to account No. 3, with the information obtained in British Columbia the Board's judgment was that there was ample security in the timber lands and limits for the claims of the Bank, and since that time the value of the security has increased. The selling price of logs in British Columbia (confirmed by actual transactions) have been as follows:—

- In 1916—\$ 8.85 per thousand feet.
- In 1917—\$12.12 per thousand feet.
- In 1918—\$17.00 per thousand feet.

Sir THOMAS WHITE: That is what I wished Mr. Lafleur to get some evidence on if he thinks it worth while, about the demand for timber in 1918.

Mr. McLAUGHLIN: It does not say anything about the cost of operation.

Sir THOMAS WHITE: Well do not misunderstand me, all I want is the truth. The truth shall make you free, even although you are a counsel.

Spruce is now being cut for the Imperial Munitions Board, from one part of these limits, at a price netting \$6.00 per thousand for Number One, and \$2.50 per thousand for Number Two. This spruce was previously valued at from 50 cents to \$1.50 per thousand. One of the limits containing from two hundred million to three hundred million feet of Douglas Fir, as well as tie timber, etc., is situated on Sooke Lake, seventeen miles from Victoria. A branch of the Canadian Northern Railway which has been graded, and on which rails are now being laid, passes through this limit. An offer has lately been received to purchase one large section.

The Directors feel confident that no loss will be sustained by the Bank in connection with the account secured by these limits.

Sir THOMAS WHITE: I pointed out to your lordship that Messrs. Haney and Crerar had reported two years before that there would be no loss.

With reference to Account No. 4, the situation in New Orleans was very carefully considered and fully discussed with the Bank's Counsel and Solicitors, and upon their advice, based upon the business judgment and views of the Directors who went down to New Orleans, the whole situation was organized upon a new basis. An efficient management was installed, the undertaking put into good repair and condition. Mr. Barnard, one of the Directors, has personally given much time and attention to this matter, and has frequently visited New Orleans in connection with it. The results have been satisfactory. The net operating profit which, for the first twelve months ending December 31st, 1916 amounted to \$27,319.34, now amounts to more than \$7,000.00 monthly, the net income from operation for the month of July 1918 was \$7,500,000. The gross revenue for September 1916 was \$11,349.03; for September 1917 it was \$14,936.75; and for September 1918 it was \$18,094.86.

The increase and improvement in the position thus shown has not resulted from abnormal causes, but is the result of the improved condition of the properties, the careful management and the general advance in business conditions which the Board feels sure will be continued. The Securities held by the Bank have been greatly strengthened and improved, and the Board is confident that no loss will result to the Bank in connection with this account.

The inference to be drawn from Mr. Machaffie's statements with reference to dividends paid by the Bank seems to be that these dividends were paid out of capital, and not out of Profits. This statement, or inference, is unfounded. No dividends have been paid out of capital, and the profits of the Bank, actually earned, have been amply sufficient to warrant the payment of the dividends which have been declared.

For the same reason which made the Board feel that an investigation into the affairs of the Bank by the Minister of Finance or by the Canadian Bankers' Association would be misunderstood and would cause a run upon the Bank, the Board felt that great responsibility devolved upon them with reference to payment or withholding of a dividend upon the Capital Stock.

After the most careful consideration, the conclusion was reached that it would be greatly in the interests of the Bank and enable the Board to carry out its determination to make the Bank successful, if the dividend, which for years has been paid upon the Stock, were continued, provided that it could be continued lawfully and without breach of any of the provisions of the Bank Act.

On each occasion when the declaration of a dividend was discussed, careful consideration was given to the question of the profits of the Bank, and, after being satisfied that sufficient profits were on hand, the dividend was declared and paid.

The net profits for 1917 were.. . . .	\$217,059 57
The dividend for 1917 was.. . . .	97,327 06
The net profits for 1918 were.. . . .	228,963 19
The dividend for 1918 was.. . . .	97,362 40

No unpaid interest upon account No. 3 or other inactive accounts was credited to profits since the 31st May, 1917, the end of the Bank's fiscal year 1916-17.

The statements made by Mr. Machaffie with reference to what he calls the British Columbia Shipbuilding enterprise, in which he says a considerable amount of the Bank's funds is locked up, are unfounded.

The Bank made certain advances in 1917 to Mr. J. F. M. Stewart, collaterally secured at all times by good security. The transaction was one of ordinary banking business. Mr. Stewart alone was quite responsible for the advance. The indebtedness was liquidated in full prior to December 31, 1917. The transaction was a profitable one to the Bank. The papers and accounts connected with it are open to the inspection of the Minister at any time.

Mr. Machaffie's statement that Section 153 of the Bank Act has been, or is being violated, is untrue, and his insinuation that he and three other officials, whom he names, resigned from the service of the Bank because they were unwilling to share the guilt, and others not named were "obliged to get out" or to resign because they were "unwilling to share the guilt" is untrue. Mr. Machaffie was quite willing to remain in the service of the Bank but the Board did not feel justified in retaining him, or appointing him to the position to which he aspired.

Changes in the staff are constantly being made by every Bank and institution, and the changes in the staff of this Bank, brought about by the action of the Board, whether by refusing requests for advancement or otherwise, were brought about entirely to improve the service and not for the sinister reason insinuated by Mr. Machaffie, or for any other improper reason.

Mr. Machaffie says that he is told that the Shareholders' Auditor is not a Chartered Accountant nor a trained banker. This gentleman is a man of the highest reputation and ability. For the past seventeen years he has been, and still is, Bursar of Trinity College, and auditor for other institutions. His name is included in the list of persons selected by the General Managers of Banks under Section 56 of the Bank Act, deemed by them to be competent and eligible to be appointed auditor under the provisions of the Act, and he was not disapproved of by the Minister under the provisions of the Act. He was duly appointed by the shareholders at the Annual Meeting. No information required by him in pursuance of his duties as shareholders' auditor has ever been withheld, and he has been most careful and even exacting in obtaining information for the purposes of his audit.

The statement by Mr. Machaffie, that the position of important matters is concealed from the Board is untrue. No matters have ever been concealed from the Directors and all advances of over \$5,000 have been reported to and discussed by them.

Mr. Machaffie's statement, that the transactions in which Mr. Haney and his friends have a personal interest were becoming rather frequent, and that in some cases the outcome was disastrous to the Bank, is untrue.

Mr. Machaffie's statement, that much important information is withheld from Mr. Lash, is untrue. All important matters have been discussed by Mr. Haney with Mr. Lash as Counsel for the Bank, and nothing has been done contrary to Mr. Lash's advice or opinions.

The Board of Directors assure the Minister that the position of the Bank has been steadily growing stronger. The management is efficient and satisfactory, and the business of the bank is progressing in a very satisfactory manner.

The following will show its growth:—

On 31st May, 1916, the total deposits of the Bank, not including Dominion Government deposits, amounted to	\$10,133,785 00
The deposits on 31st May, 1918, were	15,682,750 00

The gold and legal tender notes on 31st May, 1916, amounted to	2,816,573 00
On 31st May, 1918, they amounted to	3,252,464 00
The liquid assets on 31st May, 1916, amounted to	6,773,797 00
On 31st May, 1918, they amounted to	11,073,182 00
The total assets on 31st May, 1916, were	15,562,032 00
On 31st May, 1918, they were	23,675,773 00

The following gentlemen have been put on the Board during the last two and a half years:—

Mr. C. A. Barnard, K.C., of Montreal, was elected to the Board on account of his accurate knowledge of the New Orleans Railway situation, and because he undertook to give his individual attention to it. In addition, he has been of material assistance through his connection with various large business interests in Canada.

Mr. R. P. Gough, President of the Sellers-Gough Fur Company, was asked to join the Board to assist and advise the Bank on various commercial matters. His position as a business man in Canada is well known. He has devoted much personal time to the affairs of the Bank, and has been of great assistance.

Mr. Ambrose O'Brien, Manager of M. J. O'Brien Company Limited, was asked to join the Board because he was a young and active man whose business interests are closely associated with the development now being carried on in Canada. He has been, and will continue to be, of great service to the Bank.

Mr. H. J. Daly, Vice President of the National Cash Register Company, and General Manager for Canada, was elected a Director in order that the Bank might receive the benefit of his great experience in system, his knowledge as a business expert and successful manufacturer. His appointment has been very beneficial to the Bank.

As Senator Macdonell's other engagements, through his Parliamentary and other duties, and the state of his health, prevented him from giving much time to the Bank's interests, Mr. S. Casey Wood, of the firm of Rowell, Reid, Wood & Wright, was asked to join the Board so that the legal aspects of matters coming before the Board might be properly guided and discussed. The wisdom of selecting Mr. Wood has been fully justified.

(Sgd.) M. J. HANFY,
President."

Sir THOMAS WHITE: Now your lordship I desire to testify and swear that I believed that representation made on behalf of the Board of Directors, said to be a unanimous report of the Board, many of whom I knew personally.

In order that I may supplement what I said with regard to the members of the Board in 1916, I wish to say something about these men very briefly, that is my knowledge of them.

Mr. Gough was a well known business man in the city of Toronto, highly respected, a Roman Catholic, I had never any knowledge, and have not yet, of anything in any way to the discredit of Mr. Gough. He was a man of good standing, later on he became Vice-President I believe of the National Railways. he was also a man who stood high in the Church, I understood that he has been connected with the Knights of Columbus, President or head of it.

Mr. O'Brien I do not know but I knew his firm well, J. O'Brien, Limited. they are very reputable people.

Mr. H. J. Daly, I may have seen him at some time, I do not recollect, he was in Ottawa here, I knew him by repute as a very active business man, he did some work during the war here, some reorganization work, he was reputed to be a good organizer. I knew absolutely nothing against him and had heard that he was a man of substance.

Mr. S. Casey Wood I have known since he was a boy, a barrister of high standing and unblemished integrity, that was my view and opinion then and now.

I was of the opinion at that time that there was a quarrel between Mr. Haney and Mr. Machaffie, that was suggested by Mr. Lash's letter and by the terms of this resolution of the Board. I am only giving my view at that time, I am not stating that is so, but my view had a bearing on my action. I said before and I tell your lordship now that in the Finance Department you frequently get letters from dissatisfied officials of banks and other institutions, I am sure there are a number on the files of the Finance Department now, there were when I was there anyway. We refer those first to the Board for a statement of the facts, in accordance with the practice and with the Bank Act. At least that is what I did; we get the answer of the Board, and if the answer is satisfactory and you have confidence in the Board you say, "Well here is a dissension between officials and the President or other chief official," and you act accordingly, as you deem proper.

Now as this matter had been up before and I was anxious to know the continuation of the matter following Mr. Haney's advice to me of June, 1916, I called for a special report. I wrote Mr. Lash on October 31st, 1918;

OTTAWA, October 31, 1918.

Re Home Bank

"DEAR MR. LASH,—I am obliged for yours of the 30th instant, and for the statement of the Board of Directors, enclosed therein, relating to certain charges made against the management of the Bank by Mr. Machaffie. As Mr. Machaffie's charges relate, among other things, to certain accounts which I discussed with you some two and a half years ago, and as the statement of the Board of Directors is general with regard to some of these, I desire, with respect to accounts numbered 2, 3 and 4 on page 5 of the Board's report, the following supplementary information:

Copies of the Bank's Ledger entries showing in detail all advances made, interest added from time to time, any payments in reduction of principal, and full particulars of security now held.

It is stated in the Board's report that no unpaid interest upon account No. 3 or other inactive accounts has been credited to profits since May 31, 1917. This would seem to imply that for many years interest has been added to principal of accounts which were not capable of liquidation or reduction and that such added interest is therefore now represented as part of the Bank's capital or reserve in its public statements. As the note circulation of the Bank is dependent upon its paid-up capital, and as the other Banks of Canada are guarantors of this circulation, it appears to me to be a matter of importance both to this Department and to the Banks that the capital of the Bank should represent substantial assets. If, as a matter of fact, the capital of the Bank is represented by interest amounting in the aggregate to a large sum and added over a course of years to the principal of inactive accounts, a serious question arises as to whether the true position should not be declared and the capital and reserve of the Bank written down accord-

ingly. In this connection I require a statement showing how much of the capital and reserve is represented by interest which has been added from time to time to the principal of the three accounts in question and any other account where the principal loaned has exceeded \$250,000.

I shall be obliged if you will obtain this further information for me as soon as possible.

Yours faithfully,"

Z. A. LASH, Esq., K.C.,
Bank of Commerce Building,
Toronto.

Now I desire to say, my lord, that my opinion is, and was then,—it is not so important what it is now as what it was then—that the question of capitalizing interest is a question of fact, a question of security. If as a matter of fact there is abundance of security, so that the principal and the interest which is added is well secured, my view was then and is now that it would properly come into earnings. But of course there is a vast range between extreme cases which you could mention, of an account which is obviously well secured and an account which is rather doubtfully secured, like a timber account, where you might have the opinions of men varying very much with regard to the value of the timber account, and I had impressed upon Haney and Barnard the responsibility upon them, and the Board for satisfying themselves that before interest is taken into profit that they should be sure of the value of the securities, and later on I had asked and received from Mr. Lash the assurance that interest would not be taken into capital upon the timber account or the New Orleans account; in the case of the latter until it was cleared up. Your lordship recollects that.

Then follows a number of other letters which I prove. They show that there was considerable delay. I had got back by October 31st, 1918, from my Victory Loan campaign. The influenza was raging at that time, and Col. Mason had influenza. That was the fall of the influenza epidemic.

Then in reply to that I got Mr. Lash's letter of January 25th, 1919, which is Exhibit 105, page 191. There were various delays in connection with his reply and I should like to read this letter and put it in in full, because I regard it also as an important letter.

"TORONTO, January 25, 1919.

"Sir THOMAS WHITE,
Minister of Finance,
Ottawa, Ont.

Re *Home Bank*

My Dear Sir THOMAS,—I have received from the Home Bank, and now enclose, the particulars relating to the following accounts:—

- (1) Pellatt.
- (2) A. C. Frost & Co., Western Lumber, etc.
- (3) New Orleans.

Being—

Pellatt.
Copy of ledger entries.
Securities held.

An analysis of the accounts, which will enable you to understand them fully.

No interest charge to this account remains unpaid; on the contrary all interest has been paid and the principal has been reduced.

Frost & Co.
Copy of ledger entries.
Securities held.

A summary which will enable you to understand the accounts, from which you will see that the amount of interest included in the debit balance is \$688,966.42. In addition to this subsequent interest up to November 30, 1918, but not taken into the account or included in the debit balance amounts to \$253,737.54.

With reference to the value of the security held, amounting to \$2,986,267. I am informed that the most competent "cruisers" whom the Board of Directors could find were employed to examine the most important lots and to report the amount of the various classes of timber therein. The bank has their reports in full detail, also the detailed reports of the cruisers who previously examined all the property, very voluminous documents which are at your service if you desire to have them examined. The values placed upon the timber have been fixed, upon the best information which could be procured, and I am instructed to say that in fixing these values the board was very conservative in its estimates. Two members of the Board personally went to British Columbia and went through the limits and got information as to other sales. Negotiations are pending for the sale of some of the timber at prices in excess of the values fixed by the bank.

I am instructed to say that in the opinion of the Board the whole amount of the bank's claim, including subsequent interest not taken into profits, is fully secured.

New Orleans.

Copy of ledger entries.

Securities held.

You will see that the total interest up to 31st November, 1918, was charged to these accounts. A memo enclosed with the statements explains the reason for this.

Although in our correspondence this account has been called for convenience "New Orleans" yet it began by an advance made to the Prudential Trust Company, for which certain securities upon the New Orleans Railways were given. The bank felt that it would have to realize in the best way upon these securities, and the whole position in New Orleans was reorganized and turned into a going concern, which is realizing profits, which I am told are sufficient to cover the interest; but, to strengthen the position, the profits except \$25,000 remitted to the bank, as mentioned in the memo, were allowed to be used in betterments and improvements. The bank expects a payment soon on account of interest, and that no arrears will further accumulate. The Prudential Company is still indebted to the bank in the amount of the original advance and interest and its liability forms part of the bank's security, but, owing to the position of the Prudential Company, it was not thought advisable in the interests of the bank to proceed against it until the position was further advanced. I am instructed that the board of the bank is convinced that outside of the liability of the Prudential Company the securities now held will realize for the bank the full amount of its claim, leaving the liability of the Prudential to the good.

As stated in the Board's communication to you, I have been consulted from time to time with reference to the New Orleans situation, the Pellatt account and the Frost account, and I have given the Bank my considered judgment and advice in these matters, and in all others brought to my notice. I am convinced that very sincere efforts on the part of the Board and management have been made during the past three years to improve the position of the Bank, and my opinion is that these efforts have been so far successful, and that the Bank's position has been greatly improved, and I see no reason to think that the efforts will not be continued or that

the position will not continue to improve. I feel that the conclusion which you arrived at, to allow the new management to make these efforts, was a wise one in the public interest, and I feel equally sure that a continuation of this attitude on your part will be further justified by the result.

As the New Orleans enterprise is earning net profits and will soon be remitting moneys for interest, the account is not regarded as inactive or as one in which the amount involved will be indefinitely tied up.

The accounts in the name of the Canada Securities Corporation and L. C. Herdman was opened, under Counsel's advice, in connection with the reorganization.

If there be any further information which you would like, I will see that it is sent to you.

I am, yours faithfully.

(Sgd.) Z. A. LASH."

Now I come to Exhibit 106, which is the last letter I sent Mr. Lash. I took no further action with regard to that matter. It is dated January 29th, 1919.

"Dear Mr. Lash:—I am obliged for yours of the 25th instant, furnishing the particulars of accounts required by me some time ago. I shall look over the documents carefully and if I require anything further will communicate with you. Thanking you for the attention you have been good enough to give the matter, believe, me, yours faithfully."

Now, my lord, I wish to give you in a general way an idea of the condition which prevailed from 1914 to 1919, if your lordship thinks it is relevant. The bearing I think it may possibly have is that it shows the whole situation as well as this particular situation and in that connection, on account of some mis-statements which have been made, no doubt inadvertently, referring to some interview that I had given to the Press, I would like in either the examination or the cross-examination to put in the statement which I prepared myself and gave to the Press and which I verify. It bears upon the question of my attitude of mind and it has been referred to outside, and, I am inclined to think, in the petition of the depositors, but I am not sure.

Mr. McLAUGHLIN: The petition is taken from your own statement.

Sir THOMAS WHITE: Then we had better have the statement in.

Mr. McLAUGHLIN: I am quite satisfied that it should go in.

Sir THOMAS WHITE: Wrong inferences have been drawn from it, I think inadvertently, and I think it will help to clear up the situation. This is an interview which I gave the Press. I may say that in the interviews, which I gave to the Press from time to time, because, as I regarded it, I was very unfairly attacked, I had not before me the papers, the documents, the records, which were in the Finance Department, and which down to the present time have been there. Nor had I, until after the failure of the bank,—although this interview was given after I got my file back—the file which Mr. Roberts returned to me. When I gave these interviews, I had before me the file which Mr. Roberts had returned to me, but I had not the original Fisher communication and all those other papers, and I was speaking from memory over a period of eight years. Nevertheless I have got a pretty good memory I think. This is the interview, as published.

Mr. LEE: What are you reading from now, Sir Thomas, the Globe or Mail?

Sir THOMAS WHITE: Oh, I always read from the Mail; bless my heart, you would not expect me to read from the Globe, would you? It is from the Mail of January 17th, 1924.

"In view of publicly-made allegations to the effect that during my period of office as Minister of Finance disclosures were made to me which

should have resulted in the closing of the Home Bank, I desire to make the following statement:

"No facts were at any time brought to my attention while I was Minister justifying action on my part which would have brought about suspension of the Bank.

"In 1916 complaint was received by me on behalf of the three Western Directors of the Bank, Messrs. Crerar, Kennedy and Persse, with respect to three accounts of the Bank, viz., the Frost Timber account, the Pellatt account and an account with the Prudential Trust Company relating to the bonds of a New Orleans traction company. As the questions involved related to the legality of the account with the Trust Company and the taking of further security from the Pellatt Land Companies, I suggested that Mr. Z. A. Lash, K.C., should look into these matters and report to me. I have in my possession a letter from Mr. John Fisher, K.C., who acted for the three Western Directors expressing satisfaction at the selection of Mr. Lash for this purpose."

Now that is slightly inaccurate, because I had not the papers before me, and as a matter of memory I did not recall that I had expressly, under the provisions of the Bank Act, called for those returns, and had asked Mr. Lash, when he and Haney came down to report to me that Mr. Haney was to do nothing without Mr. Lash's consent, as I have already explained in my evidence.

"As the result of my action at this time, General Mason was displaced as General Manager and the Board of Directors of the Bank harmonized and reorganized under the presidency of Mr. Haney.

"It was reported to me that the reorganized Board was satisfied that it would be found that the capital of the Bank was intact and that there was no danger of loss to creditors or depositors. I was assured by letter on behalf of the three Western Directors who had brought the three accounts to my attention that no external audit or inspection was necessary."

Now that was for Mr. Crerar, and I may say to your lordship that although I was pressed for months to publish Mr. Crerar's letter, that on account of its being personal, I declined to do so, although I was under a good deal of unjust criticism.

"It was reported to me that Messrs. Crerar and Haney had visited British Columbia to inspect the Frost timber limits, and that they had advised that the security thereon held by the Bank was adequate to cover the debt to the Bank. The minute of the Board in this connection was as follows:

MINUTE OF THE BOARD

"March, 18, 1916.

"The account of the A. C. Frost Company again came up for discussion and Messrs. Crerar and Haney reported that they had visited the Coast in accordance with minute of the Board meeting 28th January, 1916, and reported that they had come to the conclusion that there was ample security in the timber limit and properties held by the Bank for the present indebtedness and that in their judgment the whole of such indebtedness can be realized from said assets in from three to five years."

"I was advised that Mr. Haney had visited New Orleans and reported favourably to the Board as to the traction bonds' account and that no loss would result to the Bank in connection therewith.

"I was advised that all arrears of interest upon the Pellatt account had been paid up and provision made for the reduction of the principal.

Further security had been taken through the services of Mr. Lash which in the opinion of the Board, ensured that no loss would result to the Bank on this account.

"In August, 1918, I received a complaint from a former official of the Bank that interest upon the Frost timber account had been taken into profits for the fiscal year, 1916-17, and that Mr. Haney was not keeping Mr. Lash informed as to the transactions of the Bank. The latter statement was denied by Mr. Lash. With regard to the former statement, interest had been taken into account for the fiscal year mentioned, but this was not unlawful if the Board believed, as they evidently did, in view of the Crerar-Haney report, that the timber limits were worth substantially more than the claims of the Bank. From the end of the fiscal year 1917 until 1921 I am advised that no interest upon this account was taken into profits. I called for and received copies of ledger entries verifying the statement of the Board and a statement that there were no arrears of interest upon any other accounts of \$250,000 and over.

"By reason of the allegation contained in this complaint respecting the Frost timber account, it is now claimed that an investigation should have been made and the Bank closed. An investigation at that time at the instance of the Minister would have resulted in the destruction of the credit of the Bank, whether it was solvent or insolvent.

NO SOUND GROUND FOR INQUIRY

"The fact that interest had been added to the Frost timber account constituted no sound ground for instituting an investigation, which would have had most serious consequences with respect to the Home Bank and the general financial situation. We were in the midst of the \$700,000,000 Victory Loan campaign of 1918, which extended over the autumn of that year with payments by subscribers extending throughout many months of the following years. The loan was vital to the agricultural and business interests of Canada, whose products it financed; to the returned soldiers whose gratuity of \$130,000,000 it supplied, and to the Government in connection with its immense war liabilities. It is now suggested that at such a time or in the even more troubled period of unrest succeeding the Armistice, the then Minister of Finance should have taken action which would have resulted in the closing of the bank without having facts before him evidencing its insolvency.

"In reply to the last complaint mentioned, I was furnished with a unanimous resolution of the Board stating that in their opinion no loss would result upon the accounts in question; that dividends were not being paid out of interest added to the Frost account, that the net profits of the bank were more than double the dividends paid, and that the prospects of the bank were more favourable.

"The Minister of Finance, under the Bank Act, is given no power to order the suspension of a bank. He can, it is true, institute proceedings, or order an investigation which may have that effect, but the judgment as to whether he will do so in a particular case must be his own, to be determined by the facts and circumstances before him."

I intend later on to raise that point for your lordship's consideration: that the discretion given the Minister in the Bank Act, as to whether he will proceed under section 113; or whether under section 56A he will call for a report from the auditor, or appoint an outside auditor, is the discretion of the Minister, unfettered and unconditioned, and not subject to review by any tribunal. I shall take that as an exception a little later, although I am quite prepared to waive it for the present, because I want all the facts to come out for the information

of the Canadian public; but I am going to take that technical exception because I submit that it is sound in law and in accordance with the Constitution. Nevertheless I want to be fully cross-examined.

"Under no circumstances would I have allowed a bank to fail during the period in question. I had many difficult and dangerous financial situations to deal with during the war. At its outbreak, in view of the panic which prevailed, the Government, at my instance, placed itself behind the banks of Canada and gave public assurance that it would loan them such sums as they might require to meet the conditions of the war, and would take all further steps necessary to safeguard the financial situation during its continuance. At a later period I found it necessary to make a statement in the House to allay unrest caused by the agitation for the so-called conscription of wealth. If it had appeared to me that the bank was not able to meet its public obligations, I should have taken steps to have it taken over by some other bank or banks, or failing that, would have given it necessary assistance under the Finance Act, 1914. Such action would, in my view, have been justifiable in the public interest at that time.

"It is not unusual for Ministers to receive complaints from ex-officials respecting financial or other institutions. If any Minister of Finance since Confederation took greater pains in connection with any such complaint than I did in the Home Bank case, I should like to have his name and the particular instance drawn to my attention.

"When I left Ottawa in 1919 times were prosperous. All financial institutions were doing well. The Home Bank had an important and expanding business. Its deposits were large and growing and there was no reason known to me why with the legitimate profits which it might be expected to make it should not be able to take care of any marginal losses which it might sustain upon any of the accounts which had been brought to my attention.

"At no time was it suggested by the Western directors or anyone else that the bank was not able to meet its liabilities or that it should be wound up.

"I have no desire to hamper the depositors of the Home Bank, the condition of some of whom is deplorable, to seek relief in any way they may deem expedient. I merely desire to place the facts before the Canadian public, whom I had the honor to serve, I believe to the best of my ability, as Minister of Finance during the war.

"T. WHITE."

Now that substantially represented my view at that time, that the bank was not insolvent. There were some accounts on which there might be heavy marginal losses. The bank had a fine clientele, had a great standing with the Roman Catholic community and, as I say, there were some very able men of integrity on its Board.

That practically finishes my evidence except that I would like to say this, your lordship, that I have been bulking in the financial community a good deal, and I understood things with regard to the bank's condition both then and later. I do not know whether your lordship would care for evidence of that kind, you might say it is hearsay and yet it is not, because I am, in a way, a banking expert, and in touch with those matters. It has this bearing, it indicates my view as to the position of the bank, but it may be objectionable to put that in, it is not sufficiently definite.

I understood Mr. Daly was making a success of the bank. Mr. Daly succeeded Mr. Haney. He was not there in my time, but they raised the dividends

of the bank, and I understood Daly put in money of his own, and I was delighted to hear that the bank was making a success. I give that evidence without the slightest hesitation and equivocation, that is, as to that feature of it. The dividends had been increased later on.

I did not give the matter particular attention after I went out of office as Minister excepting this, that when Sir Henry Drayton wrote me in 1921, I think it was, I wrote him a letter and told him just to look into those accounts again. Those were the three things that gave me concern. As I said, I thought there might be marginal losses on them, but I had received those reassuring statements from Mr. Lash, and Mr. Haney and the Board, and you do not close up a bank because it has got two or three weak accounts. It is a question of whether by properly administering the bank, and writing off a certain amount from year to year, you can meet them. I have no hesitation in saying that if I had been a young banker, knowing what I do about banking—and I think I know a good deal—that on the statements before me, I do not say the real situation, I would not have hesitated to take over that bank on its clientele with its twenty million dollars of deposits, with its possibilities of expansion.

Mr. McLAUGHLIN: There were only ten millions in 1916.

Sir THOMAS WHITE: I am not speaking of 1916, I am speaking of this later period.

Mr. McLAUGHLIN: 1923?

Sir THOMAS WHITE: I do not know what the deposits were. What were they in 1918?

Mr. LEE: About twenty-one millions in 1923.

Sir THOMAS WHITE: However, my point is that, on the evidence before me, I could have taken hold of that bank and, by using the profits to advantage, writing off a certain amount from year to year, have put it in a fairly good position, because it had one of the best clienteles in Canada, the Roman Catholic community, and others too.

Now, your lordship, that is my examination in chief and I am prepared to be cross-examined, and I shall ask the privilege to re-examine myself a little later, but before I submit to cross-examination I wish to draw to your lordship's attention the sections of the Bank Act, 113 and 56a, and to say that I waive, for the purpose of my examination, any right I may have to object to cross-examination with regard to my discretion, because I want all the facts to come out. I am going to submit to your lordship, as a legal proposition, that the discretion of the Minister who is in touch with the situation, who is giving it his consideration, is unfettered and unconditioned, and consequently I am going to show later on, although I would have no personal objection whatever to a finding of your lordship that that part of the Commission which purports to give your lordship the right to review the executive action of myself, unfettered and unconditioned, the executive action of myself, or Sir Henry Drayton, or the Honourable Mr. Fielding—although I am not appearing for them—is ultra vires, and has no effect whatever, but I am so desirous that the public should have the facts in this that I am going to waive that, and I want Mr. McLaughlin to cross-examine me.

His LORDSHIP: Have you any questions to ask, Mr. McLaughlin?

Mr. McLAUGHLIN: Will we go on to-night?

Sir THOMAS WHITE: I would rather go on in the morning myself.

Mr. LAFLEUR: We cannot finish to-night anyway.

Sir THOMAS WHITE: I have had to shout a little for Mr. McLaughlin's benefit and my voice is a little weak.

His LORDSHIP: We will adjourn until to-morrow morning at half past ten o'clock.

Sir THOMAS WHITE: I have to thank your lordship for allowing me a good deal of latitude in this matter.

(Proceedings stand adjourned at 4.30 p.m. Thursday, 24th April, 1924, until 10.30 a.m. Friday, 25th April, 1924).