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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, FRIDAY, APRIL 25, 1924

No. 6

OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1924

CANADA

IN THE MATTER OF A COMMISSION, appointing the HONOURABLE HARRISON ANDREW McKEOWN, a Commissioner 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.

Before the Honourable Chief Justice McKeown, the above named Royal Commissioner, at Ottawa, Friday, the 25th 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.

McGREGOR YOUNG, K.C., *for the Attorney General of Ontario.*

Sir THOMAS WHITE cross-examined by Mr. McLaughlin:

Q. Sir Thomas, you were Finance Minister, I believe, from the year 1911 until 1919?—A. That is correct; August 1st, 1919.

Q. And you were the only person who had any authority to ask for information such as has been asked for from any bank?—A. Well, that is not a very clear question, Mr. McLaughlin. I was the only man who had any authority

Q. Under the Bank Act?—A. Under the authority of the Bank Act I was entitled to ask for information; I have not looked into that legal point, but that is my opinion.

Q. Well, you were the person who, under the Bank Act, had authority to ask for information?—A. Undoubtedly I had authority.

Q. And no other person had authority?—A. Not that I am aware of.

Q. So that if any person required information it had to be obtained through you?—A. If anybody required information it had to be obtained through me?

Q. Yes, unless it were voluntarily offered by the bank itself?—A. I do not understand that question, Mr. McLaughlin.

Q. Take the case that actually arose when those Directors required information. If they could not get it from the management the only other person they could get it from was yourself, or through you?—A. I would not say that.

Q. Under the authority of the Bank Act?—A. No, I would not say that. The authority that the Minister has under the Bank Act is clearly set out in the Bank Act.

Q. Do you know of any provision in the Bank Act that authorizes any other person to ask for information?—A. Just a moment till I finish. I am not aware that any Director of a bank has any authority given him under any statute, as far as I am aware, to ask for information from the Minister of Finance. The returns of the bank are published from month to month.

Q. You do not think any person has any authority to ask for information from the Minister of Finance?—A. When you say "authority," I mean auth-

ority under the Bank Act, and I am not aware that anybody has any authority to ask for information from the Minister of Finance under the Bank Act, but, as a matter of fact, if some one had come to me and asked for information, if it was of such a public character that I felt justified in giving it, why, of course, I would give it.

Q. It is a free country and the subject has always the right to approach the Crown and its Ministers, there is no doubt about that?—A. I have always considered that to be so, but nevertheless there is information of every description which is in the discretion of the Government to bring down to Parliament or to make public.

Q. There were certain duties, anyway, imposed upon you by the Bank Act?—A. There were certain duties, and certain discretions were set out in the Act.

Q. The Bank Act did not say, or does not say "must" in any case, it says "may"?—A. May. In any of the cases that I referred to yesterday it says "may". Whether it means "must" or "shall" I do not know.

Q. In fact, Sir Thomas, there is no statute which uses the term "must" when referring to the Crown or its Minister?—A. The word "shall" you frequently see in the statutes.

Q. Not when it refers to the Crown?—A. Well, I would not be prepared to say that. You are a lawyer and you can answer that question; it is a legal question.

Q. Well, the Crown was under no compulsion, but the Crown is always supposed to do its duty, and always will, without compulsion?—A. Well, that is a very admirable sentiment to which I shall be very glad to subscribe.

Q. Well, as an officer of the Crown, holding a very important office as Minister of Finance, I suppose you will admit that you would feel the same obligation towards the public as you would towards a private client?—A. I would feel as high an obligation to discharge all duties imposed upon me by statute, or by virtue of my office, as I would with regard to a private client, quite as high if not higher.

Q. The duties of supervision of banks, so far as the Bank Act authorizes the Finance Minister, of course, are very important?—A. The duties imposed upon the Minister by the Bank Act are, of course, important, if they are imposed upon me.

Q. In fact, there is nothing that affects the public weal, so far as material institutions are concerned, more than the banks?—A. Well, I would not be prepared to say that, but I would say it was exceedingly important.

Q. Now, in the year 1916, on or about the 22nd of January, you received certain memoranda from the Western Directors of the Home Bank. I believe there were three documents, Exhibits 2, 3 and 5?—A. I would have to check that, Mr. McLaughlin. I stated yesterday that while, as a matter of memory, I was unable to state, after so long a lapse of time, that these exhibits had been received I had no doubt that they were, as they were filed by the Department.

Q. Those are the Exhibits?—A. I remember the Fisher communication very clearly, and I have no doubt those are the enclosures.

Q. Well, these were of a very serious nature?—A. They were of a disturbing nature.

Q. It was a very exceptional thing for three Directors of a bank to make a complaint as to their own institution?—A. It was.

Q. You know of no other instance?—A. Not by Directors.

Q. And these Directors you knew, or some of them?—A. I knew Mr. Crerar.

Q. You knew him to be a man of the highest character and reputation?—A. Well, that was my belief regarding Mr. Crerar.

Q. So you said yesterday?—A. Yes.

Q. Now, we will take Exhibit 5?—A. Yes, I have that.

Q. Page 18. That Exhibit referred chiefly to the condition of affairs at the chief Toronto office of the bank?—A. Yes.

Q. It says:—

“Early in the fall of 1914, suggestions came to the western members that the business in the chief Toronto office of the bank was not in good condition, and the western members became anxious therefore to have the matter enquired into, and this led to action being taken on the lines herein indicated.

“The three western directors went to Toronto in November, 1914, with the special view of making particular enquiries as to the position of the chief Toronto branch, and with a view to making a complaint to some extent as to the amount of money withdrawn from the West for making loans in the East.

“We called on the General Manager personally in the first place, and after discussing matters generally, we asked him to let us have a list of all loans in the Toronto office exceeding \$25,000. He suggested a private meeting with ourselves to give us the information, it being unnecessary, as he suggested, to have the eastern directors at the meeting, as they were familiar with the loans. To this we demurred, and intimated that we wished the information given at a full meeting, which was agreed to, and the meeting was thereupon held on the following day and continued next three days.

“Certain information was given at that meeting, with which, however, the western members of the Board were not by any means satisfied, as is shown by a letter of 17th February, 1915, addressed by the western members to Mr. A. C. Macdonell, that letter being sent to him particularly because he was a member of the legal profession, and we relied upon him to be of assistance to us in getting the fullest information possible.”

That showed that these Directors were dissatisfied with the conduct of the business at the chief Toronto office?—A. Yes, I think it did, that is, under the then management.

Q. And they desired information not as to three particular loans but as to every loan over \$25,000?—A. They did, from the General Manager.

Q. Yes, and they could not get information that was satisfactory to them?—A. Apparently not, although I do not know that.

Q. Then the letter reads on:—

“The same matters were further discussed at a meeting held in the end of December, as indicated in the letter above referred to. In particular at the December meeting, the western members urgently pressed for the passage of the resolution therein quoted, and the eastern members were absolutely at one with us in expressing the necessity for a change in the management of the head office, but the resolution was not then adopted—”

That shows they were dissatisfied with the management at the head office?—A. There was evidently dissension in the Board and trouble regarding the management.

Q. Notwithstanding the high reputation and high character that you gave the Honourable James Mason?—A. Well, I only spoke of Mr. Mason, General Mason as I knew him at that time, because it indicated my viewpoint at that time respecting him.

Q. I want to explain, Sir Thomas, that I am not casting any reflection on your good faith in this matter at all.—A. I do not think you are.

Q. I just want to get the facts.—A. You do not want to get the facts out any more than I do, Mr. McLaughlin I have been anxious to get them out for months.

Q. Yes, so that you will understand that anything I ask you has no personal reflection whatever.—A. I understand that perfectly.

Q. They go on to say:—

“At the November meetings we made inquiry as to whether any recent inspection had been made of the Toronto office, and were told by Colonel Mason that it had not been deemed necessary to have it inspected because the business of that branch came weekly before the Board. We protested against the failure to have a regular inspection, and at a subsequent meeting an inspection was directed to be made by Mr. Adair, the Bank's supervisor. We specially urged that it should be ready for submission before the annual meeting to be held late in June. It turned out, however, that the inspection report was not ready when the annual meeting was held on 29th June, but we did not know of its not being completed until we came to the meeting. It was then disclosed that the annual report had already been forwarded to Ottawa without our knowing anything of its contents.”

They would appear to be saying that the annual report was sent in without it being submitted to the Directors?—A. The annual report?

Q. Yes.—A. Well, I cannot speak of anything as to the Bank Act without seeing it, but if you say so, that the Bank Act states—

Q. The report is a report of the Directors, is it not?—A. It is a report, I think, of the Board, but I should not like to say that offhand, Mr. McLaughlin, without looking at the Bank Act. I think you are correct, but you understand you are asking me as to something that is expressly in the Bank Act, and it is not before me.

Q. And they say clearly enough that the annual report had been sent in without being passed by the directors?—A. You are reading from this communication, and that is stated.

Q. Then it goes on further:—

“Mr. Gooderham, a member of the Board, had during the summer of 1915, presented his resignation from the Board, but had been prevailed on to retain his seat temporarily, at all events.

“Early in January, 1916, a letter, dated 31st December, 1915, copy of which is attached, was received from the General Manager, announcing the resignation of Mr. McNaught as a director, and the election of Mr. W. R. Hancy in his place.”

A. As a Director.

Q. Yes. And then:—

“On or about the 17th inst., we received from the General Manager a letter (copy attached in the Barnard memo) announcing the resignation of Mr. Gooderham and the election of Mr. C. A. Barnard in his place.”

A. You are reading?

Q. Yes, and one of the loans that these Directors was complaining about was a loan to this very Mr. Barnard?—A. I am not prepared to say that, because I have not examined this. A loan, understood, to the Prudential Trust.

Q. That is Exhibit 3.—A. That is the Prudential Trust loan.

Q. No, Mr. Barnard's loan, Exhibit 3.—A. Wait till I see that.

Q. Mr. Barnard seemed to be mixed up in the Prudential Trust?—A. Oh, yes, that is the shares of the Home Bank stock, and the advance being made

in connection with the taking over of the Banque Internationale. I thought you were referring to the Prudential loan, but you are referring to the Barnard loan, Mr. McLaughlin.

Q. Now, on Exhibit No. 3, they complained about a loan to Mr. Barnard of \$394,000?—A. Well, you are reading, the Exhibit shows that.

Q. We will leave that for a moment. Exhibit No. 2, that complained about the Prudential Trust loan?—A. Yes. You will notice that is marked "Confidential memo to the Minister of Finance." That is James Fisher's communication, I think.

Q. Yes, that is, Fisher writing on behalf of these Directors?—A. Yes.

Q. Mr. Barnard appeared to be a Director of the Prudential Trust Company also?—A. Well, I am unable to say that.

Q. You see that on the top of page 13.—A. If you say so, why, I do not demur. Yes, it says so.

Q. So they had made this serious change in the directorate by taking the resignation of Mr. Gooderham, a man of independent position and high character, and appointing Mr. Barnard a Director who was personally indebted to the bank, evidently, in \$394,000, and was one of the Directors of the Prudential Trust Company which was heavily indebted to the bank, nearly \$700,000?—A. Mr. Barnard was evidently appointed a Director. I assume he was appointed lawfully a Director under the Bank Act. I had not the appointing of directors, I had no powers to bring about the resignation or appointment of directors.

Q. I am not questioning your powers, but that is the fact, that took place?—A. Oh, well, the exhibit speaks for itself.

Q. Those directors, according to Mr. Fisher's report, had no notice of the meeting at which Mr. Barnard was appointed a director, or of the meeting at which Mr. Haney was appointed a director?—A. Well, I do not know that. However, if you say it is in the communication it must be so. I am speaking of something that happened eight years ago. I have a fairly good memory but it is pretty difficult to remember small details.

HIS LORDSHIP: Mr. McLaughlin, just for my own information, you have used the word "complaint" several times in your examination. Are these to be regarded as complaints to the Minister, in your view, or are they just setting out the fact to the Minister in order to apprise him of it? Do you regard them as complaints to him?

MR. McLAUGHLIN: Well, they are attached to the memoranda, and they were enclosed with it as a part of the record.

HIS LORDSHIP: I have been looking through them, and I cannot strike, for the moment, anything in which they say "Now, we are complaining about these things to you and ask you to do so and so."

MR. McLAUGHLIN: Well, I will come to that.

THE WITNESS: On the contrary, your lordship, when Mr. Fisher brought in the communication to my office it was marked "Confidential" and there was no request for me to take action. The action that I took was of my own volition.

HIS LORDSHIP: I just wanted to get Mr. McLaughlin's viewpoint in connection with that correspondence.

THE WITNESS: I quite appreciate the point.

MR. McLAUGHLIN: You refused to accept them as confidential?—A. I certainly did. I said to Mr. Fisher, if you leave that communication in my office I shall absolutely decline to regard it as confidential.

Q. That is perfectly right.—A. He wanted it regarded as confidential. I am speaking a little loudly, Mr. McLaughlin, for your benefit. As I say, he wanted it regarded as confidential, and for my information.

Q. These original memoranda, they laid the facts before you?—A. The facts, as contained in the memoranda, were laid before me.

Q. To take such action, I presume, as in your judgment you would decide to be right?—A. Well, I cannot tell you what was in Mr. Fisher's mind, I can only tell you what happened. He marked the memoranda "Confidential" and he distinctly did not ask me to take action. I told him that that communication—there is no use in my repeating it—could not be regarded by me as confidential.

Q. These memoranda also referred to the Frost and Pellatt loans?—A. Yes, they did. They were the very large items, they were the items that disturbed me from the standpoint of the stability of the bank.

Q. If you will turn to Exhibit 52, at page 81, without reading the whole of that, you will find, the second paragraph, the following:—

"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."

A. Yes, I see that.

Q. Now, down on the same page, he says:—

"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 at present constituted."

A. Yes, I featured that yesterday in my evidence.

Q. So those people did want an investigation?—A. They did, but they stated that they would not for a moment be content with an investigation to be conducted by the Board as at present constituted.

Q. You say that these people did not want an investigation?—A. They did not want an investigation, as they say, under the Board as at present constituted.

Q. Well what kind of an investigation did they want?—A. Well, their letter will show. They wanted an investigation by the Finance Department.

Q. You think they wanted an investigation by the Finance Department?—

A. Yes, and they said they would not be content with an investigation to be conducted by the Board as at present constituted.

Mr. McLAUGHLIN: So that disposes of the question your lordship asked.

The WITNESS: That is February 18th.

Mr. McLAUGHLIN: Then the letter continues:—

"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."

A. That was their request, that is in their letter. They stated they would not be content with an investigation to be conducted by the Board as at present constituted.

Q. We will just shorten this matter, Sir Thomas, by doing as little arguing as possible, just getting at the facts. His lordship will draw the inferences.—

A. That I am anxious to do.

Q. Then the letter continues:—

“These accounts would include especially the Frost, the Prudential, and the Barnard accounts.”

A. Yes, the three accounts or four; the Frost, Prudential and Barnard. It does not say the Pellatt.

Q. It does not say Pellatt here. As to the other they say that it should be fully investigated notwithstanding the settlement that had been reported to them recently. It will be clear now, from what I have already asked, that they were not merely asking for an investigation of these three accounts, but a general investigation of the affairs of the bank.—A. A special audit of the bank's affairs is what they asked for.

Q. A special audit of the bank's affairs?—A. Yes.

Q. Another point that they were anxious about is this. At page 82:—

“My clients were anxious that at once some fresh blood should be introduced into the general management.”

It was suggested that Mr. Adair should take the position and it says they were greatly disappointed that the Board refused to do this.—A. That is in the letter.

Q. So they were entirely dissatisfied with the management.—A. Apparently so.

Q. And they were not satisfied with the appointment of the Assistant General Manager as General Manager, they wanted new blood?—A. They said they wanted new blood.

Q. And they suggested Mr. Adair at that time?—A. They did in this letter. Of course I had not the power of appointment of the Manager or of the Assistant Manager. That was for their Board.

Q. Now I take the next Exhibit, at page 83:—

“They very decidedly approve the view expressed in Mr. Lash's telegram referred to in my letter, to the effect that a full investigation is required. This, of course, they understand to mean a full investigation of the bank's affairs generally, including the acts and conditions that have led to the present situation.”

So there is no doubt then what these Directors wanted?—A. Not at that stage.

Q. And they are equally firm in their contention that “under the circumstances disclosed. . . it will be wholly unsatisfactory to have an investigation made by the Board as at present constituted.”—A. Yes, I think I called attention to that yesterday.

Q. At the bottom of the same page 83:—

“They ask me further to say that having regard to the past history of the general management, as well as that of the Toronto office, and having regard also to the general management's failure to make an inspection of that office until last summer, they are not content even in the meantime to have the general management wholly left as it now is. They were, in fact, very greatly disappointed that Mr. Haney took the attitude he did, as they were hoping that he would see his way to meet their wishes on that point, at all events.”

A. That is in the communication.

Q. A little further down:—

“My clients anxiety, however, is about the handling of, and dealing with, the present large accounts, and as to these the first requisite in their judgment is to get at the actual facts, and in their judgment this cannot be effectively done under an investigation by the present Board.”

A. That is right.

Q. “Respecting the Barnard account, my clients realize the delicacy of the situation, seeing that it has been settled, and that Mr. Barnard is now on the Board, but they cannot refrain from expressing their conviction as to the desirability of an investigation notwithstanding the settlement.”—A. He had settled his indebtedness had he? I assume so from that.

Q. Did you understand that?—A. I do not say that as a matter of memory. I am asking you from this: had he? I do not know.

Q. Did you understand, Sir Thomas, that the Barnard claim had been really settled?—A. As a matter of memory I do not recollect that at all, Mr. McLaughlin. They said it was settled.

Q. I will call your attention to the documents that were before you at the time. On the next page:—

“It is the hope of my clients that you will be able to see your way to direct a full investigation by an auditor appointed by your Department.”

A. Yes, that is in there.

Q. Then we will look at Exhibit 57 on page 88. That is a letter to you, from Mr. Fisher in which he quotes his letter to Mr. Lash, a copy of which was sent to you?—A. Yes.

Q. That was put on the general file.

“My clients, having presented their view very fully and very frankly to the Finance Minister and to yourself as Chief Counsel of the Bank, are entirely satisfied to leave the matter in his hands and yours to decide what action will be taken.”

A. Yes, that is the quotation.

Q. Now I call your attention to Exhibit 124. This letter was not before you and did not of course affect your knowledge of affairs at that time. This was on January 3, 1918, and appears at page 235 of No. 3 of the proceedings.—

A. You mean the letter from Mr. Crerar to Hancy?

Q. Yes, Mr. Crerar to Mr. Hancy. He resigns from the directorate and explains his reason. Then he says:—

“Our views have not changed, and in retiring now from the Board I will still entertain the hope that the views we have so pressed will, to some extent at least, be approved by you and acted upon by the Board.”

A. You are not stating that I received that letter?

Q. No, you did not receive that; it did not come to you, but I am calling your attention to the fact that it shows Mr. Crerar's opinions had not changed. Now, Mr. Crerar became a colleague of yours in the Government then?—A. Well, Mr. McLaughlin, I think about the end of January or in January, 1918. I had a breakdown from overwork and I went to California for two or three months and I think Mr. McLean was acting as Minister.

Q. So you had not the opportunity of any conversation with Mr. Crerar about that time?—A. Oh no, not at that time at all, because I was away. I do recall a casual conversation with Mr. Crerar but I think it was in 1919. It was casual and Mr. Crerar was a colleague of mine in the Union Government and it is impossible for me to make any statement with regard to what he said to me, although I personally would like to make it.

Q. Now I will call your attention to Exhibit 3, appearing at page 14, the Barnard loan. Your understanding was, I think you told me a moment ago, that this loan had been paid in full?—A. No, I did not say that, Mr. McLaughlin; I gathered that you said that when you read it. You spoke of settlement. As a matter of memory I do not recall any of these in detail, because it is eight years ago. I am only dealing with them as they appear to me on the record.

Q. That is quite reasonable, Sir Thomas.—A. This matter, as a matter of fact, has practically faded from my mind, except the high spots.

Q. Then we will recall it to you. This is a memorandum from Mr. Fisher to you, *re* Barnard loan, and gives an extract from the inspector's report:—

“\$394,000, 2,662 shares Home Bank stock in name of Barnard and Pellatt in trust. No trust deed is held. After deducting the balance at the credit of the Banque Internationale account, the stock will have to realize approximately 125 per cent to enable the bank to avoid a loss.”

That looks on the face of it to be a loan on the security of the bank's stock, does it not?—A. On the face of it, yes.

Q. That would be contrary to the Bank Act?—A. Yes, but it was done, wasn't it?

Q. What is that?—A. It had occurred.

Q. And that would show to you that the Bank was making loans, illegal loans, contrary to the terms of the Bank Act?—A. I would not be prepared to say that offhand.

Q. Oh, don't argue the matter; it is as plain there as daylight.—A. Now, Mr. McLaughlin, you are asking me a legal question, and I want to give you as fair a reply as I can. If I understand the transaction, the Home Bank of Canada took over the Banque Internationale. Now I do not know offhand, from reading that, because I have not read it carefully, you understand, whether the Banque Internationale held through trustees certain shares of the Home Bank in trust or not; but if the Home Bank of Canada took over the Banque Internationale—as it did—and there were among the assets of the Banque Internationale certain shares of the Home Bank, so that the Home Bank would then become the possessor of them, I am not prepared to say offhand—and I don't think you are—what the legal position would be. It is a very complicated matter.

Q. But there would be no legal right for the Bank to lend more money to Mr. Barnard to carry the shares. That does not say that they are the property of the Home Bank.—A. “It was explained by Col. Mason at the November meeting that this was an advance that had been made in some way in connection with the taking over of the Banque Internationale, but we were unable to get satisfactory explanations showing how the loan came to be made, or what the object of it was. He also stated that the money was, in fact, advanced, in the first place by the Banque Internationale and not by the Home Bank to Barnard.” Now, if the Home Bank took over the Banque Internationale, lawfully, as I believe it did under the Bank Act, and if among the assets of the Banque Internationale there were loans secured by Home Bank stock, I am not prepared to say offhand, and I say I don't think you would, as to what was the legal position.

Q. The Banque Internationale had no right to hold Home Bank stock?—A. I agree with that.

Q. And they did not as a matter of fact. That is a mere suggestion?—A. Well, I don't know that.

Q. It did not come from the Banque Internationale. The history of it, according to the evidence, is that they advanced the money to Barnard to buy the stock of the Banque Internationale in the first place, and that he bought 74 per cent of the stock of the Banque Internationale, and that there was a

trade of the stock, and the Home Bank stock came into his hands in lieu of the stock he previously held in the Banque Internationale. In both cases that was illegal.—A. You are making that statement, but where is that?

Q. I have it here in Mr. Clarkson's report.—A. Oh, in Mr. Clarkson's report. But that report was not before me.

Q. We are not arguing the matter. In either case, it was not legal. It was not legal for the Banque Internationale to hold Home Bank stock?—A. It was not lawful under the Bank Act for the Banque Internationale to own Home Bank stock.

Q. And there is no record at all that they held any.—A. It says so here.

Q. But that of course is wrong. It will be enough, Sir Thomas, for us to take the facts just as they are. That appeared on the face of it to be an illegal loan.—A. No, I don't think so. It may be. I will look at it again. It says that they were unable to get satisfactory explanations. And that a commission was to be allowed Mr. Barnard for his services. Then at the top it is said that the 2,622 shares were held in the name of Barnard and Pellatt in trust and that no trust deed is held. I would say that if as a matter of fact the Home Bank had made a loan to Barnard upon its own shares, that would be contrary to the Bank Act; but I am not prepared to say, having regard to the way that that Home Bank stock may have come into the hands of Barnard and Pellatt in trust, in connection with the taking over of the Banque Internationale, what the legal position would be, because I do not know the facts well enough.

Q. Did you investigate it?—A. No, I did not.

Q. Then that disposes of that point. It was illegal on its face and you did not investigate it.—A. I would not say it was illegal on its face.

Q. Then we go to Exhibit 6, page 19. In a letter from the General Manager, James Mason, to Mr. Crerar, of the 5th January, 1916, it is said that Mr. Barnard made an offer of settlement of his account with the bank, which the Directors thought it well to accept. Then the nature of the settlements is shown, and Exhibit 7 also shows the nature of that alleged settlement. It shows that the \$394,000 had been reduced to \$262,200 and a note taken from the Fidelity Trust Company for that.—A. You state that, but where do you find that, what paragraph?

Q. On page 20, near the bottom of the page it says that Barnard has been allowed a commission of \$91,539, and there has been a complete write-off to profit and loss of \$57,430.—A. That is apparently stated there.

Q. That would show a reduction of that account from \$411,000 down to \$262,000. And the bank received in settlement of that account a note of the Fidelity Trust Company for \$262,200.—A. That is in the statement there. Then Barnard has been allowed for commission \$91,000 and there has been written off \$57,430.

Q. That shows a loss of \$158,000?—A. Yes, part of it was written off, \$57,000 written off apparently.

Q. Then you got a report of the Fidelity Trust Company, which is produced from your general file. You will find that on page 85. It is said that their affairs for some time have been largely in the hands of K. C. E. Barnard and W. H. McKeown and that the Fidelity Trust have been doing little of anything for some time past. It would not seem therefore that a note of the Fidelity Trust Company would be a settlement of that claim?—A. Apparently from that statement the Fidelity Trust Company—

Q. Was about as bad as it could be?—A. It was not in good condition, that is clear.

Q. And it was controlled by Barnard?—A. So it states.

Q. Mr. Clarkson in his evidence says there was no settlement, that it was a mere play on words, a change of name. They had the note of the Fidelity Trust Company guaranteed by Barnard?—A. Yes, and what about the bank stock that you mentioned? Was there any bank stock?

Q. The bank stock remained in the name of the Fidelity Trust Company. Then we look at Exhibit 42, page 74, which is another statement of this settlement, in somewhat different terms. That was in your possession also:—

“This indebtedness disputed by Mr. Barnard. He claims he was acting as agent for the bank, and not liable for the above amount or any portion of it.”

That information was all before you?—A. I assume so, because it has been filed from the Department; but I told you all through, I haven't it in my mind now as a matter of memory.

Q. I understand that; I do not expect you to remember it, but it was all before the Department at the time. That was the disposition of a claim of \$394,000 which was increased to \$411,000, and Mr. Clarkson's evidence would apparently support Mr. Barnard's contention that he was only an agent, because the stock was afterwards taken over by Mr. Daly and a loan obtained from American banks on it, and the bank partially repaid, making another loss of \$150,000 in the final settlement.—A. I have not seen Mr. Clarkson's report; I do not know what it is.

Q. This is in the evidence that is printed. Mr. Clarkson's evidence is at page 260. He says in effect: The loan of the Fidelity Trust was \$262,500. There was about \$2,150 of interest added to it at the time. There may have been an accrued dividend at the time. Making about \$264,600. Mr. Daly borrowed \$187,000 from American banks, from the Citizens' Commercial Trust Company of Buffalo, on the 2,600 shares. He deposited that amount to the credit of his account, and he sent a cheque for \$78,660 down to L. C. Herdman at Montreal, the Fidelity Trust secretary. Herdman returned it to the bank. He acted in this connection for the Prudential Trust. That is \$78,660. Then Mr. Daly gave his cheque for \$120,000 odd on his own account. The bank's contingent fund was charged with \$65,000, which ultimately turned out to be a loss. It was repaid out of the borrowing of the Manufacturers' Holding Company which has not been paid to this date. That is a Daly company. So that that \$264,000 was paid to the extent of \$187,000 by borrowing from American banks, and \$12,900 I think by Daly's overdrawing his account.

So this account was supposed to be settled. Well, I suppose, on the whole, you would think that the Western Directors were justified in asking for an investigation of that account under this alleged settlement?—A. The Western Directors were justified in drawing those matters to my attention.

Q. And you certainly were not satisfied with the disposition of that account?—A. I could not say that as a matter of memory, Mr. McLaughlin, because I haven't it in my mind. It was the least important of the four accounts.

Q. But it was over \$400,000?—A. And there was bank stock as security.

Q. And the loss of that \$400,000 would seriously impair the bank's capital?—A. It would be a serious loss. A marginal loss over and above what the bank stock would realize if sold.

Q. Now we will take the memo as to the Prudential Trust, Exhibit 2. You investigated that also?—A. It was drawn to my attention. I do not know that I investigated it. I called for a report upon it.

Q. At page 4 it is stated as a loan of \$500,000, but the other documents show that it was \$694,000:—

“The security held against this was a deposit of \$500,000 from the Prudential Trust Company. The question was at once raised as to how

it came to be that the Trust Company had deposited \$500,000 with the bank and had immediately borrowed it again, and it was explained that this deposit consisted of Trust Funds of the New Brunswick Government which the Government had lodged with the Trust Company, that the Trust Company desired to loan \$500,000 to a New Orleans Railway concern, but either because of the limitations of their charter or under the condition upon which they had received the money from the New Brunswick Government, they could not so loan these particular funds. The arrangement was then made whereby the Trust Company deposited these funds in the bank upon the understanding that the bank would loan the Trust Company \$500,000 to enable it to give the advance to the New Orleans Railway in question, taking therefor a note of the Trust Company, and as collateral the first mortgage bonds of the New Orleans, Southern & Grande Isle Railway which was the Railway concern in question, said bonds having been given to the Trust Company to secure their loan. The Railway was represented to us as serving a rapidly growing district adjacent to New Orleans. The General Manager also clearly stated and was quite emphatic on the point that the loan was secured by the deposit of the Trust Funds. This was questioned by Mr. Pers-e, but the General Manager insisted that it was the case."

That of course would raise your suspicion at once? They had no business to secure a loan by New Brunswick Trust funds?—A. I don't know that. It depends on the terms of the trust deed.

Q. It would strike you as suspicious?—A. I would not say that.

Q. You would not be suspicious of that?—A. I don't think so, for this reason: trust companies continually receive money in trust for investment, and it depends on the terms of the trust deed. Sometimes they are confined to trust investments.

Q. I don't think you were quite as credulous as that, Sir Thomas. Do you think the Province of New Brunswick would give their money in trust in that way so that this company could use it as security for money that they were going to lend to a New Orleans railway?—A. I don't know whether they did or not.

Q. Of course you don't know absolutely?—A. I don't know the terms of the trust deed.

Q. But you would say the circumstances were or were not suspicious?—A. The impression I have in my mind is this: the question was raised whether it was ultra vires of the Prudential, and I asked Mr. Lash afterwards to look into that question and see whether the transaction was within the powers of the Prudential. That was the legal point.

Q. According to this statement made to you, Sir Thomas, this Trust Company had taken \$500,000 of trust money of the Province of New Brunswick. They had deposited with the Home Bank that amount as security for \$500,000 that the bank was going to give them to lend?—A. Did you say they had deposited \$500,000 with the bank as security for a loan of \$500,000?

Q. That is what this statement says here.—A. I don't so understand it. How could they deposit \$500,000 with the bank as security for \$500,000 handed right back? The security would be gone.

Q. It says: "The loan was secured by the deposit."—A. It is not very clear what it means. It might be that the loan that they were making was on these New Orleans bonds, but that is a complicated question.

Q. I don't think, Sir Thomas, that you should argue this matter with me.—A. I understand that you are raising a legal question. I am not arguing it with you but I do not want to make any statement unless supported by the facts.

Q. This memorandum does show that these Directors understood that that loan of \$500,000 was secured by the New Brunswick deposit?—A. The memorandum shows what it says.

Q. All right we will take it at that.—A. That must be so, but whether that was the fact?

Q. And it did not raise any suspicion in your mind at all?—A. It did not raise any suspicion except as to the question of the ultra vires of the transaction, which had been raised. I think you will find that some place.

Q. That is raised later on. What surprises me is that you did not suspect that there must be something wrong when they took \$500,000 of the Province of New Brunswick funds and pledged them for their own purposes.—A. Under the terms of the Bank Act I asked the Board for a full report on those matters.

Q. What is that?—A. I asked the Board under section 113 for a full report upon this and I got it. I insisted on getting it and I got it. So it is wrong to say what you do.

Q. Then we will follow this line up a little bit further. You say you were not suspicious at all?—A. No, I won't say that I was not suspicious. I was disturbed by these large amounts and by the question of the matter of ultra vires of the Prudential being raised. The same with the Frost account and the same with the Pellatt account.

Now look at Exhibit No. 19, page 35. This is one of the letters that was before you, filed with you by Mr. Fisher. It is from Mason to Crerar.

“What is of more serious consequence, grave doubts are arising as to the financial ability of the trust company. It is represented from sources which cannot be ignored that the company have their funds pretty well locked up and it now seems quite possible that we may be obliged to rely upon the security to a more or less extent.”

A. Yes, that is there.

Q. So then you had information that the Trust company was not in good financial standing?—A. It is so suggested by this letter without doubt.

A. I think you will find that I stated that I might have to investigate the Trust Company.

Q. You will notice in the earlier Exhibit we read that this was also to be secured by the deposit of \$750,000 first mortgage bonds of New Orleans and Southern & Grand Isle Railway?—A. Yes.

Q. This was also before you. (Exhibit 26, page 43):—

“*Re HOME BANK AND PRUDENTIAL TRUST COMPANY*”

“*Memorandum to accompany the attached letter to Colonel Mason*”

“Mr. Adair's report upon the inspection of the Toronto branch puts the amount of this loan at \$695,000, and states that the proceeds of \$200,000 is represented by a deposit receipt for a similar amount lodged with the Ontario Government.”

Then on page 44:—

“Mr. Adair speaks of the security as being \$750,000 bonds New Orleans, Southern & Grand Isle Ry. Co. This is apparently, the Company referred to as the “Steam Railway” in Mr. Adair's report, made after going to New Orleans (and will be referred to in this memorandum hereafter as “the Steam Railway Company”).

“Mr. Adair's report on the inspection also states that the Bank books show that \$350,000 of these bonds are owned by Messrs. Warren, Bristol & Morden, and the remaining \$400,000 by the Railway Company. We do not understand this to mean that only the \$400,000 of the bonds is held by the Bank as security?”

“ Apparently, Mr. Adair’s report would mean that the security bonds are bonds of the Steam Railway Company, though a letter of President Mason to Mr. Crerar, dated 16th November, speaks of the security as being a “ street railway in Algiers.” We may assume in the meantime that they are really bonds of the Steam Railway Company. Presumably the Street Railway Company, referred to in Mr. Mason’s letter, is one of the two companies referred to in the reports of Mr. Anglin and Mr. Adair as the “ Algiers Railway & Light Company ” and the “ New Orleans & Western Railway Company.”

Then on page 46:—

“ As to the suggestion that a certain ‘ Howard ’ estate as owner of the *First* bonds of the Steam Road may commence litigation, what is the explanation.”

It seems then from the investigation you made that these were not first mortgage bonds as stated in the original report?—A. Well, whatever is in this report, I do not know.

Q. There was a prior issue of bonds to the Howard estate. Now we look at Exhibit 28, page 49:—

In that case you will see that Mr. Lash advises the company against putting any further money into it, that is without the assistance of the Trust Company. Isn’t that right?—A. The letter is here, read what is in it.

Q. On page 54 it is shown that the steam railroad is subject to a prior mortgage of \$512,000.

Mr. LEE: What paragraph?

Mr. McLAUGHLIN: Paragraph 11. I might summarize: it appears from these reports also that the steam railway was the owner of the stock of the electric roads, and that the security for the \$750,000 bonds was a pledge of the stock of the electric roads?—A. I will take it for granted that you are correct.

Q. And that there was a prior mortgage on the electric roads, an issue of bonds of \$300,000?—A. I do not know that, if you say it is in there that is satisfactory to me.

Q. Well that is all stated. And that \$254,000 of these bonds were pledged to one Carroll for \$180,000?—A. Well I assume you are quoting from that.

Q. And that the other indebtedness against the electric roads was about \$50,000?—A. I assume that is so. I am not following in this exhibit because in fact I cannot find the place.

Mr. LEE: Paragraph 11, page 54.

Mr. McLAUGHLIN: Now they had employed a firm of solicitors in New Orleans to report on this matter, Messrs, Merrick, Gonsler & Schwartz, you will find their report on page 62.

“ Mr. A. W. ANGLIN,
“ New Orleans, La.

“ DEAR SIR,—As regards the rights of the Home Bank of Canada against the New Orleans & Ship Island Railroad and the Algiers Railway and Light Company, we are sorry to say that we can see very little possibility of the Bank’s recovery of any respectable part of its investment.”

A. That is correct.

Q. That is a pretty bad report?—A. It was without any doubt, and I so regarded it.

Q. I know you did.—A. I regarded it as a bad report, then the question arose as to the value of the guarantee of the Prudential, the *ultra vires* question.

Q. You know the Prudential disputes the liability altogether?—A. I understood they did at that time, that is the reason why I asked Mr. Lash to look into that matter.

Q. But you were investigating the claim of \$694,000 and found that as far as the real security was concerned it had been reported on as about no good?—A. Well these reports were there, and then there was the question of the Prudential guarantee.

Q. And the Prudential was reported to be—?—A. Reported to be not financially strong.

Q. And it was disputing its liability altogether?—A. I understood it was. There is no question that I regarded this loan as one on which a very substantial loss might be taken, and my correspondence so states. There is no doubt about that.

Q. Now the bank sent Mr. Adair, their supervisor, down to report on the matter, and his report is Exhibit No. 39 on page 65. He says at the lower part of the page:—

“The question of the validity of the bonds held by the Bank, as security. According to the minutes, the New Orleans, Southern & Grand Isle Ry. Co. contributed more bonds in various settlements than they received from the Trustee.

“The question of transfer or assignment of franchises. The terms of the franchises call for approval of the municipal authorities.

“The possibility of the Howard Estate, who are owners of the first bonds on the steam road, commencing litigation.

“In the following report I have left out of consideration entirely the steam railroad property. Everyone interviewed agreed that there was nothing possible from this property, beyond the first bondholders, who would not likely receive more than 50 cents on the dollar.”

A. I assume that is there.

Q. Then he values the other railway, puts the total construction value at \$200,000, franchises \$200,000, he says it is uncertain but he puts it down at that. He makes the prior indebtedness—“Liabilities coming ahead of us amount to \$265,000. To this may be added \$8,000 to \$10,000 necessary repairs. . . .

“I would feel safer, owing to the uncertainty as to the amount of repair work necessary, and to the condition of the present rolling stock, to place total liabilities at \$300,000. It, therefore, does not seem a proper thing to me for the Bank to put any further amounts into this proposition without at least a material assistance from the Prudential Trust Co., and find itself operating a railway at so great a distance with the prospects of a comparatively small profit.”

So we find their own supervisor advising against putting any further money in.—A. Yes.

Q. Then we have Mr. Anglin's report, who also went down there. He reports an indebtedness of \$266,000 against the electric road, and a considerable amount of expenditure necessary for improvements. He values the construction at something similar to Mr. Adair, and he says:—

“On the whole, I should myself be somewhat skeptical as to the existence of any very considerable value in the franchises at the present time.”

A. Yes.

Q. He also reports against the security or against the bank putting any more money in.

Then were you aware that these properties went into the hands of a Receiver?—A. I think I am aware of that but I am not quite certain. It is in my mind that at some stage there was a Receivership and reorganization.

Q. Before I go further I might also refer to Exhibit No. 41 on page 73 in which he says:—

“ 1. Mr. Lash stated that the matter was primarily one for the Bank's Board to determine. He felt instinctively, however, on the whole situation, that the Board should decide not to make the new advances which would be required to pay off or take over the Carroll loan and otherwise look after the Algiers situation.”

A. Yes.

Q. So when the road went into the hands of a Receiver and the property was purchased by the prior encumbrancer the bank received nothing out of these securities?—A. Well I do not know that, if you will tell me so I accept it. I hope you are not trying to show that I regarded that as a good loan. All my correspondence shows the contrary.

Q. Then the bank subsequently after losing this security altogether, before they reported to you in 1918, bought for \$235,000 the new securities of the reorganized Algiers road?—A. I do not think that figure was brought to my attention.

Q. I do not think it was.—A. What was stated was this, in the unanimous report of the Board which was sent to me by Mr. Haney I think it was stated that they had acquired a substantial equity; and Mr. Lash then advised me that having acquired that equity there would be no loss on the account, and they would have the liability of the Prudential to the good.

Q. I do not think Mr. Lash went so far as to advise you that, I think he said Mr. Haney reported so.—A. Well possibly yes, that they had obtained a substantial equity—I am quoting from memory but I think I am right.

Q. Well, the fact is they bought the electric road?—A. Yes, but for how much I do not know, but they had acquired an equity which they said would put the bank in a position in which it would sustain no loss.

Q. They lost their original security entirely?—A. But they had an equity, they acquired an equity.

Q. They lost their original security entirely, except the guarantee of the Prudential Trust Company, then they made a new investment of \$235,000 in buying the securities of the reorganized electric road.—A. Well, that figure was not brought to my attention, but I did know they had acquired an equity, at least they told me so.

Q. And instead of writing off the original debt they carried it on?—A. As part of the original transaction.

Q. But in their books they kept them as separate transactions, because they could not hold the Trust Company to any guarantee on the subsequent transaction?—A. Well I do not know that, you know that.

Q. The result is that years have passed by, the Trust Company has always disputed their liability, what effect the Statute of Limitations would have we do not know.—A. You do not want me to advise you legally, do you?

Q. No. We appreciate now that the whole thing was a rotten banking transaction?—A. Well you use rather extreme language but if you look at my letters you will see that I did not regard it as a proper loan in the first instance, I thought there might be a heavy loss in connection with it, how much I could not say.

His LORDSHIP: Mr. Clarkson says that a better account to-day, doesn't he? I do not know what he meant by that, he was not pressed to give particulars.—A. I am going to suggest, if I may, to counsel for the Government that Mr. Clarkson be asked in regard to that, because I have information that that asset is a very valuable one.

His LORDSHIP: It struck me at the time, it went right into my memory, I intended to ask him but it slipped my mind.

Mr. McLAUGHLIN: We did ask Mr. Clarkson but he objected, said he was trying to sell the road and did not want to give particulars.—A. I think that is a matter that ought to be looked into. But at the same time I do not put that forward as having any bearing on my state of mind in 1916 because I regard it as a bad loan that should not have been made, and I expected that they would make a marginal loss, how much I did not know.

Q. You would come to the conclusion from the information before you that there was nothing in the road itself?—A. I cannot say as a matter of memory but if you ask me to surmise now as to what I did think then I should say that I would have the idea that there was comparatively little value in what they had then, and that the Prudential guarantee was an important one and the question of ultra vires was an important one.

Q. But with the Trust Company's liability being disputed and also their financial condition being questionable—A. It was a nasty situation of course.

Q. You would not consider it a good banking loan?—A. Of course not, I have said so time and again in my correspondence. I stated that these three big loans were very disturbing.

Q. Now in connection with the Barnard loan, they did not give you any information at any time that when they settled up this loan they commenced lending money to Mr. Barnard again?—A. I never heard of it.

Q. And at the time of the liquidation the loan to Mr. Barnard and to companies formed by him amounted to a million and a half dollars?—A. I never heard of it.

Q. And according to the liquidator at least \$1,300,000 was a total loss?—A. When was that large advance made?

Q. From time to time, I could not give you the dates at present.—A. You do not suggest that any of that was brought to my attention?

Q. I do not think you knew anything about it.—A. You are quite right in thinking so.

Q. That is one of the things they did not inform you about, they deceived you in connection with it.—A. I would not like to say "they" because after all "they" is a pretty general term. Someone may have deceived me. You say "they" deceived me, who do you mean by "they"?

Q. Well I mean the information that came to you?—A. Yes no doubt about that. I think so without doubt.

Q. According to all the reports that came to you the bank was progressing and getting stronger all the time?—A. All the reports that came to me were that the bank was progressing, doing well, had a liquid position, and that these three large loans were the only things that seriously disturbed my mind, and while I thought there would be losses on one or more it was a marginal situation, how much they would lose I did not know.

Q. You did not anticipate that there would be the tragedy that has taken place. I quite agree with you there.—A. Not the slightest.

Q. And when the reports were made to you from time to time you believed them?—A. I not only believed them but in fact had the distinct impression that after Mr. Daly went in the Home Bank was doing well, it increased its dividend, and was on its way to prosperous conditions.

Q. It increased its dividend the last year when its losses according to Mr. Clarkson went into the millions?—A. Yes.

Mr. LEE: Did you say doing well or had done well?—A. That the bank was doing well. The impression I had after I went out as Minister was that the bank was doing well, that Mr. Daly had put in money of his own and was doing well.

Q. And that was wrong?—A. Undoubtedly.

Q. And the impression given to you from time to time while you were in that it was improving was wrong too?—A. Wrong in fact yes.

Q. As I said a few minutes ago, I am not questioning your good faith.—A. I know that, I have always regarded you as a pretty fair man.

Q. Now the Frost loan, you had information in connection with that?—A. Yes plenty of information in detail.

Q. Did you have its history?—A. I had its history.

Q. You knew how it started?—A. Yes.

Q. And you knew that in order to get the loan on these British Columbia Timber Limits Mr. Frost had practically given the bank, as far as his security, his notes were concerned, half a million dollars bonus?—A. Just explain that.

Q. He bought \$650,000 of Chicago & Milwaukee Wisconsin Division.—A. Yes that is years ago.

Q. Which were only worth 15 cents on the dollar, for ninety?—A. It turned out to be that. They were sold in Toronto extensively to many institutions.

Q. I know all about them, I had some myself.—A. You don't say so. I thought you had more sense.

Q. But at the time, in order to get the loan from the Home Bank he bought them at ninety though they were only worth according to Mr. Clarkson's evidence from fifteen to twenty at the outside?—A. I have not seen Mr. Clarkson's evidence.

Q. Well you had the history of it?—A. They took the timber limits in substitution for the Milwaukee bonds.

Q. Well Mr. Frost was not liable on the Milwaukee bonds, it was Osborne & Francis?—A. Yes. That was long before my time you know. I do not mean before I was born, but before I was Minister.

Q. Would it not strike you as somewhat suspicious that Mr. Frost would purchase these bonds from them at ninety when he could get them in the open market at fifteen or twenty?—A. It was clearly a substitution of timber limits for the bonds which had gone bad.

Q. But previously it was not Mr. Frost's loan at all, he was under no obligation on the Chicago & Milwaukee bonds or the Osborne & Francis loan, but he wanted a loan on timber limits and he said: If you will give me this loan on timber limits I will take these bonds at ninety.—A. Well I do not know that, but if you say that—

Q. And in addition I will pay \$82,000 arrears of interest on them. So as far as he was concerned he was giving half a million dollars bonus to get a loan on the timber limits.—A. Well you say so, I do not dissent from it.

Q. And you had the history of that loan right along, that from the time it was made until these reports were sent to you it had been increasing from year to year?—A. Yes.

Q. And practically nothing had ever been paid on it?—A. That is correct.

Q. I believe there was a credit of \$300 interest and \$1,200 principal at one time but Mr. Clarkson says there was no money paid, it was a book-keeping item deducted out of further loans.—A. I did not like the loan at all; if you read my letter to Messrs. Barnard and Haney you will see what I thought about it. Of course you understand I did not know how that loan would ultimately turn out, timber is a very curious investment, you may lose money or make money on it, it depends on conditions.

Q. And in that loan it was not a proper banking loan?—A. I did not like it at all.

Q. And there was part of it, as appears by the reports that were before you, on real estate?—A. I think if you will look at a certain section of the Bank Act they may loan on timber limits and licenses.

Q. But they may not loan on real estate?—A. That is right.

Q. Part of this property was Crown grants?—A. Well timber limits I assume.

Q. There was timber on it but it was the land and all that was granted?—A. Yes.

Q. And they valued the land after the timber was taken off at some \$50 an acre, quite a large amount of security. They would not be authorized to invest in real estate because the real estate had a large amount of timber on it?—A. Well that is a legal question on which you can advise better than I can. If you say so I take your word for it.

Q. As a result of the memorandum and other documents filed with you by Mr. Fisher you proceeded under section 113 of the Bank Act to ask for a report?—A. I did.

Q. You also decided that it would justify an investigation under section 56A?—A. I asked the auditor to make a report to me.

Q. That is under that section?—A. Yes, 56A, without doubt I proceeded under the Bank Act.

Q. Well you might answer my question, you felt yourself justified in asking for a report under Section 56A of the Bank Act?—A. Yes undoubtedly, and calling on the Board and on the auditor.

Q. Did you call on the auditor for a report under section 56A of the Act?—A. Right.

Q. Why didn't you call on an independent auditor instead of Mr. Jones?—A. If I had put an independent auditor in the bank would have had to close its doors.

Q. And that would have been the best thing that could have happened.—A. That may be, but you have to take the situation as in 1918.

Q. Was that really necessary?—A. What?

Q. Could you not have put a man into the bank without closing its doors?—A. No sir.

Q. Sir Henry Drayton differs from you?—A. No matter if he does;—just a moment; I had under the Bank Act authority to call for a report from the Board.

Q. I know that, there is no necessity to repeat it.—A. I have some rights as a witness, I am going to have this cleared up, I am not arguing with you but I am telling you what I did. Under the Bank Act I had authority to call for a report from the auditor appointed by the shareholders and selected from a panel who had been passed by the General Managers of all the banks in Canada. And I called on the Board and on the auditor for a report, and I do not believe at the present moment that it crossed my mind to do anything else, because in the first instance I would do that anyway, I would never think of putting in a special auditor in a bank and taking chances, especially at a time like that, of closing the bank.

Q. Well we have been over all that before. I will be absolutely fair, but we would get along faster if you would answer my questions. I will look after your reputation, it doesn't require any looking after anyway.—A. I am glad to hear you say that, but I want the facts in, and right.

Q. Well let me have my way a little while and let us come to this point. You decided that you should have a report under section 56A?—A. Yes.

Q. That is the section authorizing you to have that report by an auditor selected by you?—A. Either the auditor appointed by the shareholders or an auditor appointed by me.

Q. The Statute does not say the auditor appointed by the shareholders.—A. Will you be good enough to allow me to have the Statute, you are asking what is in the Statute, I want it read.

Q. (Section 56A read). So you had the power either to take the bank's own auditor or another auditor?—A. That is what I said.

Q. That is what I said too so there is no difference between us. And you asked for an audit by the bank's own auditor under that section?—A. I did.

Q. Which under the circumstances of this case was unfortunate?—A. I do not know that. Would you like me to tell you why?

Q. That auditor, I notice by the Act, is to be paid out of the consolidated fund?—A. Yes, to make him independent.

Q. Did you ever pay him anything?—A. In this particular transaction?

Q. Yes.—A. No, as far as I know the matter was harmonized when the Board was harmonized and the reports received from the Board. That matter went by the board, he never put in a bill.

Q. So while you directed the audit under section 56A you never received one?—A. I received an audit of the Frost account.

Q. Just the statement from the ledger?—A. Well that is what appears in the exhibits. It is not in my mind that I received anything else but I may have. But I do not say I did.

Q. There is nothing else in the exhibits. That of course was not the kind of independent audit that these directors wanted?—A. Not up to a certain stage, up to a certain stage they wanted an independent audit.

Q. And this was the auditor who had certified to the various reports of the bank from year to year?—A. Yes.

Q. So to ask him for a further statement would be to merely ask him to send in his previous report or else show he was wrong?—A. I do not think so, the previous report dealt with general accounts, I asked him for a report in all fitting detail.

Q. Anyway the report was never received, except this—A. Apparently not.

Q. You did not think it necessary to get that report after you found the Board was harmonized again?—A. I can only recall from memory, this was long ago but my impression is that I got the history of the three loans in detail from the Board and it looked to me like a correct history of the loans and I still think it was a correct history that I got from the Board; and in addition I was of the opinion that the real question was one of security. Were the timber limits of such a value that no loss, or only a small loss would occur? Was the Prudential transaction one in which a considerable loss would occur or not? Was the Pellatt loan a transaction on which a heavy loss would occur? It seemed to me it was a question of the value of securities rather than a book-keeping matter. I still think that.

Q. No audit that merely gave a statement from the ledger would be of any value?—A. I would not say that, because it showed the state of the account and what had been done.

Q. It would not go into the question of the security for the loans?—A. You mean the timber limits?

Q. Yes?—A. I would not give two cents for the opinion of any auditor in Canada as to the value of the timber limits.

Q. You did not communicate with Mr. Lash at all before he communicated with you on behalf of the bank?—A. I do not think so.

Q. I think Exhibit No. 70, page 160, is the first document?—A. I hardly think so, I have a recollection in my mind that I said to somebody that I was very glad that Mr. Lash was connected with the situation because he could report to me.

Q. As far as the documents filed are concerned the first communication between you and Mr. Lash is the letter of February 14th, 1916.—A. If you say so.

Q. As far as I have been able to find.—A. Then that is probably correct.

Q. You knew he was counsel for the bank?—A. At that time no, he was not counsel for the bank, that is another little misrepresentation that has been made.

Q. Well he wrote to you on behalf of the bank?—A. Yes, he did, but here is what I had in mind and what I had in mind when this matter first came up and I gave an interview about it, will you look at Exhibit No. 83 as to the appointment of Mr. Lash.

Q. I do not want to take up too much time but I see that in 1915 the firm of Blake, Lash, Anglin & Cassels were acting for the bank.—A. Apparently so.

Q. Although they had had no regular appointment as general solicitors, and in the latter part of 1915 a bill of about \$2,000 was paid them which is in the record.—A. Yes, but what I had in mind when I gave that interview was that I had been advised by Mr. Lash and in that memorandum from the Board that Mr. Lash had been appointed General Counsel for the bank and his firm made solicitors.

Q. But they had been acting for the bank before that?—A. I think in some special matters, yes.

Q. I think you said yesterday that Mr. Lash was acting for the bank, he was not acting for you?—A. Undoubtedly not at all.

Q. And he was not paid by you?—A. Not at all.

Q. Now we have this letter of February 14th, 1916. He says:

“Quite recently the Home Bank has been consulting myself and Mr. Anglin about some of the complicated accounts, etc., and in this way I began to get an inkling into the situation. On Saturday last General Mason and Mr. Barnard, one of the Directors, had a long talk with me. They showed me the letters which you had written to General Mason asking for information with respect to three important accounts.”

That would seem clearly to be the commencement of his connection?—A. Well except that I think a little earlier than that,—you must remember I am labouring under the disadvantage of speaking from memory, but it is in my mind that he and Mr. Haney were down—

Q. But that comes later.—A. Does it? Then you are right.

Q. But Messrs. Barnard and Haney had an interview with you before that?—A. Yes.

Q. He says:

“Mr. Barnard explained what had taken place at the interview which he and Mr. Haney had with you, and they explained also what had taken place at the subsequent Board meetings at which the Winnipeg Directors were present. The special reason for their talk with me on Saturday was to ask me to take down to you some long statements which had been prepared respecting the three accounts referred to. Some little time ago I formed the opinion that until a full investigation into the values of the bank’s assets and into their liquid and tied up position was made nobody could form an intelligent opinion as to the course which the Bank should pursue with reference to the big accounts referred to or with reference to the more important matter of its going on in business.”

A. Yes.

“I have no opinion upon the latter question because no opinion can be formed without the information referred to. I became satisfied some time ago that the General management was woefully defective.”

A. Yes.

“But of course I could not express any opinion upon this to the General Manager himself who came to consult me. I learned privately

from Mr. Fisher when he was here that the Winnipeg Directors were unable to obtain from the management sufficient information to enable them to judge as to the accounts referred to or as to the general position of the bank and that they had appealed to you to call for special returns about the three accounts. I expressed to Mr. Fisher my opinion about the management, and told him that unless new management was introduced the position of the bank would, I thought, become more complicated and might become hopeless. I was glad to learn that the General Manager had offered his resignation and that a committee of the Board had been appointed to seek for a new General Manager. I was also glad to learn that at the Board meetings when the Winnipeg Directors were here, and after the natural acrimonious discussion which took place, harmony was restored and the Board became unanimous with respect to the proper treatment of the bank's affairs. This I think was largely due to the fact that Mr. Hancy, one of the new Directors, convinced the Winnipeg Directors that he was in accord with them instead of being, as they had feared, in accord with the management."

(Which afterward seems to have turned out to be different.)

"The other Directors followed Mr. Hancy's lead and all are a unit with respect to (1) introducing new and efficient management; (2) getting to the bottom of all important accounts and transactions of the bank."

A little further down he says:—

"Until we know whether the Bank can continue and take up new business the position cannot be advanced much with respect to this particular account.

I have been asked by the Committee to help them to find a new General Manager and I am doing what I can in that direction. From what I know of the three accounts referred to, the fullest statements respecting them which could be sent to you would not advance the situation very far in your mind. You would have to go deeper and inquire into the whole position."

You quite agree with that?—A. Well he stated that.

"They sent me the statements respecting these accounts but I have told them that if you were assured by the Winnipeg Directors who asked you to act that they were getting all the information you asked for and a great deal more, and that they would like you to afford the opportunity of completing the investigation, and that the whole Board was now in accord, and that new management was going to be introduced at the earliest possible moment, I felt satisfied that you would prefer not to have the statements sent to you in the meantime. They would only embarrass you because you could form no opinion as to your duty without further investigation and that you would have to decide what sort of further investigation should take place. There is no doubt in my mind that if we get a new and efficient man to look into the whole situation he will be able to do it thoroughly without the result which would necessarily follow if the investigation were ordered by you. I mean by this that the matter would not become a public comment. I have therefore taken the responsibility of retaining the statements until I get an intimation from you as to whether you are satisfied to leave the position as it is for the present if the Winnipeg Directors request you to do so or whether you still want the statements. If the former, I shall continue my efforts to secure a new Manager, and, so far as I can do so, I shall see that the position of the Bank is not made worse; if the latter, then I will send you

the statements. Mr. Haney wrote the Winnipeg Directors last Thursday advising them to tell you that the Board was now unanimous and that they would like you to suspend action on their request. I think you will probably hear from them in a day or so. The Board seems inclined to rely very much upon my advice and I am in such relations with them that I can volunteer advice and if you would like me to advise any particular course I shall be glad to be so informed. I can give you an assurance of my personal belief that the present management is well in hand under Mr. Haney's personal direction. The General Manager is not now in charge or giving any directions."

Now, in your reply to that, Exhibit 71, you say:—

"The position is that I have been made aware by the Winnipeg Directors of a certain condition which is most disturbing. It does not appear to me that I would be justified in staying enquiry because the Winnipeg Directors may ask me to suspend action."

A. Yes, that is right.

Q. You were still of the same opinion?—A. I was of that opinion at that time.

Q. You still think that was the right position to take?—A. Well, that was my frame of mind at that time.

Q. I do not really suppose, Sir Thomas, that there is anybody sorrier than you that a full investigation was not made?—A. Will you just allow me to answer that previous question, because you have a habit of breaking off my answers in the middle. Will you please read that question before that, Mr. Reporter?

(The reporter reads):—

"You still think that was the right position to take?"

Mr. McLAUGHLIN: Well, that was your judgment at that time?—A. That was my judgment at that time, that I should call in the Bankers' Association and I stated to you that subsequently, for the reasons that I gave yesterday I allowed the bank to continue with the reorganized Board.

Q. Well, now, as I said a while ago, I am not questioning your good faith in the matter, but the unfortunate trouble in this whole matter is that the bank was allowed to continue. That is what has turned out to be unfortunate. I do not mean to say that you knew the circumstances at the time.—A. Will you allow me to give you an illustration? A man is inspecting a house that he is going to buy; the foundations and the superstructures appear to him to be substantial, but there are some defects in the house and he buys it. Afterwards he discovers that the house is on a quicksand and it gives way. Now, then, the question is, he knew nothing about the quicksand. There is a lot of fraud and deceit in connection with this. I had before me certain things only, and I swore yesterday that I had no other things before me, and had no reason to suspect—

Q. I am only trying to make it clear, Sir Thomas, and I think you feel that we are trying to impose some personal fault on you, we are just trying to get at the facts.—A. You are acting for your clients, quite properly.

Q. I am acting for 60,000 people.—A. I know your position quite well.

Q. And while I am making no attacks on anybody, and especially not on you, still I am acting, as I say, for 60,000 people who have suffered very greatly. Many of them have lost their lives and some more will, as a result of this.—A. Yes, but you do not desire to place the blame for the situation upon me, a situation in which I acted with the utmost good faith.

Q. I saw one of our depositors carried out of Massey Hall, it has been an awful tragedy. I quite agree with you in your illustration as to the house. You say you understand there were defects in it?—A. Yes, the loans.

Q. You did not understand the true fact, that it was full of quicksand?—

A. Quicksand underneath, and since that it has tumbled into the quicksand, quicksand not disclosed.

Q. Not disclosed to you?—A. No, certainly not.

Q. It might have been disclosed if an independent audit had been made?—

A. It might or might not. One of the best firms of auditors in Canada were employed in connection with the Merchants Bank.

Q. We will take this Exhibit 72. He says:—

“Mr. Fisher’s statement in this letter, that his clients, having presented their views very fully and very frankly to you and to myself as chief counsel of the bank, ‘are entirely satisfied to leave the matter in his hands and yours to decide what action will be taken,’ seems to throw a good deal of responsibility upon me.”

A. Right.

Q. And, likewise, it was throwing a good deal of responsibility upon you?—

A. Undoubtedly.

Q. Then it continues:—

“In my interview with you in Ottawa on the 22nd, I expressed my personal opinion as to the general position, and I said that my main object was, to so manage matters that if the bank had to liquidate, the liquidation might be with open doors. This can only be accomplished with the assistance of other banks.

“Personally, I have given up hope of being able to secure a competent person who could undertake the general management—”

A. That is what he said at that time.

Q. Then that great difficulty of the general management seemed to be insoluble at the time?—A. It is a very difficult question at any time, with any institution, to get a competent general manager.

Q. And, after all, the competent general manager is the first thing in connection with any institution?

Q. The human element sine qua non for the success of anything?—A. Yes, indeed.

Q. You can get along without capital, and you can get along without a lot of things but you cannot get along without a reasonable amount of integrity, industry and ability, in financial institutions, or, as a matter of fact, any kind of institution, is not that right?—A. I think it is substantially correct.

Q. He says:

“I have always thought that the investigation should be by an outside competent person who would be quite free from any interference by the present management or Board.”

A. Just call my attention will you, to the page.

Q. Well, I am reading from Exhibit No. 72.

The SECRETARY: Page 163, sir.

WITNESS: What paragraph? I have it here. He said:

“Personally, I have given up hope of being able to secure a competent person who could undertake the general management, without first fully investigating the position. I have always thought that the investigation should be by an outside competent person who would be quite free from any interference by the present management or Board.”

Yes, that is right.

Mr. McLAUGHLIN: So that was Mr. Lash’s opinion at that time?—A. He stated so.

Q. And it seems to have been a sound opinion?—A. Well, I would not dissent from that.

Q. If he changed it afterwards it did not affect the soundness of this opinion?—A. I do not know about that. Men change their minds frequently. If they change it honestly in the light of new circumstances, why, the second opinion may be more valuable than the first.

Q. Down further he says:

“I can see grave danger, not only of loss to the Home Bank but of complications and losses in other directions, which would be very undesirable at the present time.”

Now, I want to read a letter that you had not before you, but which will show you Mr. Lash's opinion at that time. This is Exhibit 132. It was put in yesterday.

The SECRETARY: Page 291, sir the first page.

A. This is not a letter to me.

Mr. LEE: No, it is to Mr. Fisher.

Mr. McLAUGHLIN: It is just giving you some idea of what Mr. Lash's real opinion was.—A. I never saw this letter.

Q. He says:

“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.”

Then it goes on, a little further down:

“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."

A. Well, as I stated to you, Mr. McLaughlin, I never saw that letter.

Q. I know that, Sir Thomas. But what would your opinion now be about a bank that had three times its capital locked up in frozen assets, and more than half the total deposits?—A. Well, Mr. McLaughlin, the position would not be a good one, but, nevertheless, there is always a possibility of working out accounts. There is no doubt that my state of mind at that time was that the position was not a good one, and that I had intended at that time to call in the Canadian Bankers' Association.

Q. Well, you do not think that Mr. Lash overstated the matter in that letter of his?—A. Well, he never made the statement to me—

Q. I know he did not.—A. Just a moment, please. Will you ask me what particular paragraph you desire me to express an opinion on.

Q. That statement as to the bank continuing in business?—A. No, I do not agree with that on the situation placed before me, if he had before him the statement that I had, which was limited to the three accounts, the Frost account, the Prudential, and the other which you have mentioned, the Pellatt. While the situation would be a dangerous one if there are runs on the bank, I would not agree with him that the bank could not continue without assistance from outside with open doors.

Q. With three times its capital and half its deposits locked up in frozen assets, and earning no interest?—A. Well, it all depends on how they were realized. As I said yesterday, Pellatt was a man in good credit in the City. Supposing they had got the Pellatt account reduced by half, and supposing they had sold the timber limits in the West—

Q. Suppose the public knew it?—A. Yes, supposing the public knew it, but that would precipitate runs on the bank.

Q. There would be a run on the bank?—A. If they knew it.

Q. If the public knew the true facts?—A. You mean the facts that have come out on the whole transaction?

Q. The facts that came out in this letter of Mr. Lash's to you?—A. I would not do that unless it became absolutely necessary.

Q. If they knew the facts stated in Mr. Lash's letter?—A. If they had Mr. Lash's letter before them?

Q. Yes.—A. I think if Mr. Lash's letter had been made public it would have caused a run on the bank, certainly, but I say that if those unliquid accounts could have been liquidated substantially, or in whole, I would not agree with Mr. Lash as to whether they should continue in business or not.

Q. If they had the facts before them as to those large accounts, the Barnard, the Prudential, the Pellatt, and the Frost, locking up something like six or seven million dollars?—A. Oh, I think if it were presented in detail to a public who could not understand a complicated situation very well it would probably cause a run upon the bank and bring the bank down. It was a bad situation, there is no doubt about that, but I do not agree with him quoting that, unless he had something that I had not, but in the evidence before me, as I say, I do not agree with him that it was impossible for the bank to continue in business, because it had a fine clientele, and with good management, on the facts presented to me as they were, and as I understood them—

Q. But if the public knew the facts, no doubt, these things would have seriously affected the bank?—A. Oh, I think it would, if the public had these facts spread out before them and it was suggested that these accounts could not be liquidated, but I know of no reason why the Pellatt account could not be liquidated, or even the timber account, in view of what they said.

Q. Then on page 165, you say, in a letter to Mr. Lash:

“Please let me know when you expect Mr. Haney to return. It might be advisable to await his report upon the security held for the Frost account. In the meantime I feel free to lay the facts before the Bankers’ Association before his return—”

A. Yes.

Q. Then Exhibit 79, page 169. That letter informed you that Mr. Haney had been appointed Vice-President?—A. Yes.

Q. No new manager had been appointed. It goes on to say:

“Mr. Machaffie (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. Machaffie 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 seven years I think and most of the time in Winnipeg.”

Then the fifth paragraph of the letter:

“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—” and so forth.

This is the first time Mr. Machaffie appears to have been mentioned?—A. I think so.

Q. And you were informed that Mr. Machaffie, an experienced banker, would be associated with Mr. Haney in making an investigation?—A. That is right.

Q. You never received any report from Mr. Machaffie on any investigation made by him?—A. No, I did not. I never received any report from Mr. Machaffie. If he wrote me I did not get it, that is, as to that.

Q. Now, there is Exhibit 83, page 172. This is a letter from Mr. Lash to yourself in which he recites what took place at an interview?—A. Yes.

Q. In paragraph 3 he says:

“The Board was convinced that important changes in the management of the Bank were required, not only for the purpose of ascertaining its actual position by an inspection conducted under the direct authority of the Board, but also for improving the Bank’s position with respect to the existing accounts—”

Then it goes on, clause (c) to say:—

“Mr. Machaffie, Manager of the Winnipeg Branch, has been brought to Toronto to act as Mr. Haney’s chief assistant. Mr. Machaffie is regarded as one of the ablest officers in the employment of the Bank. He is a trained banker, and before coming to the Home Bank, he was in the service of the Merchants Bank and the Bank of British North America. He is in no way responsible for the general management in the past, and he has managed the business in Winnipeg satisfactorily. He has been with the Home Bank six or seven years.”

Then clause (d) says:—

“My firm has been appointed the general solicitors of the Bank, and I have agreed to act as general counsel, and give personal attention to the more important questions which are now on hand, and which may arise in the course of the reorganization.”

A. Yes.

HIS LORDSHIP: That was in 1916.

WITNESS: I would like to draw your lordship's attention specially to that Exhibit. I think I put it in yesterday. It is a very important letter.

Mr. McLAUGHLIN: Now, this is what they promised you, paragraph 8:—

“With a view to ascertaining the actual position of the bank, a thorough investigation will be made, under the directions of Mr. Haney and Mr. Machaffie.”

A. Yes, you are reading.

Q. Well, did they ever send you a report of that thorough investigation?—

A. No. I do not understand from that that they were to send it to me.

Q. This is on the 21st of March, they promise a thorough investigation under the direction of Mr. Haney and Mr. Machaffie, and, as far as you are concerned, you do not know whether it was ever made or not?—A. It was apparently an internal investigation.

Q. It was never sent to you anyway?—A. It was never sent to me, no.

Q. Then Exhibit 84, in which you reserve the right to have an independent investigation at any time, and which you end up by saying:—

“I should like to have from you an assurance that interest upon the Frost account will not be taken into profits distributed to shareholders in the way of dividends. It would appear to me also that until the New Orleans situation is cleared up it would be advisable to pursue a similar course respecting that account.”

A. Right.

Q. You asked for that assurance?—A. Yes.

Q. And the next Exhibit, No. 85, you got it?—A. Yes, sir.

Q. Mr. Lash says:—

“I think I can give you the assurance that interest upon the Frost account will not be taken into profits distributed to shareholders in the way of dividends, and that until the New Orleans situation is cleared up, a similar course will be pursued.”

A. Yes.

Q. Did you ever take any steps to find out whether that assurance was complied with or not?—A. Not until after, I think, I got Mr. Machaffie's letter.

Q. Not until 1918?—A. I think not.

Q. And then you found that it had not been complied with?—A. It had been complied with from the end of the fiscal year 1916-1917, according to the statement made by the Board.

Q. But this undertaking was given to you on March 23rd, 1916?—A. Yes.

Q. And yet those people gave you that undertaking on May 31st of the same year?—A. Without notice to me.

Q. Ignored it entirely?—A. They did.

Q. That, I should think, would shake your confidence in them, although you did not know it until 1918?—A. Well I would not say that it would shake my confidence in Mr. Lash. I am quite sure that Mr. Lash gave me that assurance in absolute good faith.

Q. You did not discover that, you say, until 1918, until Mr. Machaffie wrote you the letter?—A. Well, that is my recollection.

His LORDSHIP: Perhaps we had better take recess here.

(Adjourned at 1 p.m. until 3 p.m. on Friday, 25th April, 1924.)

AFTERNOON SESSION

OTTAWA, ONT., Friday 25th April, 1924.

Proceedings resumed at 3 p.m.

Mr. McLAUGHLIN: (continuing his cross-examination of Sir Thomas White):

Q. Sir Thomas, after the end of the correspondence which you have filed, for the year 1916, there is nothing further until the letter you received from Mr. Machaffie?—A. I think there is the Haney letter a little later.

Q. That is in the same year?—A. In the same year, yes; but you did not touch on it this morning.

Q. That is in and I did not think it necessary to go over it.—A. Then I did not understand your question. I thought you were referring to the point where you left off this morning.

Q. It was about June 1916.—A. Yes.

Q. Then from June 1916 until August there is nothing?—A. Yes I think that is right. Nothing until the Machaffie letter. That is in August 1918.

Q. Two years and two months.—A. Yes I think so.

Q. And during that period you made no inquiry as to the report that had been promised you by Mr. Haney and Mr. Machaffie?—A. I don't think they had promised me a report.

Q. That appears in Mr. Lash's interview?—A. I don't think so.

Q. It speak for itself?—A. Yes. They were to make an internal investigation.

Q. You would receive no report of that investigation.—A. I received no report of it, no.

Q. And you made no inquiry as to whether their undertaking as to dividends was being carried out?—A. No I did not, I accepted Mr. Haney's assurance.

Q. Then you received Mr. Machaffie's letter which is Exhibit 88?—A. Yes.

Q. It appears at page 178. He says among other things in that letter:

"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."

That statement appears to be true I suppose?—A. I have not the figures before me, but I have no doubt it is true.

Q. Now as a result of Mr. Machaffie's letter of August 1918, you asked the management of the bank for a report?—A. Yes.

Q. And you received that report, Exhibit 96?—A. Yes.

Q. And by that report they admitted the Frost interest had been taken into profits for the year 1916 and 1917?—A. I don't know whether it is expressly admitted.

Q. They say they have taken in none since.—A. Yes, then inferentially that would be so, but that they had not taken it in since the end of the fiscal year 1917.

Q. And you did not make any complaint about their not having fulfilled their undertaking with you?—A. I did not expressly make any complaint. The letters in reply show what I did. I called for a special return.

Q. In your previous investigations, you had asked for no report as to the annual profits of the bank and as to how they had been made up?—A. In my previous what?

Q. In your previous correspondence you had asked for no report as to the profits or how they had been made up.—A. No. I think I confined my investigation to the reports I called for of the three large accounts, as to the position of those accounts.

Q. You had no report as to the profits?—A. Not that I am aware of.

Q. The evidence as to the profits for 1915 is given by Mr. Clarkson at page 270.—A. That was not before me.

Q. It was not before you but I just want to see what effect it would have had upon your mind if it had been before you.—A. Oh well, I think that is hypothetical.

Q. Yes. He says:

“In 1915, the profits were shown to be how much?—A. \$163,900.” and, “A. \$42,526 taken as a profit earned in connection with the purchase of La Banque Internationale.

“Q. Was that justifiable?—A. No sir it was not earned.

“Q. What else?—A. \$179,710 for the Frost advances.

“Q. Not earned either?—A. Not as the facts turned out in the light of present facts.

“Q. It was a profit that never came to the bank either then or at any time since?—A. The bank has never received it.

“Q. And never will, what else?—A. \$31,167 on loans on the New Orleans securities.

“What else?—A. \$22,537 as interest on the Home City estates advances.

“Q. How much does that amount to altogether that was taken in that year's profits, that was not earned?—A. \$276,940 is the amount of that interest.

“Q. About \$100,000 more than shown?—A. \$116,000 more than the profits.”

A. Mr. Clarkson is speaking in the light of subsequent events, that that has been shown.

Q. Oh well, we will just stick to these facts.—A. I am sticking to these facts.

Q. And whatever argument you want to put in you will have an opportunity for that.—A. I beg pardon; I ask your lordship to rule on the question of whether I am introducing argument or not. He asked me a hypothetical question and suggests that Mr. Clarkson has made a report since, which I have never seen and which I am not subscribing to; I think I am entitled to call attention to the fact that that was not before me and that Mr. Clarkson might have come to quite a different opinion in 1916 with regard to a timber limit.

Q. That is so, but we are not trying you, Sir Thomas.—A. I quite understand that you are not trying me. If you were, I could wish that you had started to try me long ago instead of my being misrepresented through Canada. Nothing would have pleased me more than to have come here and got the facts out. I have been trying to get them out for months.

Q. Well, Sir Thomas, if you are a sufferer, you are one of the lightest sufferers in connection with the Home Bank failure.—A. I am not finding fault.

Q. What I am asking you is, if you had seen this, if it would have affected your mind?—A. If I had known what? That in the light of subsequent events?

Q. No, that the interest written up in 1915 on frozen accounts, that was not received and has never been collected and amounted to \$116,000 more than the whole of the alleged profit to the Bank?—A. You did not put that to me in that way. You say that Mr. Clarkson, in the light of subsequent events thought that was not earned. Now you ask me in reality this question: In 1916, or '17 or '18 if you had known what we now know in the light of subsequent events, that that was not earned, what would you have done. If you asked Mr. Clarkson what was the situation in 1916, '17 and '18 and whether in his opinion the interest had not been earned before the bank failed, he might have given you a very different reply.

Q. We will go to 1916. You would not consider that good banking business to write up \$116,000 more of interest that could not be immediately collected?—A. No, I did not consider that it was, and I said so. I asked Mr. Haney to see that it was not done.

Q. Now in 1916, a year that they have given you their positive assurance that they would not write that interest into profits, we will see what they did. At page 271:

“Q. Now take the year ending 31st May, 1916, what do you find the earnings for that period to be?—A. \$133,406.

Q. What unearned amounts were taken in to make that up?—A. About \$210,000. Frost, \$170,676. New Orleans, \$8,100 and \$32,000 on other items.”

Don't you think it would have been wise in 1918 for you to have asked if they had kept their promise with you as to that interest?—A. They showed in 1918 that while they had taken it in up to the end of the fiscal year 1917, that since that date they had not.

Q. We know that Sir Thomas, but you had told them not to take it in at all and they had assured you they would not.—A. Will you allow me to finish my answer? I am trying to answer you very fairly. I say that in the unanimous report of the Board, which came to me, they state that it had not been taken in since the fiscal year 1917. It is perfectly clear that they did take it in up to the end of the year 1917 notwithstanding the assurance given me by Mr. Lash; but at the time I got the unanimous report of the Board, according to that report, and as I understand for some time afterwards, until after I left office as Minister, they did not take it in. Now then the position was that they did make a breach of their assurance which they gave me up to the end of the fiscal year 1917, but from that date on, according to this report, they did not. That is the position.

Q. But they certainly cared so little for their assurance that within two months of giving that assurance to you, they broke it?—A. Well they broke it for that year, there is no doubt about that.

Q. You asked not only for an assurance as to the Frost but also as to the New Orleans?—A. Until the situation should clear up I asked with regard to the New Orleans.

Q. And they kept on adding the New Orleans every year?—A. Well, I have not got the information before me, but there is an explanation of that. They turned a certain amount of earnings back into maintenance of the property.

Q. So as a result of Mr. Machaffie's statement you say you just asked the bank for a report?—A. A report.

Q. And that report was sent you signed by Mr. Haney?—A. Mr. Haney, yes.

Q. During the whole of this period you never got any independent report of any kind?—A. No, I assumed that the bank was getting along all right.

Q. You had faith in and believed in the report sent you by Mr. Haney?—
A. Yes.

Q. And if that report were true, the bank was improving its position all the time?—A. All the time, and not only improving its position, but notably improving its position.

Q. But Mr. Clarkson's evidence now is that they have not improved their position but had gone back every year?—A. That appears there from Mr. Clarkson's report, but that was not in existence at this time unfortunately.

Q. That shows that the information furnished you was false.—A. False in fact, if Mr. Clarkson is right. I assume he is, but I am not speaking for Mr. Clarkson.

Q. They sent a similar report to Sir Henry Drayton that it was still getting better?—A. I am not challenging his report, but I do not know whether Mr. Clarkson's report is accurate or not. I assume it is, because he is a good man. That is, that it is correct.

Q. From 1918 on then, you took no further cognizance of the affairs of the Home Bank?—A. I think I did. I asked Mr. Lash for a special return as to those three accounts, to give me the figures, and I think I was influenced in that because they had taken in this interest in one account. In other words, that was done, it had been done, and I asked Mr. Lash for a special return in addition to this; I asked him for a special return under the Bank Act.

Q. Where is that, Sir Thomas?—A. You will find it here. I asked him for copies of ledger entries.

Q. Was not that before that?—A. No, it was not before that. I will find it for you in a moment.

Q. It is Exhibit 96, which appears at page 182. I do not intend to read it.—A. That is the report that you have been referring to. According to mine, my 96 is the Board of Directors. Let me read you Exhibit 97. I call special attention to it because it is a very important letter. I asked for:—

“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.”

Then at the end of the letter I say:—

“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 loan has exceeded \$250,000.”

And in another place I think I asked for ledger entries, because I believe I got them. Possibly not, but at all events I asked for that report.

Mr. LAFLEUR: You will find ledger entries.

Mr. McLAUGHLIN: They are filed.—A. Yes, but I want to call attention to them right here, in answer to your question.

Mr. LEE: You call for them there, “copies of ledger entries.”—A. Yes, that is what I called for, but it was suggested that I had done nothing further.

Mr. McLAUGHLIN: You received the detailed ledger entries?—A. Yes, and I think that was an important thing to get.

Q. But they did not add anything to the information already given?—
A. They gave me information at that time of the state of those accounts. Then there is Mr. Lash's reply to that. You ask me if there is anything further. You will find that on page 191, Exhibit 105.

HIS LORDSHIP: That is within a fortnight after you got that reply?—
A. Yes sir, and enclosing as I recollect a copy of ledger entries of all the three accounts. I thought if I got a copy of the ledger entries that would be a good check.

Mr. McLAUGHLIN: You did receive ledger statements of these several accounts?—A. Yes.

Q. They are here and that will dispose of that.—A. If you say so that is all right, but I want you to say so.

Q. Now at page 324 in No. 5, you say at the top of the page:—

“Under no circumstances would I have allowed a bank to fail during the period in question.”

Now I would ask you, if you found a bank in difficulties, if it had been shown to you at that time that the Home Bank was in serious difficulties, what would you have done to prevent its failure?—A. If I had believed that the Home Bank at that time was in danger of failing, closing its doors, was insolvent, I should have gone to the Canadian Bankers' Association and told them to take over that bank. Either to one bank or more banks.

Q. And what is your opinion as to what they would have done?—A. I think they would have looked into the situation and on the situation, or anything like the situation that was before me, they would have done it. I think I would have made them do it.

Q. If the bank was not too far gone?—A. Yes. I would have made them do it. When I say that, I had no legal power, but nevertheless I feel confident that I could have got them to do it, because it was in the midst of the war and if I had believed that that bank was in danger of insolvency or about to close its doors, I would have said to the Canadian Bankers' Association; “You take over that bank.”

Q. If you had known then what you do now, you would have done that I suppose?—A. Absolutely.

Q. You say:—

“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.”

That is on account of the war?—A. Yes.

Q. During all that period of course, you were very busy with war work?—

A. Mr. McLaughlin, if you had had the load of work and responsibility that I had during that war, you would not be cross-examining me to-day.

Q. I don't deny that Sir Thomas, and I don't want to minimize to any extent at all the very important and valuable work you did.—A. And I don't want to emphasize it.

Q. The immensely valuable work you did during that time, you were raising war loans?—A. I certainly was.

Q. That was something quite new, raising large loans in this country?—A. Decidedly so.

Q. You were a pioneer in that respect?—A. I was.

Q. And I suppose I would not be going too far to say that I don't know how you had the time or the mind to give the attention that you did to this

Home Bank.—A. If you did I think it would not be an overstatement. I was acting Prime Minister of Canada at this particular time, and Minister of Finance. Floating loans; working about eighteen hours a day; called up frequently at night with regard to financial troubles of various kinds. I don't want to emphasize it, but you have asked me the question and I am telling you.

Q. And I suppose I would not be going too far to say that the great dominating thought in your mind during all that period was the war work?—A. I think it was by far the dominant interest. I would not say it was the sole interest, but the war, and the legislation in the House of Commons, and my administrative work in the office and my work outside, of course absorbed all my time and all my thought.

Q. In fact it filled every nook and cranny of your big head from the sub-basement to the attic?—A. I assure you it did not seem any too big at that time for the job I had. However, I am not resting on that, Mr. McLaughlin. I claim I did my duty not only in connection with the war but in all other respects. I am amazed that I found the time to do half what I did in this.

Q. I like human beings, you know, better than supermen.—A. Well I am a human being and not a superman.

Q. And as human beings we do not expect everybody to be infallible in his judgment. I make so many mistakes myself that I love others who do it.—A. I never thought I was infallible, but men in public life cannot afford to admit that.

Q. But now that you are free from public life, as I said yesterday, "the truth will set us free."—A. I should have said "nobody in politics." I mean that in politics one cannot afford to make admissions. I do not mean that in my evidence at the present time I have the slightest desire to state anything except the absolute facts.

Q. It would naturally have been a very disastrous thing from a public and national point of view, to allow a bank to fail at that time?—A. Very serious, very grave.

Q. It was something that could not be permitted I suppose?—A. I told you that if I had thought that the bank was in danger of failing, I would have had it taken over.

Q. That is, if you had known the true facts, you would have had it taken over?—A. Undoubtedly.

Q. That is my point. I would like to compliment you, Sir Thomas, in closing, by saying that I believe you had more faith than the historic grain of mustard seed.—A. Well, Mr. McLaughlin, I may say that I do not lightly suspect men whom I have known and in whom in the past I have had confidence. I am a man who is rather free from suspicion. *Prima facie* I believe men are honest, if they tell me they are.

Q. That is the natural failing of an honest man, but unfortunately in this country experience shows that we have to have a reasonable amount of suspicion.—A. Well, but, you have been Counsel so long that you could not get on without it. I have not been Counsel.

Q. And the trouble in this matter was the great faith you had in the Honourable James Mason?—A. No, not in James Mason.

Q. And in M. J. Haney?—A. James Mason was displaced. I said incidentally yesterday that even so far as he was concerned, he was a neighbour of mine, living in Queen's Park, and he was a man of good standing in Toronto, but nevertheless when this was brought to my attention.

Q. He turned out to be a very unfortunate bank manager?—A. He did, and they displaced him.

Q. Now from the time of this complaint down to the closing of the doors of the bank, there was no real change of management?—A. A change in the Board, and Mr. Haney President.

Q. A change in the Board but not in the management.—A. Yes, Mr. Haney was the President.

Q. But we speak of the Manager.—A. I considered the President of the bank as the chief executive. The General Manager is more the executive, but the President of the bank is his superior, although the General Manager is usually the important man.

Q. The President may more or less take an active part or not?—A. Mr. Haney I believe was taking an active part, and was earnest and sincerely desirous of putting the bank in a better position. All the correspondence shows that, and that he was to give his time to it.

Q. The correspondence shows that he was from time to time telling you it was in a better position, when in fact it was not.—A. Well that may be, but nevertheless he was giving his time to the bank.

Q. That concludes the questions I have to ask you, Sir Thomas.—A. I thank you Mr. McLaughlin. I do not know that it is necessary to re-examine; there is only one point on which I wish to speak, and I mentioned it yesterday.

Mr. LEE: Before you go on, Mr. Lafleur has a few questions.

Mr. LAFLEUR: It is quite immaterial when it is said. You can say what you want now, Sir Thomas.

Sir THOMAS WHITE: It is just on one point. Mr. McLaughlin emphasizes Mr. Lash's state of mind when he wrote that letter to Mr. Fisher, which I have not seen, that the bank was unable to go on. I wish to refer to what I brought to your lordship's attention yesterday; the letter in which Mr. Lash a little later says he completely changed his opinion. It is an Exhibit marked in there if someone will give the number of it.

Mr. LAFLEUR: I will refer to it in a moment.

Sir THOMAS WHITE: That is the only point that I think I need meet the cross-examination upon.

Mr. McLAUGHLIN: The only trouble about that, Sir Thomas, is that Mr. Lash was the solicitor and Counsel for the bank.—A. Is this argument or evidence?

Q. I am just telling you.—A. Well, what do you think it is, argument or evidence?

Q. I think you have put in a good deal of argument.—A. A man has to when he is his own lawyer.

Cross-examined by Mr. Lafleur:

Q. Sir Thomas, there were two periods at which representations were made to you as to the condition of the bank. The first one was in January 1916, consisting of the letter of Mr. Fisher supported by the documents which he submitted to you; And the second occasion was in August 1918 when you received Mr. Machaffie's letter?—A. Those were two occasions on which I received letters, but the Machaffie letter dealt with, as you will observe, the three accounts, and one other which had been paid off; evidently Mr. Machaffie did not know that; which had been brought to my attention by Mr. Fisher. In other words, everything that is in the Machaffie letter, so far as the three accounts are concerned, was practically set out in the Fisher communication.

Q. But those were distinct periods.—A. Undoubtedly. Two years separated them.

Q. Two years intervened?—A. Yes.

Q. When you received Mr. Fisher's letter and the supporting documents, your first impression was that there ought to be an audit under section 56A of the Bank Act?—A. Undoubtedly. I called on the auditor.

Q. First of all you said you thought it was a case for an audit under section 56A?—A. Yes; and for a report from the Board under section 113.

Q. Then you proceeded to appoint an auditor?—A. I took the auditor who had been selected by the shareholders, to make the report to me.

Q. You asked him to act under the section of the Bank Act?—A. Yes.

Q. At page 78 you will find your letter to Mr. Jones, to the following effect:—

“Under the provisions of Section 56A of the Bank Act I now direct and require you as auditor to enquire into the accounts mentioned and report to me in all proper detail respecting them.”

A. Right.

Q. So you intended to make him your auditor for the time being?—A. I intended to call on him under the Bank Act. If that makes him my auditor, well and good.

Q. The Bank Act makes him your auditor and makes you liable to pay him.—A. I think that is right.

Q. At that time why did you decide to employ the bank's auditor. Mr. Jones was the regular auditor of the bank?—A. Yes.

Q. I want to know why you selected him?—A. Because he was the obvious man to select.

Q. You thought so.—A. Of course he was. He represented the shareholders, and I had the discretion under the Statute of calling on him, or on an outside auditor.

Q. That was on the 24th of January. I find that in February, 1916, just a month after, you thought that the logical way would be to ask the Bankers' Association to name an auditor?—A. Yes.

Q. How did you come to change your mind? In January you thought that the logical thing and the proper thing to do was to appoint the bank's own auditor?—A. Yes.

Q. And I find that in February you say at page 88, in your letter to Mr. Lash of 24th February, 1916:

“It would appear to me that the Bankers' Association could do this very thoroughly and much more efficiently than any auditor I could appoint or any official I could name for the purpose.”

A. I think that is right.

Q. What led you to change your view on that?—A. Because it became a question not of accounts, not of the particular state of one of those three accounts, but the question of security; and the Bankers' Association could give me an idea as to security, and could go into the affairs of the bank, if they went in, very much better than any auditor in Canada. As I said this morning, I had no confidence in the opinion of an auditor with regard to the value of a timber limit, but I would have confidence in the opinion of a banker.

Q. Then why did you change your view subsequently and not ask the Bankers' Association to appoint some competent person to make an audit?—A. Because as shown there it was drawn to my attention and I agreed after thinking it over that the effect would be to bring about a run on the bank.

Q. That was in 1918?—A. What was?

Q. That your attention was drawn to that possibility by Mr. Lash?—A. I beg your pardon, it was drawn very much earlier than that, in 1916. You will find it in Mr. Lash's summing up of his interview with myself and Mr. Haney, Mr. Lash's private letter to me in which he says there would be whisperings and that if you put a man in there, notwithstanding all the care that might be taken—

Q. I think you are confusing that, I think that was in 1918?—A. No, it is not in 1918.

Q. He certainly wrote to you to that effect in 1918.—A. He wrote me in his own handwriting, and in the interview between Mr. Haney and Mr. Lash and myself in 1916 that was stressed.

Q. Then did Mr. Lash convince you that it was impossible to have an audit through the Bankers' Association without the matter becoming public?—A. He said so.

Q. But did he convince you?—A. That and my own judgment on the situation when I thought it over carefully. Remember a Minister is in a great dilemma in a case of that kind, he has to weigh the consequences very carefully of action one way or the other.

Q. I think I know the letter to which you refer, it is the letter of Mr. Lash of the 4th of March, 1916.—A. Look at page 174, you will get it strong.

Q. But I want to get the earliest date at which you took that view. Look at the bottom of page 166, he says:

"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."

A. I want this page 174 in, you have asked me two things.

Q.—All right, I was going to refer to it later but we will take it now to satisfy you.—A. Well not to satisfy me, but you have asked for it.

"With a view to ascertaining the actual position of the Bank, a thorough investigation will be made, under the directions of Mr. Haney and Mr. Machaffie. The Board is of opinion that the result of this investigation will show that the capital of the Bank is intact, and that no loss will be suffered by any of its depositors or creditors, provided that it is not compelled, by a run of depositors, to close its doors. The Board feel strongly that if they are allowed to conduct this investigation from the inside, instead of having it conducted by some one sent in at the instance of the Finance Department or the Canadian Banker's Association, nothing will happen, which would cause a run by depositors, but that if the investigation be conducted at the instance of any outside authority, the chances are that statements will be made, and things will be said about the Bank, which will cause a run, and which will force the Bank to close its doors. This opinion is not based upon any want of confidence in anyone who may be sent, or upon any fear that such person would himself disclose the confidence entrusted to him, but experience has shown that no person can be sent from the outside to investigate the affairs of a Bank, without its becoming known sooner or later that he has been sent from the outside. This probably results from some unguarded though innocent remark made by some member of the Bank's own staff."

He is there putting forward the view of the Directors, he has previously expressed his own views. Now what I would like you to explain is how it came about that Mr. Lash changed his mind within four days, because on the 29th of February, four days before, on page 163, he says:

I have always thought that the investigation should be by an outside competent person who would be quite free from any interference by the present management or board.

The best course may be to consult the Bankers' Association with reference to the person who is to make the investigation, as it might be import-

ant that the association should feel able to rely upon his report, if their assistance were asked, instead of having to get a further report from their own nominee,"

Four days after that he changed his mind completely and scouted the idea of an outside report and recommended an inside report. Didn't that strike you as something very extraordinary?—A. What is the date of that next letter?

Q. March 4th, on page 166.—A. He certainly did not change his opinion at my instance. I do not know why he changed it.

Q. Isn't it obvious?—A. No, I do not think so.

Q. On the 29th of February he gave you his opinion as the matter presented itself to his mind.—A. What do you suggest is obvious?

Q. I suggest that it is obvious that he had been conferring with the Directors when he wrote his letter of March 4th and followed it afterward by the subsequent letter you refer to?—A. It is possible, I can only surmise because I know nothing about it, but it is quite possible that Mr. Lash after talking these things over came to the opinion, just as I did, that if the Bankers' Association was put in it would cause a run on the bank.

Q. You know perfectly well that it is possible to have an audit secretly without any publicity whatever.—A. I know nothing of the kind.

Q. Do you not know a recent instance, a very well-known instance, when the Bank of Montreal took over the Merchants there was an audit going on for weeks and months and the public never suspected it, and when the Merchants Bank was taken over by the Bank of Montreal the audit had been completed and the terms upon which the purchasing bank was ready to buy were defined?—A. You state that after the event. As a matter of fact the Merchants Bank at that time had not got into difficulties, and the auditor you speak of,—I do not know that what you say is correct but I assume it is, but at all events he had not been appointed. My point is you might have one auditor and you might succeed in getting through with the audit without the public becoming aware of it, but on the other hand the chances are even, in my opinion, that through men in the bank and talk in banking circles you would produce a run on the bank. Take the run that took place on the Dominion Bank recently, nothing like it in the history of Canada, starting just from a chance word.

Q. That did not result from the divulging of an audit.—A. It resulted from a word practically.

Q. But not from an audit?—A. No, it did not result from an audit.

Q. I am asking you whether it is not a fact that secret audits have been made with the idea of taking over a bank?—A. Not to my knowledge.

Q. Well Mr. Lash is suggesting in this letter of February 29th that other banks would assist, and you came to the conclusion that if the Bank was about to liquidate then you would have it taken over by some other bank?—A. He suggested that.

Q. And you said your policy would have been, if you thought the bank was going to close its doors, to have had it taken over?—A. Yes. As a matter of fact I did not have it taken over, and consequently it was for the reason that I did not believe the bank was in such a condition that it should be taken over or was about to fail. I could easily have had it taken over.

Q. That is not the point I am making now. I am asking you, supposing you had come to the conclusion that the bank had to close its doors you would have tried to have it taken over?—A. I would have had it taken over.

Q. That would necessarily have compelled an audit, because you cannot imagine another bank buying this bank without an outside audit?—A. Mr. Lafleur, if during the war the Home Bank or any other bank, especially a small bank,—well small or large,—was in my opinion, my judgment, about to fail I would have made the Canadian Bankers' Association take over that bank, and to

the extent I thought it unjust that they should be saddled with it I would have had the Dominion Government make good. I would not have allowed a bank to fail during the war, and I would not have put any auditor in, I would have done it quietly.

Q. How would you have persuaded yourself that you had a right to do that without an outside audit?—A. Mr. Lafleur, I would not have allowed a bank to fail. It would not make any difference practically what position it was in, unless everything was gone—

Q. Well if you put up the Government money to prevent it failing that is one thing, but if you told another bank to take it over that bank would have to satisfy itself by an audit, you cannot imagine any bank doing otherwise, no bank would dare to do so, it would not be doing its duty to its shareholders.—A. It was a time of war, I would have gone to the Canadian Bankers' Association, not one bank necessarily, and I would have said to the Association: You take over that Home Bank.

Q. Do you imagine for a moment they would have done that without an audit?—A. I would have made them do it.

Q. Under the War Measures Act?—A. Either under that Act, or the fact is when the Minister tells banks to do things they do them, they can't afford not to.

Q. I do not see how you could have compelled a bank to take it over.—A. I could not legally, but having regard to the relationship between the Government and the banks and the business they get from the Dominion Government, if I asked the Bankers' Association to take over the Home Bank during the war they would have taken it over.

Q. I understand your successor Sir Henry Drayton put an auditor into the Banque Nationale.—A. I don't know anything about what he did. When I was Minister I never asked the Bankers' Association to do anything that they didn't do.

Q. Now if there is any one lesson that has impressed itself upon us by this case it is that an inside audit is fallacious?—A. I think this has shown it, and the Merchants has, but it was not shown before that. You have spoken of the Merchants Bank, the greatest firm of auditors in the world, was their auditor.

Q. But that was an inside audit.—A. Yes, but when this happened that had not been brought to my attention.

Q. I am saying this is a lesson that teaches us that an inside audit is unreliable.—A. My own opinion is that either an inside or an outside audit is unreliable except by an inspection. For this reason, a Minister is put in an impossible position; if you have a general law under which the head offices of banks are inspected then when a man walks in there is no question raised, it is his duty. But if you take an exceptional case and put a man into a bank, an individual bank, when there is no such law, you run a very grave chance of bringing about the collapse of that bank.

Q. You are not answering my question. You are directing your attention now to the propriety and advisability of a public audit.—A. No, I am drawing a distinction between sending a man in in an isolated case and acting under a general law.

Q. I am putting it to you that an inside audit, like the one which was ordered in this case to the extent to which it was ordered, was wholly deceptive.—A. Yes, but it was under legislation passed only a couple of years before, in which I believed and Parliament evidently believed that an audit was not deceptive. What you are referring to is something that has happened since.

Q. I am saying that by the Act you had the right to appoint the auditor of the bank if you liked, or you could have appointed an outsider, and you decided that you would appoint the inside man.—A. At that time.

Q. I am asking you if it is not a fact that this case shows— —A. Which case?

Q. The Home Bank case, shows that an inside audit is fallacious and deceptive?—A. Now it does show that but it did not show it then.

Q. Because they gave you statements manifestly deceptive, and gave your successor the same statements, which deceived him also.—A. Yes I think so.

Q. Now you could have tested the accuracy of those statements if you had sent in your own auditor.—A. The accuracy of which statements, that I sent for from the Board?

Q. That you got?—A. If I had sent in my own auditor. You mean as to the value of the securities?

Q. No, as to the actual book entries.—A. I could have tested the actual book entries, there is no doubt about that, in the Frost account.

Q. I want to show you what I mean. Take the report of Mr. Haney beginning at page 182. The first statement I draw your attention to is on page 184 where he is speaking of the Pellatt account and he says that the account has been reduced by \$284,000.—A. Yes.

Q. You would have seen from the books, if someone had enquired for you, how that reduction was brought about?—A. That is probable, yes.

Q. That would show right on the books?—A. I assume so.

Q. Would you be surprised to learn that the reduction was brought about by disposing of the securities which secured the call loans?—A. I would not be surprised at anything in the Home Bank case.

Q. And those were the gilt edge securities. We find in the books that one of these securities that was sold on that occasion in reduction of the debt was 5,000 shares of Dominion Steel, about the best of the securities there.—A. Well I would not say that. In the accounts, yes.

Q. I looked over the list and that seemed to me the strongest. Do you think that account was better by having a sale of all the best securities and leaving the balance of the account to be secured by inferior securities?—A. No, that is the reason I asked Mr. Lash to take additional security.

Q. That was a very deceptive statement, which hinted or suggested that the account had been reduced by a cash payment when as a matter of fact it was by the sacrifice of the best securities, leaving the account so much the worse?—A. Yes, to that extent it was deceptive.

Q. That is one item that could have been verified by an auditor?—A. I think so.

Q. That is where an outside audit would have been very valuable?—A. It would have been if the Minister had decided upon that action.

Q. I am not questioning the propriety of your decision but I am saying if instead of an inside man reporting, if you had not taken the President's word you would have learned the truth about that account?—A. Yes, I think that is probable.

Q. Take another statement in that same letter. At page 185 the President says:

"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."

A. Right.

Q. If an outside auditor had examined the books he would have found that they had been capitalizing interest, or rather placing uncollected interest to the credit of Profit and Loss, not only in 1916 but in previous years, and that they went on doing so to the end.—A. Apparently not, but however—

Q. Do not be misled by that statement of Mr. Haney's, they did not take into account unpaid interest on the Frost account for four years from 1918 to 1921, but in all the other bad accounts, frozen accounts, they were passing into Profit and Loss account the unpaid interest, which ran into millions towards the end, and which at this date in 1916 amounted as far as I can see from the books to about \$1,000,000 already.—A. Yes, we had that information before of the capitalization of interest because I spoke to Mr. Barnard and Mr. Haney about it, but in 1918 after I got the Machaffie letter the resolution of the Board of Directors stated that they had taken it up to 1916 and 1917 but I understood that from that on, and you now say the same thing, that interest was not taken in the Frost account.

Q. For four years.—A. I was not Minister after 1919.

Q. But it was going on practically in reference to all the other frozen accounts.—A. But after I went out as Minister I did not consider myself custodian of the Home Bank.

Q. You misunderstand me. I say in 1916 and until the time you left that was going on all the time.—A. Apparently not, you say for four years it was not.

Q. I said as to the Frost account it was not. As to all the other accounts it was.—A. What do you mean by all the other?

Q. All the other inactive, frozen accounts.—A. There were only three brought to my attention.

Q. Well whose fault was that? You need not have limited your audit to those three or four accounts.—A. But these were the only accounts brought to my attention.

Q. By the Western directors.—A. Or anyone else.

Q. But if you had sent a competent auditor in there he would have discovered what we know now from a mere inspection of the books. This was not confined to those four years, it was a general practice with regard to all the inactive accounts.—A. Yes, I think if I had sent in a good man at that time he would have found that out. But my point is, only three accounts were drawn to my attention and I have sworn that I had absolutely no notice that any other accounts were bad.

Q. But if you had sent an auditor in he would have discovered then what we have discovered to-day.—A. If he was a good man he probably would, although I have not a great deal of confidence in auditors.

Q. Well Mr. Clarkson has done that, and our auditor has done that without any difficulty. They have found these inactive accounts where interest was piled up year after year and the amount carried to Profit and Loss and dividends paid out of those fictitious earnings.—A. I think as far as the book-keeping end is concerned an accountant or auditor is useful, but when it comes to valuing securities I have not much confidence in auditors, because they are book-keepers essentially, and accountants.

Q. Then on the same page (185) Mr. Haney tells you what the profits were in 1917.—A. Yes he tells me that.

Q. \$217,000 for 1917, \$228,000 for 1918. Now if you had looked at the books you would have found what I am telling you, that these were made up in the way I have told you, and that these profits were not earned. So that was a wrong statement?—A. I think it was.

Q. And that could have been discovered by an auditor?—A. If in the exercise of my discretion I had put in an outside auditor instead of doing what I also had the discretion to do, calling for a report from the Board and the auditor of the bank, then what you mention would have been discovered if as a matter of fact it is a fact.

Q. Well I assume that because it has been proved in this case and will be confirmed by everyone who looks at the books.—A. You know it is easy to be wise after the event.

Q. I am making a distinction between what we know by after-acquired knowledge, I am leaving that out of consideration; I am simply asking you about items which could have been discovered in the books.—A. If the auditor had been appointed, yes, quite so, that is all right.

Q. Another thing I want to ask you about in that connection. I have just been asking you about Mr. Haney's statements to you in 1918 and the errors contained in them. Now I draw your attention to another statement made in 1916 by the same gentleman in his letter to you of June 14th which you find on page 176.—A. Yes I have that.

Q. He deals first of all with what he calls the Toronto matter, then the New Orleans matter, and then the British Columbia matter. I will not trouble you with the Toronto matter because that deals with additional securities which had been recommended by Mr. Lash. But I draw your attention to the fact that in the third paragraph on page 177 he says:

“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. I believed that, I was delighted to hear it.

Q. Would you be delighted to hear that the amount that was appropriated out of Reserve Fund to meet these doubtful accounts was wholly inadequate?—

A. Very sorry to hear it.

Q. The doubtful accounts at that time amounting to over \$300,000, and there was exactly \$100,000 taken out of Rest to make provision for doubtful accounts.—A. If that statement is correct, this statement which I was glad to receive is fraudulent and deceptive.

Q. Let me carry that one step further. Would you be surprised and shocked to hear that subsequently, after carrying that \$100,000 out of Rest and placing it to secure doubtful accounts, it was carried into Profit and Loss and taken as a profit justifying the distribution of a dividend?—A. Very much surprised to hear it, and if so, most improper.

Q. You will find that in the books.—A. Well you say so.

Q. Mr. Clarkson has sworn to it, he has pointed out where it is in the books.—A. Yes he has done it now.

Q. So that was another grossly fallacious statement?—A. Undoubtedly.

Q. Another evidence that if you ask the President or Manager of a bank, or even the auditor, the regular auditor of the bank, to reassure you as to its condition, these gentlemen are generally going to reassure you.—A. Since when have you had that opinion?

Q. Well it has been borne in on me in my over forty years of practice —A. It has not been borne in on me except these last two or three years, it was borne in on me in connection with the Merchants and with the Home Bank, but I do not for a moment subscribe to the statement that if you ask the President and General Manager of a bank, men who are absolutely honest, that you are going to get a false statement.

Q. In the case of a first rate bank; but a bank whose accounts were in the condition they were said to be by these western Directors, you do not as a rule expect to get any assurance that you can rely on by applying to the management when the management is alleged to be as bad as this?—A. It depends on your view of the men. If you come to the conclusion that there has been imprudence, but a new President is put in as Mr. Haney was, you rely on him, you do not think the man is a crook. If you did you could not do business at all, and I do not say he is a crook, I do not know.

Q. I do not know what definition you give to the word, and I am not asking you to call him by any name. I am simply asking you to admit that he was deceiving you in letter after letter.—A. Without any doubt the statements he has made, in view of what you say were false, but whether to his knowledge or not I cannot say, I cannot swear to it.

Q. Well they were false to the knowledge of some officer in that bank?—A. That is probable.

Q. And they emanated from officers in that bank, whether the Manager or President I do not know.—A. I think you are right, but I am not going to be put in the position of swearing, because I do not know, that because a statement contains something false it was false to the knowledge of the man who made it.

Q. I am not asking you to, my only point is you got information that was wholly unreliable because you got it from the inside.—A. That is quite probable, that seems to be so.

Q. Now, then, you said that if you had had any indication that the bank was on the verge of liquidation, you would have acted more drastically than you did?—A. I would have had it taken over.

Q. Now, did not the letter of Mr. Lash, dated 29th February, 1916, at page 163 alarm you, because he says here:—

“In my interview with you at Ottawa on the 22nd, I expressed my personal opinion as to the general position, and I said that my main object was, to so manage matters that if the bank had to liquidate,—”

A. Yes, “had to.”

Q. “the liquidation might be with open doors.”

A. Yes.

Q. Now, he was contemplating the possibility of liquidation?—A. Undoubtedly, and I was contemplating getting the Bankers' Association to look into it.

Q. And the only thing that prevented you from doing it was that deceptive letter of Haney's?—A. No—

Q. And you believed in his integrity?—A. In two or three things. In the first place, Mr. Lash changed his view a few days later—

Q. In four days?—A. Yes.

Q. I do not think he changed his view. I think in his first letter he expressed his own view, and in the next he expressed the view of the Board?—

A. That is No. 1. No. 2 is, the Board was harmonized, and they stated that, in their opinion, an investigation would show that the capital was intact. In addition to that, I think that Messrs Haney and Crerar, in the latter of whom I have undoubted confidence, in fact, I had confidence in both at that time, had reported on the Western limits. I think I had that before me, and that Mr. Haney had reported on the New Orleans situation, and consequently the Board had come to the conclusion that they could put the bank on a better basis, and in view of the fact, as I have stated to you, that by putting in the Bankers' Association it would, in my view, at that time, after the representations made to me, probably have the effect of causing a run upon the bank. You are quite right in saying that I had complete confidence in Mr. Haney, in the statements made to me.

Q. You have just given a second reason, apart from your belief in Mr. Haney and the report which he made to you. You have just stated that harmony had been re-established between the Directors?—A. Yes, sir.

Q. But you were of opinion, according to your letter of the 21st of February, 1916, at page 86, that even if harmony were restored that would be no reason for staying your hand?—A. I did say that.

Q. You said this:—

“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.”

A. No, and I got the information. Now, read that again.

Q. You got some information.—A. I got the information I asked for from the Board. I insisted on getting it. Mr. Lash said, the Board is in harmony, surely you are not going to ask for that information. I said I wanted that information, and I got the information I asked for, from the Board of Directors and Mr. Lash.

Q. I am afraid you did not ask for enough information.—A. That may be, but I do not want you to misrepresent the situation.

Q. I do not want to misrepresent you, far from it.—A. Well, you know, you are Government counsel.

Q. You stop me if you think I am misrepresenting the situation, because I have no such desire.—A. I am very conscious of the fact that there are two counsel for the Government, several for the depositors, and none for the Ministers.

Mr. LEE: That is not our fault, Sir Thomas.

WITNESS: It is not your fault! Do you mean to say it is fair to ask me, a private citizen, to give up my time and attend all these hearings, or pay out three hundred or four hundred dollars to have counsel represent me here?

Q. Have you ever made any application to the Government for counsel?—A. No, I have not. Your lordship, the Prime Minister of this country got up in the House of Commons and said there is a charge made against myself, and when the Commission was enlarged a charge against Sir Henry Drayton and Mr. Fielding, and here we have counsel for the depositors, counsel for the Dominion Government, and no counsel for the three Ministers, and I am asking Mr. Lafleur to be fair in this matter, as counsel for the Government.

Mr. LAFLEUR: The counsel for the Government desires to be fair to every Minister, and I am not conscious of having departed from that line of conduct yet, Sir Thomas.

WITNESS: I just draw it to your attention, because this is an extraordinary constituted body of lawyers.

Mr. LAFLEUR: If I fail in that it will be from inadvertence, it will not be because I am merely Government counsel.

WITNESS: Your duty being to the Government of this country, as your client, you are not in a position to be otherwise, you are bound to have a color.

Mr. LAFLEUR: If you mean to say, Sir Thomas, that I am bound to find you guilty of negligence, there is no such duty imposed upon me, I have no such mandate. My mandate is to investigate this matter and find out the facts.

WITNESS: But I do say this, that you are counsel for the Dominion Government, and the Prime Minister of this country has said, in the House of Commons, or has made the statement that I am a political opponent of his, although I am a private citizen and not in politics. Now, then, he said a charge had been made against me, and that this Commission is enlarged against the others, and do you mean to say that counsel for the Dominion Government can represent the interests of the three Ministers here?

Mr. LAFLEUR: I do not see why, Sir Thomas.

WITNESS: Well, I see why.

Mr. LAFLEUR: I am not playing politics. You are mistaken if you think I have undertaken any such mandate. I am here to investigate this matter and find out the truth. Now, if the facts hurt anybody it will not be my fault.

WITNESS: They do not hurt me.

Mr. LAFLEUR: Well, I am happy to hear it, because, so far, I have not meant to be unfair.

WITNESS: Except a little animus I observe in your bearing rather than in your questions, and it is only because of the fact that you are counsel for the Dominion Government.

Mr. LAFLEUR: Well, I am trying to reconcile what appeared to be irreconcilable statements in this correspondence.

WITNESS: Yes, quite so.

Q. Now, then, I would like to draw your attention to page 162, Exhibit No. 71, where you say:

"It does not appear to me that I would be justified in staying enquiry because the Winnipeg Directors may ask me to suspend action. The real question is whether the Bank, having regard to the condition which will be disclosed by the statements should be allowed to continue business with the public."

A. Right.

Q. That was the real question?—A. Certainly it was, and I said so in that letter.

Q. You could easily conceive that the Directors might have pulled the wool over the eyes of the Western Directors?—A. I did not conceive any such thing.

Q. Well, you can conceive it now, it is easy to conceive now?—A. Oh, very.

Q. That being the case, you are quite right, in thinking that it was in the interests of the public, that that ought to guide you and not the restoration of harmony between the Directors, because that might be the result of a mistake?—A. Yes.

Q. Then at page 165, that was in March, 1916, you said that you kept yourself free to lay the facts before the Bankers' Association?—A. Yes.

Q. You always kept that in mind?—A. I always kept that in mind, for I was dealing with Mr. Lash at arm's length.

Q. Yes, and at page 167 you went a little further. You said in your letter of the 8th of March:

"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."

So that you were contemplating action even after you got Mr. Haney's report?—A. Which report of Mr. Haney's? Mr. Haney's report of June do you mean?

Q. No, the previous report that you were expecting?—A. Oh, you mean the report of the bank's affairs?

Q. Yes.—A. "They will then have before them that material—"

Q. You were contemplating action even after receiving the reports?—A. There isn't any doubt about that. So far as I can judge, I had it in my mind right down to the time that the Board was harmonized, and the Western Directors, in whom I had confidence, said, now, we have confidence in Haney, we have all agreed upon him, and we feel we can get along, the very men who had brought the matter to my attention said, now, we practically withdraw that and we go on again, men in whom I have confidence, and every reason to have confidence.

Q. I suppose they did not get any more accurate information than you had at the time?—A. They were Directors of the Bank, and I had every right to assume that they had accurate information with regard to it, and the only thing they were concerned about was the accounts they had brought to my attention.

Mr. LAFLUR: I think that is all, thank you, Sir Thomas.

Cross-Examined by Mr. Lee:

Q. The first danger signal that you got was from the Western Directors in 1916?—A. You call it a danger signal, I suppose you may.

Q. As Minister of Finance, it was so dangerous that you thought it better to take some action about it?—A. Yes, it was so disturbing.

Q. That is the way you put it before, "disturbing"?—A. Yes.

Q. And certain statements were made there which you thought were disturbing. Now, those statements having been received, you thought it your duty to investigate?—A. Yes, that is right, to call for a report upon.

Q. Well, you saw fit to investigate by calling for a report, isn't that the way to put it?—A. Well, that is a little different in shade of meaning.

Q. I do not see that it is any different. You were obliged, as Minister of Finance, to make such an investigation as to call for a report, will you put it that way to be fair?—Yes, under the Bank Act.

Q. Under the Bank Act?—A. Right.

Q. You did not know Mr. Perse, I believe?—A. No, I did not know him.

Q. Nor did you know Mr. Kennedy?—A. Except by reputation.

Q. But you had known Mr. Crerar for some years, had you not?—A. At that time I had not known him very well, except by reputation.

Q. Well, you knew he was a man of standing in the community?—A. Oh, undoubtedly. I had confidence in him.

Q. And, as a bank Director, you knew that he would not make statements of this nature unless there was some foundation for them?—A. Oh, not at all.

Q. So that when you received that report, as you say, it was very disturbing, and, to a Minister of Finance, it should have been a danger signal, should it not, to you?—A. You are using a term that I would not use, but certainly it was very disturbing, and that is the reason I called for the report.

Q. And it was something that should have placed you in a position of being suspicious if you were never suspicious before?—A. I would not say suspicious.

Q. Well, I am saying suspicious, Sir Thomas?—A. I would not say that in regard to all the loans. For example, the Frost loan was an improving loan.

Q. Which of these loans were you suspicious about when you received that communication from Fisher?—A. I do not believe the word "suspicious" is the right word at all.

Q. Well, I am going to use the word "suspicious."—A. I have no objection to your using it, except that I do not adopt your phraseology.

Q. There are certain facts presented to you by gentlemen in whom you have confidence, business men in the community, and directors of a bank?—A. Yes.

Q. And those gentlemen come to you and make certain statements against the management of that bank?—A. Yes.

Q. And you have no reason, or up to that moment you have no suspicions at all?—A. Not to my knowledge.

Q. And then you received that letter, and, as a member of the Bar, and as Finance Minister, don't you think that any man, having regard to the

public interests, would at that time, when you received such a letter begin to have some suspicions that all things were not right in that bank?—A. No, quite the contrary, I think.

Q. Now, the reason for your being quite the contrary was that you and Mr. Lash were very friendly?—A. No, not at all.

Q. Just a minute now, will you follow me. And Mr. Mason, the Manager, was a neighbour of yours?—A. Yes, he was a neighbour of mine.

Q. Yes, and Colonel Mason, who was Assistant Manager, was also a friend of yours?—A. No, sir, I did not know him at all.

Q. Nod did you know Mr. Persse at that time?—A. No. I did not.

Q. Nor did you know Mr. Kennedy?—A. No.

Q. But he also had the greatest confidence in Mr. Lash?—A. Yes, but you are putting your question now so that my answer appears wrong.

Q. I do not want it to appear wrong, I want to be perfectly fair. If I am not fair, please tell me.—A. I think you are not. However, I want to go back to the question you asked me, two or three questions back. It was suggested in your question that the reason I was not suspicious was because Mr. Lash was a friend of mine. When I got the Fisher communication I had not been in touch with Lash at all, and that I at once called upon the Board, under the Bank Act, for a report, and upon the Auditor. Up to that time, Mr. Lash had not been brought into it at all.

Q. And he was not the solicitor of the bank at that time?—A. Not to my knowledge.

Q. He was not appointed regularly as solicitor until after this communication had reached you?—A. Apparently not, although, as was pointed out this morning, he had done some special counsel work.

Q. I am speaking about being regularly appointed?—A. Yes.

Q. And they sent to you the man in whom you had probably, of all men, the greatest confidence, Mr. Lash?—A. I would not say that. I had absolute confidence in him, but I have in a great many men.

Q. But you had more in Mr. Lash than you probably had in nine-tenths of your acquaintances?—A. I would not say that.

Q. You had been associated with him for a good many years?—A. I had been, yes.

Q. And you and he were on the National Trust Board together?—A. Yes.

Q. And the Bank of Commerce Board together?—A. No, I was not on the Bank of Commerce Board then.

Q. Not at that time?—A. No, sir.

Q. However, you had been in politics together?—A. Yes.

Q. And you wrote a famous letter in 1911 together?—A. I wonder if we are getting into the realm of politics.

Q. Never mind, I want to show this connection. Is not that true?—A. That I wrote a letter?

Q. Yes.—A. I don't think so. I signed a letter.

Q. Who wrote it?—A. I do not know. I think it was a composite document, evidently very effective.

Q. However, you and he were very closely allied from 1911 up to this date?—A. No, I would not say so. When I went to Ottawa I got out of touch with most of my Toronto friends. I gave up all my directorships.

Q. But anyhow, Mr. Lash came down and he saw you, with Mr. Haney, and you had a consultation as to the advisability of placing this bank in the hands of the Bankers' Association, or having an investigation from within, as you call it?—A. Yes, as shown by the correspondence.

Q. And the final ending of that was that you did have an investigation from within?—A. Yes.

Q. And then along in 1918 you got another danger signal; you got a letter from Mr. Machaffie?—A. Yes.

Q. Did you know Machaffie, or who he was?—A. I did not know him personally.

Q. Did you make any inquiries at that time as to who he was?—A. I do not think I made inquiry, except I had known that Mr. Machaffie had been brought down from Winnipeg as Assistant to the Manager, and was quite highly spoken of by the Western Directors, and by Mr. Lash.

Q. Yes, and they even brought him down and introduced him to you?—A. Not to my recollection, Mr. Lee.

Q. I am instructed so. Don't you remember that, Sir Thomas?—A. I do not.

Q. Do you remember Haney bringing down Mr. Machaffie and introducing him to you, and telling you that they were going to appoint a new Manager?—A. As a matter of fact, Mr. Lee, I do not; as a matter of recollection I absolutely do not.

Q. Of course, you had so many things on your mind at that time that I do not wonder at it, it was a small incident.—A. I certainly had. I do not deny probably having met Mr. Machaffie, but I do not remember the incident.

Q. Did you make any inquiries to find out whether he was a reliable man or not, or whether you should pay any attention to his statement?—A. Not other than appears on the record.

Q. You wrote to Mr. Machaffie I believe, a letter in which you took some cognizance of his statement?—A. Yes.

Q. Then, pursuant to his statement, you wrote to the bank?—A. Yes.

Q. And you asked them, what about this letter, and you sent them a copy of it?—A. Right.

Q. And you sent a copy to Mr. Lash?—A. If you say so, I do not recollect.

Q. That is my memory.—A. I have no doubt I did.

Q. And they made a report to you?—A. Yes.

Q. And in that report they led you to believe that Machaffie was a man who could not be relied on?—A. They did undoubtedly.

Q. That was generally the purport of the report?—A. They suggested in that that Mr. Machaffie's motive was sinister, and there was certain correspondence there which they were prepared to show me, showing that he aspired to be General Manager, and evidently before Mr. Lash had written the letter, that Mr. Machaffie had quarrelled with Mr. Haney.

Q. Did you investigate whether that fact was true or not?—A. No.

Q. Did you make any inquiries at all in any other directions?—A. No. It seemed to me to be a quarrel.

Q. Don't you think it might have been your policy to say: Here are two complaints, one in 1916 which you had investigated and found to be somewhat true, and one in 1918 from an officer of the bank, who was assistant to the President and I believe so wrote you, that these danger signals should have created in your mind some suspicion about this bank.—A. Not about anything except what was drawn to my attention. Mr. Machaffie drew the three accounts to my attention, and an account which he stated Mr. Stewart was interested in and which had been paid off. His letter seemed to be quite inaccurate in that respect and that to a certain extent discredited his letter in my eyes, and obviously there was a quarrel. I did not conceive it to be the duty of the Minister of Finance to investigate a quarrel between the General Manager and another officer. It is not the job of the Minister of Finance to go into banks and settle disputes between officers.

Q. It was not your duty to interfere in those internal matters of the bank, I can quite understand that, but your public duty was quite plain to you, and

that was that the depositors and shareholders had a very large interest in this bank and in the protection of that it was your duty to see whether the facts which had been laid before you in 1916 and which had been supplemented by Machaffie, an officer of the bank, were true.—A. The duties of the Minister of Finance arise under the Bank Act. There has been a lot of talk about the duty of the Minister of Finance. His duty arises under the Bank Act, and it is in his absolute and unconditioned discretion when he gets a complaint, whether he will ask the Board of Directors for a report under 113, or whether he will ask an auditor, or whether he will do nothing. It is in his absolute unconditioned discretion.

Q. So you told us yesterday, but you do not agree that this Royal Commission is properly constituted and that it can overrule your discretion?—A. I am answering you, when you talk about the duties of a Minister of Finance, I will raise that question at the proper time for his lordship to determine; he is quite capable of determining it; and I am raising it now only because you speak of the duties of a Minister of Finance, and I am telling you what his duties are and where they arise. They arise under the Bank Act.

Q. What are some of the principal duties, as you found them while you were Minister of Finance, under the Bank Act? First, to protect the depositors, the bill-holders, and the shareholders. Was not that part of your duty?—A. I would not put it that way, although as a matter of fact I should be very glad to protect them.

Q. So you said in your communication to the paper.—A. The Bank Act lays down the lines under which a Minister of Finance may act, and after all the Minister of Finance is controlled by that Act, he must act in accordance with the law. He must not act unlawfully, but he is given a discretion and he may exercise that discretion or not, that is my contention, and I did exercise it by calling on the Board, as has been the practice of the Department right along, under section 113, for a report with reference to any complaint.

Q. But I understand that in these complaints and in one complaint particularly, they asked you for an investigation of all the affairs of the bank, and not only about three or four accounts, did they not?—A. Yes, but Mr. Lee, people may ask a Minister of Finance for anything they like, but whether the Minister of Finance, having regard to his view of the situation, will comply with their request or not, is a very different proposition.

Q. Will you tell me, Sir Thomas, in your opinion as Minister of Finance, what are the people of Canada paying the Finance Department for?—A. You mean the Minister of Finance?

Q. Paying the Minister of Finance and his staff.—A. I will answer that in this way, that if you had been Minister of Finance from 1911 to 1919 you would not ask that question. I received I think \$7,000 a year, and I think I was out of pocket \$10,000 a year every year I was there.

Q. But I am not speaking about you. You should take nothing personally. A. You put it in that way.

Q. I did not mean it in that way? I am speaking of the duty of the Department of Finance, having regard to the fact that they are the only people who can look into the banking system of this country. Is it not the business of the Department to exercise such supervision over all the banks that the people won't lose their money, isn't that right?—A. The duty of the Department of Finance arises under the Bank Act. It is idle to talk of their having supervision apart from the Statute which gives them certain duties and confers upon them certain discretionary action. If you want to know what the duties of the Department of Finance are, look at the Bank Act. There is no provision for the inspection of banks.

Q. And do you mean to tell me, Sir Thomas, that under the Banking Act of this country, the Finance Department having a responsible Minister and

Deputy and a large staff, has no means of making an inspection of any bank which the Minister in his discretion may see fit to make.—A. The Minister may do certain things, as I have pointed out, and if you want to see what the Minister may do, read the sections.

Q. It is not what the Minister may do, but we will see what section 56A says:

“The Minister may direct and require any auditor appointed under the next preceding section.”

A. That is appointed by the shareholders.

Q. “Of this Act, or any other auditor who he may select, to examine and inquire especially into any of the affairs on 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.”

A. Right.

Q. Now you and I agree upon that.—A. That is, he may because the Statute says so.

Q. No, but he must, and it is his duty if his suspicions are warranted in his mind under his discretion, isn't that it?—A. That I think would be so in the actual working out, but as a matter of fact it says the Minister may call for an audit, and may call for a report from the Board at any time. That is what I did.

Q. Yes, and what I am quarrelling with you about, and what we depositors are quarrelling with you about is, that you only went a certain distance, and that instead of getting some independent man to make an investigation either from your own department or some independent auditor, that you go and ask a gentleman in the service of the bank to make that audit.—A. Because the Statute authorizes me to do it.

Q. Of course the Statute authorizes you to do that, but the Statute authorized you to get another auditor didn't it?—A. Yes, but it authorized me to use the auditor who was there or get another.

Q. Couldn't you have got another auditor?—A. Of course I could have got one, yes.

Q. And the only reason you did not get another auditor was the great confidence that you had in Mr. Lash?—A. No my duties arose under the Bank Act; I called upon the Board under section 113, and as I have said here twenty times, I called on the auditor of the Bank under section 56A and I did not call in an outside auditor because as a matter of fact, as I have explained to you, if I had it would have brought about a run on the bank.

Q. That was a matter in your opinion and probably at that time you may have been right and I may be wrong, but the results are all wrong.—A. But of opinion controlled my action at that time.

Q. Your opinions of course control your actions, and your actions were greatly controlled by the letters you received from these Directors at that time?—A. My confidence, which had been disturbed, as I stated in my letters, was largely restored by the displacement of General Mason by Mr. Haney, the harmonizing of the Board, and the representations made to me as to the Frost timber account and the New Orleans account.

Q. Don't you think, after these danger signals, that it might have been very advantageous to you as the Minister, with these disturbing influences, that you might have asked for some proper cruising of these timber limits?—A. The best answer to that is that I did not and I do not find any authority.

Q. You had the power?—A. I don't know that I had. I may have. To cruise a timber limit? Do you mean for me to go out and examine that timber limit?

Q. Oh no, you and I are not cruisers?—A. I should think not.

Q. But you could have got some officer of your own Department to go out and have proper cruises made.—A. Oh, Mr. Lee, what are proper cruises of a timber limit? I have had a timber limit in my lifetime, and you can get as widely different opinions as to the value of a timber limit as you can with regard to a piece of real estate.

Q. You would have had some independent advice, then, would you not, and don't you think that would have been reasonable? You see, Sir Thomas, you were taking the opinions of the Directors, and of their Counsel, and of the Directors' appointee, and the auditor, that is the shareholders' auditor.—A. But of the Directors who had brought this to my attention, and who by reason of that were regarded by me as honest, and when Mr. Crerar, and Mr. Haney, came back from British Columbia and reported on that Western timber limit, I thought there would be either no loss or a very small loss, and I knew the general timber situation at that time.

Q. You say you knew, just as you have told me, that you had not much opinion about cruises, and you knew that the war was going on, and that timber was going up in price?—A. Yes.

Q. And the report which they made to you, of 1916, of the value of this timber, you presumed that it was at war prices?—A. Well, timber was valuable and we did not know how long the war would last.

Q. Don't you think it would have been a natural thing for you to get some independent valuation of that timber at normal prices, in normal times.—A. If they could have sold it during the war time, for the prices obtained then, that would be just as real money as if they sold it out in normal times.

Q. But they had not told you that they were going to sell it out?—A. Mr. Crerar and Mr. Haney reported that it could be sold in from three to five years.

Q. In five years?—A. Three to five years.

Q. But if the war was over, prices would naturally go down or might go up?—A. We did not know whether the war would last five, seven or ten years.

Q. I want to get down to normal. Prices were abnormal during the war and I want to see if that valuation that they made was in your opinion a proper valuation, I want to get the state of your mind at that time.—A. The state of my mind with regard to that was, that I had confidence in the report which they brought back, with regard to that timber limit. I did not conceive it any part of my duty as Minister to go cruising a timber limit and I don't conceive that it is to-day, nor do I conceive that it is under the Statute, nor do I conceive that any one in the Finance Department could possibly go out there and examine into a limit and report upon it. I believed these men absolutely honest, and believing the new Board to be entirely honest after it was harmonized, why should I doubt the opinion of a Board in whom I had confidence as to the value of the timber limits. Why should I? It was their job to administer the affairs of the bank under the Bank Act.

Q. But it was your job to see if they were not fooling you.—A. I am telling you I had confidence in them. I did not think they were fooling me.

Q. Was there any suspicion arose in your mind after you got Mr. Machaffie's letter?—A. When I got Mr. Machaffie's letter I considered it a document of great importance, notwithstanding that there appeared to be a quarrel. I put it up to the Board of Directors and they sent me such a report, showing earnings two and a half times the dividend, showing a good liquid position, you could hardly imagine a more rosy report.

Q. Did you send a copy of that to Mr. Machaffie?—A. No I did not.

Q. Do you not think that would have been a decent thing to do?—A. I thought there was a quarrel between them—

Q. You are not answering my question; I am asking do you not think that in view of Mr. Machaffie's statement to you as a Minister of the Crown, and their

reply, it would have been only decent to Mr. Machaffie to send him a copy of that to see if the statements contained in that letter of theirs were true or false?

—A. It did not occur to me, because the report was so absolutely rosy and favourable that I came to the conclusion that there was a quarrel between Mr. Machaffie and the Board and his letter had been actuated by that, as the Board suggested.

Q. And it did not occur to you to find out if it was true?—A. Except that I called for the copies of ledger entries.

Q. That is all?—A. The report first and then the copies of ledger entries, because I believed it was true.

Q. When you got the copies of the ledger entries did you find anything not corresponding with their report?—A. Which report?

Q. The report which they had just sent you after Mr. Machaffie had made his statement?—A. Not to my recollection.

Q. Did you find that some of the statements contained in Mr. Machaffie's letter were true—A. I found one that was true.

Q. Which one?—A. I am speaking from recollection of eight years ago; that they had taken interest on the Frost account into profits up to the end of the fiscal year 1917.

Q. Notwithstanding that you had told them not to do that two years before?—A. Yes.

Q. So that so far as that statement was concerned you had reason to believe that Mr. Machaffie was telling you the truth in regard to some things?—A. In regard to that.

Q. From the inside?—A. Yes with regard to that.

Q. Did you go on to investigate in order to find out if the Board had been doing anything else incorrectly which Mr. Machaffie had told you about in his letter?—A. Yes. I accepted the statement of the Board as to the Stewart Winnipeg account I think it was, that it was paid off.

Q. The Stewart account was paid off and you found that Mr. Machaffie was incorrect in that statement?—A. According to the report of the Board.

Q. Did you ask Mr. Machaffie for any further evidence at all to back up his statements?—A. No.

Q. You were quite satisfied with what the Board told you and gave you such a nice rosy statement, you felt that that was good enough for the Minister of Finance of this country?—A. Mr. Lee, it would have been incredible to me, and it is incredible now, that any Board of Directors could make a statement of that kind to a Minister of Finance fraudulently.

Q. Why Sir Thomas, you remember the Central Bank in this country don't you?—A. Well I do not.

Q. Do you remember the troubles there?—A. No I do not.

Q. There were certain Directors in that case who pretty nearly went to the penitentiary.—A. Well that may be, but here is a Board of Directors, many of whom I knew, and in Mr. Haney I had entire confidence, and as I have said they put in a report so circumstantial as to its condition, its earnings two and a half times its dividend, it would have been incredible to me—

Q. How long have you known Mr. Haney?—A. I have known Mr. Haney for ten years, he was with me on the Board of the Toronto General Hospital, I worked with him there, he represented I think St. Michael's College or Hospital, and I formed a very high opinion of his ability and his earnestness in his work.

Q. You had never had any business dealings with him?—A. No, I had not.

Q. So the superficial knowledge you had of Mr. Haney was gained on these two Boards?—A. That is where I met him principally, and I knew his general standing in Toronto.

Q. Did you make any enquiry about his general standing?—A. No, except what I knew.

Q. Where did you get your information?—A. I have told you I met Mr. Haney in connection with the Board of the Toronto General Hospital and that I knew of his general standing in Toronto as you get to know a man's general reputation and standing in the community.

Q. Had you carried your mind back a few years to when Mr. Haney was building the Crowsnest Pass road?—A. No.

Q. Had you that in mind?—A. I do not know anything with regard to the Crowsnest Pass construction—

Q. You remember a report was made?—A. I do not remember the report at all.

Q. Do you not remember Mr. Justice Clute made a report?—A. No it is not in my mind at all, I paid no attention to it, I do remember seeing in the newspapers years ago something indicating that the Crowsnest Pass issue involved some political question—

Q. Nothing political about it.—A. I am giving you my impression only, giving you what is in my mind. In other words I do not know anything about it.

Q. Then the only members of this Board of Directors that you knew at this time, 1918, when these statements were made to you by Mr. Machaffie,—the second danger signal I call it,—were the General Manager Mason, Mr. L. P. Gough, the Vice-President—A. I just knew of him.

Q. Did you know Mr. Daly?—A. I did not.

Q. That is what you told us yesterday.—A. It is a very curious thing that I did not, because Mr. Daly was down here, I think I have seen him but I would not have known him if I had met him, at that time Mr. Daly was a Director and afterward became President. I had heard of Mr. Daly down here because I think he was placed in some position by the Union Government in an organizing capacity; I certainly knew nothing against him and had heard that he was a fine organizer.

Q. And you knew General Mason, being a neighbor of his?—A. Yes.

Q. And had known him for many years?—A. Yes I had.

Q. And you seem yesterday to have expressed a very high opinion of General Mason?—A. No, I said General Mason was a man of good standing in Toronto, I never heard anything against General Mason until this matter came up, he was a man who stood high in the Church I believe and was in good standing in the community.

Q. Well we will not discuss the Church. Yesterday you told me something else about the Church, I think we had better leave that out.—A. I cannot leave it out when I am giving you my opinion of the moral character of a man.

Q. The fact that he was a good neighbor of yours had a good deal of weight with you, that his statements to you made in conjunction with Mr. Lash were true.—A. No, General Mason did not make any statements to me in conjunction with Mr. Lash. What I did, although he was a neighbor of mine, was to get him off the Board; that was not a very neighbourly act.

Q. Why did you get him off the Board?—A. Because these western men had complained about him and wanted to harmonize the Board and would not work under him and suggested that these imprudent loans were made under his management.

Q. Surely that would not have been sufficient, because there was internal dissension, that you as Finance Minister should be instrumental—A. I was not instrumental directly, but the action I took by reason of the complaints of the western directors and the charges made against General Mason, was in fact influential in having him displaced by Mr. Haney in whom they all had confidence.

Q. What were the charges they laid against General Mason?—A. Well these imprudent loans, he was the General Manager and you will see in the correspondence right along that they had not confidence in him, they said they were satisfied that no proper investigation would take place with the management as it was, they wanted it changed and they got rid of General Mason.

Q. That was another danger signal to you to make a full investigation as this gentleman had asked?—A. I would not say it was a danger signal.

Q. Not a disturbing influence in your mind?—A. Well you may have dissensions on the Board, any Board, you may have a minority and a majority and they may have dissensions about a President or a General Manager; but what I relied upon was the fact that these three western directors had brought these three or four things to my attention—

Q. Did it ever occur to you, these three or four things having been brought to your attention, that it would be a very wise thing to make a general audit of this bank?—A. I have said not I suppose twenty times.

Q. Having regard to Mr. Fisher's letter to you asking that a full investigation be made?—A. I have said about twenty times that I did not consider it necessary to have a full investigation made.

Q. Will you tell me why you did not consider it necessary?—A. Because three things only were brought to my attention, and these were the only things treated by this Board of western Directors.

Q. If my memory serves me right they asked you for an investigation of all the affairs?—A. Later on they did, yes, and then they said in connection with it that they would not be content with an investigation from the inside as long as the present management continued, so by inference if the present management did not continue they were satisfied with an investigation from the inside.

Q. Will you point that out to me? I did not get it that way.—A. I quoted it half a dozen times yesterday.

Q. I got it that they were asking you for a full investigation of all the affairs of the bank?—A. They said,—and it is on record half a dozen times I think,—that they would not be content with an internal investigation with the Board constituted as it was. They did ask me later on for a general investigation, and I have told you that I declined to order a general investigation for the reasons that I have given repeatedly.

Q. You declined to order a general investigation?—A. In other words I did not comply with their later request. I was going to ask the Bankers' Association to look into it, I have said that twenty times.

Q. Then when a suggestion was made to you, I believe by Mr. Machaffie, that Mr. Pease was a good man.—A. Where do you find that, I never heard Mr. Pease's name in connection with it?

Q. Pardon me, it was a letter from Mr. Machaffie to Mr. Gough?—A. Well I never saw it.

Q. No I must apologise. Then the only thing that we find that you have done in connection with the matter as Finance Minister was to order an investigation by the auditor of the bank of four special accounts, and you called for the ledger entries of those accounts?—A. Yes sir.

Q. Then as I understand from the whole of your remarks to my learned friends, the only thing you did as Finance Minister was to ask for a statement of these four accounts from the auditor?—A. Yes.

Q. You called for special ledger entries of these accounts, you pointed out to them that they were taking in interest which they had no right to do?—A. I would not quite put it that way, that they had no right to; I just told them not to do it.

Q. You would not seriously argue that they had a right to do it, to put in unearned interest into their profits?—A. It would depend, as I pointed out yesterday, on the security, but, as a matter of fact, I did request them not to do it.

Q. Then you pointed that out to them?—A. Yes.

Q. Can you tell us anything further than that that you did?—A. Yes. I called for a report from the Board, on that Machaffie report, and I called for a report from the Board on the Fisher communication.

Q. Yes.—A. And I called for a copy of the ledger entries from Mr. Lash, and got them. Then I received the report from the Board in answer to the Machaffie charges.

Q. You knew that the Pellatt loan was a frozen one?—A. It was an unliquid loan, in my judgment.

Q. And it was largely on unused land in the City of Toronto?—A. Well, to a certain extent it was, I suppose.

Q. On City Estates. Did you know about the City Estates at that time?—A. I did not.

Q. As part of Pellatt's security?—A. I told Mr. Lash to take everything he could to strengthen that account, in the matter of security.

Q. Did you ask Mr. Lash to get you an independent valuation of that land?—A. No.

Q. Don't you think that that would have been the proper thing for the Minister to have done?—A. I do not think so. I do not believe any Finance Minister had ever valued, up to that time, an account of the bank, or attempted to value a security.

Q. Will you tell me, Sir Thomas, in your opinion, so that I may have no misconception in my mind, what you feel is the duty of a Finance Minister having the supervision of the banks of Canada, and having regard to this Bank Act, when he finds a situation such as was here, with three danger signals, as I call them, given to him?—A. What his duty is?

Q. That his duty is only to take his information from within and not from without?—A. His duty is to act honestly and according to his best judgment, and when he has done that he has discharged his duty.

Mr. LEE: I think that is all, Sir Thomas.

Sir THOMAS WHITE: Thank you. There is no re-examination necessary, in my view, your lordship.

HIS LORDSHIP: If you find it necessary later you can put it in.

Sir THOMAS WHITE: I thank you very much. If I feel it necessary later on, your lordship, I will either file with you an argument, or appear before you when argument is presented, and sum up this matter.

HIS LORDSHIP: Just before you leave, Sir Thomas, perhaps you may help me in one thing which is in my mind. It will probably be argued before me, and I may be asked to express an opinion upon it as to how far the fact that we were at war, at the time of this transaction, operated in your mind in coming to a conclusion as to what would be the best thing to do.

One can readily see that a course which would naturally occur to an executive officer of the Finance Department in times when peace existed would be a very hazardous and improper action at a time when the whole thing was in the melting pot and anything may happen.

Now, how far, if at all, did that enter into your mind in coming to a conclusion? There is some evidence about it, and I thought that if you had anything more to say on that point I would be very glad to hear it.

Sir THOMAS WHITE: I will be very glad to answer your lordship, and I am glad you raised the question, because I should not have raised it myself. I would say this, that it is impossible for a man to say what brought about a state of mind at a certain time, but, without any question, a man who is, so to speak, riding the financial storm of war would be influenced, to a certain extent, in his judgment as to the danger of taking a certain course probably more than he would in a time of profound peace.

I am not conscious that I was influenced by the conditions existing at that time, but I am not prepared to say that they were not a factor in determining whether a certain course should be pursued, or a certain other course pursued. I do not think anybody is quite capable of saying, that sir, because a man is unable to say what all the factors were that entered into his mind and influenced his action.

I can tell your lordship what the condition was during the war. I told you something of it. I was notified, time and again, during the war, of runs taking place here and there upon banks. I have been called up at all hours of the night, sometimes after I have gone to bed. I had been in touch with the Bankers' Association to close this gap, and close that gap, and the other, and I was swinging all the finance of the Dominion of Canada, and I was calling on all the banks to help me, with taking their proportionate share of treasury bills and acting as my agents to receive enormous sums of money which were subscribed by their depositors, and leaving that money on deposit with the banks. My policy was, and my course was, to leave with each bank, and I believe it was done absolutely fairly, so much on deposit as was taken from the depositors of that bank, because otherwise we might take more than a proportionate amount from one bank and give it to another. Then we drew proportionately on those banks for the money that was used.

Generally speaking, sir, that would seem to me to be a fair summing up of the situation.

HIS LORDSHIP: Let me suggest this to you, Sir Thomas, please. There is, as you know, in Marine law the principle of average. Goods are sent out on a ship that is making its voyage, a storm occurs, and my goods have, perhaps, to be thrown overboard, and your goods and somebody else's have got to come in and help me out. You see, there was nothing approaching that condition of affairs in connection with this matter. That here was a bank the failure of which might precipitate a financial crisis at a time in which it was necessary that the utmost confidence should prevail, and the position which I am inclined to think may be taken of it is that it was jettisoned for the public good.

SIR THOMAS WHITE: I would not say that was so. On the other hand, as I have stated to your lordship, it is quite impossible for a man to mention all the elements that enter into his mind. He may be unconsciously influenced by a situation, but, so far as I can see at the present time, I am not aware that it was a case of jettison at all, but I certainly would not have allowed a bank to fail during the war.

HIS LORDSHIP: That is the other side of it. Thanks very much, Sir Thomas, I think I understand exactly.

SIR THOMAS WHITE: I thank you very much, sir. You have given me a great deal of latitude, and I am very grateful to you.

HIS LORDSHIP: Gentlemen, what about to-morrow morning?

Mr. LAFLEUR: It is your lordship's pleasure.

Mr. McLAUGHLIN: We have one witness here, Mr. Machaffie.

Mr. LEE: We can finish up Mr. Machaffie's evidence before one o'clock.

Mr. McLAUGHLIN: If you sit from ten to twelve that will enable us to catch the one o'clock train.

HIS LORDSHIP: What do you say Mr. Lafleur?

Mr. LAFLEUR: I am entirely in your hands, Mr. Commissioner.

HIS LORDSHIP: Well, if that is the wish of counsel, we will sit to-morrow morning, commencing at ten o'clock up to whatever hour you wish to adjourn.

(Proceedings stand adjourned at 5.10 p.m., Friday, 25th April, 1924, until 10 a.m. Saturday, 26th April, 1924.)