

DISGUSTED AT FLAGRANT VIOLATION OF RULES OF EVIDENCE, F. R. TAYLOR WITHDRAWS FROM POTATO ENQUIRY

"Useless To Remain Here While Mr. Hughes Is Conducting the Enquiry" Said Hon. J. A. Murray's Counsel As He Left the Court Room—With No Opposing Lawyer in Attendance Fosterite Representative Had Things All His Own Way—H. Colby Smith, F. W. Sumner and Others on the Stand Yesterday.

The feature of yesterday's session of the enquiry into the sales of potatoes by the Department of Agriculture, which is being conducted by Commissioner James McQueen in the municipal council chamber, was the withdrawal of Mr. F. R. Taylor, K.C., from the case, following an unsuccessful protest against the admission as evidence of certain documents purporting to be signed by J. C. Manzer, New Brunswick agent in Cuba. This incident occurred at the morning session. H. Colby Smith, of the firm of A. C. Smith & Co., was on the stand, and was under examination by Peter Hughes, government counsel. Mr. Hughes produced the documents in question, and witness identified the signature to one of them. Mr. Hughes then offered the documents in evidence.

Mr. Taylor objected, stating that such a procedure was entirely in violation of the most elementary rules of evidence and while the commissioner in such a case ordinarily had more latitude than was enjoyed by a court yet the admission of the documents was such a flagrant violation that he could not submit it.

Despite the counsel's objection the Commissioner ruled that the documents were admissible. Mr. Taylor then said there was no use in remaining in a case which was plainly being

conducted by the opposing counsel, and withdrew.

Other witnesses beside Mr. Smith were Mr. F. W. Sumner, of Moncton, Mr. Bailey, manager of the Moncton branch of the Bank of Montreal, Mr. Slipp, who inspected the British and Belgian potato shipments and pronounced them good stock, and Mr. Morris, manager of the West St. John branch of the Bank of Nova Scotia.

At the conclusion of Mr. Morris' evidence Mr. Hughes asked for an adjournment until October 8th, which the Commissioner readily granted. During the afternoon Mr. Hughes was the only counsel appearing in the case, and consequently had things all his own way.

Mr. Colby Smith, of the late firm of A. C. Smith & Co., was the first witness called when the enquiry resumed yesterday morning. He said his firm shipped and handled the British and Belgian shipments of potatoes acting for the provincial government. The arrangement was made by Mr. Daggett and witness. Mr. Smith then gave details concerning the quantities in these shipments. After these shipments had been completed potatoes still came in, mostly from B. Frank Smith, of Carleton county. These potatoes were received and stored in

A.—Yes.

Mr. Hughes then read down the list of consignees and until he arrived at the Manzer shipments. Mr. Smith remembered that the other shipments were paid in full.

In reference to the Manzer shipments he said they were marked paid, but he would prefer to have the records of the Bank of Nova Scotia, West End, in this regard, as he had learned something which led him to desire to take such a step.

The other shipments were paid for. Mr. Hughes—You say the Bank of Nova Scotia records will substantiate your statements?

A.—Yes.

Q.—You know Mr. Daggett said practically no money came back from Cuba?

A.—Yes.

Q.—Were potatoes shipped by the schooner Irma Bentley paid for?

A.—Did you ever tell Mr. Daggett you got the money for some of the potatoes?

Q.—Did you talk with him about the money?

A.—Yes, on several occasions.

A.—I believe he knew absolutely.

Q.—Did Mr. Daggett get any accounts of the receipts?

A.—Yes.

Q.—Through whom?

A.—I got notice from Mr. Daggett that J. P. Atherton, auditor of Sussex, would be in West St. John to look over the accounts. The notice was received in the early summer of 1915.

Q.—Did he come?

A.—Yes, and went over the accounts. Witness here produced a statement of audit prepared by Mr. Atherton and sent the witness "either by Mr. Daggett or Mr. Atherton."

It was dated St. John, June 1st, 1915.

Mr. Hughes placed it in evidence. The statement was entitled "A. C. Smith & Co., in account with the Department of Agriculture" and totalled \$29,892.02.

Against this was an account of returns for sale of Havana potatoes, totalled \$7,892.48.

The auditor's statement showed a balance of \$12,902.24 due A. C. Smith & Co.

Q.—A statement by Auditor-General London indicates you received July 26, 1915, a payment of \$9,531.16?

A.—We got an amount similar to that.

Q.—Payment was requested by Mr. Daggett and recommended by Mr. Murray?

A.—Yes.

Q.—This was two months after the Atherton report showed a balance of \$7,892.48 from the sale of potatoes?

A.—Yes.

Mr. Hughes showed an account with vouchers attached for \$9,531.16, presumed to have been prepared by A. C. Smith & Co.

Witness said he did not prepare the account. He may have seen a copy.

Mr. Hughes read a letter signed J. A. Murray, written July 24, 1915, addressed to Mr. London, asking that A. C. Smith & Co. be paid the balance of account, \$4,013.55, after a credit of \$7,892.40 was applied for proceeds of sale of potatoes in Cuba.

Mr. Hughes also read a letter from J. B. Daggett to W. A. London, Auditor-General, in which the latter stated A. C. Smith & Co. agreed to abandon a balance of \$4,013.55.

Witness said he had not agreed to abandon any balance. He did not know how he could abandon it when vouchers existed for the amount.

Q.—Did you make up the account?

A.—No.

Q.—Was it made up in your office?

A.—Not that I know of.

Witness identified the vouchers which accompanied the account for \$9,531.16, and said the most of the bills, and what remained were given to Auditor Atherton when the latter audited the books.

Witness said he went over the statements of the Cuban shipments with Mr. Daggett and had the vouchers at the time. He made no payment on B. P. Smith's shortage, and did not know whether Mr. Smith did or not.

Q.—It came with drafts from the potatoes. Witness was not called upon to pay the note which was later returned to him. Witness produced the note which was placed in evidence. The court then adjourned for the luncheon recess.

who returned it and had not the slightest idea where it came from. He had treated the matter from first as a local government transaction. The money had been sent by wire from the Fredericton branch to the Moncton branch of the bank. Witness thought the amount returned was \$33,000; at any rate whatever he had advanced was returned to him in full.

He might have had conversation with Mr. Clarke about it and Mr. Clarke might have asked him if he received it all right. Witness could not be sure that any such conversation did occur. No other member of the old government or of the Legislature had spoken to him about it at any time.

Mr. Bailey Again.

Mr. Bailey recalled, said he had heard Mr. Sumner's evidence. He remembered that in May, 1916, a sum was transferred from Fredericton to Mr. Sumner's credit in Moncton. That would be about sixty days after Mr. Sumner had transferred a similar amount to Fredericton.

Inspected Potatoes.

Leslie A. Slipp, of South Devon, was called and testified that he was engaged by the Dept. of Agriculture to inspect the potatoes sent overseas to the British government and for Belgian relief. The potatoes came to West St. John by rail and were handled by A. C. Smith & Co. His duty was to see that only first class stock was shipped, and this duty he performed. All the potatoes sent overseas were first class stock, having been very carefully sorted in West St. John before shipping. He had expected that his duties would end when the British and Belgian shipments had been completed, but he had been asked by Mr. Daggett to remain and handle the shipments of the surplus potatoes to Cuba.

Only First Class Stock.

In regard to the British and Belgian shipments witness had been given strict instructions to see that only first class stock went forward and had been told he would be held responsible for the condition of the shipments, consequently he exercised special care. Some of the potatoes that witness had condemned in the British and Belgian shipments were good stock but had been shipped too early and were wet. He considered they might not stand the voyage across the ocean and condemned them. Afterwards they became part of the surplus potatoes shipped to Cuba.

Some Cull'd Potatoes Sold.

Witness sold some of the potatoes culled out of the Cuban lot and received between \$100 and \$120 for them. This money he took to Fredericton with him and accounted for it to the Department of Agriculture. It was charged on account of his pay, and he was given a check for the balance. Witness was to receive \$15 per month and his expenses while inspecting potatoes. His employment lasted about nine weeks. In addition to the culls he had sold a Mr. Donovan from West St. John, who got some culls. Witness did not know who collected for them or whether they were paid for. He used to call him the barrels in which cull potatoes were filled, and Mr. Donovan would come and empty them.

Overseas Potatoes Exceptionally Good.

To the Commissioner he said that all the potatoes going overseas were of exceptionally good quality. The culls did not necessarily mean bad potatoes, but cut, hocked or small ones, which were not up to the standard for shipping. Some of the culls for which he collected were sold at 25 cents per barrel, and he supposed he sold something like 400 barrels.

Mr. Hughes then informed the court that a subpoena had been sent to J. C. Manzer in Cuba, and that Mr. Manzer had replied by cable that he could not attend. Mr. Hughes then wrote Sir George E. Foster, head of Mr. Manzer's department, and Sir George had replied suggesting the commission should proceed with the evidence at hand and if it became absolutely necessary to call Mr. Manzer his evidence might be taken by a commission. Mr. Hughes then said he would like to have Mr. Manzer's evidence and would later ask the court for an adjournment until he could see what could be done in the matter.

The Smith & Co. Drafts.

Jerome A. Morris, manager of the Bank of Nova Scotia at West St. John, said his bank had done business with A. C. Smith & Co., in connection with the potatoes sold in Cuba. He was not manager of the West Side branch in 1914-15, but had the custody of the bank's books and records, and from them had prepared a statement of the drafts sent to Cuba by A. C. Smith & Co. This statement was produced and the pertinent parts read to the court. It showed that drafts totalling \$22,862.65 had been made by A. C. Smith & Co. on Cuban firms. Of this sum \$7,504.04 had been paid and \$15,358.62 returned unpaid.



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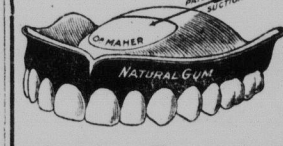
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He did not know anything about an amount received by A. C. Smith & Co. from A. B. Christy of Halifax, nor did he know of any money being sent to Cuba in connection with the draft transactions. The enquiry then adjourned until October 8th, at 11 a.m.

Michael Lynch and wife of Nelson, N. B., are visitors in the city.



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